As filed with the Securities and Exchange Commission on April 30, 2015

Registration No. 333-193182

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC 20549

Amendment No. 4
to
FORM S-1
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

Fortress Transportation and Infrastructure Investors LLC
(Exact name of registrant as specified in its charter)

Delaware	**6141**	**32-0434238**
(State or Other Jurisdiction of Incorporation or Organization)	**(Primary Standard Industrial Classification Code Number)**	**(I.R.S. Employer Identification No.)**

1345 Avenue of the Americas, 46th Floor
New York, New York 10105
(212) 798-6100
(Address, Including Zip Code, and Telephone Number, Including Area Code, of Registrant's Principal Executive Offices)

Cameron D. MacDougall
1345 Avenue of the Americas, 46th Floor
New York, New York 10105
(212) 798-6100
(Name, Address, Including Zip Code, and Telephone Number, Including Area Code, of Agent For Service)

Copies to:

Joseph A. Coco **Michael J. Zeidel** **Skadden, Arps, Slate, Meagher & Flom LLP** **Four Times Square** **New York, New York 10036-6522** **(212) 735-3000**	**William M. Hartnett** **Helene R. Banks** **Cahill Gordon & Reindel LLP** **Eighty Pine Street** **New York, New York 10005-1702** **(212) 701-3000**

Approximate date of commencement of proposed sale to the public: As soon as practicable after the effective date of this registration statement.

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, check the following box: ☐

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ☐

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ☐

If this Form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ☐

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

Large accelerated filer	☐	Accelerated filer	☐
Non-accelerated filer	☒ (Do not check if a smaller reporting company)	Smaller reporting company	☐

The Registrant hereby amends this Registration Statement on such date or dates as may be necessary to delay its effective date until the Registrant shall file a further amendment which specifically states that this Registration Statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933 or until the Registration Statement shall become effective on such date as the Securities and Exchange Commission, acting pursuant to said Section 8(a), may determine.

EXPLANATORY NOTE

This Amendment No. 4 is being filed for the purposes of filing Exhibits 3.1, 3.2, 8.1, 10.1, 10.2, 10.3, 10.4, 10.5, 10.6 and 21.1 herewith. No change is made to the prospectus constituting Part I of the Registration Statement.

PART II

INFORMATION NOT REQUIRED IN PROSPECTUS

Item 13. ***Other Expenses of Issuance and Distribution.***

The following table sets forth the estimated fees and expenses (except for the SEC registration fee and the FINRA filing fee) paid or payable by the registrants in connection with the distribution of the common shares:

SEC registration fee	$12,880
FINRA filing fee	15,500
Printing and engraving costs	*
Legal fees and expenses	*
Accountants' fees and expenses	*
Transfer agent fees	*
Miscellaneous	*
Total	$ *

* To be completed by amendment.

Item 14. ***Indemnification of Directors and Officers.***

Our operating agreement provides that we will indemnify, to the fullest extent permitted by the Delaware LLC Act, each person who was or is made a party or is threatened to be made a party in any legal proceeding by reason of the fact that he or she is or was our or our subsidiary's director or officer. However, such indemnification is permitted only if such person acted in good faith and lawfully. Indemnification is authorized on a case-by-case basis by (1) our board of directors by a majority vote of disinterested directors, (2) a committee of the disinterested directors, (3) independent legal counsel in a written opinion if (1) and (2) are not available, or if disinterested directors so direct, or (4) the shareholders. Indemnification of former directors or officers shall be determined by any person authorized to act on the matter on our behalf. Expenses incurred by a director or officer in defending against such legal proceedings are payable before the final disposition of the action, provided that the director or officer undertakes to repay us if it is later determined that he or she is not entitled to indemnification.

Indemnification Agreements. Our operating agreement provides that we may indemnify any person who is or was a director, officer, employee or agent of us to the fullest extent permitted by Delaware law. The indemnification provisions contained in our operating agreement are not exclusive of any other rights to which a person may be entitled by law, agreement, vote of shareholders or disinterested directors or otherwise. In addition, we have entered into separate indemnification agreements with each of our directors and executive officers, which are broader than the specific indemnification provisions contained in the Delaware LLC Act. These indemnification agreements require us, among other things, to indemnify our directors and officers against liabilities that may arise by reason of their status or service as directors or officers, other than liabilities arising from willful misconduct.

Insurance. We maintain directors' and officers' liability insurance, which covers directors and officers of our Company against certain claims or liabilities arising out of the performance of their duties.

Underwriting Agreement. Our underwriting agreement with the underwriters will provide for the indemnification of the directors and officers of our Company against specified liabilities related to this prospectus under the Securities Act in certain Circumstances.

Item 15. ***Recent Sales of Unregistered Securities*.**

The Company is a Delaware limited liability company formed for the purpose of this offering and has not engaged in any business or other activities except in connection with its formation and its ownership of Holdco.

Item 16. ***Exhibits and Financial Statement Schedules*.**

(a) Exhibits.

See the Index to Exhibits included in this Registration Statement.

(b) Financial Statement Schedules.

None.

Item 17. ***Undertakings*.**

The undersigned registrant hereby undertakes to provide to the underwriters at the closing specified in the underwriting agreement, certificates in such denominations and registered in such names as required by the underwriters to permit prompt delivery to each purchaser.

Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers, and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the SEC such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer, or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer, or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

The undersigned registrant hereby undertakes that:

- For purposes of determining any liability under the Securities Act, the information omitted from the form of prospectus filed as part of this registration statement in reliance upon Rule 430A and contained in a form of prospectus filed by us pursuant to Rule 424(b)(1) or (4) or 497(h) under the Securities Act shall be deemed to be part of this registration statement as of the time it was declared effective.
- For the purpose of determining any liability under the Securities Act, each post-effective amendment that contains a form of prospectus shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

SIGNATURES

Pursuant to the requirements of the Securities Act, the registrant has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of New York, State of New York, on April 30, 2015.

Fortress Transportation and
Infrastructure Investors LLC

By: /s/ Joseph Adams
Name: Joseph Adams
Title: Chief Executive Officer and Director

Pursuant to the requirements of the Securities Act, this Registration Statement has been signed below by the following persons in the capacities and on the dates indicated below.

Name	Title	Date
/s/ Joseph Adams Joseph Adams	Chief Executive Officer and Director (Principal Executive Officer)	April 30, 2015
/s/ Jonathan G. Atkeson Jonathan G. Atkeson	Chief Financial Officer (Principal Financial Officer and Principal Accounting Officer)	April 30, 2015
* Randal A. Nardone	Director	April 30, 2015

*By /s/ Cameron D. MacDougall
Cameron D. MacDougall Attorney-in-fact

INDEX TO EXHIBITS

Exhibit No.	Description
*1.1	Form of Underwriting Agreement
3.1	Certificate of Formation
3.2	Amended and Restated Limited Liability Company Agreement of Fortress Transportation and Infrastructure Investors LLC
*4.1	Form of Share certificate
*5.1	Opinion of Skadden, Arps, Slate Meagher & Flom LLP
8.1	Form of Tax Opinion of Skadden, Arps, Slate, Meagher & Flom LLP
10.1	Fourth Amended and Restated Partnership Agreement of Fortress Worldwide Transportation and Infrastructure General Partnership
†10.2	Management and Advisory Agreement, dated as of , 2015, between Fortress Transportation and Infrastructure Investors LLC and FIG LLC
†10.3	Fortress Transportation and Infrastructure Investors LLC Nonqualified Stock Option and Incentive Award Plan
10.4	Registration Rights Agreement, dated as of , 2015, among Fortress Transportation and Infrastructure Investors LLC, FIG LLC and Fortress Transportation and Infrastructure Master GP LLC
10.5	Form of director and officer indemnification agreement of Fortress Transportation and Infrastructure Investors LLC
10.6	Credit Agreement, dated as of August 27, 2014, among Morgan Stanley Senior Funding, Inc., as administrative agent, Jefferson Gulf Coast Energy Partners LLC and the other lenders party thereto
21.1	Subsidiaries of the Registrant
*23.1	Consent of Skadden, Arps, Slate, Meagher & Flom LLP (included in Exhibit 5.1 and Exhibit 8.1)
**23.2	Consent of PricewaterhouseCoopers LLP
**23.3	Consent of PricewaterhouseCoopers LLP
**23.4	Consent of Harrison Consulting
**23.5	Consent of Wesley R. Edens
**23.6	Consent of Paul R. Goodwin
**23.7	Consent of Ray M. Robinson
**23.8	Consent of Martin Tuchman
**23.9	Consent of UHY LLP
**23.10	Consent of Baker Newman & Noyes, LLC
**24.1	Powers of Attorney

* To be filed by amendment.
** Previously filed.
† Management contracts and compensatory plans or arrangements.

Exhibit 3.1

State of Delaware
Secretary of State
Division of Corporations
Delivered 03:51 PM 02/10/2014
FILED 03:51 PM 02/10/2014
SRV 140155578 – 5480015 FILE

CERTIFICATE OF FORMATION

OF

FORTRESS TRANSPORTATION AND INFRASTRUCTURE INVESTORS LLC

1. The name of the limited liability company is Fortress Transportation and Infrastructure Investors LLC.

2. The address of its registered office in the State of Delaware is 2711 Centerville Road, Suite 400, Wilmington, New Castle County, Delaware 19808. The name of its registered agent at such address is Corporation Service Company.

3. This Certificate of Formation shall be effective as of the 13th day of February, 2014.

[Remainder of Page Left Intentionally Blank]

IN WITNESS WHEREOF, the undersigned has executed this Certificate of Formation this 10th day of February, 2014.

By: /s/ Cameron D. MacDougall
Name: Cameron D. MacDougall
Title: Authorized Person

AMENDED AND RESTATED
LIMITED LIABILITY COMPANY AGREEMENT

OF

FORTRESS TRANSPORTATION AND INFRASTRUCTURE INVESTORS LLC

TABLE OF CONTENTS

ARTICLE XII

GENERAL PROVISIONS

AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT OF FORTRESS TRANSPORTATION AND INFRASTRUCTURE INVESTORS LLC

This AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT OF FORTRESS TRANSPORTATION AND INFRASTRUCTURE INVESTORS LLC, is dated as of , 2015. Capitalized terms used herein without definition shall have the respective meanings ascribed thereto in Section 1.1.

WHEREAS, the Company was formed under the Delaware Act pursuant to a certificate of domestication and a certificate of formation, each filed with the Secretary of State of the State of Delaware on February 10, 2014 and effective as of February 13, 2014, and a Limited Liability Company Agreement of Fortress Transportation and Infrastructure Investors LLC, dated as of February 19, 2014 (the "**Original LLC Agreement**"); and

WHEREAS, the Board of Directors of the Company have authorized and approved an amendment and restatement of the Original LLC Agreement on the terms set forth herein.

NOW THEREFORE, the Original LLC Agreement is hereby amended and restated to read in its entirety as follows:

ARTICLE I

DEFINITIONS

Section 1.1 Definitions. The following definitions shall be for all purposes, unless otherwise clearly indicated to the contrary, applied to the terms used in this Agreement.

"**Additional Member**" means a Person admitted as a Member of the Company in accordance with Article III as a result of an issuance of Shares to such Person by the Company.

"**Adjusted Capital Account**" means the Capital Account maintained for each Member as of the end of each fiscal year of the Company, (a) increased by any amounts that such Member is obligated to restore under the standards set by Treasury Regulation Section 1.704-1(b)(2)(ii)(c) (or is deemed obligated to restore under Treasury Regulation Sections 1.704-2(g) and 1.704-2(i)(5)) and (b) decreased by (i) the amount of all losses and deductions that, as of the end of such fiscal year, are reasonably expected to be allocated to such Member in subsequent years under Sections 704(e)(2) and 706(d) of the Code and Treasury Regulation Section 1.751-1(b)(2)(ii), and (ii) the amount of all distributions that, as of the end of such fiscal year, are reasonably expected to be made to such Member in subsequent years in accordance with the terms of this Agreement or otherwise to the extent they exceed offsetting increases to such Member's Capital Account that are reasonably expected to occur during (or prior to) the year in which such distributions are reasonably expected to be made (other than increases as a result of a minimum gain chargeback pursuant to Section 4.1(d)(i) or Section 4.1(d)(ii)). The foregoing definition of Adjusted Capital Account is intended to comply with the provisions of Treasury Regulation Section 1.704-1(b)(2)(ii)(d) and shall be interpreted consistently therewith. The "**Adjusted Capital Account**" of a Member in respect of a Share shall be the amount that such Adjusted Capital Account would be if such Share were the only interest in the Company held by such Member from and after the date on which such Share was first issued.

"**Adjusted Property**" means any property the Carrying Value of which has been adjusted pursuant to Section 3.6(d)(i) or Section 3.6(d)(ii).

"**Affiliate**" means, with respect to any Person, any other Person that directly or indirectly through one or more intermediaries controls, is controlled by or is under common control with the Person in question. As used herein, the term "**Control**" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person, whether through ownership of voting securities, by contract or otherwise.

"**Agreed Allocation**" means any allocation, other than a Required Allocation, of an item of income, gain, loss or deduction pursuant to the provisions of Section 4.1, including a Curative Allocation (if appropriate to the context in which the term "**Agreed Allocation**" is used).

"**Agreed Value**" of any Contributed Property means the fair market value of such property or other consideration at the time of contribution as determined by the Board of Directors, without taking into account any liabilities to which such Contributed Property was subject at such time. The Board of Directors shall use such method as it determines to be appropriate to allocate the aggregate Agreed Value of Contributed Properties contributed to the Company in a single or integrated transaction among each separate property on a basis proportional to the fair market value of each Contributed Property.

"**Agreement**" means this Amended and Restated Limited Liability Company Agreement of Fortress Transportation and Infrastructure Investors LLC, as it may be amended, supplemented or restated from time to time.

"**Board of Directors**" has the meaning assigned to such term in Section 5.1.

"**Book-Tax Disparity**" means, with respect to any item of Contributed Property or Adjusted Property, as of the date of any determination, the difference between the Carrying Value of such Contributed Property or Adjusted Property and the adjusted basis thereof for federal income tax purposes as of such date.

"**Business Day**" means Monday through Friday of each week, except that a legal holiday recognized as such by the government of the United States of America or the State of New York shall not be regarded as a Business Day.

"**Capital Account**" means the capital account maintained for a Member pursuant to Section 3.6. The "**Capital Account**" of a Member in respect of a Share shall be the amount that such Capital Account would be if such Share were the only interest in the Company held by such Member from and after the date on which such Share was first issued.

"**Capital Contribution**" means any cash, cash equivalents or the Net Agreed Value of Contributed Property that a Member contributes to the Company pursuant to this Agreement.

"**Carrying Value**" means (a) with respect to a Contributed Property, the Agreed Value of such property reduced (but not below zero) by all depreciation, amortization and cost recovery deductions charged to the Members' Capital Accounts in respect of such Contributed Property, and (b) with respect to any other Company property, the adjusted basis of such property for federal income tax purposes, all as of the time of determination. The Carrying Value of any property shall be adjusted from time to time in accordance with Section 3.6(d)(i) and Section 3.6(d)(ii) and to reflect changes, additions or other adjustments to the Carrying Value for dispositions and acquisitions of Company properties, as deemed appropriate by the Board of Directors.

"**Certificate**" means a certificate (i) substantially in the form of Exhibit A to this Agreement, (ii) in global form in accordance with the rules and regulations of the Depositary or (iii) in such other form as may be adopted by the Board of Directors, issued by the Company evidencing ownership of one or more Shares.

"**Certificate of Domestication**" means the Certificate of Domestication of the Company filed with the Secretary of State of the State of Delaware as referenced in Section 5.20, as such Certificate of Domestication may be amended, supplemented or restated from time to time.

"**Certificate of Formation**" means the Certificate of Formation of the Company filed with the Secretary of State of the State of Delaware as referenced in Section 5.20, as such Certificate of Formation may be amended, supplemented or restated from time to time.

"**Chairman of the Board**" has the meaning assigned to such term in Section 5.8.

"**Closing Date**" means the first date on which the Shares are delivered by the Company to the Underwriters pursuant to the provisions of the Underwriting Agreement.

"**Code**" means the Internal Revenue Code of 1986, as amended and in effect from time to time. Any reference herein to a specific section or sections of the Code shall be deemed to include a reference to any corresponding provision of any successor law.

"**Commission**" means the United States Securities and Exchange Commission.

"**Common Shares**" means any Shares that are not Preferred Shares.

"**Company**" means Fortress Transportation and Infrastructure Investors LLC, a Delaware limited liability company, and any successors thereto.

"**Company Group**" means the Company and each Subsidiary of the Company.

"**Company Minimum Gain**" means that amount determined in accordance with the principles of Treasury Regulation Section 1.704-2(d).

"**Contributed Property**" means each property or other asset, in such form as may be permitted by the Delaware Act, but excluding cash, contributed to the Company. Once the Carrying Value of a Contributed Property is adjusted pursuant to Section 3.6(d), such property shall no longer constitute a Contributed Property, but shall be deemed an Adjusted Property.

"**Curative Allocation**" means any allocation of an item of income, gain, deduction, loss or credit pursuant to the provisions of Section 4.1(d)(ix).

"**Delaware Act**" means the Delaware Limited Liability Company Act, 6 Del. C. Section 18-101, et seq., as amended, supplemented or restated from time to time, and any successor to such statute.

"**Depositary**" means, with respect to any Shares issued in global form, The Depository Trust Company and its successors and permitted assigns.

"**DGCL**" means the General Corporation Law of the State of Delaware, 8 Del. C. Section 101, et seq., as amended, supplemented or restated from time to time, and any successor to such statute.

"**Director**" means a member of the Board of Directors of the Company.

"**Economic Risk of Loss**" has the meaning set forth in Treasury Regulation Section 1.752-2(a).

"**Exchange Act**" means the Securities Exchange Act of 1934, as amended, supplemented or restated from time to time and any successor to such statute, and the rules and regulations promulgated thereunder.

"**Governmental Entity**" means any court, administrative agency, regulatory body, commission or other governmental authority, board, bureau or instrumentality, domestic or foreign and any subdivision thereof.

"**Group Member**" means a member of the Company Group.

"**Indemnified Person**" means (a) any Person who is or was a Director, officer or tax matters partner of the Company, (b) any Person who is or was serving at the request of the Company as an officer, director, member, manager, partner, tax matters partner, fiduciary or trustee of another Person (including any Subsidiary); provided, that a Person shall not be an Indemnified Person by reason of providing, on a fee-for-services basis, trustee, fiduciary or custodial services, and (c) any Person the Board of Directors designates as an "Indemnified Person" for purposes of this Agreement.

"**Independent Director**" means a Director who (i) qualifies as an "independent director" within the meaning of the corporate governance listing standards from time to time adopted by the NYSE (or, if at any time the Company's Common Shares are not listed on the NYSE and are listed on a stock exchange other than the NYSE, the applicable corporate governance listing standards of such stock exchange) with respect to the composition of the board of directors of a listed company (without regard to any independence criteria applicable under such standards only to the members of a committee of the board of directors) and (ii) also satisfies the minimum requirements of director independence of Rule 10A-3(b)(1) under the Exchange Act (as from time to time in effect), whether or not such Director is a member of the audit committee.

"**Initial Members**" means FTAI Offshore Holdings, L.P., Fortress Worldwide Transportation and Infrastructure Investors LP.

"**IPO**" means the initial offering and sale of Common Shares to the public, as described in the Registration Statement.

"**Liquidation Date**" means the date on which an event giving rise to the dissolution of the Company occurs.

"**Liquidator**" means one or more Persons selected by the Board of Directors to perform the functions described in Section 8.2 as liquidating trustee of the Company within the meaning of the Delaware Act.

"**Manager**" means FIG LLC, a Delaware limited liability company, together with its permitted assignees under the Management and Advisory Agreement, dated as of , 2015, between the Company and FIG LLC, as amended, supplemented or restated from time to time.

"**Member**" means each member of the Company, including, unless the context otherwise requires, each Initial Member, each Substitute Member, and each Additional Member.

"**Member Nonrecourse Debt**" has the meaning set forth in Treasury Regulation Section 1.704-2(b)(4).

"**Member Nonrecourse Debt Minimum Gain**" has the meaning set forth in Treasury Regulation Section 1.704-2(i)(2).

"**Member Nonrecourse Deductions**" means any and all items of loss, deduction or expenditure (including any expenditure described in Section 705(a)(2)(B) of the Code) that, in accordance with the principles of Treasury Regulation Section 1.704-2(i), are attributable to a Member Nonrecourse Debt.

"**Merger Agreement**" has the meaning assigned to such term in Section 10.1.

"**National Securities Exchange**" means an exchange registered with the Commission under Section 6(a) of the Exchange Act.

"**Net Agreed Value**" means, (a) in the case of any Contributed Property, the Agreed Value of such property reduced by any liabilities either assumed by the Company upon such contribution or to which such property is subject when contributed, and (b) in the case of any property distributed to a Member by the Company, the Company's Carrying Value of such property (as adjusted pursuant to Section 3.6(d)(ii)) at the time such property is distributed, reduced by any indebtedness either assumed by such Member upon such distribution or to which such property is subject at the time of distribution, in either case, as determined under Section 752 of the Code.

"**Net Income**" means, for any taxable year, the excess, if any, of the Company's items of income and gain for such taxable year over the Company's items of loss and deduction for such taxable year. The items included in the calculation of Net Income shall be determined in accordance with Section 3.6(b) and shall not include any items specially allocated under Section 4.1(d).

"**Net Loss**" means, for any taxable year, the excess, if any, of the Company's items of loss and deduction for such taxable year over the Company's items of income and gain for such taxable year. The items included in the calculation of Net Loss shall be determined in accordance with Section 3.6(b) and shall not include any items specially allocated under Section 4.1(d).

"**NYSE**" means the New York Stock Exchange.

"**Nonrecourse Built-in Gain**" means, with respect to any Contributed Properties or Adjusted Properties that are subject to a mortgage or pledge securing a Nonrecourse Liability, the amount of any taxable gain that would be allocated to the Members pursuant to Section 4.2(b)(i)(A), Section 4.2(b)(ii)(A) and Section 4.2(b)(iii) if such properties were disposed of in a taxable transaction in full satisfaction of such Nonrecourse Liabilities and for no other consideration.

"**Nonrecourse Deductions**" means any and all items of loss, deduction, or expenditure (including any expenditure described in Section 705(a)(2)(B) of the Code) that, in accordance with the principles of Treasury Regulation Section 1.704-2(b), are attributable to a Nonrecourse Liability.

"**Nonrecourse Liability**" has the meaning set forth in Treasury Regulation Section 1.752-1(a)(2).

"**Opinion of Counsel**" means a written opinion of counsel (who may be regular counsel to the Company or any of its Affiliates) acceptable to the Board of Directors.

"**Outstanding**" means, with respect to Shares, all Shares that are issued by the Company and reflected as outstanding on the Company's books and records as of the date of determination.

"**Percentage Interest**" means, as of any date of determination, (i) as to any Common Shares, the product obtained by multiplying (a) 100% less the percentage applicable to the Shares referred to in clause (ii) by (b) the quotient obtained by dividing (x) the number of such Common Shares by (y) the total number of all Outstanding Common Shares, and (ii) as to any other Shares, the percentage established for such Shares by the Board of Directors as a part of the issuance of such Shares.

"**Person**" means any individual, corporation, firm, partnership, joint venture, limited liability company, estate, trust, business association, organization, Governmental Entity or other entity.

"**Plan of Conversion**" has the meaning assigned to such term in Section 10.1.

"**Preferred Shares**" means a class of Shares that entitles the Record Holders thereof to a preference or priority over the Record Holders of any other class of Shares in (i) the right to share profits or losses or items thereof, (ii) the right to share in Company distributions, or (iii) rights upon dissolution or liquidation of the Company.

"**Quarter**" means, unless the context requires otherwise, a fiscal quarter, or, with respect to the first fiscal quarter after the Closing Date, the portion of such fiscal quarter after the Closing Date, of the Company.

"**Recapture Income**" means any gain recognized by the Company (computed without regard to any adjustment required by Section 734 or Section 743 of the Code) upon the disposition of any property or asset of the Company, which gain is characterized as ordinary income because it represents the recapture of deductions previously taken with respect to such property or asset.

"**Record Date**" means the date established by the Company for determining (a) the identity of the Record Holders entitled to notice of, or to vote at, any meeting of Members or entitled to exercise rights in respect of any lawful action of Members or (b) the identity of Record Holders entitled to receive any report or payment of any dividend or other distribution or to participate in any offer.

"**Record Holder**" or "**holder**" means with respect to any Shares, the Person in whose name such Shares are registered on the books of the Transfer Agent as of the opening of business on a particular Business Day or otherwise the Person in whose name such Shares are registered on the books that the Company has caused to be kept as of the opening of business on such Business Day.

"**Registration Rights Agreement**" means the Registration Rights Agreement to be entered into by and among Fortress Worldwide Transportation and Infrastructure Master GP LLC, FIG LLC and the Company in connection with the IPO.

"**Registration Statement**" means the Registration Statement on Form S-1 (Registration No. 333-193182) as it has been or as it may be amended or supplemented from time to time, filed by the Company with the Commission under the Securities Act to register the offering and sale of the Common Shares in the IPO.

"**Required Allocations**" means (a) any limitation imposed on any allocation of Net Losses under Section 4.1(b) and (b) any allocation of an item of income, gain, loss or deduction pursuant to Sections 4.1(d)(i), 4.1(d)(ii), 4.1(d)(iii), 4.1(d)(vi) or 4.1(d)(viii).

"**Residual Gain**" or "**Residual Loss**" means any item of gain or loss, as the case may be, of the Company recognized for federal income tax purposes resulting from a sale, exchange or other disposition of a Contributed Property or Adjusted Property, to the extent such item of gain or loss is not allocated pursuant to Section 4.2(b)(i)(A) or Section 4.2(b)(ii)(A), respectively, to eliminate Book-Tax Disparities.

"**Securities Act**" means the Securities Act of 1933, as amended, supplemented or restated from time to time and any successor to such statute, and the rules and regulations promulgated thereunder.

"**Share**" means a share issued by the Company that evidences a Member's rights, powers and duties with respect to the Company pursuant to this Agreement and the Delaware Act. Shares may be Common Shares or Preferred Shares, and may be issued in different classes or series.

"**Share Designation**" has the meaning assigned to such term in Section 3.2(b).

"**Share Majority**" means a majority of the total votes that may be cast in the election of Directors by holders of all Outstanding Voting Shares.

"**Solicitation Notice**" has the meaning assigned to such term in Section 11.11(c).

"**Subsidiary**" means, with respect to any Person, as of any date of determination, any other Person as to which such Person owns or otherwise controls, directly or indirectly, more than 50% of the voting shares or other similar interests or a sole general partner interest or managing member or similar interest of such Person.

"**Substitute Member**" means a Person who is admitted as a Member of the Company pursuant to Section 3.5(d) as a result of a transfer of Shares to such Person.

"**Super-Majority**" means two-thirds of the total votes that may be cast in the election of Directors by holders of all Outstanding Voting Shares.

"**Surviving Business Entity**" has the meaning assigned to such term in Section 10.2(a).

"**Tax Matters Partner**" means the "**tax matters partner**" as defined in the Code.

"**transfer**" means, with respect to a Share, a transaction by which the Record Holder of a Share assigns such Share to another Person who is or becomes a Member, and includes a sale, assignment, gift, exchange or any other disposition by law or otherwise, including any transfer upon foreclosure of any pledge, encumbrance, hypothecation or mortgage.

"**Transfer Agent**" means, with respect to any class of Shares, such bank, trust company or other Person (including the Company or one of its Affiliates) as shall be appointed from time to time by the Company to act as registrar and transfer agent for such class of Shares; provided that if no Transfer Agent is specifically designated for such class of Shares, the Company shall act in such capacity.

"**Underwriter**" means each Person named as an underwriter in the Underwriting Agreement who is obligated to purchase Shares pursuant thereto.

"**Underwriting Agreement**" means the Underwriting Agreement entered into by the Company providing for the sale of Common Shares in the IPO.

"**Unrealized Gain**" attributable to any item of Company property means, as of any date of determination, the excess, if any, of (a) the fair market value of such property as of such date (as determined under Section 3.6(d)) over (b) the Carrying Value of such property as of such date (prior to any adjustment to be made pursuant to Section 3.6(d) as of such date).

"**Unrealized Loss**" attributable to any item of Company property means, as of any date of determination, the excess, if any, of (a) the Carrying Value of such property as of such date (prior to any adjustment to be made pursuant to Section 3.6(d) as of such date) over (b) the fair market value of such property as of such date (as determined under Section 3.6(d)).

"**U.S. GAAP**" means United States generally accepted accounting principles consistently applied.

"**Voting Shares**" means the Common Shares and any other class of Shares issued after the date of this Agreement that entitles the Record Holder thereof to vote on any matter submitted for consent or approval of Members generally under this Agreement.

Section 1.2 Construction. Unless the context requires otherwise: (a) any pronoun used in this Agreement shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns, pronouns and verbs shall include the plural and vice versa; (b) references to Articles and Sections refer to Articles and Sections of this Agreement; and (c) the term "**include**" or "**includes**" means includes, without limitation, and "**including**" means including, without limitation.

ARTICLE II

ORGANIZATION

Section 2.1 Formation. The Company has been formed as a limited liability company pursuant to the provisions of the Delaware Act. Except as expressly provided to the contrary in this Agreement, the rights, duties, liabilities and obligations of the Members and the administration, dissolution and termination of the Company shall be governed by the Delaware Act. All Shares shall constitute personal property of the owner thereof for all purposes and a Member has no interest in specific Company property.

Section 2.2 Name. The name of the Company shall be "Fortress Transportation and Infrastructure Investors LLC." The Company's business may be conducted under any other name or names, as determined by the Board of Directors. The words "**Limited Liability Company,**" "**LLC,**" or similar words or letters shall be included in the Company's name where necessary for the purpose of complying with the laws of any jurisdiction that so requires. The Board of Directors may change the name of the Company at any time and from time to time and shall notify the Members of such change in the next regular communication to the Members.

Section 2.3 Registered Office; Registered Agent; Principal Office; Other Offices. Unless and until changed by the Board of Directors, the registered office of the Company in the State of Delaware shall be located at 2711 Centerville Road, Suite 400, Wilmington, New Castle County, Delaware 19808, and the registered agent for service of process on the Company in the State of Delaware at such registered office shall be The Corporation Trust Company. The principal office of the Company shall be located at 1345 Avenue of the Americas, 46th floor, New York, New York 10105 or such other place as the Board of Directors may from time to time designate by notice to the Members. The Company may maintain offices at such other place or places within or outside the State of Delaware as the Board of Directors determines to be necessary or appropriate.

Section 2.4 Purposes. The purposes of the Company shall be to (a) promote, conduct or engage in, directly or indirectly, any business, purpose or activity that lawfully may be conducted by a limited liability company organized pursuant to the Delaware Act, (b) acquire,

hold and dispose of interests in any corporation, partnership, joint venture, limited liability company or other entity, and, in connection therewith, to exercise all of the rights and powers conferred upon the Company with respect to its interests therein, and (c) conduct any and all activities related or incidental to the foregoing purposes; provided, however, that, except pursuant to Section 10.6, the Company shall not engage, directly or indirectly, in any business activity that the Board of Directors determines would cause the Company to be treated as an association taxable as a corporation or otherwise taxable as an entity for federal income tax purposes.

Section 2.5 Powers. The Company shall be empowered to do any and all acts and things necessary and appropriate for the furtherance and accomplishment of the purposes described in Section 2.4.

Section 2.6 Power of Attorney. Each Member hereby constitutes and appoints each of the Chief Executive Officer, the Chief Financial Officer and the Secretary and, if a Liquidator shall have been selected pursuant to Section 8.2, the Liquidator (and any successor to the Liquidator by merger, transfer, assignment, election or otherwise) and each of their attorneys-in-fact or authorized officers, as the case may be, with full power of substitution, as his true and lawful agent and attorney-in-fact, with full power and authority in his name, place and stead, to:

(a) execute, swear to, acknowledge, deliver, file and record in the appropriate public offices:

(i) all certificates, documents and other instruments (including this Agreement and the Certificate of Formation and all amendments or restatements hereof or thereof) that the Chief Executive Officer, the Chief Financial Officer, the Secretary or the Liquidator determines to be necessary or appropriate to form, qualify or continue the existence or qualification of the Company as a limited liability company in the State of Delaware and in all other jurisdictions in which the Company may conduct business or own property;

(ii) all certificates, documents and other instruments that the Chief Executive Officer, the Chief Financial Officer, the Secretary or the Liquidator determines to be necessary or appropriate to reflect, in accordance with its terms, any amendment, change, modification or restatement of this Agreement;

(iii) all certificates, documents and other instruments (including conveyances and a certificate of cancellation) that the Board of Directors or the Liquidator determines to be necessary or appropriate to reflect the dissolution, liquidation and termination of the Company pursuant to the terms of this Agreement;

(iv) all certificates, documents and other instruments relating to the admission, withdrawal, removal or substitution of any Member pursuant to, or other events described in, Articles III or VIII;

(v) all certificates, documents and other instruments relating to the determination of the rights, preferences and privileges of any class of Shares issued pursuant to Section 3.2; and

(vi) all certificates, documents and other instruments (including agreements and a certificate of merger) relating to a merger, consolidation or conversion of the Company pursuant to Article X.

(b) execute, swear to, acknowledge, deliver, file and record all ballots, consents, approvals, waivers, certificates, documents and other instruments that the Board of Directors or the Liquidator determines to be necessary or appropriate to (i) make, evidence, give, confirm or ratify any vote, consent, approval, agreement or other action that is made or given by the Members hereunder or is consistent with the terms of this Agreement or (ii) effectuate the terms or intent of this Agreement; provided, that when required by Section 9.2 or any other provision of this Agreement that establishes a percentage of the Members or of the Members of any class or series required to take any action, the Chief Executive Officer, the Chief Financial Officer, the Secretary or the Liquidator may exercise the power of attorney made in this Section 2.6(b) only after the necessary vote, consent, approval, agreement or other action of the Members or of the Members of such class or series, as applicable.

Nothing contained in this Section 2.6 shall be construed as authorizing the Chief Executive Officer, the Chief Financial Officer, the Secretary or the Liquidator to amend, change or modify this Agreement except in accordance with Article IX or as may be otherwise expressly provided for in this Agreement.

(c) The foregoing power of attorney is hereby declared to be irrevocable and a power coupled with an interest, and it shall survive and, to the maximum extent permitted by law, not be affected by the subsequent death, incompetency, disability, incapacity, dissolution, bankruptcy or termination of any Member and the transfer of all or any portion of such Member's Shares and shall extend to such Member's heirs, successors, assigns and personal representatives. Each such Member hereby agrees to be bound by any representation made by the Chief Executive Officer, the Chief Financial Officer, the Secretary or the Liquidator, acting in good faith pursuant to such power of attorney; and each such Member, to the maximum extent permitted by law, hereby waives any and all defenses that may be available to contest, negate or disaffirm the action of the Chief Executive Officer, the Chief Financial Officer, the Secretary or the Liquidator, taken in good faith under such power of attorney in accordance with this Section 2.6. Each Member shall execute and deliver to the Chief Executive Officer, the Chief Financial Officer, the Secretary or the Liquidator, within 15 days after receipt of the request therefor, such further designation, powers of attorney and other instruments as any of such officers or the Liquidator determines to be necessary or appropriate to effectuate this Agreement and the purposes of the Company.

Section 2.7 Term. The Company's term shall be perpetual, unless and until it is dissolved in accordance with the provisions of Article VIII. The existence of the Company as a separate legal entity shall continue until the cancellation of the Certificate of Formation as provided in the Delaware Act.

Section 2.8 Title to Company Assets. Title to Company assets, whether real, personal or mixed and whether tangible or intangible, shall be deemed to be owned by the Company as an entity, and no Member, Director or officer, individually or collectively, shall have any ownership interest in such Company assets or any portion thereof. Title to any or all of the Company assets may be held in the name of the Company or one or more nominees, as the Board of Directors may determine. All Company assets shall be recorded as the property of the Company in its books and records, irrespective of the name in which record title to such Company assets is held.

ARTICLE III

MEMBERS AND SHARES

Section 3.1 Members.

(a) A Person shall be admitted as a Member and shall become bound by the terms of this Agreement if such Person purchases or otherwise lawfully acquires any Share and becomes the Record Holder of such Share in accordance with the provisions of Article IV hereof. A Person may become a Record Holder without the consent or approval of any of the Members. A Person may not become a Member without acquiring a Share.

(b) The name and mailing address of each Member shall be listed on the books and records of the Company maintained for such purpose by the Company or the Transfer Agent. The Secretary of the Company shall update the books and records of the Company from time to time as necessary to reflect accurately the information therein (or shall cause the Transfer Agent to do so, as applicable).

(c) Except as otherwise provided in the Delaware Act, the debts, obligations and liabilities of the Company, whether arising in contract, tort or otherwise, shall be solely the debts, obligations and liabilities of the Company, and the Members shall not be obligated personally for any such debt, obligation or liability of the Company solely by reason of being a Member of the Company.

(d) Subject to Articles X and XI, Members may not be expelled from or removed as Members of the Company. Members shall not have any right to withdraw from the Company; provided, that when a transferee of a Member's Shares becomes a Record Holder of such Shares, such transferring Member shall cease to be a member of the Company with respect to the Shares so transferred.

(e) Except to the extent expressly provided in this Agreement (including any Share Designation): (i) no Member shall be entitled to the withdrawal or return of its Capital Contribution, except to the extent, if any, that distributions made pursuant to this Agreement or upon dissolution of the Company may be considered as such by law and then only to the extent provided for in this Agreement; (ii) no Member shall have priority over any other Member either as to the return of Capital Contributions or as to profits, losses or distributions; (iii) no interest shall be paid by the Company on Capital Contributions; and (iv) no Member, in its capacity as such, shall participate in the operation or management of the Company's business, transact any business in the Company's name or have the power to sign documents for or otherwise bind the Company by reason of being a Member.

(f) Any Member shall be entitled to and may have business interests and engage in business activities in addition to those relating to the Company, including business interests and activities in direct competition with the Company Group. Neither the Company nor any of the other Members shall have any rights by virtue of this Agreement in any such business interests or activities of any Member.

Section 3.2 Authorization to Issue Shares.

(a) The Company may issue Shares, and options, rights, warrants and appreciation rights relating to Shares, for any Company purpose at any time and from time to time to such Persons for such consideration (which may be cash, property, services or any other lawful consideration) or for no consideration and on such terms and conditions as the Board of Directors shall determine, all without the approval of any Members, notwithstanding any provision of Sections 7.1 or 7.2. Each Share shall have the rights and be governed by the provisions set forth in this Agreement (including any Share Designation). Except to the extent expressly provided in this Agreement (including any Share Designation), no Shares shall entitle any Member to any preemptive, preferential, or similar rights with respect to the issuance of Shares.

(b) As of the date of this Agreement, there is one class of Shares outstanding and the Initial Members hold an aggregate of Common Shares, and on the Closing Date, the Company will issue additional Common Shares to the Underwriters in accordance with the Underwriting Agreement. The Common Shares shall entitle the Record Holders thereof to one vote per Common Share on any and all matters submitted for the consent or approval of Members generally. The Company and certain Affiliates of the Initial Members are expected to enter into the Registration Rights Agreement, which is expected to set forth certain agreements among them, including with respect to the registration of the Common Shares held by them under the Securities Act.

(c) In addition to the Common Shares Outstanding on the date hereof, and without the consent or approval of any Members, additional Shares may be issued by the Company in one or more classes, with such designations, preferences, rights, powers and duties (which may be junior to, equivalent to, or senior or superior to, any existing classes of Shares), as shall be fixed by the Board of Directors and reflected in a written action or actions approved by the Board of Directors in compliance with Section 5.1 (each, a "**Share Designation**"), including (i) the right to share Company profits and losses or items thereof; (ii) the right to share in Company distributions, the dates distributions will be payable and whether distributions with respect to such series or class will be cumulative or non-cumulative; (iii) rights upon dissolution and liquidation of the Company; (iv) whether, and the terms and conditions upon which, the Company may redeem the Shares; (v) whether such Shares are issued with the privilege of conversion or exchange and, if so, the conversion or exchange price or prices or rate or rates, or any adjustments thereto, the date or dates on which, or the period or periods during which, the shares will be convertible or exchangeable and all other terms and conditions upon which the conversion or exchange may be made; (vi) the terms and conditions upon which such Shares will be issued, evidenced by certificates and assigned or transferred; (vii) the method for determining the Percentage Interest, if

any, applicable to such Shares; (viii) the terms and amounts of any sinking fund provided for the purchase or redemption of Shares of the class or series; (ix) whether there will be restrictions on the issuance of Shares of the same class or series or any other class or series; and (x) the right, if any, of the holder of each such Share to vote on Company matters, including matters relating to the relative rights, preferences and privileges of such Shares. A Share Designation (or any resolution of the Board of Directors amending any Share Designation) shall be effective when a duly executed original of the same is delivered to the Secretary of the Company for inclusion among the permanent records of the Company, and shall be annexed to, and constitute part of, this Agreement. Unless otherwise provided in the applicable Share Designation, the Board of Directors may at any time increase or decrease the amount of Preferred Shares of any class or series, but not below the number of Preferred Shares of such class or series then Outstanding.

(d) The Company is authorized to issue up to Common Shares and Preferred Shares. All Shares issued pursuant to, and in accordance with the requirements of, this Article III shall be validly issued Shares in the Company, except to the extent otherwise provided in the Delaware Act or this Agreement (including any Share Designation).

(e) The Board of Directors may, without the consent or approval of any Members, amend this Agreement and make any filings under the Delaware Act or otherwise to the extent the Board of Directors determines that it is necessary or desirable in order to effectuate any issuance of Shares pursuant to this Article III, including, without limitation, an amendment of Section 3.2(d).

Section 3.3 Certificates.

(a) Upon the Company's issuance of Shares to any Person, the Company shall issue one or more Certificates in the name of such Person evidencing the number of such Shares being so issued. Certificates shall be executed on behalf of the Company by the Chairman or any Co-Chairman of the Board, the Chief Executive Officer, the Chief Financial Officer, the Treasurer, any Assistant Treasurer, the Secretary or any Assistant Secretary. No Certificate representing Shares shall be valid for any purpose until it has been countersigned by the Transfer Agent; provided, however, that if the Board of Directors elects to issue Shares in global form, the Certificates representing Shares shall be valid upon receipt of a certificate from the Transfer Agent certifying that the Shares have been duly registered in accordance with the directions of the Company. Any or all of the signatures required on the Certificate may be by facsimile. If any officer or Transfer Agent who shall have signed or whose facsimile signature shall have been placed upon any such Certificate shall have ceased to be such officer or Transfer Agent before such Certificate is issued by the Company, such Certificate may nevertheless be issued by the Company with the same effect as if such Person were such officer or Transfer Agent at the date of issue. Certificates for each class of Shares shall be consecutively numbered and shall be entered on the books and records of the Company as they are issued and shall exhibit the holder's name and number and type of Shares.

(b) If any mutilated Certificate is surrendered to the Transfer Agent, the appropriate officers on behalf of the Company shall execute, and the Transfer Agent shall countersign and deliver in exchange therefor, a new Certificate evidencing the same number and class or series of Shares as the Certificate so surrendered. The appropriate officers on behalf of the

Company shall execute, and the Transfer Agent shall countersign and deliver, a new Certificate in place of any Certificate previously issued if the Record Holder of the Certificate: (i) makes proof by affidavit, in form and substance satisfactory to the Company, that a previously issued Certificate has been lost, destroyed or stolen; (ii) requests the issuance of a new Certificate before the Company has notice that the Certificate has been acquired by a purchaser for value in good faith and without notice of an adverse claim; (iii) if requested by the Company, delivers to the Company a bond, in form and substance satisfactory to the Company, with surety or sureties and with fixed or open penalty as the Company may direct to indemnify the Company and the Transfer Agent against any claim that may be made on account of the alleged loss, destruction or theft of the Certificate; and (iv) satisfies any other reasonable requirements imposed by the Company. If a Member fails to notify the Company within a reasonable time after he has notice of the loss, destruction or theft of a Certificate, and a transfer of the Shares represented by the Certificate is registered before the Company or the Transfer Agent receives such notification, the Member shall be precluded from making any claim against the Company or the Transfer Agent for such transfer or for a new Certificate. As a condition to the issuance of any new Certificate under this Section, the Company 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 Transfer Agent) reasonably connected therewith.

Section 3.4 Record Holders. The Company shall be entitled to recognize the Record Holder as the owner of a Share and, accordingly, shall not be bound to recognize any equitable or other claim to or interest in such Share on the part of any other Person, regardless of whether the Company shall have actual or other notice thereof, except as otherwise provided by law or any applicable rule, regulation, guideline or requirement of any National Securities Exchange on which such Shares are listed for trading. Without limiting the foregoing, when a Person (such as a broker, dealer, bank, trust company or clearing corporation or an agent of any of the foregoing) is acting as nominee, agent or in some other representative capacity for another Person in acquiring and/or holding Shares, as between the Company on the one hand, and such other Persons on the other, such representative Person shall be the Record Holder of such Shares.

Section 3.5 Registration and Transfer of Shares.

(a) The term "**transfer,**" when used in this Agreement with respect to a Share, shall be deemed to refer to a transaction by which the Record Holder of a Share assigns such Share to another Person who is or becomes a Member, and includes a sale, assignment, gift, exchange or any other disposition by law or otherwise, including any transfer upon foreclosure of any pledge, encumbrance, hypothecation or mortgage.

(b) The Company shall keep or cause to be kept on behalf of the Company a register that will provide for the registration and transfer of Shares. The Transfer Agent is hereby appointed registrar and transfer agent for the purpose of registering Common Shares and transfers of such Common Shares as herein provided. Upon surrender of a Certificate for registration of transfer of any Shares evidenced by a Certificate, the appropriate officers of the Company shall execute and deliver, and in the case of Common Shares, the Transfer Agent shall countersign and deliver, in the name of the holder or the designated transferee or transferees, as required pursuant to the Record Holder's instructions, one or more new Certificates evidencing the same aggregate number and type of Shares as were evidenced by the Certificate so surrendered, provided that a transferor shall provide the address and facsimile number for each such transferee as contemplated by Section 12.1.

(c) The Company shall not recognize any transfer of Shares until the Certificates evidencing such Shares are surrendered for registration of transfer. No charge shall be imposed by the Company for such transfer; provided, that as a condition to the issuance of any new Certificate, the Company may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed with respect thereto.

(d) By acceptance of the transfer of any Share, each transferee of a Share (including any nominee holder or an agent or representative acquiring such Shares for the account of another Person) (i) shall be admitted to the Company as a Substitute Member with respect to the Shares so transferred to such transferee when any such transfer or admission is reflected in the books and records of the Company, (ii) shall be deemed to agree to be bound by the terms of this Agreement, (iii) shall become the Record Holder of the Shares so transferred, (iv) grants powers of attorney to the officers of the Company and any Liquidator of the Company, as specified herein, and (v) makes the consents and waivers contained in this Agreement. The transfer of any Shares and the admission of any new Member shall not constitute an amendment to this Agreement.

(e) Nothing contained in this Agreement shall preclude the settlement of any transactions involving Shares entered into through the facilities of any National Securities Exchange on which such Shares are listed for trading.

Section 3.6 Capital Accounts.

(a) The Company shall maintain for each Member (or a beneficial owner of Shares held by a nominee in any case in which the nominee has furnished the identity of such owner to the Company in accordance with Section 6031(c) of the Code or any other method acceptable to the Company) owning Shares a separate Capital Account with respect to such Shares in accordance with the rules of Treasury Regulation Section 1.704-1(b)(2)(iv). The Company shall maintain such Capital Accounts on a per class or series basis, as appropriate. Such Capital Account shall be increased by (i) the amount of all Capital Contributions made to the Company with respect to such Shares pursuant to this Agreement and (ii) all items of Company income and gain (including income and gain exempt from tax) computed in accordance with Section 3.6(b) and allocated with respect to such Shares pursuant to Section 4.1, and decreased by (x) the amount of cash or Net Agreed Value of all actual and deemed distributions of cash or property made with respect to such Shares pursuant to this Agreement and (y) all items of Company deduction and loss computed in accordance with Section 3.6(b) and allocated with respect to such Shares pursuant to Section 4.1. The foregoing provisions and the other provisions of this Agreement relating to the maintenance of Capital Accounts are intended to comply with Treasury Regulation Section 1.704-1(b) and shall be interpreted and applied in a manner consistent with such Treasury Regulation. In the event the Board of Directors shall determine that it is prudent to modify the manner in which the Capital Accounts or any adjustments thereto (including adjustments relating to liabilities which are secured by contributed or distributed property or which are assumed by the Company or any Members) are computed in order to comply with such Treasury Regulation, the Board of Directors may make such modification, provided that it is not likely to have a material effect on the amounts distributed to any Person pursuant to Article VIII hereof upon the dissolution

of the Company. The Board of Directors also shall (i) make any adjustments that are necessary or appropriate to maintain equality among the Capital Accounts of the Members and the amount of capital reflected on the Company's balance sheet, as computed for book purposes, in accordance with Treasury Regulation Section 1.704-1(b)(2)(iv)(q), and (ii) make any appropriate modifications in the event unanticipated events might otherwise cause this Agreement not to comply with Treasury Regulation Section 1.704-1(b).

(b) For purposes of computing the amount of any item of income, gain, loss or deduction, which is to be allocated pursuant to Article IV and is to be reflected in the Members' Capital Accounts, the determination, recognition and classification of any such item shall be the same as its determination, recognition and classification for federal income tax purposes (including any method of depreciation, cost recovery or amortization used for that purpose), provided, that:

(i) Solely for purposes of this Section 3.6, the Company shall be treated as owning directly its proportionate share (as determined by the Board of Directors based upon the provisions of the applicable Group Member Agreement or governing, organizational or similar documents) of all property owned by (x) any other Group Member that is classified as a partnership for federal income tax purposes and (y) any other partnership, limited liability company, unincorporated business or other entity or arrangement that is classified as a partnership for federal income tax purposes, of which a Group Member is, directly or indirectly, a partner.

(ii) All fees and other expenses incurred by the Company to promote the sale of (or to sell) Shares that can neither be deducted nor amortized under Section 709 of the Code, if any, shall, for purposes of Capital Account maintenance, be treated as an item of deduction at the time such fees and other expenses are incurred and shall be allocated among the Members pursuant to Section 4.1.

(iii) Except as otherwise provided in Treasury Regulation Section 1.704-1(b)(2)(iv)(m), the computation of all items of income, gain, loss and deduction shall be made without regard to any election under Section 754 of the Code which may be made by the Company and, as to those items described in Section 705(a)(1)(B) or 705(a)(2)(B) of the Code, without regard to the fact that such items are not includable in gross income or are neither currently deductible nor capitalized for federal income tax purposes. To the extent an adjustment to the adjusted tax basis of any Company asset pursuant to Section 734(b) or 743(b) of the Code is required, pursuant to Treasury Regulation Section 1.704-1(b)(2)(iv)(m), to be taken into account in determining Capital Accounts, the amount of such adjustment in the Capital Accounts shall be treated as an item of gain or loss.

(iv) Any income, gain or loss attributable to the taxable disposition of any Company property shall be determined as if the adjusted basis of such property as of such date of disposition were equal in amount to the Company's Carrying Value with respect to such property as of such date.

(v) In accordance with the requirements of Section 704(b) of the Code, any deductions for depreciation, cost recovery or amortization attributable to any Contributed Property shall be determined in the manner described in Regulation Section 1.704-3(d)(2). Upon an adjustment pursuant to Section 3.6(d) to the Carrying Value of any Adjusted Property that is subject to depreciation, cost recovery or amortization, any further deductions for such depreciation, cost recovery or amortization attributable to such property shall be determined in the manner described in Regulation Section 1.704-3(d)(2).

(c) A transferee of Shares shall succeed to a pro rata portion of the Capital Account of the transferor based on the number of Shares so transferred.

(d) (i) In accordance with Treasury Regulation Section 1.704-1(b)(2)(iv)(f), on an issuance of additional Shares for cash or Contributed Property and the issuance of Shares as consideration for the provision of services, the Capital Account of all Members and the Carrying Value of each Company property immediately prior to such issuance may, in the sole discretion of the Company, be adjusted upward or downward to reflect any Unrealized Gain or Unrealized Loss attributable to such Company property, as if such Unrealized Gain or Unrealized Loss had been recognized on an actual sale of each such property immediately prior to such issuance and had been allocated to the Members at such time pursuant to Section 4.1 in the same manner as any item of gain or loss actually recognized during such period would have been allocated. In determining such Unrealized Gain or Unrealized Loss, the aggregate cash amount and fair market value of all Company assets (including cash or cash equivalents) immediately prior to the issuance of additional Shares shall be determined by the Board of Directors using such method of valuation as it may adopt; provided, however, that the Board of Directors, in arriving at such valuation, must take fully into account the fair market value of the Shares of all Members at such time. The Board of Directors shall allocate such aggregate value among the assets of the Company (in such manner as it determines) to arrive at a fair market value for individual properties.

(ii) In accordance with Treasury Regulation Section 1.704-1(b)(2)(iv)(f), immediately prior to any actual or deemed distribution to a Member of any Company property (other than a distribution of cash that is not in redemption or retirement of a Share), the Capital Accounts of all Members and the Carrying Value of all Company property may be adjusted upward or downward to reflect any Unrealized Gain or Unrealized Loss attributable to such Company property, as if such Unrealized Gain or Unrealized Loss had been recognized in a sale of such property immediately prior to such distribution for an amount equal to its fair market value, and had been allocated to the Members, at such time, pursuant to Section 4.1 in the same manner as any item of gain or loss actually recognized during such period would have been allocated. In determining such Unrealized Gain or Unrealized Loss the aggregate cash amount and fair market value of all Company assets (including cash or cash equivalents) immediately prior to a distribution shall (A) in the case of an actual distribution that is not made pursuant to Section 8.3 or in the case of a deemed distribution, be determined and allocated in the same manner as that provided in Section 3.6(d)(i) or (B) in the case of a liquidating distribution pursuant to Section 8.3, be determined and allocated by the Liquidator using such method of valuation as it may adopt.

(iii) The Board of Directors may make the adjustments described in clauses (i) and (ii) above in the manner set forth therein if the Board of Directors determines that such adjustments are necessary or useful to effectuate the intended economic arrangement among the Members (i.e., that equal distributions be paid with respect to each Common Share), including Members who received Shares in connection with the performance of services to or for the benefit of the Company.

(e) Notwithstanding anything expressed or implied to the contrary in this Agreement, in the event the Board of Directors shall determine, in its sole and absolute discretion, that it is prudent to modify the manner in which the Capital Accounts, or any debits or credits thereto, as well as book and tax allocations of items of income, gain, loss and deduction are computed in order to effectuate the intended economic sharing arrangement of the Members (i.e., that equal distributions be paid with respect to each Common Share), the Board of Directors may make such modification.

Section 3.7 Splits and Combinations.

(a) Subject to paragraph (d) of this Section, the Company may make a pro rata distribution of Shares of any class or series to all Record Holders of such class or series of Shares, or may effect a subdivision or combination of Shares of any class or series so long as, after any such event, each Member shall have the same Percentage Interest in the Company as before such event, and any amounts calculated on a per Share basis or stated as a number of Shares are proportionately adjusted.

(b) Whenever such a distribution, subdivision or combination of Shares is declared, the Board of Directors shall select a Record Date as of which the distribution, subdivision or combination shall be effective and shall send notice thereof at least 20 days prior to such Record Date to each Record Holder as of a date not less than 10 days prior to the date of such notice. The Board of Directors also may cause a firm of independent public accountants selected by it to calculate the number of Shares to be held by each Record Holder after giving effect to such distribution, subdivision or combination. The Board of Directors shall be entitled to rely on any certificate provided by such firm as conclusive evidence of the accuracy of such calculation.

(c) Promptly following any such distribution, subdivision or combination, the Company may issue Certificates to the Record Holders of Shares as of the applicable Record Date representing the new number of Shares held by such Record Holders, or the Board of Directors may adopt such other procedures that it determines to be necessary or appropriate to reflect such changes. If any such combination results in a smaller total number of Shares Outstanding, the Company shall require, as a condition to the delivery to a Record Holder of such new Certificate, the surrender of any Certificate held by such Record Holder immediately prior to such Record Date.

(d) The Company shall not issue fractional Shares upon any distribution, subdivision or combination of Shares. If a distribution, subdivision or combination of Shares would otherwise result in the issuance of fractional Shares, each fractional Share shall be rounded to the nearest whole Share (and a 0.5 Share shall be rounded to the next higher Share) or the Company may pay cash in lieu of the issuance of any such fractional Shares as determined by the Board of Directors.

ARTICLE IV

ALLOCATIONS AND DISTRIBUTIONS

Section 4.1 Allocations for Capital Account Purposes. For purposes of maintaining the Capital Accounts and in determining the rights of the Members among themselves, the Company's items of income, gain, loss and deduction (computed in accordance with Section 3.6(b)) shall be allocated among the Members in each taxable year (or portion thereof) as provided herein below.

(a) Net Income. After giving effect to the special allocations set forth in Section 4.1(d), Net Income for each taxable year and all items of income, gain, loss and deduction taken into account in computing Net Income for such taxable year shall be allocated to the Members in accordance with their respective Percentage Interests.

(b) Net Losses. After giving effect to the special allocations set forth in Section 4.1(d), Net Losses for each taxable period and all items of income, gain, loss and deduction taken into account in computing Net Losses for such taxable period shall be allocated to the Members in accordance with their respective Percentage Interests; provided that to the extent any allocation of Net Losses would cause any Members to have a deficit balance in its Adjusted Capital Account at the end of such taxable year (or increase any existing deficit balance in its Adjusted Capital Account), such allocation of Net Loss shall be reallocated among the other Members in accordance with their respective Percentage Interests.

(c) Allocation upon Termination. With respect to all Section 4.1(a) and (b) allocations following a Liquidation Date, such allocations shall be made after Capital Account balances have been adjusted by all other allocations provided under this Section 4.1 and after giving effect to all distributions during such taxable year; provided, however, that solely for purposes of this Section 4.1(c), Capital Accounts shall not be adjusted for distributions made pursuant to Section 8.3.

(d) Special Allocations. Notwithstanding any other provision of this Section 4.1, the following special allocations shall be made for such taxable period:

(i) Company Minimum Gain Chargeback. Notwithstanding any other provision of this Section 4.1, if there is a net decrease in Company Minimum Gain during any Company taxable period, each Member shall be allocated items of Company income and gain for such period (and, if necessary, subsequent periods) in the manner and amounts provided in Treasury Regulation Sections 1.704-2(f)(6), 1.704-2(g)(2) and 1.704-2(j)(2)(i), or any successor

provision. For purposes of this Section 4.1(d), each Member's Adjusted Capital Account balance shall be determined, and the allocation of income and gain required hereunder shall be effected, prior to the application of any other allocations pursuant to this Section 4.1(d) with respect to such taxable period (other than an allocation pursuant to Sections 4.1(d)(iii) and 4.1(d)(vi)). This Section 4.1(d)(i) is intended to comply with the Company Minimum Gain chargeback requirement in Treasury Regulation Section 1.704-2(f) and shall be interpreted consistently therewith.

(ii) Chargeback of Member Nonrecourse Debt Minimum Gain. Notwithstanding the other provisions of this Section 4.1 (other than Section 4.1(d)(i)), except as provided in Treasury Regulation Section 1.704-2(i)(4), if there is a net decrease in Member Nonrecourse Debt Minimum Gain during any Company taxable period, any Member with a share of Member Nonrecourse Debt Minimum Gain at the beginning of such taxable period shall be allocated items of Company income and gain for such period (and, if necessary, subsequent periods) in the manner and amounts provided in Treasury Regulation Sections 1.704-2(i)(4) and 1.704-2(j)(2)(ii), or any successor provisions. For purposes of this Section 4.1(d), each Member's Adjusted Capital Account balance shall be determined, and the allocation of income and gain required hereunder shall be effected, prior to the application of any other allocations pursuant to this Section 4.1(d), other than Section 4.1(d)(i) and other than an allocation pursuant to Sections 4.1(d)(v) and 4.1(d)(vi), with respect to such taxable period. This Section 4.1(d)(ii) is intended to comply with the chargeback of items of income and gain requirement in Treasury Regulation Section 1.704-2(i)(4) and shall be interpreted consistently therewith.

(iii) Qualified Income Offset. In the event any Member unexpectedly receives any adjustments, allocations or distributions described in Treasury Regulation Sections 1.704-1(b)(2)(ii)(d)(4), (5), or (6), items of Company income and gain shall be specially allocated to such Member in an amount and manner sufficient to eliminate, to the extent required by the Treasury Regulations promulgated under Section 704(b) of the Code, the deficit balance, if any, in its Adjusted Capital Account created by such adjustments, allocations or distributions as quickly as possible unless such deficit balance is otherwise eliminated pursuant to Sections 4.1(d)(i) or (ii). This Section 4.1(d)(iii) is intended to qualify and be construed as a "qualified income offset" within the meaning of Treasury Regulation Section 1.704-1(b)(2)(ii)(d) and shall be interpreted consistently therewith.

(iv) Gross Income Allocations. In the event any Member has a deficit balance in its Capital Account at the end of any Company taxable period in excess of the sum of (A) the amount such Member is required to restore pursuant to the provisions of this Agreement and (B) the amount such Member is deemed obligated to restore pursuant to Treasury Regulation Sections 1.704-2(g) and 1.704-2(i)(5), such Member shall be specially allocated items of Company gross income and gain in the amount of such excess as quickly as possible; provided, that an allocation pursuant to this Section 4.1(d)(iv) shall be made only if

and to the extent that such Member would have a deficit balance in its Capital Account as adjusted after all other allocations provided for in this Section 4.1 have been tentatively made as if this Section 4.1(d)(iv) were not in this Agreement.

(v) Nonrecourse Deductions. Nonrecourse Deductions for any taxable period shall be allocated to the Members in accordance with their respective Percentage Interests. If the Board of Directors determines that the Company's Nonrecourse Deductions should be allocated in a different ratio to satisfy the safe harbor requirements of the Treasury Regulations promulgated under Section 704(b) of the Code, the Board of Directors is authorized, upon notice to the other Members, to revise the prescribed ratio to the numerically closest ratio that does satisfy such requirements.

(vi) Member Nonrecourse Deductions. Member Nonrecourse Deductions for any taxable period shall be allocated 100% to the Member that bears the Economic Risk of Loss with respect to the Member Nonrecourse Debt to which such Member Nonrecourse Deductions are attributable in accordance with Treasury Regulation Section 1.704-2(i). If more than one Member bears the Economic Risk of Loss with respect to a Member Nonrecourse Debt, such Member Nonrecourse Deductions attributable thereto shall be allocated between or among such Members in accordance with the ratios in which they share such Economic Risk of Loss.

(vii) Nonrecourse Liabilities. Nonrecourse Liabilities of the Company described in Treasury Regulation Section 1.752-3(a)(3) shall be allocated among the Members in a manner chosen by the Board of Directors and consistent with such Treasury Regulation.

(viii) Code Section 754 Adjustments. To the extent an adjustment to the adjusted tax basis of any Company asset pursuant to Section 734(b) or 743(b) of the Code is required, pursuant to Treasury Regulation Section 1.704-1(b)(2)(iv)(m), to be taken into account in determining Capital Accounts, the amount of such adjustment to the Capital Accounts shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases such basis), and such item of gain or loss shall be specially allocated to the Members in a manner consistent with the manner in which their Capital Accounts are required to be adjusted pursuant to such Section of the Treasury Regulations.

(ix) Curative Allocation.

(A) The Required Allocations are intended to comply with certain requirements of the Treasury Regulations. It is the intent of the Members that, to the extent possible, all Required Allocations shall be offset either with other Required Allocations or with special allocations of other items of Company income, gain, loss or deduction pursuant to this Section 4.1(d)(ix).

Therefore, notwithstanding any other provision of this Article IV (other than the Required Allocations), the Board of Directors shall make such offsetting special allocations of Company income, gain, loss or deduction in whatever manner it determines appropriate so that, after such offsetting allocations are made, each Member's Capital Account balance is, to the extent possible, equal to the Capital Account balance such Member would have had if the Required Allocations were not part of this Agreement and all Company items were allocated pursuant to the economic agreement among the Members.

(B) The Board of Directors shall, with respect to each taxable period, (1) apply the provisions of Section 4.1(d)(ix)(A) in whatever order is most likely to minimize the economic distortions that might otherwise result from the Required Allocations, and (2) divide all allocations pursuant to Section 4.1(d)(ix)(A) among the Members in a manner that is likely to minimize such economic distortions.

Section 4.2 Allocations for Tax Purposes.

(a) Except as otherwise provided herein, for federal income tax purposes, each item of income, gain, loss and deduction shall be allocated among the Members in the same manner as its correlative item of "book" income, gain, loss or deduction is allocated pursuant to Section 4.1.

(b) In an attempt to eliminate Book-Tax Disparities attributable to a Contributed Property or an Adjusted Property, items of income, gain, loss, depreciation, amortization and cost recovery deductions shall be allocated for federal income tax purposes among the Members as follows:

(i) (A) In the case of a Contributed Property, such items attributable thereto shall be allocated among the Members in the manner provided under Section 704(c) of the Code that takes into account the variation between the Agreed Value of such property and its adjusted basis at the time of contribution; and (B) any item of Residual Gain or Residual Loss attributable to a Contributed Property shall be allocated among the Members in the same manner as its correlative item of "**book**" gain or loss is allocated pursuant to Section 4.1.

(ii) (A) In the case of an Adjusted Property, such items shall (1) first, be allocated among the Members in a manner consistent with the principles of Section 704(c) of the Code to take into account the Unrealized Gain or Unrealized Loss attributable to such property and the allocations thereof pursuant to Sections 3.6(d)(i) or 3.6(d)(ii), and (2) second, in the event such property was originally a Contributed Property, be allocated among the Members in a manner consistent with Section 4.2(b)(i)(A); and (B) any item of Residual Gain or Residual Loss attributable to an Adjusted Property shall be allocated among the Members in the same manner as its correlative item of "**book**" gain or loss is allocated pursuant to Section 4.1.

(iii) The Board of Directors shall apply the principles of Treasury Regulation Section 1.704-3(d) to eliminate Book-Tax Disparities. Notwithstanding the preceding sentence, the Board of Directors may cause the Company to eliminate Book-Tax Disparities using another method described in Treasury Regulation Section 1.704-3.

(c) For the proper administration of the Company and for the preservation of uniformity of the Shares (or any class or classes thereof), the Board of Directors shall (i) adopt such conventions as it deems appropriate in determining the amount of depreciation, amortization and cost recovery deductions; (ii) make special allocations for federal income tax purposes of income (including gross income) or deductions; (iii) amend or interpret the provisions of this Agreement as appropriate (x) to reflect the proposal or promulgation of Treasury Regulations under Section 704(b) or Section 704(c) of the Code or (y) otherwise to preserve or achieve uniformity of the Shares (or any class or classes thereof); and (iv) adopt and employ such methods for (A) the maintenance of Capital Accounts for book and tax purposes, (B) the determination and allocation of adjustments under Sections 704(c), 734 and 743 of the Code, (C) the determination and allocation of taxable income, tax loss and items thereof under this Agreement and pursuant to the Code, (D) the determination of the identities and tax classification of Members, (E) the provision of tax information and reports to the Members, (F) the adoption of reasonable conventions and methods for the valuation of assets and the determination of tax basis, (G) the allocation of asset values and tax basis, (H) the adoption and maintenance of accounting methods, (I) the recognition of the transfer of Shares, (J) tax compliance and other tax-related requirements, including the use of computer software, and to use filing and reporting procedures similar to those employed by publicly-traded partnerships and limited liability companies, as it determines in its sole discretion are necessary and appropriate to execute the provisions of this Agreement and to comply with federal, state and local tax law, and to achieve uniformity of Shares within a class. The Board of Directors may adopt such conventions, make such allocations and make such amendments or interpretations to this Agreement as provided in this Section 4.2(c) only if such conventions, allocations, amendments or interpretations would not have a material adverse effect on the amount of distributions to which each Member is entitled.

(d) The Board of Directors may determine to depreciate or amortize the portion of an adjustment under Section 743(b) of the Code attributable to unrealized appreciation in any Adjusted Property (to the extent of the unamortized Book-Tax Disparity) using a predetermined rate derived from the depreciation or amortization method and useful life applied to the Company's common basis of such property, despite any inconsistency of such approach with Treasury Regulation Section 1.167(c)-l(a)(6) or any successor regulations thereto. If the Board of Directors determines that such reporting position cannot be taken, the Board of Directors may adopt depreciation and amortization conventions under which all purchasers acquiring Shares in the same month would receive depreciation and amortization deductions, based upon the same applicable rate as if they had purchased a direct interest in the Company's property. If the Board of Directors chooses not to utilize such aggregate method, the Board of Directors may use any other depreciation and amortization conventions to preserve the uniformity of the intrinsic tax characteristics of any Shares.

(e) Any gain allocated to the Members upon the sale or other taxable disposition of any Company asset shall, to the extent possible, after taking into account other required allocations of gain pursuant to this Section 4.2, be characterized as Recapture Income in the same proportions and to the same extent as such Members (or their predecessors in interest) have been allocated any deductions directly or indirectly giving rise to the treatment of such gains as Recapture Income.

(f) All items of income, gain, loss, deduction and credit recognized by the Company for federal income tax purposes and allocated to the Members in accordance with the provisions hereof shall be determined without regard to any election under Section 754 of the Code that may be made by the Company; provided, however, that such allocations, once made, shall be adjusted (in the manner determined by the Board of Directors) to take into account those adjustments permitted or required by Sections 734 and 743 of the Code.

(g) Pursuant to Section 4.2(c), the Board of Directors may adopt and employ such conventions and methods as it determines in its sole discretion to be appropriate for the determination for federal income tax purposes of each item of Company income, gain, loss, and deduction and the allocation of such items among Members and between transferors and transferees under this Agreement and pursuant to the Code (including Section 706 of the Code) and the regulations or rulings promulgated thereunder. The Board of Directors may revise, alter or otherwise modify such methods of allocation to the extent permitted or required by Section 706 of the Code and the regulations or rulings promulgated thereunder.

(h) Allocations that would otherwise be made to a Member under the provisions of this Article IV shall instead be made to the beneficial owner of Shares held by a nominee in any case in which the nominee has furnished the identity of such owner to the Company in accordance with Section 6031(c) of the Code or any other method determined by the Board of Directors.

Section 4.3 Distributions to Record Holders.

(a) Subject to the applicable provisions of the Delaware Act, the Board of Directors may, in its sole and absolute discretion, at any time and from time to time, declare, make and pay distributions of cash or other assets to the Members. Subject to the terms of any Share Designation, distributions shall be paid to Members in accordance with their respective Percentage Interests as of the Record Date selected by the Board of Directors.

(b) Notwithstanding Section 4.3(a), in the event of the dissolution and liquidation of the Company, all distributions shall be made in accordance with, and subject to the terms and conditions of, Section 8.3.

(c) Pursuant to Section 7.4, the Company is authorized to withhold from payments or other distributions to the Members, and to pay over to any U.S. federal, state and local government or any foreign government, any amounts required to be so withheld pursuant to the Code or any other law. All amounts withheld with respect to any payment or other distribution by the Company to the Members shall be treated as amounts paid to the Members with respect to which such amounts were withheld pursuant to this Section 4.3(c) or Section 8.3 for all purposes under this Agreement.

(d) Each distribution in respect of any Shares shall be paid by the Company, directly or through the Transfer Agent or through any other Person or agent, only to the Record Holder of such Shares as of the Record Date set for such distribution. Such payment shall constitute full payment and satisfaction of the Company's liability in respect of such payment, regardless of any claim of any Person who may have an interest in such payment by reason of an assignment or otherwise.

ARTICLE V

MANAGEMENT AND OPERATION OF BUSINESS

Section 5.1 Power and Authority of Board of Directors. Except as otherwise expressly provided in this Agreement, the business and affairs of the Company shall be managed by or under the direction of a board of directors (the "**Board of Directors**"). As provided in Section 5.21, the Board of Directors shall have the power and authority to appoint officers of the Company. The Directors and officers of the Company shall constitute "**managers**" within the meaning of the Delaware Act. No Member, by virtue of its status as such, shall have any management power over the business and affairs of the Company or actual or apparent authority to enter into, execute or deliver contracts on behalf of, or to otherwise bind, the Company. Except as otherwise specifically provided in this Agreement, the authority and functions of the Board of Directors, on the one hand, and of the officers, on the other hand, shall be identical to the authority and functions of the board of directors and officers, respectively, of a corporation organized under the DGCL. In addition to the powers that now or hereafter can be granted to managers under the Delaware Act and to all other powers granted under any other provision of this Agreement, the Board of Directors shall have full power and authority to do, and to direct the officers to do, all things and on such terms as it determines to be necessary or appropriate to conduct the business of the Company, to exercise all powers set forth in Section 2.5 and to effectuate the purposes set forth in Section 2.4, including the following:

(a) the making of any expenditures, the lending or borrowing of money, the assumption or guarantee of, or other contracting for, indebtedness and other liabilities, the issuance of evidences of indebtedness, including indebtedness that is convertible into Shares, and the incurring of any other obligations;

(b) the making of tax, regulatory and other filings, or rendering of periodic or other reports to governmental or other agencies having jurisdiction over the business or assets of the Company;

(c) the acquisition, disposition, mortgage, pledge, encumbrance, hypothecation or exchange of any or all of the assets of the Company or the merger or other combination of the Company with or into another Person (subject, however, to any prior approval of Members that may be required by this Agreement);

(d) the adoption, amendment, revision or termination of any policies or guidelines with respect to acquisitions or investments made on behalf of any Group Member by an external manager of the Company (including the Manager);

(e) the use of the assets of the Company (including cash on hand) for any purpose consistent with the terms of this Agreement, including the financing of the conduct of the operations of the Company and its Subsidiaries; the lending of funds to other Persons (including other Group Members); the repayment of obligations of the Company and its Subsidiaries; and the making of capital contributions to any Member of the Company or any of its Subsidiaries;

(f) the negotiation, execution and performance of any contracts, conveyances or other instruments (including instruments that limit the liability of the Company under contractual arrangements to all or particular assets of the Company);

(g) the declaration and payment of distributions of cash or other assets to Members;

(h) the selection and dismissal of an external manager, officers, employees, agents, outside attorneys, accountants, consultants and contractors and the determination of their compensation and other terms of employment or hiring, and the creation and operation of employee benefit plans, employee programs and employee practices;

(i) the entering into agreements and amendments thereto, including management agreements, with an external manager (including the Manager);

(j) the maintenance of insurance for the benefit of the Company Group and the Indemnified Persons;

(k) the formation of, or acquisition or disposition of an interest in, and the contribution of property and the making of loans to, any limited or general partnership, joint venture, corporation, limited liability company or other entity or arrangement;

(l) the control of any matters affecting the rights and obligations of the Company, including the bringing and defending of actions at law or in equity and otherwise engaging in the conduct of litigation, arbitration or remediation, and the incurring of legal expense and the settlement of claims and litigation;

(m) the indemnification of any Person against liabilities and contingencies to the extent permitted by law;

(n) the entering into of listing agreements with any National Securities Exchange and the delisting of some or all of the Shares from, or requesting that trading be suspended on, any such exchange;

(o) the issuance, sale or other disposition, and the purchase or other acquisition, of Shares or options, rights, warrants or appreciation rights relating to Shares, including to the Manager;

(p) the undertaking of any action in connection with the Company's interest or participation in any Group Member;

(q) the registration of any offer, issuance, sale or resale of Shares or other securities issued or to be issued by the Company under the Securities Act and any other applicable securities laws (including any resale of Shares or other securities by Members or other securityholders); and

(r) the execution and delivery of agreements with Affiliates of the Company or any external manager (including the Manager) to render services to a Group Member.

Section 5.2 Number, Qualification and Term of Office of Directors. The number of Directors which shall constitute the whole Board of Directors shall be five at the time of the execution of this Agreement. After completion of the IPO, the number of Directors which shall constitute the whole Board of Directors shall be determined from time to time by resolution adopted by a majority of the Board of Directors then in office, but shall be not fewer than three and no more than nine. The Directors shall be divided into three classes, designated Class I, Class II and Class III. Each class shall consist, as nearly as may be possible, of one-third of the total number of Directors constituting the whole Board of Directors. The initial division of the Board of Directors into classes shall be made by the decision of the affirmative vote of a majority of the entire Board of Directors. At the time of the execution of this Agreement, the Class I Directors shall have a term expiring at the 2016 annual meeting of Members, the Class II Directors shall have a term expiring at the 2017 annual meeting of Members, and the Class III Directors shall have a term expiring at the 2018 annual meeting of Members. Each Director shall hold office until his successor is elected or appointed and qualified, or until his or her earlier death, resignation or removal.

Section 5.3 Election of Directors. At each succeeding annual meeting of Members beginning in 2016, successors to the class of Directors whose term expires at that annual meeting shall be elected for a three (3)-year term and until their successors are duly elected or appointed and qualified. If the number of Directors is changed, any increase or decrease shall be apportioned among the classes so as to maintain the number of Directors in each class as nearly equal as possible, and any additional Director of any class elected to fill a vacancy resulting from an increase in such class or from the death, resignation or removal from office of a Director or other cause shall hold office for a term that shall coincide with the remaining term of that class, but in no case will a decrease in the number of Directors shorten the term of any incumbent Director. Directors need not be Members. The Directors shall be elected at the annual meeting of Members, except as provided in Section 5.6, and each Director elected shall hold office until the third succeeding meeting next after such Director's election and until such Director's successor is duly elected and qualified, or until such Director's death or until such Director resigns or is removed in the manner hereinafter provided. Directors shall be elected by a plurality of the votes of Outstanding Voting Shares present in person or represented by proxy and entitled to vote on the election of Directors at any annual or special meeting of Members. The Board of Directors shall present to the Members nominations of candidates for election to the Board of Directors (or recommend the election of such candidates as nominated by others) such that, and shall take such other corporate actions as may be reasonably required to provide that, to the best knowledge of the Board of Directors, if such candidates are elected by the Members, at least a majority of the

members of the Board of Directors shall be Independent Directors. The Board of Directors shall only elect any Person to fill a vacancy on the Board of Directors if, to the best knowledge of the Board of Directors, after such person's election at least a majority of the members of the Board of Directors shall be Independent Directors. The foregoing provisions of this paragraph shall not cause a Director who, upon commencing his or her service as a member of the Board of Directors was determined by the Board of Directors to be an Independent Director but did not in fact qualify as such, or who by reason of any change in circumstances ceases to qualify as an Independent Director, from serving the remainder of the term as a Director for which he or she was selected. Notwithstanding the foregoing provisions of this paragraph, no action of the Board of Directors shall be invalid by reason of the failure at any time of a majority of the members of the Board of Directors to be Independent Directors.

Section 5.4 Removal. A Director or the whole Board of Directors may be removed, only for cause, by the affirmative vote of holders of at least eighty percent (80%) of the then issued and outstanding Shares entitled to vote in the election of Directors, given at an annual meeting or at a special meeting of Members called for that purpose. The vacancy in the Board of Directors caused by any such removal shall be filled by the Board of Directors as provided in Section 5.6. Any Director serving on a committee of the Board of Directors may be removed from such committee at any time by the Board of Directors.

Section 5.5 Resignations. Any Director of the Company may resign from the Board of Directors or any committee thereof at any time, by giving notice in writing or electronic transmission to (i) the Chairman of the Board of Directors, if there be one, or to the Chief Executive Officer, if there is no Chairman, and (ii) the Secretary of the Company and, in the case of a committee, to the chairman of such committee, if there be one. Such resignation shall take effect at the time therein specified or, if no time is specified, immediately; and, unless otherwise specified in such notice, the acceptance of such resignation shall not be necessary to make it effective.

Section 5.6 Vacancies. Unless otherwise required by law, any vacancy on the Board of Directors that results from newly created Directorships resulting from any increase in the authorized number of Directors may be filled by a majority of the Directors then in office, provided that a quorum is present, and any other vacancies may be filled by a majority of the Directors then in office, though less than a quorum, or by a sole remaining Director or, solely in the event of the removal of the entire Board of Directors, by the affirmative vote of the holders of at least eighty percent (80%) of the voting power of the then issued and outstanding shares of capital stock of the Company entitled to vote in the election of Directors. Any Director of any class elected to fill a vacancy resulting from an increase in the number of Directors of such class shall hold office for a term that shall coincide with the remaining term of that class and until such Director's successor is duly elected or appointed and qualified, or until his or her earlier death, resignation or removal. Any Director elected to fill a vacancy not resulting from an increase in the number of Directors shall have the same remaining term as that of such Director's predecessor and until such Director's successor is duly elected or appointed and qualified, or until his or her earlier death, resignation or removal.

Section 5.7 Nomination of Directors. Only persons who are nominated in accordance with the procedures set forth in Section 11.11(b) shall be eligible for election as

Directors of the Company, except as may be otherwise provided in any Share Designation with respect to the right of Members of any class of Shares to nominate and elect a specified number of Directors in certain circumstances.

Section 5.8 Chairman of Meetings. The Board of Directors may elect one of its members as Chairman of the Board (the "**Chairman of the Board**"). The Chairman of the Board of Directors, if there be one, shall preside at all meetings of the Members and of the Board of Directors. The Chairman of the Board of Directors (who must be a Director but is not required to be an employee of the Company) shall be designated by the Board of Directors and, except where by law the signature of the Chief Executive Officer is required, the Chairman of the Board of Directors shall possess the same power as the Chief Executive Officer to sign all contracts, certificates and other instruments of the Company that may be authorized by the Board of Directors. During the absence or disability of the Chief Executive Officer, the Chairman of the Board of Directors shall exercise all the powers and discharge all the duties of the Chief Executive Officer. The Chairman of the Board of Directors shall also perform such other duties and may exercise such other powers as may from time to time be assigned by this Agreement or by the Board of Directors.

Section 5.9 Place of Meetings. The Board of Directors and any committee thereof may hold meetings, both regular and special, either within or outside the State of Delaware.

Section 5.10 Regular Meetings. A regular meeting of the Board of Directors and any committee thereof shall be held without any other notice than this Agreement, immediately after, and at the same place (if any) as, each annual meeting of Members. Additional regular meetings of the Board of Directors or any committee thereof may be held without notice at such time and at such place as may from time to time be determined by the Board of Directors or such committee, respectively. Unless otherwise determined by the Board of Directors, the Secretary of the Company shall act as Secretary at all regular meetings of the Board of Directors and in the Secretary's absence a temporary Secretary shall be appointed by the chairman of the meeting. The Independent Directors shall meet periodically without any member of management present and, except as the Independent Directors may otherwise determine, without any other Director present to consider the overall performance of management and the performance of the role of the Independent Directors in the governance of the Company; such meetings shall be held in connection with a regularly scheduled meeting of the Board of Directors except as the Independent Directors shall otherwise determine.

Section 5.11 Special Meetings; Notice. Special meetings of the Board of Directors may be called by the Chairman, if there be one, the Chief Executive Officer, or by any two Directors. Special meetings of any committee of the Board of Directors may be called by the chairman of such committee, if there be one, the Chief Executive Officer or any Director serving on such committee. Notice thereof stating the place, date and hour of the special meeting shall be given to each Director (or, in the case of a committee, to each member of such committee) either by mail not less than forty–eight (48) hours before the date of the meeting, by telephone, facsimile, email or other electronic means on twenty–four (24) hours' notice, or on such shorter notice as the person or persons calling such meeting may deem necessary or appropriate in the circumstances. A notice of a special meeting of the Board of Directors or any committee thereof need not specify the purpose of the meeting unless required by this Agreement. Notice of any Meetings of the Board

shall not, however, be required to be given to any Director who submits a signed waiver of notice, or waives notice of such meeting by electronic transmission, whether before or after the meeting, or if he or she shall be present at such meeting; and any meeting of the Board of Directors shall be a legal meeting without any notice thereof having been given if all the Directors of the Company then in office shall be present thereat or shall have waived notice thereof.

Section 5.12 Action Without Meeting. Any action required or permitted to be taken at any meeting by the Board of Directors or any committee thereof, as the case may be, may be taken without a meeting if a consent thereto is signed or transmitted electronically, as the case may be, by all members of the Board or of such committee, as the case may be, and the writing or writings or electronic transmission or transmissions are filed with the minutes of proceedings of the Board of Directors or such committee.

Section 5.13 Conference Telephone Meetings. Members of the Board of Directors, or any committee thereof, may participate in a meeting of the Board of Directors or such committee by means of conference telephone or other communications equipment by means of which all Persons participating in the meeting can hear each other, and such participation in a meeting shall constitute presence in person at such meeting.

Section 5.14 Quorum. Except as otherwise required by law, this Agreement or the rules and regulations of any securities exchange on which the Company's securities are listed and traded, at all meetings of the Board of Directors or any committee thereof, a majority of the entire Board of Directors or a majority of the Directors constituting such committee, as the case may be, shall constitute a quorum for the transaction of business, and the act of a majority of the Directors or a majority of the Directors constituting such committee, as the case may be, shall be the act of the Board of Directors or such committee, as applicable. If a quorum shall not be present at any meeting of the Board of Directors or any committee, a majority of the Directors or members, as the case may be, present thereat may adjourn the meeting from time to time without further notice other than announcement at the meeting of the time and place of the adjourned meeting, until a quorum shall be present.

Section 5.15 Committees. The Board of Directors may designate one or more committees, each committee to consist of one or more of the Directors of the Company. Each member of a committee must meet the requirements for membership, if any, imposed by applicable law and the rules and regulations of any securities exchange or quotation system on which the securities of the Company are listed or quoted for trading. The Board of Directors may designate one or more Directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of any such committee. Subject to the rules and regulations of any securities exchange or quotation system on which the securities of the Company are listed or quoted for trading, in the absence or disqualification of a member of a committee, and in the absence of a designation by the Board of Directors of an alternate member to replace the absent or disqualified member, the member or members thereof present at any meeting and not disqualified from voting, whether or not such member or members constitute a quorum, may unanimously appoint another qualified member of the Board of Directors to act at the meeting in the place of any absent or disqualified member. Any committee, to the extent permitted by law and provided in the resolution establishing such committee, shall have and may exercise all the powers and authority of the Board of Directors in the management of the business and affairs of the

Company, and may authorize the seal of the Company to be affixed to all papers that may require it. Each committee shall keep regular minutes and report to the Board of Directors when required. Notwithstanding anything to the contrary contained in this Agreement, the resolution of the Board of Directors establishing any committee of the Board of Directors and/or the charter of any such committee may establish requirements or procedures relating to the governance and/or operation of such committee that are different from, or in addition to, those set forth in this Agreement and, to the extent that there is any inconsistency between this Agreement and any such resolution or charter, the terms of such resolution or charter shall be controlling.

Section 5.16 [Reserved].

Section 5.17 Minutes of Committees. Each committee shall keep regular minutes of its meetings and proceedings and report the same to the Board of Directors at the next meeting thereof.

Section 5.18 Remuneration. The Board of Directors, by affirmative vote of a majority of the Directors then in office, and irrespective of any personal interest of any of its members, may establish reasonable compensation (including reasonable pensions, disability or death benefits, and other benefits or payments) of Directors for services to the Company as Directors, or may delegate such authority to an appropriate committee. The Directors may be paid their expenses, if any, of attendance at each meeting of the Board of Directors and may be paid a fixed sum for attendance at each meeting of the Board of Directors or a stated salary for service as a Director, payable in cash or securities. No such payment shall preclude any Director from serving the Company in any other capacity and receiving compensation therefor. Members of special or standing committees may be compensated for their service on such committee. The amount and form of compensation shall be set by the Board of Directors.

Section 5.19 Exculpation, Indemnification, Advances and Insurance.

(a) Power to Indemnify in Actions, Suits or Proceedings other than Those by or in the Right of the Company. Subject to 5.19(c), the Company shall indemnify any Indemnified Person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Company), by reason of the fact that such Indemnified Person is or was within the category of persons constituting Indemnified Persons of the Company, or is or was within the category of persons constituting Indemnified Persons of the Company serving at the request of the Company as a director, officer, employee or agent of another company, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such Indemnified Person in connection with such action, suit or proceeding if such Indemnified Person acted in good faith and in a manner such Person reasonably believed to be in or not opposed to the best interests of the Company, and, with respect to any criminal action or proceeding, had no reasonable cause to believe such Indemnified Person's conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the Indemnified Person did not act in good faith and in a manner which such Indemnified Person reasonably believed to be in or not opposed to the best interests of the Company, and, with respect to any criminal action or proceeding, had reasonable cause to believe that such Indemnified Person's conduct was unlawful.

(b) Power to Indemnify in Actions, Suits or Proceedings by or in the Right of the Company. Subject to 5.19(c), the Company shall indemnify any Indemnified Person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Company to procure a judgment in its favor by reason of the fact that such Indemnified Person is or was a within the category of persons constituting Indemnified Persons of the Company, or is or was within the category of persons constituting Indemnified Persons of the Company serving at the request of the Company as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees) actually and reasonably incurred by such Person in connection with the defense or settlement of such action or suit if such Person acted in good faith and in a manner such Person reasonably believed to be in or not opposed to the best interests of the Company; except that no indemnification shall be made in respect of any claim, issue or matter as to which such Person shall have been adjudged to be liable to the Company unless and only to the extent that the Court of Chancery of the State of Delaware or the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such Person is fairly and reasonably entitled to indemnity for such expenses that the Court of Chancery or such other court shall deem proper.

(c) Authorization of Indemnification. Any indemnification under this Section 5.19 (unless ordered by a court) shall be made by the Company only as authorized in the specific case upon a determination that indemnification of the Indemnified Person is proper in the circumstances because such Indemnified Person has met the applicable standard of conduct set forth in subsections (a) and (b) of this Section 5.19, as the case may be. Such determination shall be made, with respect to an Indemnified Person who was a Director, officer, tax matters partner or other individual designated by the Board of Directors as an Indemnified Person of the Company at the time of such determination, (i) by a majority vote of the Directors who are not parties to such action, suit or proceeding, even though less than a quorum, or (ii) by a committee of such Directors designated by a majority vote of such Directors, even though less than a quorum, or (iii) if there are no such Directors, or if such Directors so direct, by independent legal counsel in a written opinion or (iv) by the Members. Such determination shall be made, with respect to former Directors, officers, tax matters partners or other individuals designated by the Board of Directors as Indemnified Persons of the Company, by any person or persons having the authority to act on the matter on behalf of the Company. To the extent, however, that a present or former Director, officer, tax matters partner or other individual designated by the Board of Directors as an Indemnified Person of the Company has been successful on the merits or otherwise in defense of any action, suit or proceeding described above, or in defense of any claim, issue or matter therein, such Indemnified Person shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by such Indemnified Person in connection therewith, without the necessity of authorization in the specific case.

(d) Good Faith Defined. For purposes of any determination under Section 5.19(c), an Indemnified Person shall be deemed to have acted in good faith and in a manner such Indemnified Person reasonably believed to be in or not opposed to the best interests of the Company, or, with respect to any criminal action or proceeding, to have had no reasonable

cause to believe such person's conduct was unlawful, if such Indemnified Person's action is based on the records or books of account of the Company or another enterprise, or on information supplied to such Indemnified Person by the officers of the Company or another enterprise in the course of their duties, or on the advice of legal counsel for the Company or another enterprise or on information or records given or reports made to the Company or another enterprise by an independent certified public accountant or by an appraiser or other expert selected with reasonable care by the Company or another enterprise. The provisions of this Section 5.19(d) shall not be deemed to be exclusive or to limit in any way the circumstances in which an Indemnified Person may be deemed to have met the applicable standard of conduct set forth in subsections (a) or (b) of this Section 5.19, as the case may be.

(e) Indemnification by a Court. Notwithstanding any contrary determination in the specific case under Section 5.19(c), and notwithstanding the absence of any determination thereunder, any Indemnified Person may apply to the Court of Chancery of the State of Delaware or any other court of competent jurisdiction in the State of Delaware for indemnification to the extent otherwise permissible under subsections (a) or (b) of this Section 5.19. The basis of such indemnification by a court shall be a determination by such court that indemnification of the Indemnified Person is proper in the circumstances because such Indemnified Person has met the applicable standard of conduct set forth in (a) or (b) of this Section 5.19, as the case may be. Neither a contrary determination in the specific case under Section 5.19(c) nor the absence of any determination thereunder shall be a defense to such application or create a presumption that the Indemnified Person seeking indemnification has not met any applicable standard of conduct. Notice of any application for indemnification pursuant to this Section 5.19(e) shall be given to the Company promptly upon the filing of such application. If successful, in whole or in part, the Indemnified Person seeking indemnification shall also be entitled to be paid the expense of prosecuting such application; provided, however, that such notice shall not be a requirement for an award of or a determination of entitlement to indemnification or advancement of expenses.

(f) Expenses Payable in Advance. Expenses (including attorneys' and other professionals' disbursements and fees and court costs) incurred by an Indemnified Person in defending any civil, criminal, administrative or investigative action, suit or proceeding shall be paid by the Company in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of such Director or officer to repay such amount if it shall ultimately be determined that such Person is not entitled to be indemnified by the Company as authorized in this Section 5.19. Such expenses (including attorneys' fees) incurred by former Directors and officers or other employees and agents may be so paid upon such terms and conditions, if any, as the Company deems appropriate.

(g) Non-exclusivity of Indemnification and Advancement of Expenses. The indemnification and advancement of expenses provided by, or granted pursuant to, this Section 5.19 shall not be deemed exclusive of any other rights to which those seeking indemnification or advancement of expenses may be entitled under this Agreement, any agreement, vote of Members or disinterested Directors or otherwise, both as to action in such person's official capacity and as to action in another capacity while holding such office, it being the policy of the Company that indemnification of and the advancement of expenses to the persons specified in subsections (a) and (b) of this Section 5.19 shall be made to the fullest extent permitted by law. The

provisions of this Section 5.19 shall not be deemed to preclude the indemnification of any Person who is not specified in subsections(a) and (b) of this Section 5.19 but whom the Company would have the power or obligation to indemnify under the provisions of the DGCL, if the Company were a Delaware corporation, the Delaware Act or otherwise.

(h) Insurance. The Company may purchase and maintain at its expense insurance on behalf of any Person entitled to indemnification under this Section 5.19 against any liability asserted against such Person and incurred by such Person in any such capacity, or arising out of such Person's status as such, whether or not the Company would have the power or the obligation to indemnify such Person against such liability under the provisions of this Section 5.19.

(i) Certain Definitions. For purposes of this Section 5.19, references to the "Company" shall include, in addition to the resulting company, any constituent company (including any constituent of a constituent) absorbed in a consolidation or merger which, if its separate existence had continued, would have had power and authority to indemnify its directors or officers, so that any Person who is or was a director or officer of such constituent company, or is or was a director or officer of such constituent company serving at the request of such constituent company as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, shall stand in the same position under the provisions of this Section 5.19 with respect to the resulting or surviving corporation as such Person would have with respect to such constituent corporation if its separate existence had continued. The term "another enterprise" as used in this Section 5.19 shall mean any other corporation or any partnership, joint venture, trust, employee benefit plan or other enterprise of which such Person is or was serving at the request of the Company as a director, officer, employee or agent. For purposes of this Section 5.19, references to "fines" shall include any excise taxes assessed on a Person with respect to an employee benefit plan; and references to "serving at the request of the Company" shall include any service as a director, officer, employee or agent of the Company that imposes duties on, or involves services by, such director or officer with respect to an employee benefit plan, its participants or beneficiaries; and a Person who acted in good faith and in a manner such Person reasonably believed to be in the interest of the participants and beneficiaries of an employee benefit plan shall be deemed to have acted in a manner "not opposed to the best interests of the Company" as referred to in this Section 5.19.

(j) Survival of Indemnification and Advancement of Expenses. The indemnification and advancement of expenses provided by, or granted pursuant to, this Section 5.19 shall, unless otherwise provided when authorized or ratified, continue as to a Person who has ceased to be an Indemnified Person and shall inure to the benefit of the heirs, executors and administrators of such a person.

(k) Limitation on Indemnification. Notwithstanding anything contained in this Section 5.19 to the contrary, except for proceedings to enforce rights to indemnification (which shall be governed by Section 5.19(e)), the Company shall not be obligated to indemnify any Indemnified Person (or such Indemnified Person's heirs, executors or personal or legal representatives) or advance expenses in connection with a proceeding (or part thereof) initiated by such Indemnified Person unless such proceeding (or part thereof) was authorized or consented to by the Board of Directors of the Company.

(l) Indemnification of Employees and Agents. The Company may, to the extent authorized from time to time by the Board of Directors, provide rights to indemnification and to the advancement of expenses to employees and agents of the Company and/or the Manager and to the employees and agents of the Company Group similar to those conferred in this Section 5.19 to Indemnified Persons.

(m) Contractual Rights. Nothing contained in this Section 5.19 shall prevent the Company from entering into with any Person any agreement that provides independent indemnification, hold harmless or exoneration rights to such Person or further regulates the terms on which indemnification, hold harmless or exoneration rights are to be provided to such Person or provides independent assurance of any one or more of the Company's obligations to indemnify, hold harmless, and exonerate such person, whether or not such indemnification, hold harmless or exoneration rights are on the same or different terms than provided for by this Section 5.19 or is in respect of such Person acting in any other capacity, and nothing contained herein shall be exclusive of, or a limitation on, any right to indemnification, to be held harmless, to exoneration or to advancement of expenses to which any Person is otherwise entitled. The Company may create a trust fund, grant a security interest or use other means (including a letter of credit) to ensure the payment of such amounts as may be necessary to effect indemnification and the advancement of expenses as provided in this Section 5.19. The rights conferred upon any Person in this Section 5.19 shall be contract rights and such rights shall continue as to any Person who has ceased to be a director, officer, employee, trustee or agent of the Company, and shall inure to the benefit of such person's heirs, executors and administrators. A right to indemnification or to advancement of expenses arising under any provision of this Section 5.19 shall not be eliminated or impaired by an amendment, alteration or repeal of any provision of this Agreement after the occurrence of the act or omission that is the subject of the proceeding for which indemnification or advancement of expenses is sought (even in the case of a proceeding based on such a state of facts that is commenced after such time).

Section 5.20 Certificate of Formation and Certificate of Domestication. The Certificate of Formation and the Certificate of Domestication have each been filed with the Secretary of State of the State of Delaware as required by the Delaware Act, such filing being hereby confirmed, ratified and approved in all respects. The Board of Directors shall use all reasonable efforts to cause to be filed such other certificates or documents that it determines to be necessary or appropriate for the formation, continuation, qualification and operation of a limited liability company in the State of Delaware or any other state in which the Company may elect to do business or own property. To the extent that the Board of Directors determines such action to be necessary or appropriate, the Board of Directors shall direct the appropriate officers of the Company to file amendments to and restatements of the Certificate of Formation and do all things to maintain the Company as a limited liability company under the laws of the State of Delaware or of any other state in which the Company may elect to do business or own property, and any such officer so directed shall be an **"**authorized person**"** of the Company within the meaning of the Delaware Act for purposes of filing any such certificate with the Secretary of State of the State of Delaware. The Company shall not be required, before or after filing, to deliver or mail a copy of the Certificate of Formation, the Certificate of Domestication, any qualification document or any amendment thereto to any Member.

Section 5.21 Officers.

(a) General. The officers of the Company shall be chosen by the Board of Directors and initially shall be a Chief Executive Officer, a Chief Financial Officer and a Secretary. The Board of Directors, in its discretion, also may choose a Chairman of the Board of Directors (who must be a Director but is not required to be an employee of the Company), a Treasurer and one or more other officers. Any number of offices may be held by the same person, unless otherwise prohibited by law or this Agreement. The officers of the Company need not be Members nor, except in the case of the Chairman of the Board of Directors (who must be a Director), be Directors. Whenever an officer or officers is absent, or whenever for any reason the Board of Directors may deem it desirable, the Board may delegate the powers and duties of any officer or officers to any Director or Directors. The Board of Directors may from time to time delegate the powers or duties of any officer to any other officers or agents, notwithstanding any other provision hereof.

(b) Election. The Board of Directors shall elect the officers of the Company who shall hold their offices for such terms and shall exercise such powers and perform such duties as shall be determined from time to time by the Board of Directors, and each officer of the Company shall hold office until such officer's successor is elected and qualified, or until such officer's earlier death, resignation or removal. Any officer elected by the Board of Directors may be removed at any time by the Board of Directors, including by unanimous written consent. Any vacancy occurring in any office of the Company shall be filled by the Board of Directors.

(c) Voting Securities Owned by the Company. Powers of attorney, proxies, waivers of notice of meeting, consents and other instruments relating to securities owned by the Company may be executed in the name of and on behalf of the Company by the Chief Executive Officer, the Chief Financial Officer, the Secretary or any other officer authorized to do so by the Board of Directors and any such officer may, in the name of and on behalf of the Company, take all such action as any such officer may deem advisable to vote in person or by proxy at any meeting of security holders of any corporation in which the Company may own securities and at any such meeting shall possess and may exercise any and all rights and power incident to the ownership of such securities and which, as the owner thereof, the Company might have exercised and possessed if present. The Board of Directors may, by resolution, from time to time confer like powers upon any other person or persons.

(d) Chief Executive Officer. The Chief Executive Officer shall, subject to the control of the Board of Directors and if there be one, the Chairman of the Board of Directors, have general supervision of the affairs of the Company, general and active control of all its business and shall see that all orders and resolutions of the Board of Directors are carried into effect. In the absence or disability of the Chairman of the Board of Directors, or if there be none, the Chief Executive Officer or his or her designee shall preside at all meetings of the Members and, provided the Chief Executive Officer is also a Director, the Board of Directors. The Chief Executive Officer shall see that all orders and resolutions of the Board of Directors and the Members are carried into effect. The Chief Executive Officer shall have general authority to execute bonds, deeds and contracts in the name of the Company and affix the seal of the Company thereto; to sign stock certificates; to cause the employment or appointment of such employees and agents of the Company as the proper conduct of operations may require, and to fix their

compensation, subject to the provisions of this Agreement; to remove or suspend any employee or agent who shall have been employed or appointed under the Chief Executive Officer's authority or under authority of an officer subordinate to the Chief Executive Officer; to suspend for cause, pending final action by the authority which shall have elected or appointed the Chief Executive Officer, any officer subordinate to the Chief Executive Officer; and, in general, to exercise all the powers and authority usually appertaining to the chief executive officer of a corporation, except as otherwise provided in this Agreement.

(e) Chief Financial Officer. The Chief Financial Officer shall, subject to the control of the Board of Directors, and if there be one, the Chairman of the Board, the Chief Executive Officer, cause to be kept full and accurate accounts of receipts and disbursements in books belonging to the Company and shall cause to be deposited all monies and other valuable effects in the name and to the credit of the Company in such depositories as shall be designated by the Board of Directors or, in the absence of such designation in such depositories, as the Chief Financial Officer shall from time to time deem proper. The Chief Financial Officer shall be the Treasurer of the Company, unless another Treasurer shall be appointed. The Chief Financial Officer shall disburse the funds of the Company as shall be ordered by the Board of Directors, taking proper vouchers for such disbursements, shall promptly render to the Chief Executive Officer and to the Board of Directors such statements of the Chief Financial Officer's transactions and accounts as the Chief Executive Officer and the Board of Directors respectively may from time to time require, and in general, shall exercise all the powers and authority usually appertaining to the chief financial officer of a corporation, except as otherwise provided in this Agreement.

(f) Absence of the Chief Executive Officer. At the request of the Chief Executive Officer or in the Chief Executive Officer's absence or in the event of the Chief Executive Officer's inability or refusal to act (and if there be no Chairman of the Board of Directors), another officer designated by the Board of Directors shall perform the duties of the Chief Executive Officer, and when so acting, shall have all the powers of and be subject to all the restrictions upon the Chief Executive Officer. Each officer shall perform such other duties and have such other powers as the Board of Directors from time to time may prescribe. If there be no Chairman of the Board of Directors, the Board of Directors shall designate an officer of the Company who, in the absence of the Chief Executive Officer or in the event of the inability or refusal of the Chief Executive Officer to act, shall perform the duties of the Chief Executive Officer, and when so acting, shall have all the powers of and be subject to all the restrictions upon the Chief Executive Officer.

(g) Secretary. Except as otherwise provided herein, the Secretary shall record all the proceedings of meetings of the Board of Directors and all meetings of the Members in a book or books to be kept for that purpose, and the Secretary shall also perform like duties for committees of the Board of Directors when required. The Secretary shall give, or cause to be given, notice of all meetings of the Members and special meetings of the Board of Directors, and shall perform such other duties as may be prescribed by the Board of Directors, the Chairman of the Board of Directors or the Chief Executive Officer, under whose supervision the Secretary shall be. If the Secretary shall be unable or shall refuse to cause to be given notice of all meetings of the Members and special meetings of the Board of Directors, and if there be no Assistant Secretary, then either the Board of Directors or the Chief Executive Officer may choose another officer to

cause such notice to be given. The Secretary shall have custody of the seal of the Company and the Secretary or any Assistant Secretary, if there be one, shall have authority to affix the same to any instrument requiring it and when so affixed, it may be attested by the signature of the Secretary or by the signature of any such Assistant Secretary. The Board of Directors may give general authority to any other officer to affix the seal of the Company and to attest to the affixing by such officer's signature. The Secretary shall see that all books, reports, statements, certificates and other documents and records required by law to be kept or filed are properly kept or filed, as the case may be.

(h) Other Officers. Such other officers as the Board of Directors may choose shall perform such duties and have such powers as from time to time may be assigned to them by the Board of Directors. The Board of Directors may delegate to any other officer of the Company the power to appoint such other officers and to prescribe their respective duties and powers.

(i) Resignation. Any officer may resign by delivering his or her written resignation to the Company at its principal office, and such resignation shall be effective upon receipt unless it is specified to be effective at a later time. If a resignation is made effective at a later date and the Company accepts the future effective date, the Board of Directors may fill the pending vacancy before the effective date if the Board of Directors provides that the successor shall not take office until the effective date. An officer's resignation shall not affect the Company's contract rights, if any, with the officer.

(j) Removal. The Board of Directors may remove any officer with or without cause. Nothing herein shall limit the power of any officer to discharge any subordinate.

Section 5.22 Duties of Officers and Directors.

(a) Except as otherwise expressly provided in this Agreement or required by the Delaware Act, (i) the duties and obligations owed to the Company by the officers and Directors shall be the same as the duties and obligations owed to a corporation organized under DGCL by its officers and Directors, respectively, and (ii) the duties and obligations owed to the Members by the officers and Directors shall be the same as the duties and obligations owed to the stockholders of a corporation under the DGCL by its officers and Directors, respectively.

(b) The business and affairs of the Company shall be managed by or under the direction of the Board of Directors, which may exercise all such powers of the Company and do all such lawful acts and things as are not by statute or by this Agreement required to be exercised or done by the Members. The Board of Directors shall not be responsible for the misconduct or negligence on the part of any such officer duly appointed or duly authorized by the Board of Directors in good faith.

Section 5.23 Outside Activities.

(a) Definitions. For purposes of this Section 5.23, the following definitions shall apply:

(i) "Affiliate" means, with respect to a given person, any other Person that, directly or indirectly, controls, is controlled by or is under common control with, such person; provided, however, that for purposes of this definition and this Section 5.23, none of (i) the FTAI Entities and any entities (including corporations, partnerships, limited liability companies, or other persons) in which such FTAI Entities hold, directly or indirectly, an ownership interest, on the one hand, or (ii) the Fortress Members and their Affiliates (excluding any FTAI Entities or other entities described in clause (i)), on the other hand, shall be deemed to be "Affiliates" of one another. For purposes of this definition, "control" (including, with correlative meanings, the terms "controlled by" and "under common control with") as applied to any person, means the possession, directly or indirectly, of beneficial ownership of, or the power to vote, 10% or more of the securities having voting power for the election of Directors (or other persons acting in similar capacities) of such Person or the power otherwise to direct or cause the direction of the management and policies of such person, whether through the ownership of voting securities, by contract or otherwise.

(ii) "beneficially own" and "beneficial ownership" and similar terms used herein shall be determined in accordance with Rules 13d-3 and 13d-5 under the Securities Exchange Act of 1934.

(iii) "Corporate Opportunity" shall include, but not be limited to, business opportunities that the Company is financially able to undertake, which are, from their nature, in the line of the Company's business, are of practical advantage to it and are ones in which the Company has an interest or a reasonable expectancy, and in which, by embracing the opportunities, the self-interest of the Fortress Members or any of their Affiliates or their officers or directors will be brought into conflict with that of any of the FTAI Entities or their Affiliates.

(iv) "Entire Board of Directors" means the total number of Directors which the Company would have if there were no vacancies.

(v) "FTAI Entities" means the Company and its Subsidiaries, and "FTAI Entity" shall mean any of the FTAI Entities.

(vi) "Fortress Affiliate Members" shall mean (A) any Director of the Company who may be deemed an Affiliate of Fortress Investment Group LLC ("FIG") or the Manager, (B) any director or officer of FIG or its Affiliates or the Manager or its Affiliates and (C) any investment funds (including any managed accounts) managed directly or indirectly by FIG or its Affiliates or the Manager or its Affiliates.

(vii) "Fortress Members" shall mean (i) the Initial Members and (ii) each Fortress Affiliate Member and (iii) each Permitted Transferee and (iv) the Manager.

(viii) “Governmental Entity” shall mean any national, state, provincial, municipal, local or foreign government, any court, arbitral tribunal, administrative agency or commission, or other governmental or regulatory authority, commission, or agency, or any non-governmental, self-regulatory authority, commission, or agency.

(ix) “Judgment” shall mean any order, writ, injunction, award, judgment, ruling, or decree of any Governmental Entity.

(x) “Law” shall mean any statute, law, code, ordinance, rule, or regulation of any Governmental Entity.

(xi) “Lien” shall mean any pledge, claim, equity, option, lien, charge, mortgage, easement, right-of-way, call right, right of first refusal, “tag”- or “drag”- along right, encumbrance, security interest, or other similar restriction of any kind or nature whatsoever.

(xii) “Listing” shall mean the listing of the Common Stock on the NYSE or other national securities exchange.

(xiii) “Permitted Transferee” shall mean, with respect to each Fortress Member, (i) any other Fortress Member, (ii) such Fortress Member’s Affiliates and (iii) in the case of any Fortress Member, (A) any member or general or limited partner of such Fortress Member (including, without limitation, any member of the Initial Members), (B) any corporation, partnership, limited liability company, or other entity that is an Affiliate of such Fortress Member or any member, general or limited partner of such Fortress Member (collectively, “Fortress Member Affiliates”), (C) any investment funds managed directly or indirectly by such Fortress Member or any Fortress Member Affiliate (a “Fortress Member Fund”), (D) any general or limited partner of any Fortress Member Fund, (E) any managing director, general partner, director, limited partner, officer, or employee of any Fortress Member Affiliate, or any spouse, lineal descendant, sibling, parent, heir, executor, administrator, testamentary trustee, legatee, or beneficiary of any of the foregoing persons described in this clause (E) (collectively, “Fortress Member Associates”), or (F) any trust, the beneficiaries of which, or any corporation, limited liability company or partnership, the stockholders, members or general or limited partners of which, consist solely of any one or more of such Fortress Members, any general or limited partner of such Fortress Members, any Fortress Member Affiliates, any Fortress Member Funds, any Fortress Member Associates, their spouses or their lineal descendants.

(xiv) “Restriction” with respect to any capital stock, partnership interest, membership interest in a limited liability company, or other equity interest or security, shall mean any voting or other trust or agreement, option, warrant, preemptive right, right of first offer, right of first refusal, escrow arrangement, proxy, buy-sell agreement, power of attorney or other contract, any Law, license, permit, or Judgment that, conditionally or unconditionally, (i) grants

to any Person the right to purchase or otherwise acquire, or obligates any Person to sell or otherwise dispose of or issue, or otherwise results or, whether upon the occurrence of any event or with notice or lapse of time or both or otherwise, may result in any Person acquiring, (A) any of such capital stock, partnership interest, membership interest in a limited liability company, or other equity interest or security, (B) any of the proceeds of, or any distributions paid or that are or may become payable with respect to, any of such capital stock, partnership interest, membership interest in a limited liability company, or other equity interest or security, or (C) any interest in such capital stock, partnership interest, membership interest in a limited liability company, or other equity interest or security or any such proceeds or distributions, (ii) restricts or, whether upon the occurrence of any event or with notice or lapse of time or both or otherwise, is reasonably likely to restrict the transfer or voting of, or the exercise of any rights or the enjoyment of any benefits arising by reason of ownership of, any such capital stock, partnership interest, membership interest in a limited liability company, or other equity interest or security or any such proceeds or distributions or (iii) creates or, whether upon the occurrence of any event or with notice or lapse of time, or both, or otherwise, is reasonably likely to create a Lien or purported Lien affecting such capital stock, partnership interest, membership interest in a limited liability company or other equity interest or security, proceeds or distributions.

(xv) “Subsidiary” with respect to any Person means: (i) a corporation, a majority of whose capital stock with voting power, under ordinary circumstances, to elect Directors is at the time, directly or indirectly owned by such person, by a Subsidiary of such person, or by such Person and one or more Subsidiaries of such person, without regard to whether the voting of such capital stock is subject to a voting agreement or similar Restriction, (ii) a partnership or limited liability company in which such Person or a Subsidiary of such Person is, at the date of determination, (A) in the case of a partnership, a general partner of such partnership with the power affirmatively to direct the policies and management of such partnership or (B) in the case of a limited liability company, the managing member or, in the absence of a managing member, a member with the power affirmatively to direct the policies and management of such limited liability company or (iii) any other Person (other than a corporation) in which such Person, a Subsidiary of such Person or such Person and one or more Subsidiaries of such person, directly or indirectly, at the date of determination thereof, has (A) the power to elect or direct the election of a majority of the members of the governing body of such Person (whether or not such power is subject to a voting agreement or similar restriction) or (B) in the absence of such a governing body, a majority ownership interest.

(b) Fortress Members. In anticipation and in recognition that:

(i) the Initial Members or their Permitted Transferees or their Affiliates will be the only Members of the Company;

(ii) any one or more directors, officers and employees of the Fortress Members and their Affiliates may serve as any one or more directors, officers, and employees of the FTAI Entities and their Affiliates;

(iii) the FTAI Entities and their Affiliates, on the one hand, and the Fortress Members and their Affiliates, on the other hand, may engage in the same, similar or related lines of business and may have an interest in the same, similar or related areas of corporate opportunities;

(iv) the FTAI Entities and their Affiliates, on the one hand, and the Fortress Members and their Affiliates, on the other hand, may enter into, engage in, perform and consummate contracts, agreements, arrangements, transactions and other business relations including one or more management agreements and amendments thereof; and

(v) the FTAI Entities and their Affiliates will derive benefits therefrom and through their continued contractual, corporate and business relations with the Fortress Members and their Affiliates, the provisions of this Section 5.23 are set forth to regulate, define and guide, to the fullest extent permitted by Law, the conduct of certain affairs of the FTAI Entities and their Affiliates as they may involve the Fortress Members and their Affiliates and their officers and directors, and the powers, rights, duties and liabilities of the FTAI Entities and their Affiliates and their officers, directors and stockholders in connection therewith.

(c) Related Business Activities. Except as the Fortress Members and their Affiliates, on the one hand, and the FTAI Entities or their Affiliates, on the other hand, may otherwise agree in writing, the Fortress Members and their Affiliates shall have the right to, and shall have no duty to abstain from exercising such right to, (i) engage or invest, directly or indirectly, in the same, similar, or related business activities or lines of business as the FTAI Entities or their Affiliates, (ii) do business with any client, customer, vendor or lessor of any of the FTAI Entities or their Affiliates or (iii) employ or otherwise engage any officer, director or employee of the FTAI Entities or their Affiliates, and, to the fullest extent permitted by Law, the Fortress Members and their Affiliates and officers, directors and employees thereof (subject to subsection (e) of this Section 5.23) shall not have or be under any fiduciary duty, duty of loyalty or duty to act in good faith or in the best interests of the Company or its Members and shall not be liable to the Company or its Members for any breach or alleged breach thereof or for any derivation of any personal economic gain by reason of any such activities of the Fortress Members or any of their Affiliates or of any of their officers,' directors' or employees' participation therein.

(d) Corporate Opportunity. Except as the Fortress Members and their Affiliates, on the one hand, and the FTAI Entities or their Affiliates, on the other hand, may otherwise agree in writing, if the Fortress Members or any of their Affiliates, or any officer, director or employee thereof (subject to the provisions of subsection (e) of this Section 5.23), acquires knowledge of a potential transaction or matter that may be a Corporate Opportunity for the Fortress Members or any of their Affiliates, none of the FTAI Entities or their Affiliates or any stockholder thereof shall have an interest in, or expectation that, such Corporate Opportunity be

offered to it or that it be offered an opportunity to participate therein, and any such interest, expectation, offer or opportunity to participate, and any other interest or expectation otherwise due to the Company or any other FTAI Entity with respect to such Corporate Opportunity, is hereby renounced by the Company on its behalf and on behalf of the other FTAI Entities and their respective Affiliates and stockholders in accordance with the provisions of Section 122(17) of the DGCL, which provisions apply to the Company as though it were a corporation organized under DGCL. Accordingly, subject to subsection (e) of this Section 5.23 and except as the Fortress Members or their Affiliates may otherwise agree in writing, (i) none of the Fortress Members or their Affiliates or any officer, director or employee thereof will be under any obligation to present, communicate or offer any such Corporate Opportunity to the FTAI Entities or their Affiliates and (ii) the Fortress Members and any of their Affiliates shall have the right to hold any such Corporate Opportunity for their own account, or to direct, recommend, sell, assign or otherwise transfer such Corporate Opportunity to any person or persons other than the FTAI Entities and their Affiliates, and, to the fullest extent permitted by Law, the Fortress Members and their respective Affiliates and officers, directors and employees thereof (subject to subsection (e) of this Section 5.23) shall not have or be under any fiduciary duty, duty of loyalty or duty to act in good faith or in the best interests of the Company, the other FTAI Entities and their respective Affiliates and stockholders and shall not be liable to the Company, the other FTAI Entities or their respective Affiliates and stockholders for any breach or alleged breach thereof or for any derivation of personal economic gain by reason of the fact that any of the Fortress Members or any of their Affiliates or any of their officers, directors or employees pursues or acquires the Corporate Opportunity for itself, or directs, recommends, sells, assigns, or otherwise transfers the Corporate Opportunity to another person, or any of the Fortress Members or any of their Affiliates or any of their officers, directors or employees does not present, offer or communicate information regarding the Corporate Opportunity to the FTAI Entities or their Affiliates.

(e) Directors, Officers and Employees. Except as the Fortress Members and their Affiliates, on the one hand, and the FTAI Entities or their Affiliates, on the other hand, may otherwise agree in writing, in the event that a director or officer of any of the FTAI Entities or their Affiliates who is also a director, officer or employee of the Fortress Members or their Affiliates acquires knowledge of a potential transaction or matter that may be a Corporate Opportunity or is offered a Corporate Opportunity, if (i) such Person acts in good faith and (ii) such knowledge of such potential transaction or matter was not obtained solely in connection with, or such Corporate Opportunity was not offered to such Person solely in, such person's capacity as director or officer of any of the FTAI Entities or their Affiliates, then (A) such director, officer or employee, to the fullest extent permitted by Law, (1) shall be deemed to have fully satisfied and fulfilled such person's fiduciary duty to the Company, the other FTAI Entities and their respective Affiliates and stockholders with respect to such Corporate Opportunity, (2) shall not have or be under any fiduciary duty to the Company, the other FTAI Entities and their respective Affiliates and stockholders and shall not be liable to the Company, the other FTAI Entities or their respective Affiliates and stockholders for any breach or alleged breach thereof by reason of the fact that any of the Fortress Members or their Affiliates pursues or acquires the Corporate Opportunity for itself, or directs, recommends, sells, assigns or otherwise transfers the Corporate Opportunity to another person, or any of the Fortress Members or their Affiliates or such director, officer or employee does not present, offer or communicate information regarding the Corporate Opportunity to the FTAI Entities or their Affiliates, (3) shall be deemed to have acted in good faith and in a manner such Person reasonably believes to be in, and not opposed to, the best interests of the Company and

its Members for the purposes this Agreement and (4) shall not have any duty of loyalty to the Company, the other FTAI Entities and their respective Affiliates and stockholders or any duty not to derive any personal benefit therefrom and shall not be liable to the Company, the other FTAI Entities or their respective Affiliates and stockholders for any breach or alleged breach thereof for purposes of this Agreement as a result thereof and (B) such potential transaction or matter that may be a Corporate Opportunity, or the Corporate Opportunity, shall belong to the applicable Fortress Member or respective Affiliates thereof (and not to any of the FTAI Entities or Affiliates thereof).

(f) Agreements with Fortress Members. The FTAI Entities and their Affiliates may from time to time enter into and perform one or more agreements (or modifications or supplements to pre-existing agreements) with the Fortress Members and their respective Affiliates pursuant to which the FTAI Entities and their Affiliates, on the one hand, and the Fortress Members and their respective Affiliates, on the other hand, agree to engage in transactions of any kind or nature with each other and/or agree to compete, or to refrain from competing or to limit or restrict their competition, with each other, including to allocate and to cause their respective directors, officers and employees (including any who are directors, officers or employees of both) to allocate corporate opportunities between or to refer corporate opportunities to each other. Subject to subsection (e) of this Section 5.23, except as otherwise required by Law, and except as the Fortress Members and their Affiliates, on the one hand, and the FTAI Entities or their Affiliates, on the other hand, may otherwise agree in writing, no such agreement, or the performance thereof by the FTAI Entities and their Affiliates, or the Fortress Members or their Affiliates, shall be considered contrary to or inconsistent with any fiduciary duty to the Company, any other FTAI Entity or their respective Affiliates and stockholders of any director or officer of the Company, any other FTAI Entity or any Affiliate thereof who is also a director, officer or employee of the Fortress Members or their Affiliates or to any stockholder thereof. Subject to subsection (e) of this Section 5.23, to the fullest extent permitted by Law, and except as the Fortress Members or their Affiliates, on the one hand, and the FTAI Entities or their Affiliates, on the other hand, may otherwise agree in writing, none of the Fortress Members or their Affiliates shall have or be under any fiduciary duty to refrain from entering into any agreement or participating in any transaction referred to in this subsection (f) of Section 5.23 and no director, officer or employee of the Company, any other FTAI Entity or any Affiliate thereof who is also a director, officer or employee of the Fortress Members or their Affiliates shall have or be under any fiduciary duty to the Company, the other FTAI Entities and their respective Affiliates and stockholders to refrain from acting on behalf of the Fortress Members or their Affiliates in respect of any such agreement or transaction or performing any such agreement in accordance with its terms.

(g) Ambiguity. For the avoidance of doubt and in furtherance of the foregoing, nothing contained in this Section 5.23 amends or modifies, or will amend or modify, in any respect, any written contractual arrangement between the Fortress Members or any of their Affiliates, on the one hand and the FTAI Entities or any of their Affiliates, on the other hand.

(h) Application of Provision. This Section 5.23 shall apply as set forth above except as otherwise provided by Law. It is the intention of this Section 5.23 to take full advantage of statutory amendments, the effect of which may be to specifically authorize or approve provisions such as this Section 5.23. No alteration, amendment, termination, expiration or repeal of this Section 5.23 nor the adoption of any provision of this Agreement inconsistent with

this Section 5.23 shall eliminate, reduce, apply to or have any effect on the protections afforded hereby to any director, officer, employee or stockholder of the FTAI Entities or their Affiliates for or with respect to any investments, activities or opportunities of which such director, officer, employee or stockholder becomes aware prior to such alteration, amendment, termination, expiration, repeal or adoption, or any matters occurring, or any cause of action, suit or claim that, but for this Section 5.23, would accrue or arise, prior to such alteration, amendment, termination, expiration, repeal or adoption.

(i) Deemed Notice. Any person or entity purchasing or otherwise acquiring any interest in any Shares of the Company shall be deemed to have notice of and to have consented to the provisions of this Section 5.23.

(j) Chairman or Chairman of a Committee. For purposes of this Section 5.23, a Director who is the Chairman of the Board of Directors or chairman of a committee of the Board of Directors is not deemed an officer of the Company by reason of holding that position unless that Person is a full-time employee of the Company.

(k) Severability. If this Section 5.23 or any portion hereof shall be invalidated or held to be unenforceable on any ground by any court of competent jurisdiction, the decision of which shall not have been reversed on appeal, this Section 5.23 shall be deemed to be modified to the minimum extent necessary to avoid a violation of law and, as so modified, this Section 5.23 and the remaining provisions hereof shall remain valid and enforceable in accordance with their terms to the fullest extent permitted by law.

Neither the alteration, amendment or repeal of this Section 5.23 nor the adoption of any provision of this Agreement inconsistent with this Section 5.23 shall eliminate or reduce the effect of this Section 5.23 in respect of any matter occurring, or any cause of action, suit or claim that, but for this Section 5.23, would accrue or arise, prior to such alteration, amendment, repeal or adoption. Following the expiration of this Section 5.23, any contract, agreement, arrangement or transaction involving a Corporate Opportunity shall not by reason thereof result in any breach of any fiduciary duty or duty of loyalty or failure to act in good faith or in the best interests of the Company or derivation of any improper benefit or personal economic gain, but shall be governed by the other provisions of this Agreement, the DGCL and other applicable law.

Section 5.24 Reliance by Third Parties. Notwithstanding anything to the contrary in this Agreement, any Person dealing with the Company shall be entitled to assume that the Board of Directors and any officer authorized by the Board of Directors to act on behalf of and in the name of the Company has full power and authority to encumber, sell or otherwise use in any manner any and all assets of the Company and to enter into any authorized contracts on behalf of the Company, and such Person shall be entitled to deal with the Board of Directors or any officer of the Company as if it were the Company's sole party in interest, both legally and beneficially. Each Member hereby waives, to the fullest extent permitted by law, any and all defenses or other remedies that may be available against such Person to contest, negate or disaffirm any action of the Board of Directors or any officer of the Company in connection with any such dealing. In no event shall any Person dealing with the Board of Directors or any officer or its representatives be obligated to ascertain that the terms of this Agreement have been complied with or to inquire into the necessity or expedience of any act or action of the Board of Directors or any officer or its

representatives. Each and every certificate, document or other instrument executed on behalf of the Company by the Board of Directors or any officer of the Company or its representatives shall be conclusive evidence in favor of any and every Person relying thereon or claiming thereunder that (a) at the time of the execution and delivery of such certificate, document or instrument, this Agreement was in full force and effect, (b) the Person executing and delivering such certificate, document or instrument was duly authorized and empowered to do so for and on behalf of the Company and (c) such certificate, document or instrument was duly executed and delivered in accordance with the terms and provisions of this Agreement and is binding upon the Company.

ARTICLE VI

BOOKS, RECORDS, ACCOUNTING AND REPORTS

Section 6.1 Records and Accounting. The Board of Directors shall keep or cause to be kept at the principal office of the Company appropriate books and records with respect to the Company's business, including all books and records necessary to provide to the Members any information required to be provided pursuant to this Agreement. Any books and records maintained by or on behalf of the Company in the regular course of its business, including the record of the Members, books of account and records of Company proceedings, may be kept on, or be in the form of, computer disks, hard drives, punch cards, magnetic tape, photographs, micrographics or any other information storage device. The books of the Company shall be maintained, for tax and financial reporting purposes, on an accrual basis in accordance with U.S. generally accepted accounting principles.

Section 6.2 Fiscal Year. The fiscal year for tax and financial reporting purposes of the Company shall be a calendar year ending December 31 unless otherwise required by the Code or other applicable law.

Section 6.3 Reports.

(a) As soon as practicable, but in no event later than 120 days after the close of each fiscal year of the Company, the Board of Directors shall cause to be mailed or made available to each Record Holder of a Share, as of a date selected by the Board of Directors, an annual report containing financial statements of the Company for such fiscal year of the Company, presented in accordance with U.S. generally accepted accounting principles, including a balance sheet and statements of operations, equity and cash flows, such statements to be audited by a registered public accounting firm selected by the Board of Directors.

(b) As soon as practicable, but in no event later than 90 days after the close of each Quarter except the last Quarter of each fiscal year, the Board of Directors shall cause to be mailed or made available to each Record Holder of a Share, as of a date selected by the Board of Directors, a report containing unaudited financial statements of the Company and such other information as may be required by applicable law, regulation or rule of any National Securities Exchange on which the Shares are listed for trading, or as the Board of Directors determines to be necessary or appropriate.

ARTICLE VII

TAX MATTERS

Section 7.1 Tax Returns and Information. The Company shall timely file all returns of the Company that are required for federal, state and local income tax purposes on the basis of the accrual method and its fiscal year. The officers of the Company shall use reasonable efforts to furnish to all Members necessary tax information as promptly as possible after the end of the fiscal year of the Company; provided, however, that delivery of such tax information may be subject to delay as a result of the late receipt of any necessary tax information from an entity in which the Company or any Group Member holds an interest. The classification, realization and recognition of income, gain, losses and deductions and other items shall be on the accrual method of accounting for federal income tax purposes.

Section 7.2 Tax Elections.

(a) The Company may make the election under Section 754 of the Code in accordance with applicable regulations thereunder, subject to the reservation of the right to seek to revoke any such election upon the Board of Directors' determination that such revocation is in the best interests of the Members. Notwithstanding any other provision herein contained, for the purposes of computing the adjustments under Section 743(b) of the Code, the Board of Directors shall be authorized (but not required) to adopt a convention whereby the price paid by a transferee of a Share will be deemed to be the lowest quoted closing price of the Shares on any National Securities Exchange on which such Shares are traded during the calendar month in which such transfer is deemed to occur pursuant to Section 4.2(g) without regard to the actual price paid by such transferee.

(b) Except as otherwise provided herein, the Board of Directors shall determine whether the Company should make any other elections permitted by the Code.

Section 7.3 Tax Controversies. The Board of Directors shall designate one Member as the Tax Matters Partner. The Tax Matters Partner is authorized and required to represent the Company (at the Company's expense) in connection with all examinations of the Company's affairs by tax authorities, including resulting administrative and judicial proceedings, and to expend Company funds for professional services and costs associated therewith. Each Member agrees to cooperate with the Tax Matters Partner and to do or refrain from doing any or all things reasonably required by the Tax Matters Partner to conduct such proceedings.

Section 7.4 Withholding. Notwithstanding any other provision of this Agreement, the Board of Directors is authorized to take any action that may be required to cause the Company and other Group Members to comply with any withholding requirements established under the Code or any other federal, state, local or foreign law including pursuant to Sections 1441, 1442, 1445, 1446, 1471 and 1472 of the Code. To the extent that the Company is required or elects to withhold and pay over to any taxing authority any amount resulting from the allocation or distribution of income to any Member (including by reason of Section 1446 of the Code), the Board of Directors may treat the amount withheld as a distribution of cash pursuant to Sections 4.3 or 8.3 in the amount of such withholding from such Member. In such instances where the

Company is unable to cost efficiently determine the Member in respect of which such tax is withheld, the Board of Directors may treat the amount withheld as a distribution of cash pursuant to Sections 4.3 or 8.3 to all of the Members in accordance with their Percentage Interests.

ARTICLE VIII

DISSOLUTION AND LIQUIDATION

Section 8.1 Dissolution. The Company shall not be dissolved by the admission of Substitute Members or Additional Members. The Company shall dissolve, and its affairs shall be wound up, upon:

(a) an election to dissolve the Company by the Board of Directors that is approved by the holders of a Share Majority;

(b) the sale, exchange or other disposition of all or substantially all of the assets and properties of the Company;

(c) the entry of a decree of judicial dissolution of the Company pursuant to the provisions of the Delaware Act; or

(d) at any time that there are no Members of the Company, unless the business of the Company is continued in accordance with the Delaware Act.

Section 8.2 Liquidator. Upon dissolution of the Company, the Board of Directors shall select one or more Persons to act as Liquidator. The Liquidator (if other than the Board of Directors) shall be entitled to receive such compensation for its services as may be approved by holders of a Share Majority. The Liquidator (if other than the Board of Directors) shall agree not to resign at any time without 15 days' prior notice and may be removed at any time, with or without cause, by notice of removal approved by holders of a Share Majority. Upon dissolution, death, incapacity, removal or resignation of the Liquidator, a successor and substitute Liquidator (who shall have and succeed to all rights, powers and duties of the original Liquidator) shall within 30 days thereafter be approved by holders of a Share Majority. The right to approve a successor or substitute Liquidator in the manner provided herein shall be deemed to refer also to any such successor or substitute Liquidator approved in the manner herein provided. Except as expressly provided in this Article VIII, the Liquidator approved in the manner provided herein shall have and may exercise, without further authorization or consent of any of the parties hereto, all of the powers conferred upon the Board of Directors under the terms of this Agreement (but subject to all of the applicable limitations, contractual and otherwise, upon the exercise of such powers) necessary or appropriate to carry out the duties and functions of the Liquidator hereunder for and during the period of time required to complete the winding up and liquidation of the Company as provided for herein.

Section 8.3 Liquidation. The Liquidator shall proceed to dispose of the assets of the Company, discharge its liabilities, and otherwise wind up its affairs in such manner and over such period as determined by the Liquidator, subject to Section 18-804 of the Delaware Act and the following:

(a) Subject to Section 8.3(c), the assets may be disposed of by public or private sale or by distribution in kind to one or more Members on such terms as the Liquidator and such Member or Members may agree. If any property is distributed in kind, the Member receiving the property shall be deemed for purposes of Section 8.3(c) to have received cash equal to its fair market value; and contemporaneously therewith, appropriate cash distributions must be made to the other Members. Notwithstanding anything to the contrary contained in this Agreement, the Members understand and acknowledge that a Member may be compelled to accept a distribution of any asset in kind from the Company despite the fact that the percentage of the asset distributed to such Member exceeds the percentage of that asset which is equal to the percentage in which such Member shares in distributions from the Company. The Liquidator may defer liquidation or distribution of the Company's assets for a reasonable time if it determines that an immediate sale or distribution of all or some of the Company's assets would be impractical or would cause undue loss to the Members. The Liquidator may distribute the Company's assets, in whole or in part, in kind if it determines that a sale would be impractical or would cause undue loss to the Members.

(b) Liabilities of the Company include amounts owed to the Liquidator as compensation for serving in such capacity (subject to the terms of Section 8.2) and amounts to Members otherwise than in respect of their distribution rights under Article IV. With respect to any liability that is contingent, conditional or unmatured or is otherwise not yet due and payable, the Liquidator shall either settle such claim for such amount as it thinks appropriate or establish a reserve of cash or other assets to provide for its payment. When paid, any unused portion of the reserve shall be applied to other liabilities or distributed as additional liquidation proceeds.

(c) Subject to the terms of any Share Designation, all property and all cash in excess of that required to discharge liabilities as provided in Section 8.3(b) shall be distributed to the Members in accordance with and to the extent of the positive balances in their respective Capital Accounts, as determined after taking into account all Capital Account adjustments (other than those made by reason of distributions pursuant to this Section 8.3(c)) for the taxable year of the Company during which the liquidation of the Company occurs (with such date of occurrence being determined by the Board of Directors, and such distribution shall be made by the end of such taxable year (or, if later, within 90 days after said date of such occurrence).

(d) Notwithstanding any other provision of this Agreement, if, upon the dissolution and liquidation of the Company pursuant to this Article VIII and after all other allocations provided for in Section 4.1 have been tentatively made as if this section were not in this Agreement, either (i) the positive Capital Account balance attributable to one or more Shares having a liquidation preference is not equal to such liquidation preference, or (ii) the quotient obtained by dividing the positive balance of a Member's Capital Account with respect to Common Shares by the aggregate of all Members' Capital Account balances with respect to Common Shares at such time would differ from such Member's Percentage Interest, then Net Income (and items thereof) and Net Loss (and items thereof) for the Fiscal Year in which the Company dissolves and liquidates pursuant to this Article VIII shall be allocated among the Members (x) first, to the extent necessary to ensure that the Capital Account balance attributable to a Share having a liquidation preference is equal to such liquidation preference, and (y) second, in a manner such that the positive balance in the Capital Account of each Member with respect to Common Shares on a share by share basis, immediately after giving effect to such allocation, is, as nearly as possible, equal to each such Member's Percentage Interest on a share by share basis.

Section 8.4 Cancellation of Certificate of Formation. Upon the completion of the distribution of Company cash and property as provided in Section 8.3 in connection with the liquidation of the Company, the Certificate of Formation and all qualifications of the Company as a foreign limited liability company in jurisdictions other than the State of Delaware shall be canceled and such other actions as may be necessary to terminate the Company shall be taken.

Section 8.5 Return of Contributions. None of any member of the Board of Directors or any officer of the Company will be personally liable for, or have any obligation to contribute or loan any monies or property to the Company to enable it to effectuate, the return of the Capital Contributions of the Members, or any portion thereof, it being expressly understood that any such return shall be made solely from Company assets.

Section 8.6 Waiver of Partition. To the maximum extent permitted by law, each Member hereby waives any right to partition of the Company property.

Section 8.7 Capital Account Restoration. No Member shall have any obligation to restore any negative balance in its Capital Account upon liquidation of the Company.

ARTICLE IX

AMENDMENT OF AGREEMENT

Section 9.1 General. Except as provided in Section 9.2, Section 9.3 and Section 9.4, the Board of Directors may amend any of the terms of this Agreement but only in compliance with the terms, conditions and procedures set forth in this Section 9.1. If the Board of Directors desires to amend any provision of this Agreement other than pursuant to Section 9.3, then it shall first adopt a resolution setting forth the amendment proposed, declaring its advisability, and then (i) call a special meeting of the Members entitled to vote in respect thereof for the consideration of such amendment, (ii) direct that the amendment proposed be considered at the next annual meeting of the Members or (iii) seek the written consent of the Members. Amendments to this Agreement may be proposed only by or with the consent of the Board of Directors. Such special or annual meeting shall be called and held upon notice in accordance with Article XI of this Agreement. The notice shall set forth such amendment in full or a brief summary of the changes to be effected thereby, as the Board of Directors shall deem advisable. At the meeting, a vote of Members entitled to vote thereon shall be taken for and against the proposed amendment. A proposed amendment shall be effective upon its approval by a Share Majority, unless a greater percentage is required under this Agreement or by Delaware law.

Section 9.2 Super-Majority Amendments. Notwithstanding Section 9.1, the affirmative vote of the holders of a Super-Majority, voting together as a single class, shall be required to alter or amend any provision of this Section 9.2 or Section 9.4(b).

Section 9.3 Amendments to be Adopted Solely by the Board of Directors. Notwithstanding Section 9.1, the Board of Directors, without the approval of any Member, may amend any provision of this Agreement, and execute, swear to, acknowledge, deliver, file and record whatever documents may be required in connection therewith, to reflect:

(a) a change in the name of the Company, the location of the principal place of business of the Company, the registered agent of the Company or the registered office of the Company;

(b) the admission, substitution, withdrawal or removal of Members in accordance with this Agreement;

(c) a change that the Board of Directors determines to be necessary or appropriate to qualify or continue the qualification of the Company as a limited liability company under the laws of any state or to ensure that the Company will not be treated as an association taxable as a corporation or otherwise taxed as an entity for federal income tax purposes other than as the Company specifically so designates;

(d) a change that, in the sole discretion of the Board of Directors, it determines (i) does not adversely affect the Members (including adversely affecting the holders of any particular class or series of Shares as compared to other holders of other classes or series of Shares) in any material respect, (ii) to be necessary or appropriate to satisfy any requirements, conditions or guidelines contained in any opinion, directive, order, ruling or regulation of any federal or state agency or judicial authority or contained in any federal or state statute (including the Delaware Act), (iii) to be necessary, desirable or appropriate to facilitate the trading of the Shares (including, without limitation, the division of any class or classes or series of Outstanding Shares into different classes or series to facilitate uniformity of tax consequences within such classes or series of Shares) or comply with any rule, regulation, guideline or requirement of any National Securities Exchange on which Shares are or will be listed for trading, compliance with any of which the Board of Directors deems to be in the best interests of the Company and the Members, (iv) to be necessary or appropriate in connection with action taken by the Board of Directors pursuant to Section 3.7 or (v) is required to effect the intent expressed in the Registration Statement or the intent of the provisions of this Agreement or is otherwise contemplated by this Agreement;

(e) a change in the fiscal year or taxable year of the Company and any other changes that the Board of Directors determines to be necessary or appropriate as a result of a change in the fiscal year or taxable year of the Company;

(f) an amendment that the Board of Directors determines, based on the advice of counsel, to be necessary or appropriate to prevent the Company or its Directors, officers, trustees or agents from in any manner being subjected to the provisions of the Investment Company Act of 1940, as amended, the Investment Advisers Act of 1940, as amended, or “plan asset” regulations adopted under the Employee Retirement Income Security Act of 1974, as amended, regardless of whether such are substantially similar to plan asset regulations currently applied or proposed by the United States Department of Labor;

(g) an amendment that the Board of Directors determines to be necessary or appropriate in connection with the authorization or issuance of any class or series of Shares pursuant to Section 3.2 and the admission of Additional Members;

(h) any amendment expressly permitted in this Agreement to be made by the Board of Directors acting alone;

(i) an amendment effected, necessitated or contemplated by a Merger Agreement approved in accordance with Section 10.3;

(j) an amendment that the Board of Directors determines to be necessary or appropriate to reflect and account for the formation by the Company of, or investment by the Company in, any corporation, partnership, joint venture, limited liability company or other entity, in connection with the conduct by the Company of activities permitted by the terms of Section 2.4;

(k) a merger, conversion or conveyance pursuant to Section 10.3(d); or

(l) any other amendments substantially similar to the foregoing.

Section 9.4 Amendment Requirements.

(a) Notwithstanding the provisions of Sections 9.1 and 9.3, no provision of this Agreement that establishes a percentage of Outstanding Voting Shares required to take any action shall be amended, altered, changed, repealed or rescinded in any respect that would have the effect of reducing such voting percentage unless such amendment is approved by the affirmative vote of holders of Outstanding Voting Shares whose aggregate Outstanding Voting Shares constitute not less than the voting requirement sought to be reduced.

(b) Notwithstanding the provisions of Sections 9.1 and 9.3, but subject to the provisions of Section 9.2, no amendment to this Agreement may (i) enlarge the obligations of any Member without its consent, unless such shall be deemed to have occurred as a result of an amendment approved pursuant to Section 9.4(c), (ii) change Section 8.1(a), (iii) change the term of the Company or, (iv) except as set forth in Section 8.1(a), give any Person the right to dissolve the Company.

(c) Except as provided in Section 10.3, and without limitation of the Board of Directors' authority to adopt amendments to this Agreement without the approval of any Members as contemplated in Section 9.1, notwithstanding the provisions of Section 9.1, any amendment that would have a material adverse effect on the rights or preferences of any class or series of Shares in relation to other classes or series of Shares must be approved by the holders of a majority of the Outstanding Shares of the class or series affected.

ARTICLE X

MERGER, CONSOLIDATION OR CONVERSION

Section 10.1 Authority. The Company may merge or consolidate with one or more limited liability companies or "other business entities" as defined in Section 18-209 of the Delaware Act, or convert into any such entity, whether such entity is formed under the laws of the State of Delaware or any other state of the United States of America, pursuant to a written agreement of merger or consolidation ("**Merger Agreement**") or a written plan of conversion ("**Plan of Conversion**"), as the case may be, in accordance with this Article X.

Section 10.2 Procedure for Merger, Consolidation or Conversion. Merger, consolidation or conversion of the Company pursuant to this Article X requires the prior approval of the Board of Directors.

(a) If the Board of Directors shall determine to consent to the merger or consolidation, the Board of Directors shall approve the Merger Agreement, which shall set forth:

(i) the names and jurisdictions of formation or organization of each of the business entities proposing to merge or consolidate;

(ii) the name and jurisdiction of formation or organization of the business entity that is to survive the proposed merger or consolidation (the "**Surviving Business Entity**");

(iii) the terms and conditions of the proposed merger or consolidation;

(iv) the manner and basis of exchanging or converting the rights or securities of, or interests in, each constituent business entity for, or into, cash, property, rights, or securities of or interests in, the Surviving Business Entity; and if any rights or securities of, or interests in, any constituent business entity are not to be exchanged or converted solely for, or into, cash, property, rights, or securities of or interests in, the Surviving Business Entity, the cash, property, rights, or securities of or interests in, any limited liability company or other business entity which the holders of such rights, securities or interests are to receive, if any;

(v) a statement of any changes in the constituent documents or the adoption of new constituent documents (the certificate of formation or limited liability company agreement, articles or certificate of incorporation, articles of trust, declaration of trust, certificate or agreement of limited partnership or other similar charter or governing document) of the Surviving Business Entity to be effected by such merger or consolidation;

(vi) the effective time of the merger, which may be the date of the filing of the certificate of merger pursuant to Section 10.4 or a later date specified in or determinable in accordance with the Merger Agreement (provided, that if the effective time of the merger is to be later than the date of the filing of the certificate of merger, the effective time shall be fixed no later than the time of the filing of the certificate of merger or the time stated therein); and

(vii) such other provisions with respect to the proposed merger or consolidation that the Board of Directors determines to be necessary or appropriate.

(b) If the Board of Directors shall determine to consent to the conversion, the Board of Directors may approve and adopt a Plan of Conversion containing such terms and conditions that the Board of Directors determines to be necessary or appropriate.

Section 10.3 Approval by Members of Merger, Consolidation or Conversion or Sales of Substantially All of the Company's Assets.

(a) Except as provided in Section 10.3(d), the Board of Directors, upon its approval of the Merger Agreement or Plan of Conversion, as the case may be, shall direct that the Merger Agreement or Plan of Conversion, as applicable, be submitted to a vote of Members, whether at an annual meeting or a special meeting, in either case, in accordance with the requirements of Article IX. A copy or a summary of the Merger Agreement or Plan of Conversion, as applicable, shall be included in or enclosed with the notice of meeting.

(b) Except as provided in Section 10.3(d), the Merger Agreement or Plan of Conversion, as applicable, shall be approved upon receiving the affirmative vote or consent of the holders of a Share Majority unless the Merger Agreement or Plan of Conversion, as applicable, contains any provision that, if contained in an amendment to this Agreement, the provisions of this Agreement or the Delaware Act would require for its approval the vote or consent of a greater percentage of the Outstanding Voting Shares or of any class or series of Members, in which case such greater percentage vote or consent shall be required for approval of the Merger Agreement or Plan of Conversion, as applicable.

(c) Except as provided in Section 10.3(d), after such approval by vote or consent of the Members, and at any time prior to the filing of the certificate of merger or a certificate of conversion pursuant to Section 10.4, the merger, consolidation or conversion may be abandoned pursuant to provisions therefor, if any, set forth in the Merger Agreement or the Plan of Conversion, as the case may be.

(d) Notwithstanding anything else contained in this Article X or in this Agreement, the Board of Directors is permitted, without Member approval, to convert the Company into a new limited liability entity, or to merge the Company into, or convey all of the Company's assets to, another limited liability entity, or which shall be newly formed and shall have no assets, liabilities or operations at the time of such conversion, merger or conveyance other than those it receives from the Company if (i) the Board of Directors has received an Opinion of Counsel that the conversion, merger or conveyance, as the case may be, would not result in the loss of the limited liability of any Member or cause the Company to be treated as an association taxable as a corporation or otherwise to be taxed as an entity for federal income tax purposes (to the extent not previously treated as such), (ii) the sole purpose of such conversion, merger or conveyance is to effect a mere change in the legal form of the Company into another limited liability entity or a change in the jurisdiction of organization of the Company and (iii) the governing instruments of the new entity provide the Members and the Board of Directors with substantially the same rights and obligations as are herein contained.

(e) Members are not entitled to dissenters' rights of appraisal in the event of a merger, consolidation or conversion pursuant to this Article X, a sale of all or substantially all of the assets of the Company or the Company's Subsidiaries, or any other similar transaction or event.

(f) The Board of Directors may not cause the Company to sell, exchange or otherwise dispose of all or substantially all of its assets, in one transaction or a series of related

transactions, or approve on behalf of the Company any such sale, exchange or other disposition, without receiving the affirmative vote or consent of the holders of a Share Majority; provided, however, that the foregoing will not limit the ability of the Board of Directors to authorize the Company to mortgage, pledge, hypothecate or grant a security interest in all or substantially all of the assets of the Company without the approval of any Member.

(g) Each Merger, consolidation or conversion approved pursuant to this Article X shall provide that all holders of Shares shall be entitled to receive the same consideration pursuant to such transaction with respect to each of their Shares.

Section 10.4 Certificate of Merger or Conversion. Upon the required approval by the Board of Directors and the Member of a Merger Agreement or a Plan of Conversion, as the case may be, a certificate of merger or certificate of conversion, as applicable, shall be executed and filed with the Secretary of State of the State of Delaware in conformity with the requirements of the Delaware Act.

Section 10.5 Effect of Merger.

(a) At the effective time of the certificate of merger:

(i) all of the rights, privileges and powers of each of the business entities that has merged or consolidated, and all property, real, personal and mixed, and all debts due to any of those business entities shall be vested in the Surviving Business Entity and after the merger or consolidation shall be the property of the Surviving Business Entity and all other things and causes of action belonging to each of those business entities, shall be vested in the Surviving Business Entity to the extent they were of each constituent business entity;

(ii) the title to any real property vested by deed or otherwise in any of those constituent business entities shall not revert and is not in any way impaired because of the merger or consolidation;

(iii) all rights of creditors and all liens on or security interests in property of any of those constituent business entities shall be preserved unimpaired; and

(iv) all debts, liabilities and duties of those constituent business entities shall attach to the Surviving Business Entity and may be enforced against it to the same extent as if the debts, liabilities and duties had been incurred or contracted by it.

(b) It is the intent of the parties hereto that a merger or consolidation effected pursuant to this Article X shall not be deemed to result in a transfer or assignment of assets or liabilities from one entity to another.

Section 10.6 Corporate Treatment. The Board of Directors shall use its reasonable best efforts to take such actions as are necessary or appropriate to preserve the status of the Company as a partnership for federal (and applicable state) income tax purposes. If, however,

the Board of Directors determines that it is no longer in the best interests of the Company to continue as a partnership for federal (and applicable state) income tax purposes, the Board of Directors may elect to treat the Company as an association or as a publicly traded partnership taxable as a corporation for federal (and applicable state) income tax purposes. In the event that the Board of Directors determines the Company should seek relief pursuant to Section 7704(e) of the Code to preserve the status of the Company as a partnership for federal (and applicable state) income tax purposes, the Company and each Member shall agree to adjustments required by the tax authorities, and the Company shall pay such amounts as required by the tax authorities, to preserve the status of the Company as a partnership.

ARTICLE XI

MEMBER MEETINGS

Section 11.1 Member Meetings.

(a) All acts of Members to be taken hereunder shall be taken in the manner provided in this Article XI. An annual meeting of the Members for the election of Directors and for the transaction of such other business as may properly come before the meeting shall be held at such time and place as the Board of Directors shall specify, which date shall be within 13 months of the last annual meeting of Members. If authorized by the Board of Directors, and subject to such guidelines and procedures as the Board of Directors may adopt, Members and proxyholders not physically present at a meeting of Members may by means of remote communication participate in such meeting and be deemed present in person and vote at such meeting, provided that the Company shall implement reasonable measures to verify that each Person deemed present and permitted to vote at the meeting by means of remote communication is a Member or proxyholder, to provide such Members or proxyholders a reasonable opportunity to participate in the meeting and to record the votes or other action made by such Members or proxyholders.

(b) A failure to hold the annual meeting of the Members at the designated time or to elect a sufficient number of Directors to conduct the business of the Company shall not affect otherwise valid acts of the Company or work a forfeiture or dissolution of the Company. If the annual meeting for election of Directors is not held on the date designated therefor, the Directors shall cause the meeting to be held as soon as is convenient.

(c) Special meetings of the Members may be called at any time by either (i) the Chairman of the Board of Directors, if there be one, or (ii) the Chief Executive Officer, if there be one, and shall be called by any such officer at the request in writing of (i) the Board of Directors (including a majority thereof) or (ii) a committee of the Board of Directors that has been duly designated by the Board of Directors and whose powers include the authority to call such meetings. No Members or group of Members, acting in its or their capacity as Members, shall have the right to call a special meeting of the Members.

Section 11.2 Notice of Meetings of Members.

(a) Notice, stating the place, day and hour of any annual or special meeting of the Members, as determined by the Board of Directors, and (i) in the case of a special meeting of the Members, the purpose or purposes for which the meeting is called, as determined by the Board of Directors or (ii) in the case of an annual meeting, those matters that the Board of Directors, at the time of giving the notice, intends to present for action by the Members, shall be delivered by the Company not less than 10 calendar days nor more than 60 calendar days before the date of the meeting, in a manner and otherwise in accordance with Section 12.1 to each Record Holder who is entitled to vote at such meeting. Such further notice shall be given as may be required by Delaware law. The notice of any meeting of the Members at which Directors are to be elected shall include the name of any nominee or nominees who, at the time of the notice, the Board of Directors intends to present for election. Only such business shall be conducted at a special meeting of Members as shall have been brought before the meeting pursuant to the Company's notice of meeting.

(b) The Board of Directors shall designate the place of meeting for any annual meeting or for any special meeting of the Members. If no designation is made, the place of meeting shall be the principal office of the Company.

Section 11.3 Record Date. For purposes of determining the Members entitled to notice of or to vote at a meeting of the Members, the Board of Directors may set a Record Date, which Record Date shall not precede the date upon which the resolution fixing the record date is adopted by the Board of Directors, and which Record Date shall not be less than 10 nor more than 60 days before the date of the meeting (unless such requirement conflicts with any rule, regulation, guideline or requirement of any National Securities Exchange on which the Shares are listed for trading, in which case the rule, regulation, guideline or requirement of such exchange shall govern). If no Record Date is fixed by the Board of Directors, the Record Date for determining Members entitled to notice of or to vote at a meeting of Members shall be at the close of business on the day next preceding the day on which notice is given, or, if notice is waived, at the close of business on the day immediately preceding the day on which the meeting is held. A determination of Members of record entitled to notice of or to vote at a meeting of Members shall apply to any adjournment or postponement of the meeting; provided, however, that the Board of Directors may fix a new Record Date for the adjourned or postponed meeting. In such case, the Board of Directors shall also fix as the Record Date for Members entitled to notice of such adjourned meeting the same or an earlier date as that fixed for determination of Members entitled to vote in accordance with the foregoing provisions of this clause (a) at the adjourned meeting.

Section 11.4 Adjournment. When a meeting is adjourned to another time or place, notice need not be given of the adjourned meeting and a new Record Date need not be fixed, if the time and place thereof are announced at the meeting at which the adjournment is taken, unless such adjournment shall be for more than 30 days. At the adjourned meeting, the Company may transact any business which might have been transacted at the original meeting. If the adjournment is for more than 30 days or if a new Record Date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given in accordance with this Article XI.

Section 11.5 Waiver of Notice; Approval of Meeting. Whenever notice to the Members is required to be given under this Agreement, a written waiver, signed by the Person entitled to notice, whether before or after the time stated therein, or a waiver by electronic transmission by the person or persons entitled to notice, or a waiver by electronic transmission by the person or persons entitled to notice whether before or after the time stated therein, shall be deemed equivalent to notice. Attendance of a Person at any such meeting of the Members shall constitute a waiver of notice of such meeting, except when the Person attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Members need be specified in any written waiver of notice unless so required by resolution of the Board of Directors. Any Member so waiving notice of a meeting shall be bound by the proceedings of such meeting in all respects as if due notice thereof had been given. All waivers and approvals shall be filed with the Company records or made part of the minutes of the meeting.

Section 11.6 Quorum; Required Vote for Member Action; Voting for Directors.

(a) At any meeting of the Members, the holders of a majority of the Outstanding Voting Shares of the class or classes or series for which a meeting has been called represented in person or by proxy shall constitute a quorum of such class or classes or series unless any such action by the Members requires approval by holders of a greater percentage of Outstanding Voting Shares, in which case the quorum shall be such greater percentage. The submission of matters to Members for approval and the election of Directors shall occur only at a meeting of the Members duly called and held in accordance with this Agreement at which a quorum is present; provided, however, that the Members present at a duly called or held meeting at which a quorum is present may continue to transact business until adjournment, notwithstanding the withdrawal of enough Members to leave less than a quorum, if any action taken (other than adjournment) is approved by the required percentage of Outstanding Voting Shares specified in this Agreement. Any meeting of Members may be adjourned from time to time by the chairman of the meeting to another place or time, without regard to the presence of a quorum.

(b) Each Outstanding Common Share shall be entitled to one vote per Share on all matters submitted to Members for approval and in the election of Directors.

(c) All matters (other than the election of Directors) submitted to Members for approval shall be determined by a majority of the votes cast affirmatively or negatively by Members holding Outstanding Voting Shares unless a greater percentage is required with respect to such matter under the Delaware Act, under the rules of any National Securities Exchange on which the Shares are listed for trading, or under the provisions of this Agreement, in which case the approval of Members holding Outstanding Voting Shares that in the aggregate represent at least such greater percentage shall be required.

(d) Except as provided in Section 5.6 of Article V, Directors will be elected by a plurality of the votes cast for a particular position.

Section 11.7 Conduct of a Meeting; Member Lists.

(a) The Board of Directors may adopt by resolution such rules and regulations for the conduct of any meeting of the Members as it shall deem appropriate. Except to the extent inconsistent with such rules and regulations as adopted by the Board of Directors, the chairman of any meeting of the Members shall have the right and authority to prescribe such rules, regulations and procedures and to do all such acts as, in the judgment of such chairman, are appropriate for the proper conduct of the meeting. Such rules, regulations or procedures, whether adopted by the Board of Directors or prescribed by the chairman of the meeting, may include, without limitation, the following: (i) the establishment of an agenda or order of business for the meeting; (ii) the determination of when the polls shall open and close for any given matter to be voted on at the meeting; (iii) rules and procedures for maintaining order at the meeting and the safety of those present; (iv) limitations on attendance at or participation in the meeting to Members of record of the Company, their duly authorized and constituted proxies or such other persons as the chairman of the meeting shall determine; (v) restrictions on entry to the meeting after the time fixed for the commencement thereof; and (vi) limitations on the time allotted to questions or comments by participants.

(b) The chairman of any meeting of Members shall have the power and duty to determine all matters relating to the conduct of the meeting, including determining whether any nomination or item of business has been properly brought before the meeting in accordance with this Agreement (including whether the Member or beneficial owner, if any, on whose behalf the nomination or proposal is made, solicited (or is part of a group that solicited) or did not so solicit, as the case may be, proxies in support of such Member's nominee or proposal in compliance with such Member's representation), and if the chairman should so determine and declare that any nomination or item of business has not been properly brought before a meeting of Members, then such business shall not be transacted or considered at such meeting and such nomination shall be disregarded. Unless and to the extent determined by the Board of Directors or the chairman of the meeting, meetings of Members shall not be required to be held in accordance with the rules of parliamentary procedure.

(c) A complete list of Members entitled to vote at any meeting of Members, arranged in alphabetical order for each class or series of Shares and showing the address of each such Member and the number of Outstanding Voting Shares registered in the name of such Member, shall be open to the examination of any Member, for any purpose germane to the meeting, during ordinary business hours, for a period of at least 10 days before the meeting, at the principal place of business of the Company. The Member list shall also be produced and kept at the time and place of the meeting during the whole time thereof, and may be inspected by any Member who is present.

Section 11.8 No Action Without a Meeting. On any matter that is to be voted on, consented to or approved by Members, the Members may only take such action at an annual or special meeting of Members properly brought in accordance with this Agreement. The ability of Members to consent in writing to the taking of any action is hereby specifically denied.

Section 11.9 Voting and Other Rights.

(a) Only those Record Holders of Outstanding Voting Shares on the Record Date set pursuant to Section 11.3 shall be entitled to notice of, and to vote at, a meeting of Members or to act with respect to matters as to which the holders of the Outstanding Voting Shares have the right to vote or to act. All references in this Agreement to votes of, or other acts that may be taken by, the Outstanding Voting Shares shall be deemed to be references to the votes or acts of the Record Holders of such Outstanding Voting Shares on such Record Date. The Board of Directors, in its discretion, or the Person acting as chairman of a meeting of the Members, in such Person's discretion, may require that any votes cast at such meeting shall be cast by written ballot.

(b) With respect to Outstanding Voting Shares that are held for a Person's account by another Person (such as a broker, dealer, bank, trust company or clearing corporation, or an agent of any of the foregoing), in whose name such Outstanding Voting Shares are registered, such other Person shall, in exercising the voting rights in respect of such Outstanding Voting Shares on any matter, and unless the arrangement between such Persons provides otherwise, vote such Outstanding Voting Shares in favor of, and at the direction of, the Person who is the beneficial owner, and the Company shall be entitled to assume it is so acting without further inquiry.

Section 11.10 Proxies and Voting.

(a) On any matter that is to be voted on by Members, the Members may vote in person or by proxy, and such proxy may be granted in writing, by means of electronic transmission or as otherwise permitted by applicable law, but no such proxy shall be voted upon after three years from its date, unless such proxy provides for a longer period. Any such proxy shall be filed in accordance with the procedure established for the meeting. For purposes of this Agreement, the term **"electronic transmission"** means any form of communication not directly involving the physical transmission of paper that creates a record that may be retained, retrieved and reviewed by a recipient thereof and that may be directly reproduced in paper form by such a recipient through an automated process. Any copy, facsimile telecommunication, email or other reliable reproduction of the writing or transmission authorizing another person or persons to act as proxy for a Member may be substituted or used in lieu of the original writing, telegram, cablegram or transmission for any and all purposes for which the original writing, telegram or cablegram could be used; provided, however, that such copy, facsimile telecommunication, email or other reproduction shall be a complete reproduction of the entire original writing or transmission.

(b) In advance of any meeting of the Members, the Board of Directors, by resolution, the Chairman of the Board or the Chief Executive Officer shall appoint one or more inspectors to act at the meeting and make a written report thereof. One or more other persons may be designated as alternate to replace any inspector who fails to act. If no inspector or alternate is able to act at a meeting of the Members, the chairman of the meeting shall appoint one or more inspectors to act at the meeting. Unless otherwise required by applicable law, inspectors may be officers, employees or agents of the Company. Each inspector, before assuming the duties of inspector, shall take and sign an oath to execute faithfully the duties of inspector with strict impartiality and according to the best of such inspector's ability. The inspector shall have the duties prescribed by law and shall take charge of the polls and, when the vote is completed, shall make a certificate of the result of the vote taken and of such other facts as may be required by applicable law.

(c) With respect to the use of proxies at any meeting of Members, the Company shall be governed by paragraphs (b), (c), (d) and (e) of Section 212 of the DGCL and other applicable provisions of the DGCL, as though the Company were a Delaware corporation and as though the Members were stockholders of a Delaware corporation.

Section 11.11 Notice of Member Business and Nominations.

(a) Subject to Article V of this Agreement, nominations of Persons for election to the Board of Directors of the Company and the proposal of business to be considered by the Members may be made at an annual meeting of Members (i) pursuant to the Company's notice of meeting delivered pursuant to Section 11.2 of this Agreement, (ii) by or at the direction of the Board of Directors, (iii) for nominations to the Board of Directors only, by any holder of Outstanding Voting Shares who is entitled to vote at the meeting, who complied with the notice procedures set forth in paragraph (b) or (d) of this Section and who was a Record Holder of a sufficient number of Outstanding Voting Shares as of the Record Date for such meeting to elect one or more members to the Board of Directors assuming that such holder cast all of the votes it is entitled to cast in such election in favor of a single candidate and such candidate received no other votes from any other holder of Outstanding Voting Shares, or (iv) by any holder of Outstanding Voting Shares who is entitled to vote at the meeting, who complied with the notice procedures set forth in paragraphs (c) or (d) of this Section and who is a Record Holder of Outstanding Voting Shares at the time such notice is delivered to the Secretary of the Company.

(b) For nominations to be properly brought before an annual meeting by a Member pursuant to Section 11.11(a)(iii), the Member must have given timely notice thereof in writing to the Secretary of the Company. To be timely, a Member's notice shall be delivered to the Secretary at the principal executive offices of the Company not less than ninety (90) days nor more than one hundred twenty (120) days prior to the anniversary of the date of the immediately preceding Annual Meeting of Members; provided, however, that, in the case of the Company's first annual meeting, or if the annual meeting is called for a date that is more than twenty-five (25) days before or after the anniversary of the previous year's annual meeting, notice by the Member in order to be timely must be so received not later than the close of business on the tenth (10^{th}) day following the earlier of the date on which notice of the annual meeting was posted to the Members or the day on which public disclosure of the date of the annual meeting is first made (which may be the date on which proxy materials for such meeting are first mailed). In no event shall the adjournment or postponement of an annual meeting, or the public announcement of such an adjournment or postponement, commence a new time period (or extend any time period) for the giving of a Member's notice as described in this Section 11.11(b). Such Member's notice shall set forth: (A) as to each Person whom the Member proposes to nominate for election or reelection as a Director all information relating to such Person that is required to be disclosed in solicitations of proxies for election of Directors, or is otherwise required, in each case, pursuant to Regulation 14A under the Exchange Act, including such Person's written consent to being named in the proxy statement as a nominee and to serving as a Director if elected and (B) as to the Member giving the notice and the beneficial owner, if any, on whose behalf the nomination or proposal is made the name and address of such Member, as they appear on the Company's books, and of such beneficial

owner, the class or series and number of Shares of the Company which are owned beneficially and of record by such Member and such beneficial owner. Such holder shall be entitled to nominate as many candidates for election to the Board of Directors as would be elected assuming such holder cast the precise number of votes necessary to elect each candidate and no more votes were cast by such holder or any other holder for such candidates.

(c) For nominations or other business to be properly brought before an annual meeting by a Member pursuant to Section 11.11(a)(iv), (i) the Member must have given timely notice thereof in writing to the Secretary of the Company, (ii) such business must be a proper matter for Member action under this Agreement and the Delaware Act, (iii) if the Member, or the beneficial owner on whose behalf any such proposal or nomination is made, has provided the Company with a Solicitation Notice, such Member or beneficial owner must, in the case of a proposal, have delivered a proxy statement and form of proxy to holders of at least the percentage of the Company's Outstanding Shares required under this Agreement or Delaware law to carry any such proposal, or, in the case of a nomination or nominations, have delivered a proxy statement and form of proxy to holders of a percentage of the Company's Outstanding Voting Shares reasonably believed by such Member or beneficial holder to be sufficient to elect the nominee or nominees proposed to be nominated by such Member, and must, in either case, have included in such materials the Solicitation Notice and (iv) if no Solicitation Notice relating thereto has been timely provided pursuant to this Section 11.11, the Member or beneficial owner proposing such business or nomination must not have solicited a number of proxies sufficient to have required the delivery of such a Solicitation Notice. To be timely, a Member's notice shall be delivered to the Secretary at the principal executive offices of the Company not less than ninety (90) days nor more than one hundred twenty (120) days prior to the anniversary of the date on which the Company first made publicly available (whether by mailing, by filing with the Commission or by posting on an internet web site) its proxy materials for the immediately preceding annual meeting of Members; provided, however, that, in the case of the Company's first annual meeting, or if the annual meeting is called for a date that is more than thirty (30) days before or after the anniversary of the previous year's annual meeting, notice by the Member in order to be timely must be so received not later than the close of business on the tenth (10^{th}) day following the earlier of the date on which notice of the annual meeting was posted to the Members or the day on which public disclosure of the date of the annual meeting is first made (which may be the date on which proxy materials for such meeting are first made publicly available, whether by mailing, by filing with the Commission or by posting on an internet web site). In no event shall the public announcement or postponement of an annual meeting commence a new time period for the giving of a Member's notice as described in this Section 11.11(c). Such Member's notice shall set forth: (A) as to each Person whom the Member proposes to nominate for election or reelection as a Director all information relating to such Person that is required to be disclosed in solicitations of proxies for election of Directors, or is otherwise required, in each case pursuant to Regulation 14A under the Exchange Act, including such Person's written consent to being named in the proxy statement as a nominee and to serving as a Director if elected; (B) as to any other business that the Member proposes to bring before the meeting, a brief description of the business desired to be brought before the meeting, the reasons for conducting such business at the meeting and any material interest in such business of such Member and the beneficial owner, if any, on whose behalf the proposal is made; and (C) as to the Member giving the notice and the beneficial owner, if any, on whose behalf the nomination or proposal is made the name and address of such Member, as they appear on the Company's books, and of such beneficial owner, the class or series and number of Shares of the

Company which are owned beneficially and of record by such Member and such beneficial owner, and whether either such Member or beneficial owner intends to deliver a proxy statement and form of proxy to holders of, in the case of a proposal, at least the percentage of the Company's Outstanding Voting Shares required under this Agreement or Delaware law to carry the proposal or, in the case of a nomination or nominations, a sufficient number of holders of the Company's Outstanding Shares to elect such nominee or nominees (an affirmative statement of such intent, a "**Solicitation Notice**"). This Section shall be the exclusive means for a Member to make business proposals before a special meeting of Members (other than matters properly bought under Rule 14a-8 under the Securities Exchange Act of 1934, as amended (the "Exchange Act") and included in the Company's notice of meeting). Subject to Rule 14a-8 under the Exchange Act, nothing in this Agreement shall be construed to permit any Member, or give any Member the right, to include or have disseminated or described in the Company's proxy statement any business proposal.

(d) Notwithstanding anything in the second sentence of Section 11.11(b) or the first sentence of Section 11.11(c) to the contrary, if the number of Directors to be elected to the Board of Directors is increased and there is no public announcement naming all of the nominees for Director or specifying the size of the increased Board of Directors made by the Company at least 90 days prior to the anniversary of the date on which the Company first made publicly available (whether by mailing, by filing with the Commission or by posting on an internet web site) its proxy materials for the immediately preceding annual meeting of Members, then a Member's notice required by this Section shall also be considered timely, but only with respect to nominees for any new positions created by such increase, if it shall be delivered to the Secretary at the principal executive offices of the Company not later than the close of business on the tenth (10th) day following the day on which such public announcement is first made by the Company.

(e) Only such business shall be conducted at a special meeting of Members as shall have been brought before the meeting pursuant to the Company's notice of meeting pursuant to Section 11.2 of this Agreement. Subject to Section 5.6 of this Agreement, nominations of Persons for election to the Board of Directors may be made at a special meeting of Members at which Directors are to be elected pursuant to the Company's notice of meeting (i) by or at the direction of the Board of Directors, (ii) by any holder of Outstanding Voting Shares who is entitled to vote at the meeting, who complied with the notice procedures set forth in paragraph (b) or (d) of this Section 11.11 and who was a Record Holder of a sufficient number of Outstanding Voting Shares as of the Record Date for such meeting to elect one or more members to the Board of Directors assuming that such holder cast all of the votes it is entitled to cast in such election in favor of a single candidate and such candidate received no other votes from any other holder of Outstanding Voting Shares, or (iii) by any holder of Outstanding Voting Shares who is entitled to vote at the meeting, who complies with the notice procedures set forth in paragraph (c) or (d) of this Section and who is a Record Holder of Outstanding Voting Shares at the time such notice is delivered to the Secretary of the Company. Nominations by Members of Persons for election to the Board of Directors may be made at such a special meeting of Members if the Member's notice as required by Section 11.11(b) or Section 11.11(c) shall be delivered to the Secretary of the Company not earlier than the 90th day prior to such special meeting and not later than the close of business on the later of the 70th day prior to such special meeting or the 10th day following the day on which public announcement is first made of the date of the special meeting and of the nominees proposed by the Board of Directors to be elected at such meeting. Holders of Outstanding Voting Shares making nominations pursuant to Section 11.11(e)(ii) shall be entitled to nominate the number of candidates for election at such special meeting as provided in Section 11.11(b) for an annual meeting.

(f) Except to the extent otherwise provided in Article V with respect to vacancies, only Persons who are nominated in accordance with the procedures set forth in this Section shall be eligible to serve as Directors and only such business shall be conducted at a meeting of Members as shall have been brought before the meeting in accordance with the procedures set forth in this Section. Except as otherwise provided herein or required by law, the chairman of the meeting shall have the power and duty to determine whether a nomination or any business proposed to be brought before the meeting was made in accordance with the procedures set forth in this Section and, if any proposed nomination or business is not in compliance with this Section, to declare that such defective proposal or nomination shall be disregarded.

(g) Notwithstanding the foregoing provisions of this Section, a Member shall also comply with all applicable requirements of the Exchange Act and the rules and regulations thereunder with respect to the matters set forth in this Section. Nothing in this Section shall be deemed to affect any rights of Members to request inclusion of proposals in the Company's proxy statement pursuant to Rule 14a-8 under the Exchange Act.

ARTICLE XII

GENERAL PROVISIONS

Section 12.1 Addresses and Notices. Any notice, demand, request, report or proxy materials required or permitted to be given or made to a Member under this Agreement shall be in writing and shall be deemed given or made when delivered in person or when sent by first class United States mail or by other means of written communication to the Member at the address described below. Any notice, payment or report to be given or made to a Member hereunder shall be deemed conclusively to have been given or made, and the obligation to give such notice or report or to make such payment shall be deemed conclusively to have been fully satisfied, upon sending of such notice, payment or report to the Record Holder of such Shares at his address as shown on the records of the Transfer Agent or as otherwise shown on the records of the Company, regardless of any claim of any Person who may have an interest in such Shares by reason of any assignment or otherwise. An affidavit or certificate of making of any notice, payment or report in accordance with the provisions of this Section 12.1 executed by the Company, the Transfer Agent or the mailing organization shall be prima facie evidence of the giving or making of such notice, payment or report. If any notice, payment or report addressed to a Record Holder at the address of such Record Holder appearing on the books and records of the Transfer Agent or the Company is returned by the United States Postal Service marked to indicate that the United States Postal Service is unable to deliver it, such notice, payment or report and any subsequent notices, payments and reports shall be deemed to have been duly given or made without further mailing (until such time as such Record Holder or another Person notifies the Transfer Agent or the Company of a change in his address) if they are available for the Member at the principal office of the Company for a period of one year from the date of the giving or making of such notice, payment or report to the other Members. Any notice to the Company shall be deemed given if received by the Secretary at the principal office of the Company designated pursuant to Section 2.3. The Board of Directors and the officers of the Company may rely and shall be protected in relying on any notice or other document from a Member or other Person if believed by it to be genuine.

Section 12.2 Further Action. The parties shall execute and deliver all documents, provide all information and take or refrain from taking action as may be necessary or appropriate to achieve the purposes of this Agreement.

Section 12.3 Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their heirs, executors, administrators, successors, legal representatives and permitted assigns.

Section 12.4 Integration. This Agreement constitutes the entire agreement among the parties hereto pertaining to the subject matter hereof and supersedes all prior agreements and understandings pertaining thereto.

Section 12.5 Creditors. None of the provisions of this Agreement shall be for the benefit of, or shall be enforceable by, any creditor of the Company.

Section 12.6 Waiver. No failure by any party to insist upon the strict performance of any covenant, duty, agreement or condition of this Agreement or to exercise any right or remedy consequent upon a breach thereof shall constitute waiver of any such breach of any other covenant, duty, agreement or condition.

Section 12.7 Counterparts. This Agreement may be executed in counterparts, all of which together shall constitute an agreement binding on all the parties hereto, notwithstanding that all such parties are not signatories to the original or the same counterpart. Each party shall become bound by this Agreement immediately upon affixing its signature hereto or, in the case of a Person acquiring a Share, upon accepting the Certificate evidencing such Share.

Section 12.8 Applicable Law. This Agreement shall be construed in accordance with and governed by the laws of the State of Delaware without regard to principles of conflict of laws. Each Member (i) irrevocably submits to the non-exclusive jurisdiction and venue of any Delaware state court or U.S. federal court sitting in Wilmington, Delaware in any action arising out of this Agreement and (ii) consents to the service of process by mail. Nothing herein shall affect the right of any party to serve legal process in any manner permitted by law or affect its right to bring any action in any other court.

Section 12.9 Invalidity of Provisions. If any provision of this Agreement is or becomes invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not be affected thereby.

Section 12.10 Consent of Members. Each Member hereby expressly consents and agrees that, whenever in this Agreement it is specified that an action may be taken upon the affirmative vote or consent of less than all of the Members, such action may be so taken upon the concurrence of less than all of the Members and each Member shall be bound by the results of such action.

Section 12.11 Facsimile Signatures. The use of facsimile signatures affixed in the name and on behalf of the transfer agent and registrar of the Company on certificates representing Shares is expressly permitted by this Agreement.

Remainder of page intentionally left blank.

IN WITNESS WHEREOF, this Agreement has been executed as of the date first written above.

FTAI Offshore Holdings, L.P.

By: _____
Name:
Its:

Fortress Worldwide Transportation and Infrastructure Investors LP

By: _____
Name:
Its:

EXHIBIT A

Common Shares Common Shares

Fortress Transportation and Infrastructure Investors LLC

Formed under the laws of the State of Delaware

CUSIP
SEE REVERSE FOR DEFINITIONS

THIS CERTIFICATE IS TRANSFERABLE IN
NEW YORK, NEW YORK

THIS CERTIFIES THAT

is the owner of

Common Shares of Fortress Transportation and Infrastructure Investors LLC

(hereinafter called the "Company") transferable on the books of the Company by the holder hereof in person or by duly authorized attorney, upon surrender of this certificate properly endorsed. This certificate is not valid until countersigned by the Transfer Agent and registered by the Registrar.

Witness, the facsimile signatures of the duly authorized officers of the Company.

Dated

Chief Financial Officer

Chief Executive Officer

Countersigned and registered:

American Stock Transfer & Trust Company, LLC
(New York, NY)
Transfer Agent & Registrar

Authorized Signature

Reverse of Certificate
ABBREVIATIONS

The holder of this certificate, by acceptance of this certificate, shall be deemed to have (i) requested admission as, and agreed to become, a member of the Company, (ii) agreed to comply with, and be bound by, the terms of the Amended and Restated Limited Liability Company Agreement of the Company, as amended, supplemented or restated from time to time (the "Company Agreement"), (iii) granted the powers of attorney provided for in the Company Agreement, and (iv) made the waivers and given the consents and approvals contained in the Company Agreement. The Company will furnish without charge to each Member who so requests a copy of the Company Agreement.

The following abbreviations, when used in the inscription on the face of this certificate, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM — as tenants in common
TEN ENT — as tenants by the entireties
JT TEN — as joint tenants with right of survivorship and not as tenants in common
UNIF GIFT MIN ACT — Custodian
(Cust) (Minor)
under Uniform Transfers/Gifts to Minors Act
(State)

Additional abbreviations may also be used though not in the above list.

FOR VALUE RECEIVED, hereby sell, assign and transfer unto

Please insert Social Security or other identifying number of Assignee

(Please print or typewrite name and address, including zip code, of Assignee)

shares represented by the Certificate, and do hereby irrevocably constitute and appoint Attorney to transfer the said shares on the books of the Company with full power of substitution in the premises.

Dated _____

NOTICE: THE SIGNATURE TO THIS ASSIGNMENT MUST CORRESPOND WITH THE NAME AS WRITTEN UPON THE FACE OF THE CERTIFICATE IN EVERY PARTICULAR, WITHOUT ALTERATION OR ENLARGEMENT OR ANY CHANGE WHATEVER.

Signature(s) Guaranteed:

_____

THE SIGNATURE(S) SHOULD BE GUARANTEED BY AN ELIGIBLE GUARANTOR INSTITUTION (BANKS, STOCKBROKERS, SAVINGS AND LOAN ASSOCIATIONS AND CREDIT UNIONS WITH MEMBERSHIP IN AN APPROVED SIGNATURE GUARANTEE MEDALLION PROGRAM), PURSUANT TO S.E.C. RULE 17Ad-15.

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP
FOUR TIMES SQUARE
NEW YORK 10036-6522

TEL: (212) 735-3000
FAX: (212) 735-2000
www.skadden.com

FIRM/AFFILIATE OFFICES

BOSTON
CHICAGO
HOUSTON
LOS ANGELES
PALO ALTO
WASHINGTON, D.C.
WILMINGTON

BEIJING
BRUSSELS
FRANKFURT
HONG KONG
LONDON
MOSCOW
MUNICH
PARIS
SAO PAULO
SEOUL
SHANGHAI
SINGAPORE
SYDNEY
TOKYO
TORONTO

[ ], 2015

Fortress Transportation and Infrastructure
Investors LLC
1345 Avenue of the Americas, 46th Floor
New York, NY 10105

RE: Fortress Transportation and Infrastructure
Investors LLC

Ladies and Gentlemen:

We have acted as special counsel to Fortress Transportation and Infrastructure Investors LLC, a Delaware limited liability company ("FTAI") in connection with the offering (the "Offering") of common shares representing limited liability company interests ("Common Shares") by FTAI, pursuant to a registration statement on Form S-1 (No. 333-193182) under the Securities Act of 1933, as amended (the "Act"), filed with the Securities and Exchange Commission (the "Commission") on January 3, 2014, as amended through the date hereof (the "Registration Statement"). Capitalized terms used in this opinion and not defined herein have the meaning assigned to them in the Registration Statement.

In connection with this opinion, we have examined and relied upon originals or copies, certified or otherwise identified to our satisfaction, of (1) the Registration Statement, (2) the form of Amended and Restated Limited Liability Company Agreement of Fortress Transportation and Infrastructure Investors LLC filed as an exhibit to the Registration Statement, and (3) such other documents, certificates, records and information provided to us by you as we have deemed necessary or appropriate as a basis for our opinion set forth herein. In rendering our opinion, we have participated in the preparation of the Registration Statement.

We have also relied upon statements and representations made to us by representatives of the Company. For purposes of this opinion, we have assumed the

validity and the initial and continuing accuracy of the documents, certificates, records, statements, and representations referred to above and we have not independently verified all of the facts and representations set forth in the Registration Statement or in any other document. We have, consequently, assumed and relied on the Company's representation that the information presented in the Prospectus, and other documents otherwise furnished to us, accurately and completely describes all material facts relevant to the Offering and our opinion. We have assumed that such statements, representations and covenants are true without regard to any qualification as to knowledge or belief. Our opinion is conditioned on, among other things, the initial and continuing accuracy of the facts, information, covenants and representations set forth in the Registration Statement and the statements and representations made by representatives of the Company, without regard to any qualifications therein as to knowledge and belief.

In our examination, we have assumed the legal capacity of all natural persons, the genuineness of all signatures, the authenticity of all documents submitted to us as originals, the conformity to original documents of all documents submitted to us as facsimile, electronic, certified or photostatic copies, and the authenticity of the originals of such copies. In making our examination of executed documents, we have assumed that the parties thereto, other than the Company, had the power, corporate or other, to enter into and perform all obligations thereunder and have also assumed the due authorization by all requisite action, corporate or other, and execution and delivery by such parties to such documents and the validity and binding effect thereof on such parties. We have also assumed that the transactions contemplated by the Registration Statement will be consummated in accordance with the terms and conditions of the Registration Statement and that none of the material terms and conditions contained therein has been waived or modified in any respect.

In rendering our opinion, we have considered the applicable provisions of the Internal Revenue Code of 1986, as amended (the "Code"), Treasury Department regulations promulgated thereunder, judicial authorities, interpretive rulings of the Internal Revenue Service (the "IRS") and such other authorities as we have considered relevant, all as in effect on the date hereof and all of which are subject to change or differing interpretations, possibly on a retroactive basis. A change in the authorities upon which our opinion is based could affect our conclusions. There can be no assurance, moreover, that the opinion expressed herein will be accepted by the IRS or, if challenged, by a court. Moreover, a change in any of the authorities or the accuracy or completeness of any of the information, documents, statements, representations, covenants, or assumptions on which our opinion is based could affect our conclusions.

Based solely upon, and subject to the foregoing and subject to the qualifications and assumptions set forth herein, we are of the opinion that, under current U.S. federal income tax law, FTAI will be treated, for U.S. federal income tax purposes, as a partnership and not as an association or a publicly traded partnership (within the meaning of Section 7704 of the Code) subject to tax as a corporation. FTAI's treatment as a partnership depends upon its ability to meet, through actual operating results, certain requirements relating to the sources of its income and various other qualification tests imposed under the Code, the results of which are not reviewed by us. Accordingly, no assurance can be given that the actual results of FTAI's operations for its current or any future taxable year will satisfy the requirements for treatment as a partnership under the Code.

We express no opinion on any issue relating to the Company or any investment therein, other than as expressly stated above.

This letter is furnished to you solely for your benefit in connection with the Offering and is not to be relied upon by any other person without our express written permission. This opinion is expressed as of the date hereof, and we are under no obligation to supplement or revise our opinion to reflect any legal developments or factual matters arising subsequent to the date hereof, or the impact of any information, document, certificate, record, statement, representation, covenant, or assumption relied upon herein that becomes incorrect or untrue.

We hereby consent to the filing of this opinion with the Securities and Exchange Commission as an exhibit to the Registration Statement and to the references to our firm in the Registration Statement. In giving this consent, we do not admit that we come within the category of persons whose consent is required under Section 7 of the Securities Act or the rules and regulations of the Commission thereunder.

Very truly yours,

/s/ Skadden, Arps, Slate, Meagher & Flom LLP

Exhibit 10.1

FOURTH AMENDED AND RESTATED
PARTNERSHIP AGREEMENT

of

FORTRESS WORLDWIDE TRANSPORTATION AND
INFRASTRUCTURE GENERAL PARTNERSHIP

Dated as of , 2015

THE PARTNERSHIP INTERESTS OF FORTRESS WORLDWIDE TRANSPORTATION AND INFRASTRUCTURE GENERAL PARTNERSHIP MAY NOT BE OFFERED FOR SALE, PLEDGED, HYPOTHECATED, SOLD, ASSIGNED OR TRANSFERRED AT ANY TIME EXCEPT IN COMPLIANCE WITH APPLICABLE LAW AND THE TERMS AND CONDITIONS OF THIS PARTNERSHIP AGREEMENT.

Table of Contents

FOURTH AMENDED AND RESTATED
PARTNERSHIP AGREEMENT

OF

FORTRESS WORLDWIDE TRANSPORTATION AND
INFRASTRUCTURE GENERAL PARTNERSHIP

(A Delaware Partnership)

This FOURTH AMENDED AND RESTATED PARTNERSHIP AGREEMENT of Fortress Worldwide Transportation and Infrastructure General Partnership, a Delaware partnership (the "Partnership"), is made as of the th day of , 2015, by and among Fortress Worldwide Transportation and Infrastructure Master GP LLC, a Delaware limited liability company, as the Fortress Partner (as defined below), Fortress Transportation and Infrastructure Investors LLC, a Delaware limited liability company (the "Operating Partner"), and each Person admitted as a partner following the date hereof in accordance with the terms of this Agreement (each of the foregoing, a "Partner" and, collectively, the "Partners"), and has been executed for the purpose of continuing the Partnership pursuant to the provisions of the Partnership Act (as defined below) and on the terms set out herein.

W I T N E S S E T H:

WHEREAS, the Fortress Partner and Fortress Worldwide Transportation and Infrastructure Investors LP, a Delaware limited partnership (the "Initial Operating Partner"), established the Partnership pursuant to the Partnership Agreement of Fortress Worldwide Transportation and Infrastructure General Partnership, dated as of May 9, 2011 (the "Original Partnership Agreement"), which was amended and restated pursuant to the Amended and Restated Partnership Agreement of the Partnership, dated as of June 23, 2011 (the "First A&R Agreement"), which was further amended and restated pursuant to the Second Amended and Restated Partnership Agreement of the Partnership, dated as of February 13, 2012 (as amended, the "Second A&R Agreement"), and which was further amended and restated pursuant to the Third Amended and Restated Partnership Agreement of the Partnership, dated as of May 19, 2014 (as amended, the "Third A&R Agreement");

WHEREAS, a Statement of Partnership Existence of the Partnership, dated as of May 9, 2011 (as the same may be amended, restated or otherwise modified from time to time, the "Statement"), was executed by the Initial Operating Partner and filed in the office of the Secretary of State of the State of Delaware on May 9, 2011;

WHEREAS, the Operating Partner has been formed prior to the date hereof for the purpose of investing in, and, together with the Fortress Partner, operating the assets of, the Partnership in accordance with the Operating Partner's Second Amended and Restated Limited Liability Company Agreement, dated as of , 2015 (including all annexes, exhibits and schedules thereto, as amended or restated from time to time, the "Operating Agreement");

WHEREAS, the Partners desire to amend and restate the Third A&R Agreement in its entirety pursuant to Section 10.1 thereof, and the terms and conditions contained therein are hereby amended and restated in their entirety as hereinafter set forth;

NOW, THEREFORE, in consideration of the mutual promises and agreements herein made and intending to be legally bound hereby, the parties hereto agree that the Third A&R Agreement is hereby amended and restated in its entirety as follows:

ARTICLE I

Definitions

As used herein, the following terms shall have the following meanings and all such terms which relate to accounting matters shall be interpreted in accordance with GAAP (as defined below) except as otherwise specifically provided herein:

Affiliate: When used with reference to a specified Person, means, with respect to such Person, any other Person that directly or indirectly through one or more intermediaries controls, is controlled by or is under common control with the Person in question. As used herein, the term “control” means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person, whether through ownership of voting securities, by contract or otherwise.

Agreement: This Fourth Amended and Restated Partnership Agreement, including the annexes, exhibits and schedules hereto, as the same may be amended or restated from time to time.

Business Day: Monday through Friday of each week, except that a legal holiday recognized as such by the government of the United States of America or the State of New York shall not be regarded as a Business Day.

Capital Account: As defined in Section 3.2(a).

Capital Contribution: With respect to any Partner, at any time, the amount of capital contributed to the Partnership by such Partner, including capital contributed with respect to specified operating expenses and amounts deemed recontributed pursuant to Section 4.2(c).

Capital Gains Incentive Allocation: As defined in Section 4.2(b).

Carrying Value: With respect to any asset, the asset’s adjusted basis for United States federal income tax purposes, except that the Carrying Values of all Partnership assets may, in the discretion of the Operating Partner, be adjusted to equal their respective Fair Values, on the occurrence of any event described in Section 3.2(d). Upon an adjustment to the Carrying Value (i) (A) for Capital Account maintenance purposes and for purposes of computing Net Income and Net Loss it shall be as though the asset were sold at Fair Value, and gain or loss shall be allocated to Capital Accounts pursuant to Section 3.3 as though the proceeds of such sale had been distributed, and (B) thereafter Net Income and Net Loss shall be determined using Carrying Value as adjusted pursuant to clause (A) immediately foregoing; and (ii) of any Partnership

property subject to depreciation, cost recovery or amortization, any further deductions for such depreciation, cost recovery or other amortization attributable to such property shall for purposes of Capital Account maintenance equal an amount that bears the same ratio to the Carrying Value at the beginning of such year or other period as the United States federal income tax depreciation, amortization or other cost recovery deduction for such year or other period bears to the property's adjusted tax basis at the beginning of such year or other period; provided that where such property has no remaining tax basis at the beginning of such year or other period, deductions for depreciation, cost recovery or other amortization attributable to such property for purposes of Capital Account maintenance shall be computed using any reasonable method as selected by the Operating Partner.

Code: The United States Internal Revenue Code of 1986, as amended.

Compensatory Interest: As defined in Section 7.2(a).

Delaware Act: The Delaware Limited Liability Company Act, 6 Del. C. Section 18-101, et seq., as amended, supplemented or restated from time to time, and any successor to such statute.

DGCL: The General Corporation Law of the State of Delaware, 8 Del. C. Section 101, et seq., as amended, supplemented or restated from time to time, and any successor to such statute.

Dissolution Sale: All sales and liquidations by or on behalf of the Partnership of its assets in connection with or in contemplation of the winding-up of the Partnership.

dollars and $: Unless otherwise specified the term dollars and references to dollar amounts using the symbol "$" are to be construed as meaning United States dollars.

Event of Dissolution: As defined in Section 9.1.

Fair Value: As determined in accordance with Section 4.6.

Final Distribution: The distribution described in Section 9.3.

First A&R Agreement: As defined in the recitals hereto.

Fortress: Fortress Parent and its subsidiaries (excluding, for the avoidance of doubt, Investment Fund Affiliates).

Fortress Affiliates: The Manager, the Fortress Partner, Fortress Parent, existing or future investment funds or accounts managed by the Manager, and their respective Affiliates.

Fortress Parent: Fortress Investment Group LLC, a Delaware limited liability company, and any successor thereto.

Fortress Partner: Fortress Worldwide Transportation and Infrastructure Master GP LLC, a Delaware limited liability company, and/or any transferee or successor admitted pursuant to the terms hereof, in each case in its capacity as the Fortress Partner pursuant to the terms hereof.

GAAP: Generally accepted accounting principles in the United States, as in effect on the date of this Agreement.

Income Incentive Allocation: As defined in Section 4.2(a).

Indemnified Person: (a) Each Person defined as an "Indemnified Person" in the Operating Agreement and (b) (i) the Partnership, the Operating Partner, the Fortress Partner, the Manager, Fortress and the Affiliates of any of them and (ii) the officers, directors, members (other than the members of the Operating Partner exclusively in such capacity), principals, shareholders (other than the shareholders of the Operating Partner exclusively in such capacity), controlling Persons, representatives, partners, managers, employees, consultants, agents, affiliates and assigns of any Person in item (b)(i) above.

Initial Operating Partner: As defined in the recitals hereto.

Interest: The interest of a Partner in the Partnership.

Investment Fund Affiliates: Any Pooled Investment Vehicle that is an Affiliate of the Fortress Partner or the Manager.

IPO: As defined in the Operating Agreement.

IPO Date: The date of the IPO.

Management Agreement: The Management Agreement, dated as of , 2015, by and between the Operating Partner, the Partnership and the Manager, including all annexes, exhibits and schedules thereto, as amended or restated from time to time.

Management Fee: As defined in the Management Agreement.

Manager: FIG LLC, a Delaware limited liability company, and/or any assignee or successor, in each case in its capacity as manager under the Management Agreement.

Net Income or Net Loss: For each fiscal year or other period, an amount equal to the Partnership's taxable income or loss for United States federal income tax purposes for such year or other period, determined in accordance with Section 703 of the Code, with the following adjustments:

(i) all items of income, gain, loss or deduction allocated pursuant to Sections 3.3 (b) and (e) shall not be taken into account in computing such taxable income or loss;

(ii) except for items included in subparagraph (i) above, any income of the Partnership that is exempt from United States federal income taxation and is not otherwise taken into account in computing Net Income or Net Loss pursuant to this definition shall be added to such taxable income or loss; and

(iii) except for items included in subparagraph (i) above, any expenditures of the Partnership not deductible in computing taxable income or loss, not properly capitalizable and not otherwise taken into account in computing Net Income or Net Loss pursuant to this definition, shall, for purposes of Capital Account maintenance, be treated as items of deduction, subtracted from such taxable income or loss and allocated among the Partners pursuant to Section 3.3(a).

Operating Agreement: As defined in the recitals hereto.

Operating Partner: As defined in the preamble hereto.

Original Partnership Agreement: As defined in the recitals hereto.

Partners: As defined in the preamble hereto.

Partnership: As defined in the preamble hereto.

Partnership Act: The Delaware Revised Uniform Partnership Act, 6 Del. C. §§ 15-101, et. seq., as amended, modified or re-enacted from time to time.

Person: Any individual, partnership, corporation, limited liability company, joint venture, joint-stock company, unincorporated organization or association, trust (including the trustees thereof, in their capacity as such), any federal, state or local government and any agency, department or political subdivision thereof.

Pooled Investment Vehicle: Any investment vehicle formed for the purpose of investing capital contributed by multiple investors in multiple investments.

Pre-Incentive Allocation Net Income: With respect to a calendar quarter, the Operating Partner's net income attributable to members during such quarter calculated in accordance with GAAP, but excluding the Operating Partner's pro rata portion, as applicable, of the following (without duplication): (i) gains and losses, realized or unrealized, (ii) the non-cash portion of any equity-based compensation expense, (iii) the one-time impact of any non-capitalized acquisition-related expenses, including transaction and integration expenses, provided that such amounts are capitalized and amortized in respect of such acquisition and such amortization is included in the calculation of pre-incentive allocation net income, (iv) any non-cash portion of the provision for income taxes, net of cash payments for income taxes and (v) any other amounts approved by the Independent Directors upon reasonable request by the Manager. For the avoidance of doubt, amounts paid to the Fortress Partner as an Income Incentive Distribution or a Capital Gains Incentive Distribution during such quarter shall be excluded in computing Pre-Incentive Allocation Net Income.

Proposed Rules: As defined in Section 7.2(a).

Safe Harbor Election: As defined in Section 7.2(a).

Second A&R Agreement: As defined in the recitals hereto.

Statement: As defined in the recitals hereto.

Third A&R Agreement: As defined in the recitals hereto.

Transfer: Assign, pledge, hypothecate, sell, exchange or otherwise transfer or encumber all or a portion of the legal or beneficial interest, whether by contract, operation of law or otherwise, and whether accomplished directly or indirectly, including through any option, forward, swap, structured note or any other hedging or derivative transaction.

Treasury Regulations: The income tax regulations promulgated under the Code, as the same may be hereafter amended from time to time or any successor or successors thereto.

ARTICLE II

General Provisions

2.1 Name. The name of the Partnership shall be "Fortress Worldwide Transportation and Infrastructure General Partnership." The Partnership's business may be conducted under any other name or names as determined by the Operating Partner. The Operating Partner may change the name of the Partnership at any time, and from time to time, and shall provide notice to each other Partner of any change in the name of the Partnership.

2.2 Organizational Certificates and Other Filings. The Partners shall promptly execute all certificates and other documents, and any amendments or renewals of such certificates and other documents as thereafter reasonably required, consistent with the terms of this Agreement, necessary to accomplish all filing, recording, publishing and other acts of similar nature as may be appropriate to comply with all requirements for (a) continuation and operation of the Partnership as a partnership under the laws of the State of Delaware, (b) the operation of the Partnership as a partnership in all jurisdictions where the Partnership proposes to operate (c) the organization and formation of any investment vehicle established to facilitate the investment objectives of the Partnership and (d) all other filings required under any applicable law, rule or regulation to be made by the Partnership. The Operating Partner is hereby authorized to (i) execute, file and record (as may be required by the Partnership Act) such statements, amendments and other documents and maintain such statutory registers and partnership records as are or become necessary or advisable in connection with the operation of the Partnership; and (ii) take all steps which in its discretion it considers necessary or advisable to allow the Partnership to conduct business in any jurisdiction where the Partnership conducts business.

2.3 Purpose and Powers; Authority. The purposes of the Partnership shall be to (a) promote, conduct or engage in, directly or indirectly, any business, purpose or activity that lawfully may be conducted by a partnership organized pursuant to the Partnership Act, (b) acquire, hold and dispose of interests in any corporation, partnership, joint venture, limited liability company or other entity, and, in connection therewith, to exercise all of the rights and powers conferred upon the Partnership

with respect to its interests therein, and (c) conduct any and all activities related or incidental to the foregoing purposes. The Partnership shall be empowered to do any and all acts and things necessary and appropriate for the furtherance and accomplishment of the purposes described in Section 2.3. To the extent permitted pursuant to the terms hereof and except as otherwise agreed in writing by the Partners, any Partner is authorized to act for and bind the Partnership in the ordinary course of the Partnership's business.

2.4 Principal Place of Business. The Partnership shall maintain its office and principal place of business at, and its business shall principally be conducted from, 1345 Avenue of the Americas, 46th Floor, New York, New York 10105, or such place or places inside the United States as the Operating Partner may decide. The Partnership may maintain offices at such other place or places within or outside the State of Delaware as the Operating Partner determines to be necessary or appropriate.

2.5 Registered Office and Registered Agent. Unless and until changed by the Operating Partner, the address of the Partnership's registered office in the State of Delaware is The Corporation Trust Center, 1209 Orange Street, Wilmington, New Castle County, Delaware 19801. Unless and until changed by the Operating Partner, the name and address of the Partnership's registered agent for service of process in the State of Delaware is The Corporation Trust Company, The Corporation Trust Center, 1209 Orange Street, Wilmington, New Castle County, Delaware 19801.

2.6 Term. The term of the Partnership commenced upon filing of the Statement with the office of the Secretary of State for the State of Delaware and shall continue indefinitely unless the Partnership is earlier dissolved pursuant to Section 9.1.

2.7 Fiscal Year. The fiscal year for tax and financial reporting purposes of the Partnership shall be a calendar year ending December 31 unless otherwise required by the Code or other applicable law.

ARTICLE III

Capital Contributions, Capital Accounts and Allocations

3.1 Capital Contributions. (a) The Partners shall make Capital Contributions to the Partnership as mutually agreed from time to time by the Partners.

(b) Other than as set forth in this Article III, no Partner shall be entitled to any interest or compensation by reason of its Capital Contributions or by reason of serving as a Partner. No Partner shall be required to lend any funds to the Partnership.

3.2 Capital Accounts. (a) The Partnership shall maintain a separate capital account (a "Capital Account") for each Partner. Such Capital Account shall be increased by:

(i) the cash amount of all Capital Contributions made by such Partner to the Partnership pursuant to this Agreement; and

(ii) such Partner's allocable share of Net Income and any special allocations of income or gain pursuant to Section 3.3(b) or (d);

and decreased by:

(i) the amount of cash and the Fair Value of any property (reduced by any liabilities secured by the property or otherwise treated as assumed by the Partner under the Code) distributed to such Partner by the Partnership pursuant to this Agreement; and

(ii) such Partner's allocable share of Net Loss and any special allocations of loss or deduction pursuant to Section 3.3(b) or (d);

and otherwise maintained in accordance with the rules of Treasury Regulations Sections 1.704-1 and 1.704-2.

(b) In the event any Interest in the Partnership is transferred in accordance with the terms of this Agreement, the transferee shall succeed to the Capital Account of the transferor to the extent such Capital Account relates to the transferred Interest except to the extent provided in Treasury Regulations Section 1.704-1(b)(2)(iv)(m).

(c) Immediately prior to the distribution of any property (other than cash) to a Partner, the Capital Account of each Partner shall be increased or decreased, as the case may be, to reflect the manner in which the unrealized income, gain, loss and deduction inherent in such property (that has not previously been reflected in the Capital Accounts of the Partners) would be allocated among the Partners if there were a taxable disposition of such property for its Fair Value.

(d) The Capital Account of each Partner may, in the discretion of the Operating Partner, be increased or decreased, as the case may be, upon the conditions set forth in subsections (i) through (iv) of this Section 3.2(d), to reflect the manner in which the unrealized income, gain, loss and deduction inherent in all of the Partnership's property (that has not previously been reflected in the Capital Accounts of the Partners) would be allocated among the Partners if there were a taxable disposition of all such property for its Fair Value immediately prior to any of the following:

(i) a contribution of money or other property (other than a de minimis amount) to the Partnership by a new or existing Partner as consideration for an Interest in the Partnership, or

(ii) a distribution of money or other property (other than a de minimis amount) by the Partnership to a retiring or continuing Partner as consideration for an Interest in the Partnership, or

(iii) the liquidation of the Partnership for federal income tax purposes within the meaning of Treasury Regulations Section 1.704-1(b)(2)(ii)(g), or

(iv) any other event specified in Treasury Regulations Section 1.704-1(b)(2)(iv)(f).

3.3 Allocations to the Partners.

(a) Subject to Sections 3.3(b) and 3.3(c), Net Income, and Net Loss for any fiscal year shall be allocated proportionately among the Partners in a manner such that the Capital Account of each Partner, immediately after giving effect to such allocation, is, as nearly as possible, equal to the amount of distributions that hypothetically would be made to such Partner during such fiscal year pursuant or by reference to Section 4.2, if (i) the Partnership were dissolved and terminated; (ii) its affairs were wound up and each Partnership asset was sold for cash equal to its Carrying Value (except that any Portfolio Investment that is disposed of during such fiscal year shall be treated as if sold for an amount of cash equal to the sum of (x) the amount of any net cash proceeds actually received by the Partnership in connection with such disposition and (y) the Carrying Value of any property actually received by the Partnership in connection with such disposition); (iii) all Partnership liabilities were satisfied (other than liabilities the discharge of which would give rise to a deduction for U.S. federal income tax purposes and limited with respect to each nonrecourse liability to the Carrying Value of the assets securing such liability); and (iv) the net assets of the Partnership were distributed in accordance with Section 4.2, to the Partners immediately after giving effect to such allocation. The Operating Partner may, in its discretion, make such other assumptions (whether or not consistent with the above assumptions) as it deems necessary or appropriate in order to effectuate the intended economic arrangement of the Partners.

(b) The following special allocations shall be made in the following order and prior to any other allocations under this Section 3.3:

(i) Minimum Gain Chargeback. Notwithstanding any other provision of this Section 3.3, if there is a net decrease in partnership minimum gain (as defined in Treasury Regulations Sections 1.704-2(b)(2) and (d)) during any fiscal year, each Partner shall be specially allocated items of Partnership income and gain for such fiscal year (and, if necessary, subsequent fiscal years) in an amount equal to such Partner's share of the net decrease in partnership minimum gain, determined in accordance with Treasury Regulations Sections 1.704-2(f) and (g). This subsection 3.3(b)(i) is intended to comply with the minimum gain chargeback requirement in such section of the Treasury Regulations and shall be interpreted consistently therewith;

(ii) Partner Minimum Gain Chargeback. Notwithstanding any other provision of this Section 3.3, if there is a net decrease in partnership nonrecourse debt minimum gain attributable to a Partner nonrecourse debt (as defined in Treasury Regulations Section 1.704-2(i))

during any fiscal year, the Partners shall be specially allocated items of Partnership income and gain for such fiscal year (and, if necessary, subsequent fiscal years) in an amount equal to such Partner's share of the net decrease in partner nonrecourse debt minimum gain attributable to such partner nonrecourse debt, determined in accordance with Treasury Regulations Section 1.704-2(i). This Section 3.3(b)(ii) is intended to comply with the minimum gain chargeback requirement in such section of the Treasury Regulations and shall be interpreted consistently therewith;

(iii) Qualified Income Offset. In the event any Partner unexpectedly receives any adjustments, allocations, or distributions described in Treasury Regulations Sections 1.704-1(b)(2)(ii)(d)(4), (5) or (6), items of Partnership income and gain shall be specially allocated to each such Partner in an amount and manner sufficient to eliminate, to the extent required by the Treasury Regulations, the deficit, if any, in such Partner's Capital Account (as determined under Treasury Regulations Section 1.704-1) as quickly as possible, provided that an allocation pursuant to this Section 3.3(b)(iii) shall be made only if and to the extent that such Partner would have such Capital Account deficit (as determined after crediting such Capital Account for any amounts that the Fortress Partner is obligated to restore or that any Partner is deemed obligated to restore) after all other allocations provided for in this Section 3.3 have been tentatively made as if this Section 3.3(b)(iii) were not in this Agreement; and

(iv) Nonrecourse Deductions. Nonrecourse deductions, as defined in Treasury Regulations Section 1.704-2, shall be allocated among the Partners (including the Fortress Partner) in the manner determined by the tax matters partner.

(c) Loss Allocation Limitation.

(i) No allocation of Net Loss (or items thereof) shall be made to any Partner to the extent that such allocation would create or increase a deficit in such Partner's Capital Account (as determined after debiting such Capital Account for the items described in Treasury Regulations Section 1.704-1(b)(2)(ii)(d)(4), (5) and (6) and crediting such Capital Account for any amounts that such Partner is obligated to restore or is deemed obligated to restore pursuant to Treasury Regulations Section 1.704-2); and

(ii) Subsequent allocations pursuant to this Section 3.3 shall be made so that the net amount of any items allocated to each Partner shall, to the extent possible, be equal to the net amount that would have been allocated to each Partner if such special allocations pursuant to Section 3.3(b) had not occurred, or the allocations resulting from the limitation in Section 3.3(c)(i) had not occurred, including by allocating Net Income to the Fortress Partner to reverse any allocation pursuant to Section 3.3(c)(i).

(d) Any non-cash items of Net Income or Net Loss shall be allocated as if such non-cash items were distributable pursuant to Section 4.2 or Section 4.4.

(e) If the allocations provided in Section 3.3(a) are modified pursuant to Section 3.3(b), allocations thereunder for subsequent periods shall be adjusted so as to reverse the effect of such modifications on the Capital Accounts of the Partners as rapidly as possible but without causing this Agreement to fail to comply with the Treasury Regulations under Section 704 of the Code.

(f) Net Income and Net Loss shall generally be determined on each disposition of an investment or on such other basis as determined by the Operating Partner using any permissible or required method under the Code as long as such alternate method is required by the Code or does not have an adverse effect on the Partners.

(g) [Reserved]

(h) Allocations for Tax Purposes. Items of income, gain, loss, deduction and credit realized by the Partnership shall, for each fiscal year, be allocated, for federal, state and local income tax purposes, among the Partners in the same manner as the Net Income, Net Loss, Portfolio Investment Gain or Portfolio Investment Loss of which such items are components were allocated, subject, however, to any adjustment required to comply with Treasury Regulations Section 1.704-1(b). In the case of any Partnership asset the Carrying Value of which differs from its adjusted tax basis for United States federal income tax purposes, income, gain, loss and deduction with respect to such asset shall be allocated for United States federal income tax purposes, as reasonably determined by the Operating Partner, in accordance with the principles of Sections 704(b) and (c) of the Code so as to take account of the difference between Carrying Value and adjusted tax basis of such asset.

3.4 Negative Capital Accounts. Except as may be required by law, no Partner shall be required to reimburse the Partnership for any negative balance in such Partner's Capital Account.

ARTICLE IV

Withdrawals, Allocations and Distributions

4.1 Withdrawal of Capital. The Operating Partner shall have the right to withdraw capital from the Partnership by providing the Fortress Partner with 5 Business Days' advance notice, which notice shall be deemed waived in respect of capital withdrawn by the Operating Partner for the purpose of funding distributions to its shareholders or members or for the purpose of funding ordinary course expenses and costs of the Operating Partner, provided, however that before any amount is withdrawn by the Operating Partner (other than in respect of ordinary course expenses and costs of the Operating Partner) the Incentive Income Distribution and the Capital Gains Income Distribution will be determined by, and paid to, the Fortress Partner immediately prior to the withdrawal by the Operating Partner. Distributions of Partnership assets that are provided for in this Agreement shall be made only to Persons who, according to the books and records of the Partnership, are the holders of record of Interests in the Partnership on the date determined by the Operating Partner as of which the Partners are entitled to any such distributions.

4.2 Incentive Allocations.

(a) Income Incentive Allocation. The Fortress Partner will be allocated and paid an income incentive distribution (an "Income Incentive Allocation") with respect to Pre-Incentive Allocation Net Income in each calendar quarter as follows, provided, however, for any period of less than three months the amount paid as an Income Incentive Allocation shall be prorated to reflect such shorter period.

(i) No Income Incentive Allocation in any calendar quarter in which Pre-Incentive Allocation Net Income, expressed as a rate of return on the average value of the

Operating Partner's net equity capital at the end of the two most recently completed calendar quarters (including, for the avoidance of doubt, the quarter with respect to which such amount is being calculated), does not exceed 2.0% for such quarter (8.0% annualized);

(ii) 100% of Pre-Incentive Allocation Net Income with respect to that portion of such Pre-Incentive Allocation Net Income, if any, that expressed as a rate of return on the average value of the Operating Partner's net equity capital at the end of the two most recently completed calendar quarters (including, for the avoidance of doubt, the quarter with respect to which such amount is being calculated), equals or exceeds 2.00% but does not exceed 2.2223% for such quarter; and

(iii) 10% of Pre-Incentive Allocation Net Income with respect to that portion of such Pre-Incentive Allocation Net Income, if any, that, expressed as a rate of return on the average value of the Operating Partner's net equity capital at the end of the two most recently completed calendar quarters (including, for the avoidance of doubt, the quarter with respect to which such amount is being calculated), exceeds 2.2223% .

(b) Capital Gains Incentive Allocation. The Fortress Partner shall be allocated and paid a capital gains incentive allocation (a "Capital Gains Incentive Allocation") in arrears as of the end of each calendar year equal to 10.0% of the Operating Partner's pro rata share of cumulative realized gains from the IPO Date through the end of such calendar year, net of the Operating Partner's pro rata share of the following, without duplication, (i) any cumulative realized or unrealized losses and the cumulative non-cash portion of equity-based compensation expenses, in each case, for such period and (ii) all realized gains upon which prior performance-based Capital Gains Incentive Allocations were previously paid to the General Partner.

4.3 General Distribution Provisions.

(a) Any cash distributed to the Partners pursuant to Article IV shall be made in dollars unless otherwise agreed to by the Partner receiving such distribution.

(b) [Reserved].

(c) For purposes of this Agreement (other than for purposes of calculating foreign currency gain or loss for purposes of Sections 985-989 of the Code), whenever an amount is to be converted from one currency to another, it shall be converted at the prevailing exchange rate for such conversion at the close of business on the date of such calculation (or the next preceding Business Day if such date of calculation is not a Business Day), as reasonably determined by the Operating Partner.

(d) Upon the request of the Fortress Partner, the Operating Partner may, but shall not be obligated to, in any fiscal year of the Partnership make distributions of cash held by the Partnership to the Fortress Partner, in amounts intended to enable the Fortress Partner (or any Person whose tax liability is determined by reference to the Fortress Partner's income) to

discharge its United States federal, state and local income tax liabilities arising from the allocations made (or to be made) pursuant to Section 3.3. The amount distributable pursuant to this Section 4.3(d) shall be determined by the Operating Partner, taking into account the maximum combined United States federal, New York State and New York City tax rate applicable to individuals or corporations (whichever is higher) on ordinary income, qualified dividend income and capital gain (taking into account the applicable holding period), as the case may be, and otherwise based on such reasonable assumptions as the Operating Partner determines in good faith to be appropriate. The aggregate amount distributable to the Fortress Partner pursuant to this Section 4.3(d) in any fiscal year of the Partnership shall be reduced by all previous amounts distributed to the Fortress Partner pursuant to this Section 4.3(d) and Section 4.2 in such fiscal year. The amount distributable to the Fortress Partner pursuant to any clause of Section 4.2 shall be reduced by the amount distributed to such Partner pursuant to this Section 4.3(d), and the amount so distributed under this Section 4.3(d) shall be deemed to have been distributed to the extent of such reduction pursuant to such clause of Section 4.2 for purposes of making the calculations required by Section 4.2.

4.4 Restricted Distributions. Notwithstanding any provision to the contrary contained in this Agreement, the Partnership shall not make a distribution to any Partner on account of its Interest in the Partnership if such distribution would violate any provisions of the Partnership Act or other applicable law.

4.5 Withholding. Notwithstanding any other provision of this Agreement, each Partner hereby authorizes the Partnership (and any Affiliate controlled by the Partnership) to withhold and to pay over, or otherwise pay, any withholding or other similar taxes payable by the Partnership (or such Affiliate) (pursuant to the Code or any provision of United States federal, state or local or non-U.S. tax law) with respect to a Partner or as a result of such Partner's participation in the Partnership (including as a result of a distribution in kind). If and to the extent that the Partnership (or such Affiliate) shall be required to withhold or pay any such withholding taxes or other similar taxes attributable to a Partner from amounts paid to a Partner, such Partner shall be deemed for all purposes of this Agreement to have received a payment from the Partnership as of the time that such withholding or other similar tax is required to be paid, which payment shall be deemed to be a distribution pursuant to Section 4.2 with respect to such Partner's Interest to the extent that a Partner (or any successor to such Partner's Interest) would have received a cash distribution with respect to such Partner but for such withholding.

ARTICLE V

Management

5.1 Relationship Among the Operating Partner, the Fortress Partner, the Manager and the Partners. Except as expressly limited by the provisions of this Agreement and the Partnership Act, the Partners shall have the full, exclusive and absolute right, power and authority to manage and control the Partnership and the property, assets, affairs and business thereof. Except as so expressly limited, the Partners shall have all of the rights, powers and authority conferred upon it by law or under the provisions of this Agreement. The Fortress Partner shall continue to serve until incapacitated or removed, in accordance with the express provisions of this Agreement. The day-to-day administrative management and operation of the Partnership and its business shall be vested in the Operating Partner, subject to the terms and provisions of this Agreement. The Operating Partner shall, in its discretion, exercise all powers necessary and convenient for the purposes of the Partnership, but subject to the limitations and restrictions expressly set forth herein, including those set out in Section 2.3 and this Section 5.1, on behalf and in the name of the Partnership. The Operating Partner is designated, and is specifically authorized to act as, the "tax matters partner" under the Code and in any similar capacity under state, local or foreign law. Notwithstanding anything to the contrary contained herein, the acts of the Operating Partner in carrying on the business of the Partnership as authorized herein shall bind the Partnership.

5.2 Indemnification, Advances and Insurance.

(a) Indemnification. The Partnership shall indemnify any Indemnified Person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Partnership), by reason of the fact that such Indemnified Person is or was within the category of persons constituting Indemnified Persons of the Partnership, or is or was within the category of persons constituting Indemnified Persons of the Partnership serving at the request of the Partnership as a director, officer, employee or agent of another company, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such Indemnified Person in connection with such action, suit or proceeding, provided that such Indemnified Person shall not be indemnified and held harmless if there has been a final and non-appealable judgment entered by a court of competent jurisdiction determining that, in respect of the matter for which the Indemnified Person is seeking indemnification, the Indemnified Person has acted in bad faith or engaged in fraud or willful misconduct or, with respect to any criminal action or proceeding acted with knowledge that such Indemnified Person's conduct was unlawful.

(b) Expenses Payable in Advance. Expenses (including attorneys' fees) incurred by an Indemnified Person in defending any civil, criminal, administrative or investigative action, suit or proceeding shall be paid by the Partnership in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of such Indemnified Person to repay such amount if it shall ultimately be determined that such person is not entitled to be indemnified by the Partnership as authorized in this Section 5.2. Such expenses (including attorneys' fees) may be so paid upon such terms and conditions, if any, as the Partnership deems appropriate.

(c) Non-exclusivity of Indemnification and Advancement of Expenses. The indemnification and advancement of expenses provided by, or granted pursuant to, this Section 5.2 shall not be deemed exclusive of any other rights to which those seeking indemnification or advancement of expenses may be entitled under this Agreement, any agreement, vote of Members or disinterested directors of the Operating Partner or otherwise, both as to action in such person's official capacity and as to action in another capacity while holding such office, it being the policy of the Partnership that indemnification of the persons specified in subsection (a) of this Section 5.2 shall be made to the fullest extent permitted by law. The provisions of this Section 5.2 shall not be deemed to preclude the indemnification of any person who is not specified in subsection (a) of this Section 5.2 but whom the Partnership would have the power or obligation to indemnify under the provisions of the DGCL, if the Partnership were a Delaware corporation, the Delaware Act or otherwise.

(d) Insurance. The Partnership may purchase and maintain insurance on behalf of any Person entitled to indemnification under this Section 5.2 against any liability asserted against such person and incurred by such person in any such capacity, or arising out of such Person's status as such, whether or not the Partnership would have the power or the obligation to indemnify such Person against such liability under the provisions of this Section 5.2.

(e) Certain Definitions. For purposes of this Section 5.2, references to the "Partnership" shall include, in addition to the resulting company, any constituent company (including any constituent of a constituent) absorbed in a consolidation or merger which, if its separate existence had continued, would have had power and authority to indemnify its directors or officers, so that any person who is or was a director or officer of such constituent company, or is or was a director or officer of such constituent company serving at the request of such constituent company as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, shall stand in the same position under the provisions of this Section 5.2 with respect to the resulting or surviving corporation as such person would have with respect to such constituent corporation if its separate existence had continued. For purposes of this Section 5.2, references to "fines" shall include any excise taxes assessed on a person with respect to an employee benefit plan; and references to "serving at the request of the Partnership" shall include any service as a director, officer, employee or agent of the Partnership that imposes duties on, or involves services by, such director or officer with respect to an employee benefit plan, its participants or beneficiaries.

(f) Survival of Indemnification and Advancement of Expenses. The indemnification and advancement of expenses provided by, or granted pursuant to, this Section 5.2 shall, unless otherwise provided when authorized or ratified, continue as to a person who has ceased to be an Indemnified Person and shall inure to the benefit of the heirs, executors and administrators of such a person.

(g) Indemnification of Employees and Agents. The Partnership may, to the extent authorized from time to time by the Operating Partner, provide rights to indemnification and to the advancement of expenses to employees and agents of the Partnership and the Manager similar to those conferred in this Section 5.2 to Indemnified Persons.

ARTICLE VI

Expenses

6.1 Operating Expenses. (a) The Partnership shall bear or be charged with all of its own operating expenses, except those specifically required to be borne by the Manager under the Management Agreement.

(b) To the extent any operating expenses of the Partnership not specifically required to be borne by the Manager pursuant to the Management Agreement are paid by the Manager, the Fortress Partner or any Affiliate thereof from its own funds, as the case may be, such operating expenses shall be reimbursed by the Partnership. The Partnership will reimburse the Manager and its Affiliates for performing certain legal, accounting, due diligence tasks and other services that outside professionals or outside consultants otherwise would perform, provided that such costs and reimbursements are no greater than those which would be paid to outside professionals or consultants on an arm's length basis. The amount of operating expenses to be borne by the Partnership is not subject to any maximum amount. For the avoidance of doubt, to the extent the Partnership forms intermediate investment vehicles in connection with the making, holding and/or disposing of an investment, the costs and expenses of such vehicles shall be deemed to be costs and expenses of the Partnership for all purposes of this Agreement.

ARTICLE VII

Books and Records and Reports to Partners; Certain Tax Elections

7.1 Records and Accounting. The Operating Partner shall keep or cause to be kept at the principal office of the Partnership appropriate books and records with respect to the Partnership's business, including all books and records necessary to provide to the Partners any information required to be provided pursuant to this Agreement. Any books and records maintained by or on behalf of the Partnership in the regular course of its business, including the record of the Partners, books of account and records of Partnership proceedings, may be kept on, or be in the form of, computer disks, hard drives, punch cards, magnetic tape, photographs, micrographics or any other information storage device; provided, that the books and records so maintained are convertible into clearly legible written form within a reasonable period of time. The books of the Partnership shall be maintained, for financial reporting purposes, on an accrual basis in accordance with GAAP.

7.2 Safe Harbor Election and Forfeiture Allocations. (a) The Operating Partner is hereby authorized and directed to cause the Partnership to make an election to value the Fortress Partner interest of the Fortress Partner received as compensation for services to the Partnership (the "Compensatory Interest") at liquidation value (the "Safe Harbor Election"), as the same may be permitted pursuant to or in accordance with the finally promulgated successor rules to Proposed Treasury Regulations Section 1.83-3(l) and IRS Notice 2005-43 (collectively, the "Proposed Rules"). The Operating Partner shall cause the Partnership to make any allocations of items of income, gain, deduction, loss or credit (including forfeiture allocations and elections as to allocation periods) necessary or appropriate to effectuate and maintain the Safe Harbor Election.

(b) Any such Safe Harbor Election shall be binding on the Partnership and on all of its Partners (including, for purposes of this Section 7.2(b), any person to whom a Compensatory Interest is transferred in connection with the performance of services) with respect to all transfers of Compensatory Interests thereafter made by the Partnership while a Safe Harbor Election is in effect. A Safe Harbor Election once made may be revoked by the Operating Partner as permitted by the Proposed Rules or any applicable rule.

(c) Each Partner, by signing this Agreement or by accepting such transfer, hereby agrees to comply with all requirements of the Safe Harbor Election with respect to the Compensatory Interest while the Safe Harbor Election remains effective.

(d) The Operating Partner shall file or cause the Partnership to file all returns, reports and other documentation as may be required to perfect and maintain the Safe Harbor Election with respect to transfers of any Compensatory Interest.

(e) The Operating Partner is hereby authorized and empowered, without further vote or action of the Partners, to amend this Agreement as necessary to comply with the Proposed Rules or any rule, in order to provide for a Safe Harbor Election and the ability to maintain or revoke the same, and shall have the authority to execute any such amendment by and on behalf of each Partner. Any undertakings by the Partners necessary to enable or preserve a Safe Harbor Election may be reflected in such amendments and to the extent so reflected shall be binding on each Partner, respectively; provided, however, that such amendments are not reasonably likely to have a material adverse effect on the rights and obligations of the Partners.

(f) Each Partner agrees to cooperate with the Operating Partner to perfect and maintain any Safe Harbor Election, and to timely execute and deliver any documentation with respect thereto reasonably requested by the Operating Partner.

(g) No transfer, assignment or other disposition of any Interest in the Partnership by a Partner shall be effective unless prior to such transfer, assignment or disposition the transferee, assignee or intended recipient of such Interest shall have agreed in writing to be bound by the provisions of this Section 7.2, in form and substance satisfactory to the Partner.

ARTICLE VIII

Transfers, Admissions, Withdrawals and Default

8.1 Transfer, Withdrawal, Removal or Termination of the Fortress Partner. (a) The Fortress Partner, without the prior written consent of the Operating Partner, shall have no right to Transfer its Interests, and the Fortress Partner shall not have the right to withdraw. The foregoing or any other provision hereof to the contrary notwithstanding, a Transfer by the Fortress Partner of its Interest to an entity whose business and operations are managed or supervised by Mr. Wesley R. Edens shall not be considered violations of this Section 8.1 or any other provision of this Agreement and are expressly permitted without the consent of the Operating Partner. The Operating Partner shall have no right to remove the Fortress Partner from the Partnership except as otherwise expressly provided herein.

(b) [Reserved].

(c) The Fortress Partner shall cease to be a Partner of the Partnership upon the termination of the Management Agreement. Upon termination of the Management Agreement pursuant to Section 13 or Section 15(b) the Partnership shall be required to promptly allocate and pay to the Fortress Partner an amount equal to the incentive allocations that would be allocated and paid to the Fortress Partner pursuant to Section 4.2 hereof if the Partnership's assets were sold for cash at their then current fair market value (as determined by an appraisal, taking into account, among other things, the expected future value of the underlying investments). In addition, after the termination of the Management Agreement, neither the Fortress Partner nor its successors-in-interest shall have any of the powers, obligations or liabilities of a Partner of the Partnership under this Agreement or under applicable law arising after the date of such termination.

(d) [Reserved].

(e) If the Fortress Partner shall be removed or shall withdraw as a Partner, a successor Partner may be admitted or named as a Partner of the Partnership prior to such removal or withdrawal with the consent of the Operating Partner.

The Fortress Partner shall reasonably cooperate to facilitate the substitution of any successor Partner, and, except in the case of a removal as a result of the termination of the Management Agreement pursuant to Section 8.1(c), shall be reimbursed for its reasonable costs and expenses relating thereto. The Partners (or any one or more of them) may Transfer to any successor Partner a portion of their Interest in the Partnership in order to effectuate such substitution.

8.2 Additional Partners. The Partners may agree to admit any additional Partner to the Partnership. In order to become an additional Partner, such Person shall execute and deliver a counterpart signature page to this Agreement (or such other instrument as shall establish that such Person shall be bound by and a party to this Agreement) and such other documentation as the Operating Partner may specify.

8.3 Admissions and Withdrawals Generally. Except as provided herein, no Partner shall have the right to withdraw from the Partnership and no Person may be admitted to the Partnership as a Partner.

8.4 Obligations and Rights of a Prior Fortress Partner. In the event that the Fortress Partner is removed, withdraws or transfers all of its Interest in the Partnership other than in accordance with the terms of this Agreement, such Fortress Partner shall have no further obligation or liability as a Fortress Partner of the Partnership pursuant to this Agreement with respect to or in connection with any obligations or liabilities arising from and after such removal, withdrawal or transfer, and all such future

obligations and liabilities shall automatically cease and terminate and be of no further force or effect with respect to the Fortress Partner; provided, however, that nothing contained herein shall be deemed to relieve the Fortress Partner of any obligations or liabilities (i) arising prior to such removal or withdrawal or (ii) resulting from a dissolution of the Partnership caused by the act of the Fortress Partner where liability is imposed upon the Fortress Partner by law or by the provisions of this Agreement.

ARTICLE IX

Term and Dissolution of the Partnership

9.1 Term. The Partnership shall continue indefinitely until the Partnership is dissolved, which dissolution shall occur upon the first of any of the following events (each an "Event of Dissolution"):

(a) the entry of a decree of judicial dissolution under the Partnership Act; or

(b) a written determination by the Fortress Partner and the Operating Partner that the Partnership should be dissolved.

9.2 Winding-Up. Upon the occurrence of an Event of Dissolution, the Partnership shall be wound up and liquidated as promptly as business circumstances allow. The Fortress Partner or, if there is no Fortress Partner, a liquidator who may be appointed by the Operating Partner, shall proceed with the Dissolution Sale and the Final Distribution. In the Dissolution Sale, the Fortress Partner or such liquidator shall use its commercially reasonable efforts to reduce to cash and cash equivalent items at Fair Value such assets of the Partnership as the Fortress Partner or such liquidator shall deem it advisable to sell, subject to any tax or other legal considerations. The foregoing notwithstanding, the Fortress Partner shall not administer any Dissolution Sale or Final Distribution if the Fortress Partner had previously been removed as Fortress Partner, if the Fortress Partner had withdrawn as the Fortress Partner in violation of the provisions hereof.

9.3 Final Distribution. Subject to the Partnership Act, after the Dissolution Sale, the proceeds thereof and the other assets of the Partnership (including restricted securities) shall be distributed in one or more installments in the following order of priority:

(a) To creditors of the Partnership (including, if applicable, the Fortress Partner and its Affiliates and the Manager), to the extent otherwise permitted by law, in satisfaction of liabilities of the Partnership, including the expenses of the winding-up, liquidation and dissolution of the Partnership (whether by payment or the making of reasonable provision for payment thereof).

(b) The remaining proceeds, if any, plus any remaining assets of the Partnership, shall be applied and distributed to the Partners in accordance with Section 4.2. For purposes of the

application of this Section 9.3(b) and determining Capital Accounts on dissolution, all realized and unrealized gains, losses and accrued income and deductions of the Partnership shall be treated as realized and recognized immediately before the date of distribution and shall be allocated among the Capital Accounts of the Partners in accordance with Section 3.3.

ARTICLE X

Miscellaneous

10.1 Amendments. Except as required by law, this Agreement and the Statement may only be amended with the written consent of the Partners.

10.2 Entire Agreement. This Agreement constitutes the entire agreement among the Partners with respect to the subject matter hereof and thereof and supersedes any prior agreement, and any understanding among or between them with respect to such subject matter.

10.3 Severability. Each provision of this Agreement shall be considered severable and if for any reason any provision which is not essential to the effectuation of the basic purposes of the Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable and contrary to the Partnership Act or existing or future applicable law, such invalidity shall not impair the operation of or affect those provisions of this Agreement which are valid. In that case, this Agreement shall be construed so as to limit any term or provision so as to make it enforceable or valid within the requirements of any applicable law, and in the event such term or provision cannot be so limited, this Agreement shall be construed to omit such invalid or unenforceable provisions.

10.4 Notices. All notices, requests, demands and other communications hereunder shall be deemed to have been duly given if sent to such Partner's business address set forth in the Partnership's books and records; or to such other address as such Partner shall have last designated by notice to the Partnership, and in the case of a change in address by the Fortress Partner, by notice to the Operating Partner. Any notice shall be deemed to have been duly given if personally delivered or sent by overnight mail or courier, by email or by facsimile transmission confirmed by letter, and shall be deemed received, unless earlier received, (i) if sent by overnight mail or courier, when actually received, (ii) if sent by facsimile transmission, on the date sent, provided that confirmatory notice is sent promptly thereafter by overnight mail or courier, postage prepaid, and (iii) if delivered by hand or email, on the date of receipt.

10.5 Governing Law, Waiver of Jury Trial and Waiver of Partition. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF DELAWARE WITHOUT REGARD TO PRINCIPLES OF CONFLICT OF LAWS. THE COURTS OF THE STATE OF DELAWARE SHALL HAVE, AND NO OTHER COURTS SHALL HAVE, JURISDICTION OVER ANY ACTION, SUIT OR PROCEEDING WITH RESPECT TO THIS AGREEMENT, AND THE OPERATING PARTNER HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY OBJECTION THAT IT MAY HAVE, WHETHER NOW OR IN THE FUTURE, TO THE LAYING OF VENUE IN, OR TO THE JURISDICTION OF, ANY AND EACH OF SUCH COURTS FOR THE PURPOSES OF ANY SUCH SUIT, ACTION, PROCEEDING OR JUDGMENT, AND FURTHER AGREES TO WAIVE ANY CLAIM THAT ANY SUCH SUIT, ACTION, PROCEEDING OR JUDGMENT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM, AND THE OPERATING PARTNER HEREBY SUBJECTS ITSELF TO SUCH JURISDICTION. SUBJECT TO APPLICABLE LAW, THE PARTIES HEREBY AGREE THAT NO PUNITIVE OR CONSEQUENTIAL DAMAGES SHALL BE AWARDED TO THE OPERATING PARTNER IN ANY SUCH ACTION, SUIT OR PROCEEDING. TO THE EXTENT PERMITTED BY APPLICABLE LAW, EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES ALL RIGHT OF TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR ANY MATTER ARISING HEREUNDER.

EACH OF THE PARTNERS HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHTS THAT SUCH PARTNER MAY HAVE TO MAINTAIN ANY ACTION FOR PARTITION OF ANY OF THE PARTNERSHIP'S PROPERTY.

10.6 Successors and Assigns. Except with respect to the rights of Indemnified Persons, none of the provisions of this Agreement shall be for the benefit of or enforceable by the creditors of the Partnership, and this Agreement shall be binding upon and inure to the benefit of the Partners and their legal representatives, successors and permitted assigns.

10.7 Counterparts. This Agreement may be executed in one or more counterparts, all of which shall constitute one and the same instrument.

10.8 Certain Rules of Construction. The section headings in this Agreement are for convenience of reference only, and shall not be deemed to alter or affect the meaning or interpretation of any provisions hereof. As used herein, masculine pronouns shall include the feminine and neuter, and the singular shall be deemed to include the plural and vice versa. If any time period set forth herein shall expire on a day which is not a Business Day, such time period shall be automatically extended to the first Business Day immediately following the non-Business Day on which such time period would otherwise expire. The term "including" as used herein shall mean "including, without limitation," unless the context otherwise requires. Whenever in this Agreement the Fortress

Partner, Operating Partner or any of their respective Affiliates is permitted or required to make a decision or to take (or not take) an action (i) in its "discretion," such Person's exercise of discretion shall be the sole and absolute exercise of a right that may be exercised, granted or withheld without regard to any other matter or fact; or (ii) in its "good faith" or under another express standard, such Person shall act under such express standard and shall not be subject to any other or different standards imposed by this Agreement or any other agreement contemplated herein or by relevant provisions of law or in equity or otherwise.

10.9 Further Assurances. Each Partner agrees to take any and all action necessary or appropriate for the accomplishment of the purposes of the Partnership set forth in Section 2.3 hereof.

10.10 Use of the Name "Fortress". Fortress Parent has consented to the use by the Partnership of the identifying word or name "Fortress" in the name of the Partnership. Such consent is conditioned upon a Fortress Affiliate being the Fortress Partner and upon the employment of a Fortress Affiliate as the manager (pursuant to contractual delegation by the Manager or otherwise) of the Partnership's or the Operating Partner's assets. The name or identifying word "Fortress" may be used from time to time in other connections and for other purposes by Fortress Affiliates and by any Person authorized by Fortress Parent or its Affiliates. The Fortress Partner may require the Partnership to cease using "Fortress" in the name of the Partnership if a Fortress Affiliate is no longer the Fortress Partner for any reason.

10.11 Anti-Money Laundering. Notwithstanding any other provision of this Agreement to the contrary, the Operating Partner, in its own name and on behalf of the Partnership, shall be authorized without the consent of any Person, including any other Partner, to take such action as it determines in good faith to be necessary or advisable to comply with any anti-money laundering or anti-terrorist laws, rules, regulations, directives or special measures.

[*Remainder of page intentionally left blank*]

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

FORTRESS PARTNER:

FORTRESS WORLDWIDE TRANSPORTATION AND INFRASTRUCTURE MASTER GP LLC

By: _____
Name: [ ]
Title: [ ]

OPERATING PARTNER:

FORTRESS TRANSPORTATION AND INFRASTRUCTURE INVESTORS LLC

By: _____
Name: [ ]
Title: [ ]

Exhibit 10.2

MANAGEMENT AND ADVISORY AGREEMENT

dated as of , 2015

between

FORTRESS TRANSPORTATION AND INFRASTRUCTURE INVESTORS LLC

and

FIG LLC

TABLE OF CONTENTS

MANAGEMENT AND ADVISORY AGREEMENT

THIS MANAGEMENT AND ADVISORY AGREEMENT, is made as of , 2015 (the "Agreement") by and among FORTRESS TRANSPORTATION AND INFRASTRUCTURE INVESTORS LLC, a Delaware limited liability company (the "Company"), and FIG LLC, a Delaware limited liability company (together with its permitted assignees, the "Manager").

W I T N E S S E T H:

WHEREAS, the Company desires to avail itself of the experience, sources of information, advice, assistance and certain facilities of or available to the Manager and to have the Manager undertake the duties and responsibilities hereinafter set forth, on behalf of the Company, as provided in this Agreement; and

WHEREAS, the Manager is willing to render such services on the terms and conditions hereinafter set forth.

NOW THEREFORE, IN CONSIDERATION OF THE MUTUAL AGREEMENTS HEREIN SET FORTH, THE PARTIES HERETO AGREE AS FOLLOWS:

SECTION 1. DEFINITIONS.

The following terms have the meanings assigned to them:

(a) "Acquisitions" means asset acquisitions by the Company and its Subsidiaries.

(b) "Agreement" means this Management and Advisory Agreement, as amended from time to time.

(c) "Board of Directors" means the Board of Directors of the Company.

(d) "Code" means the Internal Revenue Code of 1986, as amended.

(e) "Common Share" means a common share representing a limited liability company interest of the Company now or hereafter authorized and designated as common shares of the Company.

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

(g) "GAAP" means generally accepted accounting principles in the United States, as in effect on the date of this Agreement.

(h) "Governing Instruments" means, with regard to any entity, the articles of incorporation and bylaws in the case of a corporation, certificate of limited partnership (if applicable) and the partnership agreement in the case of a general or limited partnership, the articles of formation and the operating agreement in the case of a limited liability company, or, in each case, comparable governing documents.

(i) “Independent Directors” means the members of the Board of Directors who are not officers or employees of the Manager.

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

(k) “Subsidiary” means any subsidiary of the Company and any partnership, the general or operating partner of which is the Company or any subsidiary of the Company and any limited liability company, the managing member of which is the Company or any subsidiary of the Company.

SECTION 2. APPOINTMENT AND DUTIES OF THE MANAGER.

(a) The Company hereby appoints the Manager to manage the assets and day-to-day operations of the Company and its Subsidiaries subject to the further terms and conditions set forth in this Agreement and the Manager hereby agrees to use its commercially reasonable efforts to perform each of the duties set forth herein. The appointment of the Manager shall be exclusive to the Manager except to the extent that the Manager otherwise agrees, in its sole and absolute discretion, and except to the extent that the Manager elects, pursuant to the terms of this Agreement, to cause the duties of the Manager hereunder to be provided by third parties.

(b) The Manager, in its capacity as manager of the assets and the day-to-day operations of the Company and its Subsidiaries, at all times will be subject to the supervision of the Company’s Board of Directors and will have only such functions and authority as the Company may delegate to it including, without limitation, the functions and authority identified herein and delegated to the Manager hereby. The Manager will be responsible for the day-to-day operations of the Company and its Subsidiaries and will perform (or cause to be performed) such services and activities relating to the assets and operations of the Company as may be appropriate, including, without limitation:

(i) serving as the Company’s consultant with respect to the periodic review of the acquisition criteria and parameters for Acquisitions, borrowings, financing transactions, and operations;

(ii) investigation, analysis, valuation and selection of Acquisition opportunities;

(iii) with respect to prospective Acquisitions by the Company and dispositions of assets, conducting negotiations with brokers, sellers and purchasers and their respective agents and representatives, investment bankers and owners of privately and publicly held companies;

(iv) engaging and supervising independent contractors that provide services relating to the Company or any of its Subsidiaries or the Company’s assets, including, but not limited to, investment banking, legal or regulatory advisory, tax advisory, due diligence, accounting advisory, securities brokerage, brokerage, and other financial, brokerage and consulting services as the Manager determines from time to time is advisable;

(v) negotiating the sale, exchange or other disposition of any asset;

(vi) coordinating and managing operations of any joint venture or co-investment interests held by the Company or any of its Subsidiaries and conducting all matters with the joint venture or co-investment partners;

(vii) coordinating and supervising, all matters related to the Company's or any of its Subsidiaries' assets, including the leasing and/or sale and management of such assets and retaining agents, managers or other advisors in connection with such coordination and supervision;

(viii) providing executive and administrative personnel, office space and office services required in rendering services to the Company;

(ix) administering the day-to-day operations of the Company and its Subsidiaries and performing and supervising the performance of such other administrative functions necessary in the management of the Company and its Subsidiaries as may be agreed upon by the Manager and the Board of Directors, including, without limitation, the collection of revenues and the payment of the Company's debts and obligations and maintenance of appropriate computer services to perform such administrative functions;

(x) communicating with the past, current and prospective holders of any equity or debt securities of the Company and its Subsidiaries as required to satisfy the reporting and other requirements of any governmental bodies or agencies or trading markets and to maintain effective relations with such holders;

(xi) counseling the Company in connection with policy decisions to be made by the Board of Directors;

(xii) evaluating and recommending to the Board of Directors modifications to any hedging strategies in effect on the date hereof and engaging in hedging activities, consistent with such strategies, as in effect from time to time;

(xiii) counseling the Company regarding the maintenance of its exemption from the Investment Company Act and monitoring compliance with the requirements for maintaining an exemption from that Act;

(xiv) assisting the Company in developing criteria that are specifically tailored to the Company's investment objectives and making available to the Company its knowledge and experience with respect to its target assets;

(xv) representing and making recommendations to the Company in connection with the purchase and finance, and commitment to purchase and finance, of its target assets, and in connection with the sale and commitment to sell such assets;

(xvi) monitoring the operating performance of the Company's and its Subsidiaries' assets and providing periodic reports with respect thereto to the Board of Directors, including comparative information with respect to such operating performance, valuation and budgeted or projected operating results;

(xvii) investing and re-investing any moneys and securities of the Company and its Subsidiaries (including investing in short-term investments, pending investment in Acquisitions, payment of fees, costs and expenses, or payments of dividends or distributions to shareholders and partners of the Company) and advising the Company as to its capital structure and capital raising;

(xviii) causing the Company to retain qualified accountants and legal counsel, as applicable, to assist in developing appropriate accounting procedures, compliance procedures and testing systems with respect to financial reporting obligations and to conduct quarterly compliance reviews with respect thereto;

(xix) causing the Company and its Subsidiaries to qualify to do business in all applicable jurisdictions and to obtain and maintain all appropriate licenses;

(xx) taking all necessary actions to enable the Company and its Subsidiaries to make required tax filings and reports, including soliciting shareholders for required information to the extent provided by the provisions of the Code;

(xxi) assisting the Company and its Subsidiaries in complying with all regulatory requirements applicable thereto in respect of its business activities, including preparing or causing to be prepared all financial statements required under applicable regulations and contractual undertakings and all reports and documents required under the Exchange Act;

(xxii) handling and resolving all claims, disputes or controversies (including all litigation, arbitration, settlement or other proceedings or negotiations) in which the Company or any of its Subsidiaries may be involved or to which the Company or any of its Subsidiaries may be subject arising out of the Company's or any of its Subsidiaries' day-to-day operations, subject to such limitations or parameters as may be imposed from time to time by the Board of Directors;

(xxiii) using commercially reasonable efforts to cause expenses incurred by or on behalf of the Company and its Subsidiaries to be within any expense guidelines set by the Board of Directors from time to time;

(xxiv) performing such other services as may be required from time to time for management and other activities relating to the assets of the Company and its Subsidiaries as the Board of Directors and Manager shall agree from time to time or as the Manager shall deem appropriate under the particular circumstances;

(xxv) using commercially reasonable efforts to cause the Company to comply with all applicable laws; and

(xxvi) traveling in connection with the performance of any services or activities relating to the Company's and its Subsidiaries' assets, operations, Acquisitions or investment analysis.

Without limiting the foregoing, the Manager will perform portfolio management services (the "Portfolio Management Services") on behalf of the Company with respect to Acquisitions. Such services will include, but not be limited to, consulting with the Company on the purchase and sale of, and other investment opportunities in connection with, the Company's portfolio of assets; the collection of information and the submission of reports pertaining to the Company's

assets, general economic conditions; periodic review and evaluation of the performance of the Company's portfolio of assets; acting as liaison between the Company and banking, investment banking and other parties with respect to the purchase, financing and disposition of assets; and other customary functions related to portfolio management. Additionally, the Manager will perform monitoring services (the "Monitoring Services") on behalf of the Company with respect to any services provided by third parties, which the Manager determines are material to the performance of the business.

(c) The Manager may enter into agreements with other parties, including its affiliates, including to provide the services above, provided, that any such agreements entered into with affiliates of the Manager shall be (A) on terms no more favorable to such affiliate than could be obtained from a third party on an arm's length basis and (B) to the extent the same do not fall within policies approved by the Board of Directors, approved by a majority of the Independent Directors to the extent required by any Board policy.

(d) The Manager may retain, for and on behalf, and at the sole cost and expense, of the Company, such services of accountants, legal counsel, tax counsel, appraisers, insurers, brokers or business developers, transfer agents, registrars, developers, investment banks, financial advisors, underwriters, asset managers, banks and other lenders and others as the Manager deems necessary or advisable in connection with the management and operations of the Company. Notwithstanding anything contained herein to the contrary, the Manager shall have the right to cause any such services to be rendered by its employees or affiliates (which, for the avoidance of doubt, includes any employees, consultants or agents or any affiliate of the Manager). The Company shall pay or reimburse the Manager or its affiliates performing such services for the cost thereof; provided, that such costs and reimbursements are no greater than those which would be payable to outside professionals or consultants engaged to perform such services pursuant to agreements negotiated on an arm's-length basis.

(e) As frequently as the Manager may deem necessary or advisable, or at the direction of the Board of Directors, the Manager shall, at the sole cost and expense of the Company, prepare, or cause to be prepared, with respect to any investment, (i) reports and information on the Company's operations and asset performance and (ii) other information reasonably requested by the Company.

(f) The Manager shall prepare, or cause to be prepared, at the sole cost and expense of the Company, all reports, financial or otherwise, with respect to the Company reasonably required by the Board of Directors in order for the Company to comply with its Governing Instruments or any other materials required to be filed with any governmental body or agency, and shall prepare, or cause to be prepared, all materials and data necessary to complete such reports and other materials including, without limitation, an annual audit of the Company's books of account by a nationally recognized independent accounting firm.

(g) The Manager shall prepare regular reports for the Board of Directors to enable the Board of Directors to review the Company's Acquisitions, portfolio composition and characteristics, credit quality, performance and compliance with policies approved by the Board of Directors.

(h) Notwithstanding anything contained in this Agreement to the contrary, except to the extent that the payment of additional monies is proven by the Company to have been required as a direct result of the Manager's acts or omissions which result in the right of the Company to terminate this Agreement pursuant to Section 15 of this Agreement, the Manager shall not be required to expend money ("Excess Funds") in excess of that contained in any applicable Company Account (as herein defined) or otherwise made available by the Company to be expended by the Manager hereunder. Failure of the Manager to expend Excess Funds out-of-pocket shall not give rise or be a contributing factor to the right of the Company under Section 13(a) of this Agreement to terminate this Agreement due to the Manager's unsatisfactory performance.

(i) In performing its duties under this Section 2, the Manager shall be entitled to rely reasonably on qualified experts hired by the Manager.

SECTION 3. DEVOTION OF TIME; ADDITIONAL ACTIVITIES.

(a) The Manager will provide a management team, including a Chief Executive Officer and a Chief Financial Officer of the Company, to provide the management services to be provided by the Manager to the Company hereunder. The members of such team shall devote such of their time to the management of the Company as the Board of Directors reasonably deems necessary and appropriate, commensurate with the level of activity of the Company from time to time.

(b) Except to the extent set forth in clause (a) above, nothing herein shall prevent the Manager or any of its affiliates or any of the officers and employees of any of the foregoing from engaging in other businesses or from rendering services of any kind to any other person or entity, including investment in, or advisory service to others investing in, any type of infrastructure or equipment asset, including investments which meet the principal investment objectives of the Company.

(c) Managers, members, partners, officers, employees and agents of the Manager or affiliates of the Manager may serve as directors, officers, employees, agents, nominees or signatories for the Company or any Subsidiary, to the extent permitted by their Governing Instruments, as from time to time amended, or by any resolutions duly adopted by the Board of Directors pursuant to the Company's Governing Instruments. When executing documents or otherwise acting in such capacities for the Company, such persons shall use their respective titles in the Company.

SECTION 4. AGENCY.

The Manager shall act as agent of the Company in making, acquiring, financing and disposing of Acquisitions, disbursing and collecting the Company's funds, paying the debts and fulfilling the obligations of the Company, supervising the performance of professionals engaged by or on behalf of the Company and handling, prosecuting and settling any claims of or against the Company, the Board of Directors, holders of the Company's securities or the Company's representatives or properties.

SECTION 5. BANK ACCOUNTS.

The Manager may establish and maintain one or more bank accounts in the name of the Company or any Subsidiary (any such account, a "Company Account"), and may collect and deposit funds into any such Company Account or Company Accounts, and disburse funds from any such Company Account or Company Accounts; and the Manager shall from time to time render appropriate accountings of such collections and payments to the Board of Directors and, upon request, to the auditors of the Company or any Subsidiary.

SECTION 6. RECORDS; CONFIDENTIALITY.

The Manager shall maintain appropriate books of accounts and records relating to services performed under this Agreement, and such books of account and records shall be accessible for inspection by representatives of the Company at any time during normal business hours upon ten (10) business days advance written notice. The Manager shall keep confidential any and all non-public information obtained in connection with the services rendered under this Agreement and shall not disclose any such information to any person, except to (i) its affiliates, members, officers, directors, employees, agents, representatives or advisors who have a need to know such information in order to carry out their duties to the Company and who have a duty to the Manager or to the Company to keep such information confidential, (ii) to appraisers, financing sources and others in the ordinary course of the Manager's business for the purpose of rendering services hereunder, provided that such persons agree to keep such information confidential, (iii) in connection with any governmental or regulatory requests of the Manager and any of its affiliates, members, officers, directors, employees, agents, representatives or advisors, (v) as required by applicable law or regulation or (vi) with the prior written consent of the Board of Directors.

SECTION 7. OBLIGATIONS OF MANAGER; RESTRICTIONS.

(a) The Manager shall use commercially reasonable efforts to require each seller or transferor of assets to the Company to make such representations and warranties regarding such assets as may, in the sole judgment made in good faith of the Manager, be necessary and appropriate. In addition, the Manager shall take such other action as it deems necessary or appropriate with regard to the protection of the Company's assets and investments.

(b) The Manager shall refrain from any action that, in its sole judgment made in good faith, (i) is not in compliance with policies approved by the Board of Directors or (ii) would violate any law, rule or regulation of any governmental body or agency having jurisdiction over the Company or any Subsidiary or that would otherwise not be permitted by such entity's Governing Instruments. If the Manager is ordered to take any such action by the Board of Directors, the Manager shall promptly notify the Board of Directors of the Manager's judgment that such action would adversely affect such status or violate any such law, rule or regulation or the Governing Instruments. Notwithstanding the foregoing, the Manager, its directors, officers, shareholders and employees shall not be liable to the Company or any Subsidiary, the Board of Directors, or the Company's or any Subsidiary's shareholders or partners for any act or omission by the Manager, its directors, officers, shareholders or employees except as provided in Section 11 of this Agreement.

(c) The Manager shall at all times during the term of this Agreement (including the Original Term and any renewal term) maintain a tangible net worth equal to or greater than $1,000,000. Additionally, during such period the Manager shall maintain "errors and omissions" insurance coverage and other insurance coverage which is customarily carried by asset and investment managers performing functions similar to those of the Manager under this Agreement with respect to assets similar to the assets of the Company, in an amount which is comparable to that customarily maintained by other managers or servicers of similar assets.

SECTION 8. COMPENSATION.

(a) During the term of this Agreement (as the same may be extended from time to time), the Manager will receive an annual management fee (the "Management Fee") equal to 1.50% of the Company's "Total Equity." The Management Fee shall be calculated and paid monthly in arrears based upon the average of the Total Equity of the Company for the two most recently completed months. The term "Total Equity" for any month means the equity value of the Company, determined on a consolidated basis in accordance with GAAP, but reduced proportionately in the case of a Subsidiary to the extent that the Company owns, directly or indirectly, less than 100% of the equity interests in such Subsidiary. The Management Fee for any partial month shall be appropriately pro-rated.

(b) The Manager shall compute each installment of the Management Fee within 15 days after the end of the month with respect to which such installment is payable, and such installment shall be due and payable no later than the date which is 20 days after the end of the month with respect to which such installment is payable. A copy of the computations made by the Manager to calculate such installment shall thereafter, for informational purposes only and subject in any event to Section 13(a) of this Agreement, promptly be delivered to the Board of Directors within 90 days after the end of each calendar year.

(c) The Management Fee is subject to adjustment pursuant to and in accordance with the provisions of Section 13(a) of this Agreement.

(d) Upon the successful completion of an offering of Common Shares or other equity securities by the Company (including the issuance of Common Shares as consideration in connection with an Acquisition), the Company shall pay and issue to the Manager options to purchase Common Shares in an amount equal to 10% of the number of Common Shares sold in the offering or issued in connection with such Acquisition (or, if the issuance relates to equity securities other than Common Shares, options to purchase a number of Common Shares equal to 10% of the gross capital raised in the equity issuance, divided by the fair market value of a Common Share as of the date of issuance), with an exercise price equal to the price per Common Share paid by the public or other ultimate purchaser in the offering or attributed to such Common Shares in connection with an Acquisition (or, in the case of equity securities other than Common Shares, the fair market value of a Common Share as of the date of equity issuance). For the avoidance of doubt, the initial public offering of Common Shares shall not constitute an "offering" for purposes of this Section 8(d).

SECTION 9. EXPENSES OF THE COMPANY.

The Company shall pay all of its expenses and shall reimburse the Manager or (for the avoidance of doubt) its affiliates for documented expenses of the Manager or its affiliates incurred on its behalf (collectively, the "Expenses"). Expenses include all costs and expenses which are expressly designated elsewhere in this Agreement as the Company's, together with the following:

(a) expenses in connection with the issuance and transaction costs incident to the acquisition, disposition and financing of Acquisitions;

(b) travel and other out-of-pocket expenses incurred by managers, officers, employees and agents of the Manager or its affiliates in connection with the sourcing, underwriting, purchase, financing, refinancing, sale or other disposition, or asset management of an Acquisition;

(c) costs of legal, accounting, tax, auditing, underwriting, asset management, sourcing, administrative and other services rendered for the Company by providers retained by the Manager or its affiliates or, if provided by the Manager's or any affiliate's employees, consultants or agents in amounts which are no greater than those which would be payable to outside professionals or consultants engaged to perform such services pursuant to agreements negotiated on an arm's-length basis;

(d) the compensation and expenses of the Independent Directors and the cost of liability insurance to indemnify the Company's directors and officers;

(e) compensation and expenses of the Company's custodian and transfer agent, if any;

(f) costs associated with the establishment and maintenance of any credit facilities and other indebtedness of the Company (including commitment fees, legal fees, closing and other costs) or any securities offerings of the Company;

(g) costs associated with any computer software or hardware that is used for the Company;

(h) costs and expenses incurred in contracting with third parties, including affiliates of the Manager, in accordance with the terms of this Agreement;

(i) all other costs and expenses relating to the Company's business and investment operations, including, without limitation, the costs and expenses of sourcing, underwriting, acquiring, financing, refinancing, owning, protecting, maintaining, developing, operating and disposing of Acquisitions, including appraisal, reporting, audit and legal fees;

(j) all insurance costs incurred in connection with the operation of the Company's business except for the costs attributable to the insurance that the Manager elects to carry for itself and its employees;

(k) expenses relating to any office or office facilities maintained for the Company or Acquisitions separate from the office or offices of the Manager;

(l) expenses connected with the payments of interest, dividends or distributions in cash or any other form made or caused to be made by the Board of Directors to or on account of the holders of securities of the Company or its Subsidiaries, including, without limitation, in connection with any dividend reinvestment plan;

(m) expenses connected with communications to holders of securities of the Company or its Subsidiaries and other bookkeeping and clerical work necessary in maintaining relations with holders of such securities and in complying with the continuous reporting and other requirements of governmental bodies or agencies, including, without limitation, all costs of preparing and filing required reports with the Securities and Exchange Commission, the costs payable by the Company to any transfer agent and registrar in connection with the listing and/or trading of the Company's stock on any exchange, the fees payable by the Company to any such exchange in connection with its listing, costs of preparing, printing and mailing the Company's annual report to its shareholders and proxy materials with respect to any meeting of the shareholders of the Company; and

(n) all other expenses actually incurred by the Manager which are reasonably necessary for the performance by the Manager of its duties and functions under this Agreement.

Without regard to the amount of compensation received under this Agreement by the Manager, the Manager shall bear the following expenses, except as expressly set forth herein: (i) wages and salaries of the Manager's officers and employees; (ii) rent attributable to the space occupied by the Manager; and (iii) all other "overhead" expenses of the Manager.

SECTION 10. CALCULATIONS OF EXPENSES.

The Manager shall prepare a statement documenting the Expenses of the Company and the Expenses incurred by the Manager on behalf of the Company during each calendar month, and shall deliver such statement to the Company in the ordinary course of periodic accounting. Expenses incurred by the Manager on behalf of the Company shall be reimbursed monthly to the Manager on the later of (i) the first business day of the month immediately following the date of delivery of such statement and (ii) 10 business days after the date of delivery of such statement.

SECTION 11. LIMITS OF MANAGER RESPONSIBILITY; INDEMNIFICATION.

(a) The Manager assumes no responsibility under this Agreement other than to render the services called for under this Agreement in good faith and shall not be responsible for any action of the Board of Directors in following or declining to follow any advice or recommendations of the Manager, including as set forth in Section 7(b) of this Agreement. The Manager, its members, managers, officers and employees, sub-advisers and each other Person, if any, controlling the Manager, will not be liable to the Company or any Subsidiary, to the Board of Directors, or the Company's or any Subsidiary's shareholders or partners for any acts or omissions by the Manager, its members, managers, officers or employees, sub-advisers or each other Person, if any, controlling the Manager pursuant to or in accordance with this Agreement, except by reason of acts constituting bad faith, willful misconduct, gross negligence or reckless disregard of the Manager's duties under this Agreement. The Company shall, to the full extent lawful, reimburse, indemnify and hold the

Manager, its members, managers, officers and employees, sub-advisers and each other Person, if any, controlling the Manager (each, an "Indemnified Party"), harmless of and from any and all expenses, losses, damages, liabilities, demands, charges and claims of any nature whatsoever (including attorneys' fees) in respect of or arising from any acts or omissions of such Indemnified Party made in good faith in the performance of the Manager's duties under this Agreement and not constituting such Indemnified Party's bad faith, willful misconduct, gross negligence or reckless disregard of the Manager's duties under this Agreement.

(b) The Manager shall, to the full extent lawful, reimburse, indemnify and hold the Company, its members, shareholders, directors, officers and employees and each other Person, if any, controlling the Company (each, a "Company Indemnified Party"), harmless of and from any and all expenses, losses, damages, liabilities, demands, charges and claims of any nature whatsoever (including attorneys' fees) in respect of or arising from the Manager's bad faith, willful misconduct, gross negligence or reckless disregard of its duties under this Agreement.

SECTION 12. NO JOINT VENTURE.

Nothing in this Agreement shall be construed to make the Company and the Manager partners or joint venturers or impose any liability as such on either of them.

SECTION 13. TERM; TERMINATION.

(a) Unless terminated in accordance with Section 14 or Section 15, this Agreement shall be in effect until the date that is ten (10) years after the date hereof (the "Original Term"). At the expiration of the Original Term and each Renewal Term (as defined below), this Agreement shall be deemed renewed automatically each year for an additional one-year period (each, a "Renewal Term") unless (i) a majority consisting of at least two-thirds of the Independent Directors or a simple majority of the holders of outstanding Common Shares, agree that there has been unsatisfactory performance that is materially detrimental to the Company or (ii) a simple majority of the Independent Directors agree that the Management Fee payable to the Manager is unfair; provided, that the Company shall not have the right to terminate this Agreement under clause (ii) if the Manager agrees to continue to provide the services under this Agreement at a fee that a simple majority of the Independent Directors have reasonably determined to be fair. If the Company elects not to renew this Agreement at the expiration of the Original Term or any Renewal Term, the Company shall deliver to the Manager prior written notice (the "Termination Notice") of the Company's intention not to renew this Agreement based upon the terms set forth in this Section 13(a) of this Agreement not less than 60 days prior to the expiration of the then existing term. If the Company so elects not to renew this Agreement, the Company shall designate the date (the "Effective Termination Date"), not less than 60 days from the date of the notice, on which the Manager shall cease to provide services under this Agreement and this Agreement shall terminate on such date; provided, however, that in the event that such Termination Notice is given in connection with a determination that the compensation payable to the Manager is unfair, the Manager shall have the right to renegotiate the Management Fee by delivering to the Company, no fewer than forty-five (45) days prior to the prospective Effective Termination Date, written notice (any such notice, a "Notice of Proposal to Negotiate") of its intention to renegotiate its compensation under this Agreement. Thereupon, the Company and the Manager shall endeavor to negotiate in good

faith the revised compensation payable to the Manager under this Agreement. Provided that the Manager and the Company agree to a revised Management Fee (or other compensation structure) within 45 days following the receipt of the Notice of Proposal to Negotiate, the Termination Notice shall be deemed of no force and effect and this Agreement shall continue in full force and effect on the terms stated in this Agreement, except that the Management Fee shall be the revised Management Fee (or other compensation structure) then agreed upon by the parties to this Agreement. The Company and the Manager agree to execute and deliver an amendment to this Agreement setting forth such revised Management Fee promptly upon reaching an agreement regarding same. In the event that the Company and the Manager are unable to agree to a revised Management Fee during such 45 day period, this Agreement shall terminate, such termination to be effective on the date which is the later of (A) ten (10) days following the end of such 45 day period and (B) the Effective Termination Date originally set forth in the Termination Notice.

(b) In the event that this Agreement is terminated in accordance with the provisions of Section 13(a) of this Agreement, the Company shall pay to the Manager, on the date on which such termination is effective, a termination fee (the "Termination Fee") equal to the amount of the Management Fee earned by the Manager during the period consisting of the twelve (12) full, consecutive calendar months immediately preceding such termination. The obligation of the Company to pay the Termination Fee shall survive the termination of this Agreement.

(c) No later than sixty (60) days prior to the expiration of the Original Term or any Renewal Term, the Manager may deliver written notice to the Company informing it of the Manager's intention not to renew the term, whereupon the Term of this Agreement shall not be renewed and extended and this Agreement shall terminate effective on the expiration date of this Agreement next following the delivery of such notice.

(d) If this Agreement is terminated pursuant to this Section 13, such termination shall be without any further liability or obligation of either party to the other, except as provided in Section 13(b) and Section 16 of this Agreement. In addition, Section 11 of this Agreement shall survive termination of this Agreement.

SECTION 14. ASSIGNMENT.

(a) Except as set forth in Section 14(b) of this Agreement, this Agreement shall terminate automatically in the event of its assignment, in whole or in part, by the Manager, unless such assignment is consented to in writing by the Company with the consent of a majority of the Independent Directors; provided, however, that no such consent shall be required in the case of an assignment by the Manager to an entity whose business and operations are managed or supervised by Mr. Wesley R. Edens (the "Principal"). Any such permitted assignment shall bind the assignee under this Agreement in the same manner as the Manager is bound, and the Manager shall be liable to the Company for all errors or omissions of the assignee under any such assignment. In addition, the assignee shall execute and deliver to the Company a counterpart of this Agreement naming such assignee as Manager. This Agreement shall not be assigned by the Company without the prior written consent of the Manager, except in the case of assignment by the Company to a successor to the Company (by merger, consolidation or purchase of assets), in which case such successor organization shall be bound under this Agreement and by the terms of such assignment in the same manner as the Company is bound under this Agreement.

(b) Notwithstanding any provision of this Agreement, the Manager may subcontract and assign any or all of its responsibilities under Section 2 of this Agreement to any of its affiliates in accordance with the terms of this Agreement or as otherwise approved by the Board, and the Company hereby consents to any such assignment and subcontracting. In addition, provided that the Manager provides prior written notice to the Company for informational purposes only, nothing contained in this Agreement shall preclude any pledge, hypothecation or other transfer of any amounts payable to the Manager under this Agreement.

SECTION 15. TERMINATION FOR CAUSE.

(a) The Company may terminate this Agreement effective upon sixty (60) days prior written notice of termination from the Company to the Manager, without payment of any Termination Fee, if any act of fraud, misappropriation of funds, or embezzlement against the Company or other willful violation of this Agreement by the Manager in its corporate capacity (as distinguished from the acts of any employees of the Manager which are taken without the complicity of the Principal) under this Agreement or in the event of any gross negligence on the part of the Manager in the performance of its duties under this Agreement.

(b) The Manager may terminate this Agreement effective upon sixty (60) days prior written notice of termination to the Company in the event that the Company shall default in the performance or observance of any material term, condition or covenant contained in this Agreement and such default shall continue for a period of 30 days after written notice thereof specifying such default and requesting that the same be remedied in such 30 day period.

SECTION 16. ACTION UPON TERMINATION.

(a) From and after the effective date of termination of this Agreement, pursuant to Sections 13, 14, or 15 of this Agreement, the Manager shall not be entitled to compensation for further services under this Agreement, but shall be paid all compensation accruing to the date of termination and, if terminated pursuant to Section 13 or Section 15(b), the applicable Termination Fee. Upon such termination, the Manager shall forthwith:

(i) after deducting any accrued compensation and reimbursement for its expenses to which it is then entitled, pay over to the Company or a Subsidiary all money collected and held for the account of the Company or a Subsidiary pursuant to this Agreement;

(ii) deliver to the Board of Directors a full accounting, including a statement showing all payments collected by it and a statement of all money held by it, covering the period following the date of the last accounting furnished to the Board of Directors with respect to the Company or a Subsidiary; and

(iii) deliver to the Board of Directors all property and documents of the Company or any Subsidiary then in the custody of the Manager.

SECTION 17. RELEASE OF MONEY OR OTHER PROPERTY UPON WRITTEN REQUEST.

The Manager agrees that any money or other property of the Company or Subsidiary held by the Manager under this Agreement shall be held by the Manager as custodian for the Company or Subsidiary, and the Manager's records shall be appropriately marked clearly to reflect the ownership of such money or other property by the Company or such Subsidiary. Upon the receipt by the Manager of a written request signed by a duly authorized officer of the Company requesting the Manager to release to the Company or any Subsidiary any money or other property then held by the Manager for the account of the Company or any Subsidiary under this Agreement, the Manager shall release such money or other property to the Company or any Subsidiary within a reasonable period of time, but in no event later than sixty (60) days following such request. The Manager shall not be liable to the Company, any Subsidiary, the Independent Directors, or the Company's or a Subsidiary's shareholders or partners for any acts performed or omissions to act by the Company or any Subsidiary in connection with the money or other property released to the Company or any Subsidiary in accordance with the first sentence of this Section 17. The Company and any Subsidiary shall indemnify the Manager and its members, managers, officers and employees against any and all expenses, losses, damages, liabilities, demands, charges and claims of any nature whatsoever, which arise in connection with the Manager's release of such money or other property to the Company or any Subsidiary in accordance with the terms of this Section 17. Indemnification pursuant to this provision shall be in addition to any right of the Manager to indemnification under Section 11 of this Agreement.

SECTION 18. NOTICES.

Unless expressly provided otherwise in this Agreement, all notices, requests, demands and other communications required or permitted under this Agreement shall be in writing and shall be deemed to have been duly given, made and received when delivered against receipt or upon actual receipt of (i) personal delivery, (ii) delivery by reputable overnight courier, (iii) delivery by facsimile transmission or email against answerback, (iv) delivery by registered or certified mail, postage prepaid, return receipt requested, addressed as set forth below:

(a) If to the Company:

Fortress Transportation and Infrastructure Investors LLC
c/o FIG LLC
1345 Avenue of the Americas
46th Floor
New York, New York 10105
Attention: Mr. Jonathan Atkeson
Attention: Mr. Cameron MacDougall

(b) If to the Manager:

FIG LLC
1345 Avenue of the Americas
46th Floor
New York, New York 10105
Attention: Mr. Randal A. Nardone

Either party may alter the address to which communications or copies are to be sent by giving notice of such change of address in conformity with the provisions of this Section 18 for the giving of notice.

SECTION 19. BINDING NATURE OF AGREEMENT; SUCCESSORS AND ASSIGNS.

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and permitted assigns as provided in this Agreement.

SECTION 20. ENTIRE AGREEMENT.

This Agreement, together with Sections [__] of the Fourth Amended and Restated Partnership Agreement of Fortress Worldwide Transportation and Infrastructure General Partnership, contain the entire agreement and understanding among the parties hereto with respect to the subject matter of this Agreement, and supersedes all prior and contemporaneous agreements, understandings, inducements and conditions, express or implied, oral or written, of any nature whatsoever with respect to the subject matter of this Agreement. The express terms of this Agreement control and supersede any course of performance and/or usage of the trade inconsistent with any of the terms of this Agreement. This Agreement may not be modified or amended other than by an agreement in writing.

SECTION 21. CONTROLLING LAW.

This Agreement and all questions relating to its validity, interpretation, performance and enforcement shall be governed by and construed, interpreted and enforced in accordance with the laws of the State of New York, notwithstanding any New York or other conflict-of-law provisions to the contrary.

SECTION 22. INDULGENCES, NOT WAIVERS.

Neither the failure nor any delay on the part of a party to exercise any right, remedy, power or privilege under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power or privilege preclude any other or further exercise of the same or of any other right, remedy, power or privilege, nor shall any waiver of any right, remedy, power or privilege with respect to any occurrence be construed as a waiver of such right, remedy, power or privilege with respect to any other occurrence. No waiver shall be effective unless it is in writing and is signed by the party asserted to have granted such waiver.

SECTION 23. TITLES NOT TO AFFECT INTERPRETATION.

The titles of paragraphs and subparagraphs contained in this Agreement are for convenience only, and they neither form a part of this Agreement nor are they to be used in the construction or interpretation of this Agreement.

SECTION 24. EXECUTION IN COUNTERPARTS.

This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original as against any party whose signature appears thereon, and all of which shall together constitute one and the same instrument. This Agreement shall become binding when one or more counterparts of this Agreement, individually or taken together, shall bear the signatures of all of the parties reflected hereon as the signatories.

SECTION 25. PROVISIONS SEPARABLE.

The provisions of this Agreement are independent of and separable from each other, and no provision shall be affected or rendered invalid or unenforceable by virtue of the fact that for any reason any other or others of them may be invalid or unenforceable in whole or in part.

SECTION 26. GENDER.

Words used herein regardless of the number and gender specifically used, shall be deemed and construed to include any other number, singular or plural, and any other gender, masculine, feminine or neuter, as the context requires.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

COMPANY:

FORTRESS TRANSPORTATION AND INFRASTRUCTURE INVESTORS LLC, a Delaware limited liability company

By: _____
Name:
Title:

MANAGER:

FIG LLC,
a Delaware limited liability company

By: _____
Name:
Title:

Agreed and accepted:

FORTRESS WORLDWIDE TRANSPORTATION AND INFRASTRUCTURE GENERAL PARTNERSHIP, a Delaware general partnership

By: _____
Name:
Title:

FORTRESS TRANSPORTATION AND INFRASTRUCTURE INVESTORS LLC
NONQUALIFIED STOCK OPTION AND
INCENTIVE AWARD PLAN

Adopted as of , 2015

TABLE OF CONTENTS

FORTRESS TRANSPORTATION AND INFRASTRUCTURE INVESTORS LLC
NONQUALIFIED STOCK OPTION AND INCENTIVE AWARD PLAN

SECTION 1

PURPOSE OF PLAN; DEFINITIONS

1.1 Purpose. The purpose of the Plan is (a) to reinforce the long-term commitment to the Company's success of those Non-Officer Directors, officers, directors, employees, advisors, service providers, consultants and other personnel who are or will be responsible for such success; to facilitate the ownership of the Company's stock by such individuals, thereby reinforcing the identity of their interests with those of the Company's stockholders; to assist the Company in attracting and retaining individuals with experience and ability, (b) to compensate the Manager for its successful efforts in raising capital for the Company and to provide performance-based compensation in order to provide incentive to the Manager to enhance the value of the Company's Stock and (c) to benefit the Company's stockholders by encouraging high levels of performance by individuals whose performance is a key element in achieving the Company's continued success.

1.2 Definitions. For purposes of the Plan, the following terms shall be defined as set forth below:

(a) "Award" or "Awards" means an award described in Section 5 hereof.

(b) "Award Agreement" means an agreement described in Section 6 hereof entered into between the Company and a Participant, setting forth the terms, conditions and any limitations applicable to the Award granted to the Participant.

(c) "Beneficial Owner" shall have the meaning set forth in Rule 13d-3 under the Exchange Act.

(d) "Board" means the Board of Directors of the Company.

(e) "Change in Control" of the Company shall be deemed to have occurred if an event set forth in any one of the following paragraphs (i)-(iii) shall have occurred unless prior to the occurrence of such event, the Board determines that such event shall not constitute a Change in Control:

(i) any Person is or becomes a Beneficial Owner, directly or indirectly, of securities of the Company representing thirty percent (30%) or more of the combined voting power of the then outstanding securities of the Company, excluding (A) any Person who becomes such a Beneficial Owner in connection with a transaction described in clause (x) of paragraph (ii) below, and (B) any Person who becomes such a Beneficial Owner through the issuance of such securities with respect to purchases made directly from the Company; or

(ii) there is consummated a merger or consolidation of the Company or any direct or indirect subsidiary of the Company with any other corporation, other than (x) a merger or consolidation which would result in the voting securities of the Company outstanding immediately prior to such merger or consolidation continuing to represent (either by remaining outstanding or by being converted into voting securities of the surviving entity or any parent thereof) fifty percent (50%) or more of the combined voting power of the securities of the Company or such surviving entity or any parent thereof outstanding immediately after such merger or consolidation, or (y) a merger or consolidation effected to implement a recapitalization of the Company (or similar transaction) in which no Person is or becomes the Beneficial Owner, directly or indirectly, of securities of the Company representing thirty percent (30%) or more of the combined voting power of the then outstanding securities of the Company; or

(iii) the stockholders of the Company approve a plan of complete liquidation or dissolution of the Company or there is consummated an agreement for the sale or disposition by the Company of all or substantially all of the assets of the Company.

For each Award that constitutes deferred compensation under Section 409A of the Code, to the extent required to avoid additional tax or other penalty, a Change in Control shall be deemed to have occurred under the Plan with respect to such Award only if a change in the ownership or effective control of the Company or a change in ownership of a substantial portion of the assets of the Company shall also be deemed to have occurred under Section 409A of the Code.

(f) "Code" means the Internal Revenue Code of 1986, as amended from time to time, or any successor statute thereto.

(g) "Commission" means Securities and Exchange Commission.

(h) "Committee" means any committee the Board may appoint to administer the Plan. To the extent necessary and desirable, the Committee shall be composed entirely of individuals who meet the qualifications referred to in Rule 16b-3 under the Exchange Act. If at any time or to any extent the Board shall not administer the Plan, then the functions of the Board specified in the Plan shall be exercised by the Committee.

(i) "Company" means Fortress Transportation and Infrastructure Investors LLC, a Delaware limited liability company.

(j) "Disability" means, with respect to any Participant, that such Participant (i) as determined by the Participant's employer or service recipient (such determination to be approved by the Committee) is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or can be expected to last for a continuous period of not less than twelve (12) months, or (ii) is, by reason of any medically determinable physical or mental impairment which can be expected to result in death or can be expected to last for a continuous period of not less than twelve (12) months, receiving income replacement benefits for a period of not less than three (3) months under an accident and health plan covering such Participant.

(k) "Effective Date" means the date provided pursuant to Section 11.

(l) "Equity Security Factor" means a number of shares of Stock (rounded down to the nearest whole share) equal to (i) the gross capital raised in an equity issuance of equity securities other than shares of Stock during the term of the Plan (as determined by the Committee), divided by (ii) the Fair Market Value of a share of Stock as of the date of such equity issuance.

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

(n) "Fair Market Value" means, as of any given date, (i) the closing price of a share of the Company's Stock on the principal exchange on which shares of the Company's Stock are then trading, if any, on the trading day previous to such date, or, if stock was not traded on the trading day previous to such date, then on the next preceding trading day during which a sale occurred; or (ii) if such Stock is not traded on an exchange but is quoted on NASDAQ or a successor quotation system, (x) the last sales price (if the Stock is then listed as a National Market Issue under the NASDAQ National Market System) or (y) the mean between the closing representative bid and asked prices (in all other cases) for the Stock on the trading day previous to such date as reported by NASDAQ or such successor quotation system; or (iii) if such Stock is not publicly traded on an exchange and not quoted on NASDAQ or a successor quotation system, the mean between the closing bid and asked prices for the Stock, on the day previous to such date, as determined in good faith by the Committee; or (iv) if the Stock is not publicly traded, the fair market value established by the Committee using any reasonable method and acting in good faith.

(o) "Manager" means FIG LLC, a Delaware limited liability company, or any Person who shall succeed as manager as permitted by that certain Management and Advisory Agreement, dated as of _____, by and among the Company and FIG LLC as amended from time to time.

(p) "Manager Awards" means the Awards granted to the Manager as described in Section 5.5 hereof.

(q) "Non-Officer Director" means a director of the Company who is not an officer or employee of the Company.

(r) "Non-Officer Director Stock Option" shall have the meaning set forth in Section 5.6(a).

(s) "Participant" means any Person selected by the Committee, pursuant to the Committee's authority in Section 2 below, to receive Awards, including but not limited to (i) any Non-Officer Director, (ii) the Manager and its affiliates and (iii) any director, officer or employee of the Company, any parent, affiliate or subsidiary of the Company, or the Manager or any of its affiliates and (iv) any consultant, service provider or advisor to the Company, any parent, affiliate or subsidiary of the Company, or the Manager or any of its affiliates.

(t) "Person" shall have the meaning set forth in Section 3(a)(9) of the Exchange Act, as modified and used in Sections 13(d) and 14(d) thereof.

(u) "Plan" means this Fortress Transportation and Infrastructure Investors LLC Nonqualified Stock Option and Incentive Award Plan.

(v) "Restricted Stock" means Stock as described in Section 5.3 hereof.

(w) "Securities Act" shall have the meaning set forth in Section 5.5(h).

(x) "Stock" means the common stock, par value $0.01 per share, of the Company.

(y) "Stock Appreciation Right" shall have the meaning set forth in Section 5.2 hereof.

(z) "Stock Option" means any option to purchase shares of Stock granted pursuant to the Plan. The Stock Options granted hereunder are not intended to qualify as "incentive stock options" within the meaning of Section 422 of the Code.

(aa) "Tandem Awards" shall have the meaning set forth in Section 5.5 herein.

SECTION 2

ADMINISTRATION

2.1 Administration. The Plan shall, to the extent applicable, be administered in accordance with the requirements of Rule 16b-3 under the Exchange Act ("Rule 16b-3"), by the Board or, at the Board's sole discretion, by the Committee, which shall be appointed by the Board, and which shall serve at the pleasure of the Board. The Plan is intended to be exempt from, or to comply with, and shall be administered in a manner that is intended to be exempt from, or comply with, Section 409A of the Code and shall be construed and interpreted in accordance with such intent, to the extent subject thereto. To the extent that an Award and/or

issuance and/or payment of an Award is subject to Section 409A of the Code, it shall be awarded and/or issued or paid in a manner that will comply with Section 409A of the Code, including any applicable regulations or guidance issued by the Secretary of the United States Treasury Department and the Internal Revenue Service with respect thereto.

2.2 Duties and Powers of Committee. The Committee shall have the power and authority to grant Awards to Participants pursuant to the terms of the Plan, and, in its discretion, to adopt, alter and repeal such administrative rules, guidelines and practices governing the Plan as it shall from time to time deem advisable; to interpret the terms and provisions of the Plan and any Award issued under the Plan (and any agreements relating thereto); and to otherwise supervise the administration of the Plan. All decisions made by the Committee pursuant to the provisions of the Plan shall be final, conclusive and binding on all Persons.

In particular, the Committee shall have the authority to determine, in a manner consistent with the terms of the Plan:

(a) in addition to the Manager and the Non-Officer Directors, those Participants who shall receive Awards under the Plan;

(b) subject to Section 3, the number of shares of Stock to be covered by each Stock Option granted hereunder;

(c) the terms and conditions of any Award granted hereunder, including, subject to the requirements of Section 409A, the waiver or modification of any such terms or conditions, consistent with the provisions of the Plan (including, but not limited to, Section 8 of the Plan); and

(d) the terms and conditions which shall govern all the Award Agreements, including the waiver or modification of any such terms or conditions.

2.3 Majority Rule. The Committee shall act by a majority of its members in attendance at a meeting at which a quorum is present or by a memorandum or other written instrument signed by all members of the Committee.

2.4 Delegation of Authority. To the extent permitted by applicable law, the Committee or the Board may from time to time delegate to one or more Persons the authority to take administrative actions pursuant to this Section 2. Any delegation hereunder shall be subject to the restrictions and limitations that the Committee specifies at the time of such delegation, and the Committee may at any time rescind the authority so delegated or appoint a new delegatee.

2.5 Compensation; Professional Assistance; Good Faith Actions. Members of the Committee may receive such compensation for their services as members as may be determined by the Board. All expenses and liabilities that members of the Committee or Board may incur in connection with the administration of this Plan shall be borne by the Company. The Committee may, with the approval of the Board, employ attorneys, consultants, accountants, appraisers, brokers or other Persons. The Committee, the Board, the Company and any officers and directors of the Company shall be entitled to rely upon the advice, opinions or valuations of

any such Persons. All actions taken and all interpretations and determinations made by the Committee or Board in good faith shall be final and binding upon all Participants, the Company and all other interested Persons. No member of the Committee or Board shall be personally liable for any action, determination or interpretation made in good faith with respect to this Plan or any Award, and all members of the Committee and Board shall be fully protected and indemnified to the fullest extent permitted by law, by the Company, in respect of any such action, determination or interpretation.

SECTION 3

STOCK SUBJECT TO PLAN

3.1 Number of and Source of Shares. The maximum number of shares of Stock reserved and available for issuance under the Plan shall be _____, as increased on the date of any equity issuance by the Company during the term of the Plan by a number of shares of Stock equal to 10% of (i) the number of shares of Stock issued by the Company in such equity issuance or (ii) if such equity issuance relates to equity securities other than shares of Stock, the number of shares of Stock equal to the Equity Security Factor. The Stock which may be issued pursuant to an Award under the Plan may be treasury Stock, authorized but unissued Stock, or Stock acquired, subsequently or in anticipation of the transaction, in the open market to satisfy the requirements of the Plan. Awards may consist of any combination of such Stock, or, at the election of the Company, cash.

3.2 Unrealized and Tandem Awards. If any shares of Stock subject to an Award are forfeited, cancelled, exchanged or surrendered or if an Award otherwise terminates or expires without a distribution of shares to the Participant, the shares of Stock with respect to such Award shall, to the extent of any such forfeiture, cancellation, exchange, surrender, termination or expiration, again be available for grants under the Plan. The grant of a Tandem Award (as defined herein) shall not reduce the number of shares of Stock reserved and available for issuance under the Plan. The Company reserves the right to cancel any Stock Option which has a per-share exercise price that is equal to or greater than the Fair Market Value of an underlying share of Stock as of the date of such cancellation, and any shares of Stock which were subject to such cancelled Stock Option shall again be available for the issuance of Stock Options, including issuance to the Person that held the cancelled Stock Option, irrespective of whether such issuance would be deemed a repricing of such Stock Option.

3.3 Adjustment of Awards. Upon the occurrence of any event which affects the shares of Stock in such a way that an adjustment of outstanding Awards is appropriate in order to prevent the dilution or enlargement of rights under the Awards (including, without limitation, any extraordinary dividend or other distribution (whether in cash or in kind), recapitalization, stock split, reverse split, reorganization, merger, consolidation, spin-off, combination, repurchase, or share exchange, or other similar corporate transaction or event), the Committee shall make appropriate equitable adjustments, which may include, without limitation, adjustments to any or all of the number and kind of shares of Stock (or other securities) which may thereafter be issued in connection with such outstanding Awards and adjustments to any exercise price specified in the outstanding Awards and shall also make appropriate equitable adjustments to the number and kind of shares of Stock (or other securities) authorized by or to be

granted under the Plan. Such other substitutions or adjustments shall be made respecting Awards hereunder as may be determined by the Committee, in its sole discretion. In connection with any event described in this paragraph, the Committee may provide, in its discretion, for the cancellation of any outstanding Award and payment in cash or other property in exchange therefor, equal to the difference, if any, between the fair market value of the Stock or other property subject to the Award, and the exercise price, if any.

SECTION 4

ELIGIBILITY

Each Participant shall be eligible to receive Awards under the Plan. Additional Participants under the Plan may be selected from time to time by the Committee, in its sole discretion, and the Committee shall determine, in its sole discretion, the number of shares covered by each Award.

SECTION 5

AWARDS

Awards may include, but are not limited to, those described in this Section 5. The Committee may grant Awards singly, in tandem or in combination with other Awards, as the Committee may in its sole discretion determine.

5.1 Stock Options. A Stock Option is a right to purchase a specified number of shares of Stock, at a specified price during such specified time as the Committee shall determine.

(a) A Stock Option may be exercised, in whole or in part, by giving written notice of exercise to the Company, specifying the number of shares of Stock to be purchased.

(b) The exercise price of the Stock Option may be paid in cash or its equivalent, as determined by the Committee. As determined by the Committee, in its sole discretion, or as otherwise set forth in Sections 5.5(b) and 5.5(c) below, payment in whole or in part may also be made (i) by means of any cashless exercise procedure approved by the Committee (including the withholding of Stock otherwise issuable on exercise), or (ii) in the form of unrestricted Stock already owned by the Participant which has a Fair Market Value on the date of surrender equal to the aggregate option price of the Stock as to which such Stock Option shall be exercised. No fractional shares of Stock will be issued or accepted.

5.2 Stock Appreciation Rights. A Stock Appreciation Right is a right to receive, upon surrender of the right, an amount payable in cash and/or shares of Stock under such terms and conditions as the Committee shall determine.

(a) A Stock Appreciation Right may be granted in tandem with part or all of (or in addition to, or completely independent of) a Stock Option or any other Award under this Plan. A Stock Appreciation Right issued in tandem with a Stock Option may be granted at the time of grant of the related Stock Option or at any time thereafter during the term of the Stock Option.

(b) The amount payable in cash and/or shares of Stock with respect to each right shall be equal in value to a percentage (including up to 100%) of the amount by which the Fair Market Value per share of Stock on the exercise date exceeds the Fair Market Value per share of Stock on the date of grant of the Stock Appreciation Right. The applicable percentage shall be established by the Committee. The Award Agreement may state whether the amount payable is to be paid wholly in cash, wholly in shares of Stock, or in any combination of the foregoing; if the Award Agreement does not so state the manner of payment, the Committee shall determine such manner of payment at the time of payment. The amount payable in shares of Stock, if any, is determined with reference to the Fair Market Value per share of Stock on the date of exercise.

(c) Stock Appreciation Rights issued in tandem with Stock Options shall be exercisable only to the extent that the Stock Options to which they relate are exercisable. Upon exercise of the tandem Stock Appreciation Right, and to the extent of such exercise, the Participant's underlying Stock Option shall automatically terminate. Similarly, upon the exercise of the tandem Stock Option, and to the extent of such exercise, the Participant's related Stock Appreciation Right shall automatically terminate.

5.3 Restricted Stock. Restricted Stock is Stock that is issued to a Participant and is subject to such terms, conditions and restrictions as the Committee deems appropriate, which may include, but are not limited to, restrictions upon the sale, assignment, transfer or other disposition of the Restricted Stock and the requirement of forfeiture of the Restricted Stock upon termination of employment or service under certain specified conditions. The Committee may provide for the lapse of any such term or condition or waive any term or condition based on such factors or criteria as the Committee may determine. Subject to the restrictions stated in this Section 5.3 and in the applicable Award Agreement, the Participant shall have, with respect to Awards of Restricted Stock, all of the rights of a stockholder of the Company, including the right to vote the Restricted Stock and the right to receive any cash or stock dividends on such Stock. The Company may require that the stock certificates evidencing Restricted Stock granted hereunder be held in the custody of the Company until the restrictions thereon shall have lapsed, and that, as a condition of any award of Restricted Stock, the Participant shall have delivered a stock power, endorsed in blank, relating to the Stock covered by such award.

5.4 Performance Awards. Performance Awards may be granted under this Plan from time to time based on such terms and conditions as the Committee deems appropriate provided that such Awards shall not be inconsistent with the terms and purposes of this Plan. Performance Awards are Awards which are contingent upon the performance of all or a portion of the Company and/or its subsidiaries and/or which are contingent upon the individual performance of a Participant. Performance Awards may be in the form of performance units, performance shares and such other forms of Performance Awards as the Committee shall determine. The Committee shall determine the performance measurements and criteria for such Performance Awards. The Company may require that the stock certificates evidencing Performance Awards granted hereunder be held in the custody of the Company until the restrictions thereon shall have lapsed, and that, as a condition of any award of Performance Awards, the Participant shall have delivered a stock power, endorsed in blank, relating to the Stock covered by such award.

5.5 Manager Awards and Tandem Awards.

(a) Grant of Compensatory Stock Options. As consideration for the Manager's role in raising capital for the Company, the Manager may be awarded Stock Options in connection with any equity issuance by the Company, to acquire that number of shares of Stock up to ten percent (10%) of (i) the number of shares of Stock issued by the Company in such equity issuance or (ii) if such equity issuance relates to equity securities other than shares of Stock, a number of shares of Stock equal to the Equity Security Factor, in each case subject to the proviso contained in Section 5.5(f) below.

(b) Terms of Manager Awards. The Stock Options referred to in clause (a) above shall be 100% vested as of the date of grant and become exercisable as to 1/30th of the Stock subject to the Stock Options on the first day of each of the following 30 calendar months following the date of grant. Such Stock Options shall expire on the tenth anniversary of the date of grant. Such Stock Options shall have a per share price equal to the offering price of the equity issuance in connection with which such Stock Options are awarded (as determined by the Committee), or in the event that such equity issuance relates to equity securities other than Stock, the Fair Market Value of a share of Stock as of the date of the equity issuance, in each case subject to adjustment as set forth in Section 3.3 hereof. The exercise price of such Stock Options may be paid in cash or its equivalent, as determined by the Committee. Payment in whole or in part may also be made by the following cashless exercise procedures: (i) by withholding from shares of Stock otherwise issuable upon exercise of such Stock Option, (ii) in the form of unrestricted Stock already owned by the Manager which has a Fair Market Value on the date of surrender equal to the aggregate option price of the Stock as to which such Stock Option shall be exercised or (iii) by means of any other cashless exercise procedure approved by the Committee. No fractional shares of Stock will be issued or accepted. The Award Agreement with respect to such Stock Options shall also set forth the vesting and exercise schedule of such Stock Options and such other terms and conditions with respect to such Stock Options and the delivery of shares of Company Stock subject to such Stock Options as the Committee may determine.

(c) Each of the Committee and/or the Manager shall have the authority to direct awards of Stock Options to such employees of the Manager who act as officers of or perform other services for the Company, which options shall be tandem to the Stock Options that are the subject of outstanding Manager Awards designated by the Manager—i.e., shares of Stock issuable pursuant to the exercise of the Stock Options that are subject to certain designated Manager Awards would alternatively be issuable pursuant to the exercise of Stock Options that are the subject of the tandem awards granted to Persons who perform services for or on behalf of the Company, provided that such shares of Stock may be issued pursuant to the exercise of either the designated Manager Awards or the tandem awards but not both (the "Tandem Awards"). As determined by the Manager, in its sole discretion, payment of the exercise price of such Tandem Award in whole or in part may be made by the following cashless exercise procedures: (i) by withholding from shares of Stock otherwise issuable upon exercise of such Tandem Award, (ii) in the form of unrestricted Stock already owned by the holder of such Tandem Award which has

a Fair Market Value on the date of surrender equal to the aggregate option price of the Stock as to which such Tandem Award shall be exercised or (iii) by means of any other cashless exercise procedure approved by the Committee.

(d) As a condition to the grant of Tandem Awards, the Manager shall be required to agree that so long as such Tandem Awards remain outstanding, it will not exercise any Stock Options under any designated Manager Award that are related to the options under such outstanding Tandem Awards. If Stock Options under a Tandem Award are forfeited, expire or are cancelled without being exercised, the related Stock Options under the designated Manager Award shall again become exercisable in accordance with its terms. Upon the exercise of Stock Options under a Tandem Award, the related Stock Options under the designated Manager Award shall terminate.

(e) The terms and conditions of each such Tandem Awards (e.g., the per share exercise price, the schedule of vesting, exercisability and delivery, etc.) shall be determined by the Committee or the Manager, as the case may be, in its sole discretion and shall be included in an Award Agreement, provided, that the term of such award may not be greater than the term of its related Manager Award.

(f) Other Awards. The Committee may, from time to time, grant such Awards to the Manager as the Committee deems advisable in order to provide additional incentive to the Manager to enhance the value of the Company's Stock; provided, however, that no Award shall be awarded to the Manager (or its designee) in connection with any equity issuance by the Company which provides for the acquisition of a number of shares of Stock in excess of ten percent (10%) of (i) the maximum number of shares of Stock being proposed to be issued by the Company in such equity issuance or (ii) if such equity issuance relates to equity securities other than shares of Stock, the maximum number of shares of Stock determined in accordance with the Equity Security Factor.

(g) Change in Control and Termination Provisions. Notwithstanding anything herein, unless otherwise provided in any Award Agreement to the contrary, upon a Change in Control or a termination of the Manager's services to the Company for any reason, all Awards granted to the Manager pursuant to this Plan shall become immediately and fully exercisable, and all Tandem Awards shall be governed by the terms and conditions of the applicable Award Agreements.

(h) Registration Rights Agreement. The Company shall, upon the Manager's reasonable request, (i) use commercially reasonable efforts to register under the Securities Act of 1933, as amended (the "Securities Act") the securities that may be issued and sold under the Plan or the resale of such securities issued and sold pursuant to the Plan or (ii) enter into a registration rights agreement with the Manager on terms to be mutually agreed upon between the parties.

5.6 Automatic Non-Officer Director Awards.

(a) Initial Grant of Non-Officer Director Stock Options. Each Non-Officer Director shall be granted a Stock Option, which shall be fully vested as of the date of the

grant, relating to 5,000 shares of Stock (each, a "Non-Officer Director Stock Option"), upon the date of the first Board of Director's meeting attended by such Non-Officer Director. The option price per share of Stock under the Non-Officer Director Stock Option shall be one hundred percent (100%) of the Fair Market Value of the Stock on the date of grant.

(b) Stock Availability. In the event that the number of shares of Stock available for grant under the Plan is not sufficient to accommodate the Awards of Non-Officer Director Stock Options, then the remaining shares of Stock available for such automatic awards shall be granted to each Non-Officer Director who is to receive such an award on a pro-rata basis. No further grants shall be made until such time, if any, as additional shares of Stock become available for grant under the Plan through action of the Board or the stockholders of the Company to increase the number of shares of Stock that may be issued under the Plan or through cancellation or expiration of Awards previously granted hereunder.

(c) Term; Method of Exercise of Non-Officer Director Stock Option. Each Non-Officer Director Stock Option shall cease to be exercisable no later than the date that is ten (10) years following the date of grant. If settled in shares of Stock, the exercise price of such Stock Options may be paid in cash or its equivalent, as determined by the Committee. As determined by the Committee, in its sole discretion, payment in whole or in part may also be made (i) by means of any cashless exercise procedure approved by the Committee (including the withholding of shares of Stock otherwise issuable on exercise), or (ii) in the form of unrestricted Stock already owned by the Non-Officer Director which has a Fair Market Value on the date of surrender equal to the aggregate option price of the Stock as to which such Stock Option shall be exercised. No fractional shares of Stock will be issued or accepted.

(d) Award Agreements. Each recipient of a Non-Officer Director Stock Option shall enter into an Award Agreement with the Company, which agreement shall set forth, among other things, the exercise price, the term and provisions regarding exercisability and form of settlement of the Non-Officer Director Stock Option, which provisions shall not be inconsistent with the terms of this Section 5.6 and Section 6.1. The Award Agreement with respect to such Non-Officer Director Stock Option shall also set forth such other terms and conditions with respect to Awards to the Non-Officer Director as the Committee may determine.

5.7 Other Awards.

The Committee may from time to time grant to its Non-Officer Directors Stock, other Stock-based and non-Stock-based Awards under the Plan, including without limitation those Awards pursuant to which shares of Stock are or may in the future be acquired, Awards denominated in Stock, securities convertible into Stock, phantom securities, dividend equivalents and cash. The Committee shall determine the terms and conditions of such other Stock, Stock-based and non-Stock-based Awards provided that such Awards shall not be inconsistent with the terms and purposes of this Plan.

SECTION 6

AWARD AGREEMENTS

Each Award under this Plan shall be evidenced by an Award Agreement setting forth the number of shares of Stock or other securities, and such other terms and conditions applicable to the Award (and not inconsistent with this Plan) as are determined by the Committee.

6.1 Terms of Award Agreements. Award Agreements may include the following terms:

(a) Term. The term of each Award (as determined by the Committee); provided that, no Award shall be exercisable more than ten years after the date such Award is granted.

(b) Exercise Price. The exercise price per share of Stock purchasable under an Award (as determined by the Committee in its sole discretion at the time of grant); provided that, the exercise price shall not be less than the par value of the Stock and, for Awards intended to be exempt from application of Section 409A of the Code under Section 1.409A-1(b)(5)(A), shall not be less than 100% of the Fair Market Value of the Stock on such date.

(c) Exercisability. Provisions regarding the exercisability of Awards (which shall be exercisable at such time or times and subject to such terms and conditions as shall be determined by the Committee at or after grant).

(d) Method of Exercise. Provisions describing the method of exercising Awards.

(e) Delivery. Provisions regarding the timing of the delivery of Stock subject to Awards. The Award Agreements may provide that such delivery will be delayed to the extent required to avoid the imposition of a tax under Section 409A of the Code.

(f) Termination of Employment or Service. Provisions describing the treatment of an Award in the event of Disability, death or other termination of a Participant's employment or service with the Company, including but not limited to, terms relating to the vesting, time for exercise, forfeiture and cancellation of an Award in such circumstances.

(g) Rights as Stockholder. A provision that a Participant shall have no rights as a stockholder with respect to any securities covered by an Award until the date the Participant becomes the holder of record. Except as provided in Section 3.3 hereof, no adjustment shall be made for dividends or other rights, unless the Award Agreement specifically requires such adjustment, in which case, grants of dividend equivalents or similar rights shall not be considered to be a grant of any other stockholder right.

(h) Nontransferability. A provision that except under the laws of descent and distribution or as otherwise permitted by the Committee, in its sole discretion, or, in respect of Manager Awards, grants of Tandem Awards, the Participant shall not be permitted to

sell, transfer, pledge or assign any Award, and all Awards shall be exercisable, during the Participant's lifetime, only by the Participant; provided, however, that the Participant shall be permitted to transfer one or more Stock Options to a trust controlled by the Participant during the Participant's lifetime for estate planning purposes.

(i) Other Terms. Such other terms as are necessary and appropriate to effectuate an Award to the Participant, including but not limited to, (1) vesting provisions, (2) deferral elections, (3) any requirements for continued employment or service with the Company, (4) any requirement to execute a general release of claims in a form acceptable to the Company prior to the lapse of any restrictions or conditions on such Award or such Award becoming exercisable, (5) any other restrictions or conditions (including performance requirements) on the Award and the method by which restrictions or conditions lapse, (6) effect on the Award of a Change in Control, (7) the right of the Company and such other Persons as the Committee shall designate ("Designees") to repurchase from a Participant, and such Participant's permitted transferees, all shares of Stock issued or issuable to such Participant in connection with an Award in the event of such Participant's termination of employment or service, (8) rights of first refusal granted to the Company and Designees, if any, (9) holdback and other registration right restrictions in the event of a public registration of any equity securities of the Company and (10) any other terms and conditions which the Committee shall deem necessary and desirable.

SECTION 7

LOANS

To the extent permitted by applicable law, including the Sarbanes-Oxley Act of 2002, the Company or any parent or subsidiary of the Company may make loans available to Stock Option holders in connection with the exercise of outstanding Stock Options granted under the Plan, as the Committee, in its discretion, may determine. Such loans shall (i) be evidenced by promissory notes entered into by the Stock Option holders in favor of the Company or any parent or subsidiary of the Company, (ii) be subject to the terms and conditions set forth in this Section 7 and such other terms and conditions, not inconsistent with the Plan, as the Committee shall determine, (iii) bear interest, if any, at such rate as the Committee shall determine, and (iv) be subject to Board approval (or to approval by the Committee to the extent the Board may delegate such authority). In no event may the principal amount of any such loan exceed the sum of (x) the exercise price less the par value of the shares of Stock covered by the Stock Option, or portion thereof, exercised by the holder, and (y) any federal, state, and local income tax attributable to such exercise. The initial term of the loan, the schedule of payments of principal and interest under the loan, the extent to which the loan is to be with or without recourse against the holder with respect to principal or interest and the conditions upon which the loan will become payable in the event of the holder's termination of employment or service shall be determined by the Committee. Unless the Committee determines otherwise, when a loan is made, shares of Stock having a Fair Market Value at least equal to the principal amount of the loan shall be pledged by the holder to the Company as security for payment of the unpaid balance of the loan, and such pledge shall be evidenced by a pledge agreement, the terms of which shall be determined by the Committee, in its discretion; provided that, each loan shall comply with all applicable laws, and all regulations and rules of the Board of Governors of the Federal Reserve System and of the U.S. Securities and Exchange Commission and any other governmental agency having jurisdiction.

SECTION 8

AMENDMENT AND TERMINATION

The Board may at any time and from time-to-time alter, amend, suspend, or terminate the Plan in whole or in part; provided that, no amendment which requires stockholder approval in order for the Plan to comply with a rule or regulation deemed applicable by the Committee, shall be effective unless the same shall be approved by the requisite vote of the stockholders of the Company entitled to vote thereon. Notwithstanding the foregoing, no amendment shall affect adversely any of the rights of any Participant, without such Participant's consent, under any Award or Loan theretofore granted under the Plan.

SECTION 9

UNFUNDED STATUS OF PLAN

The Plan is intended to constitute an "unfunded" plan for incentive compensation. With respect to any payments not yet made to a Participant by the Company, nothing contained herein shall give any such Participant any rights that are greater than those of a general creditor of the Company.

SECTION 10

GENERAL PROVISIONS

10.1 Securities Laws Compliance. Shares of Stock shall not be issued pursuant to the exercise of any Award granted hereunder unless the exercise of such Award and the issuance and delivery of such shares of Stock pursuant thereto shall comply with all relevant provisions of law, including, without limitation, the Securities Act, the Exchange Act and the requirements of any stock exchange upon which the Stock may then be listed, and shall be further subject to the approval of counsel for the Company with respect to such compliance.

10.2 Certificate Legends. The Committee may require each Person purchasing shares pursuant to a Stock Option to represent to and agree with the Company in writing that such Person is acquiring the Stock subject thereto without a view to distribution thereof. The certificates for such Stock may include any legend which the Committee deems appropriate to reflect any restrictions on transfer.

10.3 Transfer Restrictions. All certificates for shares of Stock delivered under the Plan shall be subject to such stock-transfer orders and other restrictions as the Committee may deem advisable under the rules, regulations, and other requirements of the Commission, any stock exchange upon which the Stock is then listed, and any applicable federal or state securities law, and the Committee may cause a legend or legends to be placed on any such certificates to make appropriate reference to such restrictions.

10.4 Company Actions; No Right to Employment. Nothing contained in the Plan shall prevent the Board from adopting other or additional compensation arrangements, subject to stockholder approval if such approval is necessary and desirable; and such arrangements may be either generally applicable or applicable only in specific cases. The adoption of the Plan shall not confer upon any employee, consultant, service provider or advisor of the Company any right to continued employment or service with the Company, as the case may be, nor shall it interfere in any way with the right of the Company to terminate the employment or service of any of its employees, consultants or advisors at any time.

10.5 Section 409A of the Code. The intent of the parties is that payments and benefits under the Plan be exempt from, or comply with Section 409A of the Code to the extent subject thereto, and, accordingly, to the maximum extent permitted, the Plan shall be interpreted and be administered to be in compliance therewith. Any payments described in the Plan that are due within the "short-term deferral period" as defined in Section 409A of the Code shall not be treated as deferred compensation unless applicable law requires otherwise. Notwithstanding anything to the contrary in the Plan, to the extent required in order to avoid accelerated taxation and/or tax penalties under Section 409A of the Code, amounts that would otherwise be payable and benefits that would otherwise be provided pursuant to the Plan during the six (6) month period immediately following the Participant's termination of employment shall instead be paid on the first business day after the date that is six (6) months following the Participant's separation from service (or upon the Participant's death, if earlier). In addition, for purposes of the Plan, each amount to be paid or benefit to be provided to the Participant pursuant to the Plan, which constitute deferred compensation subject to Section 409A of the Code, shall be construed as a separate identified payment for purposes of Section 409A of the Code.

10.6 Payment of Taxes. Each Participant shall, no later than the date as of which the value of an Award first becomes includible in the gross income of the Participant for federal income tax purposes, pay to the Company, or make arrangements satisfactory to the Committee regarding payment of, any federal, state, or local taxes of any kind required by law to be withheld with respect to the Award. The obligations of the Company under the Plan shall be conditional on the making of such payments or arrangements, and the Company shall, to the extent permitted by law, have the right to deduct any such taxes from any payment of any kind otherwise due to the Participant.

10.7 Governing Law. The Plan shall be governed by the and construed in accordance with the laws of the State of Delaware, without giving effect to principles of conflicts of law of such state.

SECTION 11

EFFECTIVE DATE OF PLAN

The Plan was adopted by the Board on _____ __, 2015, and shall become effective without further action as of the later of (a) the effectiveness of the Company's registration statement on Form S-1 filed with the U.S. Securities and Exchange Commission on _____ __, 2015, as amended, and (b) the Common Stock being listed or approved for listing upon notice of issuance on the New York Stock Exchange (the date of such effectiveness, the "Effective Date").

SECTION 12

TERM OF PLAN

No Award shall be granted pursuant to the Plan on or after the tenth anniversary of the Effective Date, but Awards theretofore granted may extend beyond that date.

Exhibit 10.4

REGISTRATION RIGHTS AGREEMENT

dated as of

[ ], 2015

among

FORTRESS TRANSPORTATION AND INFRASTRUCTURE INVESTORS LLC

and

THE SHAREHOLDERS SET FORTH

ON THE SIGNATURE PAGES

HERETO

TABLE OF CONTENTS

REGISTRATION RIGHTS AGREEMENT (this "Agreement"), dated as of [ ], 2015, is made by and among the Initial Shareholders (as defined herein) and Fortress Transportation and Infrastructure Investors LLC, a Delaware limited liability company (including its successors and assigns, the "Company").

WHEREAS, the Company intends to consummate an initial public offering (the "Initial Offering") of its common shares, representing limited liability company interests in the Company (the "Shares"); and

WHEREAS, in connection with the Initial Offering, the Company has agreed to grant the Shareholders rights to the registration under the Securities Act (as defined herein) of the Registrable Securities (as defined herein) acquired by the Shareholders following the consummation of the Initial Offering in accordance with the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants and undertakings contained herein and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

ARTICLE I

DEFINITIONS

SECTION 1.1 DEFINITIONS. As used in this Agreement, the following terms shall have the following meanings:

An "AFFILIATE" of any Person means any other Person that directly or indirectly, through one or more intermediaries, Controls, is Controlled by, or is under common Control with, such first Person. "CONTROL" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through ownership of voting securities, by contract or otherwise. "CONTROLLED" and "CONTROLLING" have correlative meanings.

An "AFFILIATE SHAREHOLDER" shall mean (A) any director of the Company who may be deemed an Affiliate of FIG or the Manager, (B) any director or officer of FIG or its Affiliates or the Manager or its Affiliates and (C) any investment funds (including any managed accounts) managed directly or indirectly by FIG, the Manager or their respective Affiliates.

"AGREEMENT" has the meaning set forth in the recitals to this Agreement.

A "BENEFICIAL OWNER" of a security is a Person who directly or indirectly, through any contract, arrangement, understanding, relationship or otherwise has or shares: (i) voting power, which includes the power to vote, or to direct the voting of, such security and/or (ii) investment power, which includes the power to dispose, or to direct the disposition of, such security. The terms "BENEFICIALLY OWN" and "BENEFICIAL OWNERSHIP" shall have correlative meanings.

"BLOCK TRADE OFFERING" means an underwritten offering demanded by one or more Demanding Shareholders that is a no-roadshow "block trade" take-down off of a Shelf Registration Statement where pricing is expected to occur no later than the fifth business day after such demand is made.

"BOARD" means the board of directors of the Company or a duly authorized committee thereof.

"CODE" shall mean the Internal Revenue Code of 1986, as amended and in effect from time to time.

"COMMON SHARES" means the Shares and any equity securities issued or issuable in exchange for or with respect to such Common Shares by way of a dividend, split or combination of shares or in connection with a reclassification, recapitalization, merger, consolidation or other reorganization.

"COMPANY" has the meaning set forth in the recitals.

"DEMAND" shall have the meaning set forth in Section 3.1(a).

"DEMAND REGISTRATION" shall have the meaning set forth in Section 3.1(a).

"DEMAND SHAREHOLDER" means any Shareholder or Shareholders that collectively hold at least a Registrable Amount (based on the number of outstanding Registrable Securities held by such Shareholder or Shareholders on the date a Demand is made); provided that for purposes of Section 3.3, a Shareholder shall be deemed to hold at least a Registrable Amount if the Registrable Securities proposed to be registered by such Shareholder constitute "restricted securities" within the meaning of Rule 144 (or any successor provision) promulgated under the Securities Act.

"EXCHANGE ACT" means the Securities Exchange Act of 1934, as amended, supplemented or restated from time to time and any successor to such statute, and the rules and regulations promulgated thereunder.

"FIG" means Fortress Investment Group LLC, a Delaware limited liability company, or any successors and assigns.

"FINRA" means the Financial Industry Regulatory Authority, Inc. and any successor thereto.

"FREE WRITING PROSPECTUS" shall have the meaning set forth in Section 3.6(a)(iii).

"GOVERNMENTAL ENTITY" means any court, administrative agency, regulatory body, commission or other governmental authority, board, bureau or instrumentality, domestic or foreign and any subdivision thereof.

"INITIAL OFFERING" has the meaning set forth in the recitals.

"INITIAL SHAREHOLDERS" means Fortress Worldwide Transportation and Infrastructure Master GP LLC and FIG LLC.

"INSPECTORS" shall have the meaning set forth in Section 3.6(a)(viii).

"ISSUER FREE WRITING PROSPECTUS" shall mean an issuer free writing prospectus, as defined in Rule 433 under the Securities Act.

"LOSSES" shall have the meaning set forth in Section 3.8(a).

"MANAGEMENT AGREEMENT" shall mean the Management and Advisory Agreement, dated as of [ ], 2015, among the Company and FIG LLC, as amended from time to time.

"MANAGER" shall mean FIG LLC, a Delaware limited liability company, together with its permitted assignees under the Management Agreement.

"OTHER DEMANDING SELLERS" shall have meaning set forth in Section 3.2(b).

"OTHER PROPOSED SELLERS" shall have the meaning set forth in Section 3.2(b).

"PERMITTED TRANSFEREE" shall mean, with respect to each Shareholder, (i) any other Shareholder, (ii) such Shareholder's Affiliates, (iii) in the case of any Shareholder, (A) any member or general or limited partner of such Shareholder (including any member of the Initial Shareholders), (B) any corporation, partnership, limited liability company or other entity that is an Affiliate of such Shareholder or any member, general or limited partner of such Shareholder (collectively, "Shareholder Affiliates"), (C) any investment funds managed directly or indirectly by such Shareholder or any Shareholder Affiliate (a "Shareholder Fund"), (D) any general or limited partner of any Shareholder Fund, (E) any managing director, general partner, director, limited partner, officer or employee of any Shareholder Affiliate, or any spouse, lineal descendant, sibling, parent, heir, executor, administrator, testamentary trustee, legatee or beneficiary of any of the foregoing persons described in this clause (E) (collectively, "Shareholder Associates") or (F) any trust, the beneficiaries of which, or any corporation, limited liability company or partnership, the shareholders, members or general or limited partners of which, consist solely of any one or more of such Shareholder, any general or limited partner of such Shareholder, any Shareholder Affiliates, any Shareholder Fund, any Shareholder Associates, their spouses or their lineal descendants and (iv) any other Person that acquires Common Shares from such Shareholder other than pursuant to a Public Offering and that agrees to become party to or be bound by this Agreement.

"PERSON" means any individual, corporation, firm, partnership, joint venture, limited liability company, estate, trust, business association, organization, Governmental Entity or other entity.

"PIGGYBACK NOTICE" shall have the meaning set forth in Section 3.2(a).

"PIGGYBACK REGISTRATION" shall have the meaning set forth in Section 3.2(a).

"PIGGYBACK SELLER" shall have the meaning set forth in Section 3.2(a).

"PIGGYBACK SHAREHOLDER" shall have the meaning set forth in Section 3.2(a).

"PUBLIC OFFERING" shall mean an offering of equity securities of the Company pursuant to an effective registration statement under the Securities Act, including an offering in which Shareholders are entitled to sell Common Shares pursuant to the terms of this Agreement.

"PROCEEDING" shall have the meaning set forth in Section 4.9.

"RECORDS" shall have the meaning set forth in Section 3.6(a)(viii).

"REGISTRABLE AMOUNT" shall mean an amount of Registrable Securities representing at least 1.0% of the Total Voting Power of the Company based on the aggregate amount of Common Shares issued and outstanding immediately after the consummation of the Initial Offering.

"REGISTRABLE SECURITIES" shall mean any Common Shares currently owned or hereafter acquired by any Shareholder. As to any particular Registrable Securities, such securities shall cease to be Registrable Securities when (x) a registration statement registering such securities under the Securities Act has been declared effective and such securities have been sold or otherwise transferred by the holder thereof pursuant to such effective registration statement, (y) such securities are sold in accordance with Rule 144 (or any successor provision) promulgated under the Securities Act and the restrictive legend and any stop transfer restrictions have been removed or (z) such securities shall have ceased to be outstanding. For purposes of this Agreement, Registrable Securities shall be deemed to be in existence, whenever a Person has the right to acquire, directly or indirectly, such Registrable Securities (upon conversion or exercise in connection with a transfer of securities or otherwise, but disregarding any restrictions or limitations upon the exercise of such right), whether or not such acquisition has actually been effected, and such Person shall be entitled to exercise the rights of a Shareholder hereunder; provided that a Shareholder may only request that Registrable Securities in the form of Common Shares registered or to be registered as a class under Section 12 of the Exchange Act be registered under this Agreement.

"REQUESTING SHAREHOLDER" shall have the meaning set forth in Section 3.1(a).

"RULE 144" means Rule 144 (or any successor provision) promulgated under the Securities Act.

"SEC" means the United States Securities and Exchange Commission or any similar agency then having jurisdiction to enforce the Securities Act.

"SECURITIES ACT" means the Securities Act of 1933, as amended, supplemented or restated from time to time and any successor to such statute, and the rules and regulations promulgated thereunder.

"SELECTED COURTS" shall have the meaning set forth in Section 4.9.

"SELLING SHAREHOLDER" shall have the meaning set forth in Section 3.6(a)(i).

"SHAREHOLDER" shall mean (i) the Initial Shareholders, (ii) each Affiliate Shareholder and (iii) each Permitted Transferee who becomes a party to or bound by the provisions of this Agreement in accordance with the terms hereof or a Permitted Transferee thereof who is entitled to enforce the provisions of this Agreement in accordance with the terms hereof, in each case of clauses (i), (ii) and (iii) to the extent that the Initial Shareholders, Affiliate Shareholders and Permitted Transferees, together, hold of record or Beneficially Own at least a Registrable Amount.

"SHELF NOTICE" shall have the meaning set forth in Section 3.3(a).

"SHELF REGISTRATION EFFECTIVENESS PERIOD" shall have the meaning set forth in Section 3.3(c).

"SHELF REGISTRATION STATEMENT" shall have the meaning set forth in Section 3.3(a).

"SHELF UNDERWRITTEN OFFERING" shall have the meaning set forth in Section 3.3(e).

"SUBSIDIARY" or "SUBSIDIARIES" means, with respect to any Person, as of any date of determination, any other Person as to which such Person owns, directly or indirectly, or otherwise controls, more than 50% of the voting shares or other similar interests or the sole general partner interest or managing member or similar interest of such Person.

"SUSPENSION PERIOD" shall have the meaning set forth in Section 3.3(d).

"TOTAL VOTING POWER OF THE COMPANY" means the total number of votes that may be cast in the election of directors of the Company if all Voting Securities outstanding or treated as outstanding pursuant to the final two sentences of this definition were present and voted at a meeting held for such purpose. The percentage of the Total Voting Power of the Company Beneficially Owned by any Person is the percentage of the Total Voting Power of the Company that is represented by the total number of votes that may be cast in the election of directors of the Company by Voting Securities Beneficially Owned by such Person. In calculating such percentage, the Voting Securities Beneficially Owned by any Person that are not outstanding but are subject to issuance upon exercise or exchange of rights of conversion or any options, warrants or other rights Beneficially Owned by such Person shall be deemed to be outstanding for the purpose of computing the percentage of the Total Voting Power of the Company represented by Voting Securities Beneficially Owned by such Person, but shall not be deemed to be outstanding for the purpose of computing the percentage of the Total Voting Power of the Company represented by Voting Securities Beneficially Owned by any other Person.

"UNDERWRITTEN OFFERING" shall mean a sale of securities of the Company to an underwriter or underwriters for reoffering to the public, including any bought deal, Block Trade Offering or other block sale to a financial institution conducted as an underwritten offering to the public.

"VOTING SECURITIES" means Common Shares any other securities of the Company entitled to vote generally in the election of directors of the Company.

SECTION 1.2 RULES OF CONSTRUCTION. For the purposes of this Agreement, unless the context otherwise requires:

(a) the words "he," "his" or "himself" shall be interpreted to include the masculine, feminine and corporate, other entity or trust form;

(b) "or" is not exclusive;

(c) words in the singular include the plural, and in the plural include the singular;

(d) "will" shall be interpreted to express a command;

(e) the term "including" is not limiting;

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

(g) references to Articles, Sections or subdivisions refer to Articles, Sections or subdivisions of this Agreement unless otherwise indicated.

ARTICLE II

TERMINATION

SECTION 2.1 TERM. This Agreement shall become effective on the date hereof and shall automatically terminate on the later of (i) one year from the date of this Agreement, (ii) the date that the Shareholders, in the aggregate, no longer hold Registrable Securities representing at least the Registrable Amount, or otherwise on the date as mutually agreed to by each of the parties hereto and (iii) the termination of the Management Agreement in accordance with its term.

SECTION 2.2 SURVIVAL. If this Agreement is terminated pursuant to Section 2.1, this Agreement shall become void and of no further force and effect, except for this Section 2.2 and the provisions set forth in Section 3.7, Section 3.8 and Article IV.

ARTICLE III

REGISTRATION RIGHTS

SECTION 3.1 DEMAND REGISTRATION.

(a) At any time following the date that is 180 days after the date of the final prospectus in respect of the Initial Offering, Demand Shareholders (each, a "Requesting Shareholder") shall be entitled to make a written request of the Company (a "Demand") for registration under the Securities Act of an amount of Registrable Securities that, when taken together with the amounts of Registrable Securities requested to be registered under the Securities Act by all such Requesting Shareholders, equals or is greater than the Registrable Amount (a "Demand Registration") and thereupon the Company will, subject to the terms of this Agreement, use its reasonable best efforts to effect the registration as promptly as practicable under the Securities Act of:

(i) the Registrable Securities which the Company has been so requested to register by the Requesting Shareholders for disposition in accordance with the intended method of disposition stated in such Demand, which may be an Underwritten Offering;

(ii) all other Registrable Securities which the Company has been requested to register pursuant to Section 3.1(b); and

(iii) all Common Shares which the Company may elect to register in connection with any offering of Registrable Securities pursuant to this Section 3.1, but subject to Section 3.1(f);

all to the extent necessary to permit the disposition (in accordance with the intended methods thereof) of the Registrable Securities and the additional Shares, if any, to be so registered.

(b) A Demand shall specify: (i) the aggregate number of Registrable Securities requested to be registered in such Demand Registration, (ii) the intended method of disposition in connection with such Demand Registration, to the extent then known, and (iii) the identity of the Requesting Shareholder (or Requesting Shareholders). Within five days after receipt of a Demand, the Company shall give written notice of such Demand to all other Shareholders. Subject to Section 3.1(f), the Company shall include in the Demand Registration covered by such Demand all Registrable Securities with respect to which the Company has received a written request for inclusion therein within ten days after the Company's notice required by this paragraph has been given. Such written request shall comply with the requirements of a Demand as set forth in this Section 3.1(b).

(c) Each Shareholder shall be entitled to an unlimited number of Demand Registrations.

(d) Demand Registrations shall be on such appropriate registration form of the SEC for which the Company is eligible, including, to the extent permissible, an automatically effective registration statement or an existing effective registration statement filed by the Company with the SEC, as shall be selected by the Requesting Shareholders and shall be reasonably acceptable to the Company.

(e) The Company shall not be obligated to (i) maintain the effectiveness of a registration statement under the Securities Act, filed pursuant to a Demand Registration, for a period longer than 90 days or (ii) effect any Demand Registration (A) within three months of a "firm commitment" Underwritten Offering (other than a Block Trade Offering that is not marketed) in which all Piggyback Shareholders (as hereinafter defined) were given "piggyback" rights pursuant to Section 3.2 (subject to Section 3.1(f)) and at least 50% of the number of Registrable Securities requested by such Piggyback Shareholders to be included in such Underwritten Offering were included, (B) within three months of any other Demand Registration or (C) if, in the Company's reasonable judgment, it is not feasible for the Company to proceed with the Demand Registration because of the unavailability of audited or other required financial statements, provided that the Company shall use its reasonable best efforts to obtain such financial statements as promptly as practicable. In addition, the Company shall be entitled to postpone (upon written notice to all Demand Shareholders) the filing or the effectiveness of a registration statement for any Demand Registration (but no more than twice, or for more than 90 days in the aggregate, in any period of 12 consecutive months) if the Board determines in good faith and in its reasonable judgment that the filing or effectiveness of the registration statement relating to such Demand Registration would cause the disclosure of material, non-public information that the Company has a bona fide business purpose for preserving as confidential. In the event of a postponement by the Company of the filing or effectiveness of a registration statement for a Demand Registration, (i) the holders of a majority of Registrable Securities held by the Requesting Shareholder(s) shall have the right to withdraw such Demand in accordance with Section 3.4 and (ii) the Company shall not file or cause the effectiveness of any other registration statement for its own account or on behalf of other Shareholders.

(f) The Company shall not include any securities other than Registrable Securities in a Demand Registration, except with the written consent of Shareholders participating in such Demand Registration that hold a majority of the Registrable Securities included in such Demand Registration. If, in connection with a Demand Registration, any managing underwriter (or, if such Demand Registration is not an Underwritten Offering, a nationally recognized

independent investment bank selected by Shareholders holding a majority of the Registrable Securities included in such Demand Registration, reasonably acceptable to the Company, and whose fees and expenses shall be borne solely by the Company), advises the Company, in writing, that, in its opinion, the inclusion of all of the securities, including securities of the Company that are not Registrable Securities, sought to be registered in connection with such Demand Registration would adversely affect the marketability of the Registrable Securities sought to be sold pursuant thereto, then the Company shall include in such registration statement only such securities as the Company is advised by such underwriter or investment bank can be sold without such adverse effect as follows and in the following order of priority: (i) first, up to the number of Registrable Securities requested to be included in such Demand Registration by the Shareholders, which, in the opinion of the underwriter or investment bank can be sold without adversely affecting the marketability of the offering, pro rata among such Shareholders requesting such Demand Registration on the basis of the number of such securities requested to be included by such Shareholders and such Shareholders that are Piggyback Sellers; (ii) second, securities the Company proposes to sell; and (iii) third, all other securities of the Company duly requested to be included in such registration statement, pro rata on the basis of the amount of such other securities requested to be included or such other method determined by the Company.

(g) Any time that a Demand Registration involves an Underwritten Offering, the Requesting Shareholders that hold a majority of the Registrable Securities included in such Underwritten Offering shall select the investment banker or investment bankers and managers (which shall be reasonably acceptable to the Company) that will serve as lead and co-managing underwriters with respect to the offering of such Registrable Securities.

SECTION 3.2 PIGGYBACK REGISTRATION.

(a) Subject to the terms and conditions hereof, whenever the Company (i) proposes to register any of its equity securities under the Securities Act (other than (x) a registration relating solely to an employee stock plan, a dividend reinvestment plan, or a merger or a consolidation or (y) a registration by the Company on a registration statement on Form S-4 or a registration statement on Form S-8 or any successor forms thereto), (ii) proposes to effect an Underwritten Offering of its own securities pursuant to an effective Shelf Registration Statement or (iii) receives a request for a Shelf Underwritten Offering pursuant to Section 3.3(e) (a “Piggyback Registration”), whether for its own account or for the account

of others, the Company shall give each Shareholder (each, a "Piggyback Shareholder") prompt written notice thereof (but not less than ten business days prior to the filing by the Company with the SEC of any registration statement with respect thereto). Such notice (a "Piggyback Notice") shall specify, at a minimum, the number of equity securities proposed to be registered, the proposed date of filing of such registration statement with the SEC, the proposed means of distribution, the proposed managing underwriter or underwriters (if any and if known) and a good faith estimate by the Company of the proposed minimum offering price of such equity securities. Upon the written request of any Person that on the date of the Piggyback Notice constitutes a Shareholder (a "Piggyback Seller") (which written request shall specify the number of Registrable Securities then presently intended to be disposed of by such Piggyback Seller) given within ten days after such Piggyback Notice is received by such Piggyback Seller, the Company, subject to the terms and conditions of this Agreement, shall use its reasonable best efforts to cause all such Registrable Securities held by Piggyback Sellers with respect to which the Company has received such written requests for inclusion to be included in such Piggyback Registration on the same terms and conditions as the Company's equity securities being sold in such Piggyback Registration.

(b) If, in connection with a Piggyback Registration, any managing underwriter (or, if such Piggyback Registration is not an Underwritten Offering, a nationally recognized independent investment bank selected by Shareholders holding a majority of the Registrable Securities included in such Piggyback Registration, reasonably acceptable to the Company, and whose fees and expenses shall be borne solely by the Company), advises the Company in writing that, in its opinion, the inclusion of all the equity securities sought to be included in such Piggyback Registration by (i) the Company, (ii) others who have sought to have equity securities of the Company registered in such Piggyback Registration pursuant to rights to demand (other than pursuant to so-called "piggyback" or other incidental or participation registration rights) such registration (such Persons being "Other Demanding Sellers"), (iii) the Piggyback Sellers and (iv) any other proposed sellers of equity securities of the Company (such Persons being "Other Proposed Sellers"), as the case may be, would adversely affect the marketability of the equity securities sought to be sold pursuant thereto, then the Company shall include in the registration statement applicable to such Piggyback Registration only such equity securities as the Company is so advised by such underwriter can be sold without such an effect, as follows and in the following order of priority:

(i) if the Piggyback Registration relates to an offering for the Company's own account, then (A) first, such number of equity securities to be sold by the Company as the Company, in its reasonable judgment and acting in good faith and in accordance with sound financial practice, shall have determined, (B) second, Registrable Securities of Piggyback Sellers and securities sought to be registered by Other Demanding Sellers, pro rata on the basis of the number of Common Shares proposed to be sold by such Piggyback Sellers and Other Demanding Sellers, and (C) third, other equity securities proposed to be sold by any Other Proposed Sellers; or

(ii) if the Piggyback Registration relates to an offering other than for the Company's own account, then (A) first, such number of equity securities sought to be registered by each Other Demanding Seller and the Piggyback Sellers, pro rata in proportion to the number of securities sought to be registered by all such Other Demanding Sellers and Piggyback Sellers, and (B) second, other equity securities proposed to be sold by any Other Proposed Sellers or to be sold by the Company as determined by the Company.

(c) In connection with any Underwritten Offering under this Section 3.2 for the Company's account, the Company shall not be required to include the Registrable Securities of a Shareholder in the Underwritten Offering unless such Shareholder accepts the terms of the underwriting as agreed upon between the Company and the underwriters selected by the Company.

(d) If, at any time after giving written notice of its intention to register any of its equity securities as set forth in this Section 3.2 and prior to the time the registration statement filed in connection with such Piggyback Registration is declared effective, the Company shall determine for any reason not to register such equity securities, the Company may, at its election, give written notice of such determination to each Piggyback Shareholder within five days thereof and thereupon shall be relieved of its obligation to register any Registrable Securities in connection with such particular withdrawn or abandoned Piggyback Registration (but not from its obligation to pay the Registration Expenses in connection therewith as provided herein); provided, that Demand Shareholders may continue the registration as a Demand Registration pursuant to the terms of Section 3.1.

SECTION 3.3 SHELF REGISTRATION.

(a) Subject to Section 3.3(d), any of the Demand Shareholders may by written notice delivered to the Company (the "Shelf Notice") require the Company to (i) file as soon as practicable (but no later than 60 days after the date the Shelf Notice is delivered), and to use reasonable best efforts to cause to be declared effective by the SEC within 90 days after such filing date, a registration statement on Form S-1, Form S-3 or any other appropriate form or (ii) use an existing Form S-3 filed with the SEC, in each case, providing for an offering to be made on a continuous basis pursuant to Rule 415 under the Securities Act relating to the offer and sale, from time to time, of the Registrable Securities owned by such Demand Shareholders, as the case may be, and any other Shareholders that at the time of the Shelf Notice meet the definition of a Demand Shareholder who elect to participate therein as provided in Section 3.3(b) in accordance with the plan and method of distribution set forth in the prospectus included in such Form S-1, Form S-3 or other appropriate form (the "Shelf Registration Statement").

(b) Within five business days after receipt of a Shelf Notice pursuant to Section 3.3(a), the Company will deliver written notice thereof to each Piggyback Shareholder. Each Piggyback Shareholder may elect to participate in the Shelf Registration Statement by delivering to the Company a written request to so participate within ten days after the Shelf Notice is received by any such Piggyback Shareholder.

(c) Subject to Section 3.3(d), the Company will use reasonable best efforts to keep the Shelf Registration Statement continuously effective until the earlier of (i) three years after the Shelf Registration Statement has been declared effective; and (ii) the date on which all Registrable Securities covered by the Shelf Registration Statement have been sold thereunder in accordance with the plan and method of distribution disclosed in the prospectus included in the Shelf Registration Statement, or otherwise (the "Shelf Registration Effectiveness Period").

(d) Notwithstanding anything to the contrary contained in this Agreement, the Company shall be entitled, from time to time, by providing written notice to the Demand Shareholders who elected to participate in the Shelf Registration Statement, to require such Demand Shareholders to suspend the use of the prospectus for sales of Registrable Securities under the Shelf Registration Statement for a reasonable period of time not to exceed 60 days in succession or 90 days in the aggregate in any 12-month period (a "Suspension Period") if the Board

shall determine in good faith and in its reasonable judgment that it is required to disclose in the Shelf Registration Statement a financing, acquisition, corporate reorganization or other similar transaction or other material event or circumstance affecting the Company or its securities, and that the disclosure of such information at such time would be detrimental to the Company or the holders of its equity interests. Immediately upon receipt of such notice, the Demand Shareholders covered by the Shelf Registration Statement shall suspend the use of the prospectus until the requisite changes to the prospectus have been made as required below. Any Suspension Period shall terminate at such time as the public disclosure of such information is made. After the expiration of any Suspension Period and without any further request from a Shareholder, the Company shall as promptly as reasonably practicable prepare a post-effective amendment or supplement to the Shelf Registration Statement or the prospectus, or any document incorporated therein by reference, or file any other required document so that, as thereafter delivered to purchasers of the Registrable Securities included therein, the prospectus will not include an untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(e) At any time and from time-to-time during the Shelf Registration Effectiveness Period (except during a Suspension Period), any of the Demand Shareholders may notify the Company of their intent to sell Registrable Securities covered by the Shelf Registration Statement (in whole or in part) in an Underwritten Offering (a "Shelf Underwritten Offering"). Such notice shall specify (i) the aggregate amount of Registrable Securities requested to be registered in such Shelf Underwritten Offering and (ii) the identity of such Demand Shareholder(s). Upon receipt by the Company of such notice, the Company shall promptly comply with the applicable provisions of this Agreement, including those provisions of Section 3.6 relating to the Company's obligation to make filings with the SEC, assist in the preparation and filing with the SEC of prospectus supplements and amendments to the Shelf Registration Statement, participate in "road shows," agree to customary "lock-up" agreements with respect to the Company's securities and obtain "comfort" letters, and the Company shall take such other actions as necessary or appropriate to permit the consummation of such Shelf Underwritten Offering as promptly as practicable. Each Shelf Underwritten Offering shall be for the sale of a number of Registrable Securities equal to or greater than the Registrable Amount in the aggregate for all Demand Shareholders. In any Shelf Underwritten Offering, the Demand Shareholders that hold a majority of the Registrable Securities included in

such Shelf Underwritten Offering shall select the investment banker or investment bankers and managers (which shall be reasonably acceptable to the Company) that will serve as lead and co-managing underwriters with respect to the offering of such Registrable Securities.

(f) Each Initial Shareholder shall be entitled to demand such number of Shelf Registrations as shall be necessary to sell all of his Registrable Securities pursuant to this Section 3.3.

SECTION 3.4 WITHDRAWAL RIGHTS.

Any Shareholder having notified or directed the Company to include any or all of its Registrable Securities in a registration statement under the Securities Act shall, except in connection with a Block Trade Offering, have the right to withdraw any such notice or direction with respect to any or all of the Registrable Securities designated by it for registration by giving written notice to such effect to the Company prior to the effective date of such registration statement. In the event of any such withdrawal, the Company shall not include such Registrable Securities in the applicable registration and such Registrable Securities shall continue to be Registrable Securities for all purposes of this Agreement. No such withdrawal shall affect the obligations of the Company with respect to the Registrable Securities not so withdrawn; provided, however, that in the case of a Demand Registration, if such withdrawal shall reduce the number of Registrable Securities sought to be included in such registration below the Registrable Amount, then the Company shall as promptly as practicable give each Shareholder seeking to register Registrable Securities notice to such effect and, within ten days following the mailing of such notice, such Shareholders still seeking registration shall, by written notice to the Company, elect to register additional Registrable Securities, when taken together with elections to register Registrable Securities by each such other Shareholder seeking to register Registrable Securities, to satisfy the Registrable Amount or elect that such registration statement not be filed or, if theretofore filed, be withdrawn. During such ten day period, the Company shall not file such registration statement if not theretofore filed or, if such registration statement has been theretofore filed, the Company shall not seek, and shall use commercially reasonable efforts to prevent, the effectiveness thereof. Any registration statement withdrawn or not filed (a) in accordance with an election by the Company, (b) in accordance with an election by the Requesting Shareholders in the case of a Demand Registration or by the requesting Demand Shareholders with respect to a Shelf Registration Statement or (c) in accordance with an election by the Company subsequent to the effectiveness of

the applicable Demand Registration statement because any post-effective amendment or supplement to the applicable Demand Registration statement contains information regarding the Company which the Company deems adverse to the Company, shall not be counted as a Demand. If a Shareholder withdraws its notification or direction to the Company to include Registrable Securities in a registration statement in accordance with this Section 3.4, such Shareholder shall be required to promptly reimburse the Company for all expenses incurred by the Company in connection with preparing for the registration of such Registrable Securities.

SECTION 3.5 HOLDBACK AGREEMENTS.

Each Piggyback Shareholder agrees not to effect any public sale or distribution (including sales pursuant to Rule 144) of equity securities of the Company, or any securities convertible into or exchangeable or exercisable for such equity securities, during any time period reasonably requested by the Company (which shall not exceed 90 days) with respect to any Demand Registration, Piggyback Registration or Underwritten Offering (in each case, except as part of such registration), or, in each case, during any time period (which shall not exceed 180 days) required by any underwriting agreement with respect thereto.

SECTION 3.6 REGISTRATION PROCEDURES.

(a) If and whenever the Company is required to use reasonable best efforts to effect the registration of any Registrable Securities under the Securities Act as provided in Sections 3.1, 3.2 and 3.3, the Company shall as expeditiously as reasonably possible:

(i) prepare and file with the SEC a registration statement to effect such registration and thereafter use reasonable best efforts to cause such registration statement to become and remain effective pursuant to the terms of this Agreement; provided, however, that the Company may discontinue any registration of its securities which are not Registrable Securities at any time prior to the effective date of the registration statement relating thereto; provided, further that before filing such registration statement or any amendments thereto, the Company will furnish upon request to the counsel selected by the Shareholders which are including Registrable Securities in such registration (“Selling Shareholders”) copies of all such documents proposed to be filed, which documents will be subject to the review of such counsel, and such review to be conducted with reasonable promptness;

(ii) prepare and file with the SEC such amendments (including post effective amendments), supplements (including prospectus supplements on a quarterly basis to update financial statements) and "stickers" to such registration statement and the prospectus used in connection therewith and any Exchange Act reports incorporated by reference therein as may be necessary to keep such registration statement effective and to comply with the provisions of the Securities Act with respect to the disposition of all securities covered by such registration statement until the earlier of such time as all of such securities have been disposed of in accordance with the intended methods of disposition by the seller or sellers thereof set forth in such registration statement or (i) in the case of a Demand Registration pursuant to Section 3.1, the expiration of 90 days after such registration statement becomes effective or (ii) in the case of a Piggyback Registration pursuant to Section 3.2, the expiration of 90 days after such registration statement becomes effective or (iii) in the case of a shelf registration pursuant to Section 3.3, the Shelf Registration Effectiveness Period;

(iii) furnish to each Selling Shareholder and each underwriter, if any, of the securities being sold by such Selling Shareholder such number of conformed copies of such registration statement and of each amendment and supplement thereto (in each case including all exhibits or documents incorporated by reference therein), such number of copies of the prospectus contained in such registration statement (including each preliminary prospectus and any summary prospectus) and each free writing prospectus (as defined in Rule 405 of the Securities Act) (a "Free Writing Prospectus") utilized in connection therewith and any other prospectus filed under Rule 424 under the Securities Act, in conformity with the requirements of the Securities Act, and such other documents as such Selling Shareholder and underwriter, if any, may reasonably request in order to facilitate the public sale or other disposition of the Registrable Securities owned by such Selling Shareholder;

(iv) use reasonable best efforts to register or qualify such Registrable Securities covered by such registration statement under such other securities laws or blue sky laws of such jurisdictions as any Selling Shareholder and any underwriter of the securities being sold by such Selling Shareholder shall reasonably request, and take any other action which may be reasonably necessary or advisable to enable such Selling Shareholder and underwriter to consummate the disposition in such jurisdictions of the Registrable Securities owned by such Selling Shareholder, except that the Company shall not for any such purpose be required to (A) qualify generally to do business as a foreign corporation in any jurisdiction wherein it would not but for the requirements of this clause (iv) be obligated to be so qualified, (B) subject itself to taxation in any such jurisdiction or (C) file a general consent to service of process in any such jurisdiction;

(v) use reasonable best efforts to cause such Registrable Securities to be listed on each securities exchange on which similar securities issued by the Company are then listed and, if no such securities are so listed, use commercially reasonable efforts to cause such Registrable Securities to be listed on the New York Stock Exchange, the NASDAQ Stock Market or any other nationally recognized securities exchange;

(vi) use reasonable best efforts to cause such Registrable Securities covered by such registration statement to be registered with or approved by such other governmental agencies or authorities as may be necessary to enable the Selling Shareholder(s) thereof to consummate the disposition of such Registrable Securities;

(vii) in connection with an Underwritten Offering, obtain for each Selling Shareholder and underwriter:

(A) an opinion of counsel for the Company, covering the matters customarily covered in opinions requested in underwritten offerings and such other matters as may be reasonably requested by such Selling Shareholder and underwriters, and

(B) a “comfort” letter (or, in the case of any such Person which does not satisfy the conditions for receipt of a “comfort” letter specified in AU Section 634 of the AICPA Professional Standards, an “agreed upon procedures” letter) signed by the independent public accountants who have certified the Company’s financial statements included in such registration statement (and, if necessary, any other independent public accountants of any Subsidiary of or business acquired by the Company for which financial statements and financial data are, or are required to be, included in the registration statement);

(viii) promptly make available for inspection by any Selling Shareholder, any underwriter participating in any disposition pursuant to any registration statement, and any attorney, accountant or other agent or representative retained by any such Selling Shareholder or underwriter (collectively, the “Inspectors”), all financial and other records, pertinent corporate documents and properties of the Company (collectively, the “Records”), as shall be reasonably necessary to enable them to exercise their due diligence responsibility, and cause the Company’s officers, directors and employees to supply all information requested by any such Inspector in connection with such registration statement; provided, however, that, unless the disclosure of such Records is necessary to avoid or correct a misstatement or omission in the registration statement or the release of such Records is ordered pursuant to a subpoena or other order from a court of competent jurisdiction, the Company shall not be required to provide any information under this subparagraph (viii) if (i) the Company believes, after consultation with counsel for the Company, that to do so would cause the Company to forfeit an attorney-client privilege that was applicable to such information or (ii) if either (A) the Company has requested and been granted from the SEC confidential treatment of such information contained in any filing with the SEC or documents provided supplementally or otherwise or (B) the Company reasonably determines in good faith that such Records are confidential and so notifies the Inspectors in writing unless prior to furnishing any such information with respect to (i) or (ii) such Selling Shareholder requesting such information agrees, and causes each of its Inspectors,

to enter into a confidentiality agreement on terms reasonably acceptable to the Company; and provided, further, that each Selling Shareholder agrees that it will, upon learning that disclosure of such Records is sought in a court of competent jurisdiction, give notice to the Company and allow the Company, at its expense, to undertake appropriate action and to prevent disclosure of the Records deemed confidential;

(ix) promptly notify in writing each Selling Shareholder and the underwriters, if any, of the following events:

(A) the filing of the registration statement, the prospectus or any prospectus supplement related thereto or post-effective amendment to the registration statement or any Issuer Free Writing Prospectus utilized in connection therewith, and, with respect to the registration statement or any post-effective amendment thereto, when the same has become effective;

(B) any request by the SEC or any other Governmental Entity for amendments or supplements to the registration statement or the prospectus or for additional information;

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

(D) the receipt by the Company of any notification with respect to the suspension of the qualification of any Registrable Securities for sale under the securities or blue sky laws of any jurisdiction or the initiation or threat of any proceeding for such purpose; and

(E) when any Issuer Free Writing Prospectus includes information that may conflict with the information contained in the registration statement;

(x) notify each Selling Shareholder, at any time when a prospectus relating thereto is required to be delivered under the Securities Act, upon discovery that, or upon the happening of any event as a result of which, the prospectus included in such registration statement, as then in effect, includes an untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements therein not misleading, and, at the request of any Selling Shareholder, promptly prepare and furnish to such seller a reasonable number of copies of a supplement to or an amendment of such prospectus as may be necessary so that, as thereafter delivered to the purchasers of such Registrable Securities, such prospectus shall 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 not misleading;

(xi) use reasonable best efforts to obtain the withdrawal of any order suspending the effectiveness of such registration statement;

(xii) otherwise use reasonable best efforts to comply with all applicable rules and regulations of the SEC, and make available to Selling Shareholders, as soon as reasonably practicable, an earnings statement of the Company covering the period of at least 12 months, but not more than 18 months, beginning with the first day of the Company's first full quarter after the effective date of such registration statement, which earnings statement shall satisfy the provisions of Section 11(a) of the Securities Act and Rule 158 thereunder;

(xiii) use its reasonable best efforts to assist Selling Shareholders who made a request to the Company to provide for a third party "market maker" for the Common Shares; provided, however, that the Company shall not be required to serve as such "market maker";

(xiv) cooperate with the Selling Shareholders and the managing underwriter to facilitate the timely preparation and delivery of certificates (which shall not bear any restrictive legends unless required under applicable law), if necessary or appropriate, representing securities sold under any registration statement, and enable such securities to be in such denominations and registered in such names as the managing underwriter or such Selling Shareholders may request and keep available and make available to the Company's transfer agent prior to the effectiveness of such registration statement a supply of such certificates as necessary or appropriate;

(xv) have appropriate officers of the Company prepare and make presentations at any "road shows" and before analysts and rating agencies, as the case may be, and other information meetings organized by the underwriters, take other actions to obtain ratings for any Registrable Securities (if they are eligible to be rated) and otherwise use its reasonable best efforts to cooperate as reasonably requested by the Selling Shareholders and the underwriters in the offering, marketing or selling of the Registrable Securities;

(xvi) have appropriate officers of the Company, and cause representatives of the Company's independent public accountants, to participate in any due diligence discussions reasonably requested by any Selling Shareholder or any underwriter;

(xvii) if requested by any underwriter, agree, and cause the Company and any directors or officers of the Company to agree, to be bound by customary "lock-up" agreements restricting the ability to dispose of the Company's securities;

(xviii) if requested by any Selling Shareholders or any underwriter, promptly incorporate in the registration statement or any prospectus, pursuant to a supplement or post-effective amendment if necessary, such information as such Selling Shareholders may reasonably request to have included therein, including information relating to the "Plan of Distribution" of the Registrable Securities;

(xix) cooperate and assist in any filings required to be made with FINRA and in the performance of any due diligence investigation by any underwriter that is required to be undertaken in accordance with the rules and regulations of FINRA;

(xx) otherwise use reasonable best efforts to cooperate as reasonably requested by the Selling Shareholders and the underwriters in the offering, marketing or selling of the Registrable Securities;

(xxi) otherwise use commercially reasonable efforts to comply with all applicable rules and regulations of the SEC and all reporting requirements under the rules and regulations of the Exchange Act; and

(xxii) use reasonable best efforts to take any action requested by the Selling Shareholders, including any action described in clauses (i) through (xxi) above to prepare for and facilitate any "over-night deal" or other proposed sale of Registrable Securities over a limited timeframe.

The Company may require each Selling Shareholder and each underwriter, if any, to furnish the Company in writing such information regarding each Selling Shareholder or underwriter and the distribution of such Registrable Securities as the Company may from time to time reasonably request to complete or amend the information required by such registration statement.

(b) Underwriting. Without limiting any of the foregoing, in the event that the offering of Registrable Securities is to be made by or through an underwriter, the Company, if requested by the underwriter, shall enter into an underwriting agreement with a managing underwriter or underwriters in connection with such offering containing representations, warranties, indemnities and agreements customarily included (but not inconsistent with the covenants and agreements of the Company contained herein) by an issuer of common stock in underwriting agreements with respect to offerings of common stock for the account of, or on behalf of, such issuers.

(c) Each Selling Shareholder agrees that upon receipt of any notice from the Company of the happening of any event of the kind described in Section 3.6(a)(ix), such Selling Shareholder shall forthwith discontinue such Selling Shareholder's disposition of Registrable Securities pursuant to the applicable registration statement and prospectus relating thereto until such Selling Shareholder's receipt of the copies of the supplemented or amended prospectus

contemplated by Section 3.6(a)(ix) and, if so directed by the Company, deliver to the Company, at the Company's expense, all copies, other than permanent file copies, then in such Selling Shareholder's possession of the prospectus current at the time of receipt of such notice relating to such Registrable Securities. In the event the Company shall give such notice, any applicable period during which such registration statement must remain effective pursuant to this Agreement shall be extended by the number of days during the period from the date of giving of a notice regarding the happening of an event of the kind described in Section 3.6(a)(ix) to the date when all such Selling Shareholders shall receive such a supplemented or amended prospectus and such prospectus shall have been filed with the SEC.

SECTION 3.7 REGISTRATION EXPENSES.

All expenses incident to the Company's performance of, or compliance with, its obligations under this Agreement including all registration and filing fees, all fees and expenses of compliance with securities and "blue sky" laws, all fees and expenses associated with filings required to be made with FINRA (including, if applicable, the fees and expenses of any "qualified independent underwriter" as such term is defined in FINRA Rule 5121(f)(12)), all fees and expenses of compliance with securities and "blue sky" laws, all printing (including, without limitation, expenses of printing certificates for the Registrable Securities in a form eligible for deposit with The Depository Trust Company and of printing prospectuses and Issuer Free Writing Prospectuses if the printing of such prospectuses is requested by a holder of Registrable Securities) and copying expenses, all messenger and delivery expenses, all fees and expenses of the Company's independent certified public accountants (including, without limitation, with respect to "comfort" letters) and counsel (including, without limitation, with respect to opinions) and fees and expenses of one firm of counsel to the Shareholders selling in such registration (which firm shall be selected by the Shareholders selling in such registration that hold a majority of the Registrable Securities included in such registration) (collectively, the "Registration Expenses") shall be borne by the Company, regardless of whether a registration is effected. The Company will pay its internal expenses (including, without limitation, all salaries and expenses of its officers and employees performing legal or accounting duties, the expense of any annual audit and the expense of any liability insurance) and the expenses and fees for listing the securities to be registered on each securities exchange and included in each established over-the-counter market on which similar securities issued by the Company are then listed or traded. Each Selling Shareholder shall pay its portion of all underwriting discounts and commissions and transfer taxes, if any, relating to the sale of such Selling Shareholder's Registrable Securities pursuant to any registration.

SECTION 3.8 REGISTRATION INDEMNIFICATION.

(a) By the Company. The Company agrees to indemnify and hold harmless, to the fullest extent permitted by law, each Selling Shareholder and its Affiliates and their respective officers, directors, employees, managers, partners and agents and each Person who controls (within the meaning of Section 15 of the Securities Act and Section 20 of the Exchange Act) such Selling Shareholder or such other indemnified Person from and against all losses, claims, damages, liabilities and expenses (including reasonable expenses of investigation and reasonable attorneys' fees and expenses) (collectively, "Losses") caused by, resulting from or relating to any untrue statement (or alleged untrue statement) of a material fact contained in any registration statement, prospectus or preliminary prospectus or any Issuer Free Writing Prospectus or any amendment or supplement thereto or any omission (or alleged omission) of a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, except insofar as the same are caused by any information furnished in writing to the Company by such Selling Shareholder expressly for use therein. In connection with an Underwritten Offering and without limiting any of the Company's other obligations under this Agreement, the Company shall also indemnify such underwriters, their officers, directors, employees and agents and each Person who controls (within the meaning of Section 15 of the Securities Act and Section 20 of the Exchange Act) such underwriters or such other indemnified Person to the same extent as provided above with respect to the indemnification (and exceptions thereto) of Selling Shareholders. Reimbursements payable pursuant to the indemnification contemplated by this Section 3.8(a) will be made by periodic payments during the course of any investigation or defense, as and when bills are received or expenses incurred.

(b) By the Selling Shareholders. In connection with any registration statement in which a Shareholder is participating, each such Selling Shareholder will furnish to the Company in writing information regarding such Selling Shareholder's ownership of Registrable Securities and its intended method of distribution thereof and, to the extent permitted by law, shall, severally and not jointly, indemnify the Company, its Affiliates and their respective directors, officers, employees and agents and each Person who controls (within the meaning of Section 15 of the Securities Act and Section 20 of the Exchange Act) the Company or such

other indemnified Person against all Losses caused by any untrue statement of material fact contained in the registration statement, prospectus or preliminary prospectus or any Issuer Free Writing Prospectus or any amendment or supplement thereto or any omission of a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, but only to the extent that such untrue statement or omission is caused by and contained in such information so furnished in writing by such Selling Shareholder expressly for use therein; provided, however, that each Selling Shareholder's obligation to indemnify the Company hereunder shall, to the extent more than one Selling Shareholder is subject to the same indemnification obligation, be apportioned between each Selling Shareholder based upon the net amount received by each Selling Shareholder from the sale of Registrable Securities, as compared to the total net amount received by all of the Selling Shareholders of Registrable Securities sold pursuant to such registration statement. Notwithstanding the foregoing, no Selling Shareholder shall be liable to the Company for amounts in excess of the lesser of (i) such apportionment and (ii) the amount received by such holder in the offering giving rise to such liability.

(c) Notice. Any Person entitled to indemnification hereunder shall give prompt written notice to the indemnifying party of any claim with respect to which it seeks indemnification; provided, however, the failure to give such notice shall not release the indemnifying party from its obligation, except to the extent that the indemnifying party has been materially prejudiced by such failure to provide such notice on a timely basis.

(d) Defense of Actions. In any case in which any such action is brought against any indemnified party, and it notifies an indemnifying party of the commencement thereof, the indemnifying party will be entitled to participate therein, and, to the extent that it may wish, jointly with any other indemnifying party similarly notified, to assume the defense thereof, with counsel reasonably satisfactory to such indemnified party, and after notice from the indemnifying party to such indemnified party of its election so to assume the defense thereof, the indemnifying party will not (so long as it shall continue to have the right to defend, contest, litigate and settle the matter in question in accordance with this paragraph) be liable to such indemnified party hereunder for any legal or other expense subsequently incurred by such indemnified party in connection with the defense thereof other than reasonable costs of investigation, supervision and monitoring (unless (i) such indemnified party reasonably objects to such assumption on the

grounds that there may be defenses available to it which are different from or in addition to the defenses available to such indemnifying party or (ii) the indemnifying party shall have failed within a reasonable period of time to assume such defense and the indemnified party is or is reasonably likely to be prejudiced by such delay, in either event the indemnified party shall be promptly reimbursed by the indemnifying party for the expenses incurred in connection with retaining separate legal counsel). An indemnifying party shall not be liable for any settlement of an action or claim effected without its consent (such consent not to be unreasonably withheld). The indemnifying party shall lose its right to defend, contest, litigate and settle a matter if it shall fail to diligently contest such matter (except to the extent settled in accordance with the next following sentence). No matter shall be settled by an indemnifying party without the consent of the indemnified party (which consent shall not be unreasonably withheld, it being understood that the indemnified party shall not be deemed to be unreasonable in withholding its consent if the proposed settlement imposes any obligation on the indemnified party).

(e) Survival. The indemnification provided for under this Agreement shall remain in full force and effect regardless of any investigation made by or on behalf of the indemnified Person and will survive the transfer of the Registrable Securities and the termination of this Agreement.

(f) Contribution. If recovery is not available under the foregoing indemnification provisions for any reason or reasons other than as specified therein, any Person who would otherwise be entitled to indemnification by the terms thereof shall nevertheless be entitled to contribution with respect to any Losses with respect to which such Person would be entitled to such indemnification but for such reason or reasons. In determining the amount of contribution to which the respective Persons are entitled, there shall be considered the Persons' relative knowledge and access to information concerning the matter with respect to which the claim was asserted, the opportunity to correct and prevent any statement or omission, and other equitable considerations appropriate under the circumstances. It is hereby agreed that it would not necessarily be equitable if the amount of such contribution were determined by pro rata or per capita allocation. 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 found guilty of such fraudulent misrepresentation. Notwithstanding the foregoing, no Selling Shareholder or transferee thereof shall be required to make a contribution in excess of the net amount received by such holder from its sale of Registrable Securities in connection with the offering that gave rise to the contribution obligation.

(g) Request for Information. Not less than ten days before the expected filing date of each registration statement pursuant to this Agreement, the Company shall notify each Shareholder who has timely provided the requisite notice hereunder entitling the Shareholder to register Registrable Securities in such registration statement of the information, documents and instruments from such Shareholder that the Company or any underwriter reasonably requests in connection with such registration statement, including, but not limited to a questionnaire, custody agreement, power of attorney, lock-up letter and underwriting agreement (the "Requested Information"). If the Company has not received, on or before the second day before the expected filing date, the Requested Information from such Shareholder, the Company may file the registration statement without including Registrable Securities of such Shareholder. The failure to so include in any registration statement the Registrable Securities of a Shareholder (with regard to that registration statement) shall not in and of itself result in any liability on the part of the Company to such Shareholder.

(h) No Grant of Future Registration Rights. The Company shall not grant any shelf, demand, piggyback or incidental registration rights that are senior to the rights granted to the Shareholders hereunder to any other Person without the prior written consent of Piggyback Shareholders holding a majority of the Registrable Securities held by all Piggyback Shareholders.

ARTICLE IV

MISCELLANEOUS

SECTION 4.1 NOTICES. All notices, requests, consents and other communications hereunder to any party shall be deemed to be sufficient if contained in a written instrument delivered in person or sent by facsimile or other electronic transmission (provided a copy is thereafter promptly delivered as provided in this Section 4.1) or nationally recognized overnight courier, addressed to such party at the address or facsimile number set forth below or such other address, email address or facsimile number as may hereafter be designated in writing by such party to the other parties:

(a) if to the Company, to:

Fortress Transportation and Infrastructure Investors LLC
1345 Avenue of the Americas New York, NY 10105
(T) [ ]
(F) [ ]
Attention: General Counsel

with a copy to:

Skadden, Arps, Slate, Meagher & Flom LLP
Four Times Square
New York, New York 10036
(T) (212) 735-3000
(F) (212) 735-2000
Attention: Joseph A. Coco, Esq.

(b) if to any of the Shareholders, to:

the address and facsimile number set forth in the records of the Company

Any requirement to provide notice to Shareholders under this Agreement shall exclude any Shareholders that have not executed a joinder to this Agreement.

SECTION 4.2 HEADINGS. The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

SECTION 4.3 SEVERABILITY. The provisions of this Agreement shall be deemed severable and the invalidity or unenforceability of any provision shall not affect the validity or enforceability of the other provisions hereof. If any provision of this Agreement, or the application thereof to any person or entity or any circumstance, is found to be invalid or unenforceable in any jurisdiction, (a) a suitable and equitable provision shall be substituted therefor in order to carry out, so far as may be valid and enforceable, the intent and purpose of such invalid or unenforceable provision and (b) the remainder of this Agreement and the application

of such provision to other Persons or circumstances shall not be affected by such invalidity or unenforceability, nor shall such invalidity or unenforceability affect the validity or enforceability of such provision, or the application thereof, in any other jurisdiction.

SECTION 4.4 COUNTERPARTS. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall, taken together, be considered one and the same agreement, it being understood that all parties need not sign the same counterpart.

SECTION 4.5 ADJUSTMENTS UPON CHANGE OF CAPITALIZATION. In the event of any change in the outstanding Common Shares by reason of dividends, splits, reverse splits, spin-offs, split-ups, recapitalizations, combinations, exchanges of shares and the like, the term "Common Shares" shall refer to and include the securities received or resulting therefrom, but only to the extent such securities are received in exchange for or in respect of Common Shares.

SECTION 4.6 ENTIRE AGREEMENT. This Agreement (a) constitutes the entire agreement and supersedes all other prior agreements, both written and oral, among the parties with respect to the subject matter hereof.

SECTION 4.7 FURTHER ASSURANCES. Each party shall execute, deliver, acknowledge and file such other documents and take such further actions as may be reasonably requested from time to time by the other party hereto to give effect to and carry out the transactions contemplated herein.

SECTION 4.8 GOVERNING LAW; EQUITABLE REMEDIES. **THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF DELAWARE (WITHOUT GIVING EFFECT TO CONFLICT OF LAWS PRINCIPLES THEREOF)**. The parties hereto agree that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed in accordance with its specific terms or was otherwise breached. It is accordingly agreed that the parties hereto shall be entitled to an injunction or injunctions and other equitable remedies to prevent breaches of this Agreement and to enforce specifically the terms and provisions hereof in any of the Selected Courts (as defined below), this being in addition to any other remedy to which they are entitled at law or in equity. Any requirements for the securing or posting of any bond with respect to such remedy are hereby waived by each of the parties hereto. Each party further agrees that, in the event of any action for an injunction or other equitable remedy in respect of such breach or enforcement of specific performance, it will not assert the defense that a remedy at law would be adequate.

SECTION 4.9 CONSENT TO JURISDICTION. With respect to any suit, action or proceeding ("Proceeding") arising out of or relating to this Agreement or any transaction contemplated hereby each of the parties hereto hereby irrevocably (i) submits to the exclusive jurisdiction of the United States District Court for the Southern District of New York or the Court of Chancery located in the State of Delaware, County of Newcastle (the "Selected Courts") and waives any objection to venue being laid in the Selected Courts whether based on the grounds of forum non conveniens or otherwise and hereby agrees not to commence any such Proceeding other than before one of the Selected Courts; provided, however, that a party may commence any Proceeding in a court other than a Selected Court solely for the purpose of enforcing an order or judgment issued by one of the Selected Courts; (ii) consents to service of process in any Proceeding by the mailing of copies thereof by registered or certified mail, postage prepaid, or by recognized international express carrier or delivery service, to the Company or the Initial Shareholders at their respective addresses referred to in Section 4.1 hereof; provided, however, that nothing herein shall affect the right of any party hereto to serve process in any other manner permitted by law; and (iii) **TO THE EXTENT NOT PROHIBITED BY APPLICABLE LAW THAT CANNOT BE WAIVED, WAIVES, AND COVENANTS THAT IT WILL NOT ASSERT (WHETHER AS PLAINTIFF, DEFENDANT OR OTHERWISE) ANY RIGHT TO TRIAL BY JURY IN ANY ACTION ARISING IN WHOLE OR IN PART UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ANY OF THE CONTEMPLATED TRANSACTIONS, WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE, AND AGREES THAT ANY OF THEM MAY FILE A COPY OF THIS PARAGRAPH WITH ANY COURT AS WRITTEN EVIDENCE OF THE KNOWING, VOLUNTARY AND BARGAINED-FOR AGREEMENT AMONG THE PARTIES IRREVOCABLY TO WAIVE ITS RIGHT TO TRIAL BY JURY IN ANY PROCEEDING WHATSOEVER BETWEEN THEM RELATING TO THIS AGREEMENT OR ANY OF THE CONTEMPLATED TRANSACTIONS WILL INSTEAD BE TRIED IN A COURT OF COMPETENT JURISDICTION BY A JUDGE SITTING WITHOUT A JURY**.

SECTION 4.10 AMENDMENTS; WAIVERS.

(a) No provision of this Agreement may be amended or waived unless such amendment or waiver is in writing and signed, in the case of an amendment, by the parties hereto, or in the case of a waiver, by the party against whom the waiver is to be effective.

(b) No failure or delay by any party in exercising any right, power or privilege hereunder shall operate as waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by law.

SECTION 4.11 ASSIGNMENT. Neither this Agreement nor any of the rights or obligations hereunder shall be assigned or transferred by any of the parties hereto without the prior written consent of the other parties hereto, except that each of the Initial Shareholders may assign or transfer without such consent to its Permitted Transferees (provided, that any such Permitted Transferee is a Shareholder hereunder or, in connection with any such assignment or transfer, such Permitted Transferee executes a joinder to this Agreement, in form and substance reasonably acceptable to the Company, pursuant to which such Permitted Transferee agrees to be a "Shareholder" for all purposes of this Agreement) or to any other Shareholder (including any Affiliate Shareholder). Subject to the preceding sentence, this Agreement will be binding upon, inure to the benefit of and be enforceable by the parties and their respective executors, estates, heirs, successors and assigns. For the avoidance of doubt, the Affiliate Shareholders shall be deemed to be Shareholders without any further action.

SECTION 4.12 THIRD PARTY BENEFICIARY. Each of the Affiliate Shareholders shall be a third party beneficiary to the agreements made hereunder between the Company and the Initial Shareholders and shall have the right to enforce such agreements directly to the extent it deems such enforcement necessary or advisable to protect its rights hereunder.

(*Remainder of page intentionally left blank*)

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed and delivered, all as of the date first set forth above.

COMPANY:

FORTRESS TRANSPORTATION AND INFRASTRUCTURE INVESTORS LLC

By: _____
Name:
Title:

INITIAL SHAREHOLDERS:

FIG LLC

By: _____
Name:
Title:

FORTRESS TRANSPORTATION AND INFRASTRUCTURE MASTER GP LLC

By: _____
Name:
Title:

Exhibit 10.5

INDEMNIFICATION AGREEMENT

AGREEMENT, dated as of [ ], 2015 (this "Agreement"), between Fortress Transportation and Infrastructure Investors LLC, a Delaware limited liability company (the "Company"), and [ ] ("Indemnitee").

WHEREAS, it is essential to the Company to retain and attract as directors and officers the most capable persons available;

WHEREAS, Indemnitee is a director and/or officer of the Company;

WHEREAS, both the Company and Indemnitee recognize the increased risk of litigation and other claims being asserted against directors and officers of public companies in today's environment;

WHEREAS, the Company's Limited Liability Company Agreement, as amended from time to time ("Operating Agreement") requires the Company to indemnify and advance expenses to its directors and officers to the fullest extent permitted by law and the Indemnitee has been serving and continues to serve as a director and/or officer of the Company in part in reliance on such Operating Agreement;

WHEREAS, uncertainties as to the availability of indemnification created by recent court decisions may increase the risk that the Company will be unable to retain and attract as directors and officers the most capable persons available;

WHEREAS, the board of directors of the Company ("Board of Directors") has determined that the inability of the Company to retain and attract as directors and officers the most capable persons would be detrimental to the interests of the Company and that the Company therefore should seek to assure such persons that indemnification and insurance coverage will be available in the future;

WHEREAS, the parties intend that any rights the Indemnitee may have from Indemnitee-Related Entities (as defined herein) shall be secondary to the primary obligation of the Company to indemnify and hold harmless the Indemnitee under this Agreement; and

WHEREAS, in recognition of Indemnitee's need for protection against personal liability, and in part to provide Indemnitee with specific contractual assurance that the protection promised by the Operating Agreement will be available to Indemnitee (regardless of, among other things, any amendment to or revocation of such Operating Agreement or any change in the composition of the Company's Board of Directors or acquisition transaction relating to the Company), the Company wishes to provide in this Agreement for the indemnification of and the advancing of expenses to Indemnitee to the fullest extent (whether partial or complete) permitted by law and as set forth in this Agreement, and for the continued coverage of Indemnitee under the directors' and officers' liability insurance policy of the Company.

NOW, THEREFORE, in consideration of the premises and of Indemnitee continuing to serve the Company directly or, at its request, another enterprise, and intending to be legally bound hereby, the parties hereto agree as follows:

1. Certain Definitions. In addition to terms defined elsewhere herein, the following terms have the following meanings when used in this Agreement:

(a) Change in Control: shall be deemed to have occurred if (i) any "person" (as such term is used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934, as amended), other than Fortress Investment Group LLC, the Manager (as defined herein) and/or their respective affiliates and other than a trustee or other fiduciary holding securities under an employee benefit plan of the Company or a corporation owned directly or indirectly by the shareholders of the Company in substantially the same proportions as their ownership of shares of the Company, is or becomes the "beneficial owner" (as defined in Rule 13d-3 under said Act), directly or indirectly, of securities of the Company representing 20% or more of the total voting power represented by the Company's then outstanding Voting Securities, or (ii) during any period of two consecutive years, individuals who at the beginning of such period constitute the Board of Directors and any new director whose election by the Board of Directors or nomination for election by the Company's shareholders was approved by a vote of at least two-thirds (2/3) of the directors then still in office who either were directors at the beginning of the period or whose election or nomination for election was previously so approved, cease for any reason to constitute a majority thereof, or (iii) the shareholders of the Company approve a merger or consolidation of the Company with any other entity other than a merger or consolidation which would result in the Voting Securities of the Company outstanding immediately prior thereto continuing to represent (either by remaining outstanding or by being converted into Voting Securities of the surviving entity) at least 80% of the total voting power represented by the Voting Securities of the Company or such surviving entity outstanding immediately after such merger or consolidation, or the shareholders of the Company approve a plan of complete liquidation of the Company or an agreement for the sale or disposition by the Company of (in one transaction or a series of transactions) all or substantially all of the Company's assets.

(b) Claim: means any threatened, asserted, pending or completed action, suit or proceeding, whether civil, criminal, administrative, investigative or other, including any arbitration or other alternative dispute resolution mechanism, or any appeal of any kind thereof, or any inquiry or investigation, whether instituted by (or in the right of) the Company or any governmental agency or any other person or entity, in which Indemnitee was, is, may be or will be involved as a party, witness or otherwise.

(c) ERISA: means the Employee Retirement Income Security Act of 1974, as amended.

(d) Expenses: include attorneys' fees and all other direct or indirect costs, expenses and obligations, including judgments, fines, penalties, interest, appeal bonds, amounts paid in settlement with the approval of the Company, and counsel fees and disbursements (including, without limitation, experts' fees, court costs, retainers, appeal bond premiums, transcript fees, duplicating, printing and binding costs, as well as telecommunications, postage and courier charges) paid or incurred in connection with investigating, prosecuting, defending, being a witness in or participating in (including on appeal), or preparing to investigate, prosecute, defend, be a witness in or participate in, any Claim relating to any Indemnifiable Event, and shall include (without limitation) all attorneys' fees and all other expenses incurred by or on behalf of an Indemnitee in connection with preparing and submitting any requests or statements for indemnification, advancement or any other right provided by this Agreement (including, without limitation, such fees or expenses incurred in connection with legal proceedings contemplated by Section 2(d) hereof).

(e) Indemnifiable Amounts: means (i) any and all liabilities, Expenses, damages, judgments, fines, penalties, ERISA excise taxes and amounts paid in settlement (including all interest, assessments and other charges paid or payable in connection with or in respect of such liabilities, Expenses, damages, judgments, fines, penalties, ERISA excise taxes or amounts paid in settlement) arising out of or resulting from any Claim relating to an Indemnifiable Event, (ii) any liability pursuant to a loan guaranty or otherwise, for any indebtedness of the Company or any subsidiary of the Company, including, without limitation, any indebtedness which the Company or any subsidiary of the Company has assumed or taken subject to, and (iii) any liabilities which an Indemnitee incurs as a result of acting on behalf of the Company (whether as a fiduciary or otherwise) in connection with the operation, administration or maintenance of an employee benefit plan or any related trust or funding mechanism (whether such liabilities are in the form of excise taxes assessed by the United States Internal Revenue Service, penalties assessed by the Department of Labor, restitutions to such a plan or trust or other funding mechanism or to a participant or beneficiary of such plan, trust or other funding mechanism, or otherwise).

(f) Indemnifiable Event: means any event or occurrence, whether occurring before, on or after the date of this Agreement, related to the fact that Indemnitee is or was a director and/or officer or fiduciary of the Company, or is or was serving at the request of the Company as a director, officer, employee, manager, member, partner, tax matter partner, trustee, agent, fiduciary or similar capacity, of another company, corporation, limited liability company, partnership, joint venture, employee benefit plan, trust or other entity or enterprise, or by reason of anything done or not done by Indemnitee in any such capacity (in all cases whether or not Indemnitee is acting or serving in any such capacity or has such status at the time any Indemnifiable Amount is incurred for which indemnification, advancement or any other right can be provided by this Agreement). The term "Company," where the context requires when used in this Agreement, may be construed to include such other company, corporation, limited liability company, partnership, joint venture, employee benefit plan, trust or other entity or enterprise.

(g) Indemnitee-Related Entities: means any company, corporation, limited liability company, partnership, joint venture, trust, employee benefit plan or other entity or enterprise (other than the Company or any other company, corporation, limited liability company, partnership, joint venture, trust, employee benefit plan or other entity or enterprise Indemnitee has agreed, on behalf of the Company or at the Company's request, to serve as a director, officer, employee or agent and which service is covered by the indemnity described in this Agreement) from whom an Indemnitee may be entitled to indemnification or advancement of Expenses with respect to which, in whole or in part, the Company may also have an indemnification or advancement obligation.

(h) Independent Legal Counsel: means an attorney or firm of attorneys (following a Change in Control, selected in accordance with the provisions of Section 3 hereof) who is experienced in matters of corporate law and who shall not have otherwise performed services for the Company or Indemnitee within the last five years (other than with respect to matters concerning the rights of Indemnitee under this Agreement, or of other indemnitees under similar indemnity agreements).

(i) Jointly Indemnifiable Claim: means any Claim for which the Indemnitee may be entitled to indemnification from both an Indemnitee-Related Entity and the Company pursuant to applicable law, any indemnification agreement or the certificate of incorporation, by-laws, partnership agreement, operating agreement, certificate of formation, certificate of limited partnership or comparable organizational documents of the Company and an Indemnitee-Related Entity.

(j) Manager: means FIG LLC, together with its permitted assignees, under the Management and Advisory Agreement, dated as of [ ], 2015, between the Company and FIG LLC, as amended, supplemented or restated from time to time.

(k) Reviewing Party: means any appropriate person or body consisting of a member or members of the Board of Directors or any other person or body appointed by the Board of Directors who is not a party to the particular Claim for which Indemnitee is seeking indemnification, or Independent Legal Counsel.

(l) Voting Securities: means any securities of the Company which vote generally in the election of directors.

2. Basic Indemnification Arrangement; Advancement of Expenses.

(a) In the event Indemnitee was, is or becomes a party to or witness or other participant in, or is threatened to be made a party to or witness or other participant in, a Claim by reason of (or arising in part out of) an Indemnifiable Event, the Company shall indemnify Indemnitee, or cause Indemnitee to be indemnified, to the fullest extent permitted by law as soon as practicable but in any event no later than thirty (30) days after written demand is presented to the Company, and hold Indemnitee harmless against any and all Indemnifiable Amounts.

(b) If so requested by Indemnitee, the Company shall advance, or cause to be advanced (within two business days of such request), any and all Expenses incurred by Indemnitee (an "Expense Advance"). The Company shall, in accordance with such request (but without duplication), either (i) pay, or cause to be paid, such Expenses

on behalf of Indemnitee, or (ii) reimburse, or cause the reimbursement of, Indemnitee for such Expenses. Subject to Section 2(d), Indemnitee's right to an Expense Advance is absolute and shall not be subject to any prior determination by the Reviewing Party that the Indemnitee has satisfied any applicable standard of conduct for indemnification.

(c) Notwithstanding anything in this Agreement to the contrary, Indemnitee shall not be entitled to indemnification or advancement of Expenses pursuant to this Agreement in connection with any Claim initiated by Indemnitee unless (i) the Company has joined in or the Board of Directors has authorized or consented to the initiation of such Claim or (ii) the Claim is one to enforce Indemnitee's rights under this Agreement.

(d) Notwithstanding the foregoing, (i) the indemnification obligations of the Company under Section 2(a) shall be subject to the condition that the Reviewing Party shall not have determined (in a written legal opinion, in any case in which the Independent Legal Counsel is involved as required by Section 3 hereof) that Indemnitee would not be permitted to be indemnified under applicable law, and (ii) the obligation of the Company to make an Expense Advance pursuant to Section 2(b) shall be subject to the condition that, if, when and to the extent that the Reviewing Party determines (in a written legal opinion, in any case in which the Independent Legal Counsel is involved as required by Section 3 hereof) that Indemnitee would not be permitted to be so indemnified under applicable law, the Company shall be entitled to be reimbursed by Indemnitee (who hereby agrees to reimburse the Company) for all such amounts theretofore paid (it being understood and agreed that the foregoing agreement by Indemnitee shall be deemed to satisfy any requirement that Indemnitee provide the Company with an undertaking to repay any Expense Advance if it is ultimately determined that the Indemnitee is not entitled to indemnification under applicable law); provided, however, that if Indemnitee has commenced or thereafter commences legal proceedings in a court of competent jurisdiction to secure a determination that Indemnitee should be indemnified under applicable law, any determination made by the Reviewing Party that Indemnitee would not be permitted to be indemnified under applicable law shall not be binding and Indemnitee shall not be required to reimburse the Company for any Expense Advance until a final judicial determination is made with respect thereto (as to which all rights of appeal therefrom have been exhausted or lapsed). Indemnitee's undertaking to repay such Expense Advances shall be unsecured and interest-free. If there has not been a Change in Control, the Reviewing Party shall be selected by the Board of Directors, and if there has been such a Change in Control, the Reviewing Party shall be the Independent Legal Counsel referred to in Section 3 hereof. If there has been no determination by the Reviewing Party within thirty (30) days after written demand is presented to the Company or if the Reviewing Party determines that Indemnitee would not be permitted to be indemnified in whole or in part under applicable law, Indemnitee shall have the right to commence litigation in any court in the State of New York or the State of Delaware having subject matter jurisdiction thereof and in which venue is proper seeking an initial determination by the court or challenging any such determination by the Reviewing

Party or any aspect thereof, including the legal or factual bases therefor, and the Company hereby consents to service of process and to appear in any such proceeding. Any determination by the Reviewing Party otherwise shall be conclusive and binding on the Company and Indemnitee.

3. Change in Control. The Company agrees that if there is a Change in Control then with respect to all matters thereafter arising concerning the rights of Indemnitee to indemnity payments and Expense Advances under this Agreement or any provision of the Operating Agreement now or hereafter in effect, the Company shall seek legal advice only from Independent Legal Counsel selected by Indemnitee and approved by the Company (which approval shall not be unreasonably delayed, conditioned or withheld). Such counsel, among other things, shall render its written opinion to the Company and Indemnitee as to whether and to what extent the Indemnitee would be permitted to be indemnified under applicable law. The Company agrees to pay the reasonable fees of the Independent Legal Counsel and to indemnify fully such counsel against any and all expenses (including attorneys' fees), claims, liabilities and damages arising out of or relating to this Agreement or its engagement pursuant hereto.

4. Indemnification for Additional Expenses. The Company shall indemnify, or cause the indemnification of, Indemnitee against any and all Expenses and, if requested by Indemnitee, shall advance such Expenses to Indemnitee subject to and in accordance with Section 2(b), which are incurred by Indemnitee in connection with any action brought by Indemnitee for (i) indemnification or an Expense Advance by the Company under this Agreement or any provision of the Operating Agreement now or hereafter in effect and/or (ii) recovery under any directors' and officers' liability insurance policies maintained by the Company, regardless of whether Indemnitee ultimately is determined to be entitled to such indemnification, Expense Advance or insurance recovery, as the case may be; provided that Indemnitee shall be required to reimburse such Expenses in the event that a final judicial determination is made (as to which all rights of appeal therefrom have been exhausted or lapsed) that such action brought by Indemnitee, or the defense by Indemnitee of an action brought by the Company or any other person, as applicable, was frivolous or in bad faith.

5. Partial Indemnity, Etc. If Indemnitee is entitled under any provision of this Agreement to indemnification by the Company for some or a portion of the Expenses or other Indemnifiable Amounts in respect of a Claim but not, however, for all of the total amount thereof, the Company shall nevertheless indemnify Indemnitee for the portion thereof to which Indemnitee is entitled. Moreover, notwithstanding any other provision of this Agreement, to the extent that Indemnitee has been successful on the merits or otherwise in defense of any or all Claims relating in whole or in part to an Indemnifiable Event or in defense of any issue or matter therein, including dismissal without prejudice, Indemnitee shall be indemnified against all Expenses incurred in connection therewith.

6. Burden of Proof, Etc. In connection with any determination by the Reviewing Party or otherwise as to whether Indemnitee is entitled to be indemnified hereunder the Reviewing Party, court, any finder of fact or other relevant person shall presume that the Indemnitee has satisfied the applicable standard of conduct and is entitled to indemnification, and the burden of proof shall be on the Company (or any other person or entity disputing such conclusions) to establish, by clear and convincing evidence, that Indemnitee is not so entitled.

7. Reliance as Safe Harbor. For purposes of this Agreement, Indemnitee shall be deemed to have acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the Company if Indemnitee's actions or omissions to act are taken in good faith reliance upon the records of the Company, including its financial statements, or upon information, opinions, reports or statements furnished to Indemnitee by the officers or employees of the Company in the course of their duties, or by committees of the Board of Directors, or by any other person (including legal counsel, accountants and financial advisors) as to matters Indemnitee reasonably believes are within such other person's professional or expert competence and who has been selected with reasonable care by or on behalf of the Company. In addition, the knowledge and/or actions, or failures to act, of any director, officer, agent or employee of the Company shall not be imputed to Indemnitee for purposes of determining the right to indemnity hereunder.

8. No Other Presumptions. For purposes of this Agreement, the termination of any Claim by judgment, order, settlement (whether with or without court approval) or conviction, or upon a plea of nolo contendere, or its equivalent, shall not create a presumption that Indemnitee did not meet any particular standard of conduct or have any particular belief or that a court has determined that indemnification is not permitted by applicable law. In addition, neither the failure of the Reviewing Party to have made a determination as to whether Indemnitee has met any particular standard of conduct or had any particular belief, nor an actual determination by the Reviewing Party that Indemnitee has not met such standard of conduct or did not have such belief, prior to the commencement of legal proceedings by Indemnitee to secure a judicial determination that Indemnitee should be indemnified under applicable law shall be a defense to Indemnitee's claim or create a presumption that Indemnitee has not met any particular standard of conduct or did not have any particular belief.

9. Nonexclusivity, Etc. The rights of the Indemnitee hereunder shall be in addition to any other rights Indemnitee may have under the Operating Agreement, the Delaware Limited Liability Company Act, the Delaware General Corporation Law or otherwise. To the extent that a change in applicable law (whether by statute or judicial decision) permits greater indemnification by agreement than would be afforded currently under the Operating Agreement or this Agreement, it is the intent of the parties hereto that Indemnitee shall enjoy by this Agreement the greater benefits so afforded by such change. To the extent that there is a conflict or inconsistency between the terms of this Agreement and the Operating Agreement, it is the intent of the parties hereto that the Indemnitee shall enjoy the greater benefits regardless of whether contained herein or in the Operating Agreement. No amendment or alteration of the Operating Agreement or any other agreement shall adversely affect the rights provided to Indemnitee under this Agreement.

10. Liability Insurance. To the extent the Company maintains an insurance policy or policies providing directors' and officers' liability insurance, the Indemnitee shall be covered by such policy or policies in accordance with its or their terms to the maximum extent of the coverage available for the Company's directors and officers. If the Company has such insurance in effect at the time the Company receives from Indemnitee any notice of the commencement of an action, suit or proceeding, the Company shall give prompt notice of the commencement of

such action, suit or proceeding to the insurers in accordance with the procedures set forth in the policy. The Company shall thereafter take all necessary or desirable action to cause such insurers to pay, on behalf of Indemnitee, all amounts payable as a result of such proceeding in accordance with the terms of such policy.

11. Period of Limitations. No legal action shall be brought and no cause of action shall be asserted by or in the right of the Company against Indemnitee, Indemnitee's spouse, heirs, executors or personal or legal representatives after the expiration of two years from the date of accrual of such cause of action, and any claim or cause of action of the Company shall be extinguished and deemed released unless asserted by the timely filing of a legal action within such two-year period; provided, however, that if any shorter period of limitations is otherwise applicable to any such cause of action such shorter period shall govern.

12. Amendments, Etc. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing by both of the parties hereto. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provisions hereof (whether or not similar) nor shall such waiver constitute a continuing waiver.

13. Subrogation. Subject to Section 14 hereof, in the event of payment under this Agreement, the Company shall be subrogated to the extent of such payment to all of the rights of recovery of Indemnitee, who shall execute all papers reasonably required and shall do everything that may be reasonably necessary to secure such rights, including the execution of such documents necessary to enable the Company effectively to bring suit to enforce such rights. The Company shall pay or reimburse all Expenses actually and reasonably incurred by Indemnitee in connection with such subrogation.

14. Jointly Indemnifiable Claims. Given that certain Jointly Indemnifiable Claims may arise due to the relationship between the Indemnitee-Related Entities and the Company and the service of the Indemnitee as a director and/or officer of the Company at the request of the Indemnitee-Related Entities, the Company acknowledges and agrees that the Company shall be fully and primarily responsible for the payment to the Indemnitee in respect of indemnification and advancement of expenses in connection with any such Jointly Indemnifiable Claim, pursuant to and in accordance with the terms of this Agreement, irrespective of any right of recovery the Indemnitee may have from the Indemnitee-Related Entities. Under no circumstance shall the Company be entitled to any right of subrogation or contribution by the Indemnitee-Related Entities and no right of recovery the Indemnitee may have from the Indemnitee-Related Entities shall reduce or otherwise alter the rights of the Indemnitee or the obligations of the Company hereunder. In the event that any of the Indemnitee-Related Entities shall make any payment to the Indemnitee in respect of indemnification or advancement of Expenses with respect to any Jointly Indemnifiable Claim, the Company agrees that such payment or advancement shall not extinguish or affect in any way the rights of the Indemnitee under this Agreement and further agrees that the Indemnitee-Related Entity making such payment shall be subrogated to the extent of such payment to all of the rights of recovery of the Indemnitee against the Company. Each of the Indemnitee-Related Entities shall be third-party beneficiaries with respect to this Section 14, entitled to enforce this Section 14 against the Company as though each such Indemnitee-Related Entity were a party to this Agreement.

15. No Duplication of Payments. Subject to Section 14 hereof, the Company shall not be liable under this Agreement to make any payment in connection with any Claim made against Indemnitee to the extent Indemnitee has otherwise actually received payment (under any insurance policy, or any provision of the Operating Agreement or otherwise) of the amounts otherwise indemnifiable hereunder.

16. Defense of Claims. The Company shall be entitled to participate in the defense of any Claim relating to an Indemnifiable Event or to assume the defense thereof, with counsel reasonably satisfactory to the Indemnitee; provided that if Indemnitee believes, after consultation with counsel selected by Indemnitee, that (i) the use of counsel chosen by the Company to represent Indemnitee would present such counsel with an actual or potential conflict of interest, (ii) the named parties in any such Claim (including any impleaded parties) include both the Company, or any subsidiary of the Company, and Indemnitee and Indemnitee concludes that there may be one or more legal defenses available to him or her that are different from or in addition to those available to the Company or any subsidiary of the Company, or (iii) any such representation by such counsel would be precluded under the applicable standards of professional conduct then prevailing, then Indemnitee shall be entitled to retain separate counsel (but not more than one law firm plus, if applicable, local counsel in respect of any particular Claim) at the Company's expense. The Company shall not be liable to Indemnitee under this Agreement for any amounts paid in settlement of any Claim relating to an Indemnifiable Event effected without the Company's prior written consent. The Company shall not, without the prior written consent of the Indemnitee, effect any settlement of any Claim relating to an Indemnifiable Event which the Indemnitee is or could have been a party unless such settlement solely involves the payment of money and includes a complete and unconditional release of Indemnitee from all liability on all claims that are the subject matter of such Claim. Neither the Company nor Indemnitee shall unreasonably withhold, condition or delay its or his or her consent to any proposed settlement; provided that Indemnitee may withhold consent to any settlement that does not provide a complete and unconditional release of Indemnitee. In no event shall Indemnitee be required to waive, prejudice or limit attorney-client privilege or work-product protection or other applicable privilege or protection.

17. No Adverse Settlement. The Company shall not seek, nor shall it agree to, consent to, support, or agree not to contest any settlement or other resolution of any Claim(s), or settlement or other resolution of any other claim, action, proceeding, demand, investigation or other matter that has the actual or purported effect of extinguishing, limiting or impairing Indemnitee's rights hereunder, including without limitation the entry of any bar order or other order, decree or stipulation, pursuant to 15 U.S.C. § 78u-4 (the Private Securities Litigation Reform Act), or any similar foreign, federal or state statute, regulation, rule or law.

18. Binding Effect, Etc. This Agreement shall be binding upon and inure to the benefit of and be enforceable by the parties hereto and their respective successors, (including any direct or indirect successor or continuing company by purchase, merger, consolidation or otherwise to all or substantially all of the business and/or assets of the Company), assigns, spouses, heirs, executors and personal and legal representatives. The Company shall require and cause any successor (whether direct or indirect by purchase, merger, consolidation, or otherwise)

to all or substantially all of the business and/or assets of the Company, by written agreement in form and substance satisfactory to Indemnitee and his or her counsel, expressly to assume and agree to perform this Agreement in the same manner and to the same extent that the Company would be required to perform if no such succession had taken place. This Agreement shall continue in effect regardless of whether Indemnitee continues to serve as an officer and/or director of the Company or of any other entity or enterprise at the Company's request.

19. Security. To the extent requested by Indemnitee and approved by the Board of Directors, the Company may at any time and from time to time provide security to Indemnitee for the obligations of the Company hereunder through an irrevocable bank line of credit, funded trust or other collateral or by other means. Any such security, once provided to Indemnitee, may not be revoked or released without the prior written consent of such Indemnitee.

20. Severability. If any provision or provisions of this Agreement shall be held to be invalid, illegal or unenforceable for any reason whatsoever, (a) the validity, legality and enforceability of the remaining provisions of this Agreement (including, without limitation, all portions of any paragraph of this Agreement containing any such provision held to be invalid, illegal or unenforceable, that are not themselves invalid, illegal or unenforceable) shall not in any way be affected or impaired thereby and (b) to the fullest extent possible, the provisions of this Agreement (including, without limitation, all portions of any paragraph of this Agreement containing any such provision held to be invalid, illegal or unenforceable) shall be construed so as to give effect to the intent manifested by the provision held invalid, illegal or unenforceable and to give effect to the terms of this Agreement.

21. Specific Performance, Etc. The parties recognize that if any provision of this Agreement is violated by the Company, Indemnitee may be without an adequate remedy at law. Accordingly, in the event of any such violation, Indemnitee shall be entitled, if Indemnitee so elects, to institute proceedings, either in law or at equity, to obtain damages, to enforce specific performance, to enjoin such violation, or to obtain any relief or any combination of the foregoing as Indemnitee may elect to pursue.

22. Notices. All notices, requests, consents and other communications hereunder to any party shall be deemed to be sufficient if contained in a written document delivered in person or sent by facsimile, nationally recognized overnight courier or personal delivery, addressed to such party at the address set forth below or such other address as may hereafter be designated on the signature pages of this Agreement or in writing by such party to the other parties:

(a) If to the Company, to:

Fortress Transportation and Infrastructure Investors LLC
c/o FIG LLC
1345 Avenue of the Americas
New York, New York 10105
Attention: Mr. Cameron MacDougall (Secretary)
Fax: (212)-798-6075

with a copy (which shall not constitute notice) to:

Skadden, Arps, Slate, Meagher & Flom LLP
Four Times Square
New York, New York 10036-6522
Fax: (212) 735-2000
Attn: Michael J. Zeidel, Esq.
Joseph A. Coco, Esq.

(b) If to the Indemnitee, to the address set forth on Annex A hereto.

All such notices, requests, consents and other communications shall be deemed to have been given or made if and when received (including by overnight courier) by the parties at the above addresses or sent by electronic transmission, with confirmation received, to the facsimile numbers specified above (or at such other address or facsimile number for a party as shall be specified by like notice). Any notice delivered by any party hereto to any other party hereto shall also be delivered to each other party hereto simultaneously with delivery to the first party receiving such notice.

23. Counterparts. This Agreement may be executed in counterparts, each of which shall for all purposes be deemed to be an original but all of which together shall constitute one and the same agreement. Only one such counterpart signed by the party against whom enforceability is sought needs to be produced to evidence the existence of this Agreement.

24. Headings. The headings of the sections and paragraphs of this Agreement are inserted for convenience only and shall not be deemed to constitute part of this Agreement or to affect the construction or interpretation thereof.

25. Governing Law. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Delaware applicable to contracts made and to be performed in such state without giving effect to the principles of conflicts of laws.

[*Remainder of page left intentionally blank*]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

FORTRESS TRANSPORTATION AND
INFRASTRUCTURE INVESTORS LLC

By: _____
Name:
Title:

_____
[INDEMNITEE NAME]
Address:

Exhibit 10.6

Execution Version

CREDIT AGREEMENT

among

JEFFERSON GULF COAST ENERGY HOLDINGS LLC,
as Holdings,

JEFFERSON GULF COAST ENERGY PARTNERS LLC,
as the Borrower,

The Several Lenders
from Time to Time Parties Hereto

and

MORGAN STANLEY SENIOR FUNDING, INC.,
as Administrative Agent,

Dated as of August 27, 2014

MORGAN STANLEY SENIOR FUNDING, INC.,
as Lead Arranger and Lead Bookrunner

TABLE OF CONTENTS

SCHEDULES:

EXHIBITS:

CREDIT AGREEMENT, dated as of August 27, 2014 among JEFFERSON GULF COAST ENERGY HOLDINGS LLC, a Delaware limited liability company ("Holdings"), JEFFERSON GULF COAST ENERGY PARTNERS LLC, a Delaware limited liability company (the "Borrower"), the several banks and other financial institutions or entities from time to time parties to this Agreement (the "Lenders") and MORGAN STANLEY SENIOR FUNDING, INC. ("Morgan Stanley"), as administrative agent (in such capacity, together with any successor appointed in accordance with Section 8.6, the "Administrative Agent").

W I T N E S S E T H:

WHEREAS, capitalized terms used in these recitals shall have the respective meanings set forth for such terms in Section 1.1 hereof;

WHEREAS, the Lenders have agreed to extend a term loan credit facility to the Borrower in an aggregate principal amount of $100,000,000 of Initial Term Loans (the "Term Loan Facility"); and

WHEREAS, the Borrower has requested that Lenders lend Initial Term Loans to the Borrower, the proceeds of which, together with the Equity Contribution, will be used to (a) acquire certain assets and assume certain liabilities of (i) Jefferson Refinery, L.L.C. and (ii) certain of its subsidiaries (the "Jefferson Acquisition"), (b) repay, redeem or otherwise acquire all or a portion of the existing indebtedness of Jefferson Refinery, L.L.C. and certain of its subsidiaries (the "Jefferson Refinancing"), (c) pay fees and expenses incurred in connection with the Jefferson Acquisition, the Jefferson Refinancing and the Facility, (d) establish and fund the Debt Service Reserve Account (as defined below) in accordance with the Depositary Agreement (as defined below), and (e) fund general corporate purposes, including future construction projects (clauses (a) through (e) above, together with the Railcar Contribution (as defined below) and all related transactions, the "Transactions").

NOW, THEREFORE, in consideration of the premises and mutual agreements contained herein, the parties hereto agree as follows:

Section 1. DEFINITIONS

1.1 Defined Terms. As used in this Agreement, the terms listed in this Section 1.1 shall have the respective meanings set forth in this Section 1.1.

"Acquisition": as to any Person, the acquisition by such Person of (a) Capital Stock of any other Person if, after giving effect to the acquisition of such Capital Stock, such other Person would be a Subsidiary (including an Unrestricted Subsidiary), and (b) any other Property of any other Person.

"Acquisition Consideration": the aggregate consideration paid by any Jefferson Group Member in exchange for, as part of or in connection with any Permitted Acquisition, whether paid in cash or by exchange of Equity Interests or of properties or otherwise, in each case, other than consideration in the form of Capital Stock (other than Disqualified Capital Stock) of Holdings or any other direct or indirect parent of Holdings, or the proceeds that are received from any issuance of such Capital Stock (other than Disqualified Capital Stock) and contributed to Holdings, to the extent Not Otherwise Applied.

"Adjusted Eurodollar Rate": for any Interest Rate Determination Date with respect to an Interest Period for a Eurodollar Rate Loan, the rate per annum obtained by dividing (i) (a) the rate per annum equal to the rate determined by the Administrative Agent to be the London interbank offered rate administered by the Intercontinental Exchange Benchmark Administration Ltd. (or any other person which takes over the administration of that rate) for deposits (for delivery on the first day of such period) with a term equivalent to such period in Dollars displayed on page LIBOR01 of the Reuters Screen (or any replacement Reuters page which displays that rate) or on the appropriate page of such other information service which publishes that rate from time to time in place of Reuters, determined as of approximately 11:00 a.m. (London, England time) on such Interest Rate Determination Date, or (b) in the event the rate referenced in the preceding clause (a) is not available, the rate per annum equal to the offered quotation rate to first class banks in the London interbank market by JPMorgan Chase Bank, N.A. for deposits (for delivery on the first day of the relevant period) in Dollars of amounts in same day funds comparable to the principal amount of the applicable Term Loan of the Administrative Agent, in its capacity as a Lender, for which the Adjusted Eurodollar Rate is then being determined with maturities comparable to such period as of approximately 11:00 a.m. (London, England time) on such Interest Rate Determination Date, by (ii) an amount equal to (a) one minus (b) the Applicable Reserve Requirement; provided, however, that notwithstanding the foregoing, the Adjusted Eurodollar Rate with respect to Initial Term Loans shall at no time be less than 1.0% per annum.

"Administrative Agent": as defined in the preamble hereto.

"Affiliate": as to any Person, any other Person that, directly or indirectly, is in control of, is controlled by, or is under common control with, such Person. For purposes of this definition, "control" of a Person means the power, directly or indirectly, to direct or cause the direction of the management and policies of such Person, whether by contract or otherwise.

"Affiliated Lender Assignment and Acceptance": an agreement substantially in the form of Exhibit C-2.

"Affiliated Loan Fund": any Affiliated Lender that is a bona fide debt fund or an investment vehicle that is primarily engaged in, or advises funds or other investment vehicles that are engaged in, making, purchasing, holding or otherwise investing in commercial loans, bonds and similar extensions of credit or securities in the ordinary course of business (i) whose managers have fiduciary duties to the investors of such fund independent of their fiduciary duties to the investors in the Fortress Funds and (ii) which none of the Fortress Funds nor any other private equity, real estate or alternative investment funds or vehicles that are Affiliates of the Fortress Funds (and that are not engaged in making, purchasing, holding or investing in commercial loans, bonds and similar extensions of credit or securities in the ordinary course of business), directly or indirectly, possesses the power to direct or cause the direction of the investment policies of such entity.

"Agent": the Administrative Agent and any other Person appointed under the Loan Documents to serve in an agent or similar capacity, including any Auction Manager.

"Agreement": this Credit Agreement.

"ALTA": American Land Title Association.

"Applicable Margin": with respect to Initial Term Loans, a rate per annum equal to (A) with respect to Base Rate Loans, 7.00%, and (B) with respect to Eurodollar Rate Loans, 8.00%; provided that if on August 22, 2015, the Borrower has failed to maintain on such date (i) a public corporate family rating issued with both S&P and Moody's and (ii) a public credit rating from both S&P and Moody's with respect to the Term Loans, then the Applicable Margin with respect to the Initial Term Loans will be increased beginning on such date to a rate per annum equal to (A) with respect to Base Rate Loans, 7.50%, and (B) with respect to Eurodollar Rate Loans, 8.50%.

"Applicable Reserve Requirement": at any time, for any Eurodollar Rate Loan, the maximum rate, expressed as a decimal, at which reserves (including any basic marginal, special, supplemental, emergency or other reserves) are required to be maintained with respect thereto against "Eurocurrency liabilities" (as such term is defined in Regulation D) under regulations issued from time to time by the Board or other applicable banking regulator. Without limiting the effect of the foregoing, the Applicable Reserve Requirement shall reflect any other reserves required to be maintained by such member banks with respect to (i) any category of liabilities which includes deposits by reference to which the applicable Adjusted Eurodollar Rate or any other interest rate of a Term Loan is to be determined, or (ii) any category of extensions of credit or other assets which include Eurodollar Rate Loans. A Eurodollar Rate Loan shall be deemed to constitute Eurocurrency liabilities and as such shall be deemed subject to reserve requirements without benefits of credit for proration, exceptions or offsets that may be available from time to time to the applicable Lender. The rate of interest on Eurodollar Rate Loans shall be adjusted automatically on and as of the effective date of any change in the Applicable Reserve Requirement.

"Arranger": Morgan Stanley Senior Funding, Inc., in its capacities as lead arranger and lead bookrunner.

"Asset Purchase Agreement": that certain Amended and Restated Asset Purchase Agreement, dated as of July 16, 2014, among Jefferson Refinery, L.L.C., Port of Beaumont Petroleum Transload Terminal, LLC, Port of Beaumont Petroleum Transload Terminal II, LLC, FTAI Energy Partners LLC, FTAI Energy Midstream Holdings LLC, FTAI Energy Downstream Holdings LLC and FTAI Energy Development Holdings LLC.

"Asset Sale": any Disposition of Property or series of substantially related Dispositions of Property (excluding any such Disposition permitted by clause (a), (b) (except in reference to Section 6.4(c), unless such Disposition is to the Borrower or any Subsidiary), (c), (d), (e), (g), (m), (o), (p), (q), (r), (s) or (t) of Section 6.5) which yields gross proceeds to any Jefferson Group Member (valued at the initial principal amount thereof in the case of non-cash proceeds consisting of notes or other debt securities and valued at fair market value in the case of other non-cash proceeds) in excess of $250,000.

"Assignment and Acceptance": an agreement substantially in the form of Exhibit C-1 or, in the case of an assignment to an Affiliated Lender, an Affiliated Lender Assignment and Acceptance.

"Auction Manager": the Administrative Agent or one or more other financial institutions or advisors employed by the Borrower to act as arrangers for any Auction.

"Available Amount": on any date an amount equal to:

(a) the sum of: (i) the Available ECF Amount on such date, plus (ii) the cumulative proceeds from (A) any capital contribution to Holdings made on or prior to such date (but after the Closing Date) or (B) any issuance of Capital Stock (other than Disqualified Capital Stock) of Holdings made on or prior to such date (but after the Closing Date), plus (iii) the cumulative Net Cash Proceeds received on or prior to such date (but after the Closing Date) in connection with a Disposition of the Capital Stock of any Unrestricted Subsidiary of the Borrower; minus

(b) the aggregate amount of outstanding cash collateral secured prior to such date (but after the Closing Date) encumbered by a Lien permitted pursuant to Section 6.3(y)(i).

"Available ECF Amount": on any date an amount equal to the cumulative amount of the ECF Annual Builder Basket Amount determined for each Excess Cash Flow Determination Date concluded on or prior to such date.

"Base Rate": for any day, a rate per annum equal to the greatest of (i) the Prime Rate in effect on such day, (ii) the Federal Funds Effective Rate in effect on such day plus ½ of 1% and (iii) the sum of (a) the Adjusted Eurodollar Rate (after giving effect to any Adjusted Eurodollar Rate "floor") that would be payable on such day for a Eurodollar Rate Loan with a one-month interest period plus (b) the difference between the Applicable Margin for Eurodollar Rate Loans and the Applicable Margin for Base Rate Loans; provided, however, that notwithstanding the foregoing, the Base Rate with respect to Initial Term Loans shall at no time be less than 2.0% per annum. Any change in the Base Rate due to a change in the Prime Rate, the Federal Funds Effective Rate or the Adjusted Eurodollar Rate shall be effective on the effective day of such change in the Prime Rate, the Federal Funds Effective Rate or the Adjusted Eurodollar Rate, respectively.

"Base Rate Loans": Term Loans for which the applicable rate of interest is based on the Base Rate.

"Board": the Board of Governors of the Federal Reserve System of the United States (or any successor).

"Borrower": as defined in the preamble hereto; provided that, "Borrower" shall refer to a Successor Borrower upon consummation of any transaction described in Section 6.4(a)(i)(y).

"Borrower Obligations": the collective reference to the unpaid principal of and interest on the Term Loans, and all other obligations and liabilities of the Borrower (including, without limitation, interest accruing at the then applicable rate provided herein after the maturity of the Term Loans and interest, fees and expenses accruing after the filing of any petition in bankruptcy (or which, but for the filing of such petition, would be accruing), or the commencement of any insolvency, reorganization or like proceeding, relating to the Borrower, whether or not a claim for post-filing or post-petition interest, fees or expenses is allowed or allowable in such proceeding) to any Agent, any Lender or any Lender Counterparty, whether direct or indirect, absolute or contingent, due or to become due, or now existing or hereafter incurred, which arise under, out of, or in connection with, this Agreement, the Security Agreement, the Guarantee Agreement or the other Loan Documents, any Secured Hedge Agreement or any other document made, delivered or given in connection therewith, in each case whether on account of principal, interest, reimbursement obligations, fees, indemnities, costs, expenses or otherwise, excluding, in each case, Excluded Swap Obligations.

"Business Day": (i) any day excluding Saturday, Sunday and any day which is a legal holiday under the laws of the State of New York or is a day on which banking institutions located in such state are authorized or required by law or other governmental action to close and (ii) with respect to all notices, determinations, fundings and payments in connection with the Adjusted Eurodollar Rate or any Eurodollar Rate Loans, the term "Business Day" means any day which is a Business Day described in clause (i) and which is also a day for trading by and between banks in Dollar deposits in the London interbank market.

"Capacity Utilization Rate": as at any date of determination, the ratio of (i) the number of barrels per day subject to Specified Utilization Contracts in effect on such date, to (ii) 220,000 barrels per day.

"Capital Expenditures": for any period, with respect to any Person, the aggregate of all expenditures by such Person during such period that, in accordance with GAAP, are or should be included in the calculation of "additions to property, plant or equipment" or similar items in the statement of cash flows of such Person.

"Capital Lease": any lease of (or other arrangement conveying the right to use) real or personal property, or a combination thereof, which obligations are required to be classified and accounted for as capital leases on a balance sheet under GAAP; provided that if at any time an operating lease (or a lease or other arrangement to use property that would be an operating lease under GAAP as in effect on the Closing Date) is required to be recharacterized as a capital lease as a result of a change in GAAP after the Closing Date (including as a result of the implementation of proposed Accounting Standards Update (ASU) Leases (Topic 842) issued May 15, 2013, any oral, public deliberations by FASB regarding such proposal, any successor proposal, or any FASB deliberations regarding any such successor proposal), then for all purposes hereof such lease shall continue to be treated as an operating lease and not a Capital Lease.

"Capital Lease Obligations": with respect to any Person, the obligations of such Person to pay rent or other amounts under any Capital Lease and, for the purposes of this Agreement, the amount of such obligations at any time shall be the capitalized amount thereof at such time determined in accordance with GAAP.

"Capital Stock": any and all shares, interests, participations or other equivalents (however designated) of capital stock of a corporation, any and all equivalent ownership interests in a Person (other than a corporation) and any and all warrants, rights or options to purchase any of the foregoing, but excluding debt convertible or exchangeable into such capital stock or equivalent ownership interests.

"Cash Equivalents": (a) marketable direct obligations issued by, or unconditionally guaranteed by, the United States government or issued by any agency thereof and backed by the full faith and credit of the United States maturing within one year from the date of acquisition; (b) certificates of deposit, time deposits, eurodollar time deposits or overnight bank deposits having maturities of six months or less from the date of acquisition issued by any Lender or by any commercial bank organized under the laws of the United States of America or any state thereof having combined capital and surplus of not less than $500,000,000 as of the date of acquisition thereof; (c) commercial paper of an issuer rated in the United States at least A-2 by S&P or P-2 by Moody's as of the date of acquisition thereof or (ii) an equivalent thereof by any other nationally recognized rating agency as of the date of acquisition thereof, if both named rating agencies cease publishing ratings of commercial paper issuers generally, and maturing within six months from the date of acquisition; (d) repurchase obligations of any Lender or of any commercial bank satisfying the requirements of clause (b) of this definition, having a term of not more than 30 days with respect to securities issued or fully guaranteed or insured by the United States government; (e) securities with maturities of one year or less from the date of acquisition issued or fully guaranteed by any state, province, commonwealth or territory of the United States, by any political subdivision or taxing authority of any such state, commonwealth or territory or by any foreign government, the securities of which state, commonwealth, territory, political subdivision, taxing authority or foreign government (as the case may be) are rated at least A by S&P or A by Moody's as of the date of acquisition thereof; (f) securities with maturities of six months or less from the date of acquisition backed by standby letters of credit issued by any Lender or any commercial bank satisfying the requirements of clause (b) of this definition; and (g) shares of money market mutual or similar funds which invest in assets substantially all of which satisfy the requirements of clauses (a) through (f) of this definition. With respect to any Investments made by any Foreign Subsidiary or any Investments made in a country outside of the United States, Cash Equivalents shall also include (i) investments of the type and maturity described in clauses (a) through (g) above of foreign obligors, which Investments or obligors (or the parents of such obligors) have ratings described in such clauses (or reasonably equivalent ratings from comparable foreign rating agencies) and (ii) other short-term investments used by such Foreign Subsidiaries in accordance with normal investment practices for cash management in investments reasonably analogous to the foregoing investments described in clauses (a) through (g) above and in this sentence.

"CFC": a "controlled foreign corporation" within the meaning of Section 957 of the Code.

"Change of Control": the occurrence of any of the following events: (i) any "person" or "group" (within the meaning of Rules 13d-3 and 13d-5 of the Exchange Act, as in effect on the Closing Date), other than any combination of the Permitted Investors, shall have acquired beneficial ownership of more than 50% of the Capital Stock of Parent having the power, directly or indirectly, to vote or direct the voting of securities having the voting power for the

election of directors of Parent (determined on a fully diluted basis); (ii) the board of directors of Parent shall cease to consist of a majority of Continuing Directors; (iii) subject to outstanding Management Equity and the issuance of additional Management Equity, Parent shall cease to own and control, of record and beneficially, directly or indirectly in the aggregate, 100% of each class of outstanding Capital Stock of Holdings (except in the case of a merger of Holdings with and into Parent where Parent is the continuing or surviving entity to the extent permitted under Section 6.4(a)); or (iv) subject to outstanding Management Equity and the issuance of additional Management Equity, Holdings shall cease to own and control, of record and beneficially, directly or indirectly in the aggregate, 100% of each class of outstanding Capital Stock of the Borrower, free and clear of all Liens (except Liens created by the Security Documents, other Liens permitted by Section 6.3(q) and Liens created by mandatory law).

"Class": (i) with respect to Lenders, Lenders having Term Loans or Commitments with respect to a particular Class of Term Loans or Commitments; (ii) with respect to Term Loans, the Initial Term Loans; and (iii) with respect to Commitments, the Initial Term Loan Commitments. Commitments (and, in each case, the Term Loans made pursuant to such Commitments) that have the same terms and conditions shall be construed to be in the same Class. After giving effect to any Extension, the Term Loans and Commitments, as applicable, so extended shall cease to be a part of the Class they were a part of immediately prior to such Extension and shall be a new Class hereunder.

"Closing Date": the date on which the Initial Term Loans are made.

"Code": the Internal Revenue Code of 1986, as amended.

"Collateral": all Property of the Loan Parties or any other Grantor, now owned or hereafter acquired, upon which a Lien is purported to be created by any Security Document.

"Collateral Assignment Documents": the collateral assignments of POBI Bonds executed by the applicable Loan Party in favor of the Administrative Agent in form reasonably acceptable to the Administrative Agent.

"Commitment": any Initial Term Loan Commitment, whether or not subject to an Extension.

"Commodity Exchange Act": the Commodity Exchange Act (7 U.S.C. § 1 et seq.).

"Commonly Controlled Entity": an entity, whether or not incorporated, that is under common control with the Borrower within the meaning of Section 4001(a)(14) of ERISA or is part of a group that includes the Borrower and that is treated as a single employer under Section 414(b), (c), (m) or (o) of the Code.

"Compliance Certificate": a certificate duly executed by a Responsible Officer of the Borrower, substantially in the form of Exhibit A.

"Consolidated Current Assets": as at any date of determination, the total assets of a Person and its Subsidiaries on a consolidated basis that may properly be classified as current assets in conformity with GAAP, excluding cash and Cash Equivalents.

"Consolidated Current Liabilities": as at any date of determination, the total liabilities of a Person and its Subsidiaries on a consolidated basis that may properly be classified as current liabilities in conformity with GAAP, excluding the current portion of long term debt.

"Consolidated EBITDA": of any Person for any period, Consolidated Net Income of such Person for such period plus, (i) without duplication and to the extent reflected as a charge in Consolidated Net Income for such period, the sum of (a) provision for taxes based on income, profits or capital gains, including, without limitation, federal, state, franchise and similar taxes and foreign withholding taxes (including any future taxes or other levies which replace or are intended to be in lieu of such taxes and any penalties and interest related to such taxes or arising from tax examinations), (b) interest expense, amortization or write-off of debt discount and debt issuance costs and commissions, discounts and other fees and charges associated with Indebtedness, plus all cash dividends or other distributions paid (excluding items eliminated in consolidation) on any series of preferred stock or Disqualified Capital Stock, (c) depreciation and amortization expense, (d) [reserved], (e) any extraordinary, unusual or non-recurring losses or non-cash expenses (including, for the avoidance of doubt, losses on sales of assets or investments outside of the ordinary course of business), and non-cash impairments of goodwill, intangibles, fixed assets, land and land held for development, (f) [reserved], (g) any other non-cash charges (including, for the avoidance of doubt, equity incentive plans to the extent not paid in cash and unrealized foreign exchange losses attributable to currency translation), (h) any charges or expenses associated with administering or selling Property no longer used or useful in the business subject to a Disposition in an aggregate amount not to exceed $500,000 for any Test Period, (i) any fees, expenses or charges incurred with respect to the Transactions or any Indebtedness permitted to be incurred hereunder, (j) the amount of any restructuring charges, retention charges (including charges or expenses in respect of incentive plans), start-up or initial costs for any project, division or new line of business or other business optimization expenses, including, without limitation, costs associated with improvements to IT and accounting functions, integration and facilities opening costs and costs related to the closure and/or consolidation of facilities and operations including, without limitation, any severance costs and related expenses incurred or accrued with respect to workforce reduction efforts and other terminations of employment, in each case, to the extent management believes such charges, expenses or costs are not representative of the underlying performance of the ongoing operations; provided that (A) the aggregate amount of all Restructuring/Cost Savings Adjustments added back pursuant to this clause (j), when added to the aggregate amount of all Restructuring/Cost Savings Adjustments added back pursuant to clause (b) of the definition of "Pro Forma Basis" for any Test Period, shall not exceed 15% of Consolidated EBITDA of the Jefferson Group Members for such Test Period (calculated prior to giving effect to any Restructuring/Cost Savings Adjustments in such Test Period) and (B) with respect to any Test Period, no adjustments shall be added pursuant to this clause (j) to the extent duplicative of any other Restructuring/Cost Savings Adjustments, (k) [reserved], (l) any fees, expenses or charges related to any equity offering (including any equity offering by Parent), Investment, Acquisition (including Permitted Acquisitions) or Disposition, in each case whether or not successful or consummated, (m) any costs or expenses incurred pursuant to any management equity plan or stock option plan or any other management or employee benefit plan or agreement or any

stock subscription or shareholder agreement (in each case, including with respect to Parent), (n) any net loss from disposed, abandoned or discontinued operations or operations that management is winding down and (o) the amount of any directors' fees or reimbursements (including fees and reimbursements of directors of Parent), minus, (ii) to the extent included in Consolidated Net Income for such period, the sum of (a) any extraordinary, unusual or non-recurring income or gains (including, for the avoidance of doubt, any cash or non-cash income or gains from the sales of assets or investments outside of the ordinary course of business), (b) any other non-cash income or gains (including, for the avoidance of doubt, unrealized foreign exchange gains attributable to currency translation), (c) any cash payments made during such period in respect of items described in clause (i)(e) above subsequent to the fiscal quarter in which the relevant non-cash expenses or losses were reflected as a charge in the statement of Consolidated Net Income and (d) any net income from disposed, abandoned or discontinued operations, all as determined on a consolidated basis.

Consolidated EBITDA for any period shall include, without duplication, the Consolidated EBITDA for such period of each Person that is not a Jefferson Group Member designated by management to be accounted for by the equity method of accounting, but only in an amount equal to the Borrower's pro rata share thereof based on its direct or indirect percentage ownership interest in such Person. To the extent an ownership change occurs during such period, effect shall be given to such ownership change on a pro forma basis during such period.

Notwithstanding the foregoing, (i) Consolidated EBITDA for the Test Period ending September 30, 2014, shall be calculated by multiplying the Consolidated EBITDA for the fiscal quarter ending September 30, 2014, by four; (ii) Consolidated EBITDA for the Test Period ending December 31, 2014, shall be calculated by multiplying the Consolidated EBITDA for the two-fiscal-quarter period ending December 31, 2014, by two; and (iii) Consolidated EBITDA for the Test Period ending March 31, 2015, shall be calculated by multiplying the Consolidated EBITDA for the three-fiscal-quarter period ending March 31, 2015, by four-thirds, and in each case for clauses (i) through (iv) above and for the Test Period ending June 30, 2015, by giving pro forma effect to the Transactions as if the Transactions had occurred on the first day of such Test Period.

"Consolidated Excess Cash Flow": with respect Jefferson Group Members, for any four fiscal quarter period (the "Applicable Period"), an amount (if positive) equal to Consolidated Net Income, plus, without duplication:

(a) non-cash charges, losses and expenses, including non-cash interest expense, depreciation, amortization, impairment charges and other write-offs for the Applicable Period to the extent deducted from Consolidated Net Income for such period (excluding any such non-cash charge, loss or expense to the extent that it represents an accrual or reserve for an expected cash payment obligation within the four fiscal quarter period following the Applicable Period),

(b) any cash proceeds received in an Applicable Period that would have been included in the exclusion in clause (a) above for the four fiscal quarter period immediately preceding the Applicable Period, and

(c) the Consolidated Working Capital Adjustment for the Applicable Period (other than any such amount arising from Acquisitions or Dispositions by any Jefferson Group Member completed during such period or the application of purchase accounting),

minus, without duplication and to the extent not deducted in the calculation of Consolidated Net Income for the Applicable Period, the amounts for the Applicable Period of:

(d) prepayments or repayments of Indebtedness for borrowed money, together with any interest, premium or penalties required to be paid (and actually paid) in connection therewith (excluding (i) repayments of revolving loans except to the extent the revolving commitments associated therewith are permanently reduced in connection with such repayments, (ii) voluntary prepayments of Term Loans and (iii) any prepayments or repayments funded with Net Cash Proceeds of any borrowing or issuance of Indebtedness for borrowed money, capital contributions to any Jefferson Group Member by any Person that is not a Jefferson Group Member (including from the sale of Capital Stock of Parent contributed to Holdings), or net cash proceeds from sales of Capital Stock of any Jefferson Group Member to any Person that is not a Jefferson Group Member (collectively, "Financing Proceeds")),

(e) cash payments under Capital Leases (excluding any interest expense portion thereof) or other long-term obligations (including pension obligations), together with the aggregate amount of any premiums, make-whole payments or penalties paid in cash and required to be made in connection with any such prepayment or repayment (excluding prepayments funded with Financing Proceeds);

(f) cash payments in respect of Capital Expenditures, excluding payments funded with Financing Proceeds,

(g) cash income tax expense, together with the aggregate amount of Restricted Payments made pursuant to Section 6.6(g)(iii),

(h) cash payments in respect of Investments made pursuant to Sections 6.8(k), or 6.8(o) (less, in each case, any amounts received in respect thereof as a return of capital), excluding payments funded with Financing Proceeds,

(i) non-cash income or gains increasing Consolidated Net Income for the Applicable Period,

(j) after-tax gains attributable to Asset Sales to the extent the proceeds of any such Asset Sale are included in the Asset Sale Threshold Amount; and

(k) any cash actually paid in respect of any non-cash losses or charges recorded in a prior period.

"Consolidated Net Income": of any Jefferson Group Member(s) for any period, the consolidated net income (or loss) of such Jefferson Group Member(s) for such period, determined on a consolidated basis in accordance with GAAP; provided that in calculating Consolidated Net Income of Jefferson Group Members for any period, there shall be excluded (a) the

income (or deficit) of any Person that was not a Subsidiary of a Jefferson Group Member that accrued prior to the date it becomes a Subsidiary of a Jefferson Group Member or is merged into or consolidated with a Jefferson Group Member, (b) the income (or deficit) of any Person (other than a Subsidiary of Jefferson Group Member) in which any Jefferson Group Member has an ownership interest, except to the extent that any such income is actually received by a Jefferson Group Member in the form of dividends or similar distributions and (c) the undistributed earnings of any non-Wholly Owned Subsidiary of any Jefferson Group Member (other than a Loan Party) to the extent that the declaration or payment of dividends or similar distributions by such non-Wholly Owned Subsidiary is not at the time permitted by the terms of any Contractual Obligation (other than under any Term Loan Document) or Requirement of Law applicable to such non-Wholly Owned Subsidiary. Notwithstanding the foregoing, for each Test Period ending on or prior to June 30, 2015, Consolidated Net Income shall be calculated by giving pro forma effect to the Transactions as if the Transactions had occurred on the first day of such Test Period.

"Consolidated Working Capital": as at any date of determination, the excess of Consolidated Current Assets of Holdings and its Subsidiaries over Consolidated Current Liabilities of Holdings and its Subsidiaries.

"Consolidated Working Capital Adjustment": for any period on a consolidated basis, the amount (which may be a negative number) by which Consolidated Working Capital as of the beginning of such period exceeds (or is less than) Consolidated Working Capital as of the end of such period. In calculating the Consolidated Working Capital Adjustment there shall be excluded the effect of reclassification during such period of current assets to long term assets and current liabilities to long term liabilities and the effect of any Permitted Acquisition during such period; provided that there shall be included with respect to any Permitted Acquisition during such period an amount (which may be a negative number) by which the Consolidated Working Capital acquired in such Permitted Acquisition as at the time of such acquisition exceeds (or is less than) Consolidated Working Capital at the end of such period.

"Construction Related Indebtedness": Indebtedness incurred to finance construction of improvements with respect to specific real estate and which is secured by such real estate. Such Indebtedness shall not be incurred to finance any improvements with respect to the real estate primarily used for the HCOUS.

"Continuing Directors": with respect to Parent, the directors of Parent on the Closing Date, and each other director of Parent, if such other director's nomination for election to the board of directors of Parent is recommended by or approved by a vote of at least a majority of the then Continuing Directors of Parent or such other director receives the vote of the Permitted Investors in his or her election by the shareholders of Parent. No "independent director" (as described in Section 303A.02(b) of the New York Stock Exchange Listing Company Manual) of Parent as of the Closing Date shall be counted in determining "Continuing Directors."

"Contractual Obligation": as to any Person, any provision of any security issued by such Person or of any agreement, instrument or other undertaking to which such Person is a party or by which it or any of its Property is bound (but not including such agreements, instruments or other undertakings relating to Indebtedness of such Person).

"Control Investment Affiliate": as to any Person, any other Person that (a) directly or indirectly, is in control of, is controlled by, or is under common control with, such Person and (b) exists primarily for the purpose of making equity or debt investments in one or more companies. For purposes of this definition, "control" of a Person means the power, directly or indirectly, to direct or cause the direction of the management and policies of such Person, whether by contract or otherwise.

"Conversion/Continuation Date": the effective date of a continuation or conversion, as the case may be, as set forth in the applicable Conversion/Continuation Notice.

"Conversion/Continuation Notice": a Conversion/Continuation Notice substantially in the form of Exhibit G-2.

"Debt Service Reserve Account": as defined in the Depositary Agreement.

"Debtor Relief Laws": the Bankruptcy Code of the United States and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief Laws of the United States or other applicable jurisdictions from time to time in effect and affecting the rights of creditors generally.

"Default": any of the events specified in Section 7.1, whether or not any requirement for the giving of notice, the lapse of time, or both, has been satisfied.

"Depositary": MSSF, in its capacity as depositary bank, together with any successor depositary bank appointed pursuant to the Depositary Agreement or any permitted assign under the Depositary Agreement.

"Depositary Agreement": the Security Deposit Agreement, substantially in the form of Exhibit H hereto, dated as of the Closing Date, among the Borrower, the Administrative Agent and the Depositary.

"Designated Non-Cash Consideration": the fair market value (as determined in good faith by a Responsible Officer) of non-cash consideration received by an Jefferson Group Member in connection with a Disposition that is so designated as "Designated Non-Cash Consideration" pursuant to a certificate of a Responsible Officer, setting forth the basis of such valuation, less the amount of cash or Cash Equivalents received in connection with a subsequent sale of such Designated Non-Cash Consideration.

"Disposition": with respect to any Property, any sale, lease, sale and leaseback, assignment, conveyance, transfer, exchange or other disposition thereof; and the terms "Dispose" and "Disposed of" shall have correlative meanings.

"Disqualified Assignee": any Person listed on Schedule 1.1H or any of such Person's Affiliates that share a common name, which Schedule may be updated in writing from time to time by the Borrower to add or remove competitors.

"Disqualified Capital Stock": with respect to any Person, any Capital Stock of such Person which, by its terms (or by the terms of any security or other Capital Stock into which it is convertible or for which it is exchangeable), or upon the happening of any event or condition (i) matures or is mandatorily redeemable (other than solely for Capital Stock which is not otherwise Disqualified Capital Stock), pursuant to a sinking fund obligation or otherwise (except as a result of a change of control, merger, consolidation, amalgamation, liquidation or asset sale (collectively, a "Fundamental Change") so long as any rights of the holders thereof upon the occurrence of such Fundamental Change shall be subject to the satisfaction of the Termination Conditions), (ii) is redeemable at the option of the holder thereof (other than solely for Capital Stock which is not otherwise Disqualified Capital Stock), in whole or in part (except as a result of a Fundamental Change so long as any rights of the holders thereof upon the occurrence of such Fundamental Change shall be subject to the satisfaction of the Termination Conditions), (iii) provides for the scheduled payment of dividends in cash, or (iv) is or becomes convertible into or exchangeable for Indebtedness (other than Indebtedness permitted pursuant to Section 6.2(p)) or any other Capital Stock that would constitute Disqualified Capital Stock, in each case, prior to the date that is 91 days after the Latest Maturity Date then in effect.

"Dollars" and "$": dollars in lawful currency of the United States of America.

"Domestic Subsidiary": any Subsidiary organized under the Laws of the United States of America, any state thereof or the District of Columbia.

"ECF Annual Builder Basket Amount": an amount, measured as of any Excess Cash Flow Determination Date, commencing with December 31, 2015, equal to (A) 100% minus the ECF Percentage, multiplied by (B) Consolidated Excess Cash Flow for the most recently ended four-fiscal quarter period of the Borrower and its subsidiaries ending on December 31.

"ECF Percentage": a percentage equal to (i) initially, 50%, (ii) if at any time the Total Secured Debt Leverage Ratio, calculated on a Pro Forma Basis, is less than or equal to 3.50:1.00, then (unless clause (iii) is applicable), 25%, and (iii) if at any time the Total Secured Debt Leverage Ratio, calculated on a Pro Forma Basis, is less than or equal to 3.00:1.00, then 0%; provided that, if the Capacity Utilization Rate on any Excess Cash Flow Determination Date is less than 50%, the ECF Percentage shall be 75%.

"Environment": ambient air, indoor air, surface water, drinking water, groundwater, land surface, subsurface strata, sediments and natural resources such as wetlands, flora and fauna.

"Environmental Claim": any investigation, notice, notice of violation, claim, action, suit, proceeding, demand, abatement order, or other order or directive (conditional or otherwise), by any Governmental Authority or any other Person, arising (i) pursuant to or in connection with any actual or alleged violation of any Environmental Law; (ii) in connection with the presence, Release of, or exposure to, any Hazardous Materials; or (iii) in connection with any actual or alleged damage, injury, threat, or harm to the Environment.

"Environmental Laws": any and all Laws regulating, relating to or imposing liability or standards of conduct concerning protection or regulation of the Environment, human

health or safety in connection with exposure to Hazardous Materials, as has been, is now, or may at any time hereafter be, in effect and including, without limitation, the common law insofar as it relates to any of the foregoing.

"Environmental Permits": any and all Permits required under, or issued pursuant to, any Environmental Law and including, without limitation, the common law insofar as it relates to any of the foregoing.

"Equity Commitment Letter": that certain equity commitment letter dated as of the Closing Date, among the Parent, the Borrower and Holdings.

"Equity Contribution": the direct or indirect contribution to the Borrower or Holdings by the Fortress Funds of cash or assets in the form of common equity of the Borrower, or the retirement, repurchase or cancellation by the Fortress Funds of liabilities assumed by the Borrower and its subsidiaries, with a value in the aggregate of not less than $130,000,000.

"ERISA": the Employee Retirement Income Security Act of 1974.

"Eurodollar Rate Loan": a Term Loan bearing interest at a rate determined by reference to the Adjusted Eurodollar Rate.

"Event of Default": any of the events specified in Section 7.1; provided that any requirement for the giving of notice, the lapse of time, or both, has been satisfied.

"Excess Cash Flow Determination Date": December 31 of each year, commencing with December 31, 2015.

"Excess Cash Flow Prepayment Amount": an amount, measured as of any Excess Cash Flow Determination Date, commencing with December 31, 2015, equal to the ECF Percentage multiplied by Consolidated Excess Cash Flow for the most recently ended four fiscal quarter period of the Borrower ending on December 31.

"Exchange Act": the Securities Exchange Act of 1934, and the rules and regulations of the SEC promulgated thereunder.

"Excluded Information": information regarding the Term Loans or the applicable Loan Parties hereunder that is not known to a Lender participating in an assignment to an Affiliated Lender pursuant to Section 9.6(d) or in a Borrower Loan Purchase made pursuant to Section 9.6(i) that may be material to a decision by such Lender to participate in such Borrower Loan Purchase, assignment to such Affiliated Lender or such assignment by an Affiliated Lender, as applicable.

"Excluded Subsidiary": (i) each Subsidiary subject to any Contractual Obligation permitted under the Loan Documents and existing as of the Closing Date (or, with respect to any Person which becomes a Subsidiary after the Closing Date, existing at the time such Person becomes a Subsidiary and not entered into in contemplation of such Person becoming a Subsidiary) or Law restricting or limiting the ability of such Subsidiary from guaranteeing any portion of the Obligations, (ii) domestic subsidiaries that have no material assets other than equity interests of

one or more direct or indirect foreign subsidiaries of the Borrower that are CFCs, (iii) domestic subsidiaries that are owned by foreign subsidiaries of the Borrower that are CFCs, and (iv) prior to the Existing Notes Release, Jefferson Railport Terminal I (Texas) LLC, a Texas limited liability company ("JRTI").

"Excluded Swap Obligations": with respect to any Guarantor, any obligation (a "Swap Obligation") to pay or perform under any agreement, contract or transaction that constitutes a "swap" within the meaning of section 1a(47) of the Commodity Exchange Act, if, and to the extent that, all or a portion of the guarantee of such Guarantor of, or the grant by such Guarantor of a security interest to secure, such Swap Obligation (or any guarantee thereof) is or becomes illegal under the Commodity Exchange Act or any rule, regulation or order of the Commodity Futures Trading Commission (or the application or official interpretation of any thereof) by virtue of such Guarantor's failure for any reason not to constitute an "eligible contract participant" as defined in the Commodity Exchange Act.

"Existing Credit Facilities": the Existing Merrill Lynch Credit Facility and the Existing Fortress Credit Facilities.

"Existing Fortress Credit Facilities": (i) the Indebtedness under that certain Cred-it Agreement, dated as of January 22, 2014, among Jefferson Refinery, L.L.C., JeffCo Holdings, LLC and FTAI Energy Co 1 Ltd. (Bermuda), and (ii) the Indebtedness under that certain Credit Agreement, dated as of February 25, 2014, between Jefferson Refinery, L.L.C. and FTAI Energy Co. 1 LLC (as assignee of FTAI Energy Co 1 Ltd. (Bermuda)).

"Existing Merrill Lynch Credit Facility": the Indebtedness under that certain ISDA 2002 Master Agreement, dated as of August 8, 2013, between Merrill Lynch Commodities, Inc., as Party A, and JeffCo Holdings, LLC, as Party B.

"Existing Notes Release": the date on which the Indebtedness and other obligations of JRTI under the POBI Financing Agreement and the POBI Bonds are no longer secured by any property of JRTI.

"Facility": the Term Loan Facility or any other given Class of Term Loans or Commitments.

"FASB": the Financial Accounting Standards Board of the American Institute of Certified Public Accountants.

"Federal Funds Effective Rate": for any day, the rate per annum equal to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers on such day, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day; provided, (i) if such day is not a Business Day, the Federal Funds Effective Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day, and (ii) if no such rate is so published on such next succeeding Business Day, the Federal Funds Effective Rate for such day shall be the average rate charged to the Administrative Agent on such day on such transactions as determined by the Administrative Agent.

"Foreign Employee Benefit Plan": any employee benefit plan as defined in section 3(3) of ERISA which is maintained or contributed to for the benefit of the employees of the Jefferson Group Members, but which is not covered by ERISA pursuant to ERISA section 4(b)(4).

"Foreign Subsidiary": any Subsidiary other than a Domestic Subsidiary.

"Fortress": Fortress Investment Group LLC.

"Fortress Funds": each of the entities listed on Schedule 1.1F hereto.

"FSHCO": any domestic subsidiary that has no material assets other than equity interests of one or more direct or indirect foreign subsidiaries of the Borrower that are CFCs.

"Funding Notice": a notice substantially in the form of Exhibit G-1.

"GAAP": generally accepted accounting principles in the United States of America as in effect from time to time.

"Governmental Authority": any federal, state, provincial, municipal, national or other government, governmental department, commission, board, bureau, court, agency or instrumentality or political subdivision thereof or any entity, officer or examiner exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to any government or any court, in each case whether associated with a state of the United States, the United States, or a foreign entity or government.

"Grantors": the collective reference to Holdings, the Borrower and the Subsidiary Guarantors, together with any other Person that grants a Lien on any of its Property to secure the obligations and liabilities of any Loan Party under any Loan Document.

"Guarantee Agreements": collectively, (i) the Guarantee Agreement, dated as of Closing Date, made by each of the signatories thereto, in favor of the Administrative Agent for the benefit of the Secured Parties and governed by the Laws of the State of New York, and (ii) any such other guarantee made in favor of the Administrative Agent for the benefit of the Secured Parties in form and substance reasonably satisfactory to the Administrative Agent, in each case, as the same may be amended, restated, supplemented or otherwise modified from time to time.

"Guarantee Obligation": as to any Person (the "guaranteeing person"), any obligation, including a reimbursement, counterindemnity or similar obligation, of the guaranteeing person that guarantees or in effect guarantees, or which is given to induce the creation of a separate obligation by another Person (including any bank under any letter of credit) that guarantees or in effect guarantees any Indebtedness, leases, dividends or other obligations (the "primary obligations") of any other third Person (the "primary obligor") in any manner, whether directly or indirectly, including, without limitation, any obligation of the guaranteeing person, whether or not contingent, (i) to purchase any such primary obligation or any Property constituting direct or indirect security therefor, (ii) to advance or supply funds (1) for the purchase or payment of any such primary obligation or (2) to maintain working capital or equity capital of the primary obligor

or otherwise to maintain the net worth or solvency of the primary obligor, (iii) to purchase Property, securities or services primarily for the purpose of assuring the owner of any such primary obligation of the ability of the primary obligor to make payment of such primary obligation or (iv) otherwise to assure or hold harmless the owner of any such primary obligation against loss in respect thereof; provided, however, that the term Guarantee Obligation shall not include endorsements of instruments for deposit or collection in the ordinary course of business, indemnification obligations incurred in the ordinary course of business or obligations in respect of indemnification, purchase price adjustments and earnouts incurred in connection with Permitted Acquisitions and Dispositions permitted under Section 6.5. The amount of any Guarantee Obligation of any guaranteeing person shall be deemed to be the lower of (a) an amount equal to the stated or determinable amount of the primary obligation in respect of which such Guarantee Obligation is made and (b) the maximum amount for which such guaranteeing person may be liable pursuant to the terms of the instrument embodying such Guarantee Obligation, unless such primary obligation and the maximum amount for which such guaranteeing person may be liable are not stated or determinable, in which case the amount of such Guarantee Obligation shall be such guaranteeing person's maximum reasonably anticipated liability in respect thereof as determined by the Borrower in good faith.

"Guarantor Obligations": with respect to any Guarantor, all obligations and liabilities of such Guarantor (including interest, fees and expenses after the filing of any petition in bankruptcy (or which, but for the filing of such petition, would be accruing), or the commencement of any insolvency, reorganization or like proceeding, relating to such Guarantor, whether or not a claim for post-filing or post-petition interests, fees or expenses is allowed or allowable in such proceeding) which arise under or in connection with the Guarantee Agreement, any other Loan Document to which such Guarantor is a party, or any Secured Hedge Agreement to which such Guarantor is a party, in each case whether on account of guarantee obligations, reimbursement obligations, fees, indemnities, costs, expenses or otherwise, excluding, in each case, Excluded Swap Obligations.

"Guarantors": the collective reference to Holdings and the Subsidiary Guarantors, together with any other Subsidiary of Holdings or the Borrower or any direct or indirect parent of Holdings added as a Guarantor at the election of the Borrower or pursuant to Section 5.10.

"Hazardous Materials": any material, substance, chemical, or waste (or combination thereof) that (i) is listed, defined, designated, regulated or classified as hazardous, toxic, radioactive, dangerous, a pollutant, a contaminant, or words of similar meaning or effect under any Environmental Law; or (ii) can form the basis of any liability under any Environmental Law, including, without limitation, any Environmental Law relating to petroleum, petroleum products, asbestos, urea formaldehyde, radioactive materials, polychlorinated biphenyls and toxic mold.

"HCOUS": the heavy crude oil unloading system located at the Port of Beaumont, Texas owned as of the Closing Date by any of the Jefferson Group Members.

"Hedge Agreements": (a) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond

index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement, and (b) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement, or any other master derivatives agreement (any such master agreement, together with any related schedules, a "Master Agreement"), including any such obligations or liabilities under any Master Agreement, in each case entered into by Holdings or any of its Subsidiaries.

"Holdings": as defined in the preamble hereto; provided that "Holdings" shall refer to a Successor Holdings upon the consummation of any transaction described in Section 6.4(a)(iv)(y).

"Immaterial Subsidiary": any Subsidiary of Holdings (other than the Borrower) that is not a Subsidiary Guarantor or an Excluded Subsidiary and, as of the last day of the most recent fiscal quarter for which financial statements have been delivered pursuant to Section 5.1, has consolidated assets with a book value of $1,000,000 or less. The Immaterial Subsidiaries as of the Closing Date are listed on Part I of Schedule 3.22.

"Indebtedness": of any Person at any date, without duplication, (a) all indebtedness of such Person for borrowed money, (b) all obligations of such Person for the deferred purchase price of Property or services (other than (i) accounts payable and accrued expenses incurred in the ordinary course of such Person's business, (ii) purchase price adjustment, earn-outs, holdbacks and contingent payment obligations to which the seller of such Property or services may become entitled; provided that, to the extent such payment is fixed and determinable and not otherwise contingent, the amount is paid within 90 days after the date such payment becomes fixed and determinable and not otherwise contingent and (iii) obligations incurred under ERISA or deferred employee or director compensation and accruals for employee expenses or obligations (including workers' compensation and retiree medical care)), (c) all obligations of such Person evidenced by notes, bonds, debentures or other similar instruments, (d) all indebtedness created or arising under any conditional sale or other title retention agreement with respect to Property acquired by such Person, (e) all Capital Lease Obligations of such Person, (f) all obligations of such Person, contingent or otherwise, as an account party or applicant under acceptance, letter of credit, surety bond or similar facilities, (g) all obligations of such Person, contingent or otherwise, to purchase, redeem, retire or otherwise acquire for value any Disqualified Capital Stock of such Person; provided that, the obligations described in clauses (a) through (g) shall only constitute "Indebtedness" of a Person if and to the extent such obligations would constitute indebtedness or a liability on a balance sheet of such Person (or related footnotes) in accordance with GAAP, (h) all Guarantee Obligations of such Person in respect of obligations of the kind referred to in clauses (a) through (g) above, (i) all obligations of the kind referred to in clauses (a) through (h) above secured by (or for which the holder of such obligation has an existing right, contingent or otherwise, to be secured by) any Lien on Property (including, without limitation, accounts and contract rights) owned by such Person, whether or not such Person has assumed or

become liable for the payment of such obligation and (j) for the purposes of Section 7.1(e) only, all obligations of such Person in respect of Hedge Agreements. The Indebtedness of any Person shall include the Indebtedness of any other entity (including any partnership in which such Person is a general partner) to the extent such Person is liable therefor as a result of such Person's ownership interest in or other relationship with such entity, except to the extent the terms of such Indebtedness expressly provide that such Person is not liable therefor. For purposes of clause (j) above, the principal amount of Indebtedness in respect of Hedge Agreements shall equal the amount that would be payable (giving effect to netting) at such time if such Hedge Agreement were terminated.

"Initial Term Loan": a Term Loan made by a Lender to the Borrower pursuant to Section 2.1(a).

"Initial Term Loan Commitment": the commitment of a Lender to make or otherwise fund an Initial Term Loan and "Initial Term Loan Commitments" means such commitments of all Lenders in the aggregate. The amount of each Lender's Initial Term Loan Commitment is set forth on Schedule 1.1A. The aggregate amount of the Initial Term Loan Commitments as of the Closing Date is $100,000,000.

"Insolvency": with respect to any Multiemployer Plan, the condition that such "plan" is insolvent within the meaning of Section 4245 of ERISA.

"Insolvent": pertaining to a condition of Insolvency.

"Intellectual Property": the collective reference to all rights, priorities and privileges relating to intellectual property, whether arising under United States, multinational or foreign laws or otherwise, including, without limitation, copyrights, patents, trademarks, proprietary technology, proprietary know-how and proprietary processes, and all rights to sue at law or in equity for any infringement or other violation thereof, including the right to receive all proceeds and damages therefrom.

"Intercompany Debt Subordination Agreement": an agreement substantially in the form of Exhibit I.

"Interest Payment Date": with respect to (i) any Term Loan that is a Base Rate Loan, the last Business Day of March, June, September and December of each year, commencing on the first such date to occur after the Closing Date and the final maturity date of such Term Loan; and (ii) any Term Loan that is a Eurodollar Rate Loan, the last day of each Interest Period applicable to such Term Loan; provided, in the case of each Interest Period of longer than three months "Interest Payment Date" shall also include each date that is three months, or an integral multiple thereof, after the commencement of such Interest Period.

"Interest Period": in connection with a Eurodollar Rate Loan, an interest period of one, two, three or six months, as selected by the Borrower in the applicable Funding Notice or Conversion/Continuation Notice, (i) initially, commencing on the Closing Date or Conversion/Continuation Date thereof, as the case may be; and (ii) thereafter, commencing on the day on which the immediately preceding Interest Period expires; provided, (a) if an Interest Period would otherwise expire on a day that is not a Business Day, such Interest Period shall expire on

the next succeeding Business Day unless no further Business Day occurs in such month, in which case such Interest Period shall expire on the immediately preceding Business Day; (b) any Interest Period that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall, subject to clause (c) of this definition, end on the last Business Day of a calendar month; and (c) no Interest Period with respect to any portion of Term Loans shall extend beyond the Maturity Date.

"Interest Rate Determination Date": with respect to any Interest Period, the date that is two Business Days prior to the first day of such Interest Period.

"Investments": as to any Person, (a) the purchase or other acquisition of Capital Stock or debt or other securities of another Person, (b) a loan, advance (other than advances to employees for moving, entertainment and travel expenses, drawing accounts and similar expenditures in the ordinary course of business and other than trade credit established in the ordinary course of business and advances in the ordinary course of business that would be recorded as accounts receivable of such Person in accordance with GAAP) or capital contribution to, guarantee or assumption of Indebtedness of, or purchase or other acquisition of any other debt or equity participation or interest in, another Person, including any partnership or joint venture interest in such other Person or (c) the purchase or other acquisition (in one transaction or a series of transactions) of all or substantially all of the property and assets or business of another Person or assets constituting a business unit, line of business or division of such Person. For purposes of covenant compliance, the amount of any Investment outstanding at any time shall be the amount actually invested, reduced by any dividend, distribution, return of capital or repayment received by such Person in respect of the Investment, but otherwise without adjustment for subsequent increases or decreases in the value of, or write-ups, write-downs or write-offs with respect to, such Investment.

"Jefferson Acquisition": as defined in the recitals hereto.

"Jefferson Group Members": Holdings, the Borrower and each Subsidiary of the Borrower; provided that if any direct or indirect parent of Holdings has been added as a Guarantor at the request of the Borrower, "Jefferson Group Members" shall include such direct or indirect parent of Holdings.

"Jefferson Refinancing": as defined in the recitals hereto.

"Latest Maturity Date": at any date of determination, the latest Maturity Date applicable to any Class of Term Loans or Commitments hereunder at such time.

"Law": any law, constitution, statute, treaty, regulation, by-law, rule, ordinance, order, injunction, award, decree, determination or other official pronouncement of any Governmental Authority.

"LCOUS": the light crude oil unloading system located at the Port of Beaumont, Texas owned as of the Closing Date by any of the Jefferson Group Members.

"Lender Counterparty": each Lender, the Administrative Agent and each of their respective Affiliates counterparty to a Hedge Agreement (including any Person who is Administrative Agent or a Lender (or an Affiliate of the Administrative Agent or a Lender) as of the date of entering into such Hedge Agreement but subsequently ceases to be (or whose Affiliate ceases to be) Administrative Agent or a Lender, as the case may be).

"Lenders": as defined in the preamble hereto.

"Lien": any mortgage, pledge, hypothec, hypothecation, assignment, deposit arrangement, right of retention, encumbrance, lien (statutory or other), charge or other security interest or any preference, priority or other security agreement or preferential arrangement of any kind or nature whatsoever (including, without limitation, any conditional or installment sale or other title retention agreement and any Capital Lease having substantially the same economic effect as any of the foregoing).

"Loan Documents": this Agreement, each Extension Amendment, each Refinancing Amendment, the Security Documents, the Guarantee Agreements, each Intercompany Debt Subordination Agreement, and the Term Loan Notes.

"Loan Parties": the collective reference to Holdings, the Borrower and each Subsidiary Guarantor; provided that if any direct or indirect parent of Holdings has been added as a Grantor at the request of the Borrower, "Loan Parties" shall include such direct or indirect parent of Holdings.

"Management Equity": profits interests, restricted Capital Stock or options to acquire Capital Stock of Parent, Holdings, the Borrower or any Subsidiary issued to directors, management or employees of Parent, Holdings, the Borrower and its Subsidiaries (including Unrestricted Subsidiaries), which profits interests, Capital Stock or options may be convertible into, or exchangeable or exercisable for, Capital Stock of or options to acquire Capital Stock of Parent, Holdings, the Borrower or any Subsidiary.

"Material Adverse Effect": any circumstances or conditions affecting the business, assets, property or financial condition of the Jefferson Group Members, taken as a whole, that would have a material adverse effect on (a) the ability of the Borrower and the Guarantors, taken as a whole, to perform their payment obligations under this Agreement or any other Loan Document, (b) the rights or remedies of the Secured Parties under this Agreement or any other Loan Document or (c) the business, assets, property or financial condition of the Jefferson Group Members, taken as a whole.

"Material Environmental Amount": an amount or amounts payable by the Jefferson Group Members, individually or in the aggregate in excess of $10,000,000, for: costs to comply with any Environmental Law; costs of any investigation, and any remediation, of any Hazardous Material or any condition relating to the Environment; and compensatory damages (including, without limitation, damages to natural resources), punitive damages, fines, and penalties pursuant to any Environmental Law.

"Maturity Date": (a) with respect to the Initial Term Loans, February 27, 2018, (b) with respect to any other Facility, the maturity date for such Facility specified in the applicable

Extension Amendment or Refinancing Amendment, and (c) with respect to each Facility, the date on which all Term Loans shall become due and payable in full hereunder, whether by acceleration or otherwise; provided that, in each case, that if such date is not a Business Day, then the applicable Maturity Date shall be the immediately succeeding Business Day.

"Moody's": Moody's Investors Service, Inc.

"Morgan Stanley": as defined in the preamble hereto.

"Mortgaged Properties": the real properties listed on Schedule 1.1C and, subject to Section 5.10(b), the real properties acquired by any Loan Party after the Closing Date, as to which the Administrative Agent for the benefit of the Secured Parties shall be granted a Lien pursuant to one or more Mortgages.

"Mortgages": each of the mortgages or deeds of trust, including, without limitation, assignments of leases and rents, whether in the same or a separate agreement, made by any Loan Party in favor of, or for the benefit of, the Administrative Agent for the benefit of the Secured Parties, in form and substance reasonably satisfactory to the Administrative Agent taking into consideration the law of the jurisdiction in which such mortgage or deed of trust is to be recorded, registered or filed, to the extent applicable, as the same may be amended, supplemented or otherwise modified from time to time.

"Multiemployer Plan": a plan that is a multiemployer plan as defined in Section 4001(a)(3) of ERISA with respect to which the Borrower or any Commonly Controlled Entity has an obligation to make contributions or has any actual or contingent liability.

"Net Cash Proceeds": (a) in connection with any Asset Sale or any Recovery Event, the proceeds thereof in the form of cash and Cash Equivalents actually received by any Jefferson Group Member (including any such proceeds received by way of deferred payment of principal pursuant to a note or installment receivable or purchase price adjustment receivable or otherwise, but only as and when such cash or Cash Equivalents is received) of such Asset Sale or Recovery Event, net of (1) attorneys' fees, accountants' fees, investment banking fees and brokerage and sales commissions paid to third parties that are not Jefferson Group Members, (2) amounts required to be applied to the repayment of Indebtedness secured by a Lien permitted hereunder on any asset which is the subject of such Asset Sale or Recovery Event (other than any Lien pursuant to a Security Document) or otherwise subject to mandatory prepayment as a result of such Asset Sale or Recovery Event, and all accrued interest, premiums and fees incurred and payable in connection with the repayment of such Indebtedness, (3) other customary fees paid to third parties that are not Jefferson Group Members, (4) expenses actually incurred in connection therewith, including any and all costs incurred and payable in connection with the repair and/or restoration of any property in connection with any Recovery Event with respect to such property and (5) taxes paid or reasonably estimated to be payable as a result thereof (after taking into account any available tax credits or deductions and any tax sharing arrangements) and the amount of any reserves established to fund indemnification payments (fixed or contingent) or other contingent liabilities (including purchase price adjustments, payments made in connection with non-compete agreements, retained liabilities (such as pension and other post-employment benefit liabilities and liabilities related to environmental matters)) reasonably estimated to be payable as a

result thereof; and (b) in connection with any issuance or sale of debt securities or instruments or the incurrence of Indebtedness, the cash proceeds actually received from such issuance or incurrence, net of any reasonable acquisition or construction costs, attorneys' fees, investment banking fees, accountants' fees, underwriting discounts and commissions and other customary fees and expenses actually incurred in connection therewith. Notwithstanding the foregoing, the amount of Net Cash Proceeds from any Asset Sale or Recovery Event, issuance or sale of debt securities or the incurrence of loans received by any Jefferson Group Member that is not a Wholly Owned Subsidiary shall be deemed to equal the amount received by the non-Wholly Owned Subsidiary multiplied by the pro rata amount of Capital Stock of such non-Wholly Owned Subsidiary beneficially owned by the Jefferson Group Members; provided that, in the event that any Contractual Obligation of such non-Wholly Owned Subsidiary or Requirement of Law prohibits a distribution of such Net Cash Proceeds, such Net Cash Proceeds shall be deemed to have been received by a Jefferson Group Member upon the earlier of (x) the date of the actual receipt of such Net Cash Proceeds by the Borrower or a Wholly Owned Subsidiary holding an ownership interest in such non-Wholly Owned Subsidiary and (y) the date such Net Cash Proceeds are first permitted to be distributed by such non-Wholly Owned Subsidiary to the Borrower or a Wholly Owned Subsidiary holding an ownership interest in such non-Wholly Owned Subsidiary.

"Non-Guarantor Subsidiary": any Subsidiary that is not a Subsidiary Guarantor.

"Non-Public Information": material non-public information (within the meaning of United States federal, state or other applicable securities laws) with respect to the Jefferson Group Members or their securities.

"Non-Recourse Subsidiary Borrower": a special purpose entity whose only assets are the assets securing Indebtedness incurred in accordance with Section 6.2(f).

"Notice": a Funding Notice or a Conversion/Continuation Notice.

"Not Otherwise Applied": with reference to any Available Amount that is proposed to be applied to a particular use or transaction, that such proceeds were not previously applied in determining the permissibility of a prior transaction under the Loan Documents where such permissibility was (or may have been) contingent on the receipt or availability of such proceeds (including (i) any application of the proceeds of equity issued in connection with the exercise of a Cure Right pursuant to Section 7.3 and (ii) any Investments in Railcar Holdings funded with the proceeds of capital contributions to Holdings which are or will be ignored in connection with the designation of Railcar Holdings as an Unrestricted Subsidiary pursuant to Section 5.16).

"Obligations": (i) in the case of the Borrower, the Borrower Obligations, and (ii) in the case of each Guarantor, its Guarantor Obligations.

"Other Taxes": any and all present or future stamp, court or documentary, intangible, recording, filing or similar taxes arising from any payment made hereunder or under any other Loan Document or from the execution, delivery, performance, enforcement or registration of, or otherwise with respect to, this Agreement or any other Loan Document (and any interest, additions to tax or penalties applicable thereto) (excluding, in each case, any such amounts imposed as a result of an assignment by a Lender (other than an assignment made pursuant to Section 2.24)

that are imposed as a result of a present or former connection of the assignor or assignee with the jurisdiction imposing such tax, other than any connection arising from having executed, delivered, enforced, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to and/or enforced any Loan Documents).

"Parent": FTAI Energy Partners LLC, a Delaware limited liability company.

"PATRIOT Act": the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)).

"PBGC": the Pension Benefit Guaranty Corporation established pursuant to Subtitle A of Title IV of ERISA (or any successor).

"Pension Plan": a "pension plan," as such term is defined in section 3(2) of ERISA, which is subject to Title IV of ERISA (other than a Multiemployer Plan), and to which the Borrower may have liability, including any liability by reason of the Borrower's (i) being jointly and severally liable for liabilities of any Commonly Controlled Entity in connection with such Pension Plan, (ii) having been a substantial employer within the meaning of section 4063 of ERISA at any time during the preceding five years, or (iii) being deemed to be a contributing sponsor under section 4069 of ERISA.

"Permit": any permit, license, approval, consent, order, right, certificate, judgment, writ, injunction, award, determination, direction, decree, registration, notification, authorization, franchise, privilege, grant, waiver, exemption and other similar concession or bylaw, rule or regulation of, by or from any Governmental Authority.

"Permitted Acquisition": any acquisition, directly or indirectly, by any Jefferson Group Member, whether by purchase, merger or otherwise, of no less than 50% of the assets of, the Capital Stock of, or a business line or unit or a division of, any Person; provided,

(i) in the case of the acquisition of Capital Stock, all of the Capital Stock (except for any such Capital Stock in the nature of directors' qualifying shares or other similar shares required pursuant to applicable Law) acquired in connection with such acquisition shall be owned, directly or indirectly, by the Borrower or a Subsidiary thereof, and the Borrower shall have taken, or caused to be taken, within the time periods and subject to the limitations specified therein, each of the actions set forth in Section 5.10; provided that the aggregate Acquisition Consideration paid in connection with all acquisitions of Persons that do not become Loan Parties or, in the case of a purchase or acquisition of assets other than Capital Stock, not owned by Loan Parties, shall not exceed 10% of Total Assets as determined immediately prior to such acquisition; and

(ii) at the time of, and immediately following, the execution and delivery by the applicable Jefferson Group Members of the definitive documentation relating to such acquisition, no Event of Default shall exist, and after giving effect to such acquisition, either (A) the Jefferson Group Members shall be in Pro Forma Compliance with a Total Secured Debt Leverage Ratio of not more than 3.50:1.00 as of the last day of the Test Period

most recently ended for which financial statements are required to have been delivered pursuant to Section 5.1 or (B) the Total Secured Debt Leverage Ratio for the Jefferson Group Members measured on a Pro Forma Basis as of the last day of the Test Period most recently ended for which financial statements are required to have been delivered pursuant to Section 5.1 is not increased as a result of such acquisition.

"Permitted Investors": the collective reference to Fortress and its Control Investment Affiliates; provided that the definition of "Permitted Investors" shall not include any Control Investment Affiliate whose primary purpose is the operation of an ongoing business (excluding any business whose primary purpose is the investment of capital or assets).

"Person": an individual, general partnership, limited partnership, limited liability partnership, corporation, limited liability company, unlimited liability company, business trust, joint stock company, trust, unincorporated association, joint venture, Governmental Authority or other entity of whatever nature.

"Pledge Agreements": collectively, (i) the Pledge Agreement, dated as of the Closing Date, made by certain Loan Parties in favor of the Administrative Agent for the benefit of the Secured Parties and governed by the Laws of the State of New York and (ii) any such other pledge agreement made in favor of the Administrative Agent for the benefit of the Secured Parties in form and substance reasonably satisfactory to the Administrative Agent, in each case, as the same may be amended, restated, supplemented or otherwise modified from time to time.

"Pledged Equity": with respect to each Grantor, the shares of Capital Stock of any other Person in which such Grantor has granted a security interest to the Administrative Agent, for the benefit of the Secured Parties, pursuant to the Pledge Agreements, together with any other shares, stock or partnership unit certificates, options or rights of any nature whatsoever in respect of such Capital Stock that may be issued or granted to, or held by, such Grantor.

"POBI Bonds": the Jefferson County (TX) Industrial Development Corporation Hurricane Ike Disaster Area Revenue Bonds (Port of Beaumont Petroleum Transload Terminal, LLC Project) Series 2012, in an outstanding aggregate principal amount as of the Closing Date of $46,805,000.

"POBI Financing Agreement": that certain Financing Agreement, dated August 1, 2012, between Jefferson Refinery, L.L.C. and Port of Beaumont Petroleum Transload Terminal, LLC.

"Prime Rate": the rate of interest quoted in the print edition of The Wall Street Journal, Money Rates Section as the Prime Rate (currently defined as the base rate on corporate loans in Dollars posted by at least 70% of the nation's ten (10) largest banks), as in effect from time to time. The Prime Rate is a reference rate and does not necessarily represent the lowest or best rate actually charged to any customer. The Administrative Agent or any other Lender may make commercial loans or other loans at rates of interest at, above or below the Prime Rate.

"Principal Office": the Administrative Agent's "Principal Office" as set forth in Section 9.2, or such other office or office of a third party or sub-agent, as appropriate, as the Administrative Agent may from time to time designate in writing to the Borrower and each Lender.

"Pro Forma Compliance" or "Pro Forma Basis": for the purposes of determining compliance with the financial covenant contained in Section 6.17 or for purposes of calculating the Total Debt Leverage Ratio or the Total Secured Debt Leverage Ratio as of any date, compliance with the provisions of Section 6.17 or calculation of such financial ratio for the Test Period most recently ended for which financial statements have been delivered pursuant to Section 5.1, determined on a pro forma basis by giving pro forma effect to (A)(1) the Transactions, (2) all Permitted Acquisitions, (3) all Investments and Capital Expenditures, (4) other than for the purpose of calculating the Total Debt Leverage Ratio for the purpose of Section 6.6(j), the entry into any Specified Utilization Contracts; provided that in the event that the Capacity Utilization Rate on June 30, 2015, is less than 35%, then this subclause (4) shall be disregarded for purposes of this definition, and (5) all Dispositions of any material assets outside of the ordinary course of business (and in each case, the incurrence or repayment of any Indebtedness in connection therewith) that have occurred during the Test Period most recently ended (or, if such calculation is being made for the purpose of determining whether (i) any proposed acquisition will constitute (or will be permitted as) a Permitted Acquisition, (ii) any Indebtedness or Liens may be incurred or (iii) any Disposition or Restricted Payment made, (x) during the applicable Test Period or (y) subsequent to the end of the applicable Test Period and prior to or simultaneously with the event for which the calculation of any such ratio is made) or (B) actions taken, committed to be taken or expected in good faith to be taken no later than 12 months after the end of such Test Period, in each case, as if they occurred on the first day of such Test Period. Whenever pro forma effect is to be given to any such transaction or such action, the pro forma calculations shall be made in good faith by a Responsible Officer of the Borrower and may include expected cost savings, operating expense reductions and synergies projected by the Borrower in good faith to result from such transactions or actions (without duplication of actual cost savings, operating expense reductions and synergies), as though such cost savings, operating expense reductions and synergies had been realized on the first day of such Test Period and as if such cost savings, operating expense reductions and synergies were realized during the entirety of such Test Period, to the extent (a) such cost savings, operating expense reductions and synergies would be permitted to be reflected in pro forma financial information complying with Regulation S-X under the Securities Act of 1933, as interpreted by the staff of the SEC, and as certified by a Responsible Officer of the Borrower or (b) the Borrower in good faith believes that such cost savings, operating expense reductions and synergies are reasonably identifiable, factually supportable and will be realized within 18 months after the end of such Test Period and all steps necessary for the realization of such cost savings, operating expense reductions and synergies have been taken as certified by a Responsible Officer of the Borrower; provided that (A) the aggregate amount of Restructuring/Cost Savings Adjustments added to Consolidated EBITDA pursuant to the foregoing clause (b), when added to the Restructuring/Cost Savings Adjustments made pursuant to clause (j) of the definition of Consolidated EBITDA for any Test Period, shall not exceed 15% of Consolidated EBITDA of the Jefferson Group Members for such Test Period (calculated prior to giving effect to any Restructuring/Cost Savings Adjustments in such Test Period) and (B) no amounts shall be added back as a pro forma adjustment hereunder to the extent duplicative of any amounts that are otherwise added back in calculating Consolidated EBITDA.

"Pro Rata Share": (i) with respect to all payments, computations and other matters relating to the Initial Term Loan of any Lender, the percentage obtained by dividing (a) the Term Loan Exposure of that Lender by (b) the aggregate Term Loan Exposure of all Lenders; and (ii) with respect to all payments, computations and other matters relating to the Commitments or Term Loans of any Lender under any other Class, the percentage obtained by dividing (a) the aggregate Commitments and, if applicable and without duplication, Term Loans of such Lender under such Class by (b) the aggregate Commitments and, if applicable and without duplication, Term Loans of all Lenders under such Class; provided that, if the Commitments under such Class have been terminated, then the Pro Rata Share of each Lender under such Class shall be determined based on the Pro Rata Share of such Lender immediately prior to such termination and after giving effect to any subsequent assignments made pursuant to the terms hereof. For all other purposes with respect to each Lender, "Pro Rata Share" means the percentage obtained by dividing (A) an amount equal to the sum of the Term Loan Exposure and the aggregate Commitments and, if applicable and without duplication, Term Loans under each other Class of that Lender, by (B) an amount equal to the sum of the aggregate Term Loan Exposure and the aggregate Commitments and, if applicable and without duplication, Term Loans under each other Class of all Lenders.

"Property": any right or interest in or to property of any kind whatsoever, whether real or immovable, personal or moveable or mixed and whether tangible or intangible, corporeal or incorporeal, including, without limitation, Capital Stock.

"Public Lenders": Lenders that do not wish to receive Non-Public Information with respect to the Jefferson Group Members or their securities.

"Railcar Contribution": the contribution by Holdings to the Borrower, within 30 days on or after the Closing Date, of all of the equity interests of Railcar Holdings.

"Railcar Financing": Indebtedness of Railcar Holdings in the form of third party financing in an aggregate principal amount of at least $30,000,000.

"Railcar Holdings": FTAI Railcar Holdings LLC, a Delaware limited liability company.

"Recovery Event": the actual receipt of any settlement of or payment in respect of any property or casualty insurance claim or any condemnation proceeding relating to any asset of any Jefferson Group Member.

"Refinancing Indebtedness": with respect to any Indebtedness (the "Original Indebtedness"), modifications, refinancing, refundings, renewals or extensions of such Original Indebtedness, or Indebtedness issued in exchange for, or the net proceeds of which are used to extend, refinance, renew, replace, defease or refund such Original Indebtedness; provided that:

(i) the principal amount (or accreted value, if applicable) plus unfunded commitments of such Refinancing Indebtedness does not exceed the principal amount (or accreted value, if applicable) plus unfunded commitments of the Original Indebtedness (plus any related fees and expenses and other amounts paid, unpaid accrued interest and premium thereon);

(ii) the weighted average life to maturity of such Refinancing Indebtedness is greater than or equal to (and the maturity of such Refinancing Indebtedness is no earlier than) that of the Original Indebtedness;

(iii) the Refinancing Indebtedness shall not have different obligors than the obligors under the Term Loans (unless such obligors are obligors under the Original Indebtedness, or if the obligors under the Original Indebtedness are Non-Guarantor Subsidiaries, obligors under the Original Indebtedness and other Non-Guarantor Subsidiaries) or greater guarantees or security than the guarantees and security provided in respect of the Obligations (unless such guarantees and security are the same as provided in respect of the Original Indebtedness, or if the guarantees and security under the Original Indebtedness are provided by Non-Guarantor Subsidiaries, additional guarantees and security provided by such Non-Guarantor Subsidiaries or additional Non-Guarantor Subsidiaries);

(iv) if the Original Indebtedness is subordinated in right of payment to the Obligations, such Refinancing Indebtedness shall be subordinated in right of payment on terms at least as favorable to the Lenders as those contained in the documentation governing the Original Indebtedness; and

(v) to the extent the Liens securing such Original Indebtedness are subordinated to the Liens securing the Obligations, the Liens, if any, securing such Refinancing Indebtedness are subordinated to the Liens securing the Obligations pursuant to intercreditor arrangements reasonably acceptable to the Administrative Agent.

"Regulation D": Regulation D of the Board as in effect from time to time.

"Regulation H": Regulation H of the Board as in effect from time to time.

"Regulation T": Regulation T of the Board as in effect from time to time.

"Regulation U": Regulation U of the Board as in effect from time to time.

"Regulation X": Regulation X of the Board as in effect from time to time.

"Related Fund": with respect to any Lender, any fund that (x) invests in commercial loans and (y) is managed or advised by the same investment advisor as such Lender, by such Lender or an affiliate of such Lender.

"Related Parties": with respect to any Person, such Person's Affiliates and the partners, directors, officers, employees, agents, trustees and advisors of such Person and of such Person's Affiliates.

"Release": any spilling, leaking, seepage, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, disposing, depositing, dispersing, emanating or migrating of any Hazardous Material in, into, onto or through the Environment, or from, into or through any structure or facility.

"Reorganization": with respect to any Multiemployer Plan, the condition that such plan is in reorganization within the meaning of Section 4241 of ERISA.

"Reportable Event": any of the events set forth in Section 4043(c) of ERISA, other than those events as to which the notice requirement is waived.

"Required Lenders": one or more Lenders having or holding more than 50% of the aggregate Term Loans of all Lenders; provided that, prior to the making of the Initial Term Loans, such determination shall be made based on the unused Initial Term Loan Commitments of the Lenders.

"Requirements of Law": as to any Person, the certificate of incorporation and bylaws or other organizational or governing documents of such Person, and any Law applicable to or binding upon such Person or any of its Property or to which such Person or any of its Property is subject.

"Responsible Officer": with respect to Holdings or the Borrower, the chief executive officer, president, chief financial officer, vice president, treasurer, assistant treasurer, controller, secretary, assistant secretary, board member or manager of Holdings or the Borrower, or any other authorized officer or signatory of Holdings or the Borrower reasonably acceptable to the Administrative Agent.

"Restructuring/Cost Savings Adjustments": with respect to any Test Period, the adjustments and/or addbacks to Consolidated EBITDA for such Test Period pursuant to clause (j) of the definition of "Consolidated EBITDA" for such Test Period and clause (b) of the definition of "Pro Forma Basis" for such Test Period.

"S&P": Standard & Poor's Ratings Services.

"SEC": the Securities and Exchange Commission (or successors thereto or an analogous Governmental Authority).

"Secured Hedge Agreement": each Hedge Agreement permitted under Section 6.2 that is entered into by and between the Borrower or any Subsidiary and any Lender Counterparty.

"Secured Parties": a collective reference to the Administrative Agent, the Lenders and the Lender Counterparties.

"Security Agreement": the Security Agreement, dated as of the Closing Date, made by the Loan Parties in favor of the Administrative Agent for the benefit of the Secured Parties.

"Security Documents": the collective reference to (i) the Pledge Agreements, (ii) the Security Agreement, (iii) the Mortgages, (iv) the Depositary Agreement, (v) the Collateral Assignment Documents and (vi) all other security documents now or hereafter delivered to the Administrative Agent granting (or purporting to grant) a Lien on any Property of any Person to secure the Obligations.

"Similar Business": any business conducted or proposed to be conducted by the Jefferson Group Members on the Closing Date or any business that is similar, reasonably related, incidental, ancillary or complementary thereto, or is a reasonable extension, development or expansion thereof.

"Solvent": as of any date of determination, with respect to the Jefferson Group Members viewed for all purposes of this definition on a consolidated basis, that (a) the sum of the debt (including contingent liabilities) of the Jefferson Group Members does not exceed the present fair saleable value of the present assets of the Jefferson Group Members; (b) the capital of the Jefferson Group Members is not unreasonably small in relation to their business as contemplated on such date or with respect to any transaction contemplated to be undertaken after such date; and (c) the Jefferson Group Members have not incurred, and do not intend to incur, debts beyond their ability to pay such debts as they become due (whether at maturity or otherwise). For purposes of this definition, the amount of any contingent liability at any time shall be computed as the amount that, in light of all of the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability.

"Specified Utilization Contract": a fixed and/or variable price "take or pay" contract with a term of at least three years from the date such contract was entered into between a creditworthy (as reasonably determined by the Borrower in good faith) third party and a Jefferson Group Member for utilization of the Terminal.

"Subsidiary": as to any Person: (a) any corporation of which more than 50% of the outstanding Capital Stock having ordinary voting power to elect the board of directors of such corporation (irrespective of whether at the time Capital Stock of any other class or classes of such corporation shall or might have voting power upon the occurrence of any contingency) is at the time directly or indirectly owned (i) by such Person, (ii) by such Person and one or more subsidiaries of such Person, or (iii) by one or more subsidiaries of such Person; or (b) any trust, partnership, joint venture or other Person as to which such Person, or one or more subsidiaries of such Person, owns more than 50% of the voting ownership, equity or similar interest of such trust, partnership, joint venture or other Person, as the case may be. Each reference herein or in any other Loan Document to a "Subsidiary" shall be deemed to exclude Unrestricted Subsidiaries unless expressly noted otherwise.

"Subsidiary Guarantor": each Subsidiary of the Borrower providing a guarantee of the Obligations pursuant to a Guarantee Agreement.

"Swap Obligations": as defined in "Excluded Swap Obligations."

"Term Loan": any Initial Term Loan or any Extension of any Initial Term Loan.

"Term Loan Exposure": with respect to any Lender, as of any date of determination, the outstanding principal amount of the Initial Term Loans of such Lender; provided, at any time prior to the making of the Initial Term Loans, the Term Loan Exposure of any Lender shall be equal to such Lender's Term Loan Commitment.

"Term Loan Facility": as defined in the recitals hereto.

"Term Loan Note": a promissory note in the form of Exhibit D, as it may be amended, restated, supplemented or otherwise modified from time to time.

"Terminal": the large crude-oil-handling terminal at the Port of Beaumont, Texas operated by the Jefferson Group Members, which for the avoidance of doubt includes both the HCOUS and the LCOUS.

"Termination Conditions": collectively, (a) the payment in full in cash of the Obligations (other than (i) Unasserted Contingent Obligations and (ii) Obligations owing to Lender Counterparties under any Secured Hedge Agreement that are not then due and payable) and (b) the termination of the Commitments.

"Test Period": on any date of determination, the period of four consecutive fiscal quarters (taken as one accounting period) of the Jefferson Group Members' most recently ended for which financial statements have been or are required to be delivered pursuant to Section 5.1 on or before the relevant date of determination.

"Total Assets": on any date of determination, the total assets of the Jefferson Group Members determined on a consolidated basis in accordance with GAAP as shown on the most recent consolidated balance sheet of Holdings and its Subsidiaries delivered pursuant to Section 5.1(a) or 5.1(b).

"Total Cash": on any date of determination, the aggregate amount of cash and Cash Equivalents of Holdings and its Subsidiaries determined on a consolidated basis in accordance with GAAP.

"Total Debt": at any date, without duplication, the aggregate principal amount of all Indebtedness of the type specified in clauses (a), (c), (e) and (h) (solely with respect to Guarantee Obligations in respect of obligations of the kind referred to in clauses (a), (c) and (e) of the definition of "Indebtedness") of the definition thereof, determined on a consolidated basis in accordance with GAAP, as shown on the most recent consolidated balance sheet of Holdings and its Subsidiaries delivered pursuant to Section 5.1(a) or 5.1(b), excluding bank guarantees and similar instruments and revolving credit lines, to the extent undrawn.

"Total Debt Leverage Ratio": as of the last day of any period of four consecutive fiscal quarters, the ratio of (a)(i) Total Debt as of such date minus (ii) the aggregate amount of Unrestricted Cash included on the consolidated balance sheet of Borrower and its Subsidiaries as of such date, to (b) Consolidated EBITDA of Jefferson Group Members for such period.

"Total Secured Debt": at any date, without duplication, the aggregate principal amount of Total Debt which is secured by a Lien, determined on a consolidated basis in accordance with GAAP, as shown on the most recent consolidated balance sheet of Borrower and its Subsidiaries delivered pursuant to Section 5.1(a) or 5.1(b), (x) including without limitation, any secured Indebtedness incurred in connection with construction or land development or acquisitions and Capital Lease Obligations, and (y) excluding any Indebtedness secured by Liens that are subordinated to the Liens securing the Obligations.

"Total Secured Debt Leverage Ratio": as of the last day of any period of four consecutive fiscal quarters, the ratio of (a) (i) Total Secured Debt as of such date minus (ii) the aggregate amount of Unrestricted Cash included on the consolidated balance sheet of Borrower and its Subsidiaries as of such date, to (b) Consolidated EBITDA of the Jefferson Group Members for such period.

"Transactions": as defined in the recitals hereto.

"Type of Term Loan": a Base Rate Loan or a Eurodollar Rate Loan.

"Unasserted Contingent Obligations": at any time, Obligations for taxes, costs, indemnifications, reimbursements, damages and other liabilities (excluding Obligations in respect of the principal of, and interest and premium (if any) on, any Obligation) in respect of which no assertion of liability and no claim or demand for payment has been made (and, in the case of Obligations for indemnification, no notice for indemnification has been issued by the indemnitee at such time).

"Unrestricted Cash": Total Cash on the consolidated balance sheet of Holdings and its Subsidiaries to the extent that the use of such Total Cash for application to payment of the Obligations or other Indebtedness is not prohibited by law or any contract or other agreement and such Total Cash is free and clear of all Liens (other than Liens in favor of the Administrative Agent for the benefit of the Secured Parties and Liens permitted under Section 6.3(t)).

"Unrestricted Subsidiary": any Subsidiary of the Borrower designated by the Borrower as an Unrestricted Subsidiary pursuant to Section 5.16. There shall be no Unrestricted Subsidiaries as of the Closing Date.

"Weighted Average Yield": with respect to any Indebtedness, on any date of determination, the weighted average yield to maturity based on the interest rate applicable to such Indebtedness on such date and giving effect to interest rate margins, interest rate floors, upfront or similar fees and original issue discount payable with respect to such Indebtedness.

"Wholly Owned Subsidiary": as to any Jefferson Group Member, any other Person all of the Capital Stock of which (other than Management Equity or directors' qualifying shares or other similar shares required pursuant to applicable Law) is owned by the Loan Parties directly and/or through other Wholly Owned Subsidiaries.

1.2 Other Definitional Provisions.

(a) Unless otherwise specified therein, all terms defined in this Agreement shall have the defined meanings when used in the other Loan Documents or any certificate or other document made or delivered pursuant hereto or thereto.

(b) As used herein and in the other Loan Documents, and any certificate or other document made or delivered pursuant hereto or thereto, accounting terms relating to Holdings, the Borrower and their respective Subsidiaries not defined in Section 1.1 and accounting terms partly defined in Section 1.1, to the extent not defined, shall have the respective meanings given to them under GAAP; provided that if the Borrower notifies the Administrative Agent to

any provision hereof to eliminate the effect of any change occurring after the Closing Date in GAAP or in the application thereof on the operation of such provision (or if the Administrative Agent notifies the Borrower that the Required Lenders request an amendment to any provision hereof for such purpose), regardless of whether any such notice is given before or after such change in GAAP or in the application thereof, then such provision shall be interpreted on the basis of GAAP as in effect and applied immediately before such change shall have become effective until such notice shall have been withdrawn or such provision amended in accordance herewith.

(c) The words “hereof,” “herein” and “hereunder” and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement, and Section, Schedule and Exhibit references are to this Agreement unless otherwise specified.

(d) The meanings given to terms defined herein shall be equally applicable to both the singular and plural forms of such terms.

(e) All calculations of financial ratios set forth herein shall be calculated to the same number of decimal places as the relevant ratios are expressed in and shall be rounded upward if the number in the decimal place immediately following the last calculated decimal place is five or greater. For example, if the relevant ratio is to be calculated to the hundredth decimal place and the calculation of the ratio is 5.126, the ratio will be rounded up to 5.13.

(f) As used herein and in the other Loan Documents, references to agreements or other Contractual Obligations shall, unless otherwise specified, be deemed to refer to such agreements or Contractual Obligations as amended, restated, replaced, refinanced, supplemented or otherwise modified from time to time.

(g) A reference to a statute includes all regulations made pursuant to such statute and, unless otherwise specified, the provisions of any statute or regulation which amends, revises, restates, supplements or supersedes any such statute or any such regulation.

1.3 Timing of Payment or Performance. When the payment of any obligation or the performance of any covenant, duty or obligation is stated to be due or performance required on a day which is not a Business Day, the date of such payment (other than as described in the definition of “Interest Period” and in the definition of “Maturity Date”) or performance shall extend to the immediately succeeding Business Day.

1.4 Currency Equivalents Generally.

(a) For purposes of determining compliance with Sections 6.2, 6.3 and 6.8 with respect to any amount of Indebtedness or Investment in a currency other than Dollars, no Default or Event of Default shall be deemed to have occurred solely as a result of changes in rates of currency exchange occurring after the time such Indebtedness or Investment is incurred (so long as such Indebtedness or Investment, at the time incurred, made or acquired, was permitted hereunder).

(b) For purposes of this Agreement and the other Loan Documents, where the permissibility of a transaction or determination of required actions or circumstances depend upon compliance with, or are determined by reference to, amounts stated in Dollars, any requisite currency translation shall be based on the exchange rate in effect on the Business Day immediately preceding the date of such transaction (subject to the following proviso) or determination and shall not be affected by subsequent fluctuations in exchange rates; provided that for purposes of determining the Total Debt Leverage Ratio or Total Secured Debt Leverage Ratio, amounts denominated in a currency other than Dollars will be converted to Dollars at the currency exchange rates used in preparing the financial statements corresponding to the Test Period with respect to the applicable date of determination.

1.5 Other Defined Terms. As used in this Agreement, the following terms shall have the respective meanings set forth in the described Sections.

Defined Term	**Section**
“Accounting Change”	9.15
“Affected Lender” 2.19	2.19(b)
“Affected Loans”	2.19(b)
“Affiliated Lender”	9.6(d)
“Agent Parties”	9.2
“Aggregate Amounts Due”	2.18
“Agreement Currency”	9.17(b)
“Applicable Creditor”	9.17(b)
“Asset Sale Threshold Amount”	2.15(a)
“Assignee”	9.6(c)
“Assignor”	9.6(c)
“Auction”	9.6(i)(ii)
“Benefited Lender”	9.7(a)
“Borrower Loan Purchase”	9.6(i)(ii)
“Borrower Loan Purchase Effective Date”	9.6(i)(v)
“Cure Amount”	7.3(a)
“Cure Right”	7.3(a)
“Eligible Collateral Property”	5.10(e)
“Extended Class”	2.25(a)
“Extended Maturity Date”	2.25(a)
“Extension Amendments”	2.25(e)
“Extension”	2.25(a)
“Extension Offer”	2.25(a)
“FATCA”	2.21(a)
“FCPA”	3.23(a)
“Granting Lender”	9.6(g)
“Increased Cost Lender”	2.24
“Indemnified Liabilities”	9.5(a)
“Indemnitee”	9.5(a)
“Information”	9.14
“Installment”	2.13

Defined Term	Section
“Judgment Currency”	9.17(b)
“Minimum Extension Condition”	2.25(c)
“Netted Tax Amount”	2.15(h)
“Non-Consenting Lender”	2.24
“Non-Excluded Taxes”	2.21(a)
“Non-Extended Class”	2.25(a)
“Notice of Intent to Cure”	5.2(a)
“OFAC”	3.23(b)
“Original Class”	2.25(a)
“Original Maturity Date”	2.25(a)
“Participant”	9.6(b)
“Participant Register”	9.6(b)
“Platform”	5.2
“Private Side Information”	5.2
“Refused Proceeds”	2.16(c)
“Register”	2.8(b)
“Replacement Loans”	2.25(d)
“Required Prepayment Date”	2.16(c)
“Restricted Payments”	6.6
“SPC”	9.6(g)
“Successor Borrower”	6.4(a)
“Successor Holdings”	6.4(a)
“Terminated Lender”	2.24
“Terminated Loans”	2.25(d)
“Transferee”	9.14
“Voluntary Prepayment”	6.9
“Waivable Mandatory Prepayment”	2.16(c)

Section 2. LOANS

2.1 Initial Term Loans.

(a) Loan Commitments. Subject to the terms and conditions hereof, each Lender severally agrees to make, on the Closing Date, an Initial Term Loan to the Borrower in an amount equal to such Lender’s Initial Term Loan Commitment. The Borrower may make only one borrowing under the Initial Term Loan Commitment which shall be on the Closing Date. Any amount borrowed under this Section 2.1(a) and subsequently repaid or prepaid may not be reborrowed. Subject to Sections 2.13, 2.14(a) and 2.15, all amounts owed hereunder with respect to the Initial Term Loans shall be paid in full no later than the Maturity Date with respect thereto. Each Lender’s Initial Term Loan Commitment shall terminate immediately and without further action on the Closing Date after giving effect to the funding of such Lender’s Initial Term Loan Commitment on such date.

(b) Borrowing Mechanics for Initial Term Loans.

(i) The Borrower shall deliver to the Administrative Agent a fully executed Funding Notice no later than (x) one Business Day prior to the Closing Date with respect to Base Rate Loans and (y) three days prior to the Closing Date with respect to Eurodollar Rate Loans (or such shorter period as may be acceptable to Administrative Agent). Promptly upon receipt by the Administrative Agent of such Funding Notice, the Administrative Agent shall notify each Lender of the proposed borrowing.

(ii) Each Lender shall make its Initial Term Loan available to the Administrative Agent not later than 10:00 a.m. (New York City time) on the Closing Date, by wire transfer of same day funds in Dollars, at the principal office designated by Administrative Agent. Upon satisfaction or waiver of the conditions precedent specified herein, the Administrative Agent shall make the proceeds of the Initial Term Loans available to the Borrower on the Closing Date by causing an amount of same day funds in Dollars equal to the proceeds of all such Initial Term Loans received by the Administrative Agent from Lenders to be credited to the account of the Borrower at the Principal Office designated by the Administrative Agent or to such other account as may be designated in writing to the Administrative Agent by the Borrower.

2.2 [Reserved].

2.3 [Reserved].

2.4 [Reserved].

2.5 [Reserved].

2.6 Pro Rata Shares; Availability of Funds.

(a) Pro Rata Shares. All Term Loans shall be made, and all participations purchased, by Lenders simultaneously and proportionately to their respective Pro Rata Shares, it being understood that no Lender shall be responsible for any default by any other Lender in such other Lender's obligation to make a Term Loan requested hereunder or purchase a participation required hereby nor shall any Commitment of any Lender be increased or decreased as a result of a default by any other Lender in such other Lender's obligation to make a Term Loan requested hereunder or purchase a participation required hereby.

(b) Availability of Funds. Unless the Administrative Agent shall have been notified by any Lender prior to the Closing Date that such Lender does not intend to make available to the Administrative Agent the amount of such Lender's Term Loan requested on the Closing Date, the Administrative Agent may assume that such Lender has made such amount available to the Administrative Agent on the Closing Date and the Administrative Agent may, in its sole discretion, but shall not be obligated to, make available to the Borrower a corresponding amount on the Closing Date. If such corresponding amount is not in fact made available to the Administrative Agent by such Lender, the Administrative Agent shall be entitled to recover such corresponding amount on demand from such Lender together with interest thereon, for each day from the Closing Date until the date such amount is paid to the Administrative Agent, at the customary rate set by the Administrative Agent for the correction of errors among banks for three Business Days and thereafter at the Base Rate. In the event that (i) the Administrative Agent declines

to make a requested amount available to the Borrower until such time as all applicable Lenders have made payment to the Administrative Agent, (ii) a Lender fails to fund to the Administrative Agent all or any portion of the Term Loans required to be funded by such Lender hereunder prior to the time specified in this Agreement and (iii) such Lender's failure results in the Administrative Agent failing to make a corresponding amount available to the Borrower on the Closing Date, at Administrative Agent's option, such Lender shall not receive interest hereunder with respect to the requested amount of such Lender's Term Loans for the period commencing with the time specified in this Agreement for receipt of payment by the Borrower through and including the time of the Borrower's receipt of the requested amount. If such Lender does not pay such corresponding amount forthwith upon the Administrative Agent's demand therefor, the Administrative Agent shall promptly notify the Borrower and the Borrower shall immediately pay such corresponding amount to the Administrative Agent together with interest thereon, for each day from the Closing Date until the date such amount is paid to the Administrative Agent, at the rate payable hereunder for Base Rate Loans for such Class of Term Loans. Nothing in this Section 2.6(b) shall be deemed to relieve any Lender from its obligation to fulfill its Commitments hereunder or to prejudice any rights that the Borrower may have against any Lender as a result of any default by such Lender hereunder.

2.7 Use of Proceeds. The proceeds of the Initial Term Loans made on the Closing Date shall be applied by the Borrower to fund the uses specified in the recitals hereto. The proceeds of each other Class of Term Loans made after the Closing Date shall be used for the purposes specified in the applicable Refinancing Amendment.

2.8 Evidence of Debt; Register; Lenders' Books and Records; Notes.

(a) Lenders' Evidence of Debt. Each Lender shall maintain on its internal records an account or accounts evidencing the Borrower Obligations to such Lender, including the amounts of the Term Loans made by it and each repayment and prepayment in respect thereof. Any such recordation shall be conclusive and binding on the Borrower, absent manifest error; provided, that the failure to make any such recordation, or any error in such recordation, shall not affect the Borrower's Obligations in respect of any applicable Term Loans; and provided further, in the event of any inconsistency between the Register and any Lender's records, the recordations in the Register shall govern.

(b) Register. The Administrative Agent (or its agent or sub-agent appointed by it) shall maintain at its Principal Office a register for the recordation of the names and addresses of Lenders (and each assignee thereof) and the Commitments and Term Loans (and related interest amounts) of each Lender from time to time (the "Register"). The Register shall be available for inspection by the Borrower or any Lender (with respect to (i) any entry relating to such Lender's Commitments and Term Loans or (ii) the identity of the other Lenders (but not any information with respect to such other Lenders' Commitments and Term Loans except upon the occurrence and during the continuance of an Event of Default)) at any reasonable time and from time to time upon reasonable prior notice. The Administrative Agent shall record, or shall cause to be recorded, in the Register the Commitments and the Term Loans (and related interest amounts), as well as any assignments thereof, in accordance with the provisions of Section 9.6, and each repayment or prepayment in respect of the principal amount (and related interest amounts) of the Term Loans, and any such recordation shall be conclusive and binding on the

Borrower and each Lender, absent manifest error; provided, failure to make any such recordation, or any error in such recordation, shall not affect any Lender's Commitments or the Borrower Obligations in respect of any Term Loan. The Borrower hereby designates the Administrative Agent to serve as the Borrower's agent solely for purposes of maintaining the Register as provided in this Section 2.8. The parties hereto shall treat each Person listed in the Register as the owner of the applicable Term Loan, notwithstanding notice to the contrary. This Section 2.8(b) is intended to establish a "book entry system" within the meaning of Treasury regulation Section 5f.103-1(c)(1)(ii) and shall be interpreted consistently with such intent.

(c) Notes. If so requested by any Lender by written notice to the Borrower (with a copy to the Administrative Agent) at least two Business Days prior to the Closing Date, or at any time thereafter, the Borrower shall execute and deliver to such Lender (and/or, if applicable and if so specified in such notice, to any Person who is an Assignee of such Lender pursuant to Section 9.6) on the Closing Date (or, if such notice is delivered after the Closing Date, promptly after the Borrower's receipt of such notice) a Term Loan Note to evidence such Lender's Term Loan.

2.9 Interest on Term Loans.

(a) Except as otherwise set forth herein, each Class of Term Loan shall bear interest on the unpaid principal amount thereof from the date made through repayment (whether by acceleration or otherwise) thereof as follows:

(i) if a Base Rate Loan, at the Base Rate plus the Applicable Margin with respect to such Class; or

(ii) if a Eurodollar Rate Loan, at the Adjusted Eurodollar Rate plus the Applicable Margin with respect to such Class.

(b) The basis for determining the rate of interest with respect to any Term Loan, and the Interest Period with respect to any Eurodollar Rate Loan, shall be selected by the Borrower and notified to Administrative Agent and Lenders pursuant to the applicable Funding Notice or Conversion/Continuation Notice, as the case may be.

(c) In connection with Eurodollar Rate Loans there shall be no more than ten (10) Interest Periods outstanding at any time. In the event the Borrower fails to specify between a Base Rate Loan or a Eurodollar Rate Loan in the applicable Funding Notice or Conversion/Continuation Notice, such Term Loan (if outstanding as a Eurodollar Rate Loan) will be automatically converted into a Base Rate Loan on the last day of the then current Interest Period for such Term Loan (or if outstanding as a Base Rate Loan will remain as, or (if not then outstanding) will be made as, a Base Rate Loan). In the event the Borrower fails to specify an Interest Period for any Eurodollar Rate Loan in the applicable Funding Notice or Conversion/Continuation Notice, the Borrower shall be deemed to have selected an Interest Period of one month. As soon as practicable after 10:00 a.m. (New York City time) on each Interest Rate Determination Date, the Administrative Agent shall determine (which determination shall, absent manifest error, be final, conclusive and binding upon all parties) the interest rate that shall apply to the Eurodollar Rate Loans for which an interest rate is then being determined for the applicable Interest Period and shall promptly give notice thereof (in writing or by telephone confirmed in writing) to the Borrower and each Lender.

(d) Interest payable pursuant to Section 2.9(a) shall be computed (i) in the case of Base Rate Loans on the basis of a 365 day or 366 day year, as the case may be, and (ii) in the case of Eurodollar Rate Loans, on the basis of a 360 day year, in each case for the actual number of days elapsed in the period during which it accrues. In computing interest on any Term Loan, the date of the making of such Term Loan or the first day of an Interest Period applicable to such Term Loan or the last Interest Payment Date with respect to such Term Loan or, with respect to a Base Rate Loan being converted from a Eurodollar Rate Loan, the date of conversion of such Eurodollar Rate Loan to such Base Rate Loan, as the case may be, shall be included, and the date of payment of such Term Loan or the expiration date of an Interest Period applicable to such Term Loan or, with respect to a Base Rate Loan being converted to a Eurodollar Rate Loan, the date of conversion of such Base Rate Loan to such Eurodollar Rate Loan, as the case may be, shall be excluded; provided, if a Term Loan is repaid on the same day on which it is made, one day's interest shall be paid on that Term Loan.

(e) Except as otherwise set forth herein, interest on each Term Loan (i) shall accrue on a daily basis and shall be payable in arrears on each Interest Payment Date with respect to interest accrued on and to each such payment date; (ii) shall accrue on a daily basis and shall be payable in arrears upon any prepayment of that Term Loan, whether voluntary or mandatory, to the extent accrued on the amount being prepaid; and (iii) shall accrue on a daily basis and shall be payable in arrears at maturity of the Term Loans, including final maturity of the Term Loans; provided, however, with respect to any voluntary prepayment of a Base Rate Loan, accrued interest shall instead be payable on the applicable Interest Payment Date.

2.10 Conversion/Continuation.

(a) Subject to Section 2.19 and so long as the Administrative Agent, at the direction of the Required Lenders, has not delivered a notice to the Borrower after a Default or Event of Default shall have occurred and then be continuing withdrawing such option, the Borrower shall have the option:

(i) to convert at any time all or any part of any Term Loan of any Class equal to $1,000,000 and integral multiples of $1,000,000 in excess of that amount from one Type of Term Loan to another Type of Term Loan; provided, a Eurodollar Rate Loan may only be converted on the expiration of the Interest Period applicable to such Eurodollar Rate Loan unless the Borrower shall pay all amounts due under Section 2.19 in connection with any such conversion; or

(ii) upon the expiration of any Interest Period applicable to any Eurodollar Rate Loan, to continue all or any portion of such Term Loan equal to $1,000,000 and integral multiples of $1,000,000 in excess of that amount as a Eurodollar Rate Loan.

(b) Subject to clause (c) below, the Borrower shall deliver a Conversion/Continuation Notice to the Administrative Agent no later than 2:00 p.m. (New York City time) at least one Business Day in advance of the proposed conversion date (in the case of a conversion

to a Base Rate Loan) and at least three Business Days in advance of the proposed conversion/continuation date (in the case of a conversion to, or a continuation of, a Eurodollar Rate Loan). Except as otherwise provided herein, a Conversion/Continuation Notice for conversion to, or continuation of, any Eurodollar Rate Loans shall be irrevocable on and after the related Interest Rate Determination Date, and the Borrower shall be bound to effect a conversion or continuation in accordance therewith. If on any day a Term Loan is outstanding with respect to which a Funding Notice or Conversion/Continuation Notice has not been delivered to the Administrative Agent in accordance with the terms hereof specifying the applicable basis for determining the rate of interest, then for that day such Term Loan shall be a Base Rate Loan.

(c) Any Conversion/Continuation Notice shall be executed by a Responsible Officer in a writing delivered to the Administrative Agent. In lieu of delivering a Conversion/Continuation Notice, the Borrower may give the Administrative Agent telephonic notice by the required time of such proposed conversion or continuation, as the case may be; provided each such notice shall be promptly confirmed in writing by delivery of the applicable Conversion/Continuation Notice to the Administrative Agent on or before the close of business on the date that the telephonic notice is given. In the event of a discrepancy between the telephone notice and the written Conversion/Continuation Notice, the written Conversion/Continuation No-tice shall govern. In the case of any Conversion/Continuation Notice that is irrevocable once given, if the Borrower provides telephonic notice in lieu thereof, such telephone notice shall also be irrevocable once given. Neither the Administrative Agent nor any Lender shall incur any liability to the Borrower in acting upon any telephonic notice referred to above that the Administrative Agent believes in good faith to have been given by a duly authorized officer or other person authorized on behalf of the Borrower or for otherwise acting in good faith.

2.11 Default Interest. Upon the occurrence and during the continuance of an Event of Default under Section 7.1(a) or Section 7.1(f), the overdue principal amount of all Term Loans outstanding and, to the extent permitted by applicable law, any overdue interest payments on the Term Loans or any overdue fees or other amounts owed hereunder shall bear interest (including post-petition interest in any proceeding under Debtor Relief Laws) payable on demand at a rate that is 2% per annum in excess of the interest rate otherwise payable hereunder with respect to the applicable Term Loans. Payment or acceptance of the increased rates of interest provided for in this Section 2.11 is not a permitted alternative to timely payment and shall not constitute a waiver of any Event of Default or otherwise prejudice or limit any rights or remedies of the Administrative Agent or any Lender.

2.12 Fees.

(a) The Borrower agrees to pay to the Administrative Agent, for the account of each Lender party to this Agreement as a Lender on the Closing Date, or with respect to the Initial Term Loans, to such Lender out of the proceeds of the Initial Term Loan made by such Lender on the Closing Date, as fee compensation for the funding of such Lender’s Initial Term Loan, a closing fee in an amount equal to 1.00% of the stated principal amount of such Lender’s Initial Term Loan, payable to such Lender from the proceeds of its Term Loan as and when funded on the Closing Date. Such closing fee will be in all respects fully earned, due and payable on the Closing Date and non-refundable and non-creditable thereafter.

(b) In addition to any of the foregoing fees, the Borrower agrees to pay to the Arranger and the Administrative Agent such other fees in the amounts and at the times separately agreed upon.

2.13 Scheduled Payments. The principal amounts of the Initial Term Loans shall be repaid in consecutive quarterly installments and at final maturity (each such payment, an "Installment") in the aggregate amounts set forth below on the four quarterly scheduled Interest Payment Dates applicable to Term Loans, commencing:

Amortization Date	Initial Term Loan Installments
December 31, 2014	$ 250,000
March 31, 2015	$ 250,000
June 30, 2015	$ 250,000
September 30, 2015	$ 250,000
December 31, 2015	$ 250,000
March 31, 2016	$ 250,000
June 30, 2016	$ 250,000
September 30, 2016	$ 250,000
December 31, 2016	$ 1,250,000
March 31, 2017	$ 1,250,000
June 30, 2017	$ 1,250,000
September 30, 2017	$ 1,250,000
December 31, 2017	$ 1,250,000
Maturity Date for Initial Term Loans	Remainder

Notwithstanding the foregoing, (x) such Installments shall be reduced in connection with any voluntary or mandatory prepayments of the Initial Term Loans in accordance with Sections 2.14, 2.15 and 2.16, as applicable; and (y) the Initial Term Loans, together with all other amounts owed hereunder with respect thereto, shall, in any event, be paid in full no later than the Maturity Date with respect thereto. With respect to any Term Loans subject to an Extension, such Term Loans shall be repaid by the Borrower in the amounts and on the dates set forth in the Extension Amendment.

2.14 Voluntary Prepayments.

(a) Voluntary Prepayments of Term Loans.

(i) Any time and from time to time (and subject to Section 2.14(b)):

(1) with respect to Base Rate Loans, the Borrower may prepay any such Term Loans of any Class on any Business Day in whole or in part, in an aggregate minimum amount of $1,000,000 and integral multiples of $1,000,000 in excess of that amount; and

(2) with respect to Eurodollar Rate Loans, the Borrower may prepay any such Term Loans of any Class on any Business Day in whole or in part in an aggregate minimum amount of $1,000,000 and integral multiples of $1,000,000 in excess of that amount.

(ii) All such prepayments shall be made:

(1) upon written or telephonic notice on the date of prepayment, in the case of Base Rate Loans; and

(2) upon not less than two Business Days' prior written or telephonic notice in the case of Eurodollar Rate Loans;

in each case given to the Administrative Agent by 3:00 p.m. (New York City time) on the date required and, if given by telephone, promptly confirmed by delivery of written notice thereof to the Administrative Agent (and the Administrative Agent will promptly transmit such original notice for Term Loans by telefacsimile or telephone to each applicable Lender). Upon the giving of any such notice, the principal amount of the Term Loans specified in such notice shall become due and payable on the prepayment date specified therein; provided that a notice of voluntary prepayment may state that such notice is conditioned upon the effectiveness of other credit facilities, the receipt of proceeds from the issuance of other Indebtedness or the Disposition of assets or the closing of a merger or acquisition transaction, in which case such notice of prepayment may be revoked or extended by the Borrower (by notice to the Administrative Agent on or prior to the specified date) if such condition is not satisfied or delayed in effectiveness. Any such voluntary prepayment shall be applied as specified in Section 2.16(a).

(b) Prepayment Premium. If any Term Loans are voluntarily prepaid pursuant to this Section 2.14, mandatorily prepaid pursuant to Section 2.15(c) or repaid on or after the Maturity Date, such prepayments or repayments, as the case may be, shall be made at (w) 101% of the aggregate principal amount of the Term Loans so prepaid if such prepayment occurs on or prior to the second anniversary of the Closing Date, (x) 102% of the aggregate principal amount of the Term Loans so prepaid if such prepayment occurs after the second anniversary of the Closing Date and on or prior to the date that is two and a half years after the Closing Date, (y) 102.5% of the aggregate principal amount of the Term Loans so prepaid if such prepayment occurs after the date that is two and a half years after the Closing Date and on or prior to the third anniversary of the Closing Date or (z) 103% of the aggregate principal amount of the Term Loans so prepaid or repaid, as the case may be, if such prepayment or repayment, as the case may be, occurs after the third anniversary of the Closing Date including repayment on or after the Maturity Date.

2.15 Mandatory Prepayments.

(a) Asset Sales. No later than the tenth Business Day following the date of receipt by any Jefferson Group Member of any Net Cash Proceeds from any Asset Sale, the

Borrower shall prepay the Term Loans as set forth in Section 2.16(b) in an aggregate amount equal to such Net Cash Proceeds; provided, so long as no Event of Default under Section 7.1(a) or (f) shall have occurred and be continuing at the time such Net Cash Proceeds from Asset Sales are received, the Borrower shall have the option, directly or through one or more of its Subsidiaries, to reinvest such Net Cash Proceeds within 365 days of receipt thereof in assets useful in the business of the Borrower and its Subsidiaries (or to use such Net Cash Proceeds to replace assets Disposed of in such Asset Sale) or to enter into a binding commitment to acquire such assets within 365 days of receipt thereof so long as such assets are actually acquired within 545 days of receipt of such Net Cash Proceeds; provided further, that any Net Cash Proceeds not so reinvested shall be applied to the prepayment of the Term Loans as set forth in this Section 2.15(a) at the end of such reinvestment period; provided further, that no such Net Cash Proceeds received in connection with any Asset Sale and not reinvested pursuant to the first or second proviso above shall be required to be used to prepay the Term Loans until the aggregate amount of all such Net Cash Proceeds received and not reinvested during the term of this Agreement shall exceed $10,000,000 (the "Asset Sale Threshold Amount") (and thereafter, only Net Cash Proceeds received and not reinvested in excess of such Asset Sale Threshold Amount shall be required to be used to prepay the Term Loans as set forth in Section 2.16(b)).

(b) Recovery Events. No later than the tenth Business Day following the date of receipt by any Jefferson Group Member of any Net Cash Proceeds from any Recovery Event, the Borrower shall prepay the Term Loans as set forth in Section 2.16(b) in an aggregate amount equal to such Net Cash Proceeds; provided, so long as no Event of Default under Section 7.1(a) or (f) shall have occurred and be continuing, the Borrower shall have the option, directly or through one or more of its Subsidiaries, to reinvest such Net Cash Proceeds within 365 days of receipt thereof in assets useful in the business of the Borrower and its Subsidiaries (or to use such Net Cash Proceeds to replace assets damaged or destroyed in connection with the property or casualty insurance claim or condemnation proceeding that is the basis for such Recovery Event) or to enter into a binding commitment to acquire such assets within 365 days of receipt thereof so long as such assets are actually acquired within 545 days of receipt of such Net Cash Proceeds; provided further, that any Net Cash Proceeds not so reinvested shall be applied to the prepayment of the Term Loans as set forth in this Section 2.15(b) at the end of such reinvestment period.

(c) Issuance of Debt. Subject to Section 2.14(b), no later than the tenth Business Day following the date of receipt by any Jefferson Group Member of any Net Cash Proceeds from the incurrence by any Jefferson Group Member of any Indebtedness (other than with respect to any Indebtedness permitted to be incurred pursuant to Section 6.2), the Borrower shall prepay the Term Loans as set forth in Section 2.16(b) in an aggregate amount equal to 100% of such Net Cash Proceeds.

(d) Consolidated Excess Cash Flow. If, as of any Excess Cash Flow Determination Date (commencing with December 31, 2015), the Excess Cash Flow Prepayment Amount exceeds $0, then within ten (10) Business Days after the date the annual audited financial statements for each fiscal year ended on any Excess Cash Flow Determination Date are required to be delivered pursuant to Section 5.1(a), the Borrower shall prepay the Term Loans as set forth in Section 2.16(b) in an amount equal to (i) 100% of the Excess Cash Flow Prepayment Amount, minus (ii) voluntary prepayments of Term Loans made during such fiscal year, and amounts paid

by the Borrower in connection with any Borrower Loan Purchase, in each case except to the extent funded with Net Cash Proceeds of any borrowing or issuance of Indebtedness for borrowed money.

(e) [reserved].

(f) Prepayment Certificate. Concurrently with any prepayment of the Term Loans pursuant to Sections 2.15(a) through 2.15(d), the Borrower shall deliver to the Administrative Agent a certificate of a Responsible Officer of the Borrower demonstrating the calculation of the amount of the applicable Net Cash Proceeds or Excess Cash Flow Prepayment Amount, as the case may be. In the event that the Borrower shall subsequently determine that the actual amount required to be prepaid exceeded the amount set forth in such certificate, the Borrower shall promptly make an additional prepayment of the Term Loans in an amount equal to such excess, and the Borrower shall concurrently therewith deliver to the Administrative Agent a certificate of a Responsible Officer of the Borrower demonstrating the derivation of such excess.

(g) [reserved].

(h) Foreign Dispositions/Excess Cash Flow. Notwithstanding any other provision of this Section 2.15, (i) to the extent that any of or all the Net Cash Proceeds of any Disposition by a Foreign Subsidiary (a "Foreign Disposition") or Excess Cash Flow Prepayment Amount attributable to Foreign Subsidiaries are prohibited or delayed by applicable local law from being repatriated to the United States, the portion of such Net Cash Proceeds or Excess Cash Flow Prepayment Amount so affected will not be required to be applied to prepay Term Loans at the times provided in this Section 2.15 but may be retained by the applicable Foreign Subsidiary so long, but only so long, as the applicable local law will not permit repatriation to the United States (the Borrower hereby agreeing to cause the applicable Foreign Subsidiary to promptly take all actions reasonably required by the applicable local law to permit such repatriation), and once such repatriation of any of such affected Net Cash Proceeds or Excess Cash Flow Prepayment Amount that, in each case, would otherwise be required to be used to make a prepayment pursuant to this Section 2.15, is permitted under the applicable local law, such repatriation will be immediately effected and such repatriated Net Cash Proceeds or Excess Cash Flow Prepayment Amount will be promptly (and in any event not later than 10 Business Days after such repatriation) applied (net of additional taxes payable or reserved against as a result thereof) to the prepayment of the Term Loans pursuant to this Section 2.15 and (ii) to the extent that the Borrower has determined in good faith that repatriation to the United States of any of or all the Net Cash Proceeds of any Disposition by a Foreign Subsidiary or Excess Cash Flow Prepayment Amount attributable to Foreign Subsidiaries would have material adverse tax cost consequences (taking into account any foreign tax credit or benefit actually realized in connection with such repatriation) with respect to such Net Cash Proceeds or Excess Cash Flow Prepayment Amount, such Net Cash Proceeds or Excess Cash Flow Prepayment Amount so affected may be retained by the applicable Foreign Subsidiary; provided that in the case of this clause (ii), on or before the date on which any such Net Cash Proceeds or any such Excess Cash Flow Prepayment Amount would have been required to be applied to prepayments pursuant to this Section 2.15, the Borrower applies an amount equal to such Net Cash Proceeds or Excess Cash Flow Prepayment Amount to such reinvestments or prepayments, as applicable, as if such Net Cash Proceeds or Excess Cash Flow Prepayment Amount had been received by the Borrower rather than such

Foreign Subsidiary, less the amount (the "Netted Tax Amount") of additional taxes that would have been payable or reserved against if such Net Cash Proceeds or Excess Cash Flow Prepayment Amount had been repatriated (or, if less, the Net Cash Proceeds or Excess Cash Flow Prepayment Amount that would be calculated if received by such Foreign Subsidiary); provided that, to the extent that the repatriation of any Net Cash Proceeds or Excess Cash Flow Prepayment Amount from such Foreign Subsidiary would no longer have an adverse tax consequence, such Foreign Subsidiary shall promptly repatriate (and in any event not later than 10 Business Days after such repatriation) an amount equal to the Netted Tax Amount to the Borrower, which amount shall be applied by the Borrower to prepayment of the Term Loans in accordance with this Section 2.15.

2.16 Application of Prepayments/Reductions.

(a) Application of Voluntary Prepayments. Any prepayment of any Term Loan pursuant to Section 2.14(a) shall be applied as specified by the Borrower in the applicable notice of prepayment; provided, in the event the Borrower fails to specify the Term Loans (or Class thereof) to which any such prepayment shall be applied, such prepayment shall be applied to prepay the Term Loans pro rata among Classes of Term Loans in direct order of maturity of the scheduled remaining Installments of principal of the Term Loans within each Class.

(b) Application of Mandatory Prepayments. Any amount required to be used to prepay the Term Loans pursuant to Sections 2.15(a) through 2.15(d) shall be applied to the Class of Term Loans specified by the Borrower in the applicable notice of prepayment in direct order of maturity of the scheduled remaining Installments of principal of such Class of Term Loans.

(c) Waivable Mandatory Prepayment. Anything contained herein to the contrary notwithstanding, so long as any Term Loans are outstanding, in the event the Borrower is required to make any mandatory prepayment (a "Waivable Mandatory Prepayment") of the Term Loans, not less than five Business Days prior to the date (the "Required Prepayment Date") on which the Borrower is required to make such Waivable Mandatory Prepayment, the Borrower shall notify the Administrative Agent of the amount of such prepayment, and the Administrative Agent will promptly thereafter notify each Lender holding an outstanding Term Loan of the amount of such Lender's Pro Rata Share of such Waivable Mandatory Prepayment and such Lender's option to refuse such amount. Each such Lender may exercise such option to refuse its Pro Rata Share of such Waivable Mandatory Prepayment (such refused amount of all such Lenders, the "Refused Proceeds") by giving written notice to the Borrower and the Administrative Agent of its election to do so on or before the third Business Day prior to the Required Prepayment Date (it being understood that any Lender which does not notify the Borrower and the Administrative Agent of its election to exercise such option on or before the third Business Day prior to the Required Prepayment Date shall be deemed to have elected, as of such date, not to exercise such option). On the Required Prepayment Date, the Borrower shall (i) pay to the Administrative Agent the amount of the Waivable Mandatory Prepayment, less the Refused Proceeds, which such remaining amount shall be applied to prepay the Term Loans of those Lenders that have elected not to exercise such option (which prepayment shall be applied to the scheduled Installments of principal of the Term Loans in accordance with Section 2.16(b)), and (ii) retain any Refused Proceeds or use such Refused Proceeds for any other purpose permitted hereunder.

(d) Application of Prepayments of Term Loans to Base Rate Loans and Eurodollar Rate Loans. Considering each Class of Term Loans being prepaid separately, any prepayment thereof shall be applied first to Base Rate Loans to the full extent thereof before application to Eurodollar Rate Loans, in each case in a manner which minimizes the amount of any payments required to be made by the Borrower pursuant to Section 2.19(c).

2.17 General Provisions Regarding Payments.

(a) All payments by the Borrower of principal, interest, fees and other Obligations shall be made in Dollars in same day funds, without defense, recoupment, setoff or counterclaim, free of any restriction or condition, and delivered to the Administrative Agent not later than 3:00 p.m. (New York City time) on the date due at the Principal Office of the Administrative Agent for the account of Lenders; for purposes of computing interest and fees, funds received by the Administrative Agent after that time on such due date shall be deemed to have been paid by the Borrower on the next succeeding Business Day.

(b) All payments in respect of the principal amount of any Term Loan shall be accompanied by payment of accrued interest on the principal amount being repaid or prepaid, and all such payments (and, in any event, any payments in respect of any Term Loan on a date when interest is due and payable with respect to such Term Loan) shall be applied to the payment of interest then due and payable before application to principal.

(c) The Administrative Agent (or its agent or sub-agent appointed by it) shall promptly distribute to each Lender at such address as such Lender shall indicate in writing, such Lender's applicable Pro Rata Share of all payments and prepayments of principal and interest due hereunder, together with all other amounts due related thereto, including all fees payable with respect thereto, to the extent received by the Administrative Agent.

(d) Notwithstanding the foregoing provisions hereof, if any Conversion/Continuation Notice is withdrawn as to any Affected Lender or if any Affected Lender makes Base Rate Loans in lieu of its Pro Rata Share of any Eurodollar Rate Loans, the Administrative Agent shall give effect thereto in apportioning payments received thereafter.

(e) Whenever any payment to be made hereunder with respect to any Term Loan shall be stated to be due on a day that is not a Business Day, such payment shall be made on the next succeeding Business Day.

(f) The Administrative Agent shall deem any payment by or on behalf of the Borrower hereunder that is not made in same day funds prior to 3:00 p.m. (New York City time) (unless a later time is otherwise specified herein with respect to such payment) to be a non-conforming payment. Any such payment shall not be deemed to have been received by the Administrative Agent until the later of (i) the time such funds become available funds, and (ii) the applicable next Business Day. The Administrative Agent shall give prompt telephonic notice to the Borrower and each applicable Lender (confirmed in writing) if any payment is non-conforming. Any non-conforming payment may constitute or become a Default or Event of Default in accordance with the terms of Section 7.1(a). Interest shall continue to accrue on any principal as to which a non-conforming payment is made until such funds become available

funds (but in no event less than the period from the date of such payment to the next succeeding applicable Business Day) at the rate determined pursuant to Section 2.11, if applicable, from the date such amount was due and payable until the date such amount is paid in full.

2.18 Ratable Sharing. The Lenders hereby agree among themselves that if any of them shall, whether by voluntary payment (other than a voluntary prepayment of Term Loans made and applied in accordance with the terms hereof), through the exercise of any right of set off or banker's lien, or by counterclaim or cross action or by the enforcement of any right under the Loan Documents or otherwise, or as adequate protection of a deposit treated as cash collateral under Debtor Relief Laws, receive payment or reduction of a proportion of the aggregate amount of principal, interest, fees and other amounts then due and owing to such Lender hereunder or under the other Loan Documents (collectively, the "Aggregate Amounts Due" to such Lender) which is greater than the proportion received by any other Lender in respect of the Aggregate Amounts Due to such other Lender, then the Lender receiving such proportionately greater payment shall (a) notify the Administrative Agent and each other Lender of the receipt of such payment and (b) apply a portion of such payment to purchase participations (which it shall be deemed to have purchased from each seller of a participation simultaneously upon the receipt by such seller of its portion of such payment) in the Aggregate Amounts Due to the other Lenders so that all such recoveries of Aggregate Amounts Due shall be shared by all Lenders in proportion to the Aggregate Amounts Due to them; provided, if all or part of such proportionately greater payment received by such purchasing Lender is thereafter recovered from such Lender upon the bankruptcy or reorganization of the Borrower or otherwise, those purchases shall be rescinded and the purchase prices paid for such participations shall be returned to such purchasing Lender ratably to the extent of such recovery, but without interest. The Borrower expressly consents to the foregoing arrangement and agrees that any holder of a participation so purchased may exercise any and all rights of banker's lien, consolidation, set off or counterclaim with respect to any and all monies owing by the Borrower to that holder with respect thereto as fully as if that holder were owed the amount of the participation held by that holder. The provisions of this Section 2.18 shall not be construed to apply to (a) any payment made by the Borrower pursuant to and in accordance with the express terms of this Agreement as in effect from time to time or (b) any payment obtained by any Lender as consideration for the assignment or sale of a participation in any of its Term Loans or other Obligations owed to it. For purposes of clause (a)(iii) of Section 2.21, a Lender that acquires a participation pursuant to this Section 2.18 shall be treated as having acquired such participation on the earlier date on which such Lender acquired the applicable interest in the Term Loan to which such participation relates.

2.19 Making or Maintaining Eurodollar Rate Loans.

(a) Inability to Determine Applicable Interest Rate. In the event that the Required Lenders shall have reasonably determined (which determination shall be final and conclusive and binding upon all parties hereto but shall be made only after consultation with the Borrower and the Administrative Agent) on any Interest Rate Determination Date with respect to any Eurodollar Rate Loans, that by reason of circumstances affecting the London interbank market adequate and fair means do not exist for ascertaining the interest rate applicable to such Term Loans on the basis provided for in the definition of "Adjusted Eurodollar Rate," the Administrative Agent shall on such date give notice (by telefacsimile or by telephone confirmed in writing) to the Borrower and each Lender of such determination, whereupon (i) no Term Loans may be

made as, or converted to, Eurodollar Rate Loans until such time as the Administrative Agent notifies the Borrower and Lenders that the circumstances giving rise to such notice no longer exist, and (ii) any Funding Notice or Conversion/Continuation Notice given by the Borrower with respect to the Term Loans in respect of which such determination was made shall be deemed to be rescinded by the Borrower.

(b) Illegality or Impracticability of Eurodollar Rate Loans. In the event that on any date (i) any Lender shall have reasonably determined (which determination shall be final and conclusive and binding upon all parties hereto but shall be made only after consultation with the Borrower and the Administrative Agent) that the making, maintaining, converting to or continuation of its Eurodollar Rate Loans has become unlawful as a result of compliance by such Lender in good faith with any law, treaty, governmental rule, regulation, guideline or order (or would conflict with any such treaty, governmental rule, regulation, guideline or order not having the force of law even though the failure to comply therewith would not be unlawful), or (ii) the Administrative Agent is advised by the Required Lenders (which determination shall be final and conclusive and binding upon all parties hereto) that the making, maintaining, converting to or continuation of its Eurodollar Rate Loans has become impracticable, as a result of contingencies occurring after the date hereof which materially and adversely affect the London interbank market or the position of the Lenders in that market, then, and in any such event, such Lenders (or in the case of the preceding clause (i), such Lender) shall be an "Affected Lender" and such Affected Lender shall on that day give notice (by e-mail or by telephone confirmed in writing) to the Borrower and the Administrative Agent of such determination (which notice the Administrative Agent shall promptly transmit to each other Lender). If the Administrative Agent receives a notice from (x) any Lender pursuant to clause (i) of the preceding sentence or (y) Lenders constituting Required Lenders pursuant to clause (ii) of the preceding sentence, then (1) the obligation of the Lenders (or, in the case of any notice pursuant to clause (i) of the preceding sentence, such Lender) to make Term Loans as, or to convert Term Loans to, Eurodollar Rate Loans shall be suspended until such notice shall be withdrawn by each Affected Lender, (2) to the extent such determination by the Affected Lender relates to a Eurodollar Rate Loan then being requested by the Borrower pursuant to a Funding Notice or a Conversion/Continuation Notice, the Lenders (or in the case of any notice pursuant to clause (i) of the preceding sentence, such Lender) shall make such Term Loan as (or continue such Term Loan as or convert such Term Loan to, as the case may be) a Base Rate Loan, (3) the Lenders' (or in the case of any notice pursuant to clause (i) of the preceding sentence, such Lender's) obligations to maintain their respective outstanding Eurodollar Rate Loans (the "Affected Loans") shall be terminated at the earlier to occur of the expiration of the Interest Period then in effect with respect to the Affected Loans or when required by law, and (4) the Affected Loans shall automatically convert into Base Rate Loans on the date of such termination. Notwithstanding the foregoing, to the extent a determination by an Affected Lender as described above relates to a Eurodollar Rate Loan then being requested by the Borrower pursuant to a Funding Notice or a Conversion/Continuation Notice, the Borrower shall have the option, subject to the provisions of Section 2.19(c), to rescind such Funding Notice or Conversion/Continuation Notice as to all Lenders by giving written or telephonic notice (promptly confirmed by delivery of written notice thereof) to the Administrative Agent of such rescission on the date on which the Affected Lender gives notice of its determination as described above (which notice of rescission the Administrative Agent shall promptly transmit to each other Lender). Except as provided in the immediately preceding sentence, nothing in this Section 2.19(b) shall affect the obligation of any Lender other than an Affected lender to make or maintain Term Loans as, or to convert Term Loans to, Eurodollar Rate Loans in accordance with the terms hereof.

(c) Compensation for Breakage or Non-Commencement of Interest Periods. The Borrower shall compensate each Lender, upon written request by such Lender (which request shall set forth the basis for requesting such amounts in reasonable detail), for all reasonable losses, expenses and liabilities (including any interest paid or payable by such Lender to Lenders of funds borrowed by it to make or carry its Eurodollar Rate Loans and any loss, expense or liability sustained by such Lender in connection with the liquidation or re-employment of such funds but excluding loss of anticipated profits) which such Lender may sustain: (i) if for any reason (other than a default by such Lender) a borrowing of any Eurodollar Rate Loan does not occur on a date specified therefor in a Funding Notice or a telephonic request for borrowing, or a conversion to or continuation of any Eurodollar Rate Loan does not occur on a date specified therefor in a Conversion/Continuation Notice or a telephonic request for conversion or continuation; (ii) if any prepayment or other principal payment of, or any conversion of, any of its Eurodollar Rate Loans occurs on a date prior to the last day of an Interest Period applicable to that Term Loan; or (iii) if any prepayment of any of its Eurodollar Rate Loans is not made on any date specified in a notice of prepayment given by the Borrower.

(d) Booking of Eurodollar Rate Loans. Any Lender may make, carry or transfer Eurodollar Rate Loans at, to, or for the account of any of its branch offices or the office of an Affiliate of such Lender.

(e) Assumptions Concerning Funding of Eurodollar Rate Loans. Calculation of all amounts payable to a Lender under this Section 2.19 and under Section 2.20 shall be made as though such Lender had actually funded each of its relevant Eurodollar Rate Loans through the purchase of a Eurodollar deposit bearing interest at the rate obtained pursuant to clause (i) of the definition of "Adjusted Eurodollar Rate" in an amount equal to the amount of such Eurodollar Rate Loan and having a maturity comparable to the relevant Interest Period and through the transfer of such Eurodollar deposit from an offshore office of such Lender to a domestic office of such Lender in the United States of America; provided, however, each Lender may fund each of its Eurodollar Rate Loans in any manner it sees fit and the foregoing assumptions shall be utilized only for the purposes of calculating amounts payable under this Section 2.19 and under Section 2.20.

2.20 Increased Costs; Capital Adequacy.

(a) Compensation for Increased Costs and Taxes. In the event that any Lender shall reasonably determine (which determination shall be final and conclusive and binding upon all parties hereto but shall be made only after consultation with the Borrower and the Administrative Agent) that any law, treaty or governmental rule, regulation or order, or any change therein or in the interpretation, administration or application thereof (regardless of whether the underlying law, treaty or governmental rule, regulation or order was issued or enacted prior to the date hereof), including the introduction of any new law, treaty or governmental rule, regulation or order but excluding solely proposals thereof, or any determination of a court or Governmental Authority, in each case that becomes effective after the date hereof, or compliance by such Lender with any guideline, request or directive by any central bank or other governmental

or quasi-governmental authority (whether or not having the force of law) or any implementation rules or interpretations of previously issued guidelines, requests or directives, in each case that is issued or made after the date hereof: (i) subjects such Lender (or its applicable lending office) to any additional tax (other than taxes excluded from Section 2.21 pursuant to clauses (i) through (vi) of Section 2.21(a) and Non-Excluded Taxes and Other Taxes indemnifiable under Section 2.21) with respect to this Agreement or any of the other Loan Documents or any of its obligations hereunder or thereunder or any obligations or payments to such Lender (or its applicable lending office) of principal, interest, fees or any other amount payable hereunder; (ii) imposes, modifies or holds applicable any reserve (including any marginal, emergency, supplemental, special or other reserve), special deposit, liquidity, compulsory loan, FDIC insurance or similar requirement against assets held by, or deposits or other liabilities in or for the account of, or advances or loans by, or other credit extended by, or any other acquisition of funds by, any office of such Lender (other than any such reserve or other requirements with respect to Eurodollar Rate Loans that are reflected in the definition of "Adjusted Eurodollar Rate"); or (iii) imposes any other condition (other than with respect to a tax matter) on or affecting such Lender (or its applicable lending office) or such Lender's obligations hereunder or the London interbank market; and the result of any of the foregoing is to increase the cost to such Lender by any amount of agreeing to make, making or maintaining Term Loans hereunder or to reduce any amount received or receivable by such Lender (or its applicable lending office) by any amount with respect thereto; then, in any such case, the Borrower shall pay to such Lender, within thirty (30) days of receipt of the statement referred to in the next sentence, such additional amount or amounts (in the form of an increased rate of, or a different method of calculating, interest or in a lump sum or otherwise as such Lender in its sole discretion shall determine) as may be necessary to compensate such Lender for any such increased cost or reduction in amounts received or receivable hereunder. Such Lender shall deliver to the Borrower (with a copy to the Administrative Agent) a written statement, setting forth in reasonable detail the basis for calculating the additional amounts owed to such Lender under this Section 2.20(a), which statement shall be conclusive and binding upon all parties hereto absent manifest error. Notwithstanding the foregoing, no Lender may demand compensation pursuant to this Section 2.20(a) unless it is then the general policy of such Lender to pursue similar compensation in similar circumstances under comparable provisions of other credit agreements.

(b) Capital Adequacy Adjustment. In the event that any Lender shall have reasonably determined (which determination shall, absent manifest error, be final and conclusive and binding upon all parties hereto) that (A) the adoption, effectiveness, phase in or applicability of any law, rule or regulation (or any provision thereof) regarding capital adequacy, or any change therein or in the interpretation or administration thereof by any Governmental Authority, central bank or comparable agency charged with the interpretation or administration thereof, or (B) compliance by any Lender (or its applicable lending office) with any guideline, request or directive regarding capital adequacy (whether or not having the force of law) of any such Governmental Authority, central bank or comparable agency, in each case after the date hereof, has or would have the effect of reducing the rate of return on the capital of such Lender by a material amount as a consequence of, or with reference to, such Lender's Term Loans, or participations therein or other obligations hereunder with respect to the Term Loans to a level below that which such Lender could have achieved but for such adoption, effectiveness, phase in, applicability, change or compliance (taking into consideration the policies of such Lender with regard to capital adequacy), then from time to time, within thirty (30) days after receipt by the Borrower from

such Lender of the statement referred to in the next sentence, the Borrower shall pay to such Lender such additional amount or amounts as will compensate such Lender or such controlling company on an after tax basis for such reduction. Such Lender shall deliver to the Borrower (with a copy to the Administrative Agent) a written statement, setting forth in reasonable detail the basis for calculating the additional amounts owed to Lender under this Section 2.20(b), which statement shall be conclusive and binding upon all parties hereto absent manifest error. For the avoidance of doubt, subsections (a) and (b) of this Section 2.20 shall apply to all requests, rules, guidelines or directives concerning liquidity and capital adequacy issued by any United States regulatory authority (i) under or in connection with the implementation of the Dodd-Frank Wall Street Reform and Consumer Protection Act and (ii) in connection with the implementation of the recommendations of the Bank for International Settlements or the Basel Committee on Banking Regulations and Supervisory Practices (or any successor or similar authority), in each case pursuant to Basel III, regardless of the date adopted, issued, promulgated or implemented. Notwithstanding the foregoing, no Lender may demand compensation pursuant to this Section 2.20(b) unless it is then the general policy of such Lender to pursue similar compensation in similar circumstances under comparable provisions of other credit agreements.

2.21 Taxes.

(a) All payments made by or on behalf of any Loan Party to the Administrative Agent, the Arranger or any Lender or other recipient (each, a "Recipient") under any Loan Document shall be made free and clear of, and without deduction or withholding for or on account of, any present or future taxes, levies, imposts, duties, charges, fees, deductions or withholdings, now or hereafter imposed, levied, collected, withheld or assessed by any Governmental Authority, excluding any of the following taxes (or any interest, additions to tax or penalties applicable thereto): (i) net income, net profit, branch profits, franchise and similar taxes imposed on any Recipient as a result of (x) such Recipient being organized under the laws of, or having its principal office or applicable lending office located in, the jurisdiction of the Governmental Authority imposing such tax, or (y) any other present or former connection between such Recipient and the jurisdiction of the Governmental Authority imposing such tax or any political subdivision or taxing authority thereof or therein (other than any such connection that would not have arisen but for and solely as a result of such Recipient having executed, delivered, been a party to, performed its obligations or received a payment under, received or perfected a security interest under, enforced or engaged in any other transaction pursuant to this Agreement or any other Loan Document); (ii) taxes imposed on any Recipient that are attributable to such Recipient's failure to comply with the requirements of paragraph (d), (e), (f), (g) or (h) of this Section; (iii) with respect to any Lender, any U.S. federal withholding tax imposed on such Lender pursuant to any Law in effect at the time such Lender becomes a party hereto or, in the case of any additional interest in a Term Loan acquired after such Lender becomes a party hereto, at the time such Lender acquires such additional interest (or changes its applicable lending office) except to the extent that (x) such Lender's assignor was entitled, immediately prior to the assignment to such Lender, to additional amounts in respect of such withholding tax, or (y) such Lender was entitled, immediately prior to such change in applicable lending office, to additional amounts in respect of such withholding tax; (iv) United States federal backup withholding taxes under Section 3406 of the Code; (v) taxes that are imposed pursuant to Sections 1471 through 1474 of the Code as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with) or any intergovernmental or FFI

agreement entered into pursuant thereto, or any applicable Treasury regulations promulgated thereunder or official interpretations thereof (such Code provisions, agreements, regulations and interpretations, collectively, "FATCA"); and (vi) any penalties, interest or additions to tax that are found by a final and nonappealable decision of a court of competent jurisdiction to have resulted from the Recipient's gross negligence or willful misconduct. If any taxes not described in clauses (i) through (vi) of the preceding sentence and/or any interest, additions to tax or penalties applicable thereto ("Non-Excluded Taxes") or any Other Taxes are required to be withheld by any applicable withholding agent from or are otherwise imposed on any amounts payable to the Administrative Agent, the Arranger or any Lender by any Loan Party under any Loan Document, the amounts so payable by or on behalf of any Loan Party to the Administrative Agent, the Arranger or such Lender shall be increased to the extent necessary to yield to each Lender (or, in the case of any payment made to the Administrative Agent for its own account, the Administrative Agent) (after payment of all Non-Excluded Taxes and Other Taxes, including with respect to additional amounts payable under this Section 2.21) interest or any such other amounts payable hereunder at the rates or in the amounts specified in such Loan Document as if no such withholding or deduction had been made.

(b) Without duplication of Section 2.21(a), the Loan Parties shall pay to the relevant Governmental Authority in accordance with applicable Law, or at the option of the Administrative Agent timely reimburse it for the payment of, any Other Taxes.

(c) Whenever any Non-Excluded Taxes or Other Taxes are payable or remittable by a Loan Party, as promptly as possible thereafter the Loan Party shall send to the Administrative Agent, the Arranger or relevant Lender, as the case may be, a certified copy of an original official receipt received by the Loan Party or other reasonably satisfactory evidence showing payment thereof. Without duplication of Section 2.21(a), the Loan Parties shall indemnify the Administrative Agent, the Arranger or the relevant Lender for the full amount of Non-Excluded Taxes or Other Taxes (including any Non-Excluded Taxes and Other Taxes imposed on amounts payable under this Section 2.21) payable by such Administrative Agent, the Arranger or relevant Lender, as the case may be, and any liability (including penalties, additions to tax, interest and reasonable expenses) arising therefrom or with respect thereto, whether or not such Non-Excluded Taxes or Other Taxes were correctly or legally asserted by the relevant taxing authority or other Governmental Authority. Such indemnification shall be made within 30 days after the date the Administrative Agent, the Arranger or any relevant Lender, as the case may be, makes written demand therefor (which demand shall set forth in reasonable detail the nature and amount of Non-Excluded Taxes and Other Taxes for which indemnification is being sought). If the Administrative Agent, the Arranger or a Lender determines, in its reasonable discretion, that it has received a refund of any taxes as to which it has been indemnified by a Loan Party or with respect to which a Loan Party has paid additional amounts pursuant to this Section 2.21, it shall pay such Loan Party an amount equal to such refund (but only to the extent of indemnity payments made, or additional amounts paid, by the Loan Party under this Section 2.21 with respect to the taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) of the Administrative Agent, the Arranger or such Lender and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund); provided that the Loan Party, upon the request of the Administrative Agent, the Arranger or such Lender, agrees to repay the amount paid over to the Loan Party (plus interest attributable to the period during which the Loan Party held such funds and any penalties, additions to tax, interest or other charges

imposed by the relevant Governmental Authority) to the Administrative Agent, the Arranger or such Lender in the event the Administrative Agent, the Arranger or such Lender, as the case may be, is required to repay such refund to such Governmental Authority. This Section 2.21(c) shall not be construed to require the Administrative Agent, the Arranger or any Lender to make available its tax returns (or any other information relating to its taxes that it deems confidential) to the Borrower or any other Person. The agreements in this Section 2.21 shall survive the resignation and/or replacement of the Administrative Agent, any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all other Obligations.

(d) Without limiting the generality of Section 2.21(e), each Lender, to the extent such Lender is not a "U.S. person" (as such term is defined in Section 7701(a)(30) of the Code) shall deliver to the Borrower and the Administrative Agent whichever of the following is applicable:

(i) two duly completed copies of IRS Form W-8BEN or W-8BEN-E (or any successor form) claiming eligibility for benefits of an income tax treaty to which the United States is a party and which provides for an exemption from or reduction in United States federal withholding tax,

(ii) two duly completed copies of IRS Form W-8ECI (or any successor form),

(iii) in the case of a Lender claiming the benefits of the exemption for portfolio interest under section 881(c) of the Code, (A) a certificate in substantially the form of Exhibit E-1, to the effect that such Lender is not (1) a "bank" within the meaning of section 881(c)(3)(A) of the Code, (2) a "10 percent shareholder" of the Borrower within the meaning of section 881(c)(3)(B) of the Code, (3) a "controlled foreign corporation" described in section 881(c)(3)(C) of the Code, and (4) was not engaged in a conduct of a trade or business within the United States to which the interest payment is effectively connected, and (B) two duly completed copies of IRS Form W-8BEN or W-8BEN-E (or any successor form);

(iv) to the extent a Lender is not the beneficial owner (for example, where the Lender is a partnership or a participating Lender granting a participation), a complete and executed IRS Form W-8IMY, accompanied by a Form W-8ECI, W-8BEN or W-8BEN-E, a certificate in substantially the form of Exhibit E-2, E-3, or E-4, as applicable, IRS Form W-9, and/or other certification documents from each beneficial owner (or any successor forms), as applicable; provided that, if the Lender is a partnership (and not a participating Lender) and one or more partners of such Lender are claiming the portfolio interest exemption, such Lender shall provide a certificate, in substantially the form of Exhibit E-2 or E-4, as applicable, on behalf of such beneficial owner(s) in lieu of requiring each beneficial owner to provide its own certificate; or

(v) any other form prescribed by applicable Law as a basis for claiming exemption from or a reduction in United States federal withholding tax on payments under this Agreement and the other Loan Documents duly completed together with such supplementary documentation as may be prescribed by applicable Law to permit the Borrower or the Administrative Agent to determine the withholding or deduction required to be made.

To the extent a Lender is a "U.S. person" (as defined in Section 7701(a)(30) of the Code), such Lender shall deliver to the Borrower and the Administrative Agent two duly completed copies of IRS Form W-9 certifying that such Lender is exempt from U.S. federal backup withholding tax.

(e) Upon the reasonable request of the Borrower or the Administrative Agent, a Lender that is entitled to an exemption from or reduction of any applicable withholding tax with respect to any payments under this Agreement or any Loan Document shall deliver to the Borrower and the Administrative Agent such properly completed and executed documentation prescribed by applicable Law or reasonably requested by the Borrower or the Administrative Agent as will permit such payments to be made without withholding or at a reduced rate; provided that such Lender is legally eligible to complete, execute and deliver such documentation.

(f) If a payment made to any Lender under any Loan Document would be subject to U.S. federal withholding tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Borrower and the Administrative Agent at the time or times prescribed by law and at such time or times reasonably requested by the Borrower or the Administrative Agent such documentation prescribed by applicable Law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Borrower or the Administrative Agent as may be necessary for the Borrower and the Administrative Agent to comply with their obligations under FATCA, to determine whether such Lender has complied with its obligations under FATCA or to determine the amount, if any, to deduct and withhold from such payment. Solely for the purpose of this Section 2.21(e), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

(g) Each Lender shall deliver the forms and other documentation required to be provided under this Section 2.21 (i) on or before the date it becomes a party to this Agreement, (ii) promptly upon the obsolescence, expiration, inaccuracy, or invalidity of any form previously de-livered by such Lender, and (iii) at such other times as may be reasonably requested by the Borrower or the Administrative Agent or as required by Law. Each Lender shall promptly notify the Administrative Agent and the Borrower at any time it determines that it is no longer in a position to provide any documentation previously delivered to the Borrower or the Administrative Agent. Notwithstanding any other provision of this Section 2.21, a Lender shall not be required to deliver any documentation pursuant to Sections 2.21(d), (e), (f) or (g) that such Lender is not legally eligible to deliver.

(h) If the Administrative Agent is a "United States person" within the meaning of Section 7701(a)(30) of the Code, then it shall, on or prior to the date on which it becomes the Administrative Agent, provide the Borrower with a properly completed and duly executed copy of IRS Form W-9 confirming that the Administrative Agent is exempt from U.S. federal back-up withholding. If the Administrative Agent is not a "United States person" within the meaning of Section 7701(a)(30) of the Code, then it shall, on or prior to the date on which it becomes

the Administrative Agent, provide the Borrower with, (i) with respect to payments made to the Administrative Agent for its own account, a properly completed and duly executed IRS Form W-8ECI (or other applicable IRS Form W-8), and (ii) with respect to payments made to the Administrative Agent on behalf of the Lenders, a properly completed and duly executed IRS Form W-8IMY confirming that the Administrative Agent agrees to be treated as a "United States person" for U.S. federal withholding tax purposes. The Administrative Agent shall, (i) promptly upon the obsolescence, expiration, inaccuracy or invalidity of any form previously delivered by the Administrative Agent under this clause (h), and (ii) at such other times as may be reasonably requested by the Borrower or as required by Law, deliver promptly to the Borrower an updated form or other appropriate documentation or promptly notify the Borrower in writing of its legal ineligibility to do so. Notwithstanding anything to the contrary in this clause (h), the Administrative Agent shall not be required to provide any documentation under this clause (h) that it is legally ineligible to provide as a result of a change in Law after the date hereof.

2.22 Obligation to Mitigate. Each Lender agrees that, as promptly as practicable after the officer of such Lender responsible for administering its Term Loans becomes aware of the occurrence of an event or the existence of a condition that would cause such Lender to become an Affected Lender or that would entitle such Lender to receive payments under Section 2.19, 2.20 or 2.21, it will, to the extent not inconsistent with the internal policies of such Lender and any applicable legal or regulatory restrictions, use reasonable efforts to (a) make, issue, fund or maintain its Term Loans, including any Affected Loans, through another office of such Lender, or (b) take such other measures as such Lender may deem reasonable, if as a result thereof the circumstances which would cause such Lender to be an Affected Lender would cease to exist or the additional amounts which would otherwise be required to be paid to such Lender pursuant to Section 2.19, 2.20 or 2.21 would be reduced and if, as determined by such Lender in its sole discretion, the making, funding or maintaining of such Term Loans through such other office or in accordance with such other measures, as the case may be, would not otherwise adversely affect such Term Loans or the interests of such Lender; provided, such Lender will not be obligated to utilize such other office or take such other measures pursuant to this Section 2.22 unless the Borrower agrees to pay all incremental expenses incurred by such Lender as a result of utilizing such other office or taking such other measures as described above. A certificate as to the amount of any such expenses payable by the Borrower pursuant to this Section 2.22 (setting forth in reasonable detail the basis for requesting such amount) submitted by such Lender to the Borrower (with a copy to the Administrative Agent) shall be conclusive absent manifest error. The Borrower shall not be required to make any payments to any Lender under Section 2.19 or 2.20 for any costs or reductions incurred more than 180 days prior to the date that such Lender notifies the Borrower of the circumstances giving rise to such costs or reductions and of such Lender's intention to claim compensation therefor; provided that if the event giving rise to such costs or reductions is given retroactive effect, then the 180-day period referred to above shall be extended to include the period of retroactive effect therefor.

2.23 [Reserved].

2.24 Removal or Replacement of a Lender**.** Anything contained herein to the contrary notwithstanding, in the event that: (a) (i) any Lender (an "Increased Cost Lender") shall give notice to the Borrower that such Lender is an Affected Lender or that such Lender is entitled to receive payments under Section 2.19, 2.20 or 2.21, (ii) the circumstances which have

caused such Lender to be an Affected Lender or which entitle such Lender to receive such payments shall remain in effect, and (iii) such Lender shall fail to withdraw such notice within five Business Days after the Borrower's request for such withdrawal; or (b) [reserved]; or (c) in connection with any proposed amendment, modification, termination, waiver or consent with respect to any of the provisions hereof as contemplated by Section 9.1 or in connection with any Extension, the consent of Required Lenders shall have been obtained but the consent of one or more of such other Lenders (each a "Non-Consenting Lender") whose consent is required (or, in the case of an Extension, whose consent is required in order to extend the maturity date of all Term Loans or Commitments of such Class) shall not have been obtained; then, with respect to each such Increased Cost Lender or Non-Consenting Lender (the "Terminated Lender"), the Borrower may, by giving written notice to the Administrative Agent and any Terminated Lender of its election to do so, elect to cause such Terminated Lender (and such Terminated Lender hereby irrevocably agrees) to assign its outstanding Term Loans in full to one or more Persons permitted to become Lenders hereunder pursuant to and in accordance with the provisions of Section 9.6 (each a "Replacement Lender") and the Borrower shall pay the fees, if any, payable thereunder in connection with any such assignment from an Increased Cost Lender, a Non-Consenting Lender; provided that, (1) on the date of such assignment, such Terminated Lender shall have received payment from the Replacement Lender or the Borrower in an amount equal to the sum of (A) the principal of, and all accrued interest on, all outstanding Term Loans of the Terminated Lender, (B) all unreimbursed drawings that have been funded by such Terminated Lender, together with all then unpaid interest with respect thereto at such time and (C) all accrued, but theretofore unpaid fees owing to such Terminated Lender pursuant to Section 2.12; (2) in the case of any such assignment resulting from a claim for compensation under Section 2.19(c), 2.20 or 2.21, such assignment will result in a material reduction in such compensation and on the date of such assignment, the Borrower shall pay any amounts payable to such Terminated Lender pursuant to Section 2.19, 2.20 or 2.21; or otherwise as if it were a prepayment and (3) in the event such Terminated Lender is a Non-Consenting Lender, each Replacement Lender shall consent, at the time of such assignment, to each matter in respect of which such Terminated Lender was a Non-Consenting Lender. Upon the prepayment of all amounts owing to any Terminated Lender, such Terminated Lender shall no longer constitute a "Lender" for purposes hereof; provided, any rights of such Terminated Lender to indemnification hereunder shall survive as to such Terminated Lender. Each Lender agrees that if the Borrower exercises its option hereunder to cause an assignment by such Lender as a Non-Consenting Lender or Terminated Lender, such Lender shall, promptly after receipt of written notice of such election, execute and deliver all documentation necessary to effectuate such assignment in accordance with Section 9.6; provided that each party hereto agrees that an assignment required pursuant to this Section 2.24 may be effected pursuant to an Assignment and Acceptance executed by the Borrower, the Administrative Agent and the assignee and that the Lender required to make such assignment need not be a party thereto, and each Lender hereby authorizes and directs the Administrative Agent to execute and deliver such documentation as may be required to give effect to an assignment in accordance with Section 9.6 on behalf of a Non-Consenting Lender or Terminated Lender and any such documentation so executed by the Administrative Agent shall be effective for purposes of documenting an assignment pursuant to Section 9.6.

2.25 Extensions of Term Loans.

(a) The Borrower may from time to time, pursuant to the provisions of this Section 2.25, agree with one or more Lenders holding Term Loans of any Class to extend the maturity date (the original maturity date in respect of any such Class, an "Original Maturity Date") and otherwise modify the economic terms of any such Class or any portion thereof (including, without limitation, by changing the interest rate or fees payable and/or modifying the amortization schedule or call premium in respect of any Term Loans of such Class or any portion thereof) (each such modification, an "Extension") pursuant to one or more written offers (each, an "Extension Offer") made from time to time by the Borrower to all Lenders under any Class that is proposed to be extended under this Section 2.25, in each case on a pro rata basis (based on the relative principal amounts of the outstanding Term Loans of each Lender in such Class) and on the same terms to each such Lender. In connection with each Extension, the Borrower will provide notification to the Administrative Agent (for distribution to the Lenders of the applicable Class), no later than 10 days (or such shorter period as the Administrative Agent may agree) prior to the maturity of the applicable Class or Classes to be extended of the requested new maturity date for the extended Term Loans of each such Class (each, an "Extended Maturity Date") and the due date for Lender responses. In connection with any Extension, each Lender of the applicable Class wishing to participate in such Extension shall, prior to such due date, provide the Administrative Agent with a written notice thereof in a form reasonably satisfactory to the Administrative Agent. Any Lender that does not respond to an Extension Offer by the applicable due date shall be deemed to have rejected such Extension Offer. After giving effect to any Extension, the Term Loans so extended shall cease to be a part of the Class they were a part of immediately prior to the Extension (the "Original Class") and shall be a new Class hereunder (the portion of such Original Class that is extended, the "Extended Class," and the portion of such Original Class that is not extended, the "Non-Extended Class").

(b) Each Extension shall be subject to the following:

(i) except as to interest rate margins, interest rate floors, fees, original issue discount, call protection, scheduled amortization, voluntary and mandatory prepayments and final maturity date (which shall, subject to clause (ii) below, be determined by the Borrower and set forth in the relevant Extension Offer), the Term Loans of any Lender extended pursuant to any Extension shall have the same terms as the Term Loans subject to the related Extension Offer, except to the extent necessary to provide for covenants and other terms applicable to any period after the Maturity Date of such Class in effect immediately prior to such Extension (other than that applicable to the Term Loans subject to such Extension);

(ii) the Extended Maturity Date of any Term Loans of a Class being extended pursuant to an Extension shall be later than the Maturity Date of such Class, and the weighted average life to maturity of any Term Loans of a Class being extended pursuant to an Extension shall be no shorter than the weighted average life to maturity of such Class;

(iii) the Term Loans being extended pursuant to an Extension may participate on a pro rata basis or on a less than pro rata basis (but not on a greater than pro rata basis) in any voluntary or mandatory prepayments hereunder, as specified in the applicable Extension Amendment;

(iv) if the aggregate principal amount of Term Loans of a Class in respect of which Lenders shall have accepted an Extension Offer exceeds the maximum aggregate principal amount of Term Loans of such Class offered to be extended by the Borrower pursuant to the relevant Extension Offer, then such Term Loans of such Class shall be extended ratably up to such maximum amount based on the relative principal amounts thereof (not to exceed any Lender's actual holdings of record) with respect to which such Lenders accepted such Extension Offer;

(v) all documentation in respect of such Extension shall be consistent with the foregoing, and all written communications by the Borrower generally directed to the applicable Lenders under the applicable Class in connection therewith shall be in form and substance consistent with the foregoing and otherwise reasonably satisfactory to Administrative Agent;

(vi) any applicable Minimum Extension Condition (as defined below) shall be satisfied; and

(vii) no Extension shall become effective unless, on the proposed effective date of such Extension, the conditions set forth in Section 4 shall be satisfied (with all references in such Section to the Closing Date being deemed to be references to the Extension on the applicable date of such Extension), and the Administrative Agent shall have received a certificate to that effect dated the applicable date of such Extension and executed by a Responsible Officer of the Borrower.

(c) The consummation and effectiveness of any Extension will be subject to a condition set forth in the relevant Extension Offer (a "Minimum Extension Condition") that Lenders of the applicable Class holding a minimum amount of the Term Loans (to be determined in the Borrower's discretion and specified in the relevant Extension Offer but in no event less than $5,000,000 unless another amount is agreed to by the Administrative Agent) accept such Extension Offer. For the avoidance of doubt, it is understood and agreed that the provisions of Section 2.18 and Section 9.1 will not apply to Extensions of any Term Loans pursuant to Extension Offers made pursuant to and in accordance with the provisions of this Section 2.25, including to any payment of interest or fees in respect of any Term Loans that have been extended pursuant to an Extension at a rate or rates different from those paid or payable in respect of Term Loans of any other Class, in each case as is set forth in the relevant Extension Offer.

(d) On the Original Maturity Date, with respect to each Lender's Term Loans under any Non-Extended Class, immediately upon the repayment of all amounts owing to such Lender in respect of such Non-Extended Class (the "Terminated Loans"), at the Borrower's election (upon prior written notice to the Administrative Agent), such Terminated Loans may be deemed to be reallocated, in whole or in part, to one or more Persons who agree to provide Term Loans ("Replacement Loans") hereunder having the same terms and conditions as the Extended Class and who are permitted to become Lenders hereunder pursuant to and in accordance with the provisions of Section 9.6, and at all times thereafter, such Replacement Loans shall be

deemed to be Term Loans, as applicable, of the Extended Class; provided that, for the avoidance of doubt, in no event shall the aggregate principal amount of such Replacement Loans exceed the aggregate principal amount of Terminated Loans with respect to the related Non-Extended Class.

(e) The Lenders hereby irrevocably authorize the Administrative Agent to enter into amendments (collectively, "Extension Amendments") to this Agreement and the other Loan Documents as may be necessary in order establish new Classes of Term Loans, as applicable, created pursuant to an Extension (including any Replacement Loans established on any Original Maturity Date pursuant to clause (d) above), in each case on terms consistent with this Section 2.25. Notwithstanding the foregoing, the Administrative Agent shall have the right (but not the obligation) to seek the advice or concurrence of the Required Lenders with respect to any matter contemplated by this Section 2.25 and, if the Administrative Agent seeks such advice or concurrence, the Administrative Agent shall be permitted to enter into such amendments with the Borrower in accordance with any instructions received from such Required Lenders and shall also be entitled to refrain from entering into such amendments with the Borrower unless and until it shall have received such advice or concurrence; provided, however, that whether or not there has been a request by the Administrative Agent for any such advice or concurrence, all such Extension Amendments entered into with the Borrower by the Administrative Agent hereunder shall be binding on the Lenders. Without limiting the foregoing, in connection with any Extension, the appropriate Loan Parties shall (at their expense) amend (and the Administrative Agent is hereby directed to amend) any Mortgage (or any other Security Document that the Administrative Agent reasonably requests to be amended to reflect an Extension) that has a maturity date prior to the latest Extended Maturity Date so that such maturity date is extended to the then latest Extended Maturity Date (or such later date as may be advised by local counsel to the Administrative Agent).

(f) In connection with any Extension, the Borrower shall provide the Administrative Agent at least 10 days' (or such shorter period as may be agreed by the Administrative Agent) prior written notice thereof, and shall agree to such procedures, if any, as may be reasonably established by, or acceptable to, the Administrative Agent to accomplish the purposes of this Section 2.25.

Section 3. REPRESENTATIONS AND WARRANTIES

To induce the Administrative Agent and the Lenders to enter into this Agreement and to make the Term Loans, Holdings, the Borrower and the other Loan Parties hereby jointly and severally represent and warrant to the Administrative Agent and each Lender that:

3.1 Financial Condition. The pro forma unaudited consolidated balance sheet of Borrower and its consolidated Subsidiaries as of June 30, 2014, a copy of which has heretofore been furnished to the Administrative Agent for delivery to each Lender, presents fairly in all material respects the consolidated financial condition of the Borrower and its consolidated subsidiaries as of such date after giving pro forma effect to the Transactions (subject to normal year-end audit adjustments and the absence of footnotes).

3.2 No Change. Since December 31, 2013, there has been no development or event that has had or could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

3.3 Corporate Existence; Compliance with Law. Each Jefferson Group Member (a) is duly organized, validly existing and in good standing (if applicable) under the laws of the jurisdiction of its organization or formation, (b) has the organizational power and authority to own and operate its Property, to lease the Property it leases as lessee and to conduct the business in which it is currently engaged, (c) is duly qualified as a foreign corporation or other organization and in good standing under the laws of each jurisdiction (if applicable) where its ownership, lease or operation of Property or the conduct of its business requires such qualification and (d) is in compliance with all Requirements of Law, except, in the case of clause (a) with respect to any Jefferson Group Member other than the Loan Parties and in the cases of clauses (b), (c) and (d) above, to the extent that failure of the same could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

3.4 Corporate Power; Authorization; Enforceable Obligations. Each Loan Party has the requisite corporate or other organizational power and authority to make, deliver and perform the Loan Documents to which it is a party. Each Loan Party has taken all necessary corporate or other organizational action to authorize the execution, delivery and performance of the Loan Documents to which it is a party. No material consent or authorization of, filing with, notice to or other act by or in respect of, any Governmental Authority is required in connection with the borrowings hereunder or the execution, delivery or performance of this Agreement or any of the other Loan Documents, except (i) those consents, authorizations, filings and notices that have been obtained or made and are in full force and effect, (ii) those consents, authorizations, filings and notices, the failure to obtain or make could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect and (iii) the filings or other actions referred to in Section 3.19. Each Loan Document has been duly executed and delivered on behalf of each Loan Party that is a party thereto and constitutes a legal, valid and binding obligation of each Loan Party that is a party thereto, enforceable against each such Loan Party in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and by general equitable principles (whether enforcement is sought by proceedings in equity or at law).

3.5 No Legal Bar. The execution, delivery and performance of this Agreement and the other Loan Documents, the borrowings hereunder and the use of the proceeds thereof will not violate in any material respect any Requirement of Law (except this shall not apply to tax, employee benefit or environmental matters, which are covered exclusively by Sections 3.10, 3.13 and 3.17, respectively) or any Contractual Obligation of any Jefferson Group Member, other than any violation that could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, and will not result in, or require, the creation or imposition of any Lien on any of their respective properties or revenues pursuant to any Requirement of Law or any such Contractual Obligation (other than the Liens created by the Security Documents and Liens permitted by Section 6.3).

3.6 No Material Litigation. No litigation, investigation or proceeding of or before any arbitrator or Governmental Authority is pending or, to the knowledge of Holdings or the Borrower, threatened by or against Holdings, the Borrower or any of their respective Subsidiaries or against any of their respective properties or revenues, or with respect to any of the Loan Documents or any of the transactions contemplated hereby or thereby, that could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

3.7 No Default. No Default or Event of Default has occurred and is continuing.

3.8 Ownership of Property; Liens. Each of the Jefferson Group Members has title in fee simple or good and valid title, as the case may be, to, or a valid leasehold interest in, or easements or other limited property interests in, all its real or immoveable property necessary in the ordinary conduct of its business, and good title to, or a valid leasehold interest in, or valid license of or other right to use, all its other Property necessary for the conduct of its business as currently conducted, in each case except where the failure to have such title, interest, license or right could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, and none of such Property is subject to any Lien except as permitted by Section 6.3.

3.9 Intellectual Property. Each of the Jefferson Group Members owns, or is licensed or otherwise has the right to use, all Intellectual Property necessary for the conduct of its business as currently conducted except to the extent such failure could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. No material claim has been asserted and is pending by any Person challenging or questioning the use of any Intellectual Property or the validity or effectiveness of any Intellectual Property, nor does Holdings or the Borrower know of any valid basis for any such claim, except to the extent that any such claim could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. To the knowledge of Holdings and the Borrower, the use of Intellectual Property by the Jefferson Group Members does not infringe on the Intellectual Property rights of any Person in any material respect, except for such infringements which could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

3.10 Taxes. Each of the Jefferson Group Members has filed or caused to be filed all tax returns that are required to be filed and has paid all taxes due and payable by it (including in its capacity as a withholding agent) other than (i) any amount the validity of which is currently being contested in good faith by appropriate proceedings and with respect to which reserves in conformity with GAAP have been provided on the books of the relevant Jefferson Group Member or (ii) where the failure to make such filing, payment, deduction, withholding, collection or remittance could not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect; and no tax Lien has been filed (except to the extent permitted by Section 6.3 hereof), and, to the knowledge of Holdings and the Borrower, no claim is being asserted, with respect to any such tax, fee or other charge except, in each case, as could not reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect.

3.11 Federal Regulations. No part of the proceeds of any Term Loans, and no other extensions of credit hereunder, will be used for any purpose that violates the provisions of Regulations T, U or X.

3.12 Labor Matters. There are no strikes or other labor disputes against any Jefferson Group Member pending or, to the knowledge of Holdings or the Borrower, threatened that could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. All payments due from the Jefferson Group Members on account of employee health and welfare insurance that could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect if not paid have been paid or accrued as a liability on the books of the relevant Jefferson Group Member.

3.13 ERISA. As of the date hereof, there are no Pension Plans or Multiemployer Plans. None of the Borrower or any Commonly Controlled Entity has had a complete or partial withdrawal from any Multiemployer Plan that has resulted or could reasonably be expected to result in a liability under ERISA, except as could not reasonably be expected to have a Material Adverse Effect.

3.14 Investment Company Act. No Loan Party is an "investment company," or a company "controlled" by an "investment company," within the meaning of the Investment Company Act of 1940.

3.15 Subsidiaries.

(a) The Subsidiaries (including Unrestricted Subsidiaries) listed on Schedule 3.15 constitute all the Subsidiaries (including Unrestricted Subsidiaries) of Holdings and the Borrower as of the Closing Date. Schedule 3.15 sets forth as of the Closing Date the name and jurisdiction of incorporation or organization of each Subsidiary (including each Unrestricted Subsidiary) and, as to each Subsidiary (including each Unrestricted Subsidiary), the percentage of each class of Capital Stock owned by the applicable Jefferson Group Member.

(b) As of the Closing Date, there are no outstanding subscriptions, options, warrants, calls, rights or other agreements or commitments granted to any Person other than Holdings, the Borrower or any Subsidiary of the Borrower (other than Management Equity and directors' qualifying shares or other similar shares required pursuant to applicable Law) of any nature relating to any Capital Stock of Holdings or the Borrower or any Capital Stock of any Subsidiary owned directly or indirectly by the Borrower; provided that, with respect to any non-Wholly Owned Subsidiary, its Capital Stock may be subject to customary rights of first refusal, tag-along, drag-along and other similar rights.

3.16 Use of Proceeds. The proceeds of the Term Loans shall be used for the purposes set forth in Section 2.7.

3.17 Environmental Matters. Other than exceptions to any of the following that could not reasonably be expected to result in, individually or in the aggregate, a Material Adverse Effect:

(a) The Borrower and its Subsidiaries and each of their respective facilities: (i) are in compliance with all applicable Environmental Laws; (ii) hold all Environmental Permits (each of which is in full force and effect) required for any of their current operations or for any property owned, leased, or otherwise operated by any of them; (iii) are in compliance with all of their Environmental Permits; (iv) have taken reasonable steps to ensure each of their

Environmental Permits will be timely maintained, renewed and complied with; and (v) have no knowledge of any facts or circumstances upon which any such Environmental Permits could reasonably be expected to be adversely amended or revoked.

(b) Hazardous Materials are not present at, on, under, in, or emanating from any property now or, to the knowledge of the Borrower, formerly owned, leased or operated by the Borrower or any of its Subsidiaries, or, to the knowledge of the Borrower, at any other location (including, without limitation, any location to which Hazardous Materials have been sent for reuse or recycling or for treatment, storage, or disposal) which could reasonably be expected to (i) give rise to liability of the Borrower or any of its Subsidiaries under any applicable Environmental Law or otherwise result in costs to the Borrower or any of its Subsidiaries, or (ii) interfere with the Borrower's or any of its Subsidiaries' continued operations.

(c) There is no judicial, administrative, or arbitral proceeding (including any notice of violation or alleged violation) under or pursuant to any Environmental Law to which the Borrower or any of its Subsidiaries is, or to the knowledge of the Borrower or any of its Subsidiaries will be, named as a party that is pending or, to the knowledge of the Borrower or any of its Subsidiaries, threatened. To the knowledge of the Borrower or any of its Subsidiaries, there are no facts or circumstances that could reasonably be expected to give rise to any such proceeding.

(d) None of the Borrower or any of its Subsidiaries has received any written request for information, or been notified that it is a potentially responsible party or subject to liability under or relating to the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980 or any other Environmental Law, or with respect to any Hazardous Materials, excluding any such matters that have been fully resolved with no further obligation or liability on the part of the Borrower or any of its Subsidiaries.

(e) None of the Borrower or any of its Subsidiaries has entered into or agreed to any consent decree, order, or settlement or other agreement, or is subject to any judgment, decree, or order or other agreement, in any judicial, administrative, arbitral or other form of dispute resolution, relating to compliance with or liability under any Environmental Law, excluding any such matters that have been fully resolved with no further obligation or possible liability on the part of the Borrower or any of its Subsidiaries.

3.18 Accuracy of Information, Etc. No statement or information contained in this Agreement, any other Loan Document, or any other document, certificate or written statement furnished to the Administrative Agent or the Lenders or any of them, by or on behalf of any Loan Party for use in connection with the transactions contemplated by this Agreement or the other Loan Documents, when taken as a whole, contained as of the date such statement, information, document or certificate was so furnished (as modified or supplemented by other information so furnished), any untrue statement of a material fact or omitted to state a material fact necessary to make the statements contained herein or therein, in light of the circumstances under which they were made, not materially misleading. The projections and pro forma financial information contained in the materials referenced above are based upon good faith estimates and assumptions believed by management of the Borrower to be reasonable at the time made, it being recognized by the Lenders that such financial information as it relates to future events is not to be viewed as fact and that actual results during the period or periods covered by such financial information may differ from the projected results set forth therein by a material amount.

3.19 Security Documents.

(a) Subject to Section 5.12, each of the Security Documents (other than the Mortgages) is effective to create in favor of the Administrative Agent for the benefit of the Secured Parties, a legal, valid and enforceable security interest in the Collateral described therein and proceeds thereof. In the case of (i) any Pledged Equity as described in the Security Documents which is in certificated form, when any stock, membership or partnership unit certificates representing such Pledged Equity are delivered to, and in the possession of, the Administrative Agent, (ii) the Debt Service Reserve Account, when the Depositary Agreement is duly executed and delivered to the Administrative Agent, and (iii) the other Collateral described in the Security Documents, when financing statements in appropriate form are filed in the offices specified on Schedule 3.19(a), the security interest created in favor of the Administrative Agent for the benefit of the Secured Parties in such Pledged Equity, Debt Service Reserve Account and other Collateral shall constitute a fully perfected Lien on, and security interest in, all right, title and interest of the Loan Parties in such Pledged Equity, Debt Service Reserve Account and other Collateral and the proceeds thereof, in which a security interest may be perfected by delivery to the Administrative Agent of such Pledged Equity, due execution and delivery of the Depositary Agreement to the Administrative Agent or by filing a financing statement in the United States, as security for the Obligations, in each case prior and superior in right to any other Person (other than Persons holdings Liens or other encumbrances or rights that are permitted by this Agreement to be incurred pursuant to Section 6.3).

(b) Subject to Section 5.12, each of the Mortgages is effective to create in favor of the Administrative Agent for the benefit of the Secured Parties, a legal, valid and enforceable Lien on the Mortgaged Properties described therein and proceeds thereof; and when the Mortgages are filed or published in the offices specified on Schedule 3.19(b) (in the case of the Mortgages to be executed and delivered pursuant to Section 5.12) or in the recording office designated by the Borrower (in the case of any Mortgage to be executed and delivered pursuant to Section 5.10(b)), each Mortgage shall constitute a fully perfected Lien on, and security interest in, all right, title and interest of the applicable party to the Mortgage in the Mortgaged Properties described therein and the proceeds thereof, as security for the Obligations (as defined in the relevant Mortgage), in each case prior and superior in right to any other Person (other than Persons holding Liens or other encumbrances or rights permitted by this Agreement to be incurred pursuant to Section 6.3).

3.20 Solvency. As of the Closing Date and after giving effect to the Transactions, the Jefferson Group Members, on a consolidated basis, are Solvent.

3.21 Regulation H. No Mortgage encumbers improved real property which is located in an area that has been identified by the Secretary of Housing and Urban Development as an area having special flood hazards and in which flood insurance has been made available under the National Flood Insurance Act of 1968 (except any real property that is the subject of such Mortgage as to which such flood insurance as required by Regulation H has been obtained and is in full force and effect as required by this Agreement).

3.22 Immaterial Subsidiaries; Non-Guarantor Subsidiary. Each Immaterial Subsidiary of Holdings as of the Closing Date is set forth on Part I of Schedule 3.22. Each Excluded Subsidiary as of the Closing Date is set forth on Part II of Schedule 3.22. In the aggregate, the Immaterial Subsidiaries that are not Subsidiary Guarantors have consolidated assets with a book value of less than $3,000,000 in the aggregate as of the Closing Date.

3.23 PATRIOT Act; FCPA; OFAC.

(a) To the extent applicable, each Jefferson Group Member (including any Unrestricted Subsidiary) is in compliance, in all material respects, with (i) the Trading with the Enemy Act and each of the foreign assets control regulations of the United States Treasury Department (31 C.F.R., Subtitle B, Chapter V) and any other enabling legislation or executive order relating thereto, and (ii) the PATRIOT Act. No part of the proceeds of the Term Loans will be used, directly or indirectly, for any payments to any governmental official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of the United States Foreign Corrupt Practices Act of 1977 (the "FCPA"). The Jefferson Group Members, and to their knowledge their employees, officers, directors, affiliates and agents, are in compliance in all material respects with the FCPA.

(b) No Jefferson Group Member (including any Unrestricted Subsidiary) nor, to the knowledge of any Jefferson Group Member, any director, officer, agent, employee or Affiliate of any Jefferson Group Member, (i) is a person on the list of "Specially Designated Nationals and Blocked Persons" or (ii) is currently subject to any U.S. sanctions administered by the Office of Foreign Assets Control of the U.S. Treasury Department ("OFAC"); and the Borrower will not directly or indirectly use the proceeds of the Term Loans or otherwise knowingly make available such proceeds to any person, for the purpose of financing the activities of any person currently subject to any U.S. sanctions administered by OFAC.

Section 4. CONDITIONS PRECEDENT

The agreement of each Lender to make the initial extension of credit requested to be made by it hereunder is subject to the satisfaction or waiver, prior to or concurrently with the making of such extension of credit on the Closing Date, of the following conditions precedent:

(a) Loan Documents. The Administrative Agent shall have received (i) this Agreement, executed and delivered by a duly authorized officer or signatory of Holdings and the Borrower, (ii) the Pledge Agreement, dated as of the Closing Date, executed and delivered by a duly authorized officer or signatory of each Loan Party that is a party thereto, (iii) the Guarantee Agreement, dated as of the Closing Date, executed and delivered by a duly authorized officer or signatory of each Loan Party that is a party thereto, (iv) the Security Agreement, executed and delivered by a duly authorized officer or signatory of each Loan Party that is a party thereto, and (v) the Depositary Agreement, executed and delivered by a duly authorized officer or signatory of the Borrower and the Depositary.

(b) Repayment of Existing Credit Facilities. The Administrative Agent shall have received evidence reasonably satisfactory to it that the Existing Credit Facilities have been,

or concurrently with the Closing Date are being, terminated or modified to release all Jefferson Group Members as obligors with respect thereto, and all Liens securing obligations under the Existing Credit Facilities have been, or concurrently with the Closing Date are being, released.

(c) Financial Statements. The Lenders shall have received the financial statements described in Section 3.1.

(d) Fees and Expenses. The Borrower shall have paid (or the initial Lenders and/or the Administrative Agent shall withhold from the proceeds of the Term Loans on the Closing Date), all fees due and payable as of the Closing Date pursuant to Sections 2.12(a) and 2.12(b) to the Administrative Agent (for distribution, as appropriate, to the Lenders), and all expenses required to be paid pursuant to Section 9.5 for which reasonably detailed invoices have been presented prior to the Closing Date shall have been paid to the Administrative Agent.

(e) Solvency Certificate. The Lenders shall have received a solvency certificate, substantially in the form of Exhibit F, executed by a Responsible Officer of Holdings.

(f) Lien Searches. The Administrative Agent shall have received the results of recent Uniform Commercial Code, tax and judgment lien searches in each relevant jurisdiction reasonably requested by the Administrative Agent with respect to each of the entities set forth on Schedule 4(f); and such searches shall reveal no Liens on any of the Collateral except for Liens permitted by Section 6.3 or Liens to be discharged on or prior to the Closing Date.

(g) Closing Certificate. The Administrative Agent shall have received a certificate of each Loan Party, dated the Closing Date, substantially in the form of Exhibit B, with appropriate insertions and attachments.

(h) Legal Opinions. The Administrative Agent shall have received, in form and substance reasonably acceptable to the Administrative Agent and the Required Lenders, a legal opinion of Skadden, Arps, Slate, Meagher & Flom LLP, counsel to Holdings, the Borrower and its Subsidiaries, dated the date hereof and addressed to the Administrative Agent and the Lenders.

(i) Pledged Equity; Stock Powers; Pledged Notes. The Administrative Agent shall have received (i) the certificates, if any, representing the shares or membership or partnership units of Capital Stock pledged pursuant to the Security Documents, together with an undated stock power for each such certificate executed in blank by a duly authorized representative or officer of the pledgor thereof and (ii) any Pledged Notes (as defined in the Security Agreement), duly endorsed in blank, in each case, as required by the Security Documents to be delivered to the Administrative Agent on the Closing Date.

(j) Filings, Registrations and Recordings. Each document (including, without limitation, any Uniform Commercial Code financing statement) required as of the Closing Date by the Security Documents or under law or reasonably requested by the Administrative Agent to be filed, registered or recorded in order to create in favor of the Administrative Agent for the benefit of the Secured Parties, a perfected Lien on the Collateral described therein, prior and superior in right to any other Person (other than with respect to Liens expressly permitted by Section 6.3), shall have been filed, registered or recorded or shall have been delivered to the

Administrative Agent in proper form for filing, registration or recordation, or arrangements reasonably satisfactory to the Administrative Agent for such filing, registration, recordation and/or filing shall have been made.

(k) Insurance. Subject to Section 5.12, the Administrative Agent shall have received insurance certificates and endorsements, as applicable, satisfying the requirements of Section 5.5.

(l) PATRIOT Act. The Lenders shall have received, at least three Business Days prior to the Closing Date, to the extent requested sufficiently in advance thereof, all documentation and other information with respect to the Borrower required by bank regulatory authorities under applicable "know your customer" and anti-money laundering rules and regulations, including without limitation the PATRIOT Act.

(m) Funds Flow. The Administrative Agent shall have received a funds flow for the transactions contemplated to occur on the Closing Date.

(n) Debt Service Reserve Account. The Debt Service Reserve Account shall have been established in accordance with the requirements of the Depositary Agreement and, concurrently with the funding of the Initial Term Loans, funded in an amount equal to the Debt Service Reserve Requirement (as defined in the Depositary Agreement) in effect as of the Closing Date in accordance with the Depositary Agreement.

(o) Representations and Warranties. As of the Closing Date, the representations and warranties contained herein and in the other Loan Documents shall be true and correct in all material respects on and as of the Closing Date to the same extent as though made on and as of that date, except to the extent such representations and warranties specifically relate to an earlier date, in which case such representations and warranties shall have been true and correct in all material respects on and as of such earlier date; provided that, in each case, such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text hereof.

(p) No Default. No event shall have occurred and be continuing or would result from the making of the Initial Term Loans that would constitute an Event of Default or a Default.

(q) Equity Commitment Letter. The Administrative Agent shall have received the Equity Commitment Letter, executed and delivered by a duly authorized officer or signatory of the Parent, Holdings and the Borrower.

(r) Equity Contribution and Jefferson Acquisition. Prior to or substantially simultaneously with the funding of the Initial Term Loans, (i) the Equity Contribution shall have been consummated and (ii) the Jefferson Acquisition shall be consummated in all material respects in accordance with the terms of the Asset Purchase Agreement, without giving effect to any amendments, consents or waivers of the Asset Purchase Agreement that are materially adverse to the Lenders.

Section 5. AFFIRMATIVE COVENANTS

Holdings and the Borrower hereby jointly and severally agree that, so long as the Termination Conditions have not been satisfied, each of Holdings and the Borrower shall and shall cause each of its Subsidiaries to:

5.1 Financial Statements. Furnish to the Administrative Agent for delivery to each Lender and take the following actions:

(a) within 90 days (or 120 days in the case of the Test Period ending December 31, 2014) after the end of each fiscal year of the Borrower and its subsidiaries, a copy of the audited consolidated balance sheet of the Borrower and its consolidated subsidiaries as at the end of such year and the related audited consolidated statements of operations and of cash flows for such year, setting forth in each case in comparative form the figures as of the end of and for the previous year, by PricewaterhouseCoopers LLP or any other independent certified public accountants of nationally recognized standing; and

(b) not later than 45 days (or 60 days in the case of the fiscal quarters ending September 30, 2014, March 31, 2015, and June 30, 2015) after the end of each of the first three quarterly periods of each fiscal year of the Borrower and its subsidiaries, beginning with the fiscal quarter ending September 30, 2014, the unaudited consolidated balance sheet of the Borrower and its consolidated subsidiaries as at the end of such quarter and the related unaudited consolidated statements of operations and of cash flows for such quarter and the portion of the fiscal year through the end of such quarter, setting forth in each case in comparative form the figures as of the end of and for the corresponding period in the previous year, certified by a Responsible Officer of the Borrower as being fairly stated in all material respects (subject to normal year-end audit adjustments and the absence of footnotes).

Financial statements and other information required to be delivered pursuant to this Section 5.1, Section 5.2 or Section 5.7 may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date (i) on which the Borrower posts such information, or provides a link thereto, on the website of the Borrower; (ii) on which such information is posted on behalf of the Borrower on an Internet or intranet website, if any, to which each Lender and the Administrative Agent have access (whether a commercial or third-party website or whether sponsored by the Administrative Agent); or (iii) to the extent such financial statements are set forth in the Borrower's Form 10-K or 10-Q, as applicable, filed with the SEC, on which date such documents are filed for public availability on the SEC's Electronic Data Gathering and Retrieval System; provided that: (i) the Borrower shall deliver paper copies of such documents to the Administrative Agent upon its request to the Borrower to deliver such paper copies until a request to cease delivering paper copies is given by the Administrative Agent and (ii) the Borrower shall notify the Administrative Agent (by facsimile or electronic mail) of the posting of any such documents and provide to the Administrative Agent by electronic mail electronic versions (i.e., soft copies) of such documents. The Administrative Agent shall have no obligation to request the delivery of or to maintain paper copies of the documents referred to above, and in any event shall have no responsibility to monitor compliance by the Borrower with any such request for delivery, and each Lender shall be solely responsible for maintaining its copies of such documents.

5.2 Certificates; Other Information. Furnish to the Administrative Agent for delivery to each Lender, or, in the case of clause (d), to the relevant Lender:

(a) concurrently with the delivery of any financial statements pursuant to Section 5.1, (i) a Compliance Certificate of the Borrower (the first such Compliance Certificate to be delivered for the fiscal quarter ending September 30, 2014) (A) containing all information, calculations and supporting schedules necessary for determining compliance by Holdings, the Borrower and their respective Subsidiaries with the provisions of this Agreement referred to therein as of the last day of the fiscal quarter or fiscal year of Holdings, as the case may be, and if such Compliance Certificate demonstrates an Event of Default in respect of the covenant set forth in Section 6.17, the Borrower may deliver within ten Business Days of the delivery of such Compliance Certificate notice of its intent to cure (a "Notice of Intent to Cure") such Event of Default pursuant to Section 7.3, and (B) which shall set forth the names of all Immaterial Subsidiaries (if any) and certify that each Subsidiary set forth on such list individually qualifies as an Immaterial Subsidiary and that, in the aggregate, all such Immaterial Subsidiaries had consolidated assets with a book value of less than $3,000,000 on the last day of such fiscal quarter or such fiscal year, as the case may be, and (ii) with respect to the financial statements delivered pursuant to Section 5.1(a), to the extent not previously disclosed to the Administrative Agent, a listing of any material Intellectual Property acquired by any Loan Party since the date of the most recent list delivered pursuant to this clause (ii) (or, in the case of the first such list so delivered, since the Closing Date);

(b) no later than 60 days after the end of each fiscal year of the Borrower, a consolidated budget for the following fiscal year (including a consolidated statement of projected results of operations of the Borrower and its consolidated subsidiaries as of the end of the following fiscal year presented on a quarterly basis);

(c) concurrently with the delivery of any financial statements pursuant to Section 5.1(a) or (b), a narrative discussion and analysis of the financial condition and results of operations of the Borrower and its consolidated subsidiaries, in each case, for such fiscal quarter and for the period from the beginning of the then current fiscal year to the end of such fiscal quarter;

(d) promptly upon their becoming publicly available, copies of all periodic and other publicly available reports, proxy statements and, to the extent requested by the Administrative Agent, other materials filed by Parent with the SEC or sent or made available generally by Parent to its security holders acting in such capacity;

(e) promptly, such additional financial information as the Administrative Agent on behalf of any Lender may from time to time reasonably request; and

(f) within ten (10) Business Days after the date the annual audited financial statements for each fiscal year ended on any Excess Cash Flow Determination Date are

required to be delivered pursuant to Section 5.1(a), a certificate of a Responsible Officer of the Borrower certifying as to the calculation of (i) Consolidated Excess Cash Flow as of such Excess Cash Flow Determination Date and (ii) the Capacity Utilization Rate as of such Excess Cash Flow Determination Date, in each case, accompanied by supporting information in reasonable detail.

The Borrower hereby acknowledges that certain of the Lenders may be Public Lenders and, if documents or notices required to be delivered pursuant to Section 5.1 or this Section 5.2 or otherwise are being distributed through IntraLinks/IntraAgency, SyndTrak or another relevant website or other information platform (the "Platform"), any document or notice that the Borrower has not clearly and conspicuously marked "PUBLIC" shall not be posted on that portion of the Platform designated for such Public Lenders. The Borrower agrees to use commercially reasonable efforts to clearly designate all information provided to the Administrative Agent by or on behalf of the Borrower which is suitable to make available to Public Lenders. If the Borrower has not indicated whether a document or notice delivered pursuant to this paragraph contains Non-Public Information, the Administrative Agent reserves the right to post such document or notice solely on that portion of the Platform designated for Lenders who wish to receive Non-Public Information with respect to the Borrower, its Subsidiaries and their securities ("Private Side Information"). Each Public Lender agrees to cause at least one individual at or on behalf of such Public Lender to at all times have selected to receive Private Side Information in order to enable such Public Lender or its delegate, in accordance with such Public Lender's compliance procedures and applicable Law, including United States federal and state securities laws, to make reference to communications that are not made through the "Public" portion of the Platform and that may contain Non-Public Information.

5.3 Payment of Taxes. Pay, discharge or otherwise satisfy all taxes imposed upon it or any of its properties or assets or in respect of any of its income, businesses or franchises before any penalty or fine accrues thereon, except where (i) the amount or validity thereof is currently being contested in good faith by appropriate proceedings and reserves in conformity with GAAP with respect thereto have been provided on the books of Holdings, the Borrower or its Subsidiaries, as the case may be or (ii) the failure could not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect.

5.4 Conduct of Business and Maintenance of Existence; Compliance with Law. (a)(i) Preserve, renew and keep in full force and effect its organizational existence and (ii) take all reasonable action to maintain all rights, privileges and franchises necessary or desirable in the normal conduct of its business, except, in each case, as otherwise permitted by Sections 6.4 or 6.5 or to the extent that failure to do so could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect; and (b) comply with all Requirements of Law (including, without limitation, the FCPA, any U.S. sanctions administered by the OFAC, the PATRIOT Act and other anti-terrorism and anti-money laundering laws, except this shall not apply to tax, environmental or employee benefit matters, which in this respect are covered exclusively in Sections 5.3, 5.8 and 5.9, respectively), except to the extent that failure to comply therewith could not, in the aggregate, reasonably be expected to have a Material Adverse Effect.

5.5 Maintenance of Property; Insurance. (a) Keep all real and tangible Property and systems used, useful, or necessary in its business in good working order and condition, ordinary wear and tear excepted, except to the extent the failure to do so could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect and (b) maintain with financially sound and reputable insurance companies, insurance with respect to its properties and business against loss or damage of the kinds customarily insured against by Persons engaged in the same or similar business, of such types and in such amounts (after giving effect to any self-insurance reasonable and customary for similarly situated Persons engaged in the same or similar businesses) as are customarily carried under similar circumstances by such other Persons. All such insurance shall (i) to the extent the applicable insurer will agree based on the commercially reasonably efforts of the Borrower, provide that no cancellation, material reduction in amount or material change in coverage thereof shall be effective until at least 10 days (or, to the extent reasonably available, 30 days) after receipt by the Administrative Agent of written notice thereof (the Borrower shall deliver an insurance certificate with respect thereto) and (ii) name the Administrative Agent as mortgagee and/or loss payee (in the case of property insurance) or additional insured (in the case of liability insurance) on behalf of the Secured Parties, as applicable.

5.6 Inspection of Property; Books and Records; Discussions. (a) Keep proper books of records and account in which entries which are full, true and correct, in all material respects, in conformity with GAAP shall be made of all material dealings and transactions in relation to its business and activities, (b) upon the request of the Administrative Agent or the Required Lenders, participate in a meeting or conference call with the Administrative Agent and the Lenders once during each fiscal quarter at such time as may be agreed to by the Borrower and the Administrative Agent and (c) permit representatives of the Administrative Agent to visit and inspect any of its properties and examine and make abstracts from any of its books and records at any reasonable time during normal business hours and as often as may reasonably be desired (but, the Administrative Agent may not have more than one visit per any twelve month period except during an Event of Default), upon reasonable advance notice to the Borrower, and to discuss the business, operations, properties and financial and other condition of Holdings, the Borrower and their respective Subsidiaries with officers and employees of Holdings, the Borrower and their respective Subsidiaries and with their independent certified public accountants (and the Borrower will be given the opportunity to participate in any such discussions with such independent certified accountants). Any such inspection shall be at the Administrative Agent’s sole cost and expense unless an Event of Default has occurred and is continuing at the time of such inspection, in which event the Borrower shall reimburse the Administrative Agent for its reasonable, actual out-of-pocket costs and expenses. Notwithstanding anything to the contrary in this Section 5.6, none of Holdings, the Borrower and their respective Subsidiaries will be required to disclose, permit the inspection, examination or making copies or abstracts of, or discussion of, any document, information or other matter that (i) constitutes non-financial trade secrets or non-financial proprietary information, (ii) in respect of which disclosure to the Administrative Agent (or its representatives) is prohibited by any Requirement of Law or any binding agreement or (iii) is subject to attorney-client or similar privilege or constitutes attorney work product.

5.7 Notices. Promptly after obtaining knowledge of the same, give notice to the Administrative Agent of:

(a) the occurrence of any Default or Event of Default;

(b) [Reserved];

(c) any litigation or proceeding affecting Holdings, the Borrower or any of its Subsidiaries, or with respect to any of the Loan Documents or any of the transactions contemplated hereby or thereby, that could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect;

(d) the following events, as soon as possible and in any event within 30 days after any Borrower knows of same: (i) the occurrence of any Reportable Event with respect to any Pension Plan that is currently sponsored or maintained by or to which any Borrower or Commonly Controlled Entity is obligated to make contributions, a failure to make any required contribution to a Pension Plan that is not corrected within 30 days, the creation of any Lien in favor of the PBGC or a Pension Plan, any withdrawal from a Multiemployer Plan that is reasonably expected to result in the imposition of withdrawal liability, or the termination, Reorganization or Insolvency of, any Multiemployer Plan or (ii) the institution of proceedings or the taking of any other action by the PBGC or a Borrower or any Commonly Controlled Entity or any Multiemployer Plan with respect to the withdrawal from, or the termination, Reorganization or Insolvency of, any Multiemployer Plan;

(e) as soon as possible and in any event within 30 days of obtaining knowledge thereof any development, event, or condition that could reasonably be expected to result in the payment by the Borrowers and their respective Subsidiaries of a Material Environmental Amount; and

(f) any other development or event that has had or could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

Each notice pursuant to this Section shall be accompanied by a statement of a Responsible Officer setting forth details of the occurrence referred to therein and stating what action Holdings, the Borrower or the relevant Subsidiary has taken or proposes to take with respect thereto.

5.8 Environmental Laws.

(a) Except in each case to the extent the failure to do so could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, comply with, and use commercially reasonable efforts to ensure compliance by all tenants and subtenants, if any, with, all applicable Environmental Laws, and obtain and comply with and maintain, and use commercially reasonable efforts to ensure that all tenants and subtenants obtain and comply with and maintain, any and all material Environmental Permits.

(b) Except in each case to the extent the failure to do so could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, conduct and

complete all investigations, studies, sampling and testing, and all remedial, removal and other similar actions required by any Governmental Authority under Environmental Laws, and promptly comply with all lawful orders and directives of all Governmental Authorities regarding Environmental Laws.

5.9 Plan Compliance. Except as could not reasonably be expected to result in a Material Adverse Effect, establish, maintain and operate any and all Pension Plans, Multiemployer Plans and Foreign Employee Benefit Plans (other than government-sponsored plans) in compliance with all Requirements of Law applicable thereto and the respective requirements of the governing documents for such plans to the extent the Borrower or any Commonly Controlled Entity has the authority to establish, maintain and operate such plans.

5.10 Additional Collateral, etc.

(a) [Reserved].

(b) Subject to Sections 5.10(d) and (e), with respect to any fee interest or absolute right of ownership in any real or immoveable property having a fair market value (together with improvements thereof on the date such property is acquired) of at least $2,000,000 (as determined in good faith by a Responsible Officer) acquired after the Closing Date by any Loan Party (in each case, other than any such real property subject to any Contractual Obligation that includes negative pledge clauses permitted by Section 6.13, any Lien permitted pursuant to Section 6.3(j), 6.3(p), 6.3(r), 6.3(s) or 6.3(ee) or any Requirement of Law that prohibits or restricts compliance with the terms and conditions of this Section 5.10) (which, for the purposes of this paragraph, shall include any owned real property of any Loan Party that ceases to be subject to the foregoing restrictions), promptly (i) execute and deliver a first priority Mortgage in favor of the Administrative Agent for the benefit of the Secured Parties, covering such real or immoveable property (to the extent such property is not already subject to a first priority Lien pursuant to a Security Document), (ii) if reasonably requested by the Administrative Agent, provide the Lenders with (x) title and extended coverage insurance covering such real property in an amount at least equal to the purchase price of such real property (or such other lesser amount as shall be reasonably specified by the Administrative Agent) as well as a current ALTA survey thereof, together with a surveyor's certificate and (y) any estoppels reasonably deemed necessary or advisable by the Administrative Agent in connection with such Mortgage, each of the foregoing in form and substance reasonably satisfactory to the Administrative Agent, and (iii) if reasonably requested by the Administrative Agent, deliver to the Administrative Agent legal opinions relating to the matters described above, which opinions shall be in form and substance, and from counsel, reasonably satisfactory to the Administrative Agent.

(c) Subject to Sections 5.10(d), (e) and (g), upon (x) the formation or acquisition of any new direct or indirect Domestic Subsidiary that is a Wholly Owned Subsidiary (in each case, other than a Non-Recourse Subsidiary Borrower, an Excluded Subsidiary or an Immaterial Subsidiary) by the Borrower or (y) any Excluded Subsidiary ceasing to constitute an Excluded Subsidiary, promptly (and in any event within sixty (60) days after such formation or acquisition or such Subsidiary so ceases to be an Excluded Subsidiary, or such longer period as the Administrative Agent may agree in writing in its discretion) (i) cause such Subsidiary (A) to become a party to a Guarantee Agreement and appropriate Security Documents (or enter into

amendments to an existing Guarantee Agreement or any existing Security Document as the Administrative Agent deems necessary or advisable) to grant to the Administrative Agent for the benefit of the Secured Parties, a perfected first priority (subject to Liens permitted pursuant to Section 6.3) security interest in the Capital Stock held by such Subsidiary and the other Collateral described in the relevant Security Document and to cause such Subsidiary to be a Guarantor and (B) to take such actions necessary or advisable to grant to the Administrative Agent for the benefit of the Secured Parties, a perfected first priority (subject to Liens permitted pursuant to Section 6.3) security interest in the Collateral described in the relevant Security Document with respect to such Subsidiary, including, without limitation, the filing of Uniform Commercial Code financing statements or other similar filings in such jurisdictions as may be required by the Security Documents or by law or as may be requested by the Administrative Agent, (ii) deliver to the Administrative Agent the certificates, if any, representing the Capital Stock of such Subsidiary, together with undated stock powers, in blank, and all intercompany notes owing from such Subsidiary to any Loan Party and all other promissory notes held by such Subsidiary and required to be delivered to the Administrative Agent under the applicable Security Documents, together with instruments of transfer in blank, in each case executed and delivered by a duly authorized officer of the relevant Loan Party, as the case may be, and (iii) if reasonably requested by the Administrative Agent, deliver to the Administrative Agent legal opinions relating to the matters described above, which opinions shall be in form and substance, and from counsel, reasonably satisfactory to the Administrative Agent.

(d) Notwithstanding anything to the contrary contained herein, in the event that the compliance by a Jefferson Group Member (including any non-Wholly Owned Subsidiary) with any of Section 5.10(b) or (c) would require the consent of any un-Affiliated third-party, such Jefferson Group Member shall use commercially reasonable efforts to obtain such consents or other deliveries. For the avoidance of doubt, (x) the use of commercially reasonable efforts, as contemplated by this Section 5.10, to obtain any consent or delivery shall not require the applicable Jefferson Group Member to pay to such un-Affiliated third-party a fee, premium or penalty or other consideration (other than expense reimbursement) and (y) in the event following the use of commercially reasonable efforts to obtain a consent or delivery, the applicable Jefferson Group Member is unable to obtain a necessary consent or delivery of the relevant un-Affiliated third-party, the Lenders hereby waive compliance by such Jefferson Group Member with the provisions of this Section 5.10 solely to the extent such consent or delivery is not obtained.

(e) Notwithstanding anything to the contrary contained herein, with respect to any Property of any Jefferson Group Member that would otherwise be required to be mortgaged or pledged in favor of the Secured Parties in accordance with this Section 5.10 (each such Property, an "Eligible Collateral Property"), in no event shall any Jefferson Group Member have any obligation to mortgage or pledge such Property in favor of the Administrative Agent for the benefit of the Secured Parties if such Property is to be used to secure any Indebtedness permitted by Section 6.2(c) or Section 6.2(f) within 90 days of the date such Property first qualifies as an Eligible Collateral Property; provided that if such Eligible Collateral Property does not actually secure such Indebtedness within such 90-day period then such Eligible Collateral Property shall be subject to the requirements of this Section 5.10 upon the expiration of such 90-day period relating to such Eligible Collateral Property.

(f) Notwithstanding anything to the contrary herein, the Borrower shall be permitted at any time and from time to time to add any of its Subsidiaries as an additional Subsidiary Guarantor in accordance with this Section.

(g) If, at any time and from time to time after the Closing Date, Immaterial Subsidiaries have in the aggregate consolidated assets with a book value in excess of $3,000,000 on the last day of any fiscal quarter of Holdings, cause, not later than 30 days after the date by which financial statements for such quarter are required to be delivered pursuant to this Agreement, one or more of such Immaterial Subsidiaries to become additional Subsidiary Guarantors (notwithstanding that such Subsidiaries are, individually, Immaterial Subsidiaries) and to comply with the requirements of Section 5.10(c) such that the foregoing condition ceases to be true.

(h) If any Loan Party purchases or otherwise acquires any POBI Bonds, such Loan Party shall promptly (and in any event within sixty (60) days of such purchase or acquisition as such period may be extended by the Administrative Agent in its reasonable discretion) execute and deliver to the Administrative Agent any Collateral Assignment Documents reasonably requested by the Administrative Agent with respect to such POBI Bonds such that the Administrative Agent obtains a perfected, first-priority security interest in such POBI Bonds.

5.11 Further Assurances. From time to time execute and deliver, or cause to be executed and delivered, such additional instruments, certificates or documents, and take such actions, as the Administrative Agent may reasonably request for the purposes of more fully creating, maintaining, preserving, perfecting or renewing the Liens granted in favor of (together with the other rights of) the Administrative Agent and the Secured Parties with respect to the Collateral (or with respect to any additions thereto or replacements or proceeds thereof or with respect to any other property or assets hereafter acquired by any Loan Party which are required to become part of the Collateral pursuant to Section 5.10) pursuant hereto or thereto. Upon the exercise by the Administrative Agent or any Secured Party of any power, right, privilege or remedy pursuant to this Agreement, the other Loan Documents or any Secured Hedge Agreement which requires any consent, approval, recording, qualification or authorization of any Governmental Authority, Holdings and the Borrower will execute and deliver, or will cause the execution and delivery of, all applications, certifications, instruments and other documents and papers that the Administrative Agent or such Secured Party may be reasonably required to obtain from any Jefferson Group Member or any of their Subsidiaries for such governmental consent, approval, recording, qualification or authorization.

5.12 Post-Closing Covenants. The Borrower shall, and shall cause its Subsidiaries to, take the actions set forth on Schedule 5.12 (the "Post-Closing Actions") within the time periods specified therein; provided that the failure to complete any Post-Closing Action by the applicable date specified in Schedule 5.12 shall not constitute a Default or an Event of Default under this Agreement so long as the Borrower is diligently pursuing the completion of such Post-Closing Action.

5.13 [Reserved].

5.14 [Reserved].

5.15 Maintenance of Rating. At all times, the Borrower shall use commercially reasonable efforts to maintain (i) a public corporate family rating issued by each of Moody's and S&P and (ii) a public credit rating from each of Moody's and S&P with respect to the Term Loans.

5.16 Unrestricted Subsidiaries. The Borrower may at any time designate any other of its Subsidiaries as an Unrestricted Subsidiary or any Unrestricted Subsidiary as a Subsidiary that is not an Unrestricted Subsidiary by written notice to the Administrative Agent; provided that (i) immediately before and after such designation, no Event of Default shall have occurred and be continuing, (ii) immediately after giving effect to such designation, the Total Secured Debt Leverage Ratio (calculated on a Pro Forma Basis) as of the end of the most recent Test Period shall be less than or equal to 2.5 to 1.0, (iii) no Subsidiary may be designated as an Unrestricted Subsidiary if it is restricted by and subject to the covenants contained in the documents governing Indebtedness expressly subordinated to the Obligations, (iv) JRTI shall not be designated as an Unrestricted Subsidiary prior to the Existing Notes Release and (v) Railcar Holdings shall not be designated as an Unrestricted Subsidiary unless, prior to or substantially simultaneously with such designation, the Railcar Financing shall have been consummated. The designation of any Subsidiary of the Borrower as an Unrestricted Subsidiary after the Closing Date shall constitute an Investment by the Jefferson Group Members therein at the date of designation in an amount equal to the fair market value (as determined in good faith by a Responsible Officer) of the Jefferson Group Members' investment therein; provided that, with respect to any designation of Railcar Holdings as an Unrestricted Subsidiary in accordance with this Section 5.16, such designation shall constitute an Investment by the Jefferson Group Members therein at the date of designation in an amount equal to the fair market value (as determined in good faith by a Responsible Officer) of the Jefferson Group Members' investment in Railcar Holdings made after the Closing Date (and prior to such date of designation), other than Investments in Railcar Holdings funded with the proceeds of capital contributions to Holdings made on or prior to such date of designation (but after the Closing Date). The designation of any Unrestricted Subsidiary as a Subsidiary of the Borrower that is not an Unrestricted Subsidiary shall constitute the incurrence at the time of designation of any Indebtedness or Liens of such Subsidiary existing at such time. Notwithstanding anything in this Agreement to the contrary, any Jefferson Group Member designated as an Unrestricted Subsidiary shall not be deemed to be a Jefferson Group Member for any purposes of this Agreement, including without limitation for purposes of financial definitions and financial calculations contained herein.

5.17 [Reserved].

5.18 Retirement of POBI Bonds. If the Jefferson Group Members collectively acquire 100% of the outstanding POBI Bonds, then the POBI Bonds shall be promptly cancelled or retired in full in accordance with Section 6.15. Holdings and the Borrower shall cause Fortress and its Affiliates (other than the Jefferson Group Members) to refrain from purchasing or acquiring any POBI Bonds.

Section 6. NEGATIVE COVENANTS

Holdings and the Borrower hereby jointly and severally agree that, so long as the Termination Conditions are not satisfied, each of Holdings and the Borrower shall not, and shall not permit any of its Subsidiaries to, directly or indirectly:

6.1 [Reserved].

6.2 Limitation on Indebtedness. Create, incur or assume any Indebtedness, except:

(a) (i) Indebtedness of any Loan Party pursuant to any Loan Document (including any Extension Amendment) and (ii) any Refinancing Indebtedness with respect to any of the foregoing Facilities or Classes of Term Loans;

(b) Indebtedness of any Jefferson Group Member to any other Jefferson Group Member, provided that (i) any Indebtedness (A) of Holdings, the Borrower or a Subsidiary Guarantor owing to any Non-Guarantor Subsidiary shall be subject to an Intercompany Debt Subordination Agreement, and (B) of a Non-Guarantor Subsidiary owing to any Subsidiary Guarantor or the Borrower shall not exceed $5,000,000 in aggregate principal amount at any one time outstanding during the term of this Agreement (unless such Indebtedness is subject to a perfected first priority Lien in favor of the Administrative Agent for the benefit of the Secured Parties) and (ii) any Indebtedness of any Jefferson Group Member to any other Jefferson Group Member existing as of the Closing Date shall be permitted to be maintained, modified and/or refinanced among the same Jefferson Group Members (or their successor entities) as long as, if the obligor with respect thereto is Holdings, the Borrower or a Subsidiary Guarantor and the payee with respect thereto is a Non-Guarantor Subsidiary, the same continues to be or is made subject to an Intercompany Debt Subordination Agreement, and the outstanding principal amount thereof is not increased;

(c) Indebtedness (including Capital Lease Obligations) of the Borrower or any Subsidiary secured by Liens pursuant to Section 6.3(p) incurred to finance the acquisition (including pursuant to a sale and leaseback transaction), construction, repair, replacement or improvement of Property (real or personal), equipment or other assets used or useful in the business in an aggregate principal amount not to exceed $35,000,000 at any one time outstanding;

(d) Indebtedness outstanding on the Closing Date (or future advances or Indebtedness contemplated by the existing documentation evidencing such Indebtedness (including any commitment with respect thereto)) and listed and identified by type on Schedule 6.2(d) and any Indebtedness that is Refinancing Indebtedness with respect thereto;

(e) (i) Indebtedness assumed by the Borrower or any Subsidiary in connection with any Acquisition or of any Person at the time such Person becomes a Subsidiary in connection with any Acquisition (provided that such Indebtedness existed at the time of such Acquisition or the time such Person becomes a Subsidiary and was not created in

connection therewith or in contemplation thereof) that is either unsecured or secured only by the assets or business acquired in such Acquisition or the assets or business of such Person who becomes a Subsidiary (including any acquired Capital Stock), so long as, after giving effect to the assumption of such Indebtedness, (A) the Borrower shall be in Pro Forma Compliance with a Total Secured Debt Leverage Ratio of not greater than 3.50:1.00 (treating any unsecured Indebtedness incurred under Section 6.2(e)(i) as secured Indebtedness for purposes of calculating the Total Secured Debt Leverage Ratio) or (B) the Total Secured Debt Leverage Ratio for the Borrower measured on a Pro Forma Basis is not increased as a result of such assumption of Indebtedness, and (ii) Indebtedness incurred to finance an Acquisition that is unsecured or secured only by the assets or business acquired in such Acquisition (including any acquired Capital Stock), and, in each case, any Refinancing Indebtedness in respect thereof so long as, before and after giving effect to such Indebtedness, (A) the Borrower shall be in Pro Forma Compliance with a Total Secured Debt Leverage Ratio of not greater than 3.50:1.00 (treating any unsecured Indebtedness incurred under Section 6.2(e)(ii) as secured Indebtedness for purposes of calculating the Total Secured Debt Leverage Ratio) or (B) the Total Secured Debt Leverage Ratio for the Borrower measured on a Pro Forma Basis is not increased as a result of such incurrence of Indebtedness; provided, that the aggregate amount of Indebtedness incurred by a Subsidiary other than a Subsidiary Guarantor under this clause 6.2(e)(ii) shall not exceed $10,000,000 at any one time outstanding;

(f) Construction Related Indebtedness of a Non-Recourse Subsidiary Borrower in an aggregate principal amount not to exceed $25,000,000 at any one time outstanding, provided that, with respect to any such Indebtedness, (x) none of the Borrower or any of its Subsidiaries (other than such Non-Recourse Subsidiary Borrower) provides credit support of any kind (including any undertaking, agreement or instrument that would constitute Indebtedness) or is directly or indirectly liable (as guarantor or otherwise), other than for fraud, misrepresentation, misapplication of cash, waste, Environmental Claims and liabilities, prohibited transfers, violations of special purpose entity covenants, voluntary or involuntary bankruptcy and other circumstances customarily excluded by institutional lenders from exculpation provisions and/or included in separate guarantee or indemnification agreements in non-recourse or construction financing of real estate, (y) as to which the lenders thereunder will not have any recourse to the Capital Stock or assets of the Borrower nor any of its Subsidiaries other than the assets of such Non-Recourse Subsidiary Borrower securing such indebtedness, additions, accessions and improvements thereto and proceeds thereof and the Capital Stock of the Non-Recourse Subsidiary Borrower and, in the case of the Borrower or any Subsidiary (other than such Non-Recourse Subsidiary Borrower), recourse against such party for fraud, misrepresentation, misapplication of cash, waste, Environmental Claims and liabilities, prohibited transfers, violations of special purpose entity covenants, voluntary or involuntary bankruptcy and other circumstances customarily excluded by institutional lenders from exculpation provisions and/or included in separate guarantee or indemnification agreements in non-recourse or construction financing of real estate, and (z) to the extent that the lenders thereunder will have recourse to the Capital Stock of the borrower of such Indebtedness, such borrower shall be a Non-Recourse Subsidiary Borrower. For the purposes of this Section, pledges of Hedge Agreements and posting of letters of credit in lieu of reserves shall not constitute credit support;

(g) Guarantee Obligations of (x) Indebtedness otherwise permitted to be incurred pursuant to this Section 6.2 and (y) Indebtedness of Unrestricted Subsidiaries and joint ventures in an aggregate principal amount not to exceed $7,500,000 at any one time; provided that the aggregate principal amount of Guarantee Obligations of Loan Parties of Indebtedness of a Non-Guarantor Subsidiary under clause (y) shall not exceed $5,000,000 at any one time outstanding during the term of this Agreement;

(h) (i) Indebtedness arising under or in respect of any surety, performance, bid or appeal bonds and performance and completion guarantees provided by the Borrower or any Subsidiary of the Borrower, or obligations in respect of letters of credit, bank guarantees, bankers' acceptances or similar instruments related thereto, in the ordinary course of its business, and (ii) Indebtedness in respect of customary agreements providing for indemnification, purchase price adjustments or similar obligations incurred in connection with any Investment, Disposition or Acquisition;

(i) letters of credit and the related guarantees thereof incurred in the ordinary course of business in an aggregate principal amount not to exceed $20,000,000 at any one time outstanding, which Indebtedness may be secured by cash collateral; provided, however, that upon the drawing of any such letters of credit, such obligations are reimbursed within 60 days following such drawing or incurrence;

(j) additional unsecured Indebtedness (including, without limitation, Guarantee Obligations) of any Jefferson Group Member in an aggregate principal amount (for all Jefferson Group Members) not to exceed $25,000,000 at any one time outstanding; provided, that the aggregate amount of Indebtedness incurred by a Subsidiary other than a Subsidiary Guarantor under this clause 6.2(j) shall not exceed $2,500,000 at any one time outstanding;

(k) Indebtedness of any Jefferson Group Member under working capital facilities or lines of credit (including letters of credit) in an aggregate amount not to exceed $20.0 million, which working capital facilities or lines of credit may be secured on a pari passu basis with the Facility and may be provided by any direct or indirect parent company of the Borrower or by Fortress or its affiliated funds;

(l) [reserved];

(m) [reserved];

(n) unsecured guarantees of the obligations of the Borrower and its Subsidiaries in connection with any Disposition that is a sale and leaseback arrangement permitted by Section 6.11;

(o) Indebtedness of JRTI in respect of the POBI Bonds;

(p) unsecured Indebtedness of the Borrower and its Subsidiaries that is subordinated in right of payment to the Obligations on terms that are reasonably satisfactory to the Administrative Agent and that (i) has no amortization or other mandatory payments, repurchase, repayment or similar requirements (except as a result of a Fundamental

Change so long as any rights of the holders thereof upon the occurrence of such Fundamental Change shall be subject to the satisfaction of the Termination Conditions) prior to the date that is 91 days after the Latest Maturity Date in effect at the time of incurrence and (ii) does not require any payment of cash interest prior to the date that the Termination Conditions are satisfied;

(q) Indebtedness consisting of promissory notes issued by Holdings, the Borrower or any Subsidiary to current or former officers, managers, consultants, directors and employees, their respective estates, or their spouses or former spouses to finance the purchase or redemption of Management Equity issued in compliance with this Agreement;

(r) Indebtedness consisting of cash management obligations, netting services, overdraft protection and similar arrangements incurred in the ordinary course of business;

(s) Indebtedness consisting of the financing of insurance premiums or take-or-pay obligations contained in supply agreements, in each case incurred in the ordinary course of business;

(t) Indebtedness incurred in respect of letters of credit, bank guarantees, bankers' acceptances or similar instruments issued or created in the ordinary course of business in respect of workers' compensation claims and health, disability, retiree or other employee benefits;

(u) Indebtedness owing to, or guaranteed by, a governmental agency incurred for Investment in, or the purchase, lease, development, construction, maintenance or improvement of Property (real or personal) or equipment that is used or useful in, a Similar Business in an aggregate principal amount not to exceed $50,000,000 at any one time outstanding; provided that such Indebtedness has a maturity date at the time such Indebtedness is incurred which is not earlier than the Latest Maturity Date; and

(v) unsecured Indebtedness of any Loan Party; provided that (i) such Indebtedness matures after, and has no amortization in excess of 1% per year or other mandatory principal payments, repurchase, repayment or similar requirements prior to the Latest Maturity Date in effect at the time of incurrence with respect to the Term Loans (except as a result of a Fundamental Change so long as any rights of the holders thereof upon the occurrence of such Fundamental Change shall be subject to the satisfaction of the Termination Conditions) and (ii) before and after giving effect to such Indebtedness, (A) the Borrower shall be in Pro Forma Compliance with a Total Debt Leverage Ratio of not greater than 3.50:1.00 or (B) the Total Debt Leverage Ratio for the Borrower measured on a Pro Forma Basis is not increased as a result of such incurrence of Indebtedness.

For the avoidance of doubt, this Section 6.2 shall not prohibit, limit or otherwise restrict any completion guarantees in an aggregate principal amount not to exceed $20,000,000 at any one time outstanding made by the Borrower and its Subsidiaries with respect to any Construction Related Indebtedness permitted by Section 6.2(f).

6.3 Limitation on Liens. Create, incur, assume or suffer to exist any Lien upon any of its Property, whether now owned or hereafter acquired, except for:

(a) Liens for taxes not overdue by more than 30 days, Liens for taxes not required to be discharged pursuant to Section 5.3 or Liens with respect to taxes, assessments or other governmental charges or levies that are being contested in good faith by appropriate proceedings, provided that, in the case of Liens with respect to contested taxes, assessments or other governmental charges or levies, adequate reserves with respect thereto are maintained on the books of Holdings, the Borrower or its Subsidiaries, as the case may be, in conformity with GAAP, and Liens for property taxes on property that the Borrower or any of its Subsidiaries has determined to abandon (so long as such abandonment is not prohibited by this Agreement or any of the other Loan Documents), if the sole recourse for such tax is to such property;

(b) Liens securing judgments for the payment of money not constituting an Event of Default under Section 7.1(i);

(c) carriers', warehousemen's, mechanics', materialmen's, repairmen's, landlord's, contractor's or other like Liens arising in the ordinary course of business securing obligations that are not overdue for a period of more than 90 days, or that are being contested in good faith by appropriate proceedings, provided that adequate reserves with respect thereto are maintained on the books of Holdings, the Borrower or its Subsidiaries, as the case may be, in conformity with GAAP or (ii) a bond or other security reasonably acceptable to the Administrative Agent in an amount equal to 100.0% of such obligations is procured;

(d) undetermined or inchoate Liens incidental to current operations which have not at such time been filed and which do not secure Indebtedness;

(e) pledges or deposits in connection with workers' compensation, unemployment insurance and other social security legislation;

(f) pledges or deposits to secure the performance of bids, trade contracts (other than for borrowed money), leases, concessions, statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature incurred in the ordinary course of business, or deposits to secure letters of credit, bank guarantees, bankers' acceptances, cash management obligations (including credit card processing obligations) or similar instruments related thereto;

(g) restrictions, covenants, land use contracts, rent charges, building schemes, declarations of covenants, conditions and restrictions, servicing agreements in favor of any Governmental Authority, easements, rights-of-way, servitudes or other similar rights in or with respect to real property (including open space and conservation easements, restrictions or similar agreements and rights of way and servitudes for railways, water, sewer, drainage, gas and oil pipelines, electricity, light, power, telephone, telegraph, internet or cable television services and utilities) granted to or reserved by other Persons or properties, incurred in the ordinary course of business, which in the aggregate do not materially

impair the use of or the operation of the business of such Person or the property subject thereto and any exception on the final title policies issued in connection with the Mortgages;

(h) the right reserved to or vested in any Governmental Authority, by the terms of any Permit acquired by such Person or by any Law, to terminate any such Permit or to require annual or other payments as a condition to the continuance thereof;

(i) the Lien resulting from the deposit of cash or securities in connection with any of the Liens permitted by Sections 6.3(a), (b) or (c), or in connection with contracts, tenders, leases or expropriation proceedings, or to secure workers' compensation, surety or appeal bonds, costs of litigation when required by Law and public and statutory obligations, and any right of refund, set-off or charge-back, or Liens of a collection bank on items in the course of collection, available to any bank or financial institution, including under the general terms and conditions of such bank or financial institution and/or its bank account opening documents or arising as a matter of Law;

(j) any security given to a public authority or other service provider or any other Governmental Authority when required by such utility or other Governmental Authority in connection with the operations of such person in the ordinary course of its business;

(k) any agreement or option to lease, license, sub-lease or sub-license (as lessee, lessor, licensee or licensor) any Property or right of use or occupancy assumed or entered by or on behalf of any Jefferson Group Member in the ordinary course of its business;

(l) the reservations, limitations, provisos and conditions, if any, expressed in any grants from any Governmental Authority or any similar authority;

(m) title defects or irregularities which are of a minor nature and in the aggregate will not materially impair the use of the Property for the purposes for which it is held by the Borrower or any of its Subsidiaries;

(n) junior priority Liens securing Indebtedness incurred pursuant to Section 6.2(u);

(o) Liens in existence on the Closing Date listed on Schedule 6.3(o), securing Indebtedness permitted by Section 6.2, and any modifications, replacements, renewals or extensions thereof, provided, that no such Lien is spread to cover any additional Property after the Closing Date (other than (i) after-acquired Property that is affixed or incorporated into the Property covered by such Lien or financed by Indebtedness permitted to be incurred under Section 6.2 and (ii) proceeds and products thereof) and that the principal amount of Indebtedness secured thereby is not increased (other than capitalized amounts related to fees and expenses incurred with respect thereto and unpaid accrued interest and premiums thereon);

(p) Liens securing Indebtedness of the Borrower or any Subsidiary, incurred pursuant to Section 6.2(c) to finance the acquisition (including pursuant to a sale and leaseback transaction), construction, repair, replacement or improvement of Property (real or personal), equipment or other assets used or useful in the business; provided that (i) such Liens shall be created within 365 days of the acquisition (including pursuant to a sale and leaseback transaction), construction, repair, replacement or improvement, as applicable, of such Property, equipment or other assets, and (ii) such Liens do not at any time encumber any Property, equipment or other assets other than the Property, equipment or other assets financed by such Indebtedness, replacements thereof, additions and accessions to such property, proceeds and products thereof and customary security deposits (except that individual financings of Property, equipment or other assets provided by one lender may be cross-collateralized to other financings of Property, equipment or other assets provided by such lender);

(q) (i) Liens created pursuant to the Loan Documents, (ii) Liens securing any Term Loans or Commitments subject to an Extension and (iii) Liens securing any Refinancing Indebtedness with respect to the foregoing;

(r) Liens on fee-owned property or real property leases of the Borrower and its Subsidiaries and any related Property (other than the Capital Stock of the Borrower and any Subsidiary that is not a Non-Recourse Subsidiary Borrower) customarily granted or pledged by a borrower to its lender in connection with non-recourse financing including, without limitation, any personal property located on or related to such Property, any contracts, receivables and general intangibles related to such real property and any Hedge Agreements relating to the Indebtedness (and any proceeds from any of the foregoing), in each case, which Liens secure Indebtedness permitted by Section 6.2(f); provided that, in each case, (i) such Liens shall be created substantially simultaneously with the incurrence of such Indebtedness and (ii) such Liens do not at any time encumber any Property other than the Property financed by such Indebtedness, other than, in each case, in connection with any consolidations of such Indebtedness;

(s) Liens securing Indebtedness of any Jefferson Group Member incurred pursuant to Section 6.2(e); provided that (i) such Liens do not at any time encumber any Property other than the Property (including Capital Stock of any entity acquired and any of its Subsidiaries) acquired in such Acquisition and (ii) in the case of Indebtedness incurred pursuant to Section 6.2(e)(ii), the amount of such Indebtedness initially secured thereby is not more than 100% of the aggregate consideration paid in connection with such Acquisitions plus fees and expenses incurred in connection therewith;

(t) any right of set-off, refund or charge-back available to any bank or other financial institution or any other Lien arising in connection therewith;

(u) Liens securing Indebtedness incurred pursuant to Section 6.2(k);

(v) [reserved];

(w) [reserved];

(x) other non-financial Liens in existence on the Closing Date which have not had, and could not reasonably be expected to have, a Material Adverse Effect;

(y) Liens on cash collateral to secure (i) Hedge Agreements permitted by Section 6.8(n), in an aggregate amount of such cash collateral not to exceed $10,000,000 plus the Available Amount as of such date and Not Otherwise Applied, or (ii) letters of credit permitted by Section 6.2(i);

(z) Liens in favor of customs and revenue authorities arising as a matter of Law to secure payment of customs duties in connection with the importation of goods in the ordinary course of business;

(aa) Liens on Property subject to an agreement to Dispose of such Property in a transaction permitted under Section 6.5;

(bb) Liens arising out of conditional sale, title retention, consignment or similar arrangements for the sale of goods entered into by any Jefferson Group Member in the ordinary course of business;

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

(dd) junior priority Liens securing Indebtedness of any Loan Party incurred pursuant to Section 6.2(v);

(ee) Liens securing the POBI Bonds;

(ff) other Liens of any Jefferson Group Member securing Indebtedness or other obligations in an aggregate principal amount at any time outstanding not to exceed $2,500,000, determined at the time of incurrence of such Indebtedness or other obligations; and

(gg) the creation of any Lien in favor of the PBGC or a Pension Plan.

6.4 Limitation on Fundamental Changes. Merge, consolidate or amalgamate, or liquidate, wind up or dissolve itself (or suffer any liquidation or dissolution), or Dispose of (other than in connection with any Lien permitted by Section 6.3) all or substantially all of its Property or business, except:

(a) that any Person (including, without limitation, any Subsidiary of the Borrower) may be merged, amalgamated or consolidated (i) with or into the Borrower (provided that (x) the Borrower shall be the continuing or surviving entity or (y) if the Person formed by or surviving any such merger, amalgamation or consolidation is not the Borrower (any such Person, a "Successor Borrower"), (A) the Successor Borrower shall be an entity organized or existing under the laws of any state of the United States or any jurisdiction reasonably satisfactory to the Administrative Agent, (B) the Successor Borrower shall expressly assume all the obligations of the Borrower under this Agreement and the other Loan Documents to which the Borrower is a party pursuant to a supplement

hereto or thereto in form reasonably satisfactory to the Administrative Agent, and (C) each Guarantor, unless it is the other party to such merger, amalgamation or consolidation, shall have by a supplement to the applicable Guarantee Agreement confirmed that its guarantee thereunder shall apply to the Successor Borrower's obligations under this Agreement; provided that, if the foregoing are satisfied, the Successor Borrower will succeed to, and be substituted for, the Borrower under this Agreement); (ii) with or into any Subsidiary Guarantor (provided that, (x) such Subsidiary Guarantor shall be the continuing or surviving entity or (y) simultaneously with, or promptly after the consummation of, such transaction, the continuing or surviving entity shall become a Subsidiary Guarantor); (iii) unless such Person is the Borrower or a Subsidiary Guarantor, with or into any Subsidiary of the Borrower (other than a Subsidiary Guarantor) (provided that after giving effect to such transaction the continuing or surviving entity shall remain a Subsidiary of the Borrower); or (iv) with or into Holdings (provided that (x) Holdings shall be the continuing or surviving entity or (y) if the Person formed by or surviving any such merger, amalgamation or consolidation is not Holdings (any such Person, a "Successor Holdings"), (A) Successor Holdings shall be an entity organized or existing under the laws of any state of the United States or any jurisdiction reasonably satisfactory to the Administrative Agent, and (B) Successor Holdings shall expressly assume all the obligations of Holdings under this Agreement and the other Loan Documents to which Holdings is a party pursuant to a supplement hereto or thereto in form reasonably satisfactory to the Administrative Agent; provided that, if the foregoing are satisfied, Successor Holdings will succeed to, and be substituted for, Holdings under this Agreement). Notwithstanding anything to the contrary above, JRTI shall not be permitted to merge, amalgamate or consolidate with any Person prior to the Existing Notes Release;

(b) that (i) any Subsidiary Guarantor may Dispose of any or all of its assets (upon voluntary liquidation or otherwise) to the Borrower or any Subsidiary Guarantor (or to a Subsidiary that becomes a Subsidiary Guarantor simultaneously with, or promptly after the consummation of, such transaction) and (ii) any Subsidiary (other than a Subsidiary Guarantor) of the Borrower may Dispose of any or all of its assets (upon voluntary liquidation or otherwise) to the Borrower or any other Subsidiary;

(c) that any single purpose Non-Guarantor Subsidiary or Immaterial Subsidiary, other than JRTI prior to the Existing Notes Release, may Dispose of all or any portion of its assets in the ordinary course of business and any Non-Guarantor Subsidiary or Immaterial Subsidiary, other than JRTI prior to the Existing Notes Release, may otherwise liquidate, wind up or be dissolved;

(d) [reserved]; and

(e) in connection with any Disposition permitted by Section 6.5.

6.5 Limitation on Disposition of Property. Dispose of any of its Property (including, without limitation, receivables and leasehold interests), whether now owned or hereafter acquired, or, in the case of any Subsidiary, issue or sell any shares of such Subsidiary's Capital Stock to any Person, except:

(a) the Disposition of obsolete, worn out or surplus Property or Property no longer used or useful in the business;

(b) to the extent constituting Dispositions, transactions permitted by Sections 6.3, 6.4 (other than Section 6.4(e)), 6.6 (other than Section 6.6(f)) or 6.8;

(c) the sale or issuance of any Subsidiary's Capital Stock to the Borrower or any Subsidiary Guarantor;

(d) the sale or issuance of any Capital Stock of any Subsidiary of the Borrower (other than a Subsidiary Guarantor or, prior to the Existing Notes Release, JRTI) to any other Subsidiary;

(e) any Recovery Event, provided that the requirements of Section 2.15(b), if applicable, are complied with in connection therewith;

(f) [reserved];

(g) the sale or other Disposition of inventory and the lease of assets, in each case in the ordinary course of business;

(h) [reserved];

(i) [reserved];

(j) [reserved];

(k) [reserved];

(l) [reserved];

(m) the issuance of any Management Equity;

(n) Dispositions identified on Schedule 6.5(n);

(o) (i) leases, subleases, licenses, sublicenses or charters of Property in the ordinary course of business and (ii) Dispositions of Intellectual Property that is no longer material to the business of such Jefferson Group Member;

(p) Dispositions by any Jefferson Group Member to any other Jefferson Group Member; provided that the gross proceeds from all Dispositions made by any Loan Party to any Non-Guarantor Subsidiary pursuant to this clause (p) shall not exceed $1,000,000 during the term of this Agreement;

(q) Dispositions of Property to the extent that (i) such Property is exchanged for credit against the purchase price of similar replacement Property or other Property used or useful in the business of the Borrower and its Subsidiaries or (ii) the proceeds of such Disposition are promptly applied to the purchase price of such replacement Property;

(r) Dispositions of Investments in joint ventures to the extent required by, or made pursuant to customary buy/sell arrangements between, the joint venture parties set forth in joint venture arrangements and similar binding arrangements;

(s) Dispositions of cash and Cash Equivalents;

(t) Dispositions of Investments received in consideration of Dispositions permitted under this Section 6.5;

(u) Dispositions by any Jefferson Group Member (other than JRTI prior to the Existing Notes Release) the gross proceeds of which do not exceed an aggregate amount of $2,500,000 during the term of this Agreement; and

(v) any other Disposition of Property or assets by any Jefferson Group Member (other than JRTI prior to the Existing Notes Release); provided that (i) at the time of such Disposition (other than any such Disposition made pursuant to a binding commitment entered into at a time when no Default or Event of Default exists), no Default or Event of Default shall exist or would result from such Disposition, (ii) the consideration for such Disposition shall be at least equal to the fair market value of such Property or assets at the time of such Disposition (or at the time such binding commitment is entered into) and (iii) at least 75% of such consideration shall be in cash, Cash Equivalents or the assumption of Indebtedness and other liabilities; provided that for the purpose of this clause (iii), (A) any notes or other obligations or other securities or assets received by any Jefferson Group Member in such Disposition that are converted into cash within 180 days of the receipt thereof (to the extent of the cash received) and (B) any Designated Non-Cash Consideration received by any Jefferson Group Member in such Disposition having an aggregate fair market value (as determined in good faith by the Borrower), taken together with all other Designated Non-Cash Consideration received pursuant to this clause (iii) that is at the time outstanding, not to exceed, at the time of receipt of such consideration, 1.0% of Total Assets as of the end of the fiscal quarter immediately prior to the date of such receipt for which financial statements have been delivered pursuant to Section 5.1 (with the fair market value of each item of Designated Non-Cash Consideration being measured at the time received and without giving effect to subsequent changes in value), shall be deemed to be cash.

6.6 Limitation on Restricted Payments. Declare or pay any dividend on, or make any payment on account of, or set apart assets for a sinking or other analogous fund for, the purchase, redemption, defeasance, retirement or other acquisition of, any Capital Stock of Holdings, the Borrower or any Subsidiary, whether now or hereafter outstanding, or make any other distribution in respect thereof, either directly or indirectly, whether in cash or property or in obligations of Holdings, the Borrower or any Subsidiary (collectively, "Restricted Payments"), except that:

(a) any Subsidiary or the Borrower may make Restricted Payments to any of Holdings, the Borrower or any Subsidiary which owns the Capital Stock of such Subsidiary (so long as, with respect to any Restricted Payment made by a non-Wholly Owned Subsidiary, to Holdings, the Borrower or any Subsidiary and to each other owner of Capital Stock of such non-Wholly Owned Subsidiary based on their relative ownership interests of the relevant class of Capital Stock);

(b) any Jefferson Group Member may make Restricted Payments (x) payable in the Capital Stock (other than Disqualified Capital Stock not otherwise permitted by Section 6.2) of such Person and (y) in cash in lieu of fractional shares of such Capital Stock;

(c) any Jefferson Group Member may make Restricted Payments to any other Jefferson Group Member (other than JRTI prior to the Existing Notes Release) for the purpose of facilitating the application of all or any portion of any Net Cash Proceeds in connection with a reinvestment of such Net Cash Proceeds pursuant to Section 2.15 by any Jefferson Group Member;

(d) any non-Wholly Owned Subsidiary may make distributions to its partners or other equity holders in accordance with its partnership agreements, articles of incorporation or shareholder agreement, in each case, to the extent that such distributions are made on a pro rata basis to the Jefferson Group Members (based upon the percentage interests held) and each of the other partners or other equity holders of such Subsidiary;

(e) the issuers of Management Equity may make Restricted Payments in the form of Management Equity or to repurchase, retire or otherwise acquire Management Equity or to pay taxes and expenses incurred in connection therewith, or, if such issuer is the Parent, Holdings may make Restricted Payments in an amount sufficient to fund such repurchase, retirement or acquisition and related taxes and expenses; provided that the aggregate amount of Restricted Payments made pursuant to this Section 6.6(e) to repurchase, retire or otherwise acquire Management Equity (or to fund such repurchase, retirement or acquisition and related taxes and expenses) shall not exceed $2,000,000 in any calendar year (with unused amounts in any calendar year being carried over to succeeding calendar years);

(f) to the extent constituting Restricted Payments, the Jefferson Group Members may enter into and consummate transactions permitted by any provision of Section 6.4, 6.5 (other than Section 6.5(b)), 6.8 or 6.9;

(g) Holdings may make Restricted Payments:

(i) to pay the operating costs and expenses of Parent incurred in the ordinary course of business and other corporate overhead costs and expenses of Parent (including administrative, legal, accounting and similar expenses provided by third parties), which are reasonable and customary and incurred in the ordinary course of business and attributable to the ownership or operations of Holdings, the Borrower and its Subsidiaries (including Unrestricted Subsidiaries) and any directors and officers liability insurance and reasonable and customary indemnification claims made by directors, managers or officers of Parent attributable to the ownership or operations of Holdings, the Borrower and its Subsidiaries (including Unrestricted Subsidiaries);

(ii) the proceeds of which shall be used by Parent to pay franchise taxes and other fees, and expenses, required to maintain its (or any of its direct or indirect parents') corporate existence;

(iii) to its equity holders with respect to any taxable period ending after the Closing Date for which Holdings is treated as a partnership or disregarded entity for U.S. federal income tax purposes, in an aggregate amount equal to the product of (A) the taxable income of Holdings for such taxable period (determined, for any taxable period with respect to which Holdings is a disregarded entity, as if Holdings were a partnership), reduced by any cumulative net taxable loss with respect to all prior taxable periods ending after the Closing Date (determined as if all such taxable periods were one taxable period and determined, for any taxable period with respect to which Holdings is a disregarded entity, as if Holdings were a partnership) to the extent such cumulative net taxable loss is of a character that would permit such loss to be deducted against the current period taxable income, taking into account any applicable limitations to which such cumulative net taxable losses are subject, as reasonably determined by Holdings, and (B) the highest combined marginal U.S. federal, state and local income tax rate applicable to any direct or indirect equity owner of Holdings for such taxable period (taking into account the character of the taxable income in question (ordinary income, long-term capital gain, qualified dividend income, etc.) and the deductibility of state and local income taxes for U.S. federal income tax purposes (and any applicable limitations thereon)); provided that distributions permitted under this clause (iii) in respect of the taxable period beginning prior to the Closing Date shall be reduced by the amount of estimated tax payments that should have been made by the direct or indirect equity owners of Holdings prior to the Closing Date (based on the assumptions used in this clause (iii)). Any distributions under this clause (iii) with respect to any taxable period may be made in quarterly installments during the course of such period using reasonable estimates of the anticipated aggregate amount of such distributions under this clause (iii) for such period, with any excess of aggregate installments with respect to any such period over the actual amount of such distributions permitted under this clause (iii) for such period reducing the amount of distributions permitted under this clause (iii) with respect to the immediately subsequent period (and, to the extent such excess is not fully absorbed in the immediately subsequent period, the following period(s));

(iv) to finance any Investment that would be permitted to be made pursuant to Section 6.8 if Parent were subject to such Section; provided that (A) such Restricted Payment shall be made substantially concurrently with the closing of such Investment and (B) Parent shall, immediately following the closing thereof, cause (1) all property acquired (whether Property or Capital Stock) to be contributed to Holdings, the Borrower or any Subsidiary (other than JRTI prior to the Existing Notes Release) or (2) the merger (to the extent permitted in Section 6.4) of the Person formed or acquired into Holdings, the Borrower or any of its Subsidiaries in order to consummate such Permitted Acquisition or Investment, in each case, in accordance with the requirements of Section 5.10;

(v) the proceeds of which shall be used to pay customary salary, bonus and other benefits payable to officers and employees of Parent or any other direct or indirect parent company of Holdings to the extent such salaries, bonuses and other benefits are attributable to the ownership or operation of Holdings, the Borrower and the Subsidiaries (including Unrestricted Subsidiaries); and

(vi) the proceeds of which shall be used by Parent to pay (or to make dividends or distributions to allow any direct or indirect parent thereof to pay) fees and expenses related to any unsuccessful equity or debt offering by Parent (or any direct or indirect parent thereof) that is directly attributable to the operations of Holdings, the Borrower and its Subsidiaries;

(h) Holdings, the Borrower or any of its Subsidiaries may pay cash in lieu of fractional Capital Stock in connection with any dividend, split or combination thereof or any Permitted Acquisition;

(i) any Jefferson Group Member may make Restricted Payments from the proceeds of dividends or distributions received, directly or indirectly, by such Jefferson Group Member from an Unrestricted Subsidiary; and

(j) any Jefferson Group Member (other than JRTI prior to the Existing Notes Release) may make Restricted Payments so long as before and after giving effect to such Restricted Payment, the Jefferson Group Members are in Pro Forma Compliance with a Total Debt Leverage Ratio of not more than 2.50:1.00; provided that the aggregate amount of Restricted Payments made pursuant to this Section 6.6(j) shall not exceed $10,000,000 in any calendar year or $25,000,000 in the aggregate during the term of this Agreement.

6.7 [Reserved].

6.8 Limitation on Investments. Make or hold any Investment, except:

(a) extensions of trade credit (or notes receivable arising from such grant) and deposits, prepayments and other credits to suppliers made in the ordinary course of business, and Investments received in satisfaction or partial satisfaction thereof from financially troubled account debtors or in connection with the bankruptcy or reorganization of suppliers or customers or in settlement of delinquent obligations of, or other disputes with, suppliers and customers, and other credits to suppliers in the ordinary course of business;

(b) Investments in assets that were Cash Equivalents at the time such Investments were made;

(c) Investments arising in connection with the incurrence of Indebtedness, Liens, fundamental changes, Dispositions, Restricted Payments and sale/leaseback transactions permitted by Sections 6.2, 6.3, 6.4, 6.5, 6.6 and 6.11, respectively;

(d) Investments (other than those relating to the incurrence of Indebtedness permitted by Section 6.8(c)) by (i) any Jefferson Group Member in the Borrower or any Person that, at the time of, prior to or immediately following the consummation of, such Investment, is a Subsidiary Guarantor, and (ii) any Subsidiary (other than JRTI prior to the Existing Notes Release or a Subsidiary Guarantor) in any other Subsidiary (other than JRTI prior to the Existing Notes Release or a Subsidiary Guarantor);

(e) Investments (other than those relating to the incurrence of Indebtedness permitted by Section 6.8(c)) by the Borrower or any Subsidiary Guarantor in any other Subsidiary (other than a Subsidiary Guarantor) (i) not to exceed $5,000,000 outstanding at any time or (ii) to fund maintenance Capital Expenditures by such Subsidiary;

(f) [reserved];

(g) loans to any employee of the Borrower and/or its Subsidiaries, not to exceed an aggregate principal amount of $1,000,000 at any one time outstanding;

(h) [reserved];

(i) Investments (i) existing or contemplated on the Closing Date and set forth on Schedule 6.8(i) and any modification, replacement, renewal, reinvestment or extension thereof and (ii) existing on the Closing Date by any Jefferson Group Member in any other Jefferson Group Member and any modification, renewal or extension thereof; provided that the amount of any Investment permitted pursuant to this Section 6.8(i) is not increased from the amount of such Investment on the Closing Date except (A) by capitalized amounts related to unpaid accrued interest and premium, (B) pursuant to the terms of such Investment as of the Closing Date or (C) as otherwise permitted by this Section 6.8;

(j) promissory notes and other non-cash consideration received in connection with Dispositions permitted by Section 6.5;

(k) Permitted Acquisitions;

(l) Investments held by a Subsidiary acquired after the Closing Date or of a Person merged, amalgamated or consolidated with or into the Borrower or any Subsidiary in accordance with Section 6.4 to the extent that such Investments were not made in contemplation of or in connection with such acquisition, merger, amalgamation or consolidation and were in existence on the date of such acquisition, merger, amalgamation or consolidation;

(m) Guaranties by any Jefferson Group Member of leases (other than Capital Leases) or other obligations that do not constitute Indebtedness, in each case entered into in the ordinary course of business;

(n) Investments consisting of Hedge Agreements to protect against changes in interest rates, commodity prices, foreign exchange rates, volumes or quantities in accordance with prudent industry practice;

(o) Investments in Unrestricted Subsidiaries and joint ventures after the date hereof in an amount not to exceed $10,000,000 at any time outstanding;

(p) [reserved];

(q) [reserved];

(r) [reserved]; and

(s) other Investments by any Jefferson Group Member (other than JRTI prior to the Existing Notes Release) in an amount not to exceed 1.0% of Total Assets, determined at the time such Investment is made, at any time outstanding.

6.9 Limitation on Optional Payments and Modifications of Subordinated Debt Instruments and Certain Other Indebtedness. (a) Make any optional or voluntary payment, prepayment, repurchase or redemption of, or otherwise voluntarily or optionally defease, any Indebtedness expressly subordinated to the Obligations or the POBI Bonds, or segregate funds for any such payment, prepayment, repurchase, redemption or defeasance (each a "Voluntary Prepayment"), other than (i) [reserved], (ii) Voluntary Prepayments payable in Capital Stock (other than Disqualified Capital Stock), (iii) Voluntary Prepayments payable in cash in lieu of fractional shares of such Capital Stock, (iv) Voluntary Prepayments made to any Loan Party or by a Non-Guarantor Subsidiary to another Non-Guarantor Subsidiary, (v) any other Voluntary Prepayment so long as, before and after giving effect to such Voluntary Prepayment, the Borrower is in Pro Forma Compliance with a Total Secured Debt Leverage Ratio of 2.00:1.00, (vi) the purchase, redemption, acquisition, retirement or discharge of the POBI Bonds subject to Section 6.15 and (vii) any other Voluntary Prepayment permitted under any Intercompany Debt Subordination Agreement; (b) amend, modify or otherwise change, or consent or agree to any amendment, modification, waiver or other change to, any term of any agreement governing or related to Indebtedness permitted under Section 6.2 (p) in a manner that is not permitted by the applicable intercreditor or subordination agreement with respect thereto for the benefit of the Administrative Agent or the Lenders with respect to the Obligations; or (c) amend its certificate of incorporation or other organizational documents or the Equity Commitment Letter in any manner that is materially adverse to the Lenders (it being understood that any amendment or modification of the independent director provisions in the organizational documents of any Loan Party shall not be deemed materially adverse to the Lenders).

6.10 Limitation on Transactions with Affiliates. Enter into any transaction involving payments in excess of $2,000,000 (other than the issuance, repurchase, retirement or acquisition of Management Equity and other employment and severance arrangements with officers and employees in the ordinary course of business and transactions pursuant to stock option plans and employee benefit plans and arrangements), including, without limitation, any purchase, sale, lease or exchange of Property, the rendering of any service or the payment of any management, advisory or similar fees, with any Affiliate (other than Holdings, the Borrower or any Subsidiary, or any entity that becomes a Subsidiary as a result of such transaction), unless such transaction (or, if applicable, the series of related transactions to which such transaction is related) is upon terms no less favorable to Holdings, the Borrower or such Subsidiary, as the case may be, than it would obtain in a comparable arm's-length transaction with a Person that is not

an Affiliate, other than (i) the payment of customary fees and reasonably out-of-pocket costs to, and indemnities provided on behalf of, directors, officers, employees and consultants (including those with respect to the Parent) in the ordinary course of business, (ii) Indebtedness permitted under Section 6.2, Restricted Payments permitted under Section 6.6 and Investments permitted under Section 6.8, (iii) the Transactions and any transactions relating to the initial public offering by the Parent and (iv) the transactions set forth on Schedule 6.10.

6.11 Limitation on Sales and Leasebacks. Enter into any arrangement with any Person providing for the leasing by Holdings, the Borrower or any Subsidiary of real or personal property which has been or is to be sold or transferred by Holdings, the Borrower or such Subsidiary to such Person or to any other Person to whom funds have been or are to be advanced by such Person on the security of such property or rental obligations of Holdings, the Borrower or such Subsidiary, other than any such arrangement whereupon such sale is permitted under Section 6.5 and is made for cash consideration in an amount at least equal to the fair market value of such property, and, if any Capital Lease Obligations are incurred therewith, such Indebtedness is permitted under Section 6.2.

6.12 Limitation on Changes in Fiscal Periods. Permit the fiscal year of the Borrower to end on a day other than December 31 or change any such Person's method of determining fiscal quarters; provided, however, that, upon written notice to the Administrative Agent, the Borrower may change its fiscal year ending date or method of determining fiscal quarters to another date or method, in which case, the Borrower and the Administrative Agent will, and are hereby authorized by the Lenders to, make any adjustments to this Agreement that are necessary to reflect such change in fiscal year.

6.13 Limitation on Negative Pledge Clauses. Enter into or suffer to exist or become effective any agreement that prohibits or limits the ability of any Loan Party to create, incur, assume or suffer to exist any Lien upon any of its Property or revenues, whether now owned or hereafter acquired, to secure the Obligations or, in the case of any Guarantor, its obligations under any Guarantee Agreement, other than this Agreement and the other Loan Documents and except to the extent that any such agreement (a) exists as of the Closing Date or is a modification, amendment, restatement, replacement, refinancing, renewal or extension thereof, (b) is assumed by Holdings, the Borrower or any of its Subsidiaries in connection with any Acquisition permitted in Section 6.8 or is binding on any Subsidiary at the time such Person becomes a Subsidiary (provided that such agreement was not entered into solely in contemplation of such Person becoming a Subsidiary), (c) is an agreement governing Indebtedness permitted by Section 6.2 or any customary provisions in leases, subleases, licenses, sublicenses, contracts for management or development of Property, asset sale agreements, merger agreements, stock purchase agreements and other contracts restricting the same, (d) [reserved], (e) is an agreement governing any non-Wholly Owned Subsidiary or joint venture or a Contractual Obligation of any non-Wholly Owned Subsidiary or joint venture, (f) relates to cash or other deposits (including escrowed funds) received by Holdings, the Borrower or any of its Subsidiaries or (g) relates to assets subject to Liens permitted by Sections 6.3(c), 6.3(d), 6.3(e), 6.3(f), 6.3(g), 6.3(h), 6.3(i), 6.3(j) or 6.3(l), provided that, (i) to the extent any such agreement is entered into after the Closing Date, such prohibition or limitation shall only be effective against the Property or Person (and its Subsidiaries) acquired in such Acquisition, securing such Indebtedness or that is the subject of such other leases, subleases, licenses, sublicenses, agreements, contracts, deposits or liens

and (ii) solely with respect to any non-Wholly Owned Subsidiary or joint venture, such prohibition or limitation shall only be effective against the Property, revenues or Capital Stock of such non-Wholly Owned Subsidiary or joint venture.

6.14 Limitation on Restrictions on Subsidiary Distributions. Enter into or suffer to exist or become effective any consensual encumbrance or restriction on the ability of any Subsidiary to make Restricted Payments in respect of any Capital Stock of such Subsidiary held by the Borrower or any other Subsidiary, except for such encumbrances or restrictions existing under or by reason of (i) any restrictions existing under the Loan Documents, (ii) any restrictions with respect to a Subsidiary imposed pursuant to an agreement that has been entered into in connection with the Disposition of all or substantially all of the Capital Stock or assets of such Subsidiary and (iii) any agreement existing as of the Closing Date (or a modification, replacement, renewal or extension thereof) or that is assumed by Holdings, the Borrower or any of its Subsidiaries in connection with any Acquisition permitted in Section 6.8 or is binding on any Subsidiary at the time such Person becomes a Subsidiary (provided that such agreement was not entered into solely in contemplation of such Person becoming a Subsidiary), or that is an agreement governing Indebtedness permitted by Section 6.2 or any customary provisions in leases, subleases, licenses, sublicenses, contracts for management or development of Property, asset sale agreements, merger agreements, stock purchase agreements and other contracts restricting the same; provided that, (x) to the extent any such agreement is entered into after the Closing Date, such encumbrance or restriction shall only be effective against (A) the Property or Person (and its Subsidiaries) acquired in such Acquisition, securing such Indebtedness or that is the subject of such Disposition or other leases, subleases, licenses, sublicenses, agreements or contracts, and (B) the distributions of any Subsidiary of the Borrower (provided that such Subsidiary shall not have any assets other than such assets to be Disposed of or acquired or financed) and (y) solely with respect to any non-Wholly Owned Subsidiary or joint venture, such encumbrance or restriction shall only be effective against such non-Wholly Owned Subsidiary or joint venture.

6.15 Cancellation, Prepayment or Retirement of POBI Bonds. Cancel, voluntarily prepay or retire any POBI Bonds unless, substantially concurrently therewith, (i) all POBI Bonds are cancelled, prepaid or retired in full and (ii) the Borrower shall have taken, or caused to be taken, within the time periods and subject to the limitations specified therein, each of the actions set forth in Section 5.10 with respect to JRTI; provided that, notwithstanding the foregoing, the actions set forth in Section 5.10(c) shall be taken within 10 Business Days of the Existing Notes Release.

6.16 Limitation on Activities of Holdings and JRTI.

(a) In the case of Holdings, notwithstanding anything to the contrary in this Agreement or any other Loan Document, (i) directly conduct, transact or otherwise engage in, or commit to conduct, transact or otherwise engage in, any material business or operations other than those incidental to its ownership of interests in the Borrower, the maintenance of its legal existence (including the ability to incur fees, costs and expenses relating to such maintenance), the filing of tax returns and payment of taxes, and the preparation of reports to Governmental Authorities and its shareholders or partners, (ii) incur, create, assume or suffer to exist any Indebtedness or financial obligations other than in connection with the activities described in clause (i), except (w) Indebtedness permitted by Section 6.2 and any other guarantee obligations

permitted to be incurred hereunder, (x) nonconsensual obligations imposed by operation of law, (y) pursuant to the Loan Documents to which it is a party and (z) obligations with respect to its Capital Stock, or (iii) directly own, lease, manage or otherwise operate any properties or assets (including cash (other than cash received in connection with dividends made by the Borrower and Subsidiary Guarantors in accordance with Section 6.6 pending application in the manner contemplated by said Section) and cash equivalents) other than the ownership of interests in the Borrower and in connection with the activities described in clause (i).

(b) In the case of JRTI, notwithstanding anything to the contrary in this Agreement or any other Loan Document, prior to the Existing Notes Release, (i) incur, create, assume or suffer to exist any Indebtedness other than (u) Indebtedness incurred in accordance with Section 6.2(h), (r), (s) or (t), (v) the POBI Bonds outstanding on the Closing Date, (w) nonconsensual obligations imposed by operation of law, (x) Indebtedness owing to any other Jefferson Group Member permitted pursuant to Section 6.2(b), (y) Indebtedness incurred under the Loan Documents and (z) obligations with respect to its Capital Stock, (ii) create, incur, assume or suffer to exist any Lien upon any of its Property, whether now owned or hereafter acquired, except for (x) those Liens securing the POBI Bonds outstanding on the Closing Date, (y) nonconsensual obligations imposed by operation of law or (z) Liens incurred in accordance with Section 6.3(a) through (m), (q), (t), (x), (z), (aa), (bb), (cc), (ee) or (gg) or (iii) amend, waive or modify the POBI Financing Agreement as in existence on the Closing Date in any manner that is materially adverse to the Lenders.

6.17 Financial Covenant. Beginning with the Test Period ending December 31, 2015, permit Consolidated EBITDA of the Jefferson Group Members for any Test Period to be less than $30,000,000.

Section 7. EVENTS OF DEFAULT

7.1 Events of Default. Each of the following events shall constitute an "Event of Default":

(a) the Borrower shall fail to pay any principal of any Term Loan when due in accordance with the terms hereof; or the Borrower shall fail to pay any interest on any Term Loan, or any other amount payable hereunder or under any other Loan Document, within five Business Days after any such interest or other amount becomes due in accordance with the terms hereof or thereof; or

(b) any representation or warranty made or deemed made by any Loan Party herein or in any other Loan Document or that is contained in any certificate, document or financial or other statement furnished by it at any time under or in connection with this Agreement or any such other Loan Document shall prove to have been incorrect in any material respect on or as of the date made or deemed made and is not remedied within 30 days from the occurrence of such Default; or

(c) any Loan Party shall default in the observance or performance of any agreement contained in clause (i) of Section 5.4(a) (with respect to the Borrower only), Section 5.7(a) or Section 6; provided that an Event of Default under Section 6.17 is subject to cure pursuant to Section 7.3; or

(d) any Loan Party shall default in the observance or performance of any other agreement contained in this Agreement or any other Loan Document (other than as provided in paragraphs (a) through (c) of this Section), and such default shall continue unremedied for a period of 30 days after the date on which the Borrower has received written notice of such failure from the Administrative Agent, or if such default is of a nature that it cannot with reasonable effort be completely remedied within said period of 30 days, such additional period of time as may be reasonably necessary to cure same, provided that the applicable Loan Party commences such cure within such 30 day period and diligently prosecutes same, until completion, but in no event shall such extended period exceed 60 days; or

(e) any Jefferson Group Member shall (i) default in making any payment of any principal of any Indebtedness (including, without limitation, any Guarantee Obligation or Hedge Agreement, but excluding the Term Loans) on the scheduled due date with respect thereto; (ii) default in making any payment of any interest on any such Indebtedness beyond the period of grace, if any, provided in the instrument or agreement under which such Indebtedness was created; or (iii) default in the observance or performance of any other agreement or condition relating to any such Indebtedness or contained in any instrument or agreement evidencing, securing or relating thereto, or any other event shall occur or condition exist (other than (A) the voluntary sale or transfer of any asset securing such Indebtedness, (B) a refinancing of such Indebtedness permitted to be incurred pursuant to Section 6.2, (C) a drawing by a beneficiary under a letter of credit that gives rise to a reimbursement obligation in respect thereof in accordance with the terms of such Indebtedness, (D) an issuance of capital stock, incurrence of other Indebtedness or sale or other disposition of any assets, in each case that gives rise to mandatory prepayment with the net cash proceeds thereof, so long as such event shall not have otherwise resulted in an event of default with respect to such Indebtedness, and (E) any redemption, conversion or settlement of any such Indebtedness that is convertible into Capital Stock and/or cash pursuant to its terms unless such redemption, conversion or settlement results from a default thereunder), the effect of which default or other event or condition is to cause, or with respect to any Indebtedness other than the POBI Bonds, to permit the holder or beneficiary of such Indebtedness (or a trustee or agent on behalf of such holder or beneficiary) to cause, with the giving of notice if required, such Indebtedness to become due prior to its stated maturity or to become subject to a mandatory offer to purchase by the obligor thereunder or (in the case of any such Indebtedness constituting a Guarantee Obligation) to become payable; provided that a default, event or condition described in clause (i), (ii) or (iii) of this paragraph (e) shall not at any time constitute an Event of Default (A) unless, at such time, one or more defaults, events or conditions of the type described in clauses (i), (ii) and (iii) of this paragraph (e) shall have occurred and be continuing with respect to Indebtedness, with respect to any individual transaction, the outstanding principal amount of which exceeds $12,500,000, or (B) with respect to the POBI Bonds, if the Loan Parties have set aside and there remains in a deposit or securities account under the sole dominion and control of the Administrative Agent for the benefit of the Secured Parties, an amount of cash sufficient to repay 100% of the outstanding principal

amount of the POBI Bonds, unless and until the transfer of such funds into such account becomes subject to an avoidance action or is otherwise challenged or contested under applicable law; or

(f) (i) any Jefferson Group Member shall commence any case, proceeding or other action (A) under any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization, arrangement or relief of debtors, seeking to have an order for relief entered with respect to it, or seeking to adjudicate it bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to it or its debts, except as permitted under Section 6.4(b) or Section 6.4(c), or (B) seeking appointment of a receiver, trustee, custodian, conservator, receiver and manager, liquidator, sequestrator, monitor, or other similar official for it or for all or any substantial part of its assets, or any Jefferson Group Member shall make a general assignment for the benefit of its creditors; or (ii) there shall be commenced against any Jefferson Group Member any case, proceeding or other action of a nature referred to in clause (i) above that (A) results in the entry of an order for relief or any such adjudication or appointment or (B) remains undismissed, undischarged, unstayed or unbonded for a period of 60 days; or (iii) there shall be commenced against any Jefferson Group Member any case, proceeding or other action seeking issuance of a warrant of attachment, execution, distraint or similar process against all or any substantial part of its assets that results in the entry of an order for any such relief that shall not have been paid, vacated, discharged, stayed or bonded pending appeal within 60 days from the entry thereof; or (iv) any Jefferson Group Member shall consent to, approve of, or acquiesce in, any of the acts set forth in clause (i), (ii), or (iii) above; or (v) any Jefferson Group Member shall be unable to, or shall admit in writing its inability to, pay its debts as they become due; or

(g) (i) any Person shall engage in any "prohibited transaction" (as defined in Section 406 of ERISA or Section 4975 of the Code) involving any Pension Plan, (ii) any failure to satisfy the minimum funding standard of Section 412 of the Code and Section 302 of ERISA, whether or not waived, shall exist with respect to any Pension Plan, or any Lien in favor of the PBGC or a Pension Plan shall arise on the assets of the Borrower or any Commonly Controlled Entity, (iii) a Reportable Event shall occur with respect to, or proceedings shall commence to have a trustee appointed, or a trustee shall be appointed, to administer or to terminate, any Pension Plan, which Reportable Event or commencement of proceedings or appointment of a trustee is, in the reasonable opinion of the Required Lenders, likely to result in the termination of such Pension Plan for purposes of Title IV of ERISA, (iv) any Pension Plan shall terminate for purposes of Title IV of ERISA or (v) the Borrower or any Commonly Controlled Entity shall incur any liability in connection with a withdrawal from, or the Insolvency or Reorganization of, a Multiemployer Plan; and in each case in clauses (i) through (v) above, such event or condition results in or could reasonably be expected to result in a Material Adverse Effect; or

(h) Fortress, any Fortress Fund or any Affiliate thereof (other than any Jefferson Group Member) shall purchase or otherwise acquire any POBI Bond; provided that if the person making the investment decision on behalf of Fortress, such Fortress Fund or Affiliate lacks actual knowledge of the restriction in the second sentence of Section 5.18

hereof, then such purchase or acquisition shall constitute an Event of Default only to the extent unremedied within 30 days from the date any person making investment decisions on behalf of Fortress, such Fortress Fund or Affiliate becomes aware of such restriction; or

(i) one or more judgments or decrees shall be entered against any Jefferson Group Member involving for the Jefferson Group Members taken as a whole a liability (to the extent not paid or covered by insurance as to which the relevant insurance company has not denied coverage in writing) of $12,500,000 or more, and all such judgments or decrees shall not have been paid, vacated, discharged, stayed or bonded pending appeal within 60 days from the entry thereof; or

(j) any of the Security Documents shall cease, for any reason (other than by reason of the express release thereof pursuant to Section 8.10 or the terms thereof or the failure of the Administrative Agent to file continuation statements or take any other actions required to be taken by the Administrative Agent under the Loan Documents), to be in full force and effect, or any Loan Party or any Affiliate of any Loan Party shall so assert in writing, or any Lien created by any of the Security Documents shall cease for any reason (other than by reason of the express release thereof pursuant to Section 8.10 or the terms thereof or by the failure of the Administrative Agent to file continuation statements or take any other actions required to be taken by the Administrative Agent under the Loan Documents) to be valid, perfected, enforceable and of the same effect and priority purported to be created thereby with respect to any of the Collateral, or any Loan Party or any Affiliate of any Loan Party shall so assert in writing; or

(k) the guarantee contained in any Guarantee Agreement shall cease, for any reason (other than by reason of the express release thereof pursuant to Section 8.10 or the terms thereof), to be in full force and effect or any Loan Party or any Affiliate of any Loan Party shall so assert in writing; or

(l) any Change of Control shall occur.

If any Event of Default shall have occurred and be continuing, then, and in any such event, (A) if such event is an Event of Default specified in clause (i) or (ii) of paragraph (f) above with respect to the Borrower, the Term Loans hereunder (with accrued interest thereon) and all other amounts owing under this Agreement and the other Loan Documents shall automatically and immediately become due and payable, and (B) if such event is any other Event of Default, with the consent of the Required Lenders, the Administrative Agent may, or upon the request of the Required Lenders, the Administrative Agent shall, by notice to the Borrower, declare the Term Loans hereunder (with accrued interest thereon) and all other amounts owing under this Agreement and the other Loan Documents to be due and payable forthwith, whereupon the same shall immediately become due and payable.

7.2 Application of Proceeds. All proceeds collected by the Administrative Agent upon any collection, sale, foreclosure or other realization upon any Collateral (including

without limitation any distribution pursuant to a plan of reorganization), including any Collateral consisting of cash, shall be applied as follows:

FIRST, to the payment of all costs and expenses incurred by the Administrative Agent (in its capacity as such hereunder or under any other Loan Document) in connection with such collection, sale, foreclosure or realization or otherwise in connection with this Agreement, any other Loan Document or any of the Obligations, including all court costs and the fees and expenses of its agents and legal counsel, the repayment of all advances made by the Administrative Agent hereunder or under any other Loan Document on behalf of any Loan Party and any other costs or expenses incurred in connection with the exercise of any right or remedy hereunder or under any other Loan Document;

SECOND, to the payment in full of all Obligations (the amounts so applied to be distributed among the Secured Parties pro rata in accordance with the amounts of the Obligations owed to them on the date of any such distribution);

THIRD, to the Loan Parties, their successors or assigns, or as a court of competent jurisdiction may otherwise direct.

In addition, in the event that the Administrative Agent receives any non-cash distribution upon any collection, sale, foreclosure or other realization upon any Collateral, such non-cash distribution shall be allocated in the manner described above, with the value of such non-cash distribution being reasonably determined by the Administrative Agent; provided that the Administrative Agent shall apply any cash distribution in accordance with this Section 7.2 prior to application of any such non-cash distribution. The Administrative Agent shall have absolute discretion as to the time of application of any such proceeds, moneys or balances in accordance with this Agreement. Upon any sale of Collateral by the Administrative Agent (including pursuant to a power of sale granted by statute or under a judicial proceeding), the receipt of the Administrative Agent or of the officer making the sale shall be a sufficient discharge to the purchaser or purchasers of the Collateral so sold and such purchaser or purchasers shall not be obligated to see to the application of any part of the purchase money paid over to the Administrative Agent or such officer or be answerable in any way for the misapplication thereof.

7.3 Cure Right. (a) Notwithstanding anything to the contrary contained in Section 7.1(c), in the event that Holdings and the Borrower fail or may fail to comply with the covenant set forth in Section 6.17 for any Test Period (beginning with the Test Period ending December 31, 2015), at any time on or before the tenth Business Day after the date that the financial statements with respect to the fiscal quarter or fiscal year, as applicable, ending on the last day of such Test Period are required to be delivered pursuant to Section 5.1, the Fortress Funds shall have the right (the "Cure Right"), exercisable no more than four times during the term of this Agreement (and in each Test Period for which a Cure Right is exercised, there shall be at least two fiscal quarters in which no Cure Right has been exercised), to make, or cause one or more Affiliates of the Fortress Funds to make, cash contributions to, or purchase common equity or other equity interests not constituting Disqualified Capital Stock of, of Holdings (with such cash or proceeds of equity to be contributed to the Borrower), in an amount equal to the amount required to cause Holdings and the Borrower to be in compliance with the financial covenant set forth in Section 6.17 for such Test Period (the "Cure Amount") and apply such Cure Amount to prepay the Term Loans pro rata among the Classes of Term Loans in direct order of maturity of the scheduled remaining Installments of principal of the Term Loans within each Class, upon which the financial covenant set forth in Section 6.17 shall be recalculated, giving

effect to a pro forma increase to Consolidated EBITDA of the Jefferson Group Members in accordance with the definition thereof for the fiscal quarter with respect to which such Cure Right was exercised in an amount equal to such Cure Amount (and such increase shall be included in each period that includes such fiscal quarter); provided, however, that such pro forma adjustment to Consolidated EBITDA of the Jefferson Group Members shall be given solely for the purpose of determining the existence of a Default or an Event of Default under the covenant set forth in Section 6.17 with respect to any period that includes the fiscal quarter with respect to which such Cure Right was exercised and not for any other purpose under any Loan Document.

(b) If, after the exercise of the Cure Right and the recalculations pursuant to Section 7.3(a) above, the Borrower shall then be in compliance with the requirements of the covenant set forth in Section 6.17 for such Test Period, the Borrower shall be deemed to have satisfied the requirements of the covenant set forth in Section 6.17 as of the relevant date of determination with the same effect as though there had been no failure to comply therewith at such date, and the applicable Default or Event of Default under Section 7.1(c) that had occurred shall be deemed cured; provided, however, that (i) the Cure Amount shall be no greater than the amount required to cause the Borrower to be in compliance with Section 6.17 and (ii) all Cure Amounts and the use of proceeds therefrom will be disregarded for all other purposes (including calculating Consolidated EBITDA for purposes of determining the Total Debt Leverage Ratio and the Total Secured Debt Leverage Ratio) under the Loan Documents other than compliance with Section 6.17.

(c) If on a pro forma basis after giving effect to the investment of cash in equity of Holdings pursuant to the preceding clause (a), the Borrower would have been in compliance with the covenant set forth in Section 6.17 as of the date of the relevant Compliance Certificate, the Event of Default under Section 6.17 shall be deemed to have not occurred. During the pendency of any cure right afforded to the Jefferson Group Members pursuant to Section 7.3(a), the Administrative Agent shall not exercise any remedies described under Section 7.1 or otherwise for failure to satisfy the financial covenant in Section 6.17.

Section 8. THE ADMINISTRATIVE AGENT

8.1 Appointment and Authority.

(a) Each of the Lenders hereby irrevocably appoints Morgan Stanley to act on its behalf as the Administrative Agent hereunder and under the other Loan Documents and authorizes the Administrative Agent to take such actions on its behalf and to exercise such powers as are delegated to the Administrative Agent by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto. The provisions of this Section are solely for the benefit of the Administrative Agent and the Lenders, and none of the Borrower nor any other Loan Party shall have rights as a third party beneficiary of any of such provisions (except as provided in Section 8.6 below).

(b) [Reserved].

(c) The Administrative Agent shall also act as the collateral agent under the Loan Documents, and each of the Lenders hereby irrevocably appoints and authorizes the Administrative

Agent to act as the agent of such Lender for purposes of acquiring, holding and enforcing any and all Liens on Collateral granted by any of the Loan Parties to secure any of the Obligations, together with such powers and discretion as are reasonably incidental thereto. In this connection, the Administrative Agent, as collateral agent, and any co-agents, sub-agents and attorneys-in-fact appointed by the Administrative Agent pursuant to Section 8.5 for purposes of holding or enforcing any Lien on the Collateral (or any portion thereof) granted under the Security Documents, or for exercising any rights and remedies thereunder at the direction of the Administrative Agent, shall be entitled to the benefits of all provisions of this Section 8 and Section 9 (including Section 9.5(b), as though such co-agents, sub-agents and attorneys-in-fact were the collateral agent under the Loan Documents) as if set forth in full herein with respect thereto.

8.2 Rights as a Lender. The Person serving as the Administrative Agent hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not the Administrative Agent and the term "Lender" or "Lenders" shall, unless otherwise expressly indicated or unless the context otherwise requires, include the Person serving as the Administrative Agent hereunder in its individual capacity. Such Person and its Affiliates may accept deposits from, lend money to, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of business with Holdings, the Borrower or any Subsidiary or other Affiliate thereof as if such Person were not the Administrative Agent hereunder and without any duty to account therefor to the Lenders.

8.3 Exculpatory Provisions. The Administrative Agent shall not have any duties or obligations except those expressly set forth herein and in the other Loan Documents. Without limiting the generality of the foregoing, the Administrative Agent:

(a) shall not be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing;

(b) shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Loan Documents that the Administrative Agent is required to exercise as directed in writing by the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Loan Documents), provided that the Administrative Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose the Administrative Agent to liability or that is contrary to any Loan Document or applicable law;

(c) shall not, except as expressly set forth herein and in the other Loan Documents, have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Borrower or any of its Affiliates that is communicated to or obtained by the Person serving as the Administrative Agent or any of its Affiliates in any capacity;

(d) shall not be liable for any action taken or not taken by it (i) with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Administrative Agent shall believe in good faith shall be necessary, under the circumstances as provided in Sections 9.1 and 7.1) or (ii) in

the absence of its own gross negligence, bad faith or willful misconduct. The Administrative Agent shall be deemed not to have knowledge of any Default unless and until notice describing such Default is given to the Administrative Agent by the Borrower or a Lender;

(e) shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Agreement or any other Loan Document, (ii) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein or the occurrence of any Default, (iv) the validity, enforceability, effectiveness or genuineness of this Agreement, any other Loan Document or any other agreement, instrument or document, or the creation, perfection or priority of any Lien purported to be created by the Security Documents, (v) the value or the sufficiency of any Collateral, (vi) perfecting, maintaining, monitoring, preserving or protecting the security interest or lien (including the priority thereof) granted under this Agreement, any other Loan Document or any agreement or instrument contemplated hereby or thereby, (vii) the filing, re-filing, recording, re-recording or continuing of any document, financing statement, mortgage, assignment, notice, instrument of further assurance or other instrument in any public office at any time or times, (viii) providing, maintaining, monitoring or preserving insurance on or the payment of taxes with respect to any of the Collateral or (ix) the satisfaction of any condition set forth in Section 4 or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent;

(f) shall not be required to qualify in any jurisdiction in which it is not presently qualified to perform its obligations as Agent; and

(g) shall not be required to (i) expend or risk its own funds or provide indemnities in the performance of any of its duties hereunder or the exercise of any of its rights or powers, or (ii) otherwise incur any financial liability in the performance of its duties hereunder or the exercise of any of its rights or powers, except for such expense, indemnity or liability, if any, arising out of the Administrative Agent's gross negligence, bad faith or willful misconduct in the performance of its duties hereunder or under any other Loan Document, as determined by a judgment of a court of competent jurisdiction.

No requirement in any Loan Document for a Loan Party to provide evidence, opinion, information, documentation or other material requested or required by the Administrative Agent shall be construed to mean that the Administrative Agent has any responsibility to request or require such evidence, opinion, information, documentation or other material. No Lender shall assert, and each Lender hereby waives, any claim against the Administrative Agent, including any predecessor agent, its sub-agents and their respective Affiliates in respect of any action taken or omitted to be taken by any of them, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Loan Document or any agreement or instrument contemplated hereby or thereby, the transactions contemplated hereby or thereby, any Term Loan or the use of the proceeds thereof.

8.4 Reliance by Administrative Agent. The Administrative Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, Internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. The Administrative Agent also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person, and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to the making of a Term Loan that by its terms must be fulfilled to the satisfaction of a Lender, the Administrative Agent may presume that such condition is satisfactory to such Lender unless the Administrative Agent shall have received notice to the contrary from such Lender prior to the making of such Term Loan. The Administrative Agent may consult with legal counsel (who may be counsel for the Borrower or any Lender), independent accountants and other experts, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

8.5 Delegation of Duties. The Administrative Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Loan Document by or through any one or more sub-agents appointed by the Administrative Agent. The Administrative Agent and any such sub-agent may perform any and all of its duties and exercise its rights and powers by or through their respective Related Parties. The exculpatory provisions of this Section 8 shall apply to any such sub-agent and to the Related Parties of the Administrative Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the credit facility provided for herein as well as activities as Administrative Agent.

8.6 Resignation of Administrative Agent. The Administrative Agent may at any time give notice of its resignation to the Lenders and the Borrower. Upon receipt of any such notice of resignation, the Required Lenders shall have the right, with the consent of the Borrower (not to be unreasonably withheld or delayed) unless an Event of Default under Section 7.1(a) or (f) is continuing, to appoint a successor, which shall be a bank with an office in the United States, or an Affiliate of any such bank with an office in the United States. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days after the retiring Administrative Agent gives notice of its resignation, then the retiring Administrative Agent may, on behalf of the Lenders, with the consent of the Borrower (not to be unreasonably withheld or delayed) unless an Event of Default under Section 7.1(a) or (f) is continuing, appoint a successor Administrative Agent meeting the qualifications set forth above; provided that if the Administrative Agent shall notify the Borrower and the Lenders that no qualifying Person has accepted such appointment, then such resignation shall nonetheless become effective in accordance with such notice and (a) the retiring Administrative Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents (except that in the case of any collateral security held by the Administrative Agent on behalf of the Lenders under any of the Loan Documents, the retiring Administrative Agent shall continue to hold such collateral security until such time as a successor Administrative Agent is appointed) and (b) all payments, communications and determinations provided to be made by, to or through the Administrative Agent shall instead be made by or to each Lender directly, until such time as the Required Lenders appoint a successor Administrative Agent as provided

for above in this Section. Upon the acceptance of a successor's appointment as Administrative Agent hereunder, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring (or retired) Administrative Agent, and the retiring Administrative Agent shall be discharged from all of its duties and obligations hereunder or under the other Loan Documents (if not already discharged therefrom as provided above in this Section). The fees payable by the Borrower to a successor Administrative Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrower and such successor. After the retiring Administrative Agent's resignation hereunder and under the other Loan Documents, the provisions of this Section 8 and Section 9.5 shall continue in effect for the benefit of such retiring Administrative Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while the retiring Administrative Agent was acting as Administrative Agent.

8.7 Non-Reliance on Administrative Agent and Other Lenders. Each Lender acknowledges that it has, independently and without reliance upon the Administrative Agent or any other Lender or any of their Related Parties and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Lender also acknowledges that it will, independently and without reliance upon the Administrative Agent or any other Lender or any of their Related Parties and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any other Loan Document or any related agreement or any document furnished hereunder or thereunder.

8.8 No Other Duties, Etc. Anything herein to the contrary notwithstanding, the Arranger listed on the cover page hereof shall not have any powers, duties or responsibilities under this Agreement or any of the other Loan Documents, except in their capacities, as applicable, as the Administrative Agent or a Lender hereunder.

8.9 Administrative Agent May File Proofs of Claim. In case of the pendency of any proceeding under any Debtor Relief Law or any other judicial proceeding relative to any Loan Party, the Administrative Agent (irrespective of whether the principal of any Term Loan shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on the Borrower) shall be entitled and empowered, by intervention in such proceeding or otherwise:

(a) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Term Loans and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders and the Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders and the Administrative Agent and their respective agents and counsel and all other amounts due the Lenders and the Administrative Agent under Sections 2.12 and 9.5) allowed in such judicial proceeding; and

(b) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender to make such payments to the Administrative Agent and, if the Administrative Agent shall consent to the making of such payments directly to the Lenders, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Administrative Agent and its agents and counsel, and any other amounts due the Administrative Agent under Sections 2.12 and 9.5.

Nothing contained herein shall be deemed to authorize the Administrative Agent to authorize or consent to or accept or adopt on behalf of any Lender any plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Lender to authorize the Administrative Agent to vote in respect of the claim of any Lender or in any such proceeding.

8.10 Collateral and Guaranty Matters; Rights Under Hedge Agreements.

(a) Each of the Lenders irrevocably authorizes the Administrative Agent to release or evidence the release of any Lien on any property granted to or held by the Administrative Agent under any Loan Document, to release any Guarantor from its obligations under a Guarantee Agreement or any Loan Document or to subordinate any Lien on any property granted to or held by the Administrative Agent under any Loan Document, in each case as provided in Section 9.22.

(b) Upon request by the Administrative Agent at any time, the Required Lenders will confirm in writing the Administrative Agent's authority to release or subordinate its interest in particular types or items of property, or to release any Guarantor from its obligations under the Loan Documents pursuant to Section 9.22.

(c) No Secured Hedge Agreement will create (or be deemed to create) in favor of any Lender Counterparty that is a party thereto any rights to manage or release any Collateral or of the obligations of any Guarantor under the Loan Documents except as expressly provided in Section 9.1(xi). By accepting the benefits of the Collateral, such Lender Counterparty shall be deemed to have appointed the Administrative Agent as its agent and agreed to be bound by the Loan Documents as a Secured Party, subject to the limitations set forth in this clause (c).

8.11 Withholding Taxes. To the extent required by any applicable Requirements of Law, the Administrative Agent may withhold from any payment to any Lender an amount equivalent to any applicable withholding tax except to the extent that such Lender has established an exemption from or reduction of such withholding tax by complying with the requirements of paragraph (d) or (e) of Section 2.21 or that such tax has been withheld by a Loan Party. Without limiting or expanding the provisions of Section 2.21, each Lender shall indemnify the Administrative Agent against, and shall make payable in respect thereof within thirty (30) days after demand therefor, any and all taxes and any and all related losses, claims, liabilities and expenses (including fees, charges and disbursements of any counsel for the Administrative Agent) incurred by or asserted against the Administrative Agent by the Internal Revenue Service or any other Governmental Authority as a result of the failure of the Administrative Agent to properly withhold tax from amounts paid to or for the account of such Lender for any reason (including, without limitation, because the appropriate form was not delivered or not properly executed,

or because such Lender failed to notify the Administrative Agent of a change in circumstance that rendered the exemption from, or reduction of, withholding tax ineffective). A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under this Agreement or any other Loan Document against any amount due the Administrative Agent under this Section 8.11. The agreements in this Section 8.11 shall survive the resignation and/or replacement of the Administrative Agent, any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all other Obligations.

8.12 Intercreditor and Subordination Agreements. Each Lender hereby irrevocably appoints, designates and authorizes the Administrative Agent to enter into any intercreditor or subordination agreement pertaining to any subordinated debt or other debt secured by the Collateral or any portion thereof on its behalf and to take such action on its behalf under the provisions of any such agreement.

Section 9. MISCELLANEOUS

9.1 Amendments and Waivers. Neither this Agreement or any other Loan Document, nor any terms hereof or thereof may be amended, supplemented or modified except in accordance with the provisions of this Section 9.1. The Required Lenders, the Borrower and each other Loan Party which is a party to the relevant Loan Document may, or (with the written consent of the Required Lenders) the Administrative Agent, the Borrower and each other Loan Party which is a party to the relevant Loan Document may, from time to time, (a) enter into written amendments, supplements or modifications hereto and to the other Loan Documents (including amendments and restatements hereof or thereof) for the purpose of adding or removing any provisions to this Agreement or the other Loan Documents or changing in any manner the rights and obligations of the Lenders or of the Loan Parties hereunder or thereunder or (b) waive, on such terms and conditions as may be specified in the instrument of waiver, any of the requirements of this Agreement or the other Loan Documents or any Default or Event of Default and its consequences; provided, however, that the Administrative Agent may, with the consent of Holdings and the Borrower only and without the need to obtain the consent of any Lender, amend, supplement or modify this Agreement or any other Loan Document to cure any ambiguity, omission, defect or inconsistency, so long as such amendment, supplement or modification does not adversely affect the rights of any Lender or the Lenders shall have received at least five Business Days' prior written notice thereof and Administrative Agent shall not have received, within five Business Days of the date of such notice to the Lenders, a written notice from the Required Lenders stating that the Required Lenders object to such amendment; provided further, however, that no such waiver and no such amendment, supplement or modification shall:

(i) forgive the principal amount of any Term Loan, extend the final scheduled date of maturity of any Term Loan, reduce the stated rate of any interest, fee or premium payable under this Agreement (except (x) in connection with the waiver of applicability of any post-default increase in interest rates (which waiver shall be effective with the consent of the Required Lenders), and (y) that any amendment or modification of defined terms used in the financial ratios in this Agreement shall not constitute a reduction in the

rate of interest or fees for purposes of this clause (i)) or extend the scheduled date of any Installment payment, extend the time for payment of any interest, fees or premium or increase the amount or extend the expiration date of any Commitment of any Lender, in each case without the consent of each Lender directly and adversely affected thereby;

(ii) amend, modify or waive any provision of this Section without the consent of each Lender, or, except as contemplated by the last paragraph of this Section 9.1, reduce any percentage specified in the definition of Required Lenders or reduce the consent required under any provision pursuant to which the consent of Required Lenders is necessary, in each case without the consent of each Lender directly affected thereby;

(iii) consent to the assignment or transfer by the Borrower of any of its rights and obligations under this Agreement and the other Loan Documents without the consent of each Lender, other than to a Successor Borrower;

(iv) amend, modify or waive any provision of Section 8, or any other provision affecting the rights, duties or obligations of the Administrative Agent, without the consent of the Administrative Agent;

(v) amend, modify or waive any provision of Section 2.18 without the consent of each Lender directly affected thereby;

(vi) [reserved];

(vii) except upon satisfaction of the Termination Conditions, release all or substantially all of the Collateral in any transaction or series of related transactions, without the written consent of each Lender;

(viii) release all or substantially all of the value of the Guarantee Agreements, without the written consent of each Lender, except (i) to the extent the release of any Subsidiary from a Guarantee Agreement is permitted pursuant to Section 9.22 (in which case such release may be made without the consent of any Lender) or (ii) upon satisfaction of the Termination Conditions;

(ix) [reserved];

(x) [reserved]; or

(xi) amend, modify or waive any provision of this Agreement or the Security Agreement so as to alter the ratable treatment of Obligations arising under the Loan Documents and Obligations arising under Secured Hedge Agreements or the definitions of "Lender Counterparty," "Secured Hedge Agreement" or "Obligations" (with respect to the treatment of obligations under Secured Hedge Agreements) in each case in a manner adverse to any Lender Counterparty with Obligations then outstanding without the written consent of any such Lender Counterparty;

provided, further, that any Loan Document may be waived, amended, supplemented or modified pursuant to an agreement or agreements in writing entered into by Holdings, the Borrower and the Administrative Agent (without the consent of any Lender) solely to grant a new Lien for the benefit of the Secured Parties or extend an existing Lien over additional property.

Any such waiver and any such amendment, supplement or modification shall apply equally to each of the Lenders and shall be binding upon the Loan Parties, the Lenders, the Administrative Agent and all future holders of the Term Loans. In the case of any waiver, the Loan Parties, the Lenders and the Administrative Agent shall be restored to their former position and rights hereunder and under the other Loan Documents, and any Default or Event of Default waived shall be deemed to be cured and not continuing; but no such waiver shall extend to any subsequent or other Default or Event of Default, or impair any right consequent thereon. Any such waiver, amendment, supplement or modification shall be effected by a written instrument signed by the parties required to sign pursuant to the foregoing provisions of this Section; provided that delivery of an executed signature page of any such instrument by facsimile transmission shall be effective as delivery of a manually executed counterpart thereof.

Notwithstanding the foregoing, Guarantee Agreements, Security Documents and related documents executed in connection with this Agreement may be in a form reasonably determined by the Administrative Agent and may be, together with this Agreement, amended and waived with the consent of the Administrative Agent, Holdings and the Borrower only and without the need to obtain the consent of any Lender if such amendment or waiver is delivered solely to the extent necessary to (i) comply with local Law or advice of local counsel or (ii) cause such Guarantee Agreement, Security Document or related document to be consistent with this Agreement and the other Loan Documents (which, for the avoidance of doubt, includes resolving any conflicts between the operation of the terms in the Depositary Agreement and this Agreement).

Notwithstanding the foregoing, this Agreement may be amended (or amended and restated) through an Extension Amendment on terms consistent with Section 2.25 and with the written consent of the Required Lenders, the Administrative Agent and the Borrower (i) to add one or more additional credit facilities to this Agreement and to permit the extensions of credit from time to time outstanding thereunder and the accrued interest and fees in respect thereof to share ratably in the benefits of this Agreement and the other Loan Documents with the Term Loans and Commitments hereunder and the accrued interest and fees in respect thereof and (ii) to include appropriately the Lenders holding such credit facilities in any determination of the Required Lenders and provide for class voting to the extent appropriate.

Notwithstanding anything to the contrary herein, in connection with any amendment, modification, waiver or other action requiring the consent or approval of Required Lenders, Lenders that are Affiliated Loan Funds shall not be permitted, in the aggregate, to account for more than 49.9% of the amounts actually included in determining whether the threshold in the definition of Required Lenders has been satisfied. The voting power of each Lender that is an Affiliated Loan Fund shall be reduced, pro rata, to the extent necessary in order to comply with the immediately preceding sentence.

9.2 Notices. Except as otherwise provided in Section 2.10(c), all notices, requests and demands to or upon the respective parties hereto to be effective shall be in writing (including by telefacsimile), and, unless otherwise expressly provided herein, shall be deemed to have been duly given or made when delivered, or three Business Days after being deposited in

the mail, postage prepaid, or, in the case of telefacsimile notice, when received, addressed (a) in the case of Holdings, the Borrower and the Administrative Agent, as follows and (b) in the case of the Lenders, at its primary address set forth below its name on Appendix A or otherwise indicated to Administrative Agent in writing or, in the case of a Lender which becomes a party to this Agreement pursuant to an Assignment and Acceptance, in such Assignment and Acceptance or (c) in the case of any party, to such other address as such party may hereafter notify to the other parties hereto:

Holdings and and the Borrower:	c/o Jefferson Gulf Coast Energy Partners LLC 9595 Six Pines Drive, Suite 6370 The Woodlands, Texas 77380 Telephone: 218-677-4900
with a copy to:	Fortress Investment Group LLC 1345 Avenue of the Americas New York, New York 10105 Attention: R. Nardone Facsimile: (212) 798-6120 Telephone: (212) 798-6110
with a copy to:	Skadden, Arps, Slate, Meagher & Flom LLP 155 N. Wacker Drive Chicago, Illinois 60606-1720 Attention: Seth E. Jacobson Facsimile: (312) 407-8511 Telephone: (312) 407-0889
The Administrative Agent:	Morgan Stanley Senior Funding, Inc. 1 New York Plaza, 41st Floor New York, NY 10004 Attention: Anil Singh Telephone: (917) 260-5329 E-mail: msagency@morganstanley.com

provided that any notice, request or demand to or upon the Administrative Agent or any Lender shall not be effective until received.

Notices and other communications to the Lenders hereunder may be delivered or furnished by electronic communications pursuant to procedures approved by the Administrative Agent; provided that the foregoing shall not apply to notices pursuant to Section 2 unless otherwise agreed by the Administrative Agent and the applicable Lender. The Administrative Agent, or the Borrower may, in their discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it; provided that approval of such procedures may be limited to particular notices or communications.

THE PLATFORM IS PROVIDED "AS IS" AND "AS AVAILABLE." THE AGENT PARTIES (AS DEFINED BELOW) DO NOT WARRANT THE ACCURACY OR COMPLETENESS OF THE MATERIALS AND/OR INFORMATION PROVIDED BY OR ON BEHALF OF THE BORROWER HEREUNDER ("BORROWER MATERIALS") OR THE ADEQUACY OF THE PLATFORM, AND EXPRESSLY DISCLAIM LIABILITY FOR ERRORS IN OR OMISSIONS FROM THE BORROWER MATERIALS. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS, IS MADE BY ANY AGENT PARTY IN CONNECTION WITH THE BORROWER MATERIALS OR THE PLATFORM. In no event shall the Administrative Agent or any of its Related Parties (collectively, the "Agent Parties") have any liability to Holdings, the Borrower, any Lender or any other Person for losses, claims, damages, liabilities or expenses of any kind (whether in tort, contract or otherwise) arising out of Holdings', the Borrower's or the Administrative Agent's transmission of materials and/or information provided by or on behalf of the Borrower hereunder through the Internet, except to the extent that such losses, claims, damages, liabilities or expenses are determined by a court of competent jurisdiction by a final and nonappealable judgment to have resulted from the gross negligence, bad faith or willful misconduct of such Agent Party; provided, however, that in no event shall any Agent Party have any liability to Holdings, the Borrower, any Lender or any other Person for indirect, special, incidental, consequential or punitive damages (as opposed to direct or actual damages).

9.3 No Waiver; Cumulative Remedies. No failure to exercise and no delay in exercising, on the part of the Administrative Agent or any Lender, any right, remedy, power or privilege hereunder or under the other Loan Documents shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law.

9.4 Survival of Representations and Warranties. All representations and warranties made herein, in the other Loan Documents and in any document, certificate or statement delivered pursuant hereto or in connection herewith shall survive the execution and delivery of this Agreement and the making of the Term Loans and other extensions of credit hereunder.

9.5 Payment of Expenses; Indemnification.

(a) The Borrower agrees (a) to pay or reimburse each of the Agents and the Arranger for all their reasonable out-of-pocket costs and expenses incurred in connection with the syndication of the Facility (other than fees payable to syndicate members) and the development, negotiation, preparation and execution of, and any amendment, supplement or modification to, this Agreement and the other Loan Documents and any other documents prepared in connection herewith or therewith, and the consummation and administration of the transactions contemplated hereby and thereby, including, without limitation, the reasonable and documented fees and disbursements of a single law firm as counsel to the Agents and the Arranger and one local counsel to the Agents in any relevant jurisdiction and the charges of IntraLinks, (b) [reserved], (c) to pay or reimburse each Lender and the Agents for all their reasonable and

documented costs and expenses incurred in connection with the enforcement or preservation of any rights under this Agreement, the other Loan Documents and any other documents prepared in connection herewith or therewith, including, without limitation, all costs and expenses incurred during any legal proceeding, including any proceeding under any Debtor Relief Laws, the reasonable and documented fees and disbursements of a single law firm as counsel to the Lenders and the Agents taken as a whole and one local counsel to the Lenders and the Agents taken as a whole in any relevant material jurisdiction (or, with respect to enforcement, any relevant jurisdiction) and, if a conflict exists among such Persons, one additional primary counsel and, if necessary or advisable, one local counsel in each relevant jurisdiction, (d) to pay, indemnify, or reimburse each Lender and the Agents for, and hold each Lender and the Agents harmless from, any and all reasonable recording and filing fees and any and all reasonable liabilities with respect to, or resulting from any delay in paying Other Taxes, if any, which may be payable or determined to be payable in connection with the execution and delivery of, or consummation or administration of any of the transactions contemplated by, or any amendment, supplement or modification of, or any waiver or consent under or in respect of, this Agreement, the other Loan Documents and any such other documents, and (e) to pay, indemnify or reimburse each Lender, the Agents, their respective affiliates, and their respective officers, directors, trustees, employees, advisors, agents and controlling persons (each, an "Indemnitee") for, and hold each Indemnitee harmless from and against any and all other liabilities, obligations, losses, damages, penalties, claims (including Environmental Claims), actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever (limited to, in the case of counsel, the reasonable and documented fees and disbursements of a single law firm as counsel to the Indemnitees taken as a whole and one local counsel to the Indemnitees taken as a whole in any relevant jurisdiction and, if a conflict exists among such Persons, one additional primary counsel and, if necessary or advisable, one local counsel in each relevant jurisdiction) whether direct, indirect, special or consequential, incurred by an Indemnitee or asserted against any Indemnitee arising out of, in connection with, or as a result of (i) the execution, enforcement or delivery of this Agreement, any other Loan Document or any agreement or instrument contemplated hereby or thereby, the performance by the parties hereto or thereto of their respective obligations hereunder or thereunder or the consummation of the transactions contemplated hereby or thereby, (ii) any Term Loan or the use or proposed use of the proceeds thereof, (iii) any actual or alleged presence or Release of Hazardous Materials on, at, under or from any property owned, occupied or operated by the Borrower or any of its Subsidiaries, or any liability under any Environmental Law related in any way to the Borrower or any of its Subsidiaries or any of their respective properties, or (iv) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by any third party or by the Borrower or any other Loan Party, and regardless of whether any Indemnitee is a party thereto (all the foregoing in this clause (e), collectively, the "Indemnified Liabilities"), but excluding, in each case, taxes other than any taxes that represent losses, damages, etc., in respect of a non-tax claim; provided that the Borrower shall have no obligation hereunder to any Indemnitee with respect to Indemnified Liabilities to the extent such Indemnified Liabilities (x) are found by a final and nonappealable decision of a court of competent jurisdiction to have resulted from the gross negligence, bad faith, willful misconduct or material breach of its obligations under this Agreement of such Indemnitee or (y) resulted from any dispute that does not involve an act or omission by the Borrower or any of their respective affiliates, shareholders, partners or other equity holders and that is brought by an Indemnitee against another Indemnitee other than any claims

against an Indemnitee in its capacity or in fulfilling its role as the Administrative Agent or the Arranger under the Facility. No Indemnitee shall be liable for any damages arising from the use by unauthorized persons of information or other materials sent through electronic, telecommunications or other information transmission systems that are intercepted by such persons or for any special, indirect, consequential or punitive damages in connection with the Facility. Without limiting the foregoing, and to the extent permitted by applicable law, the Borrower agrees not to assert and to cause its Subsidiaries not to assert, and hereby waives and agrees to cause its Subsidiaries so to waive, all rights for contribution or any other rights of recovery with respect to all claims, demands, penalties, fines, liabilities, settlements, damages, costs and expenses of whatever kind or nature, under or related to Environmental Laws, that any of them might have by statute or otherwise against any Indemnitee. All amounts due under this Section shall be payable not later than 30 days after written demand therefor. Statements payable by the Borrower pursuant to this Section shall be submitted to R. Nardone (Telephone No. (212) 798-6110) (Fax No. (212) 798-6120), at the address of the Borrower set forth in Section 9.2, or to such other Person or address as may be hereafter designated by the Borrower in a notice to the Administrative Agent. The agreements in this Section shall survive the termination of the Commitments and the repayment of the Term Loans and all other amounts payable hereunder.

(b) Reimbursement by Lenders. To the extent that the Borrower for any reason fails to indefeasibly pay any amount required under subsection (a) of this Section to be paid by it to the Administrative Agent (or any sub-agent thereof) or any Related Party of any of the foregoing, each Lender severally agrees to pay to the Administrative Agent (or any such sub-agent) or such Related Party, as the case may be, such Lender's Pro Rata Share (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought) of such unpaid amount, provided that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the Administrative Agent (or any such sub-agent) in its capacity as such, or against any Related Party of any of the foregoing acting for the Administrative Agent (or any such sub-agent) in connection with such capacity.

9.6 Successors and Assigns; Participations and Assignments.

(a) This Agreement shall be binding upon and inure to the benefit of Holdings, the Borrower, the Lenders, the Administrative Agent, all future holders of the Term Loans and their respective successors and assigns, except that the Borrower may not assign or transfer any of their rights or obligations under this Agreement except in a transaction permitted pursuant to Section 6.4(a)(i)(x) without the prior written consent of the Administrative Agent and each Lender.

(b) Any Lender may, without the consent of the Borrower, in accordance with applicable law, at any time sell to one or more banks, financial institutions or other entities (each, a "Participant") participating interests in any Term Loan owing to such Lender, any Commitment of such Lender or any other interest of such Lender hereunder and under the other Loan Documents; provided, however, no Lender shall be permitted to sell any such participating interest to (i) any of the Fortress Funds, any of their respective Affiliates (other than any Affiliated Loan Fund) or any of their respective associated investment funds, (ii) a natural person or (iii) any Disqualified Assignee. In the event of any such sale by a Lender of a participating interest to a

Participant, such Lender's obligations under this Agreement to the other parties to this Agreement shall remain unchanged, such Lender shall remain solely responsible for the performance thereof, such Lender shall remain the holder of any such Term Loan for all purposes under this Agreement and the other Loan Documents, and the Borrower and the Administrative Agent shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement and the other Loan Documents. In no event shall any Participant under any such participation have any right to approve any amendment or waiver of any provision of any Loan Document, or any consent to any departure by any Loan Party therefrom, except to the extent that such amendment, waiver or consent would require the consent of all Lenders pursuant to Section 9.1. The Borrower agrees that if amounts outstanding under this Agreement and the Term Loans are due or unpaid, or shall have been declared or shall have become due and payable upon the occurrence of an Event of Default, each Participant shall, to the maximum extent permitted by applicable law, be deemed to have the right of setoff in respect of its participating interest in amounts owing under this Agreement to the same extent as if the amount of its participating interest were owing directly to it as a Lender under this Agreement; provided that, in purchasing such participating interest, such Participant shall be deemed to have agreed to share with the Lenders the proceeds thereof as provided in Section 9.7(a) as fully as if such Participant were a Lender hereunder. The Borrower also agrees that each Participant shall be entitled through the Lender granting the participation to the benefits of Sections 2.19, 2.20 or 2.21 (subject to the requirements and limitations of such Sections, Section 2.22 and 2.24, including the requirements of Section 2.21(d) through (g) (it being agreed that any required forms shall be provided solely to the participating Lender)) with respect to its participation in the Commitments and the Term Loans outstanding from time to time as if such Participant were a Lender; provided that no Participant shall be entitled to receive any greater amount pursuant to any such Section than the transferor Lender would have been entitled to receive in respect of the amount of the participation transferred by such transferor Lender to such Participant had no such transfer occurred, except to the extent that entitlement to a greater amount results from a change in Law that occurs after such Participant acquires the applicable participation, unless such transfer was made with the Borrower's prior written consent (which consent shall not be unreasonably withheld or delayed). Each Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of the Borrower, maintain a register on which it enters the name and address of each Participant and the principal and interest amounts of each Participant's interest in the Term Loans held by it (the "Participant Register"). The entries in the Participant Register shall be conclusive, absent manifest error, and such Lender shall treat each person whose name is recorded in the Participant Register as the owner of the participation in question for all purposes of this Agreement, notwithstanding notice to the contrary. No Lender shall have any obligation to disclose all or any portion of a Participant Register (including the identity of any Participant or any information relating to a Participant's interest in any commitments, loans, letters of credit or its other obligations under any Loan Document) to any Person except to the extent such disclosure is necessary to establish that such commitment, loan, letter of credit or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations and to confirm a Participant is not a Disqualified Institution.

(c) Any Lender (an "Assignor") may, in accordance with applicable law and the written consent of the Administrative Agent (which shall not be unreasonably withheld or delayed, and which consent shall not be required in connection with an assignment made by or to the Arranger) (which shall not be unreasonably withheld or delayed, and which consent shall not

be required in connection with an assignment made by or to the Arranger) and, so long as no Event of Default under Section 7.1(a) or (f) has occurred and is continuing, the Borrower (which shall not be unreasonably withheld or delayed, and which consent shall not be required in connection with an assignment made to or, in connection with the primary syndication of the Facility (other than assignments to any Disqualified Assignee), by the Arranger) (provided that the Borrower shall be deemed to have consented to any such assignment unless they shall object thereto by written notice to the Administrative Agent within five Business Days after having received notice thereof), at any time and from time to time assign to any Lender or any affiliate, Related Fund or Control Investment Affiliate thereof, to an additional bank, financial institution or other entity (an "Assignee") all or any part of its rights and obligations under this Agreement pursuant to an Assignment and Acceptance executed by such Assignee and such Assignor and delivered to the Administrative Agent for its acceptance and recording in the Register; provided that assignments made to any Lender, an affiliate of a Lender or a Related Fund will not be subject to the above described consents; provided, further, that no assignment to an Assignee (other than any Lender or any affiliate thereof) of Term Loans shall be in an aggregate principal amount of less than $1,000,000 (other than in the case of an assignment of all of a Lender's interests in the Term Loan Facility under this Agreement) and, after giving effect thereto, the assigning Lender (if it shall retain any Term Loans) shall have Term Loans aggregating at least $1,000,000 unless otherwise agreed by the Administrative Agent and the Borrower; provided, however, no Lender shall be permitted to assign all or any part of its rights and obligations under this Agreement to (i) any of the Fortress Funds, any of their respective Affiliates or any of their respective associated investment funds (other than Holdings, the Borrower or any of their respective Subsidiaries), unless the additional limitations set forth in Section 9.6(d) are satisfied, (ii) Holdings, the Borrower or any of their respective Subsidiaries, except pursuant to Borrower Loan Purchase made in accordance with Section 9.6(i), (iii) any natural person or (iv) any Disqualified Assignee. Upon such execution, delivery, acceptance and recording in the Register, from and after the effective date determined pursuant to such Assignment and Acceptance, (x) the Assignee thereunder shall be a party hereto and, to the extent provided in such Assignment and Acceptance, have the rights and obligations of a Lender hereunder with Commitments and/or Term Loans as set forth therein, and (y) the Assignor thereunder shall, to the extent provided in such Assignment and Acceptance, be released from its obligations under this Agreement (and, in the case of an Assignment and Acceptance covering all of an Assignor's rights and obligations under this Agreement, such Assignor shall cease to be a party hereto, except as to Sections 2.20, 2.21 and 9.5 in respect of the period prior to such effective date). For purposes of the minimum assignment amounts set forth in this paragraph, multiple assignments by two or more Related Funds shall be aggregated. Any assignment or participation to a Disqualified Assignee is *void ab initio* unless such assignment or participation, as the case may be, has been approved by the Borrower, in which case such assignee or participant shall not be considered a Disqualified Assignee solely for such particular assignment or participation, as the case may be. In the case of an assignment not approved by the Borrower, such Disqualified Assignee shall be deleted from the Register upon written notification from the Borrower. Except for providing the list of Disqualified Assignees to each Lender, the Administrative Agent shall have no responsibility or liability to monitor or enforce such list of Disqualified Assignees.

(d) Notwithstanding anything in this Agreement or any other Loan Document to the contrary, any Lender may assign all or a portion of its Term Loans to any of the Fortress Funds or any of their respective Affiliates or any of their respective associated investment funds,

other than Holdings, the Borrower or any of their respective Subsidiaries (an "Affiliated Lender"), pursuant to an Affiliated Lender Assignment and Assumption in accordance with this Section 9.6(d) (which assignment will not constitute a prepayment of Term Loans for any purposes of this Agreement and the other Loan Documents); provided that:

(i) Affiliated Lenders (other than Affiliated Loan Funds) will not have the right to receive, and will not receive, information provided solely to Lenders by the Administrative Agent or any Lender and will not be permitted to, and will not, attend or participate in meetings or conference calls attended solely by the Lenders and the Administrative Agent, other than the right to receive notices of prepayments and other administrative notices in respect of its Term Loans required to be delivered to the Lenders;

(ii) notwithstanding anything in Section 9.1 or the definition of "Required Lenders" to the contrary, for purposes of determining whether the "Required Lenders" have (A) consented (or not consented) to any amendment, modification, waiver, consent or other action with respect to any of the terms of this Agreement or any other Loan Document or any departure by any Loan Party therefrom, (B) otherwise acted on any matter related to this Agreement or any other Loan Document or (C) directed or required the Administrative Agent or any Lender to undertake any action (or refrain from taking any action) with respect to or under this Agreement or any other Loan Document, all Term Loans held by any Affiliated Lender (other than Affiliated Loan Funds) shall be deemed to have voted in the same proportion as the allocation of voting with respect to such matter by Lenders who are not Affiliated Lenders for all purposes of calculating whether the Required Lenders have taken any actions, and each Affiliated Lender (other than Affiliated Loan Funds) hereby irrevocably appoints the Administrative Agent (such appointment being coupled with an interest) as such Affiliated Lender's attorney-in-fact, with full authority in the place and stead of such Affiliated Lender and in the name of such Affiliated Lender, from time to time in the Administrative Agent's discretion to take any action and to execute any instrument that the Administrative Agent may deem reasonably necessary to carry out the provisions of this clause (ii). Affiliated Loan Funds shall not be subject to the limitations set forth in this clause (ii), and shall be entitled to vote as any other Lender;

(iii) the aggregate principal amount of Term Loans held at any one time by Affiliated Lenders (other than Affiliated Loan Funds) may not exceed 20% of the then outstanding principal amount of all Term Loans, and any assignments that cause the Affiliated Lenders (other than Affiliated Loan Funds) in the aggregate to exceed such percentages, as applicable, shall be deemed void ab initio and the Register shall be modified to reflect a reversal of such assignment;

(iv) each of the parties hereto and any Lender participating in any assignment to an Affiliated Lender acknowledge and agree that in connection with such assignment, (A) the assignee then may have, and later may come into possession of Excluded Information, (B) such Lender has, independently and without reliance on such Affiliated

Lender, any of its Subsidiaries, the Administrative Agent or any of its affiliates, made its own analysis and determination to participate in such assignment notwithstanding such Lender's lack of knowledge of the Excluded Information, (C) none of the Affiliated Lenders or any of its Subsidiaries, the Administrative Agent or any of its affiliates shall have any liability to such Lender, and such Lender hereby waives and releases, to the extent permitted by law, any claims such Lender may have against such Affiliated Lender, any of its Subsidiaries, the Administrative Agent and any of its affiliates, under applicable laws or otherwise, with respect to the nondisclosure of the Excluded Information and (D) the Excluded Information may not be available to the Administrative Agent or the other Lenders;

(v) no Event of Default has occurred and is continuing at the time of such assignment to an Affiliated Lender (other than an Affiliated Loan Fund) or would result from such assignment; and

(vi) each Affiliated Lender, solely in its capacity as a Lender, hereby further agrees that if any Loan Party shall be subject to any voluntary or involuntary proceeding commenced under any Debtor Relief Law, each such Affiliated Lender shall be deemed to have voted in such proceeding in the same proportion as the allocation of voting with respect to such proceeding by those Lenders who are not Affiliated Lenders, except to the extent that any matter under such proceeding proposes to treat the Obligations of the Loan Parties under the Loan Documents held by such Affiliated Lender in a manner that is less favorable to such Affiliated Lender in any material respect than the proposed treatment of similar Obligations of the Loan Parties under the Loan Documents held by other Lenders. Each Affiliated Lender agrees and acknowledges that the foregoing constitutes an irrevocable proxy in favor of the Administrative Agent to vote or consent on behalf of such Affiliated Lender in any proceeding in the manner set forth above; provided that any Affiliated Lender that qualifies as an Affiliated Loan Fund shall not be subject to the limits set forth in this Section 9.6(d)(vi).

(e) Upon its receipt of an Assignment and Acceptance executed by an Assignor and an Assignee (and, in any case where the consent of any other Person is required by Section 9.6(c), by each such other Person) together with payment to the Administrative Agent of a registration and processing fee of $3,500 (provided, however, that (i) Administrative Agent may, in its sole discretion, elect to waive such processing and recordation fee in the case of any assignment and (ii) no such fee shall be required to be paid (A) in connection with an assignment by or to the Arranger or any Affiliate thereof or (B) in the case of an Assignee which is already a Lender or any affiliate, Related Fund or Control Investment Affiliate thereof), the Administrative Agent shall (i) promptly accept such Assignment and Acceptance and (ii) on the effective date determined pursuant thereto record the information contained therein in the Register and give notice of such acceptance and recordation to the Borrower. On or prior to such effective date, the Borrower, at its own expense, upon request, shall execute and deliver to the Administrative Agent (in exchange for the applicable Term Loan Notes of the assigning Lender) a new Term Loan Note to the order of such Assignee in an amount equal to the Term Loans assumed or acquired by it pursuant to such Assignment and Acceptance and, if the Assignor has retained Term Loans, upon request, a new Term Loan Note to the order of the Assignor in an amount equal to the Term Loans retained by it hereunder. Such new Term Loan Note or Term Loan Notes shall be dated the Closing Date and shall otherwise be in the form of the Term Loan Note or Term Loan Notes replaced thereby.

(f) For avoidance of doubt, the parties to this Agreement acknowledge that the provisions of this Section concerning assignments of Term Loans and Term Loan Notes relate only to absolute assignments and that such provisions do not prohibit assignments creating security interests in Term Loans and Term Loan Notes, including, without limitation, any pledge or assignment by a Lender of any Term Loan or Term Loan Note to any Federal Reserve Bank in accordance with applicable law.

(g) Notwithstanding anything to the contrary contained herein, any Lender (a "Granting Lender") may grant to a special purpose funding vehicle (an "SPC"), identified as such in writing from time to time by the Granting Lender to the Administrative Agent and the Borrower, the option to provide to the Borrower all or any part of any Term Loan that such Granting Lender would otherwise be obligated to make to the Borrower pursuant to this Agreement; provided that (i) nothing herein shall constitute a commitment by any SPC to make any Term Loan and (ii) if an SPC elects not to exercise such option or otherwise fails to provide all or any part of such Term Loan, the Granting Lender shall be obligated to make such Term Loan pursuant to the terms hereof. The making of a Term Loan by an SPC hereunder shall utilize the Commitment of the Granting Lender to the same extent, and as if, such Term Loan were made by such Granting Lender. Each party hereto hereby agrees that no SPC shall be liable for any indemnity or similar payment obligation under this Agreement (all liability for which shall remain with the Granting Lender). In furtherance of the foregoing, each party hereto hereby agrees (which agreement shall survive the termination of this Agreement) that, prior to the date that is one year and one day after the payment in full of all outstanding commercial paper or other indebtedness of any SPC, it will not institute against, or join any other person in instituting against, such SPC any bankruptcy, reorganization, arrangement, insolvency or liquidation proceedings under the laws of the United States or any state thereof. Each party hereto also agrees that each SPC shall be entitled to the benefits of Sections 2.19, 2.20 or 2.21 (subject to the requirements and limitations of such Sections, Section 2.22 and 2.24, including the requirements of Section 2.21(d) through (g) (it being agreed that any required forms shall be provided solely to the Granting Lender)) with respect to its granted interest in the Commitments and the Term Loans outstanding from time to time as if such SPC were a Lender; provided that no SPC shall be entitled to receive any greater amount pursuant to any such Section than the Granting Lender would have been entitled to receive in respect of the amount of the interest granted by such Granting Lender to such SPC had no such grant occurred, except to the extent that entitlement to a greater amount results from a change in Law that occurs after such interest was granted, unless such grant was made with the Borrower's prior written consent (which consent shall not be unreasonably withheld or delayed). In addition, notwithstanding anything to the contrary in this Section 9.6(g), any SPC may (A) with notice to, but without the prior written consent of, the Borrower and the Administrative Agent and with the payment of a processing fee in the amount of $3,500 (which processing fee may be waived by the Administrative Agent in its sole discretion), assign all or a portion of its interests in any Term Loans to the Granting Lender, or with the prior written consent of the Borrower and the Administrative Agent (which consent shall not be unreasonably withheld) and with the payment of a processing fee in the amount of $3,500 (which processing fee may be waived by the Administrative Agent in its sole discretion) to any financial institutions providing liquidity and/or credit support to or for the account of such SPC to support the funding or maintenance of Term Loans, and (B) disclose on a confidential basis any non-public information relating to its Term Loans to any rating agency, commercial paper dealer or provider of any surety, guarantee or credit or liquidity enhancement to such SPC; provided that non-public

information with respect to the Borrower may be disclosed only with the Borrower's consent which will not be unreasonably withheld. This Section 9.6(g) may not be amended without the written consent of any SPC with Term Loans outstanding at the time of such proposed amendment. To the extent an SPC provides a Term Loan, the applicable Lender may maintain a register on behalf of the Borrower and the SPC's interest must be entered in the register.

(h) [Reserved].

(i) Purchases of Term Loans by the Borrower.

(i) Notwithstanding anything in this Agreement or any other Loan Document to the contrary, the Borrower shall have the right to voluntarily purchase Term Loans from one or more Lenders and simultaneously cancel or retire such Term Loans and the Lenders shall be permitted to sell or assign such Term Loans to the Borrower (in each case, a "Borrower Loan Purchase") subject to all the other requirements of this Section 9.6(i).

(ii) The Borrower may conduct one or more modified "Dutch auctions" (each, an "Auction") to repurchase all or any portion of the Term Loans; provided that (A) notice of the Auction shall be made to all Lenders having or holding Term Loans and (B) the Auction shall be conducted pursuant to customary procedures as the Auction Manager may establish which are consistent with this Section 9.6(i) and are otherwise reasonably acceptable to the Auction Manager and the Administrative Agent.

(iii) The Borrower shall deliver to the Administrative Agent a certificate of a Responsible Officer stating that no Default or Event of Default exists at the time of such purchase and assignment or would result from such purchase and assignment.

(iv) [Reserved].

(v) On and after the effective date of such Borrower Loan Purchase (the "Borrower Loan Purchase Effective Date"), (i) the Term Loans purchased by the Borrower shall be deemed cancelled or retired for all purposes and shall no longer be deemed outstanding (and may not be resold by the Borrower) for all purposes of this Agreement and all other Loan Documents (notwithstanding any provisions herein or therein to the contrary), including, but not limited to, (A) the making of, or the application of, any payments to the Lenders under this Agreement or any other Loan Document, (B) the making of any request, demand, authorization, direction, notice, consent or waiver under this Agreement or any other Loan Document, (C) the providing of any rights to the Borrower as a Lender under this Agreement or any other Loan Document, (D) the determination of the Required Lenders and (E) the calculation of the amount of Indebtedness hereunder, and (ii) no interest or fees of any type shall accrue from and after a Borrower Loan Purchase Effective Date on any Term Loans purchased by the Borrower on such Borrower Loan Purchase Effective Date. For clarification purposes, the Borrower shall never be deemed to be a Lender hereunder.

(vi) The Lenders hereby consent to the transactions described in this Section 9.6(i) and waive the requirements of any provision of this Agreement (including,

without limitation, Sections 2.17(c), 2.18 and 9.6) and any other Loan Document that might otherwise result in a breach of this Agreement or create an Event of Default as a result of or in connection with the consummation of any Borrower Loan Purchase. The Lenders acknowledge that purchases made by the Borrower pursuant to this Section 9.6(i) may result in the retirement of Term Loans on a non-pro rata basis among the Lenders. The Lenders further acknowledge that any payment made to a Lender in connection with a Borrower Loan Purchase is solely for the account of such Lender and no ratable sharing of such proceeds is required under this Agreement or any other Loan Document.

(vii) All Borrower Loan Purchases and subsequent cancellation or retirement of such Term Loans by the Borrower pursuant to this Section 9.6(i) shall be used to prepay the Term Loans in direct order of maturity of the scheduled remaining Installments of principal of the Term Loans.

(viii) Each of the parties hereto and any Lender participating in any Borrower Loan Purchase pursuant to this Section 9.6(i) acknowledge and agree that in connection with any such Borrower Loan Purchase, (A) the Borrower then may have, and later may come into possession of Excluded Information, (B) such Lender has, independently and without reliance on the Borrower, any of its Subsidiaries, the Administrative Agent or any of their respective affiliates, made its own analysis and determination to participate in such Borrower Loan Purchase notwithstanding such Lender's lack of knowledge of the Excluded Information, (C) none of the Borrower, its Subsidiaries, the Administrative Agent nor any Affiliate of the foregoing shall have any liability to such Lender, and such Lender hereby waives and releases, to the extent permitted by law, any claims such Lender may have against the Borrower, its Subsidiaries, the Administrative Agents and any Affiliate of the foregoing, under applicable laws or otherwise, with respect to the nondisclosure of the Excluded Information and (D) the Excluded Information may not be available to the Administrative Agents or the other Lenders.

9.7 Adjustments; Set-off.

(a) If any Lender (a "Benefited Lender") shall at any time receive any payment of all or part of the Obligations owing to it, or receive any collateral in respect thereof (whether voluntarily or involuntarily, by set-off, pursuant to events or proceedings of the nature referred to in Section 7.1(f), or otherwise), in a greater proportion than any such payment to or collateral received by any other Lender, if any, in respect of such other Lender's Obligations, such Benefited Lender shall purchase for cash from the other Lenders a participating interest in such portion of each such other Lender's Obligations, or shall provide such other Lenders with the benefits of any such collateral, as shall be necessary to cause such Benefited Lender to share the excess payment or benefits of such collateral ratably with each of the Lenders; provided, however, that if all or any portion of such excess payment or benefits is thereafter recovered from such Benefited Lender, such purchase shall be rescinded, and the purchase price and benefits returned, to the extent of such recovery, but without interest.

(b) In addition to any rights and remedies of the Lenders provided by law, upon the occurrence and during the continuation of any Event of Default, each Lender shall have

the right, without prior notice to Holdings or the Borrower, any such notice being expressly waived by Holdings and the Borrower to the extent permitted by applicable law, upon any amount becoming due and payable by Holdings or the Borrower hereunder (whether at the stated maturity, by acceleration or otherwise), to set off and appropriate and apply against such amount any and all deposits (general or special, time or demand, provisional or final), in any currency, and any other credits, indebtedness or claims, in any currency, in each case whether direct or indirect, absolute or contingent, matured or unmatured, at any time held or owing by such Lender or any branch or agency thereof to or for the credit or the account of Holdings or the Borrower, as the case may be. Each Lender agrees promptly to notify the Borrower and the Administrative Agent after any such setoff and application made by such Lender; provided that the failure to give such notice shall not affect the validity of such setoff and application.

9.8 Counterparts. This Agreement may be executed by one or more of the parties to this Agreement on any number of separate counterparts, and all of said counterparts taken together shall be deemed to constitute one and the same instrument. Delivery of an executed signature page of this Agreement by facsimile transmission shall be effective as delivery of a manually executed counterpart hereof. A set of the copies of this Agreement signed by all the parties shall be lodged with the Borrower and the Administrative Agent.

9.9 Severability. Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

9.10 Integration. This Agreement and the other Loan Documents represent the entire agreement of Holdings, the Borrower, the Administrative Agent and the Lenders with respect to the subject matter hereof and thereof, and there are no promises, undertakings, representations or warranties by the Administrative Agent or any Lender relative to the subject matter hereof not expressly set forth or referred to herein or in the other Loan Documents.

9.11 GOVERNING LAW. THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES UNDER THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

9.12 Submission To Jurisdiction; Waivers. Each party hereto hereby irrevocably and unconditionally:

(a) submits for itself and its Property in any legal action or proceeding relating to this Agreement and the other Loan Documents to which it is a party, or for recognition and enforcement of any judgment in respect thereof, to the exclusive general jurisdiction of the courts of the State of New York, the courts of the United States of America for the Southern District of New York, and appellate courts from any thereof;

(b) consents that any such action or proceeding may be brought in such courts and waives any objection that it may now or hereafter have to the venue of any such action or proceeding in any such court or that such action or proceeding was brought in an inconvenient court and agrees not to plead or claim the same;

(c) agrees that service of process in any such action or proceeding may be effected by mailing a copy thereof by registered or certified mail (or any substantially similar form of mail), postage prepaid, to its address set forth in Section 9.2 or at such other address of which the Administrative Agent shall have been notified pursuant thereto;

(d) agrees that the Administrative Agent and the Lenders retain the right to bring proceedings against any Loan Party in the courts of any other jurisdiction in connection with the exercise of any rights under any Security Document or the enforcement of any judgment;

(e) agrees that nothing herein shall affect the right to effect service of process in any other manner permitted by law or shall limit the right to sue in any other jurisdiction; and

(f) waives, to the maximum extent not prohibited by law, any right it may have to claim or recover in any legal action or proceeding referred to in this Section any special, exemplary, punitive or consequential damages.

9.13 Acknowledgments. In connection with all aspects of each transaction contemplated hereby (including in connection with any amendment, waiver or other modification hereof or of any other Loan Document), each of Holdings, and the Borrower acknowledges and agrees, and acknowledges its Affiliates' understanding, that: (i) (A) the arranging and other services regarding this Agreement provided by the Administrative Agent and the Arranger are arm's-length commercial transactions between Holdings, the Borrower and their respective Affiliates, on the one hand, and the Administrative Agent and the Arranger, on the other hand, (B) each of Holdings and the Borrower has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (C) each of Holdings, and the Borrower is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated hereby and by the other Loan Documents; (ii) (A) the Administrative Agent and the Arranger are and have been acting solely as a principal and, except as expressly agreed in writing by the relevant parties, has not been, is not, and will not be acting as an advisor, agent or fiduciary for Holdings, the Borrower or any of their respective Affiliates, or any other Person and (B) neither the Administrative Agent nor the Arranger has any obligation to Holdings, the Borrower or any of their respective Affiliates with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Loan Documents; and (iii) the Administrative Agent and the Arranger and their respective Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of Holdings, the Borrower and their respective Affiliates, and neither the Administrative Agent nor the Arranger has any obligation to disclose any of such interests to Holdings, the Borrower or any of their respective Affiliates. To the fullest extent permitted by law, each of Holdings, and the Borrower hereby waives and releases any claims that it may have against the Administrative Agent and the Arranger with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transaction contemplated hereby.

9.14 Confidentiality. Each of the Administrative Agent and the Lenders agrees to keep confidential all non-public information provided to it by any Loan Party pursuant to this Agreement that is designated by such Loan Party as confidential ("Information"); provided that nothing herein shall prevent the Administrative Agent or any Lender from disclosing any such information (a) to the Administrative Agent, any other Lender or any affiliate of any thereof, (b) to any Participant or Assignee (each, a "Transferee") or prospective Transferee that agrees to comply with the provisions of this Section or substantially equivalent provisions, (c) to any of its or its affiliates' employees, directors, agents, attorneys, accountants and other professional advisors, (d) to any financial institution that is a direct or indirect contractual counterparty in swap agreements or such contractual counterparty's professional advisor (so long as such contractual counterparty or professional advisor to such contractual counterparty agrees to be bound by the provisions of this Section or substantially equivalent provisions), (e) upon the request or demand of any Governmental Authority having jurisdiction over it, (f) to the extent required in response to any order of any court or other Governmental Authority or to the extent otherwise required pursuant to any Requirement of Law, (g) in connection with any litigation or similar proceeding, (h) that has been publicly disclosed other than in breach of this Section, (i) to the National Association of Insurance Commissioners or any similar organization or any nationally recognized rating agency that requires access to information about a Lender's investment portfolio in connection with ratings issued with respect to such Lender, (j) to any other party hereto, (k) with the consent of the Borrower or (l) in connection with the exercise of any remedy hereunder or under any other Loan Document; provided that, in the event a Lender receives a summons or subpoena to disclose confidential information to any party, such Lender shall, if legally permitted, endeavor to notify the Borrower thereof as soon as possible after receipt of such request, summons or subpoena and to afford the Loan Parties an opportunity to seek protective orders, or such other confidential treatment of such disclosed information, as the Loan Parties may deem reasonable. Any Person required to maintain the confidentiality of Information as provided in this Section 9.14 shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

9.15 Accounting Changes. In the event that any "Accounting Change" (as defined below) shall occur and such change results in a change in the method of calculation of financial covenants, standards or terms in this Agreement, and either the Borrower or the Required Lenders shall so request, then the Borrower and the Lenders agree to enter into negotiations in order to amend such provisions of this Agreement so as to equitably reflect such Accounting Change with the desired result that the criteria for evaluating the Borrower's financial condition shall be the same after such Accounting Change as if such Accounting Change had not been made. Until such time as such an amendment shall have been executed and delivered in accordance with Section 9.1, all financial covenants, standards and terms in this Agreement shall continue to be calculated or construed as if such Accounting Change had not occurred. "Accounting Change" refers to any change in accounting principles required by the promulgation of any rule, regulation, pronouncement or opinion by the FASB, any other generally accepted accounting authority which provides regulation standard or, if applicable, the SEC.

9.16 WAIVERS OF JURY TRIAL. **HOLDINGS, THE BORROWER, THE ADMINISTRATIVE AGENT AND THE LENDERS HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVE TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT AND FOR ANY COUNTERCLAIM THEREIN**.

9.17 Conversion of Currencies.

(a) If, for the purpose of obtaining judgment in any court, it is necessary to convert a sum owing hereunder in one currency into another currency, each party hereto agrees, to the fullest extent that it may effectively do so, that the rate of exchange used shall be that at which, in accordance with normal banking procedures in the relevant jurisdiction, the first currency could be purchased with such other currency on the Business Day immediately preceding the day on which final judgment is given.

(b) The obligations of the Borrower in respect of any sum due to any party hereto or any holder of the obligations owing hereunder (the "Applicable Creditor") shall, notwithstanding any judgment in a currency (the "Judgment Currency") other than the currency in which such sum is stated to be due hereunder (the "Agreement Currency"), be discharged only to the extent that, on the Business Day following receipt by the Applicable Creditor of any sum adjudged to be so due in the Judgment Currency, the Applicable Creditor may in accordance with normal banking procedures in the relevant jurisdiction purchase the Agreement Currency with the Judgment Currency; if the amount of the Agreement Currency so purchased is less than the sum originally due to the Applicable Creditor in the Agreement Currency, the Borrower agrees, as a separate obligation and notwithstanding any such judgment, to indemnify the Applicable Creditor against such loss. The obligations of the Borrower contained in this Section 9.17 shall survive the termination of this Agreement and the payment of all other amounts owing hereunder.

9.18 [Reserved].

9.19 [Reserved].

9.20 USA PATRIOT Act. Each Lender that is subject to the PATRIOT Act and the Administrative Agent (for itself and not on behalf of any Lender) hereby notifies the Borrower that pursuant to the requirements of the PATRIOT Act, it is required to obtain, verify and record information that identifies each Loan Party, which information includes the name and address of each Loan Party and other information that will allow such Lender or the Administrative Agent, as applicable, to identify each Loan Party in accordance with the Act. The Borrower shall, promptly following a request by the Administrative Agent or any Lender, provide all documentation and other information that the Administrative Agent or such Lender requests in order to comply with its ongoing obligations under applicable "know your customer" and anti-money laundering rules and regulations, including the PATRIOT Act.

9.21 Payments Set Aside. To the extent that any payment by or on behalf of the Borrower is made to the Administrative Agent or any Lender, or the Administrative Agent or any Lender exercises its right of setoff, and such payment or the proceeds of such setoff or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by the Administrative Agent or such Lender in its discretion) to be repaid to a trustee, receiver or any other party, in connection with

any proceeding under any Debtor Relief Law or otherwise, then (a) to the extent of such recovery, the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such setoff had not occurred, and (b) each Lender severally agrees to pay to the Administrative Agent upon demand its applicable share (without duplication) of any amount so recovered from or repaid by the Administrative Agent, plus interest thereon from the date of such demand to the date such payment is made at a rate per annum equal to the Federal Funds Effective Rate from time to time in effect. The obligations of the Lenders under clause (b) of the preceding sentence shall survive the payment in full of the Obligations and the termination of this Agreement.

9.22 Releases of Collateral and Guarantees. Each of the Lenders (including in its capacity as a potential Lender Counterparty) irrevocably authorizes the Administrative Agent to be the agent for the representative of the Lenders with respect to the Guarantee Agreements, the Collateral and the Security Documents; provided that the Administrative Agent shall not owe any fiduciary duty, duty of loyalty, duty of care, duty of disclosure or any other obligation whatsoever to any holder of Obligations with respect to any Secured Hedge Agreements, and the Administrative Agent agrees that:

(a) The Administrative Agent's Lien on any property granted to or held by the Administrative Agent under any Loan Document shall be automatically and fully released (A) upon satisfaction of the Termination Conditions, (B) at the time the Property subject to such Lien is sold (other than to any other Loan Party or other Person that would be required pursuant to any Security Document to grant a Lien on such Collateral to the Administrative Agent for the benefit of the Secured Parties after giving effect to such Disposition) as part of or in connection with any Disposition permitted hereunder or under any other Loan Document, (C) if the Property subject to such Lien is owned by a Guarantor, upon the release of such Guarantor from its obligations under a Guarantee Agreement pursuant to clause (b) below, (D) with respect to the property of any Unrestricted Subsidiary upon the designation of such Person as an Unrestricted Subsidiary in accordance with Section 5.16, (E) to the extent (and only for so long as) such property constitutes an "Excluded Asset" (as defined in the Security Agreement), or (F) if approved, authorized or ratified in writing in accordance with Section 9.1.

(b) Any Guarantor shall be released from its obligations under a Guarantee Agreement or any other Loan Document (i) with respect to any Guarantor that is designated as an Unrestricted Subsidiary upon such designation in accordance with Section 5.16 or (ii) if such Person ceases to be a Subsidiary as a result of a transaction permitted hereunder, to the extent necessary to permit consummation of such transaction as permitted by the Loan Documents; provided that no such release shall occur if such Guarantor continues to be a guarantor in respect of any other Indebtedness expressly subordinated to the Obligations.

(c) At the request of the Borrower, it will subordinate or release its Lien on any property granted to or held by the Administrative Agent under any Loan Document to the holder of any Lien on such property that is permitted by Section 6.3(p) or Section 6.3(r) solely to the extent, and for so long as, the terms of the obligations secured by such Liens do not permit such property to be subject to a Lien in favor of the Administrative Agent or require that such Lien in favor of the Administrative Agent be subordinated to the Lien of the holder of such Lien on such property.

(d) At the request of the Borrower, it will subordinate its Lien on any property granted to or held by the Administrative Agent under any Loan Document to the holder of any Lien on such property that is permitted by Section 6.3(e), (f), (g), (i), (j), (s) or (y), in each case to the extent required by the terms of the obligations secured by such Liens, or with respect to which the Required Lenders (or such other Lenders as may be required to give such consent under Section 9.1) have otherwise consented.

(e) On the date that the Termination Conditions are satisfied, the Collateral shall be released from the Liens created by the Security Documents, and the Security Documents and all obligations (other than those expressly stated to survive such termination) of the Administrative Agent and each Loan Party under the Security Documents shall terminate, all without the need to deliver any instrument or performance of any act by any Person.

(f) It will promptly execute, authorize or file such documentation as may be reasonably requested by any Grantor to release or subordinate, or evidence the release or subordination (in registrable form, if applicable), its Liens with respect to any Collateral or the guarantee obligations of any Guarantor as set forth in this Section 9.22; provided that the foregoing shall be at the Borrower's expense.

9.23 Time. Time is of the essence in all respects hereof.

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

JEFFERSON GULF COAST ENERGY HOLDINGS LLC

By: /s/ Alfred Salazar
Name: Alfred Salazar
Title: Authorized Signatory

JEFFERSON GULF COAST ENERGY PARTNERS LLC

By: /s/ Alfred Salazar
Name: Alfred Salazar
Title: Authorized Signatory

MORGAN STANLEY SENIOR FUNDING, INC.,
as Administrative Agent and a Lender

By: /s/ Henrik Sandstrom
Name: Henrik Sandstrom
Title: Authorized Signatory

Exhibit 21.1

Entity Name	State of Incorporation/Formation
Fortress Worldwide Transportation and Infrastructure General Partnership	Delaware
WWTAI AirOpCo 1 Bermuda Ltd.	Bermuda
WWTAI Finance Ltd.	Bermuda
WWTAI Offshore Co 1 Ltd.	Bermuda
WWTAI Container Holdco Ltd. (f/k/a WWTAI Container GP 1 Ltd.)	Bermuda
WWTAI Container 1 Ltd.	Bermuda
Intermodal Finance 1 Ltd.	Cayman Islands
WWTAI AirOpco II Limited	Ireland
FTAI Subsea 88 Ltd.	Bermuda
Intermodal Finance II Ltd.	Bermuda
FTAI IES Pioneer Ltd.	Malaysia
Intermodal Finance III Ltd.	Bermuda
FTAI Energy Co 1 Ltd.	Bermuda
Central Maine & Quebec Railway US Inc.	Delaware
CMQ Canada LLC	Delaware
Central Maine & Quebec Railway Canada Inc.	Canada
Railroad Acquisition Holdings LLC	Delaware
Jefferson Storage I LLC	Delaware
FTAI Pride LLC	Marshall Islands
WWTAI AirOpCo I USA LLC	Delaware
WWTAI HiLoad Ltd.	Bermuda
FTAI Energy Co 1 LLC	Delaware
FTAI Energy Holdings LLC	Delaware
FTAI Midstream Holdings LLC	Delaware
FTAI Railcar Holdings LLC	Delaware
FTAI Energy Partners LLC	Delaware
FTAI Energy Midstream Holdings LLC	Delaware
FTAI Energy Development Holdings LLC	Delaware
FTAI Energy Downstream Holdings LLC	Delaware
Jefferson Gulf Coast Management LLC	Delaware

Entity Name	State of Incorporation/Formation
JGC Investment Holdings LLC	Delaware
Jefferson 2010 Bond Holdings LLC	Delaware
Jefferson 2012 Bond Holdings LLC	Delaware
Jefferson Gulf Coast Energy Holdings LLC	Delaware
Jefferson Gulf Coast Energy Partners LLC	Delaware
Jefferson DRE Liabilities LLC	Delaware
Jefferson Terminal Logistics LLC	Delaware
Jefferson Railport Terminal I LLC	Delaware
Jefferson Railport Terminal II LLC	Delaware
Jefferson Gas Processing LLC	Delaware
Jefferson Gulf Coast Real Estate LLC	Delaware
Jefferson Truck Terminal I LLC	Delaware
Jefferson Docks I LLC	Delaware
Jefferson Railport Terminal I (Texas) LLC	Texas
Jefferson Pipeline I LLC	Delaware
FTAI Midstream GP LLC	Delaware
FTAI Partners Holdings LLC	Delaware
FTAI Midstream GP Holdings LLC	Delaware
WWTAI IES MT 6015 Ltd.	Malaysia
AirOpCo 1ET Bermuda Ltd.	Bermuda
AirOpCo 1ASL Bermuda Ltd.	Bermuda
AirOpCo 1JT Bermuda Ltd.	Bermuda
AirOpCo 1KOME Bermuda Ltd.	Bermuda
AirOpCo II ME Ireland Limited	Ireland
AirOpCo II KO Ireland Limited	Ireland
Delaware River Partners LLC	Delaware
Delaware River Partners Holdco LLC	Delaware