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CHWP000

COMPANIES FORM No. 466(Scot)

Particulars of an instrument of alteration to a floating charge created by a company registered in Scotland

466

Please do not
write in
this margin

Pursuant to section 410 and 466 of the Companies Act 1985

Please complete
legibly, preferably
in black type, or
bold black lettering

To the Registrar of Companies
(Address overleaf - Note 5)

For official use

Company number

30

SC268016

Name of company

* ALEXANDER DENNIS LIMITED (the "Company")

* insert full name
of company

Date of creation of the charge (note 1)

25 August 2023

Description of the instrument creating or evidencing the charge or of any ancillary document which has
been altered (note 1)

Bond and floating charge

Names of the persons entitled to the charge

Computershare Trust Company of Canada as security trustee for the Creditors (the "Agent")

Short particulars of all the property charged

The whole of the property, assets and undertaking (including uncalled capital) from time to time of the
Company.

Presenter's name address and
reference (if any):

For official use (02/06)
Charges Section

Post room

WEDNESDAY



SCBG585G

SCT

06/09/2023

#105

COMPANIES HOUSE

Names, and addresses of the persons who have executed the instrument of alteration (note 2)

Please see Paper Apart 1.

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this margin*

*Please complete
legibly, preferably
in black type, or
bold block lettering*

Date(s) of execution of the instrument of alteration

25 August 2023

A statement of the provisions, if any, imposed by the instrument of alteration prohibiting or restricting the creation by the company of any fixed security or any other floating charge having, priority over, or ranking pari passu with the floating charge

Please see Paper Apart 2.

Short particulars of any property released from the floating charge

N/A

The amount, if any, by which the amount secured by the floating charge has been increased

N/A

A statement of the provisions, if any, imposed by the instrument of alteration varying or otherwise regulating the order of the ranking of the floating charge in relation to fixed securities or to other floating charges

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***Please complete
legibly, preferably
in black type, or
bold block lettering***

Please see Paper Apart 3.

Continuation of the statement of the provisions, if any, imposed by the instrument of alteration varying or otherwise regulating the order of the ranking of the floating charge in relation to fixed securities or to other floating charges

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write in
this margin*

*Please complete
legibly, preferably
in black type, or
bold block lettering*

Signed  Date 6 September 2023

On behalf of ~~[company]~~ [chargee] For and on behalf of Brodies LLP

Notes

1. A description of the instrument e.g. "Instrument of Charge" "Debenture" etc as the case may be, should be given. ☐ delete as appropriate
For the date of creation of a charge see section 410(5) of the Companies Act.
2. In accordance with section 466(1) the instrument of alteration should be executed by the company, the holder of the charge and the holder of any other charge (including a fixed security) which would be adversely affected by the alteration.
3. A certified copy of the instrument of alteration, together with this form with the prescribed particulars correctly completed must be delivered to the Registrar of Companies within 21 days after the date of execution of that instrument.
4. A certified copy must be signed by or on behalf of the person giving the certification and where this is a body corporate it must be signed by an officer of that body.
5. The address of the Registrar of Companies is: Companies Registration Office, 139 Fountainbridge, Edinburgh EH3 9FF DX 235 Edinburgh

THIS IS THE PAPER APART TO THE FORM 466 IN RESPECT THE INSTRUMENT OF ALTERATION DATED 25 AUGUST 2023 ALTERING THE RANKING OF A BOND AND FLOATING CHARGE BETWEEN (1) ALEXANDER DENNIS LIMITED AND (2) COMPUTERSHARE TRUST COMPANY OF CANADA AS AGENT DATED 25 AUGUST 2023

PAPER APART 1

Names, and addresses, of the persons who have executed the instrument of alteration:

- (1) **THE BANK OF NOVA SCOTIA**, 40 Temperance Street, 6th Floor, Toronto, Ontario, Canada M5H 0B4 (as Administrative Agent (as defined in the Core RT Credit Agreement) on behalf of the Core RT Lenders) (in such capacity, with its successors and assigns, the "**Core RT Agent**")
- (2) **HSBC BANK PLC**, 8 Canada Square London E14 5HQ (as Agent (as defined in the U.K. Facility Agreement) on behalf of the Finance Parties (as defined in the U.K. Facility Agreement)) (in such capacity, with its successors and assigns, the "**U.K. Facility Agent**")
- (3) **HSBC CORPORATE TRUSTEE COMPANY (UK) LIMITED**, 8 Canada Square London E14 5HQ (as Security Agent (as defined in the U.K. Facility Agreement) for and on behalf of itself and the Secured Parties (as defined in the U.K. Facility Agreement)) (in such capacity, with its successors and assigns, the "**U.K. Security Agent**")
- (4) **COMPUTERSHARE TRUST COMPANY OF CANADA**, 100 University Ave., 8th Floor, Toronto, Ontario, M5J 2Y1 (as Agent (as defined in the Second Lien Credit Agreement) on behalf of the 2L Term Lenders) (in such capacity, with its successors and assigns, the "**2L Term Agent**")
- (5) **NFI GROUP INC.**, C/O New Flyer Industries Canada ULC, 711 Kernaghan Avenue, Winnipeg, Manitoba, R2C 3T4 (the "**Parent**")
- (6) **NEW FLYER HOLDINGS CANADA INC.**, C/O New Flyer Industries Canada ULC, 711 Kernaghan Avenue, Winnipeg, Manitoba, R2C 3T4 ("**Holdings Canada**")
- (7) **CARFAIR COMPOSITES INC.**, C/O New Flyer Industries Canada ULC, 711 Kernaghan Avenue, Winnipeg, Manitoba, R2C 3T4 ("**Carfair Cdn**")
- (8) **NEW FLYER INDUSTRIES CANADA ULC**, C/O New Flyer Industries Canada ULC, 711 Kernaghan Avenue, Winnipeg, Manitoba, R2C 3T4 ("**NFI ULC**")
- (9) **ALEXANDER DENNIS (CANADA) INC.**, C/O New Flyer Industries Canada ULC, 711 Kernaghan Avenue, Winnipeg, Manitoba, R2C 3T4 ("**Alexander Dennis**")
- (10) **MCIL HOLDINGS, LTD.**, C/O New Flyer Industries Canada ULC, 711 Kernaghan Avenue, Winnipeg, Manitoba, R2C 3T4 ("**MCIL Holdings**")
- (11) **MOTOR COACH INDUSTRIES LIMITED**, C/O New Flyer Industries Canada ULC, 711 Kernaghan Avenue, Winnipeg, Manitoba, R2C 3T4 ("**MC Industries**")

- (12) **FRANK FAIR INDUSTRIES LTD.**, C/O New Flyer Industries Canada ULC, 711 Kernaghan Avenue, Winnipeg, Manitoba, R2C 3T4 ("**Frank Fair**")
- (13) **NEW FLYER HOLDINGS INC.**, C/O New Flyer Industries Canada ULC, 711 Kernaghan Avenue, Winnipeg, Manitoba, R2C 3T4 ("**US Borrower**")
- (14) **NEW FLYER OF AMERICA INC.**, C/O New Flyer Industries Canada ULC, 711 Kernaghan Avenue, Winnipeg, Manitoba, R2C 3T4 ("**NFI US**")
- (15) **TRANSIT HOLDINGS, INC.**, C/O New Flyer Industries Canada ULC, 711 Kernaghan Avenue, Winnipeg, Manitoba, R2C 3T4 ("**Transit Holdings**")
- (16) **NEW MCI HOLDINGS, INC.**, C/O New Flyer Industries Canada ULC, 711 Kernaghan Avenue, Winnipeg, Manitoba, R2C 3T4 ("**New MCI**")
- (17) **THE AFTERMARKET PARTS COMPANY, LLC**, C/O New Flyer Industries Canada ULC, 711 Kernaghan Avenue, Winnipeg, Manitoba, R2C 3T4 ("**Aftermarket**")
- (18) **ARBOC SPECIALTY VEHICLES, LLC**, C/O New Flyer Industries Canada ULC, 711 Kernaghan Avenue, Winnipeg, Manitoba, R2C 3T4 ("**ARBOC**")
- (19) **CARFAIR COMPOSITES USA, INC.**, C/O New Flyer Industries Canada ULC, 711 Kernaghan Avenue, Winnipeg, Manitoba, R2C 3T4 ("**Carfair US**")
- (20) **MCII HOLDINGS, INC.**, C/O New Flyer Industries Canada ULC, 711 Kernaghan Avenue, Winnipeg, Manitoba, R2C 3T4 ("**MCII Holdings**")
- (21) **MOTOR COACH INDUSTRIES INTERNATIONAL, INC.**, C/O New Flyer Industries Canada ULC, 711 Kernaghan Avenue, Winnipeg, Manitoba, R2C 3T4 ("**Motor Coach Int**")
- (22) **MCI SALES AND SERVICE, INC.**, C/O New Flyer Industries Canada ULC, 711 Kernaghan Avenue, Winnipeg, Manitoba, R2C 3T4 ("**MCI Sales**")
- (23) **MOTOR COACH INDUSTRIES, INC.**, C/O New Flyer Industries Canada ULC, 711 Kernaghan Avenue, Winnipeg, Manitoba, R2C 3T4 ("**Motor Coach US**")
- (24) **KMG FABRICATION, INC.**, C/O New Flyer Industries Canada ULC, 711 Kernaghan Avenue, Winnipeg, Manitoba, R2C 3T4 ("**KMG**")
- (25) **ALEXANDER DENNIS INCORPORATED**, C/O New Flyer Industries Canada ULC, 711 Kernaghan Avenue, Winnipeg, Manitoba, R2C 3T4 ("**Alexander US**")
- (26) **ALEXANDER DENNIS LIMITED**, 9 Central Boulevard, Larbert, United Kingdom, FK5 4RU ("**Alexander U.K.**")
- (27) **NFI INTERNATIONAL LIMITED**, Cameron House, Priorswood Place, Skelmersdale, England, WN8 9QB ("**NFI U.K.**")

- (28) **PLAXTON LIMITED**, Plaxton Park, Cayton Low Road Eastfield, Scarborough, North Yorkshire, YO11 3BY ("**Plaxton**")
- (29) **PLAXTON HOLDINGS LIMITED**, Plaxton Park, Cayton Low Road Eastfield, Scarborough, North Yorkshire, YO11 3BY ("**Plaxton Holdings**")

SCHEDULE OF DEFINITIONS

Definitions:

The following terms, as used herein, have the following meanings:

"Actionable Default" means:

(a) the occurrence of any Secured Debt Default under any First Lien Document; and

(b) at any time after the Discharge of the First Lien Obligations or after the expiry of the Standstill Period (but subject to the proviso contained in Section 2.6(b), during which deferral period subparagraph (a) above shall apply), the occurrence of any Secured Debt Default under any Secured Lien Document.

"Additional Second Lien Debt" has the meaning set forth in Section 3.5(b)(i) of the instrument of alteration to which this form 466 relates.

"Additional Second Lien Debt Designation" means a notice in substantially the form of Exhibit A of the instrument of alteration to which this form 466 relates.

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

"Bankruptcy Code" means Title 11 of the United States Code entitled "Bankruptcy," as now and hereafter in effect, or any successor statute.

"Business Day" means any day that is not a Saturday, Sunday or other day on which banking institutions in Toronto, Ontario or at a place of payment hereunder are authorized or required by law to remain closed.

"Canadian Dollar Equivalent" of any amount means, on any date of determination, (a) with respect to any amount denominated in Canadian Dollars, such amount and (b) with respect to any amount denominated in U.S. Dollars or any Foreign Currency, the equivalent in Canadian Dollars of such amount, determined by the Core RT Agent (or other designated First Lien Representative) using the applicable Exchange Rate at such time of determination.

"Canadian Dollars" and the sign "\$" each mean lawful money of Canada.

"Capital Stock" means (a) in the case of a corporation (or an unlimited liability company), shares in the capital of such corporation or company (however designated), (b) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) in the capital equity or ownership thereof, (c) in the case of a partnership, limited liability company, partnership or membership interests (whether general or limited), (d) in the case of a trust, trust units or other ownership interests therein, and (e) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person.

"Cash Management Arrangements" means any agreement or arrangement between any Obligor and any other Person to provide cash management products and services, including

centralized operating accounts, automated clearing house transactions, controlled disbursement services, treasury, depository, overdraft and electronic funds transfer services, foreign exchange facilities, currency exchange transactions or agreements and options with respect thereto, credit card processing services, credit or debit cards, purchase cards and any indemnity given in connection with any of the foregoing, in each case, as amended, modified, restated or replaced, in whole or in part, from time to time, in accordance with the instrument of alteration to which this Form 466 relates.

“Cash Management Obligations” means, at any time and from time to time with respect to an Obligor, all Obligations of such Obligor owing to the provider of any Cash Management Arrangements and whether the same are from time to time reduced and thereafter increased or entirely extinguished and thereafter incurred again and including all principal, interest, fees, legal and other costs, charges and expenses, and other amounts payable to a counterparty under such Cash Management Arrangements.

“CCAA” means the *Companies’ Creditors Arrangement Act* (Canada).

“Collateral” means any and all property and assets of any of the Obligors subject to the Liens created by the First Lien Security Documents or the Second Lien Security Documents (including, for certainty, all proceeds thereof), as the context requires.

“Core RT Credit Agreement” is the amended and restated credit agreement made as of August 25, 2023 among, inter alios, the Core RT Lenders and the Core RT Agent.

“Core RT Credit Agreement Obligations” means all Obligations of the Obligors to the Core RT Agent and the Core RT Lenders under or in connection with the Core RT Credit Agreement and the other “Loan Documents” (as defined therein), whether arising from dealings between the Core RT Agent and Core RT Lenders and the Obligors thereunder or from any other dealings or proceedings by which the Core RT Agent and Core RT Lenders may be or become in any manner whatever creditors of the Obligors under or in connection with the Core RT Credit Agreement and the other “Loan Documents” (as defined therein), and wherever incurred and whether incurred by an Obligor thereunder alone or with another or others and whether as principal or surety, and including (i) all obligations under guarantees which guarantee, and security documents which secure, any of the foregoing obligations, and (ii) all interest, premiums, fees, legal and other costs, charges and expenses related thereto, whether incurred before or after commencement (or which would have accrued but for the commencement) of an Insolvency or Liquidation Proceeding and whether or not allowable in an Insolvency or Liquidation Proceeding (but, for greater certainty, exclude First Lien Hedging Obligations and First Lien Cash Management Obligations).

“Core RT Credit Facilities” means the credit facilities made available to the Obligors party to the Core RT Credit Agreement.

“Core RT Lenders” is the Parent, as Canadian borrower, the US Borrower as U.S borrower, and certain lenders party to the Core RT Credit Agreement from time to time, as lenders.

“Credit Facilities” means one or more debt facilities (including, without limitation, the First Lien Credit Facilities and the Second Lien Credit Facility), debt offerings or commercial paper facilities with banks, investment banks, insurance companies, mutual funds or other institutional lenders or investors providing for revolving loans, term loans or letters of credit, or issuance of debt securities evidenced by notes, debentures, bonds or similar instruments,

in each case, as amended, supplemented, restated, modified, renewed, refunded, replaced or refinanced in whole or in part from time to time (and whether or not with the original administrative agent, agent, lenders or trustee or another administrative agent or agents, other lenders or trustee and whether provided under the First Lien Credit Facilities or any other credit or other agreement).

"Discharge" means, with respect to any Series of Secured Debt, the occurrence of all of the following:

- (a) termination of all commitments to extend credit under such Series of Secured Debt;
- (b) payment in full in cash of the principal of and interest, fees and premium (if any) on such Series of Secured Debt (other than any undrawn letters of credit), including all accrued and unpaid interest thereon after the commencement of any Insolvency or Liquidation Proceeding at the rate, including any applicable post-default rate, specified in the Secured Debt Documents for such Series of Secured Debt, even if such interest is not enforceable, allowable or allowed as a claim in such proceeding;
- (c) discharge or cash collateralization (at the lower of (i) 105% of the aggregate face amount and (ii) the amount required under the terms of the applicable Secured Debt Document) of all outstanding letters of credit and bankers' acceptances comprised in such Series of Secured Debt; and
- (d) payment in full in cash of all other Obligations in respect of such Series of Secured Debt (including, for clarity, the Net Termination Amount owing under all Hedge Agreements and all amounts owing under Cash Management Arrangements) that are outstanding and unpaid at the time such Series of Secured Debt is paid in full in cash (other than (i) indemnification and other contingent obligations not then due and payable and (ii) First Lien Hedging Obligations and First Lien Cash Management Obligations comprised in such Series of Secured Debt which are not due and payable contemporaneously with the other Obligations comprised in such Series of Secured Debt and for which cash collateral or other arrangements satisfactory to the applicable First Lien Hedge Counterparty or First Lien Cash Management Counterparty have been entered into).

The term **"Discharged"** shall have a corresponding meaning.

"Enforcement Action" means, with respect to either the means, with respect to either the First Lien Documents or the Second Lien Documents, the taking of any step or action to enforce the Liens granted or created thereunder or any other rights or remedies of a Secured Party thereunder or in respect thereof, including (a) the giving of any notice of intention to exercise or enforce, or the exercise or enforcement of any right or remedy provided to a secured creditor on account of a Lien under the Secured Debt Documents including (i) any delivery of any notice to seek to obtain payment directly from any account debtor of any Obligor or (ii) the taking of any action or the exercise of any right or remedy in respect of the set-off or recoupment against, combination of accounts, collection or foreclosure on or marshalling of the Collateral or proceeds of Collateral, under applicable law, at equity, in an Insolvency or Liquidation Proceeding or otherwise (including the acceptance of Collateral in full or partial satisfaction of any Secured Debt Obligation), (b) the sale, assignment, transfer, lease, license, or other Disposition as a secured creditor on account of a Lien of all or any portion of the Collateral, by private or public sale (judicial or non-judicial) or any other means, (c) the solicitation of bids from third parties to conduct the liquidation of all or a portion of Collateral as a secured creditor on account of a Lien, (d) the appointment of a receiver, manager or interim receiver of all or any portion of the Collateral, (e) the commencement of, or the joinder with any creditor in commencing, any Insolvency or Liquidation Proceeding against any Obligor or any property of any Obligor, and (f) the exercise of any other enforcement right relating to the Collateral (including the exercise of any voting rights relating to any Capital Stock composing a portion of the Collateral) whether under the Security

Documents, under applicable law of any jurisdiction, in equity, in an Insolvency or Liquidation Proceeding, or otherwise, or (g) any attempt to vacate or obtain relief from a stay or other injunction restricting any other action described in this definition.

"equally and ratably" means:

- (a) in reference to sharing of Collateral or proceeds thereof as between First Lien Secured Parties, that such Collateral or proceeds:
 - (i) will be allocated and distributed first to the First Lien Representative for each outstanding Series of First Lien Debt, for the account of the holders of such Series of First Lien Debt, ratably in proportion to the amount of the First Lien Obligations owing under each outstanding Series of First Lien Debt when the allocation or distribution is made, and thereafter;
 - (ii) will be allocated and distributed by the First Lien Representative for each outstanding Series of First Lien Debt among the holders of the First Lien Obligations within that Series of First Lien Debt in accordance with the provisions of the applicable First Lien Documents; and
- (b) in reference to sharing of Collateral or proceeds thereof as between the Second Lien Secured Parties, that such Collateral or proceeds:
 - (i) will be allocated and distributed first to the Second Lien Representative for each outstanding Series of Second Lien Debt, for the account of the holders of such Series of Second Lien Debt, ratably in proportion to the amount of the Second Lien Obligations owing under each outstanding Series of Second Lien Debt when the allocation or distribution is made, and thereafter;
 - (ii) will be allocated and distributed by the Second Lien Representative for each outstanding Series of Second Lien Debt among the holders of the Second Lien Obligations within that Series of Second Lien Debt in accordance with the provisions of the applicable Second Lien Documents.

"Exchange Rate" means, on any date with respect to (a) U.S. Dollars, the rate at which such U.S. Dollars may be exchanged into Canadian Dollars, (b) Canadian Dollars, the rate at which such Canadian Dollars may be exchanged into U.S. Dollars, and (c) any other currency, the rate at which such currency may be exchanged into U.S. Dollars or Canadian Dollars, as applicable, in each case, as determined by the Core RT Agent (or other designated First Lien Representative), using the average rate of exchange for interbank transactions quoted by the Bank of Canada at approximately the close of business on such date (or, if not so quoted, the average rate of exchange for interbank transactions quoted by the Bank of Canada at approximately the close of business on the Business Day immediately preceding such date); *provided that*, if either such noon rate or average rate is for any reason unavailable, it shall mean the spot rate of exchange for wholesale transactions quoted by the Core RT Agent (or other designated First Lien Representative) at approximately noon (Toronto time) on such date in accordance with its usual practice.

"Excluded First Lien Collateral" means leasehold interests and other contract rights encumbered by the First Lien Security Documents prior to the date of the instrument of alteration to which this Form 466 relates or, in accordance with Section 2.1(c) of the instrument of alteration to which this Form 466 relates, after the date of the instrument of alteration to which this Form 466 relates, which have not also been encumbered by any of the Second Lien Security Documents delivered in connection with the Second Lien Credit Agreement for which the First Lien Representatives and Second Lien Representatives agree may not be encumbered by Second Lien Security Documents due to the requirement for consent of, or agreement with, a third party in connection with the grant of any Lien thereon

which has not been obtained or entered into, or which leasehold interests or other contractual rights would otherwise be breached or contravened by the grant of a Lien thereon.

"First Lien" means a Lien granted to a First Lien Representative, at any time, upon any property of any Obligor to secure First Lien Obligations.

"First Lien Agents" means, collectively, the Core RT Agent, the U.K. Security Agent and the U.K. Facility Agent.

"First Lien Cash Management Arrangements" means a Cash Management Arrangement with a First Lien Cash Management Counterparty which creates First Lien Cash Management Obligations.

"First Lien Cash Management Counterparty" means: (i) the Core RT Agent or a Core RT Lender or Affiliate of such Core RT Agent or a Core RT Lender, or a Person that was a Core RT Agent or a Core RT Lender or an Affiliate of any of them at the time of entering into the Cash Management Arrangements governing such First Lien Cash Management Obligations, which is owed First Lien Cash Management Obligations by any Obligor, and (ii) the U.K. Facility Agent or a U.K. Lender or Affiliate of such U.K. Facility Agent or a U.K. Lender, or a Person that was a U.K. Facility Agent or a U.K. Lender or an Affiliate of any of them at the time of entering into the Cash Management Arrangements governing such First Lien Cash Management Obligations, which is owed First Lien Cash Management Obligations by any Obligor.

"First Lien Cash Management Obligations" means all Cash Management Obligations owing by the Obligors to the First Lien Cash Management Counterparties (or any of them) and which are required to be secured pursuant to the terms of the applicable First Lien Credit Agreement, and wherever incurred and whether incurred by an Obligor alone or with another or others and whether as principal or surety, and includes all interest, fees, legal and other costs, charges and expenses related thereto, whether incurred before or after commencement (or which would have accrued but for the commencement) of an Insolvency or Liquidation Proceeding and whether or not allowable in an Insolvency or Liquidation Proceeding.

"First Lien Controlling Representative" has the meaning set forth in Section 2.3(a) of the instrument of alteration to which this Form 466 relates.

"First Lien Credit Agreements" means, collectively, the Core RT Credit Agreement and the U.K. Facility Agreement.

"First Lien Credit Facilities" means after the application of any mandatory repayments required to be made by the Parent from the proceeds of the Second Lien Credit Facility, (i) the revolving credit facility under the Core RT Credit Agreement, (ii) the revolving credit facility under the U.K. Facility Agreement, and (iii) from time to time, each of the credit facilities established or continued pursuant to the First Lien Credit Agreements from time to time, as the same may be decreased, increased, supplemented or replaced from time to time subject to compliance with the limitation on indebtedness covenant in the Second Lien Credit Agreement and the instrument of alteration to which this Form 466 relates (except for any increase in connection with a debtor-in-possession or interim financing (or its equivalent) in accordance with Section 2.8 of the instrument of alteration to which this Form 466 relates).

"First Lien Credit Facilities Intercreditor" means the intercreditor agreement dated as of February 19, 2021 between the Core RT Agent, the U.K. Facility Agent, the U.K. Security Agent and the Obligors as amended and restated or replaced from time to time.

"First Lien Debt" means (without duplication):

- the amount of funded Indebtedness (including the undrawn amount of letters of credit whether or not then available to be drawn and any reimbursement obligations under any drawn letters of credit) and unfunded debt commitments under the First Lien Credit Agreements and any guarantees thereof;
- the net amounts actually owing to each First Lien Lender Cash Management Counterparty under First Lien Cash Management Arrangements and any guarantees thereof; and
- the Net Termination Amount under each First Lien Hedge Agreement owing to each First Lien Hedge Counterparty and any guarantees thereof.

For purposes of this definition, any such First Lien Debt denominated in U.S. Dollars or a Foreign Currency shall be converted into the Canadian Dollar Equivalent of such First Lien Debt based on the relevant Exchange Rate in effect at the time of incurrence of such First Lien Debt.

"First Lien Documents" means the First Lien Credit Agreements, any First Lien Guarantees, any First Lien Security Documents delivered pursuant to or in connection with any of the First Lien Credit Facilities, any Cash Management Arrangements governing First Lien Cash Management Obligations, any Hedge Agreements governing First Lien Hedging Obligations, the First Lien Credit Facilities Intercreditor and each of the other "Loan Documents", or if applicable "Finance Documents" as such terms are defined in the First Lien Credit Agreements.

"First Lien Guarantees" means any guarantee of the Parent's or any other Obligor's Obligations under the First Lien Credit Agreements to which such other Obligor is party in accordance with the terms of the First Lien Credit Agreements.

"First Lien Hedge Agreement" means a Hedge Agreement with a First Lien Hedge Counterparty which creates First Lien Hedging Obligations.

"First Lien Hedge Counterparty" means: (i) the Core RT Agent or a Core RT Lender or Affiliate of the Core RT Agent or a Core RT Lender, or a Person that was a Core RT Agent or a Core RT Lender or an Affiliate of any of them at the time of entering into the Hedge Agreements governing such First Lien Hedging Obligations, which is owed First Lien Hedging Obligations by any Obligor and (ii) the U.K. Facility Agent or a U.K. Lender or Affiliate of such U.K. Facility Agent or the U.K. Lender, or a Person that was a U.K. Facility Agent or a U.K. Lender or an Affiliate of any of them at the time of entering into the Hedge Agreements governing such First Lien Hedging Obligations, which is owed First Lien Hedging Obligations by any Obligor.

"First Lien Hedging Obligations" means all Hedging Obligations owing by any of the Obligor to any First Lien Hedge Counterparty and secured pursuant to the First Lien Security Documents and including all interest, fees, legal and other costs, charges and expenses related thereto, whether incurred before or after commencement (or which would have accrued but for the commencement) of an Insolvency or Liquidation Proceeding and whether or not allowable in an Insolvency or Liquidation Proceeding.

"First Lien Lender" means, as the context requires or as the context permits, a Core RT Lender or a U.K. Lender.

"First Lien Obligations" means the Obligations of the Obligor pursuant to and under the First Lien Credit Agreements, First Lien Cash Management Obligations, and First Lien Hedging Obligations, including without limitation, under or in connection with the other "Loan

Documents" or, as applicable, "Finance Documents" (as defined therein), whether arising from dealings between the First Lien Agents and First Lien Lenders and the Obligors thereunder or from any other dealings or proceedings by which the First Lien Agents and First Lien Lenders may be or become in any manner whatever creditors of the Obligors under or in connection with the First Lien Credit Agreements and the other "Loan Documents" or "Finance Documents" (as defined therein), and wherever incurred and whether incurred by an Obligor thereunder alone or with another or others and whether as principal or surety, and including (i) all obligations under guarantees which guarantee, and security documents which secure, any of the foregoing obligations, and (ii) all interest, premiums, fees, legal and other costs, charges and expenses related thereto, whether incurred before or after commencement (or which would have accrued but for the commencement) of an Insolvency or Liquidation Proceeding and whether or not allowable in an Insolvency or Liquidation Proceeding.

"First Lien Payment Default" means any failure to pay any amount owing by the Obligors under the applicable First Lien Credit Agreement following any applicable cure period that has not been waived by the applicable First Lien Secured Parties in accordance with the terms thereof.

"First Lien Representative" means (a) the Core RT Agent, for and on behalf of the Core RT Lenders in connection with the Core RT Credit Agreement Obligations, and the First Lien Cash Management Obligations and First Lien Hedging Obligations arising in connection with the Core RT Credit Agreement and the other First Lien Documents entered into in connection therewith; (b) the U.K. Security Agent for and on behalf of the U.K. Lenders in connection with the U.K. Facility Agreement Obligations and the First Lien Cash Management Obligations and First Lien Hedging Obligations arising in connection with the U.K. Facility Agreement and the other First Lien Documents entered into in connection therewith.

"First Lien Secured Parties" means the holders of First Lien Obligations and each First Lien Representative.

"First Lien Security Documents" means all security agreements, pledge agreements, debentures, mortgages, control agreements, intellectual property security agreements, collateral assignments, standard securities, bond and floating charges, bond and floating charges in respect of shares, security over cash deposits or other grants or transfers for security executed and delivered by any Obligor creating (or purporting to create) a Lien upon Collateral in favour of any First Lien Representative, for the benefit of the First Lien Secured Parties (or any of them), in each case, as amended, modified, restated or replaced, in whole or in part, from time to time, in accordance with the instrument of alteration to which this Form 466 relates.

"Foreign Currency" means any currency other than U.S. Dollars or Canadian Dollars.

"GAAP" means, with respect to any Person, generally accepted accounting principles from time to time approved by the Canadian Institute of Chartered Accountants or any successor body, applicable as at the date in question and applied on a consistent basis, or, if such Person has adopted International Financial Reporting Standards, "GAAP" will mean the International Financial Reporting Standards as published by the International Accounting Standards Board, or any successor accounting standards board, in each case, applicable as at the date in question.

"guarantees" means a guarantee (other than by endorsement of negotiable instruments for collection in the ordinary course of business), direct or indirect, in any manner (including by way of pledge of assets or through letters of credit and reimbursement agreements in respect

thereof), of all or any part of any Indebtedness or other obligations, and, when used as a verb, shall have a corresponding meaning.

"Hedge Agreement" means any agreement creating and evidencing any Hedging Obligations between the Parent or any other Obligor and any other Person.

"Hedging Obligations" means, with respect to any Person, the Obligations of such Person under currency exchange, interest rate or commodity protection agreement, currency exchange, interest rate or commodity future agreement, currency exchange, interest rate or commodity option agreement, currency exchange, interest rate or commodity hedge agreement, currency exchange, interest rate or commodity swap agreements, currency exchange, interest rate or commodity cap agreements and currency exchange, interest rate or commodity collar agreements and other agreements or arrangements, in each case, providing for the transfer or mitigation of interest rate, currency exchange or commodity price risks either generally or under specific contingencies.

"Indebtedness" has the meaning attributed to the term "Indebtedness" or "Debt" in any Secured Debt Document.

"Initial Obligors" means, the Parent, Holdings Canada, Carfair Cdn, NFI ULC, Alexander Dennis, MCIL Holdings, MC Industries, Frank Fair, US Borrower, NFI US, Transit Holdings New MCI, Aftermarket, ARBOC, Carfair US, MCII Holdings, Motor Coach Int, MCI Sales, Motor Coach US, KMG, Alexander US, Alexander U.K., NFI U.K., Plaxton and Plaxton Holdings in their capacities as borrower and/or Obligor pursuant to the Core RT Credit Agreement, the U.K. Facility and the Second Lien Credit Agreement.

"Insolvency or Liquidation Proceeding" means:

- (a) any case, proceeding or other action commenced by or against any Obligor or in respect of any Collateral or other property of any Obligor under any Debtor Relief Laws, any other case or proceeding for the reorganization, recapitalization, adjustment, or readjustment of the assets or liabilities of any Obligor, any bankruptcy, insolvency, receivership, administration, interim receivership, petition or assignment in bankruptcy, or assignment or assignation for the benefit of creditors or trust deed for the benefit of creditors with respect to or relating to any Obligor or any similar case, proceeding or action relative to any Obligor, its property or its creditors, as such;
- (b) any liquidation, dissolution, adjustment, or readjustment of the assets, property or liabilities of any Obligor, or any reorganization, compromise, arrangement with creditors, plan of arrangement or other restructuring or winding up of or relating to any Obligor involving bankruptcy or insolvency, in each case whether or not voluntary, including pursuant to proceedings under the arrangement provisions of any applicable corporate law (in any case which involves the alteration, amendment, conversion, compromise, satisfaction or discharge of obligations of any or all creditors), but which, for certainty, shall exclude any dissolution, winding-up or liquidation of a solvent Obligor into another solvent Obligor permitted by each of the applicable Secured Debt Documents, each as in effect on the date hereof;
- (c) any other case or proceeding, or the initiation of any proceedings of any type or nature in which claims of creditors of any Obligor are determined and any payment or distribution is or may be made on account of such claims; or
- (d) any analogous procedure in any jurisdiction,

whether any of the foregoing is voluntary or involuntary, partial or complete, and includes any such proceedings initiated or consented to by any Obligor.

"Intercreditor Joinder" means, (a) with respect to the provisions of the instrument of alteration to which this Form 466 relates relating to any Additional Second Lien Debt, an agreement substantially in the form of Exhibit B and (b) with respect to the provisions of the instrument of alteration to which this Form 466 relates relating to the addition of additional Obligors, an agreement substantially in the form of Exhibit C of the instrument of alteration to which this Form 466 relates.

"Lien" means with respect to any property, any mortgage, standard security, lien (statutory or other), pledge, hypothecation, assignment, assignation or assignment in security, encumbrance, charge or other security interest or any preference, priority or other security of any kind or nature whatsoever in respect of such property, whether or not filed, registered or otherwise perfected under applicable law, including any conditional sale or other title retention agreement, any lease in the nature thereof and any option or other agreement to sell or give a security interest in such property.

"Net Termination Amount" means an amount of Hedging Obligations in respect of any Hedge Agreement, after taking into account the effect of any legally enforceable netting agreement contemplated by such Hedge Agreement and any related collateral arrangements (other than the Security Documents), (a) for any date on or after the date such Hedge Agreement has been closed out or terminated and the termination value determined in accordance therewith, such termination value, and (b) for any date prior to the date reference in clause (a), the amount determined as the mark-to-market value for such Hedge Agreement, as reasonably determined by the First Lien Hedge Counterparty party thereto, and, in each case, such amount shall be regarded as principal for the purposes of the instrument of alteration to which this Form 466 relates and shall be calculated by the applicable First Lien Hedge Counterparties and reported to the applicable Secured Debt Representative upon request; *provided* that if the calculation of the amount of Hedging Obligations with respect to any Hedge Agreement results in a negative number, the amount of such Hedging Obligations shall be deemed to be \$0 for purposes of the instrument of alteration to which this Form 466 relates.

"Notice of Actionable Default" means a written notice given to each Secured Debt Representative stating that an Actionable Default has occurred and is continuing, delivered by:

- (i) the Secured Debt Representative for the holders of First Lien Obligations that are governed by the First Lien Documents pursuant to which the Actionable Default has occurred; and
- (ii) at any time after the Discharge of the First Lien Obligations or after the expiry of the Standstill Period (but subject to the proviso contained in Section 2.6(b) of the instrument of alteration to which this Form 466 relates during which deferral period subparagraph (a) above shall apply), the Secured Debt Representative for the holders of Second Lien Obligations that are governed by the Second Lien Documents pursuant to which the Actionable Default has occurred.

"Obligations" means with respect to any Indebtedness of any Obligor (collectively, without duplication):

- (i) all amounts owing by such Obligor howsoever evidenced (including principal, interest (including all interest accrued thereon after the commencement of any Insolvency or Liquidation Proceeding at the rate, including any applicable post-default rate, specified in the applicable Secured Debt Documents, even if such interest is not enforceable, allowable or allowed as a claim in such proceeding), fees, reimbursement obligations, prepayment premiums, penalties, indemnities and legal and other expenses, whether due after acceleration or otherwise) to the providers or

- holders of such Indebtedness or to any agent, trustee or other representative of such providers or holders of such Indebtedness under or pursuant to each agreement, document or instrument evidencing, securing, guaranteeing or relating to such Indebtedness (including Secured Debt Documents applicable to such Indebtedness (if any)), in each case, direct or indirect, primary or secondary, fixed or contingent, matured or not, now or hereafter arising out of or relating to any such agreement, document or instrument; and
- (ii) the costs and expenses of collection and enforcement of the obligations referred to in clause (a) of this definition, including: (i) the costs and expenses of retaking, holding, preparing for sale or lease, selling or otherwise Disposing of or realizing on any Collateral; (ii) the costs and expenses of any exercise by any Secured Debt Representative or any Secured Party of its rights under its Secured Debt Documents, including any Enforcement Action; and (iii) reasonable and documented fees of one primary legal counsel for each Series of Secured Debt in each required jurisdiction (and any other local or specialist counsel) and court costs in connection therewith.

"Obligors" means the Initial Obligors and each other Person that executes a First Lien Guarantee, a Second Lien TF Guarantee, or a guarantee of any other Series of Secured Debt in accordance with the provisions of the Core RT Credit Agreement, the U.K. Facility Agreement, the Second Lien Credit Agreement and any other Secured Debt Document, as applicable, and their respective successors and assigns, and executes an Intercreditor Joinder pursuant to Section 2.2 of the instrument of alteration to which this Form 466 relates, in each case until each applicable First Lien Guarantee, Second Lien TF Guarantee or other guarantee, as applicable, of such Person has been released in accordance with the provisions of the First Lien Credit Agreements, the Second Lien Credit Agreement, and/or such other Secured Debt Document, as applicable, or pursuant to Section 2.4 of the instrument of alteration to which this Form 466 relates.

"Officer" means the Chairman of the Board of Directors, the Chief Executive Officer, the Chief Financial Officer, the Chief Operating Officer, any Executive Vice President, the Chief Legal Officer or General Counsel, any Senior Vice President or Vice President, the Treasurer or the Secretary of the Parent.

"Officer's Certificate" means a certificate with respect to compliance with a condition or covenant provided for in the instrument of alteration to which this Form 466 relates signed without personal liability on behalf of the Obligors by one Officer of the Parent, who must be the Chief Executive Officer, the Chief Financial Officer, the Chief Legal Officer or General Counsel, the Chief Operating Officer of the Parent, which includes:

- (i) a statement that the Person making such certificate has read such covenant or condition;
- (ii) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate are based;
- (iii) a statement that he or she has made such examination or investigation as is reasonably necessary to enable him or her to express an informed opinion as to whether or not such covenant or condition has been satisfied; and
- (iv) a statement as to whether or not such condition or covenant has been satisfied.

"Other Secured Documents" means (i) in respect of the First Lien Secured Parties and the First Lien Documents, the Second Lien Documents, and (ii) in respect of the Second Lien Secured Parties and the Second Lien Documents, the First Lien Documents.

"Other Secured Parties" means (i) in respect of the First Lien Secured Parties, the Second Lien Secured Parties, and (ii) in respect of the Second Lien Secured Parties, the First Lien Secured Parties.

"Permitted Prior Lien" means any Lien that has priority over the First Liens, which Lien was expressly permitted under each applicable Secured Debt Document.

"Person" means any individual, corporation, limited liability company, unlimited liability company, partnership, limited partnership, limited liability partnership, joint venture, association, joint stock company, trust, unincorporated organization, government or any agency or political subdivision thereof or any other entity.

"Plan" means any plan of reorganization, plan of arrangement, plan of liquidation, agreement for composition, or other type of plan proposed in or in connection with any Insolvency or Liquidation Proceeding.

"Pledged Collateral" has the meaning set forth in Section 2.3(a) of the instrument of alteration to which this Form 466 relates.

"PPSA" means the *Personal Property Security Act* (Ontario) and the regulations thereunder as in effect from time to time; provided, however, if attachment, perfection, opposability or priority of the Liens in any Collateral are governed by the personal property security laws of any Canadian jurisdiction other than Ontario, "PPSA" shall mean those personal property security laws (including the Civil Code of Québec and the regulations promulgated thereunder) in such other Canadian jurisdiction for the purposes of the provisions hereof relating to such attachment, perfection, opposability or priority and for the definitions related to such provisions.

"Second Lien" means a Lien granted to a Second Lien Representative, at any time, upon any property of any Obligor to secure Second Lien Obligations.

"Second Lien Credit Agreement" means the credit agreement dated as of August 25, 2023 (the "Second Lien Credit Agreement"), among inter alios, the Parent, as Canadian borrower, the US Borrower, as U.S. borrower, certain lenders party thereto from time to time, as lenders, (the "**2L Term Lenders**"), and the 2L Term Agent, such lenders established a non-revolving term credit facility in favour of the Borrowers (as defined in the Second Lien Credit Agreement).

"Second Lien Credit Agreement Obligations" means all Obligations owing by the Obligors arising under the Second Lien Credit Agreement, each Second Lien TF Guarantees, the Second Lien Security Documents delivered in connection with the Second Lien Credit Agreement and all other agreements, instruments and other documents governing, securing or relating thereto including any other "Loan Documents" (as defined therein), and wherever incurred and whether incurred by an Obligor thereunder alone or with another or others and whether as principal or surety, and including (i) all obligations under guarantees which guarantee, and security documents which secure, any of the foregoing obligations, and (ii) all interest, premiums, fees, legal and other costs, charges and expenses related thereto, whether incurred before or after commencement (or which would have accrued but for the commencement) of an Insolvency or Liquidation Proceeding and whether or not allowable in an Insolvency or Liquidation Proceeding.

"Second Lien Credit Facility" means the non-revolving term credit facility made available to the borrowers party to the Second Lien Credit Agreement, as the same may be supplemented, amended or replaced from time to time subject to compliance with the instrument of alteration to which this Form 466 relates.

"Second Lien Debt" means (without duplication):

- (a) the amount of all Indebtedness under the Second Lien Credit Agreement and any guarantees thereof; and
- (b) the amount of additional funded Indebtedness (including the undrawn amount of letters of credit whether or not then available to be drawn and any reimbursement obligations under any drawn letters of credit) and unfunded debt commitments under any other Credit Facility and any guarantees thereof that in each case are secured equally and ratably with the Second Lien Obligations by a Second Lien that is permitted to be incurred and so secured under the terms of each applicable Secured Debt Document; *provided*, in the case of this clause (b), that:
 - (i) prior to the incurrence of such additional Indebtedness, such additional Indebtedness is designated by the Parent, in an Officer's Certificate delivered to each Secured Debt Representative, as "Second Lien Debt" for the purposes of the Secured Debt Documents;
 - (ii) all requirements set forth in Section 3.5 of the instrument of alteration to which this Form 466 relates with respect to Additional Second Lien Debt have been complied with, including the execution and delivery of an Intercreditor Joinder; and
 - (iii) all requirements set forth in the instrument of alteration to which this Form 466 relates as to the confirmation, grant or perfection of the applicable Secured Debt Representative's Lien to secure such additional Indebtedness are satisfied (and in connection therewith, the Parent shall deliver to each Secured Debt Representative an Officer's Certificate stating that such requirements and other provisions have been satisfied and that such debt is Second Lien Debt);

For purposes of this definition, any such Second Lien Debt denominated in U.S. Dollars or a Foreign Currency shall be converted into the Canadian Dollar Equivalent of such Second Lien Debt based on the relevant Exchange Rate in effect at the time of incurrence of such Second Lien Debt.

"Second Lien Documents" means (i) the Second Lien Credit Agreement, each Second Lien TF Guarantee, the Second Lien Security Documents delivered pursuant to or in connection with the Second Lien Credit Agreement and all other agreements, instruments and other documents governing, securing or relating thereto including all "Loan Documents" (as defined in the Second Lien Credit Agreement), (ii) any Series of Secured Debt Intercreditor applicable to such Second Lien Obligations and (iii) the credit agreements, notes, debentures, bonds or similar instruments, guarantees, security agreements and other agreements governing, securing or relating to any Additional Second Lien Debt.

"Second Lien Enforcement Deferral" has the meaning set forth in Section 2.6(b) of the instrument of alteration to which this Form 466 relates.

"Second Lien Guarantees" means (i) guarantees entered into by the Obligors from time to time pursuant to which the Obligors guarantee the payment of all Second Lien Credit Agreement Obligations of the other Obligors or in respect of any "Loan Documents" (as defined in the Second Lien Credit Agreement) to which such other Obligors are party in accordance with the terms of the Second Lien Credit Agreement, and (ii) any guarantee entered into by an Obligor pursuant to which such Obligor guarantees the payment of the Obligations of the Parent or any other Obligor under any credit agreements, notes, debentures, bonds or similar instruments, guarantees, security agreements and other agreements governing or relating to Additional Second Lien Debt.

"Second Lien Obligations" means (i) means all Second Lien Credit Agreement Obligations, and (ii) indebtedness, liabilities and other obligations of the Obligors pursuant to and under any other Credit Facilities that are incurred as additional Second Lien Debt in accordance with all Secured Debt Documents and as to which the agent or other representative

thereunder becomes a Second Lien Representative in accordance with Section 3.5 of the instrument of alteration to which this Form 466 relates.

"Second Lien Representative" means (a) the 2L Term Agent, for and on behalf of the Second Lien Lenders in connection with the Second Lien Credit Agreement Obligations, and (b) in the case of any other Series of Second Lien Debt, the agent or trustee or other Person who maintains the transfer register for such Series of Second Lien Debt or is appointed as a representative of such Series of Second Lien Debt (including for purposes related to the administration of the applicable Second Lien Security Documents and holding liens granted thereunder on behalf of the Second Lien Secured Parties) pursuant to the credit agreement, indenture, debenture, instrument or other agreement governing such Series of Second Lien Debt and that executes and delivers an Intercreditor Joinder in accordance with Section 3.5(b) of the instrument of alteration to which this Form 466 relates. For purposes of the instrument of alteration to which this Form 466 relates, references to the "applicable" Second Lien Representative shall be deemed to be references to the 2L Term Agent unless written notice otherwise, signed by all Second Lien Representatives at such time, is provided to all Secured Debt Representatives.

"Second Lien Secured Parties" means the holders of Second Lien Obligations and each Second Lien Representative.

"Second Lien Security Documents" means all security agreements, pledge agreements, debentures, mortgages, control agreements, debentures, intellectual property security agreements, collateral assignments, bond and floating charges, bond and floating charges in respect of shares, or other grants or transfers for security executed and delivered by any Obligor creating (or purporting to create) a Lien upon Collateral in favour of any Second Lien Representative, for the benefit of the Second Lien Secured Parties (or any of them), in each case, as amended, modified, restated or replaced, in whole or in part, from time to time, in accordance with the instrument of alteration to which this Form 466 relates.

"Second Lien TF Guarantee" means the guarantee by any Obligor of the Obligations under the Second Lien Credit Agreement.

"Secured Debt" means: (a) First Lien Debt; and (b) Second Lien Debt.

"Secured Debt Default" means any event or condition (with or without the giving of notice or lapse of time, or both, and whether or not notice has been given or time has elapsed) which, under the terms of any Secured Debt Document governing any Series of Secured Debt causes, or permits holders of the Secured Debt outstanding thereunder to cause, such Secured Debt outstanding thereunder to become immediately due and payable.

"Secured Debt Documents" means, collectively, the First Lien Documents and the Second Lien Documents

"Secured Debt Obligations" means, collectively, the First Lien Obligations and the Second Lien Obligations.

"Secured Debt Representative" means, any First Lien Representative, for and on behalf of the applicable First Lien Secured Parties, or any Second Lien Representative, for and on behalf of the applicable Second Lien Secured Parties.

"Secured Parties" means, collectively, the First Lien Secured Parties and the Second Lien Secured Parties.

"Security Documents" means, collectively, the First Lien Security Documents and the Second Lien Security Documents.

"Series of First Lien Debt" means, severally, (a) the Core RT Credit Facilities and (b) the U.K. Facility, and for the purposes hereof, (i) each of the First Lien Cash Management Obligations and the First Lien Hedging Obligations together with all other First Lien Hedging Obligations and First Lien Cash Management Obligations will be treated as, and deemed to be part of, the same Series of First Lien Debt as the First Lien Document under which the applicable First Lien Cash Management Counterparties and First Lien Hedge Counterparties are lenders or Affiliates thereof.

"Series of Second Lien Debt" means, severally, (a) the Second Lien Credit Facility, and (b) each other Credit Facility constituting Second Lien Debt for which a single transfer register is maintained; and for the purposes hereof, all Credit Facilities under the same credit agreement or other debt instrument constituting Second Lien Debt will be deemed to be the same Series of Second Lien Debt.

"Series of Secured Debt" means, severally, each Series of First Lien Debt and each Series of Second Lien Debt.

"Series of Secured Debt Intercreditor" means any intercreditor agreement among holders of an equivalent Series of Secured Debt.

"STA" means the *Securities Transfer Act* (Ontario), in effective from time to time, or any similar legislation as in effect from time to time; in any applicable jurisdiction.

"Standstill Period" has the meaning set forth in Section 2.6 of the instrument of alteration to which this Form 466 relates.

"Subsidiary" means, with respect to any Person, (a) any corporation, association, or other business entity (other than a partnership, joint venture, limited liability company or similar entity) of which more than 50% of the total Voting Stock thereof is at the time of determination owned or controlled, directly or indirectly, by such Person or one or more of the other subsidiaries of that Person or a combination thereof or is consolidated under GAAP with such Person at such time and (b) any partnership, joint venture, limited liability company or similar entity of which (i) more than 50% of the capital accounts, distribution rights, total equity and voting interests or general or limited partnership interests, as applicable, are owned or controlled, directly or indirectly, by such Person or one or more of the other subsidiaries of that Person or a combination thereof whether in the form of membership, general, special or limited partnership or otherwise, and (ii) such Person or any subsidiary of such Person is a controlling general partner or otherwise controls such entity.

"UCC" means the Uniform Commercial Code as in effect from time to time in the state of New York or any other state the laws of which are required to be applied in connection with the perfection of security interests.

"U.K. Agents" means, collectively, the U.K. Facility Agent and the U.K. Security Agent.

"U.K. Facility" means the credit facilities made available to the applicable Obligors under the U.K. Facility Agreement.

"U.K. Facility Agreement" means facility agreement originally dated 1 May 2020 as amended and restated pursuant to an amendment and restatement agreement dated December 23, 2020 and December 2, 2021, and amended pursuant to amendment letters dated 4 April 2022, 8 June 2022, and 29 June 2022, and by amendment and restatement

agreements dated 29 July 2022 and 29 December 2022, amendment letters dated 23 June 2023 and 28 July 2023 by an amendment and restatement agreement dated August 25, 2023 among, *inter alios*, NFI U.K., as borrower, the Parent, as parent, certain lenders party thereto from time to time, as lenders (the "**U.K. Lenders**"), the U.K. Facility Agent, the U.K. Security Agent, HSBC U.K. Bank plc and Bank of America, N.A. Canada Branch, as lenders, such lenders established a certain facility in favour of NFI U.K.

"U.K. Facility Agreement Obligations" means all Obligations of the Obligors to the U.K. Facility Agent and the lenders thereunder or in connection with the U.K. Facility Agreement and the other "Finance Documents" (as defined therein) whether arising from dealings between the Facility Agent and lenders and the Obligors thereunder or from any other dealings or proceedings by which the U.K. Facility Agent and lenders may be or become in any manner whatever creditors of the Obligors under or in connection with the U.K. Facility Agreement and the other "Finance Documents" (as defined therein), and wherever incurred and whether incurred by an Obligor thereunder alone or with another or others and whether as principal or surety, and including (i) all obligations under guarantees which guarantee, and security documents which secure, any of the foregoing obligations, and (ii) all interest, premiums, fees, legal and other costs, charges and expenses related thereto, whether incurred before or after commencement (or which would have accrued but for the commencement) of an Insolvency or Liquidation Proceeding and whether or not allowable in an Insolvency or Liquidation Proceeding (but, for greater certainty, exclude First Lien Hedging Obligations and First Lien Cash Management Obligations).

"U.K. Lenders" means, NFI U.K., as borrower, the Parent, as parent, certain lenders party thereto from time to time, as lenders and/or bilateral ancillary lenders under or in connection with the U.K. Facility Agreement. **"U.S. Dollars"** and the sign "**US\$**" each mean the lawful money of the United States of America.

"Voting Stock" of any Person as of any date means the Capital Stock of such Person that is at the time entitled to vote in the election of the Board of Directors of such Person.

PAPER APART 2

Statement of the provisions imposed by the instrument of alteration prohibiting or restricting the creation by the company of any fixed security

Acknowledgements and Consents, Clause 2.1 (c):

The parties to the instrument of alteration to which this Form 466 relates agree that, except for Excluded First Lien Collateral which shall not be subject to the Second Liens, it is their intention that (x) the Collateral subject to the First Liens and the Second Liens is to be identical, (y) except as otherwise consented to by the First Lien Representatives and the Second Lien Representatives, the First Lien Security Documents and the Second Lien Security Documents are to be, in all material respects, substantially the same (other than with respect to the first lien and second lien nature of the Obligations secured thereby), and (z) so long as the Discharge of the First Lien Obligations has not occurred:

- (i) the Obligors shall not:
 - (A) grant or permit any additional Liens on any property to secure any Second Lien Obligations without providing the First Lien Representatives with notice thereof and unless it has granted, or concurrently therewith grants, a first Lien on such property to secure the First Lien Obligations, or
 - (B) except for any Excluded First Lien Collateral, grant or permit any additional Liens on any of its property to secure any First Lien Obligations unless it has granted, or concurrently therewith grants, a second Lien on such property to secure the Second Lien Obligations,
- (ii) if a Second Lien Representative or a Second Lien Secured Party hereafter acquires a Lien on any property of an Obligor to secure the Second Lien Obligations which is not already subject to a First Lien, such property shall constitute "Collateral" for purposes hereof, and the Obligors shall promptly provide the First Lien Representatives with written notice thereof and forthwith cause such property to become subject to the First Liens,
- (iii) if a First Lien Representative or a First Lien Secured Party hereafter acquires a Lien on any property of an Obligor to secure the First Lien Obligations which is not already subject to a Second Lien and is not Excluded First Lien Collateral, the Obligors shall promptly provide the Second Lien Representatives with written notice thereof and offer to cause such property to become subject to the Second Liens and if such property becomes subject to the Second Liens then such property shall constitute "Collateral" for purposes hereof,

with each such Lien and any Collateral relating thereto or proceeds thereof to be subject to the provisions of the instrument of alteration to which this Form 466 relates. Notwithstanding the foregoing, each Secured Debt Representative acknowledges and agrees that the Obligor may grant a Lien over (1) funds deposited for the satisfaction, discharge, redemption or defeasance of First Lien Debt made in compliance with the Secured Debt Documents and the instrument of alteration to which this Form 466 relates, (2) cash collateral deposited with any First Lien Representative in accordance with the terms of the applicable First Lien Documents, and (3) cash collateral deposited with any First Lien Representative or First Lien Secured Party in respect of any First Lien Hedging Obligations or First Lien Cash

Management Obligations in accordance with the terms of the applicable First Lien Documents, without compliance with the requirements of clause (c) above.

PAPER APART 3

Statement of provisions imposed by the instrument of alteration varying or otherwise regulation the order of the ranking of the floating charge in relation to fixed securities or to other floating charges:

Priority of Liens, Clause 2.5

- (a) Notwithstanding anything else contained herein or in any other Security Document, it is the intent of the parties that the First Liens securing the First Lien Obligations shall rank senior and in priority to the Second Liens securing the Second Lien Obligations.
- (b) The parties agree that, after the date of the instrument of alteration to which this Form 466 relates and prior to the Discharge of the First Lien Obligations, in no event will any Second Lien Representative or any Second Lien Secured Party have a Lien on any Collateral that is not subject and subordinate to the First Liens in accordance with the terms of the instrument of alteration to which this Form 466 relates.

I certify that, save for material redacted pursuant to s.87(9G) of the Companies Act 2006, this copy instrument is a correct copy of the electronic copy of the original instrument.

Not a legal document

Execution Version

Date: 5 September 2023

INTERCREDITOR AGREEMENT

This Intercreditor Agreement (the “**Agreement**”) dated as of August 25, 2023

AMONG:

THE BANK OF NOVA SCOTIA

as Administrative Agent (as defined in the Core RT Credit Agreement) on behalf of the Core RT Lenders,

(in such capacity, with its successors and assigns, the “**Core RT Agent**”),

- and -

HSBC BANK PLC,

as Agent (as defined in the U.K. Facility Agreement) on behalf of the Finance Parties (as defined in the U.K. Facility Agreement),

(in such capacity, with its successors and assigns, the “**U.K. Facility Agent**”),

- and -

HSBC CORPORATE TRUSTEE COMPANY (UK) LIMITED,

as Security Agent (as defined in the U.K. Facility Agreement) for and on behalf of itself and the Secured Parties (as defined in the U.K. Facility Agreement),

(in such capacity, with its successors and assigns, the “**U.K. Security Agent**”),

- and –

COMPUTERSHARE TRUST COMPANY OF CANADA,

as Agent (as defined in the Second Lien Credit Agreement) on behalf of the 2L Term Lenders (in such capacity, with its successors and assigns, the “**2L Term Agent**”)

- and -

NFI GROUP INC., a corporation incorporated under the laws of the Province of Ontario

(herein called the “**Parent**”)

Intercreditor Agreement

- and -

NEW FLYER HOLDINGS CANADA INC., a corporation
incorporated under the laws of Canada

(herein called "**Holdings Canada**")

- and -

CARFAIR COMPOSITES INC., a corporation incorporated
under the laws of Canada

(herein called "**Carfair Cdn**")

- and -

NEW FLYER INDUSTRIES CANADA ULC, an unlimited
liability corporation formed under the laws of the Province of
Alberta

(hereinafter called "**NFI ULC**")

- and -

ALEXANDER DENNIS (CANADA) INC., a corporation
incorporated under the laws of Canada

(herein called "**Alexander Dennis**")

- and -

MCIL HOLDINGS, LTD., a corporation incorporated under the
laws of Canada

(herein called "**MCIL Holdings**")

- and -

MOTOR COACH INDUSTRIES LIMITED, a corporation
incorporated under the laws of Canada

(herein called "**MC Industries**")

- and -

FRANK FAIR INDUSTRIES LTD., a corporation incorporated
under the laws of the Province of Manitoba

(herein called "**Frank Fair**")

- and -

NEW FLYER HOLDINGS, INC., a corporation incorporated under the laws of the State of Delaware

(herein called the “**US Borrower**”)

- and -

NEW FLYER OF AMERICA INC., a corporation formed under the laws of the State of North Dakota

(herein called the “**NFI US**”)

- and -

TRANSIT HOLDINGS, INC., a corporation incorporated under the laws of the State of Delaware

(herein called the “**Transit Holdings**”)

- and -

NEW MCI HOLDINGS, INC., a corporation incorporated under the laws of the State of Delaware

(herein called the “**New MCI**”)

- and -

THE AFTERMARKET PARTS COMPANY, LLC, a limited liability company formed under the laws of the State of Delaware

(herein called “**Aftermarket**”)

- and -

ARBOC SPECIALTY VEHICLES, LLC, a limited liability company formed under the laws of the State of Delaware

(herein called “**ARBOC**”)

- and -

CARFAIR COMPOSITES USA, INC., a corporation incorporated under the laws of the State of Delaware

(herein called “**Carfair US**”)

- and -

MCII HOLDINGS, INC., a corporation incorporated under the laws of the State of Delaware

(herein called "**MCII Holdings**")

- and -

MOTOR COACH INDUSTRIES INTERNATIONAL, INC., a corporation incorporated under the laws of the State of Delaware

(herein called "**Motor Coach Int**")

- and -

MCI SALES AND SERVICE, INC., a corporation incorporated under the laws of the State of Delaware

(herein called "**MCI Sales**")

- and -

MOTOR COACH INDUSTRIES, INC., a corporation incorporated under the laws of the State of Delaware

(herein called "**Motor Coach US**")

- and -

KMG FABRICATION, INC., a corporation incorporated under the laws of the State of Delaware

(herein called "**KMG**")

- and -

ALEXANDER DENNIS INCORPORATED, a corporation incorporated under the laws of the State of Delaware

(herein called "**Alexander US**")

- and -

ALEXANDER DENNIS LIMITED, a company incorporated under the laws of Scotland with registered number SC268016 and having its registered office at 9 Central Boulevard, Larbert, United Kingdom, FK5 4RU

(herein called "**Alexander U.K.**")

- and -

NFI INTERNATIONAL LIMITED, a company incorporated under the laws of England and Wales

(herein called "**NFI U.K.**")

- and -

PLAXTON LIMITED, a company incorporated under the laws of England and Wales

(herein called "**Plaxton**")

- and -

PLAXTON HOLDINGS LIMITED, a company incorporated under the laws of England and Wales

(herein called "**Plaxton Holdings**")

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INTERCREDITOR AGREEMENT

This Intercreditor Agreement (as amended, supplemented, restated or otherwise modified from time to time in accordance with Section 6.1, this “**Agreement**”) is dated as of August 25, 2023 and is entered into by and among the Parent, Holdings Canada, Carfair Cdn, NFI ULC, Alexander Dennis, MCIL Holdings, MC Industries, Frank Fair, US Borrower, NFI US, Transit Holdings New MCI, Aftermarket, ARBOC, Carfair US, MCII Holdings, Motor Coach Int, MCI Sales, Motor Coach US, KMG, Alexander US, Alexander U.K., NFI U.K., Plaxton and Plaxton Holdings in their capacities as borrower and/or Obligor pursuant to the Core RT Credit Agreement, the U.K. Facility and the Second Lien Credit Agreement on the date hereof (the “**Initial Obligors**”), any other Obligators that execute and deliver an Intercreditor Joinder, THE BANK OF NOVA SCOTIA, as administrative agent under the Core RT Credit Agreement (in such capacity and, together with its successors and assigns in such capacity, the “**Core RT Agent**”), HSBC CORPORATE TRUSTEE COMPANY (UK) LIMITED, as security agent for itself and the other Secured Parties (as defined in the U.K. Facility Agreement) (in such capacity and, together with its successors and assigns in such capacity, the “**U.K. Security Agent**”), HSBC BANK PLC, as facility agent on behalf of the Finance Parties (as defined in the U.K. Facility Agreement) (in such capacity and, together with its successors and assigns in such capacity, the “**U.K. Facility Agent**”), COMPUTERSHARE TRUST COMPANY OF CANADA as agent under the Second Lien Credit Agreement (in such capacity and, together with its successors and assigns in such capacity, the “**2L Term Agent**”), and any Secured Debt Representative for and on behalf of any additional Second Lien Secured Parties that executes and delivers an Intercreditor Joinder from time to time after the date hereof.

RECITALS

- A. Pursuant to an amended and restated credit agreement made as of August 25, 2023 (the “**Core RT Credit Agreement**”) among, *inter alios*, the Parent, as Canadian borrower, the US Borrower, as U.S. borrower, certain lenders party thereto from time to time, as lenders (the “**Core RT Lenders**”), and the Core RT Agent, such lenders established certain credit facilities in favour of the Borrowers (as defined in the Core RT Credit Agreement);
- B. Pursuant to the Core RT Credit Agreement, the Core RT Lenders and their Affiliates have entered into and will enter into First Lien Hedging Obligations and First Lien Cash Management Obligations, which will constitute First Lien Obligations for purposes of this Agreement.
- C. Pursuant to a facility agreement originally dated 1 May 2020 as amended and restated pursuant to an amendment and restatement agreement dated December 23, 2020 and December 2, 2021, and amended pursuant to amendment letters dated 4 April 2022, 8 June 2022, and 29 June 2022, and by amendment and restatement agreements dated 29 July 2022 and 29 December 2022, amendment letters dated 23 June 2023 and 28 July 2023, and by an amendment and restatement agreement dated August 25, 2023 (the “**U.K. Facility Agreement**”) among, *inter alios*, NFI U.K., as borrower, the Parent, as parent, certain lenders party thereto from time to time, as lenders and/or bilateral ancillary lenders under or in connection with the U.K. Facility Agreement (collectively, the “**U.K. Lenders**”), the

Intercreditor Agreement

U.K. Facility Agent, the U.K. Security Agent, HSBC UK Bank plc and Bank of America, N.A. Canada Branch, as lenders, established certain facilities in favour of NFI U.K.;

- D. Pursuant to a credit agreement dated as of August 25, 2023 (the “**Second Lien Credit Agreement**”), among *inter alios*, the Parent, as Canadian borrower, the US Borrower, as U.S. borrower, certain lenders party thereto from time to time, as lenders, (the “**2L Term Lenders**”), and the 2L Term Agent, such lenders established a non-revolving term credit facility in favour of the Borrowers (as defined in the Second Lien Credit Agreement).
- E. The Obligors may from time to time hereafter incur Additional Second Lien Debt.
- F. The Obligors have secured the First Lien Obligations with Liens on all present and future Collateral on a first lien priority basis and, subject to such first priority, intend to secure the Second Lien Obligations with Liens on all present and future Collateral (other than Excluded First Lien Collateral) on a second lien basis.
- G. This Agreement sets forth the terms on which the Secured Debt Representative of each Secured Party will receive, hold, maintain, administer and distribute the Collateral (and any proceeds thereof) which at any time is the subject of its Security Documents or within its possession, and may enforce all of its interests, rights, powers and remedies thereunder or respect thereto.

In consideration of the premises and the mutual agreements herein set forth, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties to this Agreement hereby agree as follows:

ARTICLE 1 INTERPRETATION

1.1 Defined Terms

The following terms have the following meanings:

“**2L Term Agent**” has the meaning set forth in the Preamble.

“**2L Term Lenders**” has the meaning set forth in the Preamble.

“**Actionable Default**” means:

- (a) the occurrence of any Secured Debt Default under any First Lien Document; and
- (b) at any time after the Discharge of the First Lien Obligations or after the expiry of the Standstill Period (but subject to the proviso contained in Section 2.6(b), during which deferral period subparagraph (a) above shall apply), the occurrence of any Secured Debt Default under any Second Lien Document.

“**Additional Second Lien Debt**” has the meaning set forth in Section 3.5(b)(i).

"Additional Second Lien Debt Designation" means a notice in substantially the form of Exhibit A.

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

"Aftermarket" has the meaning set forth in the Preamble.

"Agreement" has the meaning set forth in the Preamble.

"Alexander Dennis" has the meaning set forth in the Preamble.

"Alexander U.K." has the meaning set forth in the Preamble.

"Alexander US" has the meaning set forth in the Preamble.

"ARBOC" has the meaning set forth in the Preamble.

"Assignment Agreements" has the meaning set forth in Section 2.12(a)(ii)(B).

"Bankruptcy Code" means Title 11 of the United States Code entitled "Bankruptcy," as now and hereafter in effect, or any successor statute.

"Board of Directors" means:

- (a) with respect to a corporation, the board of directors of the corporation;
- (b) with respect to a limited partnership, the board of directors or equivalent of the general partner of the limited partnership; and
- (c) with respect to any other Person, the board of directors or equivalent of such Person serving a similar function.

"Business Day" means any day that is not a Saturday, Sunday or other day on which banking institutions in Toronto, Ontario or at a place of payment hereunder are authorized or required by law to remain closed.

"Canadian Dollar Equivalent" of any amount means, on any date of determination, (a) with respect to any amount denominated in Canadian Dollars, such amount and (b) with respect to any amount denominated in U.S. Dollars or any Foreign Currency, the equivalent in Canadian Dollars of such amount, determined by the Core RT Agent (or other designated First Lien Representative) using the applicable Exchange Rate at such time of determination.

“Canadian Dollars” and the sign “\$” each mean lawful money of Canada.

“Capital Stock” means (a) in the case of a corporation (or an unlimited liability company), shares in the capital of such corporation or company (however designated), (b) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) in the capital equity or ownership thereof, (c) in the case of a partnership, limited liability company, partnership or membership interests (whether general or limited), (d) in the case of a trust, trust units or other ownership interests therein, and (e) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person.

“Carfair Cdn” has the meaning set forth in the Preamble.

“Carfair US” has the meaning set forth in the Preamble.

“Cash Management Arrangements” means any agreement or arrangement between any Obligor and any other Person to provide cash management products and services, including centralized operating accounts, automated clearing house transactions, controlled disbursement services, treasury, depository, overdraft and electronic funds transfer services, foreign exchange facilities, currency exchange transactions or agreements and options with respect thereto, credit card processing services, credit or debit cards, purchase cards and any indemnity given in connection with any of the foregoing, in each case, as amended, modified, restated or replaced, in whole or in part, from time to time, in accordance with this Agreement.

“Cash Management Obligations” means, at any time and from time to time with respect to an Obligor, all Obligations of such Obligor owing to the provider of any Cash Management Arrangements and whether the same are from time to time reduced and thereafter increased or entirely extinguished and thereafter incurred again and including all principal, interest, fees, legal and other costs, charges and expenses, and other amounts payable to a counterparty under such Cash Management Arrangements.

“CCAA” means the *Companies’ Creditors Arrangement Act* (Canada).

“Collateral” means any and all property and assets of any of the Obligors subject to the Liens created by the First Lien Security Documents or the Second Lien Security Documents (including, for certainty, all proceeds thereof), as the context requires.

“Confidentiality Obligations” has the meaning set forth in Section 6.4(a).

“Core RT Agent” has the meaning set forth in the Preamble.

“Core RT Credit Agreement” has the meaning set forth in the recitals.

“Core RT Credit Agreement Obligations” means all Obligations of the Obligors to the Core RT Agent and the Core RT Lenders under or in connection with the Core RT Credit Agreement and the other “Loan Documents” (as defined therein), whether arising from

dealings between the Core RT Agent and Core RT Lenders and the Obligors thereunder or from any other dealings or proceedings by which the Core RT Agent and Core RT Lenders may be or become in any manner whatever creditors of the Obligors under or in connection with the Core RT Credit Agreement and the other "Loan Documents" (as defined therein), and wherever incurred and whether incurred by an Obligor thereunder alone or with another or others and whether as principal or surety, and including (i) all obligations under guarantees which guarantee, and security documents which secure, any of the foregoing obligations, and (ii) all interest, premiums, fees, legal and other costs, charges and expenses related thereto, whether incurred before or after commencement (or which would have accrued but for the commencement) of an Insolvency or Liquidation Proceeding and whether or not allowable in an Insolvency or Liquidation Proceeding (but, for greater certainty, exclude First Lien Hedging Obligations and First Lien Cash Management Obligations).

"Core RT Credit Facilities" means the credit facilities made available to the Obligors party to the Core RT Credit Agreement.

"Core RT Lenders" has the meaning set forth in the recitals.

"Credit Facilities" means one or more debt facilities (including, without limitation, the First Lien Credit Facilities and the Second Lien Credit Facility), debt offerings or commercial paper facilities with banks, investment banks, insurance companies, mutual funds or other institutional lenders or investors providing for revolving loans, term loans or letters of credit, or issuance of debt securities evidenced by notes, debentures, bonds or similar instruments, in each case, as amended, supplemented, restated, modified, renewed, refunded, replaced or refinanced in whole or in part from time to time (and whether or not with the original administrative agent, agent, lenders or trustee or another administrative agent or agents, other lenders or trustee and whether provided under the First Lien Credit Facilities or any other credit or other agreement).

"Cross Default Provision" means a provision in any First Lien Document or Second Lien Document pursuant to which an Obligor covenants to comply with the Other Secured Documents or which provides that a Secured Debt Default shall occur under a First Lien Document or Second Lien Document, as applicable, if a Secured Debt Default occurs under any Other Secured Document.

"Debtor Relief Laws" means the *Bankruptcy and Insolvency Act* (Canada), the CCAA, the *Winding-up and Restructuring Act* (Canada) and the Bankruptcy Code, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, winding-up, restructuring, examinership or similar debtor relief laws of Canada, the United States or other applicable jurisdictions from time to time in effect and affecting the rights of creditors generally, including (without limitation) any arrangement pursuant to the *Canada Business Corporations Act*, the *Business Corporations Act* (Ontario), the United Kingdom *Insolvency Act 1986* and *Companies Act 2006* or any other corporate statute if the relevant corporation proposes an arrangement involving a compromise or conversion of liabilities with respect to any class of creditors of such corporation.

“Defaulting Creditor” has the meaning set forth in the Section 2.12(f)(iii).

“Discharge” means, with respect to any Series of Secured Debt, the occurrence of all of the following:

- (a) termination of all commitments to extend credit under such Series of Secured Debt;
- (b) payment in full in cash of the principal of and interest, fees and premium (if any) on such Series of Secured Debt (other than any undrawn letters of credit), including all accrued and unpaid interest thereon after the commencement of any Insolvency or Liquidation Proceeding at the rate, including any applicable post-default rate, specified in the Secured Debt Documents for such Series of Secured Debt, even if such interest is not enforceable, allowable or allowed as a claim in such proceeding;
- (c) discharge or cash collateralization (at the lower of (i) 105% of the aggregate face amount and (ii) the amount required under the terms of the applicable Secured Debt Document) of all outstanding letters of credit and bankers’ acceptances comprised in such Series of Secured Debt; and
- (d) payment in full in cash of all other Obligations in respect of such Series of Secured Debt (including, for clarity, the Net Termination Amount owing under all Hedge Agreements and all amounts owing under Cash Management Arrangements) that are outstanding and unpaid at the time such Series of Secured Debt is paid in full in cash (other than (i) indemnification and other contingent obligations not then due and payable and (ii) First Lien Hedging Obligations and First Lien Cash Management Obligations comprised in such Series of Secured Debt which are not due and payable contemporaneously with the other Obligations comprised in such Series of Secured Debt and for which cash collateral or other arrangements satisfactory to the applicable First Lien Hedge Counterparty or First Lien Cash Management Counterparty have been entered into).

The term **“Discharged”** shall have a corresponding meaning.

“DIP Financing Criteria” means debtor-in-possession or interim financing (or its equivalent) in Insolvency or Liquidation Proceedings that is:

- (a) in the case of Insolvency or Liquidation Proceedings under Debtor Relief Laws other than the Bankruptcy Code,
 - (i) acceptable to the relevant Obligor, as debtors in such Insolvency or Liquidation Proceeding, and
 - (ii) supported by the monitor or other court officer, if any, appointed in the Insolvency or Liquidation Proceeding; and
- (b) in the case of Insolvency or Liquidation Proceedings under the Bankruptcy Code, acceptable to,

- (i) the relevant Obligor, as debtors-in-possession, and
- (ii) (x) any chapter 11 or chapter 7 trustee of the estates of the relevant Obligors, or (y) any examiner with expanded powers or other person vested with the power to seek approval of and/or obtain such financing.

“Disposition” means any sale, conveyance, transfer or other disposition, whether in a single transaction or series of related transactions of any property. **“Dispose”** shall have a correlative meaning.

“Enforcement Action” means, with respect to either the First Lien Documents or the Second Lien Documents, the taking of any step or action to enforce the Liens granted or created thereunder or any other rights or remedies of a Secured Party thereunder or in respect thereof, including (a) the giving of any notice of intention to exercise or enforce, or the exercise or enforcement of any right or remedy provided to a secured creditor on account of a Lien under the Secured Debt Documents including (i) any delivery of any notice to seek to obtain payment directly from any account debtor of any Obligor or (ii) the taking of any action or the exercise of any right or remedy in respect of the set-off or recoupment against, combination of accounts, collection or foreclosure on or marshalling of the Collateral or proceeds of Collateral, under applicable law, at equity, in an Insolvency or Liquidation Proceeding or otherwise (including the acceptance of Collateral in full or partial satisfaction of any Secured Debt Obligation), (b) the sale, assignment, transfer, lease, license, or other Disposition as a secured creditor on account of a Lien of all or any portion of the Collateral, by private or public sale (judicial or non-judicial) or any other means, (c) the solicitation of bids from third parties to conduct the liquidation of all or a portion of Collateral as a secured creditor on account of a Lien, (d) the appointment of a receiver, manager or interim receiver of all or any portion of the Collateral, (e) the commencement of, or the joinder with any creditor in commencing, any Insolvency or Liquidation Proceeding against any Obligor or any property of any Obligor, and (f) the exercise of any other enforcement right relating to the Collateral (including the exercise of any voting rights relating to any Capital Stock composing a portion of the Collateral) whether under the Security Documents, under applicable law of any jurisdiction, in equity, in an Insolvency or Liquidation Proceeding, or otherwise, or (g) any attempt to vacate or obtain relief from a stay or other injunction restricting any other action described in this definition.

“equally and ratably” means:

- (a) in reference to sharing of Collateral or proceeds thereof as between First Lien Secured Parties, that such Collateral or proceeds:
 - (i) will be allocated and distributed first to the First Lien Representative for each outstanding Series of First Lien Debt, for the account of the holders of such Series of First Lien Debt, ratably in proportion to the amount of the First Lien Obligations owing under each outstanding Series of First Lien Debt when the allocation or distribution is made, and thereafter;

- (ii) will be allocated and distributed by the First Lien Representative for each outstanding Series of First Lien Debt among the holders of the First Lien Obligations within that Series of First Lien Debt in accordance with the provisions of the applicable First Lien Documents; and
- (b) in reference to sharing of Collateral or proceeds thereof as between the Second Lien Secured Parties, that such Collateral or proceeds:
 - (i) will be allocated and distributed first to the Second Lien Representative for each outstanding Series of Second Lien Debt, for the account of the holders of such Series of Second Lien Debt, ratably in proportion to the amount of the Second Lien Obligations owing under each outstanding Series of Second Lien Debt when the allocation or distribution is made, and thereafter;
 - (ii) will be allocated and distributed by the Second Lien Representative for each outstanding Series of Second Lien Debt among the holders of the Second Lien Obligations within that Series of Second Lien Debt in accordance with the provisions of the applicable Second Lien Documents.

“Exchange Rate” means, on any date with respect to (a) U.S. Dollars, the rate at which such U.S. Dollars may be exchanged into Canadian Dollars, (b) Canadian Dollars, the rate at which such Canadian Dollars may be exchanged into U.S. Dollars, and (c) any other currency, the rate at which such currency may be exchanged into U.S. Dollars or Canadian Dollars, as applicable, in each case, as determined by the Core RT Agent (or other designated First Lien Representative), using the average rate of exchange for interbank transactions quoted by the Bank of Canada at approximately the close of business on such date (or, if not so quoted, the average rate of exchange for interbank transactions quoted by the Bank of Canada at approximately the close of business on the Business Day immediately preceding such date); *provided* that, if either such noon rate or average rate is for any reason unavailable, it shall mean the spot rate of exchange for wholesale transactions quoted by the Core RT Agent (or other designated First Lien Representative) at approximately noon (Toronto time) on such date in accordance with its usual practice.

“Excluded First Lien Collateral” means leasehold interests and other contract rights encumbered by the First Lien Security Documents prior to the date of this Agreement or, in accordance with Section 2.1(c), after the date of this Agreement, which have not also been encumbered by any of the Second Lien Security Documents delivered in connection with the Second Lien Credit Agreement for which the First Lien Representatives and Second Lien Representatives agree may not be encumbered by Second Lien Security Documents due to the requirement for consent of, or agreement with, a third party in connection with the grant of any Lien thereon which has not been obtained or entered into, or which leasehold interests or other contractual rights would otherwise be breached or contravened by the grant of a Lien thereon.

“First Lien” means a Lien granted to a First Lien Representative, at any time, upon any property of any Obligor to secure First Lien Obligations.

“First Lien Agents” means, collectively, the Core RT Agent, the U.K. Security Agent and the U.K. Facility Agent.

“First Lien Cash Management Arrangements” means a Cash Management Arrangement with a First Lien Cash Management Counterparty which creates First Lien Cash Management Obligations.

“First Lien Cash Management Counterparty” means: (i) the Core RT Agent or a Core RT Lender or Affiliate of such Core RT Agent or a Core RT Lender, or a Person that was a Core RT Agent or a Core RT Lender or an Affiliate of any of them at the time of entering into the Cash Management Arrangements governing such First Lien Cash Management Obligations, which is owed First Lien Cash Management Obligations by any Obligor, and (ii) the U.K. Facility Agent or a U.K. Lender or Affiliate of such U.K. Facility Agent or a U.K. Lender, or a Person that was a U.K. Facility Agent or a U.K. Lender or an Affiliate of any of them at the time of entering into the Cash Management Arrangements governing such First Lien Cash Management Obligations, which is owed First Lien Cash Management Obligations by any Obligor.

“First Lien Cash Management Obligations” means all Cash Management Obligations owing by the Obligors to the First Lien Cash Management Counterparties (or any of them) and which are required to be secured pursuant to the terms of the applicable First Lien Credit Agreement, and wherever incurred and whether incurred by an Obligor alone or with another or others and whether as principal or surety, and includes all interest, fees, legal and other costs, charges and expenses related thereto, whether incurred before or after commencement (or which would have accrued but for the commencement) of an Insolvency or Liquidation Proceeding and whether or not allowable in an Insolvency or Liquidation Proceeding.

“First Lien Controlling Representative” has the meaning set forth in Section 2.3(a).

“First Lien Credit Agreements” means, collectively, the Core RT Credit Agreement and the U.K. Facility Agreement.

“First Lien Credit Facilities” means after the application of any mandatory repayments required to be made by the Parent from the proceeds of the Second Lien Credit Facility, (i) the revolving credit facility under the Core RT Credit Agreement, (ii) the revolving credit facility under the U.K. Facility Agreement, and (iii) from time to time, each of the credit facilities established or continued pursuant to the First Lien Credit Agreements from time to time, as the same may be decreased, increased, supplemented or replaced from time to time subject to compliance with the limitation on indebtedness covenant in the Second Lien Credit Agreement and this Agreement (except for any increase in connection with a debtor-in-possession or interim financing (or its equivalent) in accordance with Section 2.8).

“First Lien Credit Facilities Intercreditor” means the intercreditor agreement dated as of February 19, 2021 between the Core RT Agent, the U.K. Facility Agent, the U.K. Security Agent and the Obligors as amended and restated or replaced from time to time.

“First Lien Debt” means (without duplication):

Intercreditor Agreement

- (a) the amount of funded Indebtedness (including the undrawn amount of letters of credit whether or not then available to be drawn and any reimbursement obligations under any drawn letters of credit) and unfunded debt commitments under the First Lien Credit Agreements and any guarantees thereof;
- (b) the net amounts actually owing to each First Lien Cash Management Counterparty under First Lien Cash Management Arrangements and any guarantees thereof; and
- (c) the Net Termination Amount under each First Lien Hedge Agreement owing to each First Lien Hedge Counterparty and any guarantees thereof.

For purposes of this definition, any such First Lien Debt denominated in U.S. Dollars or a Foreign Currency shall be converted into the Canadian Dollar Equivalent of such First Lien Debt based on the relevant Exchange Rate in effect at the time of incurrence of such First Lien Debt.

“First Lien Documents” means the First Lien Credit Agreements, any First Lien Guarantees, any First Lien Security Documents delivered pursuant to or in connection with any of the First Lien Credit Facilities, any Cash Management Arrangements governing First Lien Cash Management Obligations, any Hedge Agreements governing First Lien Hedging Obligations, the First Lien Credit Facilities Intercreditor and each of the other “Loan Documents”, or if applicable “Finance Documents” as such terms are defined in the First Lien Credit Agreements.

“First Lien Guarantees” means any guarantee of the Parent’s or any other Obligor’s Obligations under the First Lien Credit Agreements to which such other Obligors are party in accordance with the terms of the First Lien Credit Agreements.

“First Lien Hedge Agreement” means a Hedge Agreement with a First Lien Hedge Counterparty which creates First Lien Hedging Obligations.

“First Lien Hedge Counterparty” means: (i) the Core RT Agent or a Core RT Lender or Affiliate of the Core RT Agent or a Core RT Lender, or a Person that was a Core RT Agent or a Core RT Lender or an Affiliate of any of them at the time of entering into the Hedge Agreements governing such First Lien Hedging Obligations, which is owed First Lien Hedging Obligations by any Obligor and (ii) the U.K. Facility Agent or a U.K. Lender or Affiliate of such U.K. Facility Agent or the U.K. Lender, or a Person that was a U.K. Facility Agent or a U.K. Lender or an Affiliate of any of them at the time of entering into the Hedge Agreements governing such First Lien Hedging Obligations, which is owed First Lien Hedging Obligations by any Obligor.

“First Lien Hedging Obligations” means all Hedging Obligations owing by any of the Obligors to any First Lien Hedge Counterparty and secured pursuant to the First Lien Security Documents and including all interest, fees, legal and other costs, charges and expenses related thereto, whether incurred before or after commencement (or which would have accrued but for the commencement) of an Insolvency or Liquidation Proceeding and whether or not allowable in an Insolvency or Liquidation Proceeding.

“First Lien Lender” means, as the context requires or as the context permits, a Core RT Lender or a U.K. Lender.

“First Lien Obligations” means the Obligations of the Obligors pursuant to and under the First Lien Credit Agreements, First Lien Cash Management Obligations, and First Lien Hedging Obligations, including without limitation, under or in connection with the other “Loan Documents” or, as applicable, “Finance Documents” (as defined therein), whether arising from dealings between the First Lien Agents and First Lien Lenders and the Obligors thereunder or from any other dealings or proceedings by which the First Lien Agents and First Lien Lenders may be or become in any manner whatever creditors of the Obligors under or in connection with the First Lien Credit Agreements and the other “Loan Documents” or “Finance Documents” (as defined therein), and wherever incurred and whether incurred by an Obligor thereunder alone or with another or others and whether as principal or surety, and including (i) all obligations under guarantees which guarantee, and security documents which secure, any of the foregoing obligations, and (ii) all interest, premiums, fees, legal and other costs, charges and expenses related thereto, whether incurred before or after commencement (or which would have accrued but for the commencement) of an Insolvency or Liquidation Proceeding and whether or not allowable in an Insolvency or Liquidation Proceeding.

“First Lien Payment Default” means any failure to pay any amount owing by the Obligors under the applicable First Lien Documents following any applicable cure period that has not been waived by the applicable First Lien Secured Parties in accordance with the terms thereof.

“First Lien Qualifying Refinancing” means a refinancing of the First Lien Obligations which is not restricted by the Second Lien Credit Agreement as in effect on the date hereof and where:

- (a) the proceeds of that refinancing discharge the First Lien Obligations in full;
- (b) the indebtedness created as a result of such refinancing ranks, or is expressed to rank, in relation to the Second Lien Obligations, in the same manner and to the same extent as the First Lien Obligations being refinanced; and
- (c) any agent of the providers of the refinancing becomes a party to this Agreement as a First Lien Agent.

“First Lien Refinancing Facility” means, in relation to a First Lien Qualifying Refinancing, any facility made available under the relevant First Lien Refinancing Facilities Agreement.

“First Lien Refinancing Facilities Agreement” means, in relation to a First Lien Qualifying Refinancing, any facilities agreement entered into pursuant to that First Lien Qualifying Refinancing.

“First Lien Refinancing Liabilities” means the liabilities owed by the Obligors under any documents relating to the indebtedness created by, or the terms of, a First Lien Qualifying Refinancing;

“First Lien Representative” means (a) the Core RT Agent, for and on behalf of the Core RT Lenders in connection with the Core RT Credit Agreement Obligations, and the First Lien Cash Management Obligations and First Lien Hedging Obligations arising in connection with the Core RT Credit Agreement and the other First Lien Documents entered into in connection therewith; (b) the U.K. Security Agent for and on behalf of the U.K. Lenders in connection with the U.K. Facility Agreement Obligations and the First Lien Cash Management Obligations and First Lien Hedging Obligations arising in connection with the U.K. Facility Agreement and the other First Lien Documents entered into in connection therewith.

“First Lien Secured Parties” means the holders of First Lien Obligations and each First Lien Representative.

“First Lien Security Documents” means all security agreements, pledge agreements, debentures, mortgages, control agreements, intellectual property security agreements, collateral assignments, standard securities, bond and floating charges, bond and floating charges in respect of shares, security over cash deposits or other grants or transfers for security executed and delivered by any Obligor creating (or purporting to create) a Lien upon Collateral in favour of any First Lien Representative, for the benefit of the First Lien Secured Parties (or any of them), in each case, as amended, modified, restated or replaced, in whole or in part, from time to time, in accordance with this Agreement.

“Foreign Currency” means any currency other than U.S. Dollars or Canadian Dollars.

“Frank Fair” has the meaning set forth in the Preamble.

“GAAP” means, with respect to any Person, generally accepted accounting principles from time to time approved by the Canadian Institute of Chartered Accountants or any successor body, applicable as at the date in question and applied on a consistent basis, or, if such Person has adopted International Financial Reporting Standards, “GAAP” will mean the International Financial Reporting Standards as published by the International Accounting Standards Board, or any successor accounting standards board, in each case, applicable as at the date in question.

“guarantees” means a guarantee (other than by endorsement of negotiable instruments for collection in the ordinary course of business), direct or indirect, in any manner (including by way of pledge of assets or through letters of credit and reimbursement agreements in respect thereof), of all or any part of any Indebtedness or other obligations, and, when used as a verb, shall have a corresponding meaning.

“Hedge Agreement” means any agreement creating and evidencing any Hedging Obligations between the Parent or any other Obligor and any other Person.

"Hedging Obligations" means, with respect to any Person, the Obligations of such Person under currency exchange, interest rate or commodity protection agreement, currency exchange, interest rate or commodity future agreement, currency exchange, interest rate or commodity option agreement, currency exchange, interest rate or commodity hedge agreement, currency exchange, interest rate or commodity swap agreements, currency exchange, interest rate or commodity cap agreements and currency exchange, interest rate or commodity collar agreements and other agreements or arrangements, in each case, providing for the transfer or mitigation of interest rate, currency exchange or commodity price risks either generally or under specific contingencies.

"Holdings Canada" has the meaning set forth in the Preamble.

"Indebtedness" has the meaning attributed to the term "Indebtedness" or "Debt" in any Secured Debt Document.

"Initial Obligor" has the meaning set forth in the Preamble.

"Insolvency or Liquidation Proceeding" means:

- (a) any case, proceeding or other action commenced by or against any Obligor or in respect of any Collateral or other property of any Obligor under any Debtor Relief Laws, any other case or proceeding for the reorganization, recapitalization, adjustment, or readjustment of the assets or liabilities of any Obligor, any bankruptcy, insolvency, receivership, administration, interim receivership, petition or assignment in bankruptcy, or assignment for the benefit of creditors or with respect to or relating to any Obligor or any similar case, proceeding or action relative to any Obligor, its property or its creditors, as such;
- (b) any liquidation, dissolution, adjustment, or readjustment of the assets, property or liabilities of any Obligor, or any reorganization, compromise, arrangement with creditors, plan of arrangement or other restructuring or winding up of or relating to any Obligor involving bankruptcy or insolvency, in each case whether or not voluntary, including pursuant to proceedings under the arrangement provisions of any applicable corporate law (in any case which involves the alteration, amendment, conversion, compromise, satisfaction or discharge of obligations of any or all creditors), but which, for certainty, shall exclude any dissolution, winding-up or liquidation of a solvent Obligor into another solvent Obligor permitted by each of the applicable Secured Debt Documents, each as in effect on the date hereof;
- (c) any other case or proceeding, or the initiation of any proceedings of any type or nature in which claims of creditors of any Obligor are determined and any payment or distribution is or may be made on account of such claims; or
- (d) any analogous procedure in any jurisdiction,

whether any of the foregoing is voluntary or involuntary, partial or complete, and includes any such proceedings initiated or consented to by any Obligor.

“Intercreditor Joinder” means, (a) with respect to the provisions of this Agreement relating to any Additional Second Lien Debt, an agreement substantially in the form of Exhibit B and (b) with respect to the provisions of this Agreement relating to the addition of additional Obligor, an agreement substantially in the form of Exhibit C.

“Intra-Group Liabilities” means the liabilities of any Obligor to any other Obligor pursuant to any loan, grant of credit or any other financial arrangement with similar effect.

“KMG” has the meaning set forth in the Preamble.

“Lien” means with respect to any property, any mortgage, lien (statutory or other), pledge, hypothecation, assignment, encumbrance, charge or other security interest or any preference, priority or other security of any kind or nature whatsoever in respect of such property, whether or not filed, registered or otherwise perfected under applicable law, including any conditional sale or other title retention agreement, any lease in the nature thereof and any option or other agreement to sell or give a security interest in such property.

“MC Industries” has the meaning set forth in the Preamble.

“MCI Sales” has the meaning set forth in the Preamble.

“MCII Holdings” has the meaning set forth in the Preamble.

“MCIL Holdings” has the meaning set forth in the Preamble.

“Motor Coach Int” has the meaning set forth in the Preamble.

“Motor Coach US” has the meaning set forth in the Preamble.

“Net Termination Amount” means an amount of Hedging Obligations in respect of any Hedge Agreement, after taking into account the effect of any legally enforceable netting agreement contemplated by such Hedge Agreement and any related collateral arrangements (other than the Security Documents), (a) for any date on or after the date such Hedge Agreement has been closed out or terminated and the termination value determined in accordance therewith, such termination value, and (b) for any date prior to the date reference in clause (a), the amount determined as the mark-to-market value for such Hedge Agreement, as reasonably determined by the First Lien Hedge Counterparty party thereto, and, in each case, such amount shall be regarded as principal for the purposes of this Agreement and shall be calculated by the applicable First Lien Hedge Counterparties and reported to the applicable Secured Debt Representative upon request; *provided* that if the calculation of the amount of Hedging Obligations with respect to any Hedge Agreement results in a negative number, the amount of such Hedging Obligations shall be deemed to be \$0 for purposes of this Agreement.

“New MCI” has the meaning set forth in the Preamble.

“NFI U.K.” has the meaning set forth in the Preamble.

“**NFI ULC**” has the meaning set forth in the Preamble.

“**NFI US**” has the meaning set forth in the Preamble.

“**Notice of Actionable Default**” means a written notice given to each Secured Debt Representative stating that an Actionable Default has occurred and is continuing, delivered by:

- (a) the Secured Debt Representative for the holders of First Lien Obligations that are governed by the First Lien Documents pursuant to which the Actionable Default has occurred; and
- (b) at any time after the Discharge of the First Lien Obligations or after the expiry of the Standstill Period (but subject to the proviso contained in Section 2.6(b) during which deferral period subparagraph (a) above shall apply), the Secured Debt Representative for the holders of Second Lien Obligations that are governed by the Second Lien Documents pursuant to which the Actionable Default has occurred.

“**Obligations**” means with respect to any Indebtedness of any Obligor (collectively, without duplication):

- (a) all amounts owing by such Obligor howsoever evidenced (including principal, interest (including all interest accrued thereon after the commencement of any Insolvency or Liquidation Proceeding at the rate, including any applicable post-default rate, specified in the applicable Secured Debt Documents, even if such interest is not enforceable, allowable or allowed as a claim in such proceeding), fees, reimbursement obligations, prepayment premiums, penalties, indemnities and legal and other expenses, whether due after acceleration or otherwise) to the providers or holders of such Indebtedness or to any agent, trustee or other representative of such providers or holders of such Indebtedness under or pursuant to each agreement, document or instrument evidencing, securing, guaranteeing or relating to such Indebtedness (including Secured Debt Documents applicable to such Indebtedness (if any)), in each case, direct or indirect, primary or secondary, fixed or contingent, matured or not, now or hereafter arising out of or relating to any such agreement, document or instrument; and
- (b) *the costs and expenses of collection and enforcement of the obligations referred to in clause (a) of this definition, including: (i) the costs and expenses of retaking, holding, preparing for sale or lease, selling or otherwise Disposing of or realizing on any Collateral; (ii) the costs and expenses of any exercise by any Secured Debt Representative or any Secured Party of its rights under its Secured Debt Documents, including any Enforcement Action; and (iii) reasonable and documented fees of one primary legal counsel for each Series of Secured Debt in each required jurisdiction (and any other local or specialist counsel) and court costs in connection therewith.*

“**Obligors**” means the Initial Obligors and each other Person that executes a First Lien Guarantee, a Second Lien TF Guarantee, or a guarantee of any other Series of Secured

Debt in accordance with the provisions of the Core RT Credit Agreement, the U.K. Facility Agreement, the Second Lien Credit Agreement and any other Secured Debt Document, as applicable, and their respective successors and assigns, and executes an Intercreditor Joinder pursuant to Section 2.2, in each case until each applicable First Lien Guarantee, Second Lien TF Guarantee or other guarantee, as applicable, of such Person has been released in accordance with the provisions of the First Lien Credit Agreements, the Second Lien Credit Agreement, and/or such other Secured Debt Document, as applicable, or pursuant to Section 2.4.

“Officer” means the Chairman of the Board of Directors, the Chief Executive Officer, the Chief Financial Officer, the Chief Operating Officer, any Executive Vice President, the Chief Legal Officer or General Counsel, any Senior Vice President or Vice President, the Treasurer or the Secretary of the Parent.

“Officer’s Certificate” means a certificate with respect to compliance with a condition or covenant provided for in this Agreement, signed without personal liability on behalf of the Obligors by one Officer of the Parent, who must be the Chief Executive Officer, the Chief Financial Officer, the Chief Legal Officer or General Counsel, the Chief Operating Officer of the Parent, which includes:

- (a) a statement that the Person making such certificate has read such covenant or condition;
- (b) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate are based;
- (c) a statement that he or she has made such examination or investigation as is reasonably necessary to enable him or her to express an informed opinion as to whether or not such covenant or condition has been satisfied; and
- (d) a statement as to whether or not such condition or covenant has been satisfied.

“Other Secured Documents” means (i) in respect of the First Lien Secured Parties and the First Lien Documents, the Second Lien Documents, and (ii) in respect of the Second Lien Secured Parties and the Second Lien Documents, the First Lien Documents.

“Other Secured Parties” means (i) in respect of the First Lien Secured Parties, the Second Lien Secured Parties, and (ii) in respect of the Second Lien Secured Parties, the First Lien Secured Parties.

“Parent” has the meaning set forth in the Preamble.

“Permitted Prior Lien” means any Lien that has priority over the First Liens, which Lien was expressly permitted under each applicable Secured Debt Document.

“Person” means any individual, corporation, limited liability company, unlimited liability company, partnership, limited partnership, limited liability partnership, joint venture,

association, joint stock company, trust, unincorporated organization, government or any agency or political subdivision thereof or any other entity.

“Plan” means any plan of reorganization, plan of arrangement, plan of liquidation, agreement for composition, or other type of plan proposed in or in connection with any Insolvency or Liquidation Proceeding.

“Plaxton” has the meaning set forth in the Preamble.

“Plaxton Holdings” has the meaning set forth in the Preamble.

“Pledged Collateral” has the meaning set forth in Section 2.3(a).

“PPSA” means the *Personal Property Security Act* (Ontario) and the regulations thereunder as in effect from time to time; provided, however, if attachment, perfection, opposability or priority of the Liens in any Collateral are governed by the personal property security laws of any Canadian jurisdiction other than Ontario, “PPSA” shall mean those personal property security laws (including the Civil Code of Québec and the regulations promulgated thereunder) in such other Canadian jurisdiction for the purposes of the provisions hereof relating to such attachment, perfection, opposability or priority and for the definitions related to such provisions.

“Proposal” means a proposal under any Debtor Relief Laws.

“Purchase Date” has the meaning set forth in Section 2.12(b)(i)(E).

“Purchase Event” has the meaning set forth in Section 2.12(a).

“Purchase Notice” has the meaning set forth in Section 2.12(b)(i).

“Purchase Obligations” has the meaning set forth in Section 2.12(a).

“Purchase Price” has the meaning set forth in Section 2.12(c).

“Purchase Statement” has the meaning set forth in Section 2.12(b)(ii).

“Purchasing Creditors” has the meaning set forth in Section 2.12(b).

“Recovery” has the meaning set forth in Section 3.7.

“Restricted Rights” has the meaning set forth in Section 2.6(b).

“Second Lien” means a Lien granted to a Second Lien Representative, at any time, upon any property of any Obligor to secure Second Lien Obligations.

“Second Lien Credit Agreement” has the meaning set forth in the recitals.

“Second Lien Credit Agreement Obligations” means all Obligations owing by the Obligors arising under the Second Lien Credit Agreement, each Second Lien TF

Guarantees, the Second Lien Security Documents delivered in connection with the Second Lien Credit Agreement and all other agreements, instruments and other documents governing, securing or relating thereto including any other "Loan Documents" (as defined therein), and wherever incurred and whether incurred by an Obligor thereunder alone or with another or others and whether as principal or surety, and including (i) all obligations under guarantees which guarantee, and security documents which secure, any of the foregoing obligations, and (ii) all interest, premiums, fees, legal and other costs, charges and expenses related thereto, whether incurred before or after commencement (or which would have accrued but for the commencement) of an Insolvency or Liquidation Proceeding and whether or not allowable in an Insolvency or Liquidation Proceeding.

"Second Lien Credit Facility" means the non-revolving term credit facility made available to the borrowers party to the Second Lien Credit Agreement, as the same may be supplemented, amended or replaced from time to time subject to compliance with this Agreement.

"Second Lien Debt" means (without duplication):

- (a) the amount of all Indebtedness under the Second Lien Credit Agreement and any guarantees thereof; and
- (b) the amount of additional funded Indebtedness (including the undrawn amount of letters of credit whether or not then available to be drawn and any reimbursement obligations under any drawn letters of credit) and unfunded debt commitments under any other Credit Facility and any guarantees thereof that in each case are secured equally and ratably with the Second Lien Obligations by a Second Lien that is permitted to be incurred and so secured under the terms of each applicable Secured Debt Document; *provided*, in the case of this clause (b), that:
 - (i) prior to the incurrence of such additional Indebtedness, such additional Indebtedness is designated by the Parent, in an Officer's Certificate delivered to each Secured Debt Representative, as "Second Lien Debt" for the purposes of the Secured Debt Documents;
 - (ii) all requirements set forth in Section 3.5 of this Agreement with respect to Additional Second Lien Debt have been complied with, including the execution and delivery of an Intercreditor Joinder; and
 - (iii) all requirements set forth in this Agreement as to the confirmation, grant or perfection of the applicable Secured Debt Representative's Lien to secure such additional Indebtedness are satisfied (and in connection therewith, the Parent shall deliver to each Secured Debt Representative an Officer's Certificate stating that such requirements and other provisions have been satisfied and that such debt is Second Lien Debt);

For purposes of this definition, any such Second Lien Debt denominated in U.S. Dollars or a Foreign Currency shall be converted into the Canadian Dollar Equivalent of such Second

Lien Debt based on the relevant Exchange Rate in effect at the time of incurrence of such Second Lien Debt.

"Second Lien Documents" means (i) the Second Lien Credit Agreement, each Second Lien TF Guarantee, the Second Lien Security Documents delivered pursuant to or in connection with the Second Lien Credit Agreement and all other agreements, instruments and other documents governing, securing or relating thereto including all "Loan Documents" (as defined in the Second Lien Credit Agreement), (ii) any Series of Secured Debt Intercreditor applicable to such Second Lien Obligations and (iii) the credit agreements, notes, debentures, bonds or similar instruments, guarantees, security agreements and other agreements governing, securing or relating to any Additional Second Lien Debt.

"Second Lien Enforcement Deferral" has the meaning set forth in Section 2.6(b).

"Second Lien Guarantees" means (i) guarantees entered into by the Obligors from time to time pursuant to which the Obligors guarantee the payment of all Second Lien Credit Agreement Obligations of the other Obligors or in respect of any "Loan Documents" (as defined in the Second Lien Credit Agreement) to which such other Obligors are party in accordance with the terms of the Second Lien Credit Agreement (each a **"Second Lien TF Guarantee"**), and (ii) any guarantee entered into by an Obligor pursuant to which such Obligor guarantees the payment of the Obligations of the Parent or any other Obligor under any credit agreements, notes, debentures, bonds or similar instruments, guarantees, security agreements and other agreements governing or relating to Additional Second Lien Debt.

"Second Lien Obligations" means (i) means all Second Lien Credit Agreement Obligations, and (ii) indebtedness, liabilities and other obligations of the Obligors pursuant to and under any other Credit Facilities that are incurred as additional Second Lien Debt in accordance with all Secured Debt Documents and as to which the agent or other representative thereunder becomes a Second Lien Representative in accordance with Section 3.5.

"Second Lien Representative" means (a) the 2L Term Agent, for and on behalf of the Second Lien Lenders in connection with the Second Lien Credit Agreement Obligations, and (b) in the case of any other Series of Second Lien Debt, the agent or trustee or other Person who maintains the transfer register for such Series of Second Lien Debt or is appointed as a representative of such Series of Second Lien Debt (including for purposes related to the administration of the applicable Second Lien Security Documents and holding liens granted thereunder on behalf of the Second Lien Secured Parties) pursuant to the credit agreement, indenture, debenture, instrument or other agreement governing such Series of Second Lien Debt and that executes and delivers an Intercreditor Joinder in accordance with Section 3.5(b). For purposes of this Agreement, references to the "applicable" Second Lien Representative shall be deemed to be references to the 2L Term Agent unless written notice otherwise, signed by all Second Lien Representatives at such time, is provided to all Secured Debt Representatives.

“Second Lien Secured Parties” means the holders of Second Lien Obligations and each Second Lien Representative.

“Second Lien Security Documents” means all security agreements, pledge agreements, debentures, mortgages, control agreements, debentures, intellectual property security agreements, collateral assignments, bond and floating charges, bond and floating charges in respect of shares, or other grants or transfers for security executed and delivered by any Obligor creating (or purporting to create) a Lien upon Collateral in favour of any Second Lien Representative, for the benefit of the Second Lien Secured Parties (or any of them), in each case, as amended, modified, restated or replaced, in whole or in part, from time to time, in accordance with this Agreement.

“Second Lien TF Guarantee” has the meaning set forth in the definition of **“Second Lien Guarantees”**.

“Secured Debt” means:

- (a) First Lien Debt; and
- (b) Second Lien Debt.

“Secured Debt Default” means any event or condition (with or without the giving of notice or lapse of time, or both, and whether or not notice has been given or time has elapsed) which, under the terms of any Secured Debt Document governing any Series of Secured Debt causes, or permits holders of the Secured Debt outstanding thereunder to cause, such Secured Debt outstanding thereunder to become immediately due and payable.

“Secured Debt Documents” means, collectively, the First Lien Documents and the Second Lien Documents.

“Secured Debt Obligations” means, collectively, the First Lien Obligations and the Second Lien Obligations.

“Secured Debt Representative” means any First Lien Representative, for and on behalf of the applicable First Lien Secured Parties, or any Second Lien Representative, for and on behalf of the applicable Second Lien Secured Parties.

“Secured Parties” means, collectively, the First Lien Secured Parties and the Second Lien Secured Parties.

“Security Documents” means, collectively, the First Lien Security Documents and the Second Lien Security Documents.

“Series of First Lien Debt” means, severally, (a) the Core RT Credit Facilities and (b) the U.K. Facility, and for the purposes hereof, (i) each of the First Lien Cash Management Obligations and the First Lien Hedging Obligations together with all other First Lien Hedging Obligations and First Lien Cash Management Obligations will be treated as, and deemed to be part of, the same Series of First Lien Debt as the First Lien Document under

which the applicable First Lien Cash Management Counterparties and First Lien Hedge Counterparties are lenders or Affiliates thereof.

“Series of Second Lien Debt” means, severally, (a) the Second Lien Credit Facility, and (b) each other Credit Facility constituting Second Lien Debt for which a single transfer register is maintained; and for the purposes hereof, all Credit Facilities under the same credit agreement or other debt instrument constituting Second Lien Debt will be deemed to be the same Series of Second Lien Debt.

“Series of Secured Debt” means, severally, each Series of First Lien Debt and each Series of Second Lien Debt.

“Series of Secured Debt Intercreditor” means any intercreditor agreement among holders of an equivalent Series of Secured Debt.

“STA” means the *Securities Transfer Act* (Ontario), in effective from time to time, or any similar legislation as in effect from time to time; in any applicable jurisdiction.

“Standstill Period” has the meaning set forth in Section 2.6.

“Subsidiary” means, with respect to any Person, (a) any corporation, association, or other business entity (other than a partnership, joint venture, limited liability company or similar entity) of which more than 50% of the total Voting Stock thereof is at the time of determination owned or controlled, directly or indirectly, by such Person or one or more of the other subsidiaries of that Person or a combination thereof or is consolidated under GAAP with such Person at such time and (b) any partnership, joint venture, limited liability company or similar entity of which (i) more than 50% of the capital accounts, distribution rights, total equity and voting interests or general or limited partnership interests, as applicable, are owned or controlled, directly or indirectly, by such Person or one or more of the other subsidiaries of that Person or a combination thereof whether in the form of membership, general, special or limited partnership or otherwise, and (ii) such Person or any subsidiary of such Person is a controlling general partner or otherwise controls such entity.

“Transit Holdings” has the meaning set forth in the Preamble.

“UCC” means the Uniform Commercial Code as in effect from time to time in the state of New York or any other state the laws of which are required to be applied in connection with the perfection of security interests.

“U.K. Agents” means, collectively, the U.K. Facility Agent and the U.K. Security Agent.

“U.K. Equivalent Disposal Process” means the appointment of an administrator to any Obligor including in England and Wales or Scotland under the Insolvency Act 1986, and/or the appointment of a Law of Property Act or fixed charge receiver over the shares in NFI International Limited.

“U.K. Facility” means the credit facilities made available to the applicable Obligors under the U.K. Facility Agreement.

“U.K. Facility Agent” has the meaning set forth in the Preamble.

“U.K. Facility Agreement” has the meaning set forth in the Preamble.

“U.K. Facility Agreement Obligations” means all Obligations of the Obligors to the U.K. Facility Agent and the lenders and/or bilateral ancillary lenders under or in connection with the U.K. Facility Agreement and the other “Finance Documents” (as defined therein) whether arising from dealings between the Facility Agent and lenders and/or bilateral ancillary lenders and the Obligors thereunder or from any other dealings or proceedings by which the U.K. Facility Agent and lenders and/or bilateral ancillary lenders may be or become in any manner whatever creditors of the Obligors under or in connection with the U.K. Facility Agreement and the other “Finance Documents” (as defined therein), and wherever incurred and whether incurred by an Obligor thereunder alone or with another or others and whether as principal or surety, and including (i) all obligations under guarantees which guarantee, and security documents which secure, any of the foregoing obligations, and (ii) all interest, premiums, fees, legal and other costs, charges and expenses related thereto, whether incurred before or after commencement (or which would have accrued but for the commencement) of an Insolvency or Liquidation Proceeding and whether or not allowable in an Insolvency or Liquidation Proceeding (but, for greater certainty, excluding any Obligations which otherwise constitute First Lien Hedging Obligations and First Lien Cash Management Obligations).

“U.K. Lenders” has the meaning set forth in the recitals.

“U.K. Security Agent” has the meaning set forth in the Preamble.

“U.S. Dollars” and the sign “US\$” each mean the lawful money of the United States of America.

“US Borrower” has the meaning set forth in the Preamble.

“Voting Stock” of any Person as of any date means the Capital Stock of such Person that is at the time entitled to vote in the election of the Board of Directors of such Person.

1.2 Rules of Interpretation

- (a) All terms used in this Agreement and not otherwise defined herein have the meanings assigned to them in the applicable Secured Debt Documents.
- (b) Unless otherwise indicated, (i) any reference to any agreement or instrument will be deemed to include a reference to that agreement or instrument as amended, supplemented, amended and restated, or otherwise modified and in effect from time to time or replaced in accordance with the terms of this Agreement and (ii) any reference to any statute, law, regulation or other enactment will be deemed to include a reference to that statute, law, regulation or other enactment, as applicable,

as the same is re-enacted, amended or extended from time to time and to any successor statute, law, regulation or other enactment, as the case may be.

- (c) The use in this Agreement of the word “include” or “including,” when following any general statement, term or matter, will not be construed to limit such statement, term or matter to the specific items or matters set forth immediately following such word or to similar items or matters, whether or not non-limiting language (such as “without limitation” or “but not limited to” or words of similar import) is used with reference thereto, but will be deemed to refer to all other items or matters that fall within the broadest possible scope of such general statement, term or matter. The word “will” shall be construed to have the same meaning and effect as the word “shall.” The definitions set forth herein shall apply equally to both the singular and plural forms of the terms defined.
- (d) References to “Sections,” “clauses,” “Recitals” and the “Preamble” will be to Sections, clauses, Recitals and the Preamble, respectively, of this Agreement unless otherwise specifically provided. References to “Articles” will be to Articles of this Agreement unless otherwise specifically provided. References to “Exhibits” and “Schedules” will be to Exhibits and Schedules, respectively, to this Agreement unless otherwise specifically provided.
- (e) Notwithstanding anything to the contrary in this Agreement, any references contained herein to any section, clause, paragraph, definition or other provision of the Core RT Credit Agreement, the U.K. Facility Agreement, the Second Lien Credit Agreement or other Secured Debt Documents for any Additional Second Lien Debt (including any definition contained therein) shall be deemed to be a reference to such section, clause, paragraph, definition or other provision as in effect on the date of this Agreement; *provided* that any reference to any such section, clause, paragraph, definition or other provision shall refer to such section, clause, paragraph, definition or other provision of the Core RT Credit Agreement, the U.K. Facility Agreement, the Second Lien Credit Agreement or other Secured Debt Documents for any Additional Second Lien Debt (including any definition contained therein) as amended or modified from time to time if such amendment or modification has been made in accordance with the Core RT Credit Agreement, the U.K. Facility Agreement, the Second Lien Credit Agreement or the Secured Debt Documents for any Additional Second Lien Debt, as applicable, and consistent with the terms of this Agreement.
- (f) All references herein to provisions of the PPSA or UCC shall include all successor provisions under any subsequent version or amendment to any Article of the PPSA or UCC, as applicable.
- (g) All terms used in this Agreement that are defined in Section 1(1) of the PPSA or in Article 9 of the UCC and not otherwise defined herein have the meanings assigned to them in Section 1(1) of the PPSA or Article 9 of the UCC, as applicable.

- (h) Unless otherwise expressly qualified herein, the words “asset” and “property” shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties (whether real or personal, immovable or moveable), including cash, securities, accounts and contract rights.
- (i) This Agreement will be construed without regard to the identity of the party who drafted it and as though the parties participated equally in drafting it. Consequently, each of the parties acknowledges and agrees that any rule of construction that a document is to be construed against the drafting party will not be applicable to this Agreement.

ARTICLE 2

CONSENTS TO, PRIORITY & ENFORCEMENT OF LIENS

2.1 Acknowledgement and Consents

- (a) Each of the Core RT Agent and the U.K. Security Agent acknowledges and consents to, and each additional Person that becomes a First Lien Representative under this Agreement pursuant to Section 3.5, shall be deemed to acknowledge and consent to:
 - (i) the incurrence of the Second Lien Obligations, on and subject to the terms of the Second Lien Credit Agreement and the other Second Lien Documents; and
 - (ii) the granting by the Obligors of the Second Liens,and confirms that the actions described in subclauses (i) and (ii) above are not prohibited by the First Lien Documents in respect of which it is the First Lien Agent.
- (b) The 2L Term Agent acknowledges and consents to, and each additional Person that becomes a Second Lien Representative under this Agreement pursuant to Section 3.5, shall be deemed to acknowledge and consent to:
 - (i) the incurrence of the First Lien Obligations, including the borrowings under the Core RT Credit Agreement and the U.K. Facility Agreement from time to time, on and subject to the terms of the Core RT Credit Agreement and the U.K. Facility Agreement and the other First Lien Documents; and
 - (ii) the granting by the Obligors of the First Liens,and confirms that the actions described in subclauses (i) and (ii) above are not prohibited by the Second Lien Documents.
- (c) The parties hereto agree that, except for Excluded First Lien Collateral which shall not be subject to the Second Liens, it is their intention that (x) the Collateral subject to the First Liens and the Second Liens is to be identical, (y) except as otherwise

consented to by the First Lien Representatives and the Second Lien Representatives, the First Lien Security Documents and the Second Lien Security Documents are to be, in all material respects, substantially the same (other than with respect to the first lien and second lien nature of the Obligations secured thereby), and (z) so long as the Discharge of the First Lien Obligations has not occurred:

- (i) the Obligors shall not:
 - (A) grant or permit any additional Liens on any property to secure any Second Lien Obligations without providing the First Lien Representatives with notice thereof and unless it has granted, or concurrently therewith grants, a first Lien on such property to secure the First Lien Obligations, or
 - (B) except for any Excluded First Lien Collateral, grant or permit any additional Liens on any of its property to secure any First Lien Obligations unless it has granted, or concurrently therewith grants, a second Lien on such property to secure the Second Lien Obligations,
- (ii) if a Second Lien Representative or a Second Lien Secured Party hereafter acquires a Lien on any property of an Obligor to secure the Second Lien Obligations which is not already subject to a First Lien, such property shall constitute "Collateral" for purposes hereof, and the Obligors shall promptly provide the First Lien Representatives with written notice thereof and forthwith cause such property to become subject to the First Liens,
- (iii) if a First Lien Representative or a First Lien Secured Party hereafter acquires a Lien on any property of an Obligor to secure the First Lien Obligations which is not already subject to a Second Lien and is not Excluded First Lien Collateral, the Obligors shall promptly provide the Second Lien Representatives with written notice thereof and offer to cause such property to become subject to the Second Liens and if such property becomes subject to the Second Liens then such property shall constitute "Collateral" for purposes hereof,

with each such Lien and any Collateral relating thereto or proceeds thereof to be subject to the provisions of this Agreement. Notwithstanding the foregoing, each Secured Debt Representative acknowledges and agrees that the Obligor may grant a Lien over (1) funds deposited for the satisfaction, discharge, redemption or defeasance of First Lien Debt made in compliance with the Secured Debt Documents and this Agreement, (2) cash collateral deposited with any First Lien Representative in accordance with the terms of the applicable First Lien Documents, and (3) cash collateral deposited with any First Lien Representative or First Lien Secured Party in respect of any First Lien Hedging Obligations or First Lien Cash Management Obligations in accordance with the terms of the applicable

First Lien Documents, without compliance with the requirements of clause (c) above.

2.2 Additional Obligors

- (a) In accordance with the requirements of the Second Lien Credit Agreement, the Parent shall cause each of its Subsidiaries that is a borrower or Obligor under the Core RT Credit Facilities, the U.K. Credit Facilities to become a guarantor of the Second Lien Obligations and remain a guarantor unless its Second Lien Guarantee is released in accordance with the First Lien Documents, the Second Lien Documents and this Agreement. The First Lien Guarantees, the Second Lien TF Guarantees and the guarantees of any other Series of Secured Debt shall be, in all material respects, substantially the same, except as otherwise consented to by the First Lien Representatives and the Second Lien Representatives.
- (b) The Parent shall cause each of its Subsidiaries which guarantees First Lien Obligations to grant (i) First Liens on their property in favour of the First Lien Representatives for the benefit of the First Lien Secured Parties and (ii) Second Liens on their property (other than Excluded First Lien Collateral) in favour of each Second Lien Representative for the benefit of its Second Lien Secured Parties.
- (c) The Parent represents and warrants that each Person who is an Obligor on the date hereof has duly executed this Agreement. The Parent will cause each Person that is hereafter required to become an Obligor pursuant to Section 2.2(a) to become a party to this Agreement, for all purposes of this Agreement, by causing such Person to execute and deliver to each party hereto an Intercreditor Joinder, whereupon such Person will be bound by the terms hereof to the same extent as if it had executed and delivered this Agreement as of the date hereof, and without any action on the part of any Secured Debt Representative or any other Secured Party. The Parent shall promptly provide each Secured Debt Representative with a copy of each Intercreditor Joinder executed and delivered pursuant to this Section 2.2(c); provided, however, that the failure to so deliver a copy of the Intercreditor Joinder to any then-existing Secured Debt Representative shall not affect the inclusion of such Person as an Obligor if the other requirements of this Section 2.2(c) are complied with.

2.3 Pledged Collateral

- (a) If any First Lien Representative has any Collateral in its possession or control (such Collateral being the “**Pledged Collateral**” and such First Lien Representative being the “**First Lien Controlling Representative**”) then, subject to this Section, such First Lien Controlling Representative will possess or control the Pledged Collateral as gratuitous bailee and/or gratuitous agent for perfection for the benefit of each other First Lien Representative and for the Second Lien Representatives as secured parties. In this Section 2.3, “control” has the meaning as defined in the STA.

- (b) The First Lien Controlling Representative will have no obligation to any First Lien Secured Party (other than Secured Parties under the Series of First Lien Debt it represents) or any Second Lien Secured Party or any other Secured Party to ensure that any Pledged Collateral is genuine or owned by any of the Obligor or to protect or preserve rights or benefits of any Person or any rights pertaining to the Pledged Collateral except as expressly set forth in this Section 2.3. The duties or responsibilities of the First Lien Controlling Representative under this Section 2.3 will be mechanical and administrative in nature and limited solely to possessing or controlling the Pledged Collateral as gratuitous bailee and/or gratuitous agent for perfection in accordance with this Section 2.3 and delivering the Pledged Collateral upon a Discharge of the First Lien Obligations as provided in Section 2.3(d). For greater certainty, nothing in this Section 2.3 shall be construed to impose any duty on the First Lien Controlling Representative with respect to the Pledged Collateral or provide and Secured Party or any other Person with any rights or claims against the First Lien Controlling Representative or with respect to the Pledged Collateral beyond those specified in this Section 2.3.
- (c) Each First Lien Representative (other than the First Lien Controlling Representative) and each Second Lien Representative, for itself and on behalf of the Secured Parties it represents, hereby waives and releases the First Lien Controlling Representative from all present and future claims and liabilities, whether known or unknown, arising out of the First Lien Controlling Representative's role under this Section 2.3 as gratuitous bailee and/or gratuitous agent with respect to the Pledged Collateral, except as to matters expressly set forth in this Section 2.3.
- (d) Upon the Discharge of the First Lien Obligations, the First Lien Controlling Representative shall deliver or transfer control of any remaining Pledged Collateral then in its possession or control, together with any necessary endorsements (which endorsements will be without recourse and without any representation or warranty), to the applicable Second Lien Representatives for application to the extent of the Second Lien Obligations, and will take any other action reasonably requested by such Second Lien Representatives (at the expense of the Parent) in connection with such Second Lien Representatives obtaining a first-priority Lien in the Pledged Collateral. Pending such delivery or transfer to such Second Lien Representatives, and subject to this Section, the First Lien Controlling Representative will possess or control the Pledged Collateral as gratuitous bailee and/or gratuitous agent for perfection for the benefit of such Second Lien Representatives as secured parties.
- (e) It is understood and agreed that this Section 2.3 is intended solely to assure perfection by control of the Pledged Collateral for the benefit of the First Lien Representatives and the Second Lien Representatives as secured parties, and nothing in this Section 2.3 shall be deemed or construed as altering the priorities or obligations set forth elsewhere in this Agreement.

2.4 Release of Collateral or Guarantee

- (a) If each First Lien Secured Party releases its respective First Lien on Collateral or releases an Obligor from its respective First Lien Guarantee or any other claims to Collateral disposed of in connection with (i) one or more transactions approved by a court of competent jurisdiction (or in the case of Collateral situated in (A) the United Kingdom, a U.K. Equivalent Disposal Process, and (B) a jurisdiction other than Canada, and as applicable, a similarly empowered tribunal or authority in such jurisdiction) pursuant to an Enforcement Action or an Insolvency or Liquidation Proceeding, or (ii) a Disposition of Collateral (or, in the case of an Obligor, Disposition of Capital Stock of such Obligor such that it is no longer a Subsidiary of the Parent or a Disposition of all or substantially all of its assets) that is permitted by the Second Lien Documents, then (x) to the extent required by the terms of the disposition or otherwise by the relevant First Lien Secured Party all Intra-Group Liabilities, and (y) such Second Liens in favour of all Second Lien Representatives and all Second Lien Secured Parties or the corresponding Second Lien Guarantees or other claims to Collateral disposed of, as applicable, shall automatically, unconditionally and simultaneously be released to the same extent, subject in the case of subsection (y) to the Second Lien Representatives and the Second Lien Secured Parties continuing to have a Lien on the proceeds of Disposition of such Collateral subject to the priorities set out in this Agreement.
- (b) In order to give effect to, and to the extent contemplated by, subsection (a) above upon the reasonable request of any of the First Lien Secured Parties at any time and from time to time, each of the Second Lien Secured Parties will promptly execute, acknowledge and deliver such documents and take such other actions as may be reasonably required or that such First Lien Secured Parties may reasonably request.

2.5 Priority of Liens

- (a) Notwithstanding anything else contained herein or in any other Security Document, it is the intent of the parties that the First Liens securing the First Lien Obligations shall rank senior and in priority to the Second Liens securing the Second Lien Obligations.
- (b) The parties agree that, after the date hereof and prior to the Discharge of the First Lien Obligations, in no event will any Second Lien Representative or any Second Lien Secured Party have a Lien on any Collateral that is not subject and subordinate to the First Liens in accordance with the terms of this Agreement.

2.6 Standstill

- (a) Subject to Sections 2.6(b) and 2.6(c) and 2.6(d), each First Lien Representative shall have the exclusive right, in its sole discretion but subject at all times to the First Lien Credit Facilities Intercreditor, to direct, exercise, manage and perform any Enforcement Action, institute or commence any Insolvency or Liquidation Proceeding, or take action to enforce any First Lien upon or Dispose of any

Collateral or collect or receive payment of any First Lien Obligations, whether as a secured or unsecured creditor.

- (b) Prior to the Discharge of the First Lien Obligations, no Second Lien Secured Party shall (nor shall it instruct its Second Lien Representative to), and each Second Lien Representative on behalf of the applicable Second Lien Secured Parties, agrees that it shall not (the following detailed in Sections 2.6(b)(i) to 2.6(b)(iii), inclusive, are collectively referred to herein as the “**Restricted Rights**”):
 - (i) institute or commence any Enforcement Action;
 - (ii) institute or commence any Insolvency or Liquidation Proceedings; or
 - (iii) institute or commence any action or proceeding to enforce any Second Lien upon or Dispose of any Collateral or collect or receive payment of any Second Lien Obligations, whether as a secured or unsecured creditor,

until the expiry of a period (the “**Standstill Period**”) of 150 days from and after the receipt by each First Lien Representative of written notice from such Second Lien Representative (in accordance with the notice provisions hereof and referring to this Agreement and this Section) of the occurrence of a Secured Debt Default under its relevant Series of Second Lien Debt, that repayment of all of the Second Lien Obligations under such Series of Second Lien Debt has been accelerated and that the Second Lien Secured Parties of such Series of Second Lien Debt are seeking to enforce, exercise, institute or commence (as the case may be) Restricted Rights; *provided that*, such Standstill Period shall be reset if the Secured Debt Default under the relevant Series of Second Lien Debt in respect of which notice was provided by such Second Lien Representative has been irrevocably waived by the applicable Second Lien Secured Parties. Notwithstanding anything herein to the contrary, in no event shall any Second Lien Representative or Second Lien Secured Party be entitled to enforce or exercise any Restricted Rights against the Obligors or with respect to the Collateral if, notwithstanding the expiration of the Standstill Period or any prior exercise of Restricted Rights by any Second Lien Secured Party: (A) a First Lien Representative shall have commenced and be diligently pursuing the exercise of its rights or remedies with respect to all, substantially all or any material portion of the Collateral (or is diligently attempting to vacate any stay or prohibition against such exercise); or (B) the First Lien Representatives are stayed or otherwise precluded from pursuing such rights or remedies pursuant to applicable laws or Insolvency or Liquidation Proceedings (including pursuant to any order made in connection therewith) (each of (A) and (B) referred to as a “**Second Lien Enforcement Deferral**”); *provided that* the Standstill Period shall be extended day-for-day for any period that the First Lien Representatives are stayed or otherwise precluded from exercising such rights or remedies with respect to the Collateral. For the avoidance of doubt, upon the expiry of the Standstill Period (*provided that* a Second Lien Enforcement Deferral is not then continuing), the requisite percentage of Second Lien Secured Parties may instruct their respective Second Lien Representatives to exercise any Restricted Rights, provided that all proceeds

of Collateral or payments, dividends or distributions in Insolvency or Liquidation Proceedings in respect of Secured Obligations arising from the exercise of any such Restricted Rights shall be applied in accordance with Section 3.3.

- (c) Where there are multiple Series of Second Lien Debt outstanding, the Second Lien Representative of the Series of Second Lien Debt that constitutes the largest outstanding principal amount of any then outstanding Series of Second Lien Debt shall control the exercise of any Restricted Rights which the Second Lien Secured Parties are permitted to exercise under this Section 2.6.
- (d) Notwithstanding Section 2.6(a), (b) and (c), the Second Lien Secured Parties may (and may instruct their respective Second Lien Representatives to) at any time:
 - (i) after the Discharge of the First Lien Obligations, exercise all rights under the Second Lien Documents, including the Restricted Rights;
 - (ii) make a demand for payment or accelerate the Second Lien Obligations in accordance with the Second Lien Documents;
 - (iii) file any proof of claim with respect to the Second Lien Obligations in an Insolvency or Liquidation Proceeding; *provided* that such proof of claim shall not include a claim to priority in respect of the Collateral that is equal to or in priority to the First Lien Obligations or the First Liens; and provided further that this subclause (iii) shall not be construed so as to permit any Second Lien Representative or any Second Lien Secured Party the right to institute or commence any Insolvency or Liquidation Proceeding in contravention of Section 2.6(b);
 - (iv) take any action in order to create, perfect, preserve or protect (but not enforce) the Second Liens against the Collateral or establish the priority (subject to the priority of the First Liens) of the Second Liens upon any Collateral, except through possession or control;
 - (v) file any necessary responsive or defensive pleadings in opposition to any motion, claim, adversary proceeding or other pleading made by any Person objecting to or otherwise seeking the disallowance of the claims of any Second Lien Secured Party, including any claims secured by the Collateral, if any, or assert a compulsory cross claim or counterclaim against any Obligor;
 - (vi) “credit bid” in connection with any Disposition of the Collateral so long as the cash proceeds of such bid are otherwise sufficient to cause the occurrence of the Discharge of the First Lien Obligations no later than the closing of such Disposition or otherwise satisfactory to the First Lien Representatives (acting on the instructions of the applicable First Lien Secured Parties in accordance with their respective First Lien Documents);

- (vii) without derogation or adverse inference to their interests as Second Lien Secured Parties, file any pleadings, objections, motions or agreements which assert rights or interests that are available to unsecured creditors of the Obligors arising under any insolvency law or other applicable law, so long as (A) no Restricted Rights are commenced or exercised (save and except that, in the case of the initiation of a proceeding to collect Second Lien Obligations on an unsecured basis or the filing of any objection, motion or agreement in respect of the Second Lien Secured Parties' rights solely on an unsecured basis, the Second Lien Secured Parties may (or may instruct their respective Second Lien Representatives to), in each case, file any pleadings, objections, motions or agreements to the extent (but only to the extent) necessary to establish the extent of a claim or prove to a claim) and (B) no Enforcement Action or any other action or proceeding for enforcement, realization, foreclosure, collection, seizure, garnishment or execution (in any case in respect of the Collateral and, for certainty, whether as a secured or an unsecured creditor) is instituted or commenced;
- (viii) exercise any of their rights or remedies with respect to the Collateral (including the Restricted Rights) after the termination of the Standstill Period (*provided* that a Second Lien Enforcement Deferral is not then continuing) but only to the extent permitted by Section 2.6(b);
- (ix) vote on any Proposal or Plan in a manner consistent with and to the extent not prohibited by the terms of this Agreement, with respect to the Second Lien Obligations and the Collateral;
- (x) take any action to the extent necessary to prevent the running of any applicable statute of limitation or similar restriction on claims;
- (xi) receive any payment or distribution under or pursuant to a plan of reorganization, plan of arrangement or similar dispositive restructuring plan which has been confirmed pursuant to a final, non-appealable order of a court of competent jurisdiction in any Insolvency or Liquidation Proceeding; but, in any case, such payments and distributions shall remain subject to the terms of this Agreement (including, as applicable, the payment waterfall provided for under Section 3.3); and
- (xii) receive the required payments of principal, premium, make-whole amounts, interest, fees and other amounts due under the Second Lien Documents, so long as such receipt is not the result of the enforcement or exercise by any Second Lien Representative or any Second Lien Secured Party of rights or remedies as a secured or unsecured creditor (including any right of set-off or enforcement of any judgement lien resulting from the exercise of remedies available to an unsecured creditor) or in contravention of the terms of this Agreement (including the payment restriction provided for in Section 3.2),

in each case, to the extent, but only to the extent, exercised in a manner that does not violate any other provision of this Agreement and that is consistent with the Lien priorities and other provisions set forth in this Agreement.

2.7 Certain Agreements

- (a) Prior to the Discharge of the First Lien Obligations, the Second Lien Secured Parties and the Second Lien Representatives shall not assert or enforce any right of marshalling accorded to a junior lienholder, as against the First Lien Secured Parties (in their capacity as priority lienholders), under equitable principles.
- (b) The First Lien Representatives may enforce (or waive or refrain from enforcing) the provisions of the First Lien Documents and exercise (or waive or refrain from exercising) remedies thereunder or any such rights and remedies, all in such order and in such manner as they may determine in the exercise of their sole and exclusive discretion, including:
 - (i) the exercise, waiver or forbearance from exercise of all rights and remedies in respect of the Collateral and/or the First Lien Obligations;
 - (ii) the enforcement or forbearance from enforcement of any Lien in respect of the Collateral;
 - (iii) the exercise or forbearance from exercise of rights and powers of a holder of shares of Capital Stock included in the Collateral to the extent provided in the First Lien Security Documents;
 - (iv) the acceptance of the Collateral in full or partial satisfaction of the First Lien Obligations; and
 - (v) the exercise or forbearance from exercise of all rights and remedies of a secured lender under the PPSA, UCC or any similar law of any applicable jurisdiction or in equity.
- (c) Neither the First Lien Secured Parties nor the Second Lien Secured Parties shall accelerate or otherwise act upon a Secured Debt Default arising solely under a Cross Default Provision in the First Lien Documents or the Second Lien Documents, respectively, if the Secured Debt Default under the Other Secured Documents has been waived by the Other Secured Parties. For certainty, this provision shall not apply to a Secured Debt Default which is waived by the Other Secured Parties following acceleration or any other action having been taken by the First Lien Secured Parties or the Second Lien Secured Parties, as applicable, as a result of the occurrence of a Secured Debt Default under a Cross Default Provision.
- (d) Without limitation to the other covenants of the Obligors in the First Lien Documents, no voluntary prepayments are permitted to be made by the Obligors or received by any Second Lien Secured Party pursuant to a Second Lien Document prior to the Discharge of the First Lien Obligations and any amounts received by a

Second Lien Secured Party on account of such prepayments shall be held and paid over in accordance with Section 3.3(e) of this Agreement.

2.8 Special Rights in Insolvency or Liquidation Proceedings

- (a) If in any Insolvency or Liquidation Proceeding, prior to the Discharge of the First Lien Obligations, the First Lien Secured Parties consent to any order:
 - (i) for use of cash collateral (or its equivalent);
 - (ii) approving a debtor-in-possession or interim financing (or its equivalent) provided by one or more First Lien Secured Parties secured by a Lien that ranks senior to or on parity with all First Liens upon any property of the Obligor or estate in such Insolvency or Liquidation Proceeding and that satisfies the DIP Financing Criteria;
 - (iii) in respect of any of the Obligors, granting any relief on account of the First Lien Obligations as adequate protection (or its equivalent in any other jurisdiction) for the benefit of the First Lien Secured Parties in the Collateral; or
 - (iv) relating to a sale of assets of the Parent or any other Obligor (including for certainty a reverse vesting order) that provides, to the extent the assets sold are to be free and clear of Liens, that all First Liens and Second Liens will attach to the proceeds of the sale;

then, the Second Lien Secured Parties, in their capacity as holders of Second Lien Debt (irrespective of whether claims in respect thereof are secured or unsecured) will not object, oppose, or otherwise contest the entry of such order, so long as: (i) each of the Second Lien Representatives, for the benefit of its applicable Second Lien Secured Parties, is granted a junior Lien upon any property on which a Lien is (or is to be) granted under such order to secure the First Lien Obligations, co-extensive in all respects with, but subordinated (as set forth in Sections 2.5, 2.6 and 2.7) to, such Lien and all First Liens on such property; and (ii) such order contains customary protections for the Second Lien Secured Parties based on comparable orders granted in such circumstances in the relevant Insolvency or Liquidation Proceeding.

- (b) In any Insolvency or Liquidation Proceedings, the Second Lien Secured Parties shall not:
 - (i) propose, approve or support any Plan that either: (A) is not proposed, approved or supported by the First Lien Secured Parties; or (B) does not contemplate and provide for the payment in full in cash of all First Lien Obligations upon the effective date of such Plan; or
 - (ii) propose, agree to provide or support any debtor-in-possession or interim financing (or its equivalent) in favour of one or more of the Obligors which

is secured by a charge or other Lien that ranks senior in priority to or equally and ratably with the First Liens,

unless, in each case, previously approved in writing by the First Lien Representatives on behalf of the First Lien Secured Parties.

- (c) If, in any Insolvency or Liquidation Proceeding of the Parent or any other Obligor, debt obligations of the reorganized debtor (whether or not secured by Liens on any property of the reorganized debtor) are distributed pursuant to a Plan or other similar dispositive restructuring plan both on account of First Lien Obligations and on account of Second Lien Obligations, then, to the extent that the debt obligations distributed on account of the First Lien Obligations and on account of the Second Lien Obligations are secured by Liens on the same property, the provisions hereof (including this Article 2) will survive the distribution of those debt obligations pursuant to a Plan or other similar dispositive restructuring plan and will apply with like effect to the Liens securing those debt obligations.
- (d) Notwithstanding anything to the contrary herein, in any Insolvency or Liquidation Proceedings:
 - (i) if the First Lien Secured Parties shall, after being provided with reasonable time and opportunity, fail to make a binding offer to provide debtor-in-possession or interim financing (or its equivalent) in favour of one or more of the Obligors that satisfies the DIP Financing Criteria, the Second Lien Secured Parties shall be entitled to propose, agree to provide or support any debtor-in-possession or interim financing (or its equivalent) in favour of one or more of the Obligors which is secured by a charge or other Lien that ranks junior and subordinate to the First Liens and satisfies the DIP Financing Criteria;
 - (ii) the Second Lien Secured Parties may object, oppose or otherwise contest the entry of an order seeking the approval of a proposed sale or investment solicitation process in respect of the business and assets of the applicable Obligors solely in respect of the terms of such proposed process;
 - (iii) the Second Lien Secured Parties may object, oppose or otherwise contest the entry of an order seeking approval of a sale of assets of any Obligors (including for certainty a reverse vesting order) which is supported by the First Lien Secured Parties, provided such objection, opposition or contestation is solely in support of a request by the Second Lien Secured Parties for an order approving an alternate sale of assets of an Obligor which (a) at the time of the sale approval hearing is the subject of a binding offer that is irrevocable for the time period required by the sale and investment solicitation process and otherwise compliant with the requirements of the sale and investment solicitation process, and (b) is on terms that are no less beneficial to the applicable Obligors and their respective stakeholders and will result in recovery to the First Lien Secured Parties that is equal to or

better than in all respects the sale of assets supported by the First Lien Secured Parties.

2.9 Collateral Shared Equally and Ratably within Series

The parties agree that, except as expressly set out in the Secured Debt Documents of a Series of Secured Debt solely with respect to the relative priorities within such Series of Secured Debt, the payment and satisfaction of all of the Secured Debt Obligations within each Series of Secured Debt will be secured equally and ratably by the Liens established in favour of the applicable Secured Debt Representative for the benefit of the Secured Parties holding such Series of Secured Debt, all in accordance with the applicable Secured Debt Documents. It is understood and agreed that nothing in this Section 2.9 is intended to alter the priorities among Secured Parties that do not hold the same Series of Secured Debt as provided in Section 2.5.

2.10 Insurance and Expropriation Proceeds; Settlement of Claims; Certain Rights

- (a) At any time after a Notice of Actionable Default has been delivered to a Secured Debt Representative, any insurance proceeds, or compensatory amounts to which an Obligor would otherwise be entitled in respect of expropriation, or other forced Disposition to any expropriating authority under threat of expropriation, shall be dealt with according to the provisions hereof as though such insurance proceeds or compensatory amounts were paid or payable as proceeds of Disposition of the Collateral for which they compensate.
- (b) So long as the Discharge of the First Lien Obligations has not occurred, the First Lien Representatives shall have the sole and exclusive right, subject to the rights of the Obligors under the First Lien Documents, to settle and adjust claims in respect of Collateral under policies of insurance (including title insurance) covering Collateral and to approve any award granted in any expropriation or similar proceeding, or any deed in lieu of condemnation, in respect of the Collateral. All proceeds of any such policy and any such award, or any payments with respect to a deed in lieu of condemnation, shall be applied in accordance with Section 3.3. Until the Discharge of the First Lien Obligations has occurred, if any Second Lien Secured Party shall, at any time, receive any proceeds of any such insurance policy or any such award or payment, it shall transfer and pay over such proceeds to the applicable First Lien Representative to be applied in accordance with Section 3.3.
- (c) The First Lien Secured Parties shall have the sole and exclusive right to do any of the following (i) prior to the commencement of, during and until the expiry of the Standstill Period or (ii) upon the occurrence and during the continuance of a Second Lien Enforcement Deferral:
 - (A) cause their respective First Lien Representative to notify account debtors of any Obligor to make payments to such First Lien Representative and exercise other similar rights with respect to accounts and intangibles (each as defined in the PPSA or other

applicable legislation), including as set forth in the First Lien Documents;

- (B) cause their respective First Lien Representative to receive dividends and distributions with respect to any Collateral;
- (C) cause their respective First Lien Representative to exercise any registration rights and similar rights with respect to any securities, instruments or other Collateral; and
- (D) cause their respective First Lien Representative to hold any instruments, certificates, chattel paper or other forms of Collateral where perfection may be achieved or maintained by physical possession.

2.11 No Challenge or Hindrance; Actions to be Consistent with this Agreement

- (a) No Second Lien Secured Party shall (nor shall it instruct its applicable Second Lien Representative to), in any manner, whether before, during or after an Insolvency or Liquidation Proceeding, until the Discharge of the First Lien Obligations:
 - (i) challenge, contest or bring into question the validity, priority, perfection or enforceability of any of the First Liens nor the validity or enforceability of any of the First Lien Obligations (including any claim filed in respect thereof) nor cause or assist any other Person to take any such action;
 - (ii) take any action that would (A) limit, invalidate, avoid or set aside any First Lien, First Lien Document or any provisions of any First Lien Document or (B) subordinate the priority of any First Lien to the Second Lien or grant any Second Lien ranking equally with any First Lien;
 - (iii) request judicial relief, in an Insolvency or Liquidation Proceeding or in any other proceeding, that would hinder, delay, limit or prohibit the lawful exercise or enforcement of any right or remedy otherwise available to the holders of First Lien Obligations under the First Lien Documents or otherwise in respect of the First Liens;
 - (iv) oppose or otherwise contest any motion for relief from the automatic stay or from any other stay or injunction in Insolvency or Liquidation Proceedings or otherwise made by any holder of First Lien Obligations in any Insolvency or Liquidation Proceedings, provided that if any holder of First Lien Obligations seeks such relief from the automatic stay or from any other stay or injunction, then the Second Lien Secured Parties shall be entitled to request equivalent relief (but for certainty, the Second Lien Secured Parties shall remain subject to the standstill and other provisions of this Agreement notwithstanding such relief);

- (v) oppose or otherwise contest any lawful exercise by any holder of First Lien Obligations of the right to credit bid First Lien Obligations at any sale of Collateral (including in a reverse vesting transaction) in foreclosure or Insolvency or Liquidation Proceedings in accordance with this Agreement; or
 - (vi) oppose or otherwise contest any other request for judicial relief made in any court by any holder of First Lien Obligations relating to the lawful enforcement of any First Lien or exercise of any other right or remedy available to a holder of First Lien Obligations.
- (b) no First Lien Secured Party shall (nor shall it instruct its applicable First Lien Representative to), in any manner whether before, during or after an Insolvency or Liquidation Proceeding,:
 - (i) challenge, contest or bring into question the validity, priority, perfection or enforceability of any of the Second Liens nor the validity or enforceability of any of the Second Lien Obligations (including any claim filed in respect thereof) nor cause or assist any other Person to take any such action;
 - (ii) take any action that would limit, invalidate, avoid or set aside any Second Liens, Second Lien Document or any provisions of any Second Lien Document; or
 - (iii) oppose or otherwise contest any lawful exercise by any holder of Second Lien Obligations of the right to credit bid Second Lien Debt at any sale of Collateral (including in a reverse vesting transaction) in foreclosure or Insolvency or Liquidation Proceedings in accordance with the provisions of 2.6(d)(vi).
- (c) Notwithstanding Sections 2.11(a) and 2.11(b), no Secured Party shall be restricted from enforcing its rights, protections and benefits afforded to it under this Agreement. Each Secured Party covenants that it shall act in a manner consistent with and so as to give effect to the terms and conditions of this Agreement, including with respect to the filing of any proof of claim in any Insolvency or Liquidation Proceedings applicable to any of the Obligor.

2.12 Purchase of First Lien Obligations by Second Lien Secured Parties

(a) Purchase Right

If:

- (i) the First Lien Obligations have been accelerated in accordance with the related First Lien Debt Documents; or
- (ii) an Insolvency or Liquidation Proceeding occurs and is continuing in respect of any Obligor;

(each a “**Purchase Event**”), then Second Lien Secured Parties may purchase all, but not less than all, of the First Lien Obligations (the “**Purchase Obligations**”). Such purchase will:

- (A) include all principal of, and all accrued and unpaid interest, fees and expenses in respect of, all First Lien Obligations outstanding at the time of purchase (including, in the case of First Lien Hedging Obligations and First Lien Cash Management Obligations, the amount that would be payable by the applicable Obligor if such Obligor were to terminate the related First Lien Hedge Agreement or First Lien Cash Management Arrangements on the date of such purchase (as calculated by the applicable First Lien Hedge Counterparty or First Lien Cash Management Counterparty, as applicable, using its customary methods)), and such other amounts, if any, included in the Purchase Price therefor in accordance with Section 2.12(c);
- (B) be made pursuant to one or more assignment agreements (the “**Assignment Agreements**”), each in form and substance reasonably satisfactory to, and prepared by counsel for, the First Lien Secured Parties (as applicable for purposes of the First Lien Documents) and at the cost of the Purchasing Creditors (including all legal costs for such counsel on a full indemnity basis), whereby the (i) First Lien Representatives will assign all right, title and interest of the First Lien Representative and the First Lien Secured Parties under the First Lien Documents (including all of the First Lien Security Documents and any related consents, acknowledgements and third party agreements) to the Second Lien Representatives representing the Purchasing Creditors without recourse, representation or warranty of any kind except as provided for under Section 2.12(f)(ii), it being acknowledged, for greater certainty, that following such assignment, the applicable First Lien Representatives shall no longer act as agent or representative under the First Lien Documents, and (ii) the Second Lien Secured Parties will assume all Obligations of First Lien Secured Parties under the First Lien Documents (except in respect of the period prior to such assignment); and
- (C) otherwise be subject to the terms and conditions of this Section 2.12(a).

Each First Lien Secured Party will retain all rights to indemnification provided in the relevant First Lien Documents for all claims and other amounts relating to periods prior to the purchase of First Lien Obligations pursuant to this Section 2.12.

Where there are multiple Series of Second Lien Debt outstanding at the time of any proposed purchase, and the Second Lien Secured Parties of more than one Series

of Second Lien Debt wish to exercise their right to purchase the First Lien Obligations, then each such Second Lien Secured Party wishing to participate in such purchase shall have the right to purchase the First Lien Obligations on a pro rata basis having regard to the principal amount of the outstanding Second Lien Debt held by such Second Lien Secured Party. In such event, the Second Lien Secured Parties wishing to participate in such purchase agree to coordinate as between themselves and with each Secured Debt Representative representing the applicable Series of Second Lien Debt, acting reasonably, for the appointment of a joint representative, the provision a single Purchase Notice pursuant to Section 2.12(b), and such other matters as may be required in all respects to give effect to the exercise and completion of the purchase right provided for in this Section 2.12.

(b) **Purchase Notice**

- (i) Second Lien Secured Parties desiring to purchase all of the Purchase Obligations (the “**Purchasing Creditors**”) will deliver an irrevocable purchase notice (the “**Purchase Notice**”) to all First Lien Representatives that:
 - (A) is signed by the Purchasing Creditors;
 - (B) states that it is a Purchase Notice under this Section 2.12(b);
 - (C) states that each Purchasing Creditor is irrevocably electing to purchase, in accordance with this Section 2.12(b), the percentage of all of the Purchase Obligations stated in the Purchase Notice for that Purchasing Creditor, which percentages for all Purchasing Creditors, taken together, must aggregate exactly 100% of all of the Purchase Obligations;
 - (D) represents and warrants that the Purchase Notice is consistent with the Second Lien Documents and any other binding agreement among Second Lien Secured Parties; and
 - (E) designates a purchase date (the “**Purchase Date**”) on which the purchase will occur that is at least five but not more than fifteen Business Days after the First Lien Representatives’ receipt of the Purchase Notice.

The Purchase Notice must be received by the First Lien Representatives at any time following the occurrence of, and during the continuance of, a Purchase Event. If the Purchasing Creditors so deliver the Purchase Notice, the First Lien Representatives shall terminate any existing Enforcement Actions and shall not take any further Enforcement Actions, *provided* that such purchase is consummated on the date specified in the Purchase Notice in accordance with this Section 2.12.

- (ii) Upon the First Lien Representatives' receipt of an effective Purchase Notice conforming to Section 2.12(b)(i), the Purchasing Creditors will be irrevocably obligated to purchase, and the First Lien Secured Parties will be irrevocably obligated to sell, the First Lien Obligations in accordance with and subject to this Section 2.12.

Prior to the delivery of a Purchase Notice, First Lien Representative shall provide, on request of the Second Lien Representative, a notice (the "**Purchase Statement**") which sets forth in reasonable detail calculations of the Purchase Price for the First Lien Obligations in respect of which it acts as First Lien Representative, as at the Purchase Date.

(c) **Purchase Price**

The purchase price with respect to the First Lien Obligations to be purchased (in each case the "**Purchase Price**") will equal:

- (i) the principal amount of all loans, advances, or similar extensions of credit included in such First Lien Obligations to be purchased (including unreimbursed amounts drawn on letters of credit, but excluding the undrawn amount of outstanding letters of credit), *plus*
- (ii) the Net Termination Amount owing to the First Lien Hedge Counterparties as a result of the termination (or early termination) of First Lien Hedge Agreements (as calculated by each applicable First Lien Hedge Counterparty), *plus*
- (iii) the net aggregate amount then owing to the First Lien Cash Management Counterparties, including all amounts owing to the creditors thereof as a result of the termination (or early termination) thereof, *plus*
- (iv) all accrued and unpaid interest thereon through the Purchase Date, and all accrued and unpaid fees, obligations outstanding under indemnities, expenses and all other First Lien Obligations owed to the First Lien Secured Parties under the First Lien Documents on such Purchase Date.

As soon as practicable after receipt of a request for same, each First Lien Representative will provide to the Purchasing Creditors a Purchase Statement for the First Lien Obligations in respect of which it acts as First Lien Representative, *provided* that the First Lien Representative shall not be liable to provide any information therein that it cannot reasonably obtain upon due inquiry and reasonable effort.

(d) **Purchase Closing**

On the Purchase Date,

- (i) the Purchasing Creditors and First Lien Representatives will execute and deliver the Assignment Agreements;
 - (ii) the Purchasing Creditors will pay the Purchase Price to the applicable First Lien Representatives by wire transfer of immediately available funds;
 - (iii) the Purchasing Creditors will deposit with each applicable First Lien Representative or its designee by wire transfer of immediately available funds, 105% of the aggregate undrawn amount of all then outstanding letters of credit and bankers' acceptances along with any fees that will accrue thereon through the stated maturity of such bankers' acceptances; and
 - (iv) each Second Lien Representative representing a Purchasing Creditor will execute and deliver to each First Lien Representative a waiver of all claims arising out of this Agreement and the transactions contemplated hereby as a result of exercising the purchase option contemplated by this Section 2.12, excluding, for greater certainty, any claims arising out of a breach of the Assignment Agreements.
- (e) **Actions After Purchase Closing**
- (i) Promptly after the closing of the purchase of all Purchase Obligations, each First Lien Representative will distribute the Purchase Price to First Lien Secured Parties in accordance with the terms of the applicable First Lien Documents.
 - (ii) Each First Lien Representative will apply cash collateral to reimburse letter of credit issuers for drawings under letters of credit and to settle bankers' acceptances upon maturity, along with any customary fees charged by the issuer in connection with such draws and facing or similar fees. In each case, after giving effect to each such drawings and settlements, any remaining cash collateral that exceeds 105% of the sum of the aggregate undrawn amount of all then outstanding letters of credit and bankers' acceptances and the aggregate facing and similar fees that will accrue thereon through the stated maturity of such letters of credit (assuming no drawings thereon before stated maturity) will be returned to the Purchasing Creditors (as their interests appear). When all letters of credit have been cancelled with the consent of the beneficiary thereof, expired, or been fully drawn, all bankers' acceptances have matured and after all payments from the account described above have been made, any remaining cash collateral will be returned to the Purchasing Creditors, as their interests appear.
 - (iii) If for any reason other than the gross negligence or willful misconduct of the applicable First Lien Representative, the cash collateral is less than the amount owing with respect to a letter of credit or bankers' acceptance described in the preceding subsection (c), then the Purchasing Creditors will, in proportion to their interests, promptly reimburse the applicable First

Lien Representative (who will then pay the issuing bank) the amount of the deficiency.

(f) **No Recourse or Warranties; Defaulting Creditors**

- (i) First Lien Secured Parties will be entitled to rely on the statements, representations, and warranties in the Purchase Notice without investigation.
- (ii) The purchase and sale of the First Lien Obligations and assignment of the First Lien Documents under this Section 2.12 will be without recourse and without representation or warranty of any kind by First Lien Secured Parties, except that First Lien Secured Parties shall represent and warrant that on the Purchase Date, immediately before giving effect to the purchase,
 - (A) all amounts owing in respect of the First Lien Obligations and the fees and expenses thereof, are as stated in the Assignment Agreements (as applicable),
 - (B) First Lien Secured Parties own the First Lien Obligations free and clear of any Liens (other than participation interests not prohibited by the First Lien Documents, in which case such First Lien Secured Party agrees that it will discharge such participation interests without recourse or liability to the Purchasing Creditors), and
 - (C) each First Lien Secured Party has the full right and power to assign its First Lien Obligations and such assignment has been duly authorized by all necessary corporate action by such First Lien Secured Party.
- (iii) The obligations of First Lien Secured Parties to sell their respective Purchase Obligations under this Section 2.12 are several and not joint and several. If a First Lien Secured Party (a “**Defaulting Creditor**”) breaches its obligation to sell its Purchase Obligations under this Section 2.12, no other First Lien Secured Party will be obligated to purchase the Defaulting Creditor’s Purchase Obligations for resale to the holders of Second Lien Obligations. A First Lien Secured Party that complies with this Section 2.12 will not be in default of this Agreement or otherwise be deemed liable for any action or inaction of any Defaulting Creditor, *provided* that nothing in this subsection (iii) will require the Purchasing Creditors to purchase less than all of the Purchase Obligations.

The Obligors irrevocably consent, and each other Person that becomes an Obligor from time to time will be deemed to irrevocably consent, to any assignment effected to one or more Purchasing Creditors pursuant to this Section 2.12 (pursuant to an Assignment Agreement).

2.13 Further Advances

The First Lien Lenders shall have the right to make further advances or issue additional letters of credit under the First Lien Credit Agreements in order to fund expenditures reasonably necessary to preserve or protect the Collateral of the Obligors or any part thereof and all such sums advanced to preserve or protect the Collateral of the Obligors or any part thereof will constitute and form part of the First Lien Obligations and shall be secured by the First Lien Security Documents and benefit from the priority set out in Section 2.5. The First Lien Representatives shall notify the Second Lien Representatives of any such advances or issuances of letters of credit forthwith upon such advances or issuances.

2.14 Limitations on Duties and Obligations

- (a) The First Lien Representatives and the Obligors (as provided for in the First Lien Documents) will be solely responsible for perfecting and maintaining the perfection of their respective First Liens on the Collateral, and the Second Lien Representatives and the Obligors (as provided for in the Second Lien Documents) will be solely responsible for perfecting and maintaining the perfection of their Second Liens on the Collateral.
- (b) Except for obligations of the First Lien Controlling Representative pursuant to Section 2.3(b), the First Lien Secured Parties will have no liability to any other First Lien Secured Parties or to any Second Lien Secured Party with respect to the maintenance or preservation of the Collateral, or the collection of the First Lien Obligations.
- (c) The First Lien Representatives will not have by reason of this Agreement or any other document a fiduciary relationship with any First Lien Secured Party or Second Lien Secured Party. The parties recognize that the interests of First Lien Representatives and the Second Lien Representatives may differ, and, except as expressly provided in this Agreement, the First Lien Representatives may act in their own interest without taking into account the interests of the Second Lien Representatives or any other Second Lien Secured Party.

2.15 Facilitation of First Lien Qualifying Refinancing

- (a) Each Second Lien Secured Party and each Obligor shall, at the request (and cost) of the Parent, promptly execute such documents and give such instructions as are reasonably necessary:
 - (i) to provide substantially the same rights and remedies to the providers of any First Lien Refinancing Facility as those provided by the First Lien Secured Parties pursuant to the First Lien Credit Agreements including, without limitation, entering into further security, priority and intercreditor agreements; or
 - (ii) to implement successfully the terms of a First Lien Qualifying Refinancing by the providers of that refinancing and to give effect to the providing of

Liens in respect of the First Lien Refinancing Liabilities, including, without limitation, of this Agreement or any Secured Debt Document and any amendment, consent, waiver or release in respect of any existing Liens and any grant of new Liens.

- (b) On the occurrence of any First Lien Qualifying Refinancing, each term in this agreement that includes "First Lien" (or similar) shall be deemed to include reference to any such First Lien Refinancing Facility, First Lien Refinancing Liabilities or such other equivalent subject in the context of the First Lien Qualifying Refinancing, in each case as the context requires.

ARTICLE 3 ENFORCEMENT AND APPLICATION OF PROCEEDS

3.1 No Challenge

Each Secured Debt Representative and each Secured Party agrees, for itself and for each Secured Party for which it is acting hereunder, that: (i) it will not challenge or question in any proceeding the validity or enforceability of any Secured Debt Obligations or any Secured Debt Document or the validity, attachment, perfection, priority or enforceability of any Lien under any Secured Debt Document or the validity or enforceability of the priorities, rights or duties established by or other provisions of this Agreement; (ii) it will not seek, and hereby waives any right, to have any Collateral or any part thereof marshalled upon any foreclosure or other Disposition of such Collateral; and (iii) it will not attempt, directly or indirectly, whether by judicial proceedings or otherwise, to challenge the enforceability of any provision of this Agreement; *provided* that nothing in this Agreement shall be construed to prevent or impair the rights of any of the Secured Debt Representatives or any other Secured Party to enforce this Agreement.

3.2 Payment Restrictions

- (a) Any payment of principal, premium, make-whole amounts or costs and expenses (excluding legal fees and expenses) in respect of any Second Lien Obligations prior to the Discharge of the First Lien Obligations may only be made to the extent permitted under the First Lien Credit Agreements. For greater certainty, this Section 3.2(a) does not amend any payment obligations set out in the Second Lien Documents or operate as a waiver of any failure to comply with such payment obligations under the Second Lien Documents and any breach or default that may arise therefrom.
- (b) Upon the occurrence and during the continuance of:
 - (i) any Enforcement Action (that is not an Insolvency or Liquidation Proceeding), no payment of principal, premium, make-whole amounts or costs and expenses (excluding legal fees and expenses); and
 - (ii) any Insolvency or Liquidation Proceeding or any First Lien Payment Default, no payment of principal, premium, make-whole amounts, interest

or other amounts (including any costs and expenses, including legal fees and expenses),

will, in either case be permitted to be made in respect of any Second Lien Obligations prior to the Discharge of the First Lien Obligations, without the advance written consent of the First Lien Representatives; provided that, in respect of subclause (b) above, nothing herein shall preclude the Second Lien Representative from seeking from the Parent or any Obligor payment of its reasonable out-of-pocket costs and expenses (including the reasonable fees and disbursements of its legal counsel) in accordance with the Second Lien Documents.

3.3 Application of Proceeds

- (a) Each Secured Debt Representative will apply the proceeds (i) of any collection, sale, foreclosure, or other realization upon, or any Enforcement Action with respect to, any Collateral and the proceeds thereof, (ii) of any intercompany dividend or distribution received by an Obligor or any of its Subsidiaries, (iii) of any title insurance or other insurance policy required to be paid to it under any Secured Debt Document or otherwise covering the Collateral, (iv) of any expropriation or any award granted in any expropriation or similar proceeding, or any deed in lieu of condemnation, in respect of Collateral and (v) of any other amounts required to be delivered to it by any Secured Party or Secured Debt Representative pursuant to any other provision of this Agreement and for application in accordance with this Section 3.3(a), in the following order of application pursuant to wire instructions provided by each Secured Debt Representative with respect to the applicable Secured Debt Obligations:

FIRST, on account of such Secured Debt Representative's fees and expenses and any reasonable legal fees, costs and expenses or other liabilities of any kind incurred by such Secured Debt Representative or any co-trustee or agent of such Secured Debt Representative in maintaining and Disposing of the Collateral, including in connection with any Enforcement Action in accordance with this Agreement;

SECOND, to the First Lien Representatives to be applied equally and ratably to the payment (or cash collateralization, as applicable) of all outstanding First Lien Obligations in an amount sufficient to Discharge the First Lien Obligations; provided that such repayment or cash collateralization of all outstanding First Lien Obligations shall be deemed to be allocated as follows:

- (A) first, from the proceeds, if any, arising from the realization of the Excluded First Lien Collateral, to the extent of the value attributable thereto; and
- (B) second, from the proceeds of realization of all other Collateral;

THIRD, after the application of the proceeds in full satisfaction of the amounts required to be paid as set forth in the immediately preceding

paragraph, to the Second Lien Representatives to be applied equally and ratably to the payment of all outstanding Second Lien Obligations that are then due and payable in such order as may be provided in the Second Lien Documents in an amount sufficient to Discharge the Second Lien Obligations; and

FOURTH, any surplus remaining after the Discharge of First Lien Obligations and the Discharge of all Second Lien Obligations will be paid to the Parent or the applicable Obligor, as the case may be, its successors or assigns, or to such other Persons as may be entitled to such amounts under applicable law.

If any Secured Debt Representative has released its Lien on any Collateral (including the proceeds thereof) pursuant to the terms of its Secured Debt Documents (other than in connection with a permitted Disposition under the Secured Debt Documents or the exercise of an Enforcement Action), then any Secured Debt and related Secured Debt Obligations secured by such Lien shall not be entitled to share in the proceeds of any Collateral so released.

- (b) If any portion of the proceeds of the Collateral is in the form of cash, then such cash shall be applied pursuant to the priorities set forth in this Section 3.3 before any non-cash proceeds are applied pursuant to the priorities set forth in this Section 3.3; *provided that*, irrespective of the terms of any Plan (including the confirmation of such Plan pursuant to section 6 of the CCAA, section 1129(b) of the Bankruptcy Code, or the equivalent provision of any other Debtor Relief Laws), each of the Secured Debt Representatives hereby acknowledges and agrees to turn over to the First Lien Representatives any and all amounts (including property and other assets) otherwise received or receivable by them in their capacities as secured creditors under any Plan or otherwise to the extent necessary to effectuate the intent of this Section 3.3. If any Secured Party collects or receives any proceeds (i) of an Enforcement Action, (ii) of any title or other insurance in respect of Collateral, (iii) of expropriation or award granted in any expropriation or similar proceeding, or any deed in lieu of condemnation, in respect of Collateral, and/or (iv) subject to Liens that have been avoided or otherwise invalidated that should have been applied (but for such avoidance or invalidation) to the payment of the First Lien Obligations in accordance with Section 3.3(a) above, whether prior to or after the commencement of an Insolvency or Liquidation Proceeding or otherwise, such Secured Party will forthwith deliver such proceeds to the applicable Secured Debt Representative, for the account of the applicable Secured Parties, to be applied in accordance with Section 3.3(a). Until so delivered, such proceeds shall be segregated and will be held in trust by that Secured Party for the benefit of the applicable Secured Parties.
- (c) To the extent any Secured Party or Secured Debt Representative receives cash, property or other assets constituting Collateral from (i) any Enforcement Action, (ii) any Insolvency or Liquidation Proceeding, (iii) any title or other insurance, or (iv) expropriation or any award granted in any expropriation or similar proceeding,

or any deed in lieu of condemnation, such cash, property or other assets will be delivered to the applicable First Lien Representative for application in accordance with Section 3.3(a) (including all interest accrued thereon after the commencement of any Insolvency or Liquidation Proceeding at the rate, including any applicable post-default rate, specified in the applicable First Lien Documents or other documentation in respect of such Obligations, even if such interest is not enforceable, allowable or allowed as a claim in such proceeding) until the Discharge of the First Lien Obligations.

- (d) If, after the occurrence and during the continuance of a Secured Debt Default, any First Lien Obligations or Second Lien Obligations are repaid by way of the exercise of any rights of set-off, banker's liens or consolidation of accounts prior to the Discharge of First Lien Obligations, the relevant First Lien Secured Party or Second Lien Secured Party shall immediately segregate and hold an amount equal to the amount so repaid in trust for application in accordance with Section 3.3(a) and forthwith deliver such amount to the applicable First Lien Representatives as provided in Section 3.3(b); *provided* that these provisions shall not apply to funds or cash collateral which (i) are permitted to be deposited with any Secured Debt Representative or Secured Party in accordance with Section 2.1(c)(ii) or (ii) do not constitute Collateral.
- (e) Until delivered as required pursuant to this Section 3.3, any amounts (including property and other assets) required by this Section 3.3 to be delivered to the applicable Secured Debt Representative will be segregated and held in trust for the benefit of the applicable holders of Secured Debt Obligations or obligations secured by a Permitted Prior Lien.

3.4 Documents and Communications

Each Secured Debt Representative agrees to use its best efforts to give to the other Secured Debt Representatives notice of any acceleration of any Secured Debt for which it is Secured Debt Representative promptly upon becoming aware of such acceleration, but the failure to give such notice shall not affect the validity of such acceleration or create a cause of action against or cause a forfeiture of any rights of the party failing to give such notice or create any claim or right on behalf of any third party.

3.5 Additional Second Lien Debt

- (a) Each of the Secured Debt Representatives will recognize a holder of Additional Second Lien Debt entitled to the benefits of holders of Secured Debt under this Agreement that is issued or incurred after the date hereof that:
 - (i) holds Second Lien Obligations that is identified as Secured Debt in accordance with the procedures set forth in Section 3.5(b); and
 - (ii) executes, through its designated Secured Debt Representative identified pursuant to Section 3.5(b), an Intercreditor Joinder and delivers the same to

each of the Secured Debt Representatives and the Parent, which each of the Secured Debt Representatives may rely upon without independent inquiry.

- (b) The Parent will only be permitted to designate as an additional Second Lien Secured Party hereunder a Person who is, or who becomes, the registered holder of Secured Debt incurred by any Obligor after the date of this Agreement and solely to the extent such Secured Debt is permitted to be incurred in accordance with the terms of all applicable Secured Debt Documents. The Parent may only effect such designation by delivering to each of the Secured Debt Representatives, on or before the date on which such Indebtedness is incurred by any Obligor, an Additional Second Lien Debt Designation stating that:
 - (i) the applicable Obligor intends to incur additional Second Lien Debt ("**Additional Second Lien Debt**"), which is permitted by each applicable Secured Debt Document to be Second Lien Debt that is permitted by each applicable Secured Debt Document to be secured by a Second Lien equally and ratably with all other Series of Second Lien Debt;
 - (ii) the name and address of the Secured Debt Representative for such series of Additional Second Lien Debt for purposes of Section 6.8 are as specified therein;
 - (iii) each applicable Obligor has duly authorized, executed (if applicable) and filed, registered or recorded (or caused to be filed, registered or recorded) in each appropriate governmental office all relevant filings, registrations and recordations, if any, as are necessary to cause the Additional Second Lien Debt to be secured by the Collateral in accordance with the applicable Security Documents;
 - (iv) attached as Exhibit 1 to such Additional Second Lien Debt Designation is a Reaffirmation Agreement duly executed by the applicable Obligors, which Reaffirmation Agreement shall be substantially in the form of Exhibit 1 to Exhibit A hereto; and
 - (v) the applicable Obligors have caused a copy of the Additional Second Lien Debt Designation and the related Intercreditor Joinder to be delivered to each then existing Secured Debt Representative.
- (c) Although the Parent shall be required to deliver a copy of each Additional Second Lien Debt Designation and each Intercreditor Joinder to each then existing Secured Debt Representative, the failure to so deliver a copy of the Additional Second Lien Debt Designation and/or Intercreditor Joinder to any then-existing Secured Debt Representative shall not affect the status of such debt as Additional Second Lien Debt if the other requirements of this Section 3.5 are complied with, including the requirement that such Additional Second Lien Debt is permitted to be incurred in accordance with the terms of all applicable Secured Debt Documents. Notwithstanding the foregoing, nothing in this Agreement will be construed to

allow any Obligor to incur additional Indebtedness if prohibited by the terms of any Secured Debt Documents. Liens upon the Collateral to secure Additional Second Lien Debt shall be created pursuant to separate Second Lien Security Documents, which shall be in substantially the same form as the existing Second Lien Security Documents, creating the Liens upon the Collateral to secure the Additional Second Lien Debt. Additional Second Lien Debt shall not be secured by Liens upon any Collateral unless the other Secured Debt Obligations are also secured by Liens on such Collateral. Additional Second Lien Debt shall be guaranteed by all of the applicable Obligors and shall not be guaranteed by any Person that is not an Obligor unless such Person concurrently becomes an Obligor.

3.6 Insolvency Matters

Notwithstanding anything of this Agreement to the contrary, the parties hereto agree that (a) this Agreement is intended to constitute and shall be deemed to constitute a "subordination agreement" within the meaning of Section 510(a) of the Bankruptcy Code and is intended to be and shall be interpreted to be enforceable to the maximum extent permitted pursuant to applicable non-Debtor Relief Laws and (b) it is the intention of the parties hereto that (and to the maximum extent permitted by law the parties hereto agree that) the First Lien Obligations (and the security therefor) constitute a separate and distinct class of creditor claims (and separate and distinct claims) from Second Lien Obligations (and the security therefor) in any Insolvency or Liquidation Proceeding and, as such, will have separate and distinct voting rights in such Insolvency or Liquidation Proceeding.

3.7 Avoidance; Reinstatement of Obligations

If a First Lien Secured Party or a Second Lien Secured Party receives payment or property on account of a First Lien Obligation or Second Lien Obligation, and the payment is subsequently invalidated, avoided, declared to be fraudulent or preferential, set aside, or otherwise required to be transferred to a trustee, receiver, or the estate of the Parent or another Obligor (herein, a "Recovery"), then, to the extent of the Recovery, the First Lien Obligations or Second Lien Obligations intended to have been satisfied by the payment will be reinstated as First Lien Obligations or Second Lien Obligations, as applicable, on the date of the Recovery, and no Discharge of First Lien Obligations or Discharge of Second Lien Obligations, as applicable, will be deemed to have occurred for all purposes hereunder. If this Agreement is terminated prior to a Recovery, this Agreement will be reinstated in full force and effect, and such prior termination will not diminish, release, discharge, impair, or otherwise affect the obligations of the parties from the date of reinstatement. Upon any such reinstatement of First Lien Obligations, the Second Lien Secured Parties will (on an equal and ratable basis) deliver to First Lien Representative any Collateral or proceeds thereof received between the Discharge of First Lien Obligations and their reinstatement in accordance with Section 3.3, to the extent of such Recovery for application to the First Lien Obligations in accordance with Section 3.3. From the time notice is provided to them of any such Recovery, until so delivered, such proceeds will be held by the applicable Second Lien Representative or holder of Second Lien Obligations, as the case may be, for the ratable benefit of the holders of the First Lien Obligations.

ARTICLE 4 HEDGING AND CASH MANAGEMENT

4.1 Hedging and Cash Management Secured by First Liens

All First Lien Hedging Obligations and First Lien Cash Management Obligations, to the extent permitted by each applicable First Lien Document, shall form part of the First Lien Obligations and shall be entitled to be secured by and receive the benefits of the First Liens in the manner set forth in this Agreement.

4.2 Representation of Hedge and Cash Management Counterparties

In the case of a First Lien Hedge Counterparty or a First Lien Cash Management Counterparty:

- (a) the execution of this Agreement (or applicable Intercreditor Joinder) by its corresponding Secured Debt Representative shall, without further action or confirmation and regardless of whether such First Lien Hedge Counterparty (or its Affiliate) or First Lien Cash Management Counterparty (or its Affiliate) ceases thereafter to be a lender or administrative agent (or its Affiliates) under the applicable Secured Debt Document, bind such First Lien Hedge Counterparty or First Lien Cash Management Counterparty (or, if such First Lien Hedge Counterparty or First Lien Cash Management Counterparty is an Affiliate of a lender or administrative agent under the applicable Secured Debt Document, such execution shall bind such Affiliate), as a Secured Party entitled to the benefits hereunder; and
- (b) the Secured Debt Representative of such First Lien Hedge Counterparty or First Lien Cash Management Counterparty shall, (i) in the case of the Core RT Credit Agreement, be the Core RT Agent and (ii) in the case of the U.K. Facility Agreement shall be the U.K. Facility Agent.

4.3 Limitation of Rights

Each First Lien Hedge Counterparty and each First Lien Cash Management Counterparty shall be entitled to participate in the proceeds of any Enforcement Action initiated by their Secured Debt Representative in accordance with the terms hereof.

4.4 Reporting

The Parent shall provide to each Secured Debt Representative, upon reasonable request therefor, a summary of all of its then outstanding Hedging Obligations or Cash Management Obligations together with such particulars as will evidence compliance by the Parent and the other Obligors with the restrictions thereon imposed in the Secured Debt Documents to which it is a party from time to time.

**ARTICLE 5
REPRESENTATIONS AND WARRANTIES**

5.1 Representations and Warranties of the Obligors

Each Obligor hereby represents and warrants for the benefit of each Secured Debt Representative and each Secured Party as follows:

- (a) each Obligor is duly organized or incorporated, validly exists, and has all requisite organizational power and authority to conduct its business as intended and own its property and assets;
- (b) each Obligor has taken all necessary organizational action to authorize the execution, delivery and performance of this Agreement;
- (c) each Obligor has duly authorized, executed and delivered this Agreement, and the execution and delivery of this Agreement by it will not violate any applicable law binding upon it or conflict in any material respect with any agreement to which it is a party; and
- (d) this Agreement constitutes valid and legally binding obligations of each Obligor, enforceable against it in accordance with the terms hereof, subject only to applicable bankruptcy, insolvency and other laws of general application limiting the enforceability of creditors' rights and to general principles of equity, including the principle that specific performance is an equitable remedy, available only in the discretion of the court.

5.2 Representations and Warranties of the Secured Parties

- (a) Computershare Trust Company of Canada, as 2L Term Agent under the Second Lien Credit Agreement, represents and warrants to the First Lien Secured Parties and the Obligors that it has been duly authorized by the Second Lien Secured Parties under the Second Lien Credit Agreement to enter into this Agreement and to undertake the obligations expressed herein to be undertaken by it and the other Second Lien Secured Parties which it represents, and this Agreement is binding and enforceable against it and such other Second Lien Secured Parties.
- (b) The Bank of Nova Scotia, as Core RT Agent under the Core RT Credit Agreement, represents and warrants to the Second Lien Secured Parties and the Obligors that it has been duly authorized by the Core RT Lenders, the First Lien Cash Management Counterparties and the First Lien Hedge Counterparties under the Core RT Credit Agreement to enter into this Agreement and to undertake the obligations expressed herein to be undertaken by it and the other First Lien Secured Parties which it represents, and this Agreement is binding and enforceable against it and such other First Lien Secured Parties.
- (c) Each of HSBC Corporate Trustee Company (UK) Limited as Security Agent under the U.K. Facility Agreement and HSBC Bank PLC, as Facility Agent under the

U.K. Facility Agreement, represent and warrant to the Second Lien Secured Parties and the Obligors that each has been duly authorized by the U.K. Lenders, the First Lien Cash Management Counterparties and the First Lien Hedge Counterparties under the U.K. Facility Agreement to enter into this Agreement and to undertake the obligations expressed herein to be undertaken by it and the other First Lien Secured Parties which it represents, and this Agreement is binding and enforceable against it and such other First Lien Secured Parties.

5.3 Survival of Representations and Warranties

All of the representations and warranties set forth in Sections 5.1 and 5.2 shall survive the execution and delivery of this Agreement.

ARTICLE 6 MISCELLANEOUS PROVISIONS

6.1 Amendments to this Agreement

- (a) The Secured Debt Representatives, on behalf of their respective Secured Parties, may, at any time and from time to time, enter into written amendments to this Agreement or agreements supplemental hereto, including for the purpose of adding to or waiving any provision of this Agreement, granting any consent required under this Agreement or changing any of the terms thereof, without the consent of the Obligors, *provided* that no amendment or supplement that imposes any obligation upon any Obligor or adversely affects the rights of any Obligor will become effective without the prior written consent of such Obligor.
- (b) No Secured Debt Representative will be required to enter into any amendment or supplement to this Agreement unless, if requested by the Secured Debt Representative, it has received an Officer's Certificate to the effect that such amendment or supplement will not result in a breach of any provision or covenant contained in any of the Secured Debt Documents.

6.2 Amendments to Secured Debt Documents

- (a) The First Lien Documents may be amended, extended, restated, supplemented, waived or otherwise modified without the consent of the Second Lien Secured Parties except for amendments, restatements, supplements, waivers or other modifications:
 - (i) which increase the aggregate amount of the First Lien Credit Facilities by more than US\$50 million (excluding revolving facility re-advances within the existing commitment limits);
 - (ii) which increase the pricing under a First Lien Credit Agreement by more than 2% per annum, including providing for amendment fees, forbearance and work-out fees (save to the extent such amendment, forbearance or workout fees are reasonable and customary in the circumstances);

- (iii) which restrict the payment of principal, premium, make-whole amounts or costs and expenses in respect of any Second Lien Obligations prior to the Discharge of the First Lien Obligations; and

provided that the limits on increasing the amount of principal and pricing of the Credit Facilities in subsections 6.2(a)(i) and 6.2(a)(ii) shall not apply in connection with (i) advances made in accordance with Section 2.13, (ii) default rates of interest under any First Lien Document and (iii) the provision of debtor-in-possession or interim financing (or equivalent).

- (b) The Second Lien Documents may be amended, restated, supplemented, waived or otherwise modified without the consent of the First Lien Secured Parties, except for amendments, restatements, supplements, waivers or other modifications:
 - (i) which increase the principal amount of the Second Lien Obligations (other than as a result of amounts of interest that are capitalized and added to such principal amount in accordance with the terms thereof);
 - (ii) which shorten the maturity (or accelerate the date upon which a scheduled payment of principal, interest or any other amount payable thereon is due);
 - (iii) which create or increase fees, interest rates or interest payable, except in each instance where the pricing under a First Lien Credit Agreement has been increased in accordance with Section 6.2(a)(ii) (the “**Permitted First Lien Increase**”), then the Second Lien Representatives shall be entitled to seek (if not already required to be provided pursuant to the applicable Second Lien Credit Agreement) a corresponding equal creation or increase to fees, interest rates or interest payable under the Second Lien Documents, provided that any such increase permitted under this Section 6.2(b)(ii) shall in all instances be (x) capitalized and added to the principal payable under the applicable Second Lien Document (the “**Second Lien PIK Interest**”) and (y) at no time shall such Second Lien PIK Interest exceed in percentage terms the greater of the sum of all Permitted First Lien Increases under (i) the Core RT Credit Agreement or (ii) the UK Facility Agreement,
 - (iv) which change a prepayment, redemption or defeasance provision so as to (i) require a new payment or accelerate an existing payment obligation or (ii) modify restrictions on refinancing of the First Lien Debt or any part thereof; or
 - (v) in respect of the applicable Second Lien Guarantees or the applicable Second Lien Security Documents, which are not consistent with Sections 2.2, 2.5 and 6.2(c).
- (c) In the event of any amendment, restatement, supplement, waiver or other modification, or replacement of, any First Lien Security Document or any First Lien Guarantee for the purpose of adding to, or deleting from, or waiving or consenting to any departure from any provisions of, any First Lien Security Document or any

First Lien Guarantee or changing in any manner the rights of the First Lien Representatives, the holders of First Lien Obligations, or any Obligor thereunder, then such amendment, restatement, supplement, waiver, modification or replacement shall apply automatically, unconditionally and simultaneously to any comparable provision of the corresponding Second Lien Security Document or Second Lien Guarantee without the consent of any Second Lien Representative or any Second Lien Secured Party, and without any action by any Second Lien Representative or any Second Lien Secured Party; provided that such amendment, restatement, supplement, waiver, modification or replacement does not:

- (i) release any material Collateral from the Second Liens (except as otherwise permitted herein);
- (ii) release any Obligor from its Second Lien Guarantee (except as otherwise permitted herein);
- (iii) impose duties or obligations that are adverse on any Second Lien Representative without its prior written consent; or
- (iv) subordinate or postpone any security interest in any material Collateral under the Second Liens (except as otherwise permitted herein) or impose any forbearance or limitations on events of default or events permitting enforcement against any material Collateral.

The Parent shall give written notice of such amendment, restatement, supplement, waiver, modification or replacement to each Second Lien Representative, provided that the failure to give such notice shall not affect the effectiveness of such amendment, restatement, supplement, waiver, modification or replacement with respect to the provisions of any Second Lien Security Document or Second Lien Guarantee as set forth in this Section. Following the receipt of such notice, each Second Lien Representative agrees, at the sole expense of the Parent, to enter into such amendments, supplements, waivers or replacements of the affected Second Lien Guarantees or Second Lien Security Documents as are reasonably required to give effect to this paragraph.

- (d) Each Secured Debt Representative, on behalf of its respective Second Lien Secured Parties, acknowledges that the First Lien Documents, in certain circumstances, restrict the right of the Obligors to amend, restate, supplement, waive or otherwise modify the Second Lien Documents without the consent of the First Lien Secured Parties. As evidence of compliance by the Obligors with any such consent requirements under the First Lien Documents, the Obligors shall, in connection with any such amendment, restatement, supplement, waiver or other modification of a Second Lien Document, in accordance with the requirements of the Second Lien Documents deliver to the First Lien Representatives and the Second Lien Representatives an Officer's Certificate which confirms that the proposed amendment, restatement, supplement, waiver or other modification of such Second Lien Document (i) does not require the consent of the First Lien Secured Parties (or

evidence that such consent has been obtained), and (ii) is otherwise being made in accordance with the terms of the First Lien Documents and this Agreement (including this Section 6.2(d)).

- (e) The Parent shall forthwith provide copies of all amendments, supplements, waivers or replacements of Secured Debt Documents entered into by any Obligor after the date of this Agreement to each Secured Debt Representative that is not itself already a party to such amendments, supplements, waivers or replacements.

6.3 Voting

In connection with any matter under this Agreement requiring a vote of holders of the Secured Debt, each Series of Secured Debt will cast a separate and distinct vote in respect of such Series of Secured Debt with each such vote being cast as a block in accordance with the Secured Debt Documents governing such Series of Secured Debt. The amount of Secured Debt to be voted by a Series of Secured Debt will equal (a) the aggregate principal amount of Secured Debt held by such Series of Secured Debt (including outstanding letters of credit whether or not then available to be drawn, Hedging Obligations owed to First Lien Hedge Counterparties comprised in such Series of Secured Debt and Cash Management Obligations owed to First Lien Cash Management Counterparties comprised in such Series of Secured Debt), plus (b) other than in connection with an exercise of remedies, the aggregate unfunded commitments to extend credit which, when funded, would constitute Indebtedness of such Series of Secured Debt. Following and in accordance with the outcome of the applicable vote under its Secured Debt Documents, the Secured Debt Representative of each Series of Secured Debt will cast at the written direction of the holders that it represents all of its votes under that Series of Secured Debt as a block in respect of any vote under this Agreement.

6.4 Provision of Information

- (a) Subject to the Secured Parties' confidentiality obligations pursuant to any Secured Debt Documents to which they are a party and to other confidentiality agreements with the Obligors to which any of them may be a party (all such confidentiality obligations, collectively, the "**Confidentiality Obligations**"), each Secured Party may (as it deems necessary or appropriate in its sole judgment but without any obligation to do so) freely discuss with each other, and freely disclose to each other, any information pertaining to the business and affairs of the Obligors (to the extent disclosure of such information may not otherwise be restricted pursuant to the Confidentiality Obligations), the Collateral, the Secured Debt and whether or not any Obligor is in compliance with or in default or in breach of any of the Secured Debt Documents and the Security Documents. The Obligors irrevocably consent to the discussions and disclosures between and among the Secured Parties as contemplated by this Agreement subject to compliance with the Confidentiality Obligations.
- (b) Notwithstanding the Confidentiality Obligations, each Secured Party shall have the right to disclose any information disclosed or released to it if in the opinion of such Secured Party, or its legal counsel, it is required to disclose under any applicable

laws, court order or administrative directions; provided that such Secured Party shall, unless prohibited by any applicable law, use reasonable efforts to notify the Parent promptly of any disclosure pursuant to this Agreement as far in advance as is reasonably practicable under such circumstances. No Secured Party shall be responsible or liable to any party for any loss or damage arising out of or in any way sustained or incurred or in any way relating to such disclosure.

6.5 Further Assurances; Insurance

- (a) Each Obligor will do or cause to be done all acts and things that may be required, or that a Secured Debt Representative from time to time may reasonably request, to assure and confirm that such Secured Debt Representative holds, for the benefit of the holders of Secured Debt Obligations, duly created and enforceable and perfected Liens upon the Collateral (subject to any exclusions set out in the Secured Debt Documents but including any property or assets that are acquired or otherwise become, or are required by any Secured Debt Document to become, Collateral after the date hereof), in each case as contemplated by, and with the Lien priority required under, the Secured Debt Documents.
- (b) Upon the reasonable request of any Secured Debt Representative at any time and from time to time, each Obligor will promptly execute, acknowledge and deliver such security documents, instruments, certificates, notices and other documents, and take such other actions as may be reasonably required, or that such Secured Debt Representative may reasonably request, to create, perfect, protect, assure or enforce the Liens and benefits intended to be conferred, in each case as contemplated by the Secured Debt Documents for the benefit of holders of Secured Debt Obligations.
- (c) Upon the reasonable request of any Secured Debt Representative at any time and from time to time in accordance with the terms of this Agreement, each Secured Debt Representative agrees to promptly execute, acknowledge and deliver such security documents, instruments, certificates, notices, releases and other documents, and take such other actions as may be reasonably required, or that such Secured Debt Representative may reasonably request, to give effect to the provisions of this Agreement including, without limitation, releases and discharges in connection with any Disposition of Collateral contemplated hereunder.

6.6 Successors and Assigns

- (a) Except as provided in the applicable Secured Debt Document, a Secured Debt Representative may not, in its capacity as such, delegate any of its duties or assign any of its rights hereunder, and any attempted delegation or assignment of any such duties or rights will be null and void. All obligations of each Secured Debt Representative hereunder will inure to the sole and exclusive benefit of, and be enforceable by, each present and future Secured Party for which such Secured Debt Representative acts, each of whom will be entitled (to the extent permitted by

applicable law) to enforce this Agreement as a third-party beneficiary hereof, and all of their respective successors and assigns.

- (b) No Obligor may delegate any of its duties or assign any of its rights hereunder, and any attempted delegation or assignment of any such duties or rights will be null and void. All obligations of the Obligors hereunder will inure to the sole and exclusive benefit of, and be enforceable by, each Secured Debt Representative and each present and future Secured Party, each of whom will be entitled to enforce this Agreement as a third-party beneficiary hereof (to the extent permitted by applicable law) to the extent they are not party to this Agreement, and all of their respective successors and assigns.

6.7 Delay and Waiver

No failure to exercise, no course of dealing with respect to the exercise of, and no delay in exercising, any right, power or remedy arising under this Agreement will impair any such right, power or remedy or operate as a waiver thereof. No single or partial exercise of any such right, power or remedy will preclude any other or future exercise thereof or the exercise of any other right, power or remedy. The remedies herein are cumulative and are not exclusive of any remedies provided by law.

6.8 Notices

Any communications, including notices and instructions, between the parties hereto or notices provided herein to be given may be given to the following addresses:

If to the 2L Term Agent:

Computershare Trust Company of Canada
100 University Avenue, 8th Floor
Toronto, Ontario M5J 2Y1

Attention: General Manager, Corporate Trust Department

Fax: (416) 981 9777

Email: corporatetrust.toronto@computershare.com

With copy to:

Coliseum Capital Management, LLC
105 Rowayton Avenue
Rowayton, CT 06853
Attn: Adam Gray, Christopher Shackelton & Chivonne Cassar
Telephone: 203-831-0100
Fax: 203-286-1111

Email: [REDACTED]

and to:

Norton Rose Fulbright Canada LLP
222 Bay Street, Suite 3000,
Toronto, Ontario M5K 1E7 Canada
Attention: Walied Soliman; Bruce Sheiner; Nicole Sigouin
Email: [REDACTED]

If to an Obligor:

NFI Group Inc.
711 Kernaghan Avenue
Winnipeg, Manitoba, R2C 3T4

Attention: Chief Financial Officer

Fax: (204) 224-6652

Email: [REDACTED]

If to the Core RT Agent:

The Bank of Nova Scotia
Loan Syndications
40 Temperance Street, 6th Floor
Toronto, Ontario, Canada M5H 0B4

Attention: Director and Head of Agency

Facsimile: (416) 866-3329

Email: agency.services@scotiabank.com

If to the U.K. Facility Agent:

HSBC Bank plc
Issuer Services, Level 14
8 Canada Square
London E14 5HQ

Attention: Agent - Issuer Services

Facsimile: +44 (0) 20 7991 4347

Email: lad.agency.pef.loans@hsbc.com

If to the U.K. Security Agent:

HSBC Corporate Trustee Company (U.K.) Limited
Level 14
8 Canada Square
London E14 5HQ

Attention: Issuer Services Trustee Administration

Fax: +44 (0) 20 7991 4350

Email: Ctla.trustee.admin@hsbc.com

and if to any other Secured Debt Representative, to such address as it may specify by written notice to the parties named above.

Unless otherwise specified herein, all notices, requests, demands, instructions, directions and other communications given to the Parent, the 2L Term Agent, or any other Secured Debt Representative shall be given in writing (including but not limited to facsimile transmission or other electronic transmission in .pdf format) and shall be effective (a) if given by facsimile transmission, when such facsimile is transmitted to the facsimile number specified in this Section 6.8 and the appropriate facsimile confirmation is received, (b) if given by certified registered mail, return receipt requested, with first class postage prepaid, addressed as aforesaid, upon receipt or refusal to accept delivery, (c) if given by a nationally recognized overnight carrier, upon receipt or refusal to accept delivery, or (d) if given by any other means, when delivered at the address specified in this Section 6.8; *provided* that any notice, request or demand to the Core RT Agent, the U.K. Agents and the 2L Term Agent shall not be effective until received by an officer in the relevant corporate trust or agency department. Failure to mail a notice or communication to a Secured Party or any defect in it will not affect its sufficiency with respect to other holders of Secured Debt.

6.9 Entire Agreement

This Agreement states the complete agreement of the parties with respect to the subject matter set forth herein and supersedes all oral negotiations and prior writings in respect of such undertaking.

6.10 Severability

If any provision of this Agreement is invalid, illegal or unenforceable in any respect or in any jurisdiction, the validity, legality and enforceability of such provision in all other respects and of all remaining provisions, and of such provision in all other jurisdictions, will not in any way be affected or impaired thereby.

6.11 Headings

Section headings herein have been inserted for convenience of reference only, are not to be considered a part of this Agreement and will in no way modify or restrict any of the terms or provisions hereof.

6.12 Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario, without giving effect to applicable principles of conflicts of law to the extent that the application of the laws of another jurisdiction would be required thereby.

6.13 Consent to Jurisdiction

All judicial proceedings brought against any party hereto arising out of or relating to this Agreement shall be brought in any court of competent jurisdiction in the Province of Ontario. By executing and delivering this Agreement, each Obligor, for itself and in connection with its properties, irrevocably:

- (a) accepts generally and unconditionally the exclusive jurisdiction and venue of such courts;
- (b) waives any defense of *forum non conveniens*;
- (c) agrees that service of all process in any such proceeding in any such court may be made by registered or certified mail, return receipt requested, to such party at its address provided in accordance with Section 6.8;
- (d) agrees that service as provided in clause (c) above is sufficient to confer personal jurisdiction over such party in any such proceeding in any such court and otherwise constitutes effective and binding service in every respect; and
- (e) agrees that each party hereto retains the right to serve process in any other manner permitted by law or to bring proceedings against any party in the courts of another jurisdiction.

6.14 Waiver of Jury Trial

Each party hereto hereby waives, to the fullest extent permitted by applicable law, any right it may have to a trial by jury in any legal proceeding directly or indirectly arising out of or relating to this Agreement, any other loan document or the transactions contemplated hereby or thereby (whether based on contract, tort or any other theory).

6.15 Counterparts; Electronic Signatures

- (a) This Agreement may be executed in any number of counterparts, each which when so executed and delivered will be deemed an original, but all such counterparts together will constitute but one and the same instrument. The parties hereto may

sign this Agreement and any Intercreditor Joinder and transmit the executed copy by electronic means, including facsimile or non-editable .pdf files. The electronic copy of the executed Agreement and any Intercreditor Joinder is and shall be deemed an original signature.

- (b) The words "execution", "signed", "signature" and words of like import in this Agreement shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including Parts 2 and 3 of the *Personal Information Protection and Electronic Documents Act* (Canada), the *Electronic Commerce Act, 2000* (Ontario), the *Federal Electronic Signatures in Global and National Commerce Act*, the *New York State Electronic Signatures and Records Act*, and other similar federal, state or provincial laws based on the Uniform Electronic Transactions Act, the Uniform Electronic Commerce Act of the Uniform Law Conference of Canada or its Uniform Electronic Evidence Act, as the case may be.

6.16 Effectiveness

This Agreement will become effective upon the execution of a counterpart hereof by each of the parties hereto, and receipt by each party of written notification of such execution and written or telephonic authorization of delivery thereof.

6.17 Discontinuance of Secured Debt Representatives

At any time, any Secured Party may discontinue its role as a Secured Debt Representative in respect of any Series of Secured Debt and disclaim all of the rights, benefits and obligations it has in such capacity (except such rights expressed to survive a Discharge of such Series of Secured Debt). This discontinuance will be effective immediately upon the Secured Debt Representative for the applicable Series of Secured Debt delivering a notice in writing, referring to this Section 6.17, to the Parent and each other Secured Debt Representative of such discontinuance, at which time such Person shall cease to be a Secured Party hereunder and (if such Secured Party is a Secured Debt Representative) shall cease to be a party to this Agreement. Such discontinuance shall not affect any liabilities of such Person that accrued prior to the effective date thereof nor any rights expressed to survive a Discharge of the applicable Series of Secured Debt.

6.18 Paramountcy; Insolvency

In the case of any conflict or inconsistency between the provisions of this Agreement and any other Secured Debt Document, this Agreement shall prevail and govern notwithstanding the terms of any such Secured Debt Document (including any provision in such documents which is in conflict with any provision hereof). Notwithstanding the foregoing, (a) the First Lien Credit Facilities Intercreditor is intended to and shall be paramount to this Agreement with respect to the subject matter of the First Lien Credit Facilities Intercreditor, and (b) in the event of a conflict or inconsistency between this Agreement and the First Lien Credit Facilities Intercreditor relating to (i) the relative rights, remedies, entitlements and obligations of the First Lien Secured Parties to or

in respect of the First Lien Debt, the First Lien Obligations, the First Liens, the Collateral (including proceeds thereof) or the Obligors, or (ii) the respective acknowledgments, agreements and obligations of the First Lien Secured Parties and the Obligors in respect thereof set out in the First Lien Credit Facilities Intercreditor, then the First Lien Credit Facilities Intercreditor shall govern. This Agreement will be applicable both before and after the commencement of any Insolvency or Liquidation Proceeding by or against any Obligor. The relative rights, as provided for in this Agreement, will continue after the commencement of any such Insolvency or Liquidation Proceeding on the same basis as prior to the date of the commencement of any such case, as provided in this Agreement.

6.19 Rights and Immunities of Secured Debt Representatives

In performing their respective obligations under this Agreement (i) the 2L Term Agent, as against each Second Lien Secured Party under the Second Lien Documents entered into in connection with the Second Lien Credit Agreement and as against the Obligors, as applicable, will be entitled to all of the rights, protections, immunities and indemnities in that regard set forth in the Second Lien Credit Agreement, (ii) the Core RT Agent, as against each First Lien Secured Party under the First Lien Documents entered into in connection with the First Lien Credit Agreements and as against the Obligors, as applicable, will be entitled to all of the rights, protections, immunities and indemnities in that regard set forth in the Core RT Credit Agreement and the First Lien Facilities Intercreditor, (iii) the U.K. Agents as against each First Lien Secured Party under the First Lien Documents entered into in connection with the First Lien Credit Facilities and as against the Obligors, as applicable, will be entitled to all of the rights, protections, immunities and indemnities in that regard set forth in the U.K. Facility Agreement and the First Lien Facilities Intercreditor and (iv) any future Secured Debt Representative, as against each Second Lien Secured Party under the Secured Debt Documents with respect to which such Secured Debt Representative acts as representative and as against the Obligors, as applicable, will be entitled to all of the rights, protections, immunities and indemnities in that regard set forth in the credit agreement, indenture, debenture, instrument or other agreement governing the applicable Series of Secured Debt with respect to which such Secured Debt Representative acts as representative, in each case as if specifically set forth herein. In no event will any Secured Debt Representative be liable for any act or omission on the part of any Obligor hereunder.

[The remainder of this page is intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have caused this Intercreditor Agreement to be executed by their respective officers or representatives as of the day and year first above written.

Address for Notice:
The Bank of Nova Scotia
Loan Syndications
40 Temperance Street, 6th Floor
Toronto, Ontario, Canada M5H 0B4

**THE BANK OF NOVA SCOTIA,
as Core RT Agent**

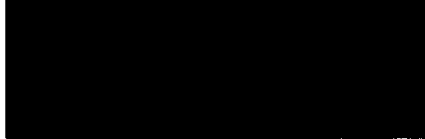
Attention: Director and Head of Agency
Fax: (416) 866-3329
Email: agency.services@scotiabank.com

By: 
Name: Alastair Borthwick
Title: Managing Director

By: 
Name: Venita Ramjattan
Title: Associate

The U.K. Facility Agent

Signed for and on behalf of **HSBC BANK PLC**



.....
Name of authorised signatory:

Address for notice:

HSBC Bank plc
Issuer Services, Level 22
8 Canada Square
London E14 5HQ

Attention: Agent - Issuer Services
Fax: +44 (0) 20 7991 4347
Email: lag.fax@hsbcib.com (Borrower operational requests only)
lad.agency.pef.loans@hsbc.com (all other queries)

The U.K. Security Agent

Signed for and on behalf of **HSBC CORPORATE TRUSTEE COMPANY (UK) LIMITED**

.....
Name of authorised signatory:

Address for notice:

Level 22
8 Canada Square
London E14 5HQ

Attention: Issuer Services Trustee Administration
Fax: +44 (0) 20 7991 4350
Email: C1la.trustee.admin@hsbc.com

The U.K. Facility Agent

Signed for and on behalf of **HSBC BANK PLC**

.....
Name of authorised signatory:

Address for notice:

HSBC Bank plc
Issuer Services, Level ~~22~~ 14
8 Canada Square
London E14 5HQ

Attention: Agent - Issuer Services
Fax: +44 (0) 20 7991 4347
Email: lag.fax@hsbcib.com (Borrower operational requests only)
lad.agency.pef.loans@hsbc.com (all other queries)

The U.K. Security Agent

Signed for and on behalf of **HSBC CORPORATE TRUSTEE COMPANY (UK) LIMITED**



Name of authorised signatory: Julian Tucker
Vice President

Address for notice:

Level ~~22~~ 14
8 Canada Square
London E14 5HQ

Attention: Issuer Services Trustee Administration
Fax: +44 (0) 20 7991 4350
Email: Ctla.trustee.admin@hsbc.com


U.K. Bilateral Ancillary Lenders

Signed for and on behalf of **HSBC UK BANK PLC**, as **U.K. Bilateral Ancillary Lender**



Name of authorised signatory: *Jonathan O'Hara*
Address for notice:

HSBC UK Bank plc
1 West Regent Street
Glasgow, G2 1RW


Attention: Jonathan O'Hara
Email: 

Signed for and on behalf of **HSBC BANK PLC**, as **U.K. Bilateral Ancillary Lender**



Name of authorised signatory: *Jonathan O'Hara*
Address for notice:

HSBC Bank plc
1 West Regent Street
Glasgow, G2 1RW

Attention: Jonathan O'Hara
Email: 

Computershare Trust Company of Canada
100 University Ave.
Toronto, Ontario
M5J 2Y1

Attention: Manager, Corporate Trust Dept.
Fax: (416) 981-9777
Email: corporatetrust.toronto@computershare.com

**COMPUTERSHARE TRUST COMPANY
OF CANADA as 2L Term Agent**

By: _____
Name: _____
Title: Corporate Trust Officer

By: _____
Name: Milan Tepic
Title: Corporate Trust Officer

Address for Notice:
NFI Group Inc.
c/o New Flyer Industries Canada ULC
711 Kernaghan Avenue
Winnipeg, Manitoba, R2C 3T4

Attention: Chief Financial Officer
Fax: (204) 224-6652
Email: _____

NFI GROUP INC.

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

New Flyer Holdings, Inc.
c/o New Flyer Industries Canada ULC
711 Kernaghan Avenue
Winnipeg, Manitoba, R2C

Attention: Chief Financial Officer
Fax: (204) 224-6652
Email: _____

NEW FLYER HOLDINGS, INC.

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

**COMPUTERSHARE TRUST COMPANY
OF CANADA as 2L Term Agent**

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

Address for Notice:
NFI Group Inc.
c/o New Flyer Industries Canada ULC
711 Kernaghan Avenue
Winnipeg, Manitoba, R2C 3T4

Attention: Chief Financial Officer
Fax: (204) 224-6652
Email: _____

NFI GROUP INC.

By: _____
Name: Colin Pewarchuk
Title: Executive Vice President, General Counsel and
Corporate Security

By: _____
Name: Pipasu Soni
Title: Chief Financial Officer, Executive Vice President,
Finance and Treasurer

New Flyer Holdings, Inc.
c/o New Flyer Industries Canada ULC
711 Kernaghan Avenue
Winnipeg, Manitoba, R2C

Attention: Chief Financial Officer
Fax: (204) 224-6652
Email: _____

NEW FLYER HOLDINGS, INC.

By: _____
Name: Colin Pewarchuk
Title: Executive Vice President, General Counsel and
Corporate Secretary

By: _____
Name: Pipasu Soni
Title: Chief Financial Officer, Executive Vice President,
Finance and Treasurer

**COMPUTERSHARE TRUST COMPANY
OF CANADA as 2L Term Agent**

By: _____
Name:
Title:

By: _____
Name:
Title:

Address for Notice:
NFI Group Inc.
c/o New Flyer Industries Canada ULC
711 Kernaghan Avenue
Winnipeg, Manitoba, R2C 3T4

Attention: Chief Financial Officer
Fax: (204) 224-6652
Email: [REDACTED]

NFI GROUP INC.

By: _____
Name: Colin Pewarchuk
Title: Executive Vice President, General Counsel and
Corporate Security

DocuSigned by:
[REDACTED]
By: [REDACTED]
Name: Pipasu Soni
Title: Chief Financial Officer, Executive Vice President,
Finance and Treasurer

New Flyer Holdings, Inc.
c/o New Flyer Industries Canada ULC
711 Kernaghan Avenue
Winnipeg, Manitoba, R2C

Attention: Chief Financial Officer
Fax: (204) 224-6652
Email: [REDACTED]

NEW FLYER HOLDINGS, INC.

By: _____
Name: Colin Pewarchuk
Title: Executive Vice President, General Counsel and
Corporate Secretary

DocuSigned by:
[REDACTED]
By: [REDACTED]
Name: Pipasu Soni
Title: Chief Financial Officer, Executive Vice President,
Finance and Treasurer

Address for Notice:
New Flyer Holdings Canada Inc.
c/o New Flyer Industries Canada ULC
711 Kernaghan Avenue
Winnipeg, Manitoba, R2C 3T4

Attention: Chief Financial Officer
Fax: (204) 224-6652
Email: [REDACTED]

NEW FLYER HOLDINGS CANADA INC.

By: [REDACTED]
Name: Colin Pewarchuk
Title: Executive Vice President, General Counsel and Corporate Secretary

By: [REDACTED]
Name: Pipasu Soni
Title: Chief Financial Officer, Executive Vice President, Finance and Treasurer

Address for Notice:
New Flyer Industries Canada ULC
c/o New Flyer Industries Canada ULC
711 Kernaghan Avenue
Winnipeg, Manitoba, R2C 3T4

Attention: Chief Financial Officer
Fax: (204) 224-6652
Email: [REDACTED]

NEW FLYER INDUSTRIES CANADA ULC

By: [REDACTED]
Name: Colin Pewarchuk
Title: Executive Vice President, General Counsel and Corporate Secretary

By: [REDACTED]
Name: Pipasu Soni
Title: Chief Financial Officer, Executive Vice President, Finance and Treasurer

Address for Notice:
New Flyer Holdings Canada Inc.
c/o New Flyer Industries Canada ULC
711 Kernaghan Avenue
Winnipeg, Manitoba, R2C 3T4

Attention: Chief Financial Officer
Fax: (204) 224-6652
Email: [REDACTED]

NEW FLYER HOLDINGS CANADA INC.

By: _____
Name: Colin Pewarchuk
Title: Executive Vice President, General Counsel and
Corporate Secretary

DocuSigned by:
[REDACTED]
By: _____
Name: Pipasu Soni
Title: Chief Financial Officer, Executive Vice President,
Finance and Treasurer

Address for Notice:
New Flyer Industries Canada ULC
c/o New Flyer Industries Canada ULC
711 Kernaghan Avenue
Winnipeg, Manitoba, R2C 3T4

Attention: Chief Financial Officer
Fax: (204) 224-6652
Email: [REDACTED]

NEW FLYER INDUSTRIES CANADA ULC

By: _____
Name: Colin Pewarchuk
Title: Executive Vice President, General Counsel and
Corporate Secretary

DocuSigned by:
[REDACTED]
By: _____
Name: Pipasu Soni
Title: Chief Financial Officer, Executive Vice President,
Finance and Treasurer

Address for Notice:
Carfair Composites Inc.
c/o New Flyer Industries Canada ULC
711 Kernaghan Avenue
Winnipeg, Manitoba, R2C 3T4

Attention: Chief Financial Officer
Fax: (204) 224-6652
Email: [REDACTED]

CARFAIR COMPOSITES INC.

By: [REDACTED]
Name: Colin Pewarchuk
Title: Executive Vice President, General Counsel and
Corporate Secretary

By: _____
Name: Pipasu Soni
Title: Chief Financial Officer, Executive Vice President,
Finance and Treasurer

Address for Notice:
Alexander Dennis (Canada) Inc.
c/o New Flyer Industries Canada ULC
711 Kernaghan Avenue
Winnipeg, Manitoba, R2C 3T4

Attention: Chief Financial Officer
Fax: (204) 224-6652
Email: [REDACTED]

ALEXANDER DENNIS (CANADA) INC.

By: [REDACTED]
Name: Colin Pewarchuk
Title: Executive Vice President, General Counsel and
Corporate

By: _____
Name: Pipasu Soni
Title: Chief Financial Officer and Treasurer

Address for Notice:
Carfair Composites Inc.
c/o New Flyer Industries Canada ULC
711 Kernaghan Avenue
Winnipeg, Manitoba, R2C 3T4

Attention: Chief Financial Officer
Fax: (204) 224-6652
Email: [REDACTED]

CARFAIR COMPOSITES INC.

By: _____
Name: Colin Pewarchuk
Title: Executive Vice President, General Counsel and
Corporate Secretary

DocuSigned by:
[REDACTED]
By: _____
Name: Pipasu Soni
Title: Chief Financial Officer, Executive Vice President,
Finance and Treasurer

Address for Notice:
Alexander Dennis (Canada) Inc.
c/o New Flyer Industries Canada ULC
711 Kernaghan Avenue
Winnipeg, Manitoba, R2C 3T4

Attention: Chief Financial Officer
Fax: (204) 224-6652
Email: [REDACTED]

ALEXANDER DENNIS (CANADA) INC.

By: _____
Name: Colin Pewarchuk
Title: Executive Vice President, General Counsel and
Corporate

DocuSigned by:
[REDACTED]
By: _____
Name: Pipasu Soni
Title: Chief Financial Officer and Treasurer

Address for Notice:
MCIL Holdings, Ltd.
c/o New Flyer Industries Canada ULC
711 Kernaghan Avenue
Winnipeg, Manitoba, R2C 3T4

Attention: Chief Financial Officer
Fax: (204) 224-6652
Email: [REDACTED]

MCIL HOLDINGS, LTD.

By: [REDACTED]
Name: Colin Pewarchuk
Title: Executive Vice President, General Counsel and
Corporate Secretary

By: _____
Name: Pipasu Soni
Title: Chief Financial Officer, Executive Vice President,
Finance and Treasurer

Address for Notice:
Motor Coach Industries Limited
c/o New Flyer Industries Canada ULC
711 Kernaghan Avenue
Winnipeg, Manitoba, R2C 3T4 .

Attention: Chief Financial Officer
Fax: (204) 224-6652
Email: [REDACTED]

MOTOR COACH INDUSTRIES LIMITED

By: [REDACTED]
Name: Colin Pewarchuk
Title: Executive Vice President, General Counsel and
Corporate Secretary

By: _____
Name: Pipasu Soni
Title: Chief Financial Officer, Executive Vice President,
Finance and Treasurer

Address for Notice:
MCIL Holdings, Ltd.
c/o New Flyer Industries Canada ULC
711 Kernaghan Avenue
Winnipeg, Manitoba, R2C 3T4

Attention: Chief Financial Officer
Fax: (204) 224-6652
Email: [REDACTED]

MCIL HOLDINGS, LTD.

By: [REDACTED]
Name: Colin Pewarchuk
Title: Executive Vice President, General Counsel and
Corporate Secretary

DocuSigned by:
[REDACTED]
By: [REDACTED]
Name: Pipasu Soni
Title: Chief Financial Officer, Executive Vice President,
Finance and Treasurer

Address for Notice:
Motor Coach Industries Limited
c/o New Flyer Industries Canada ULC
711 Kernaghan Avenue
Winnipeg, Manitoba, R2C 3T4

Attention: Chief Financial Officer
Fax: (204) 224-6652
Email: [REDACTED]

MOTOR COACH INDUSTRIES LIMITED

By: [REDACTED]
Name: Colin Pewarchuk
Title: Executive Vice President, General Counsel and
Corporate Secretary

DocuSigned by:
[REDACTED]
By: [REDACTED]
Name: Pipasu Soni
Title: Chief Financial Officer, Executive Vice President,
Finance and Treasurer

Address for Notice:
Frank Fair Industries Ltd.
c/o New Flyer Industries Canada ULC
711 Kernaghan Avenue
Winnipeg, Manitoba, R2C 3T4

Attention: Chief Financial Officer
Fax: (204) 224-6652
Email: [REDACTED]

FRANK FAIR INDUSTRIES LTD.

By: [REDACTED]
Name: Colin Pewarchuk
Title: Executive Vice President, General Counsel and
Corporate Secretary

By: _____
Name: Pipasu Soni
Title: Chief Financial Officer, Executive Vice President,
Finance and Treasurer

Address for Notice:
New Flyer of America Inc.
c/o New Flyer Industries Canada ULC
711 Kernaghan Avenue
Winnipeg, Manitoba, R2C 3T4

Attention: Chief Financial Officer
Fax: (204) 224-6652
Email: [REDACTED]

NEW FLYER OF AMERICA INC.

By: [REDACTED]
Name: Colin Pewarchuk
Title: Executive Vice President, General Counsel and
Corporate Secretary

By: _____
Name: Pipasu Soni
Title: Chief Financial Officer, Executive Vice President,
Finance and Treasurer

Address for Notice:
Frank Fair Industries Ltd.
c/o New Flyer Industries Canada ULC
711 Kernaghan Avenue
Winnipeg, Manitoba, R2C 3T4

Attention: Chief Financial Officer
Fax: (204) 224-6652
Email: [REDACTED]

FRANK FAIR INDUSTRIES LTD.

By: [REDACTED]
Name: Colin Pewarchuk
Title: Executive Vice President, General Counsel and
Corporate Secretary

DocuSigned by: [REDACTED]
By: [REDACTED]
Name: Pipasu Soni
Title: Chief Financial Officer, Executive Vice President,
Finance and Treasurer

Address for Notice:
New Flyer of America Inc.
c/o New Flyer Industries Canada ULC
711 Kernaghan Avenue
Winnipeg, Manitoba, R2C 3T4

Attention: Chief Financial Officer
Fax: (204) 224-6652
Email: [REDACTED]

NEW FLYER OF AMERICA INC.

By: [REDACTED]
Name: Colin Pewarchuk
Title: Executive Vice President, General Counsel and
Corporate Secretary

DocuSigned by: [REDACTED]
By: [REDACTED]
Name: Pipasu Soni
Title: Chief Financial Officer, Executive Vice President,
Finance and Treasurer

Address for Notice:
Transit Holdings, Inc.
c/o New Flyer Industries Canada ULC
711 Kernaghan Avenue
Winnipeg, Manitoba, R2C 3T4

Attention: Chief Financial Officer
Fax: (204) 224-6652
Email: [REDACTED]

TRANSIT HOLDINGS, INC.

DocuSigned by:
By: [REDACTED]
Name: Colin Pewarchuk
Title: Executive Vice President, General Counsel and
Corporate Secretary

By: _____
Name: Pipasu Soni
Title: Chief Financial Officer, Executive Vice President,
Finance and Treasurer

Address for Notice:
New MCI Holdings, Inc.
c/o New Flyer Industries Canada ULC
711 Kernaghan Avenue
Winnipeg, Manitoba, R2C 3T4

Attention: Chief Financial Officer
Fax: (204) 224-6652
Email: [REDACTED]

NEW MCI HOLDINGS, INC.

By: [REDACTED]
Name: Colin Pewarchuk
Title: Executive Vice President, General Counsel and
Corporate Secretary

By: _____
Name: Pipasu Soni
Title: Chief Financial Officer, Executive Vice President,
Finance and Treasurer

Address for Notice:
Transit Holdings, Inc.
c/o New Flyer Industries Canada ULC
711 Kernaghan Avenue
Winnipeg, Manitoba, R2C 3T4

Attention: Chief Financial Officer
Fax: (204) 224-6652
Email: [REDACTED]

TRANSIT HOLDINGS, INC.

By: _____
Name: Colin Pewarchuk
Title: Executive Vice President, General Counsel and
Corporate Secretary
DocuSigned by:

By: [REDACTED]
Name: Pipasu Soni
Title: Chief Financial Officer, Executive Vice President,
Finance and Treasurer

Address for Notice:
New MCI Holdings, Inc.
c/o New Flyer Industries Canada ULC
711 Kernaghan Avenue
Winnipeg, Manitoba, R2C 3T4

Attention: Chief Financial Officer
Fax: (204) 224-6652
Email: [REDACTED]

NEW MCI HOLDINGS, INC.

By: _____
Name: Colin Pewarchuk
Title: Executive Vice President, General Counsel and
Corporate Secretary
DocuSigned by:

By: [REDACTED]
Name: Pipasu Soni
Title: Chief Financial Officer, Executive Vice President,
Finance and Treasurer

Address for Notice:
The Aftermarket Parts Company, LLC
c/o New Flyer Industries Canada ULC
711 Kernaghan Avenue
Winnipeg, Manitoba, R2C 3T4

Attention: Chief Financial Officer
Fax: (204) 224-6652
Email: [REDACTED]

**THE AFTERMARKET PARTS
COMPANY, LLC**

By: [REDACTED]
Name: Colin Pewarchuk
Title: Executive Vice President, General Counsel and
Corporate Secretary

By: [REDACTED]
Name: Pipasu Soni
Title: Chief Financial Officer, Executive Vice President,
Finance and Treasurer

Address for Notice:
ARBOC Specialty Vehicles, LLC
c/o New Flyer Industries Canada ULC
711 Kernaghan Avenue
Winnipeg, Manitoba, R2C 3T4

Attention: Chief Financial Officer
Fax: (204) 224-6652
Email: [REDACTED]

ARBOC SPECIALTY VEHICLES, LLC

By: [REDACTED]
Name: Colin Pewarchuk
Title: Executive Vice President, General Counsel and
Corporate Secretary

By: [REDACTED]
Name: Pipasu Soni
Title: Chief Financial Officer, Executive Vice President,
Finance and Treasurer

Address for Notice:
The Aftermarket Parts Company, LLC
c/o New Flyer Industries Canada ULC
711 Kernaghan Avenue
Winnipeg, Manitoba, R2C 3T4

Attention: Chief Financial Officer
Fax: (204) 224-6652
Email: [REDACTED]

**THE AFTERMARKET PARTS
COMPANY, LLC**

By: _____
Name: Colin Pewarchuk
Title: Executive Vice President, General Counsel and
Corporate Secretary

DocuSigned by: [REDACTED]
By: _____
Name: Pipasu Soni
Title: Chief Financial Officer, Executive Vice President,
Finance and Treasurer

Address for Notice:
ARBOC Specialty Vehicles, LLC
c/o New Flyer Industries Canada ULC
711 Kernaghan Avenue
Winnipeg, Manitoba, R2C 3T4

Attention: Chief Financial Officer
Fax: (204) 224-6652
Email: [REDACTED]

ARBOC SPECIALTY VEHICLES, LLC

By: _____
Name: Colin Pewarchuk
Title: Executive Vice President, General Counsel and
Corporate Secretary

DocuSigned by: [REDACTED]
By: _____
Name: Pipasu Soni
Title: Chief Financial Officer, Executive Vice President,
Finance and Treasurer

Address for Notice:
Carfair Composites USA, Inc.
c/o New Flyer Industries Canada ULC
711 Kernaghan Avenue
Winnipeg, Manitoba, R2C 3T4

Attention: Chief Financial Officer
Fax: (204) 224-6652
Email: [REDACTED]

CARFAIR COMPOSITES USA, INC.

By: [REDACTED]
Name: Colin Pewarchuk
Title: Executive Vice President, General Counsel and
Corporate Secretary

By: [REDACTED]
Name: Pipasu Soni
Title: Chief Financial Officer, Executive Vice President,
Finance and Treasurer

Address for Notice:
MCH Holdings, Inc.
c/o New Flyer Industries Canada ULC
711 Kernaghan Avenue
Winnipeg, Manitoba, R2C 3T4

Attention: Chief Financial Officer
Fax: (204) 224-6652
Email: [REDACTED]

MCH HOLDINGS, INC.

By: [REDACTED]
Name: Colin Pewarchuk
Title: Executive Vice President, General Counsel and
Corporate Secretary

By: [REDACTED]
Name: Pipasu Soni
Title: Chief Financial Officer, Executive Vice President,
Finance and Treasurer

Address for Notice:
Carfair Composites USA, Inc.
c/o New Flyer Industries Canada ULC
711 Kernaghan Avenue
Winnipeg, Manitoba, R2C 3T4

Attention: Chief Financial Officer
Fax: (204) 224-6652
Email: [REDACTED]

CARFAIR COMPOSITES USA, INC.

By: _____
Name: Colin Pewarchuk
Title: Executive Vice President, General Counsel and
Corporate Secretary
DocuSigned by: [REDACTED]

By: _____
Name: Pipasu Soni
Title: Chief Financial Officer, Executive Vice President,
Finance and Treasurer

Address for Notice:
MCII Holdings, Inc.
c/o New Flyer Industries Canada ULC
711 Kernaghan Avenue
Winnipeg, Manitoba, R2C 3T4

Attention: Chief Financial Officer
Fax: (204) 224-6652
Email: [REDACTED]

MCII HOLDINGS, INC.

By: _____
Name: Colin Pewarchuk
Title: Executive Vice President, General Counsel and
Corporate Secretary
DocuSigned by: [REDACTED]

By: _____
Name: Pipasu Soni
Title: Chief Financial Officer, Executive Vice President,
Finance and Treasurer

Address for Notice:
Motor Coach Industries International, Inc.
c/o New Flyer Industries Canada ULC
711 Kernaghan Avenue
Winnipeg, Manitoba, R2C 3T4

Attention: Chief Financial Officer
Fax: (204) 224-6652
Email: [REDACTED]

**MOTOR COACH INDUSTRIES
INTERNATIONAL, INC.**

By: [REDACTED]
Name: Colin Pewarchuk
Title: Executive Vice President, General Counsel and
Corporate Secretary

By: _____
Name: Pipasu Soni
Title: Chief Financial Officer, Executive Vice President,
Finance and Treasurer

Address for Notice:
MCI Sales and Service, Inc.
c/o New Flyer Industries Canada ULC
711 Kernaghan Avenue
Winnipeg, Manitoba, R2C 3T4

Attention: Chief Financial Officer
Fax: (204) 224-6652
Email: [REDACTED]

MCI SALES AND SERVICE, INC.

By: [REDACTED]
Name: Colin Pewarchuk
Title: Executive Vice President, General Counsel and
Corporate Secretary

By: _____
Name: Pipasu Soni
Title: Chief Financial Officer, Executive Vice President,
Finance and Treasurer

Address for Notice:
Motor Coach Industries International, Inc.
c/o New Flyer Industries Canada ULC
711 Kernaghan Avenue
Winnipeg, Manitoba, R2C 3T4

Attention: Chief Financial Officer
Fax: (204) 224-6652
Email: [REDACTED]

**MOTOR COACH INDUSTRIES
INTERNATIONAL, INC.**

By: _____
Name: Colin Pewarchuk
Title: Executive Vice President, General Counsel and
Corporate Secretary

DocuSigned by:
[REDACTED]
By: _____
Name: Pipasu Soni
Title: Chief Financial Officer, Executive Vice President,
Finance and Treasurer

Address for Notice:
MCI Sales and Service, Inc.
c/o New Flyer Industries Canada ULC
711 Kernaghan Avenue
Winnipeg, Manitoba, R2C 3T4

Attention: Chief Financial Officer
Fax: (204) 224-6652
Email: [REDACTED]

MCI SALES AND SERVICE, INC.

By: _____
Name: Colin Pewarchuk
Title: Executive Vice President, General Counsel and
Corporate Secretary

DocuSigned by:
[REDACTED]
By: _____
Name: Pipasu Soni
Title: Chief Financial Officer, Executive Vice President,
Finance and Treasurer

Address for Notice:
Motor Coach Industries, Inc.
c/o New Flyer Industries Canada ULC
711 Kernaghan Avenue
Winnipeg, Manitoba, R2C 3T4

Attention: Chief Financial Officer
Fax: (204) 224-6652
Email: [REDACTED]

MOTOR COACH INDUSTRIES, INC.

By: [REDACTED]
Name: Colin Pewarchuk
Title: Executive Vice President, General Counsel and
Corporate Secretary

By: _____
Name: Pipasu Soni
Title: Chief Financial Officer, Executive Vice President,
Finance and Treasurer

Address for Notice:
KMG Fabrication, Inc.
c/o New Flyer Industries Canada ULC
711 Kernaghan Avenue
Winnipeg, Manitoba, R2C 3T4

Attention: Chief Financial Officer
Fax: (204) 224-6652
Email: [REDACTED]

KMG FABRICATION, INC.

By: [REDACTED]
Name: Colin Pewarchuk
Title: Executive Vice President, General Counsel and
Corporate Secretary

By: _____
Name: Pipasu Soni
Title: Chief Financial Officer, Executive Vice President,
Finance and Treasurer

Address for Notice:
Motor Coach Industries, Inc.
c/o New Flyer Industries Canada ULC
711 Kernaghan Avenue
Winnipeg, Manitoba, R2C 3T4

Attention: Chief Financial Officer
Fax: (204) 224-6652
Email: [REDACTED]

MOTOR COACH INDUSTRIES, INC.

By: _____
Name: Colin Pewarchuk
Title: Executive Vice President, General Counsel and
Corporate Secretary

DocuSigned by:
[REDACTED]
By: _____
Name: Pipasu Soni
Title: Chief Financial Officer, Executive Vice President,
Finance and Treasurer

Address for Notice:
KMG Fabrication, Inc.
c/o New Flyer Industries Canada ULC
711 Kernaghan Avenue
Winnipeg, Manitoba, R2C 3T4

Attention: Chief Financial Officer
Fax: (204) 224-6652
Email: [REDACTED]

KMG FABRICATION, INC.

By: _____
Name: Colin Pewarchuk
Title: Executive Vice President, General Counsel and
Corporate Secretary

DocuSigned by:
[REDACTED]
By: _____
Name: Pipasu Soni
Title: Chief Financial Officer, Executive Vice President,
Finance and Treasurer

Address for Notice:
Alexander Dennis Incorporated
c/o New Flyer Industries Canada ULC
711 Kernaghan Avenue
Winnipeg, Manitoba, R2C 3T4

Attention: Chief Financial Officer
Fax: (204) 224-6652
Email: [REDACTED]

ALEXANDER DENNIS INCORPORATED

By: [REDACTED]
Name: Colin Pewarchuk
Title: Executive Vice President, General Counsel and Corporate Secretary

By: _____
Name: Pipasu Soni
Title: Chief Financial Officer and Treasurer

Address for Notice:
Alexander Dennis Limited
c/o New Flyer Industries Canada ULC
711 Kernaghan Avenue
Winnipeg, Manitoba, R2C 3T4

Attention: Chief Financial Officer
Fax: (204) 224-6652
Email: [REDACTED]

ALEXANDER DENNIS LIMITED

By: _____
Name: Richard Paul Davies
Title: Director

By: _____
Name: Michael Stewart
Title: Director

Address for Notice:
Alexander Dennis Incorporated
c/o New Flyer Industries Canada ULC
711 Kernaghan Avenue
Winnipeg, Manitoba, R2C 3T4

Attention: Chief Financial Officer
Fax: (204) 224-6652
Email: [REDACTED]

ALEXANDER DENNIS INCORPORATED

By: [REDACTED]
Name: Colin Pewarchuk
Title: Executive Vice President, General Counsel and
Corporate Secretary
DocuSigned by:
[REDACTED]
By: [REDACTED]
Name: Pipasu Soni
Title: Chief Financial Officer and Treasurer

Address for Notice:
Alexander Dennis Limited
c/o New Flyer Industries Canada ULC
711 Kernaghan Avenue
Winnipeg, Manitoba, R2C 3T4

Attention: Chief Financial Officer
Fax: (204) 224-6652
Email: [REDACTED]

ALEXANDER DENNIS LIMITED

By: [REDACTED]
Name: Richard Paul Davies
Title: Director

By: [REDACTED]
Name: Michael Stewart
Title: Director

Address for Notice:
Alexander Dennis Incorporated
c/o New Flyer Industries Canada ULC
711 Kernaghan Avenue
Winnipeg, Manitoba, R2C 3T4

Attention: Chief Financial Officer
Fax: (204) 224-6652
Email: [REDACTED]

ALEXANDER DENNIS INCORPORATED

By: [REDACTED]
Name: Colin Pewarchuk
Title: Executive Vice President, General Counsel and
Corporate Secretary

By: [REDACTED]
Name: Pipasu Soni
Title: Chief Financial Officer and Treasurer

Address for Notice:
Alexander Dennis Limited
c/o New Flyer Industries Canada ULC
711 Kernaghan Avenue
Winnipeg, Manitoba, R2C 3T4

Attention: Chief Financial Officer
Fax: (204) 224-6652
Email: [REDACTED]

ALEXANDER DENNIS LIMITED

By: [REDACTED]
Name: Richard Paul Davies
Title: Director

By: [REDACTED]
Name: Michael Stewart
Title: Director

Address for Notice:
Alexander Dennis Incorporated
c/o New Flyer Industries Canada ULC
711 Kernaghan Avenue
Winnipeg, Manitoba, R2C 3T4

Attention: Chief Financial Officer
Fax: (204) 224-6652
Email: [REDACTED]

ALEXANDER DENNIS INCORPORATED

By: _____
Name: Colin Pewarchuk
Title: Executive Vice President, General Counsel and
Corporate Secretary

By: _____
Name: Pipasu Soni
Title: Chief Financial Officer and Treasurer

Address for Notice:
Alexander Dennis Limited
c/o New Flyer Industries Canada ULC
711 Kernaghan Avenue
Winnipeg, Manitoba, R2C 3T4

Attention: Chief Financial Officer
Fax: (204) 224-6652
Email: [REDACTED]

ALEXANDER DENNIS LIMITED

By: _____
Name: Richard Paul Davies
Title: Director

By: [REDACTED]

Name: Michael Stewart
Title: Director

Address for Notice:
NFI International Limited
c/o New Flyer Industries Canada ULC
711 Kernaghan Avenue
Winnipeg, Manitoba, R2C 3T4

Attention: Chief Financial Officer
Fax: (204) 224-6652
Email: [REDACTED]

NFI INTERNATIONAL LIMITED

DocuSigned by:
[REDACTED]

By: [REDACTED]
Name: Richard Paul Davies
Title: Director

By: [REDACTED]
Name: Michael Stewart
Title: Director

Address for Notice:
Plaxton Limited
c/o New Flyer Industries Canada ULC
711 Kernaghan Avenue
Winnipeg, Manitoba, R2C 3T4

Attention: Chief Financial Officer
Fax: (204) 224-6652
Email: [REDACTED]

PLAXTON LIMITED

DocuSigned by:
[REDACTED]

By: [REDACTED]
Name: Richard Paul Davies
Title: Director

By: [REDACTED]
Name: Michael Stewart
Title: Director

Address for Notice:
NFI International Limited
c/o New Flyer Industries Canada ULC
711 Kernaghan Avenue
Winnipeg, Manitoba, R2C 3T4

Attention: Chief Financial Officer
Fax: (204) 224-6652
Email: [REDACTED]

NFI INTERNATIONAL LIMITED

By: _____
Name: Richard Paul Davies
Title: Director

DocuSigned by:
[REDACTED]
By: _____
Name: Michael Stewart
Title: Director

Address for Notice:
Plaxton Limited
c/o New Flyer Industries Canada ULC
711 Kernaghan Avenue
Winnipeg, Manitoba, R2C 3T4

Attention: Chief Financial Officer
Fax: (204) 224-6652
Email: [REDACTED]

PLAXTON LIMITED

By: _____
Name: Richard Paul Davies
Title: Director

DocuSigned by:
[REDACTED]
By: _____
Name: Michael Stewart
Title: Director

Address for Notice:
Plaxton Holdings Limited
c/o New Flyer Industries Canada ULC
711 Kernaghan Avenue
Winnipeg, Manitoba, R2C 3T4

Attention: Chief Financial Officer
Fax: (204) 224-6652
Email: [REDACTED]

PLAXTON HOLDINGS LIMITED

By: [REDACTED]
Name: Richard Paul Davies
Title: Director

By: _____
Name: Michael Stewart
Title: Director

Address for Notice:
Plaxton Holdings Limited
c/o New Flyer Industries Canada ULC
711 Kernaghan Avenue
Winnipeg, Manitoba, R2C 3T4

Attention: Chief Financial Officer
Fax: (204) 224-6652
Email: [REDACTED]

PLAXTON HOLDINGS LIMITED

By: _____
Name: Richard Paul Davies
Title: Director

DocuSigned by:

By: _____
Name: Michael Stewart
Title: Director

EXHIBIT A
to Intercreditor Agreement

FORM OF ADDITIONAL SECOND LIEN DEBT DESIGNATION

_____, 20____

Reference is made to the Intercreditor Agreement dated as of August 25, 2023 (as amended, supplemented, amended and restated or otherwise modified and in effect from time to time, the “**Intercreditor Agreement**”) among NFI Group Inc., New Flyer Holdings, Inc. and NFI International Limited and the other Obligors from time to time party thereto, The Bank of Nova Scotia, as Administrative Agent under the Core RT Credit Agreement, HSBC Corporate Trustee Company (UK) Limited as Security Agent and HSBC Bank plc as Facility Agent under the U.K. Facility Agreement, Computershare Trust Company of Canada, as 2L Term Agent under the Second Lien Credit Agreement and any Secured Debt Representative of a Series of Additional Second Lien Debt that executes and delivers an Intercreditor Joinder. Capitalized terms used but not otherwise defined herein shall have the meaning set forth in the Intercreditor Agreement. This Additional Second Lien Debt Designation is being executed and delivered in order to designate Additional Second Lien Debt as Secured Debt entitled to the benefit of the Intercreditor Agreement.

The undersigned, the duly appointed [**specify title**] of the Parent, hereby certifies on behalf of the Parent that:

- A. *[insert name of the applicable Obligor]* intends to incur additional Second Lien Debt (“**Additional Second Lien Debt**”) which will be Second Lien Debt that is permitted by each applicable Secured Debt Document to be secured by a Second Lien equally and ratably with all other Second Lien Debt;
- B. the name and address of the Secured Debt Representative for the Additional Second Lien Debt for purposes of Section 6.8 of the Intercreditor Agreement is:

Telephone: _____

Fax: _____
- C. each Obligor has duly authorized, executed (if applicable) and filed, registered or recorded (or caused to be filed, registered or recorded) in each appropriate governmental office all relevant filings, registrations and recordations, if any, as are necessary to cause the Additional Second Lien Debt to be secured by the Collateral in accordance with the Security Documents in respect of such Additional Second Lien Debt and such Additional Second Lien Debt is being incurred and secured in compliance with the terms of all applicable Secured Debt Documents;

- D. attached as Exhibit 1 hereto is a Reaffirmation Agreement duly executed by the Obligors,
- E. the Obligors have caused a copy of this Additional Second Lien Debt Designation and the related Intercreditor Joinder to be delivered to each existing Secured Debt Representative, and
- F. such Additional Second Lien Debt shall constitute Second Lien Debt for purposes of the Intercreditor Agreement.

IN WITNESS WHEREOF, the Parent has caused this Additional Second Lien Debt Designation to be duly executed by its undersigned officers as of the date first written above.

NFI GROUP INC.,
as Parent

By: [●]

Name: [●]

Title: [●]

EXHIBIT 1
to Additional Second Lien Debt Designation

FORM OF REAFFIRMATION AGREEMENT

Reference is made to the Intercreditor Agreement dated as of August 25, 2023 (as amended, supplemented, amended and restated or otherwise modified and in effect from time to time, the “**Intercreditor Agreement**”) among NFI Group Inc., New Flyer Holdings, Inc. and NFI International Limited and the other Obligors from time to time party thereto, The Bank of Nova Scotia, as Administrative Agent under the Core RT Credit Agreement, HSBC Corporate Trustee Company (UK) Limited as Security Agent and HSBC Bank plc as Facility Agent under the U.K. Facility Agreement, Computershare Trust Company of Canada, as 2L Term Agent under the Second Lien Credit Agreement and any Secured Debt Representative of a Series of Additional Second Lien Debt that executes and delivers an Intercreditor Joinder. Capitalized terms used but not otherwise defined herein shall have the meaning set forth in the Intercreditor Agreement. This Reaffirmation Agreement is being executed and delivered as of _____, 20____ in connection with an Additional Second Lien Debt Designation of even date herewith which Additional Second Lien Debt Designation has designated Additional Second Lien Debt as Secured Debt entitled to the benefit of the Intercreditor Agreement.

Each of the undersigned hereby consents to the designation of Additional Second Lien Debt as Secured Debt as set forth in the Additional Second Lien Debt Designation of even date herewith and hereby confirms its respective guarantees, pledges, grants of security interests and other obligations, as applicable, under and subject to the terms of each Secured Debt Documents to which it is party, and agrees that, notwithstanding the designation of such additional Indebtedness or any of the transactions contemplated thereby, such guarantees, pledges, grants of security interests and other obligations, and the terms of each Secured Debt Document to which it is a party, are not impaired or adversely affected in any manner whatsoever and shall continue to be in full force and effect.

Governing Law and Miscellaneous Provisions. The provisions of Article 6 of the Intercreditor Agreement will apply with like effect to this Reaffirmation Agreement.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, each of the undersigned has caused this Reaffirmation Agreement to be duly executed as of the date written above.

NFI GROUP INC.

By: ☐ _____
Name: ☐
Title: ☐

**[INSERT SIGNATURES FOR ALL
OBLIGORS]**

EXHIBIT B
to Intercreditor Agreement

FORM OF INTERCREDITOR JOINDER – ADDITIONAL SECOND LIEN DEBT

Reference is made to the Intercreditor Agreement dated as of August 25, 2023 (as amended, supplemented, amended and restated or otherwise modified and in effect from time to time, the “**Intercreditor Agreement**”) among NFI Group Inc., New Flyer Holdings, Inc. and NFI International Limited and the other Obligors from time to time party thereto, The Bank of Nova Scotia, as Administrative Agent under the Core RT Credit Agreement, HSBC Corporate Trustee Company (UK) Limited as Security Agent and HSBC Bank plc as Facility Agent under the U.K. Facility Agreement, Computershare Trust Company of Canada, as 2L Term Agent under the Second Lien Credit Agreement and any Secured Debt Representative of a Series of Additional Second Lien Debt that executes and delivers an Intercreditor Joinder. Capitalized terms used but not otherwise defined herein shall have the meaning set forth in the Intercreditor Agreement. This Intercreditor Joinder is being executed and delivered pursuant to Section 3.5 of the Intercreditor Agreement as a condition precedent to the debt for which the undersigned is acting as agent being entitled to the benefits of being Additional Second Lien Debt under the Intercreditor Agreement.

1. Joinder. The undersigned, _____, a _____ (the “**New Representative**”), in its capacity as [trustee, administrative agent/other title] under that certain [describe applicable indenture, debenture, credit agreement, instrument or other document governing the Additional Second Lien Debt] and related documents (collectively the “**New Secured Debt Documents**”) hereby agrees to become party as a Secured Debt Representative under the Intercreditor Agreement for all purposes thereof on the terms set forth therein, and to be bound by the terms of the Intercreditor Agreement as fully as if the undersigned had executed and delivered the Intercreditor Agreement as of the date thereof.
2. Priority Confirmations. The undersigned New Representative, on behalf of itself and each holder of Obligations in respect of a Series of Secured Debt for which the undersigned is acting as Secured Debt Representative (the “**New Series of Second Lien Secured Debt**”), hereby confirms and agrees, for the enforceable benefit of all existing and future Secured Parties and Secured Debt Representatives, and as a condition to being treated as Secured Debt under the Intercreditor Agreement that:
 - A. the Indebtedness and other Obligations of the Obligors under the New Secured Debt Documents shall constitute Second Lien Obligations for the purposes of the Intercreditor Agreement;
 - B. it is the Second Lien Representative for the holders of the Second Lien Obligations arising under the New Secured Debt Documents;
 - C. the New Secured Debt Documents contain the written agreement (or deemed agreement) of the holders of the New Series of Second Lien Secured Debt, for the benefit of all existing and future Secured Parties and Secured Debt Representatives,

that the holders of such New Series of Second Lien Secured Debt are bound by the provisions in the Intercreditor Agreement (including the provisions relating to the ranking of the First Liens and the Second Liens, and the order of application of proceeds from any Enforcement Action and other action taken in respect of the Collateral), and the New Representative consents to the terms of the Intercreditor Agreement.

3. Governing Law and Miscellaneous Provisions. The provisions of Article 6 of the Intercreditor Agreement will apply with like effect to this Intercreditor Joinder.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have caused this Intercreditor Joinder to be executed by their respective officers or representatives as of _____, 20____.

[NAME OF NEW REPRESENTATIVE]

By: [●] _____
Name: [●]
Title: [●]

EXHIBIT C
to Intercreditor Agreement

FORM OF INTERCREDITOR JOINDER – ADDITIONAL OBLIGOR

Reference is made to the Intercreditor Agreement dated as of August 25, 2023 (as amended, supplemented, amended and restated or otherwise modified and in effect from time to time, the “**Intercreditor Agreement**”) among NFI Group Inc., New Flyer Holdings, Inc. and NFI International Limited and the other Obligors from time to time party thereto, The Bank of Nova Scotia, as Administrative Agent under the Core RT Credit Agreement, HSBC Corporate Trustee Company (UK) Limited as Security Agent and HSBC Bank plc as Facility Agent under the U.K. Facility Agreement, Computershare Trust Company of Canada, as 2L Term Agent under the Second Lien Credit Agreement and any Secured Debt Representative of a Series of Additional Second Lien Debt that executes and delivers an Intercreditor Joinder. Capitalized terms used but not otherwise defined herein shall have the meaning set forth in the Intercreditor Agreement. This Intercreditor Joinder is being executed and delivered pursuant to Section 3.5 of the Intercreditor Agreement.

1. Joinder. The undersigned, _____, a _____, hereby agrees to become party as an Obligor under the Intercreditor Agreement for all purposes thereof on the terms set forth therein, and to be bound by the terms of the Intercreditor Agreement as fully as if the undersigned had executed and delivered the Intercreditor Agreement as of the date thereof.
2. Governing Law and Miscellaneous Provisions. The provisions of Article 6 of the Intercreditor Agreement will apply with like effect to this Intercreditor Joinder.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have caused this Intercreditor Joinder to be executed by their respective officers or representatives as of _____, 20____.

[NAME OF NEW OBLIGOR]

By: ☐ _____
Name: ☐
Title: ☐