

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**  
Washington, D.C. 20549

**FORM 8-K**

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

**Date of Report (Date of earliest event reported) June 24, 2022**

**Harsco Corporation**

(Exact name of registrant as specified in its charter)

**Delaware**  
(State or other jurisdiction  
of incorporation)

**001-03970**  
(Commission  
File Number)

**23-1483991**  
(IRS Employer  
Identification No.)

**350 Poplar Church Road, Camp Hill,  
Pennsylvania**  
(Address of principal executive offices)

**17011**  
(Zip Code)

**Registrant's telephone number, including area code (717) 763-7064**

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

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instructions A.2. below):

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

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
<b>Common stock, par value \$1.25 per share</b>	<b>HSC</b>	<b>New York Stock Exchange</b>

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

Emerging growth company

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

**Item 1.01 Entry into a Material Definitive Agreement.**

***A/R Securitization Facility***

On June 24, 2022 (the “Closing Date”), Harsco Corporation (the “Company”) entered into a \$150 million accounts receivable securitization facility (the “A/R Securitization Facility”) to provide additional liquidity and funding for the ongoing business needs of the Company and its subsidiaries.

The documentation for the A/R Securitization Facility includes (i) a Receivables Purchase Agreement (the “Receivables Purchase Agreement”), by and among Harsco Receivables LLC, a wholly-owned bankruptcy-remote subsidiary of the Company (“Seller”), the Company, the persons from time to time party thereto as purchasers (“Purchasers”), PNC Bank, National Association (“PNC”), as administrative agent (“Administrative Agent”), and PNC Capital Markets LLC, as structuring agent (“Structuring Agent”) and (ii) a Purchase and Contribution Agreement (the “Purchase and Contribution Agreement”). The A/R Securitization Facility will terminate on June 24, 2025 unless earlier terminated in accordance with its terms.

In connection with the A/R Securitization Facility, the Company and certain wholly-owned direct and indirect domestic subsidiaries of the Company, as originators (the “Originators”), have sold and/or contributed, and will continue to sell and/or contribute, all of their accounts receivable (other than certain excluded receivables) and certain related assets (collectively, “Receivables”) to Seller pursuant to the Purchase and Contribution Agreement. Pursuant to the Receivables Purchase Agreement, the Seller may, from time to time, in turn sell Receivables, to the Purchasers, in exchange for cash proceeds.

Seller will pay the Base Rate, Daily BSBY Floating Rate or BSBY Rate (each as defined in the Receivables Purchase Agreement) with respect to the investments made by the Purchasers under the Receivables Purchase Agreement. Seller will also pay certain customary fees under the Receivables Purchase Agreement on a monthly basis.

The Company will be responsible for initial servicing and collection of the Receivables, and provide a customary guaranty of performance of the respective obligations of Originators to the Administrative Agent, Purchasers, and the other secured parties under the Receivables Purchase Agreement. However, neither the Company nor any of the Company’s other subsidiaries is guaranteeing the payment of Seller’s obligations under the Receivables Purchase Agreement, or the creditworthiness of the obligors thereunder.

The Receivables Purchase Agreement and the Purchase and Contribution Agreement contain certain customary representations and warranties, affirmative and negative covenants, indemnification provisions, and events of default, including those providing for the acceleration of amounts owed by Seller to Purchasers under the Receivables Purchase Agreement upon the occurrence of certain events.

The foregoing descriptions of the Receivables Purchase Agreement and the Purchase and Contribution Agreement are qualified in their entirety by reference to the full and complete terms of the agreements. Copies of the Receivables Purchase Agreement and the Purchase and Contribution Agreement are attached as Exhibit 10.1 and Exhibit 10.2 hereto, respectively, and are incorporated by reference herein.

PNC serves as a lender and a letter of credit issuing bank under the Third Amended and Restated Credit Agreement (the “Credit Agreement”), dated as of November 2, 2016 (as the same has been amended, supplemented or otherwise modified prior to the Closing Date, and as further amended by Amendment No. 10) among the Company, Bank of America, N.A. as Administrative Agent and Collateral Agent, and the lenders party thereto. In addition, PNC serves

as a joint bookrunner and joint lead arranger under the Credit Agreement. PNC and PNC Capital Markets LLC provide other banking services not specifically outlined in the Receivables Purchase Agreement to Company and the subsidiaries of the Company in the ordinary course of their respective businesses.

#### ***Amendment No. 10 to Third Amended and Restated Credit Agreement***

In connection with entering into the A/R Securitization Facility, on the Closing Date, Company entered into Amendment No. 10 to the Third Amended and Restated Credit Agreement (“Amendment No. 10”), which amends Company’s Credit Agreement with Bank of America, N.A., as administrative agent and collateral agent, the lenders party thereto, and the other parties thereto and the related guarantee and collateral agreement.

Pursuant to Amendment No. 10, the permitted maximum outstanding amount of a securitization facility was increased to \$150 million and certain other covenants and definitions were modified to facilitate the A/R Securitization Facility.

The foregoing description of Amendment No. 10 is qualified in its entirety by reference to the full and complete terms of Amendment No. 10, which is attached as Exhibit 10.3 hereto and is incorporated by reference herein.

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

The disclosure above under Item 1.01 of this Current Report on Form 8-K is also responsive to Item 2.03 of this Current Report on Form 8-K and is hereby incorporated by reference into this Item 2.03.

#### **Item 7.01 Regulation FD.**

On June 30, 2022, Company issued a press release announcing the entry into the A/R Securitization Facility. A copy of the press release is being furnished herewith as Exhibit 99.1.

The information is being furnished in this report and shall not be deemed to be “filed” for purposes of Section 18 of the Securities Exchange Act of 1934 (the “Exchange Act”) or otherwise subject to the liabilities of that section, nor shall it be deemed incorporated by reference into any filing under the Securities Act of 1933 or the Exchange Act, except as shall be expressly set forth by specific reference in such filing.

#### **Item 9.01 Financial Statements and Exhibits.**

(d) Exhibits

<u>Exhibit No.</u>	<u>Description</u>
10.1	<a href="#"><u>Receivables Purchase Agreement, dated as of June 24, 2022, by and among Harsco Receivables LLC, Harsco Corporation, the person from time to time party thereto as purchasers, PNC Bank, National Association, as administrative agent, and PNC Capital Markets LLC, as structuring agent (the “Receivables Purchase Agreement”).</u></a>
10.2	<a href="#"><u>Purchase and Contribution Agreement, dated as of June 24, 2022, by and among Harsco Receivables LLC, Harsco Corporation, and various entities party thereto as originators (the “Purchase and Contribution Agreement”).</u></a>

- 10.3 [Amendment No. 10 to Third Amended and Restated Credit Agreement and Second Amendment to Guarantee and Collateral Agreement, dated as of June 24, 2022, among Harsco Corporation, the Subsidiary Guarantors party thereto, Bank of America, N.A. as administrative agent and collateral agent, and the lenders party thereto \(the "Amendment No. 10"\)](#).
- 99.1 [Press Release, dated June 30, 2022](#).
- 104 Cover Page Interactive Data File (formatted as inline XBRL).

**SIGNATURES**

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

Date: June 30, 2022

**HARSCO CORPORATION**

/s/ Russell C. Hochman

\_\_\_\_\_  
Russell C. Hochman

Senior Vice President and General Counsel,

Chief Compliance Officer & Corporate Secretary

**RECEIVABLES PURCHASE AGREEMENT**

Dated as of June 24, 2022

by and among

**HARSCO RECEIVABLES LLC,**  
as Seller,

**THE PERSONS FROM TIME TO TIME PARTY HERETO,**  
as Purchasers,

**PNC BANK, NATIONAL ASSOCIATION,**  
as Administrative Agent,

**HARSCO CORPORATION,**  
as initial Servicer,

and

**PNC CAPITAL MARKETS LLC,**  
as Structuring Agent

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SCHEDULE I	–	Commitments
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This RECEIVABLES PURCHASE AGREEMENT (as amended, restated, supplemented or otherwise modified from time to time, this “Agreement”) is entered into as of June 24, 2022 by and among the following parties:

- (i) HARSCO RECEIVABLES LLC, a Delaware limited liability company, as the Seller (together with its successors and assigns, the “Seller”);
- (ii) the Persons from time to time party hereto as Purchasers;
- (iii) PNC BANK, NATIONAL ASSOCIATION (“PNC”), a national banking association, as the Administrative Agent;
- (iv) HARSCO CORPORATION, a Delaware corporation (“Harsco”), as initial Servicer (in such capacity, together with its successors and assigns in such capacity, the “Servicer”); and
- (v) PNC CAPITAL MARKETS LLC, a Pennsylvania limited liability company, as the Structuring Agent.

#### PRELIMINARY STATEMENTS

The Seller has acquired, and will acquire from time to time, Receivables from the Originator(s) pursuant to the Purchase and Contribution Agreement. The Seller desires to sell the Receivables to the Purchasers and, in connection therewith, has requested that the Purchasers make Investments from time to time, on the terms, and subject to the conditions, set forth herein.

In consideration of the mutual agreements, provisions and covenants contained herein, the sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

#### ARTICLE I.

##### DEFINITIONS

SECTION 1.01. Certain Defined Terms. As used in this Agreement, the following terms shall have the following meanings (such meanings to be equally applicable to both the singular and plural forms of the terms defined):

“Account Control Agreement” means each agreement, in form and substance satisfactory to the Administrative Agent, among the Seller, the Servicer (if applicable), the Administrative Agent and a Collection Account Bank, governing the terms of the related Collection Accounts that provides the Administrative Agent with control within the meaning of the UCC over the deposit accounts subject to such agreement.

“Accrual Period” means, with respect to any Purchaser’s Capital (or any portion thereof), (i) initially, the period commencing on the date of the Investment pursuant to which such Capital (or portion thereof) is made pursuant to Section 2.01 (or in the case of any fees payable hereunder, commencing on the Closing Date) and ending on (but not including) the next Settlement Date and (ii) thereafter, each period commencing on such Settlement Date and ending on (but not including) the next Settlement Date.

“Adjusted Net Receivables Pool Balance” means, at any time of determination, an amount equal to (a) the Net Receivables Pool Balance minus (b) the Specifically Reserved Dilution Amount.

“Administrative Agent” means PNC, in its capacity as contractual representative for the Purchaser Parties, and any successor thereto in such capacity appointed pursuant to Article X or Section 13.03(g).

“Adverse Claim” means any ownership interest or claim, mortgage, deed of trust, pledge, lien, security interest, hypothecation, charge or other encumbrance or security arrangement of any nature whatsoever, whether voluntarily or involuntarily given, including, but not limited to, any conditional sale or title retention arrangement, and any assignment, deposit arrangement or lease intended as, or having the effect of, security and any filed financing statement or other notice of any of the foregoing (whether or not a lien or other encumbrance is created or exists at the time of the filing); it being understood that any thereof in favor of, or assigned to, the Administrative Agent (for the benefit of the Secured Parties) shall not constitute an Adverse Claim.

“Advisors” has the meaning set forth in Section 13.06(c).

“Affected Person” means each Purchaser Party and each of their respective Affiliates.

“Affiliate” means, as to any Person: (a) any other Person that, directly or indirectly, is in control of, is controlled by or is under common control with such Person or (b) who is a director or officer: (i) of such Person or (ii) of any Person described in clause (a). For purposes of this definition, control of a Person shall mean the power, direct or indirect: (x) to vote 25% or more of the securities having ordinary voting power for the election of directors or managers of such Person or (y) to direct or cause the direction of the management and policies of such Person, in either case whether by ownership of securities, contract, proxy or otherwise.

“Aggregate Capital” means, at any time of determination, the aggregate outstanding Capital of all Purchasers at such time.

“Aggregate Contra Account Amount” means, at any time of determination, an amount equal to the product of (i) the aggregate Contra Account Amount of the Top Ten Obligors at such time, times (ii) 1.5. Within thirty (30) days of the completion and the receipt by the Administrative Agent of the results of any annual audit, annual field exam or other testing by an independent field exam firm of the Receivables and the servicing and origination practices of the Servicer and the Originators, the factor set forth in clause (ii) above may be adjusted by the Administrative Agent upon not less than five (5) Business Days’ notice to the Seller to reflect such factor as the Administrative Agent reasonably believes best reflects the actual amount of the aggregate Contra Account Amount with respect to all Obligors included in the Pool Receivables based on such audit or field exam.

“Aggregate Yield” means, at any time of determination, the aggregate accrued and unpaid Yield on the aggregate outstanding Capital of all Purchasers at such time.

“Agreement” has the meaning set forth in the preamble to this Agreement.

“Anti-Corruption Laws” means the United States Foreign Corrupt Practices Act of 1977, as amended, the UK Bribery Act 2010, and any other similar anti-corruption Laws or regulations administered or enforced in any jurisdiction in which Holdings or any of its Subsidiaries conduct business.

“Anti-Terrorism Law” means any Law in force or hereinafter enacted related to terrorism, money laundering, or economic sanctions, including the Bank Secrecy Act, 31 U.S.C. § 5311 et seq., the USA PATRIOT Act, the International Emergency Economic Powers Act, 50 U.S.C. 1701 et seq., the Trading with the Enemy Act, 50 U.S.C. 4301, et seq., 18 U.S.C. § 2332d, and 18 U.S.C. § 2339B.

“Applicable Law” means, with respect to any Person, any Law (x) that is applicable to such Person or any of its property, (y) to which such Person is a party or (z) by which any of such Person’s property is bound. For the avoidance of doubt, FATCA shall constitute an “Applicable Law” for all purposes of this Agreement.

“Assignment and Acceptance Agreement” means an assignment and acceptance agreement entered into by a Purchaser, an Eligible Assignee and the Administrative Agent, and, if required, the Seller, pursuant to which such Eligible Assignee may become a party to this Agreement, in substantially the form of Exhibit C hereto.

“Assumption Agreement” has the meaning set forth in Section 13.03(h).

“Attorney Costs” means and includes all fees, costs, expenses and disbursements of any law firm or other external counsel and all disbursements of internal counsel.

“Bankruptcy Code” means the United States Bankruptcy Reform Act of 1978 (11 U.S.C. § 101, et seq.).

“Base Rate” means, for any day and any Purchaser, a fluctuating interest rate per annum as shall be in effect from time to time, which rate shall be at all times equal to the highest of:

- (a) the Prime Rate;
- (b) 0.50% per annum above the latest Overnight Bank Funding Rate; and
- (c) 1.00% per annum above the Daily BSBY Floating Rate, so long as the Daily BSBY Floating Rate is offered, ascertainable and not unlawful;

provided, however, if the Base Rate as determined above would be less than zero, then such rate shall be deemed to be zero.

“Base Rate Option” means the option of the Seller to have Capital accrue Yield at the rate and under the terms specified in Section 2.05(a)(i).

“Beneficial Owner” means, for the Seller, each of the following: (a) each individual, if any, who, directly or indirectly, owns 25% or more of the Seller’s Capital Stock; and (b) a single individual with significant authority to control, manage, or direct the Seller.

“Beneficial Ownership Regulation” means 31 C.F.R. § 1010.230.

“Bloomberg” means Bloomberg Index Services Limited (or a successor administrator).

“Board of Directors” means, with respect to any Person, (a) in the case of any corporation, the board of directors of such Person or any committee thereof duly authorized to act on behalf of such board, (b) in the case of any limited liability company, the board of managers, board of directors, manager or managing member of such Person or the functional equivalent of the foregoing, (c) in the case of any partnership, the board of directors, board of managers, manager or managing member of a general partner of such Person or the functional equivalent of the foregoing and (d) in any other case, the functional equivalent of the foregoing.

“Breakage Fee” means (i) for any Yield Period for which Yield is computed by reference to the BSBY Rate Option and a reduction of Capital is made for any reason on any day other than the last day of the related Yield Period or (ii) to the extent that the Seller shall for any reason, fail to make an investment on the date specified by the Seller in connection with any request for funding pursuant to Article II of this Agreement, the amount, if any, by which (A) the additional Yield (calculated without taking into account any Breakage Fee or any shortened duration of such Yield Period pursuant to the definition thereof) which would have accrued during such Yield Period on the reductions of Capital relating to such Yield Period had such reductions not been made (or, in the case of clause (ii) above, the amounts so failed to be funded or accepted in connection with any such request for funding by the Seller), exceeds (B) the income, if any, received by the applicable Purchaser from the investment of the proceeds of such reductions of Capital (or such amounts failed to be funded). A certificate as to the amount of any Breakage Fee (including the computation of such amount) shall be submitted by the affected Purchaser to the Seller and shall be conclusive and binding for all purposes, absent manifest error.

“BSBY Floor” means a zero basis points (0.00%) per annum.

“BSBY Rate” means, with respect to Capital comprising any Portion of Capital to which the BSBY Rate Option applies for any Yield Period, the rate per annum determined by the Administrative Agent by dividing (the resulting quotient rounded upwards, at the Administrative Agent’s discretion, to the nearest 1/100th of 1%) (a) the BSBY Screen Rate two (2) Business Days prior to the first day of such Yield Period and having a term comparable to such Yield Period; provided that if the rate is not published on such determination date, then the rate per annum for purposes of this clause (a) shall be the BSBY Screen Rate on the first Business Day immediately prior thereto, by (b) a number equal to 1.00 minus the BSBY Reserve Percentage; provided, further, that if the BSBY Rate, determined as provided above, would be less than the BSBY Floor, then the BSBY Rate shall be deemed to be the BSBY Floor.

The BSBY Rate shall be adjusted with respect to any Portion of Capital to which the BSBY Rate Option applies that is outstanding on the effective date of any change in the BSBY Reserve Percentage as of such effective date and the Administrative Agent shall give prompt notice to the Seller of the BSBY Rate as determined or adjusted in accordance herewith, which determination shall be conclusive absent manifest error.

“BSBY Rate Capital” means Capital that accrues Yield based on the BSBY Rate.

“BSBY Rate Option” means the option of the Seller to have Capital accrue Yield at the rate and under the terms specified in Section 2.05(a)(ii).

“BSBY Reserve Percentage” shall mean, as of any day, the maximum effective percentage in effect on such day, if any, as prescribed by the Federal Reserve Board for determining the reserve requirements (including, without limitation, supplemental, marginal and emergency reserve requirements) with respect to BSBY Screen Rate funding.

“BSBY Screen Rate” means the Bloomberg Short-Term Bank Yield Index rate administered by Bloomberg and published by Bloomberg (or such other commercially available source providing such quotations as may be designated by the Administrative Agent from time to time).

“Business Day” means any day (other than a Saturday or Sunday) on which banks are not authorized or required to close in Pittsburgh, Pennsylvania or New York City, New York; provided that, for purposes of any direct or indirect calculation or determination of the BSBY Screen Rate, the term “Business Day” means any such day that is also a U.S. Government Securities Business Day.

“Capital” means, with respect to any Purchaser, the aggregate amounts paid to, or on behalf of, the Seller in connection with all Investments made by such Purchaser pursuant to Article II, as reduced from time to time by Collections distributed and applied on account of reducing, returning or repaying such Capital pursuant to Section 2.02(d) or Section 3.01; provided, that if such Capital shall have been reduced by any distribution and thereafter all or a portion of such distribution is rescinded or must otherwise be returned for any reason, such Capital shall be increased by the amount of such rescinded or returned distribution as though it had not been made.

“Capital Coverage Amount” means, at any time of determination, the amount equal to (a) the Adjusted Net Receivables Pool Balance at such time minus (b) the Total Reserves at such time.

“Capital Coverage Deficit” means, at any time of determination, the amount, if any, by which (a) the Aggregate Capital at such time exceeds (b) the Capital Coverage Amount at such time.

“Capital Stock” means, with respect to any Person, any and all common shares, preferred shares, interests, participations, rights in or other equivalents (however designated) of such Person’s capital stock, partnership interests, limited liability company interests, membership interests or other equivalent interests and any rights (other than debt securities convertible into or exchangeable for capital stock), warrants or options exchangeable for or convertible into such capital stock or other equity interests.

“Certificate of Beneficial Ownership” means, for the Seller, a certificate in form and substance acceptable to the Administrative Agent (as amended or modified by the Administrative Agent from time to time in its sole discretion), certifying, among other things, the Beneficial Owner of the Seller.

“Change in Control” means the occurrence of any of the following:

- (a) Harsco and any other Contributing Originators cease to own, directly, 100% of the issued and outstanding Capital Stock of the Seller free and clear of all Adverse Claims;
- (b) Harsco ceases to own, directly or indirectly, 100% of the issued and outstanding Capital Stock of any Originator;
- (c) any Intercompany Loan ceases to be 100% owned by the Originators free and clear of all Adverse Claims;
- (d) any “person” or “group” (as such terms are used in Sections 13(d) and 14(d) of the Exchange Act as in effect on the Closing Date) shall become, or obtain rights (whether by means of warrants, options or the like) to become, the “beneficial owner” (as defined in Rules 13(d)-3 and 13(d)-5 under the Exchange Act as in effect on the Closing Date), directly or indirectly, of more than 35% of the outstanding common stock of Harsco; or
- (e) any change in control (or similar event, however denominated) with respect to Harsco shall occur under and as defined in the Indenture, the Credit Agreement or any other indenture or agreement in respect of Debt in excess of \$25,000,000 to which Harsco or any other Harsco Party is a party.

“Change in Law” means the occurrence, after the Closing Date, of any of the following: (a) the adoption or taking effect of any law, rule, regulation or treaty, (b) any change in any law, rule, regulation or treaty or in the administration, interpretation, implementation or application thereof by any Governmental Authority or (c) the making or issuance of any request, rule, guideline or directive (whether or not having the force of law) by any Governmental Authority; provided that notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (y) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to the agreements reached by the Basel Committee on Banking Supervision in “Basel III: A Global Regulatory Framework for More Resilient Banks and Banking Systems”, shall in each case be deemed to be a “Change in Law”, regardless of the date enacted, adopted or issued.

“Closing Date” means June 24, 2022.

“Code” means the Internal Revenue Code of 1986.

“Collection Account” means each account listed on Schedule II to this Agreement (as such schedule may be modified from time to time in connection with the closing or opening of any Collection Account in accordance with the terms hereof) (in each case, in the name of the Seller) and maintained at a bank or other financial institution acting as a Collection Account Bank pursuant to an Account Control Agreement for the purpose of receiving Collections.

“Collection Account Bank” means any of the banks or other financial institutions holding one or more Collection Accounts.

“Collections” means, with respect to any Pool Receivable: (a) all funds that are received by any Harsco Party or any other Person on their behalf in payment of any amounts owed in respect of such Pool Receivable (including purchase price, service charges, finance charges, interest, fees and all other charges), or applied to amounts owed in respect of such Pool Receivable (including insurance payments, proceeds of drawings under supporting letters of credit and net proceeds of the sale or other disposition of repossessed goods or other collateral or property of the related Obligor or any other Person directly or indirectly liable for the payment of such Pool Receivable and available to be applied thereon), (b) all Deemed Collections, (c) all proceeds of all Related Security with respect to such Pool Receivable and (d) all other proceeds of such Pool Receivable.

“Commitment” means, with respect to any Purchaser, the maximum aggregate amount of Capital which such Person is obligated to pay hereunder on account of all Investments, on a combined basis, as set forth on Schedule I or in the Assumption Agreement or other agreement pursuant to which it became a Purchaser, as such amount may be modified in connection with any subsequent assignment pursuant to Section 13.03 or in connection with a reduction in the Facility Limit pursuant to Section 2.02(e). If the context so requires, “Commitment” also refers to a Purchaser’s obligation to fund Investments hereunder in accordance with this Agreement.

“Commonly Controlled Entity” means an entity, whether or not incorporated, that is under common control with any Harsco Party within the meaning of Section 4001 of ERISA or is part of a group that includes any Harsco Party and that is treated as a single employer under Section 414 of the Code.

“Concentration Percentage” means (a) except as provided in clause (b) below, (i) for any Group A Obligor, 20.0%, (ii) for any Group B Obligor, 15.0%, (iii) for any Group C Obligor, 10.0%, (iv) for the largest four Group D Obligors (by Obligor Percentage), 4.0%, and (v) for any other Group D Obligor, 3.0% and (b) for the Special Obligor, if all the Special Obligor Conditions are then satisfied, 10.0% (the “Special Concentration Limit”); provided, however, that, if at any time any Special Obligor Condition is not then satisfied, the Administrative Agent may, upon notice to the Seller, cancel or reduce the Special Obligor’s Concentration Percentage, and, in the case of such a cancelation, the Special Obligor’s Concentration Percentage shall be determined pursuant to clause (a) above. In the event that any other Obligor is or becomes an Affiliate of the Special Obligor, the Special Concentration Limit shall apply to both such Obligor and the Special Obligor and shall be calculated as if such Obligor and the Special Obligor were a single Obligor.

“Concentration Reserve Percentage” means, at any time of determination, the largest of: (a) the sum of the four (4) largest Obligor Percentages of the Group D Obligors, (b) the sum of the two (2) largest Obligor Percentages of the Group C Obligors, (c) the largest Obligor Percentage of the Group B Obligors and (d) the largest Obligor Percentage of the Group A Obligors. For purpose of this definition, the Special Obligor shall be considered a Group D Obligor.

“Conforming Changes” means, with respect to the BSBY Screen Rate or any Benchmark Replacement, any technical, administrative or operational changes (including changes to the definition of “Base Rate,” the definition of “Business Day,” the definition of “Accrual Period,” the definition of “Yield Period,” timing and frequency of determining rates and making payments of yield, timing of investment requests or prepayment, conversion or continuation notices, length of lookback periods, the applicability of breakage provisions, and other technical, administrative or operational matters) that the Administrative Agent decides may be appropriate to reflect the adoption and implementation of the BSBY Screen Rate or such Benchmark Replacement and to permit the administration thereof by the Administrative Agent in a manner substantially consistent with market practice (or, if the Administrative Agent decides that adoption of any portion of such market practice is not administratively feasible or if the Administrative Agent determines that no market practice for the administration of the BSBY Screen Rate or such Benchmark Replacement exists, in such other manner of administration as the Administrative Agent decides is reasonably necessary in connection with the administration of this Agreement and the other Transaction Documents).

“Contra Account Amount” means, at any time of determination and with respect to any Obligor, an amount equal to the lesser of (a) the Contra Amount at such time with respect to such Obligor, if any, and (b) the aggregate Outstanding Balance of all Pool Receivables that are Eligible Receivables, the Obligor of which is such Obligor.

“Contra Amount” means at any time of determination and with respect to any Obligor, the aggregate amounts of indebtedness and other obligations owed to such Obligor and its Affiliates by any Originator or any of its Affiliates, including, without limitation, any such indebtedness or obligations arising in connection with the sale of goods or rendering of services by such Obligor or its Affiliates to any Originator or any of its Affiliates.

“Contract” means, with respect to any Receivable, any and all contracts, instruments, agreements, leases, invoices, notes or other writings pursuant to which such Receivable arises or that evidence such Receivable or under which an Obligor becomes or is obligated to make payment in respect of such Receivable.

“Contributing Originators” has the meaning set forth in the Purchase and Contribution Agreement.

“Covered Entity” means (a) each Harsco Party and each of its Subsidiaries and (b) each Person that, directly or indirectly, controls a Person described in clause (a) above. For purposes of this definition, control of a Person shall mean the direct or indirect (x) ownership of, or power to vote, 25% or more of the issued and outstanding equity interests having ordinary voting power for the election of directors of such Person or other Persons performing similar functions for such Person, or (y) power to direct or cause the direction of the management and policies of such Person whether by ownership of equity interests, contract or otherwise.

“Credit Agreement” means that certain Third Amended and Restated Credit Agreement, dated as of November 2, 2016, among Harsco, as a borrower, the approved borrowers from time to time party thereto, the lenders from time to time party thereto and Bank of America, N.A., as administrative agent and collateral agent (in such capacities, the “Credit Agreement Agent”), as amended, supplemented or otherwise modified from time to time.

“Credit Agreement Financial Covenant” means the financial covenant set forth in Section 7.01 of the Credit Agreement as in effect on the Closing Date (but without giving effect to any consent to violate or waiver thereof obtained by the “Lenders” under the Credit Agreement).

“Credit and Collection Policy” means, as the context may require, those receivables credit and collection policies and practices of the Originators in effect on the Closing Date and described in Exhibit E, as modified in compliance with this Agreement.

“Daily BSBY Floating Rate” means, for any day, the rate per annum determined by the Administrative Agent by dividing (the resulting quotient rounded upwards, at the Administrative Agent’s discretion, to the nearest 1/100th of 1%) (a) the BSBY Screen Rate for such day for a one (1) month period, by (b) a number equal to 1.00 minus the BSBY Reserve Percentage; provided, that if the Daily BSBY Floating Rate, determined as provided above, would be less than the BSBY Floor, then the Daily BSBY Floating Rate shall be deemed to be the BSBY Floor. The rate at which Yield accrues based on the Daily BSBY Floating Rate will be adjusted automatically as of each Business Day based on changes in the Daily BSBY Rate without notice to the Seller.

“Daily BSBY Floating Rate Capital” means Capital that accrues Yield based on Daily BSBY Floating Rate.

“Daily BSBY Floating Rate Option” means the option of the Seller to have Capital accrue Yield at the rate and under the terms specified in Section 2.05(a)(iii).

“Daily Report” means a report, in substantially the form of Exhibit F-3.

“Days’ Sales Outstanding” means, for any Fiscal Month, an amount computed as of the last day of such Fiscal Month equal to: (a) the average of the Outstanding Balance of all Pool Receivables (other than Unbilled Receivables) as of the last day of each of the three (3) most recent Fiscal Months ended on the last day of such Fiscal Month, divided by (b) an amount equal to (i) the aggregate initial Outstanding Balance of all Pool Receivables (other than Unbilled Receivables) generated by the Originators during the three (3) most recent Fiscal Months ended on the last day of such Fiscal Month, divided by (ii) 90.

“Debt” means, as to any Person at any time of determination, any and all indebtedness, obligations or liabilities (whether matured or unmatured, liquidated or unliquidated, direct or indirect, absolute or contingent, or joint or several) of such Person for or in respect of: (i) borrowed money, (ii) amounts raised under or liabilities in respect of any bonds, debentures, notes, note purchase, acceptance or credit facility, or other similar instruments or facilities, (iii)

reimbursement obligations (contingent or otherwise) under any letter of credit, (iv) any other transaction (including production payments (excluding royalties), installment purchase agreements, forward sale or purchase agreements, capitalized leases and conditional sales agreements) having the commercial effect of a borrowing of money entered into by such Person to finance its operations or capital requirements (but not including accounts payable incurred in the ordinary course of such Person's business payable on terms customary in the trade), (v) all net obligations of such Person in respect of interest rate or currency hedges or (vi) any Guaranty of any such Debt.

"Debtor Relief Laws" means the Bankruptcy Code, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar Law providing for debtor relief in the United States or other applicable jurisdictions from time to time in effect.

"Deemed Collections" has the meaning set forth in Section 3.01(d)(ii).

"Default Ratio" means the ratio (expressed as a percentage and rounded to the nearest 1/100 of 1%, with 5/1000th of 1% rounded upward) computed as of the last day of each Fiscal Month by dividing: (a) the aggregate Outstanding Balance of all Pool Receivables that became Defaulted Receivables during such Fiscal Month (excluding any such Deemed Collections related to the Specifically Reserved Dilution Amount), by (b) the aggregate initial Outstanding Balance of all Pool Receivables (other than Unbilled Receivables) generated by the Originators during the month that is five (5) Fiscal Months before such Fiscal Month.

"Defaulted Receivable" means a Receivable:

(a) as to which any payment, or part thereof, remains unpaid for more than one hundred twenty (120) days from the original due date for such payment;

(b) as to which any payment, or part thereof, remains unpaid for one hundred twenty (120) or fewer days from the original due date for such payment and as to which an Insolvency Proceeding shall have occurred with respect to the Obligor thereof or any other Person obligated thereon or owning any Related Security with respect thereto;

(c) as to which any payment, or part thereof, remains unpaid for one hundred twenty (120) or fewer days from the original due date for such payment, and, consistent with the Credit and Collection Policy, has been written off the applicable Originator's or the Seller's books as uncollectible; or

(d) that, consistent with the Credit and Collection Policy, should be written off the applicable Originator's or the Seller's books as uncollectible;

provided, however, that in each case above, such amount shall be calculated without giving effect to any netting of credits that have not been matched to a particular Receivable for the purposes of aged trial balance reporting.

"Delinquency Ratio" means the ratio (expressed as a percentage and rounded to the nearest 1/100th of 1%, with 5/1000th of 1% rounded upward) computed as of the last day of each

Fiscal Month by dividing: (a) the aggregate Outstanding Balance of all Pool Receivables that were Delinquent Receivables on such day, by (b) the aggregate Outstanding Balance of all Pool Receivables on such day.

“Delinquent Receivable” means a Receivable as to which any payment, or part thereof, remains unpaid for more than one hundred twenty (120) days from the original due date for such payment; provided, however, that such amount shall be calculated without giving effect to any netting of credits that have not been matched to a particular Receivable for the purposes of aged trial balance reporting.

“Dilution” has the meaning set forth in Section 3.01(d)(i).

“Dilution Horizon Ratio” means, for any Fiscal Month, the ratio (expressed as a percentage and rounded to the nearest 1/100th of 1%, with 5/1000th of 1% rounded upward) computed as of the last day of such Fiscal Month by dividing: (a) the aggregate initial Outstanding Balance of all Pool Receivables generated by the Originators during such Fiscal Month, by (b) the Net Receivables Pool Balance as of the last day of such Fiscal Month. Within thirty (30) days of the completion and the receipt by the Administrative Agent of the results of any annual audit or field exam of the Receivables and the servicing and origination practices of the Servicer and the Originators, the numerator of the Dilution Horizon Ratio may be adjusted by the Administrative Agent upon not less than five (5) Business Days’ notice to the Seller to reflect such number of Fiscal Months as the Administrative Agent reasonably believes best reflects the business practices of the Servicer and the Originators and the actual amount of dilution and Deemed Collections that occur with respect to Pool Receivables based on the weighted average dilution lag calculation completed as part of such audit or field exam.

“Dilution Ratio” means, for any Fiscal Month, the ratio (expressed as a percentage and rounded to the nearest 1/100th of 1%, with 5/1000th of 1% rounded upward), computed as of the last day of each Fiscal Month by dividing: (a) the aggregate amount of Deemed Collections (other than Excluded Credit Rebill Dilution) during such Fiscal Month, by (b) the aggregate initial Outstanding Balance of all Pool Receivables (other than Unbilled Receivables) generated by the Originators during the Fiscal Month that is one month prior to such Fiscal Month.

“Dilution Reserve Percentage” means, at any time of determination, the product (expressed as a percentage and rounded to the nearest 1/100th of 1%, with 5/1000th of 1% rounded upward) of (a) the Dilution Horizon Ratio, multiplied by (b) the sum of (i) 2.0 times the average of the Dilution Ratios for the twelve (12) most recent Fiscal Months and (ii) the Dilution Volatility Component.

“Dilution Volatility Component” means, for any Fiscal Month, the product (expressed as a percentage and rounded to the nearest 1/100th of 1%, with 5/1000th of 1% rounded upward) of:

(a) the positive difference, if any, between: (i) the highest Dilution Ratio for any Fiscal Month during the twelve (12) most recent Fiscal Months and (ii) the arithmetic average of the Dilution Ratios for such twelve (12) Fiscal Months; multiplied by

(b) the quotient of (i) the highest Dilution Ratio during the twelve (12) most recent consecutive Fiscal Months divided by (ii) the arithmetic average of the Dilution Ratios for such twelve (12) consecutive Fiscal Months.

“Dollars” and “\$” each mean the lawful currency of the United States of America.

“Eligible Assignee” means (i) any Purchaser or any of its Affiliates, (ii) any Person managed by a Purchaser or any of its Affiliates and (iii) any other financial or other institution. No natural person nor any Harsco Party or its Affiliates shall constitute an Eligible Assignee.

“Eligible Foreign Obligor” means an Obligor that is organized and/or incorporated in or that has a head office (domicile), registered office, and chief executive office located in Canada.

“Eligible Receivable” means, at any time of determination, a Pool Receivable:

(a) the Obligor of which is: (i) a U.S. Obligor or an Eligible Foreign Obligor; (ii) not a Governmental Authority, (iii) not a Sanctioned Person; (iv) not subject to any Insolvency Proceeding; (v) not a Harsco Party or an Affiliate thereof; (vi) not the Obligor with respect to Delinquent Receivables with an aggregate Outstanding Balance exceeding 50% of the aggregate Outstanding Balance of all such Obligor’s Pool Receivables; and (vii) not a natural person;

(b) for which an Insolvency Proceeding shall not have occurred with respect to the Obligor thereof or any other Person obligated thereon or owning any Related Security with respect thereto;

(c) (i) that is denominated and payable only in Dollars in the United States of America and (ii) the Obligor with respect to which has been instructed to remit Collections in respect thereof directly to a Lock-Box or Collection Account in the United States of America;

(d) that does not have a due date which is more than one hundred twenty (120) days after the original invoice date of such Receivable;

(e) (i) that arises under a Contract for the sale of goods or services in the ordinary course of the applicable Originator’s business, (ii) that does not constitute a loan or other similar financial accommodation being provided by the applicable Originator and (iii) for which no Person other than the applicable Originator thereof had any right, title or interest therein prior to the transfer thereof by the applicable Originator to the Seller in accordance with the Purchase and Contribution Agreement;

(f) that arises under a duly authorized Contract (i) that is in full force and effect, (ii) that is governed by the laws of the United States of America or of any State thereof, (iii) that is a legal, valid and binding obligation of the related Obligor, enforceable against such Obligor in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization or other similar laws affecting the enforcement of creditors’ rights generally and by general principles of equity regardless of whether enforceability is considered in a proceeding in equity or at law and (iv) the payments under which are free and clear of any, or increased to account for any applicable, withholding Taxes;

(g) that (i) has been transferred by an Originator to the Seller pursuant to the Purchase and Contribution Agreement with respect to which transfer all conditions precedent under the Purchase and Contribution Agreement have been met and (ii) has not been transferred by any Person prior to the transfer thereof by an Originator to the Seller;

(h) that, together with the Contract related thereto, conforms in all material respects with all Applicable Laws (including any applicable laws relating to usury, truth in lending, fair credit billing, fair credit reporting, equal credit opportunity, fair debt collection practices and privacy);

(i) with respect to which all consents, licenses, approvals or authorizations of, or registrations or declarations with or notices to, any Governmental Authority or other Person required to be obtained, effected or given by an Originator in connection with the creation of such Receivable, the execution, delivery and performance by such Originator of the related Contract or the assignment thereof under the Purchase and Contribution Agreement have been duly obtained, effected or given and are in full force and effect;

(j) that is not subject to any existing dispute, claim, litigation, right of rescission, set-off, counterclaim, any other defense against the applicable Originator (or any assignee of such Originator) or Adverse Claim (collectively, “defenses”) and (i) the Obligor of which holds no right as against the applicable Originator to cause such Originator to repurchase the goods or merchandise, the sale of which shall have given rise to such Receivable and (ii) no Contra Amount exists with respect to the related Obligor; *provided* that only the portion of such Receivable in an amount equal to the outstanding amount of such defenses or repurchase obligation shall be ineligible; *provided, further*, that if any Contra Amount exists with respect to the related Obligor, to the extent not included in the Aggregate Contra Account Amount, the Outstanding Balance of Receivables owing by such Obligor in an amount equal to the related Contra Account Amount of such Obligor shall be ineligible;

(k) that satisfies all applicable requirements of the Credit and Collection Policy;

(l) that, together with the Contract related thereto, has not been modified, waived or restructured since its creation, except as permitted pursuant to Section 8.02 of this Agreement;

(m) in which the Seller owns good and marketable title, free and clear of any Adverse Claims, which Receivable is freely assignable (including without any consent of the related Obligor or any Governmental Authority) and the payments thereon are free and clear of any, or increased to account for any applicable, withholding Taxes;

(n) for which the Administrative Agent (on behalf of the Secured Parties) has a valid and enforceable first priority perfected security interest therein and in the Related Security and Collections with respect thereto, in each case free and clear of any Adverse Claim;

(o) that (i) constitutes an “account” or “general intangible” (as defined in the UCC), (ii) is not evidenced by instruments or chattel paper and (iii) does not constitute, or arise from the sale of, as-extracted collateral (as defined in the UCC);

(p) that is not (i) a Defaulted Receivable, (ii) a Delinquent Receivable or (iii) an Excluded Receivable;

(q) for which no Harsco Party has established any offset or netting arrangements (including customer deposits and advance payments (including payments relating to unearned revenues)) with the related Obligor in connection with the ordinary course of payment of such Receivable; *provided* that only the portion of such Receivable in an amount equal to the outstanding amount of such offset or netting arrangements shall be ineligible;

(r) that represents amounts earned and payable by the Obligor that are not subject to the performance of additional services by the Originator thereof or by the Seller and the related goods or merchandise shall have been delivered and/or services performed, other than, in the case of an Eligible Unbilled Receivable, the billing or invoicing of such Receivable; *provided*, that if such Receivable is subject to the performance of additional services, only the portion of such Receivable attributable to such additional services shall be ineligible;

(s) which (i) does not arise from a sale of accounts made as part of a sale of a business or constitute an assignment for the purpose of collection only, (ii) is not a transfer of a single account made in whole or partial satisfaction of a preexisting indebtedness or an assignment of a right to payment under a contract to an assignee that is also obligated to perform under the contract and (iii) is not a transfer of an interest in or an assignment of a claim under a policy of insurance;

(t) which does not relate to the sale of any consigned goods or finished goods which have incorporated any consigned goods into such finished goods;

(u) for which the related Originator has recognized the related revenue on its financial books and records in accordance with GAAP;

(v) for which neither the related Originator nor any Affiliate thereof is holding any deposits received by or on behalf of the related Obligor; *provided* that only the portion of such Pool Receivable in an amount equal to such deposits shall be ineligible;

(w) for which the related invoice with respect to such Receivable does not include any Excluded Receivable;

(x) that, if such Receivable is an Unbilled Receivable, is an Eligible Unbilled Receivable; and

(y) for which no Insolvency Proceeding shall have been instituted by or against the related Originator.

“Eligible Unbilled Receivable” means, at any time, any Unbilled Receivable if (a) the related Originator has recognized the related revenue on its financial books and records in accordance with GAAP and (b) not more than sixty (60) days have expired since the date such Unbilled Receivable arose.

“Embargoed Property” means any property (a) beneficially owned, directly or indirectly, by a Sanctioned Person; (b) that is due to or from a Sanctioned Person; (c) in which a Sanctioned Person otherwise holds any interest; (d) that is located in a Sanctioned Country; or (e) that otherwise would cause a violation by any Purchaser Party of any applicable Anti-Terrorism Law if any Purchaser Party were to obtain an encumbrance on, lien on, pledge of, or security interest in such property, or provide services in consideration of such property.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended, and the rules and regulations promulgated thereunder.

“ERISA Event” means, (a) the failure to satisfy the minimum funding standard with respect to a Single Employer Plan within the meaning of Section 412 of the Code or Section 302 of ERISA, (b) a determination that a Single Employer Plan is in “at risk” status (as defined in Section 303(i)(4) of ERISA or Section 430(i)(4) of the Code); (c) a determination that a Multiemployer Plan is in “endangered status” or “critical status” (as defined in Section 305(b) of ERISA or Section 432(b) of the Code) or (d) the filing pursuant to Section 302(c) of ERISA or Section 412(c) of the Code of an application for a waiver of the minimum funding standard with respect to any Single Employer Plan.

“Erroneous Invoice” means, with respect to any Receivable, any invoice that was delivered with respect thereto that included an error with respect to the related Obligor (including its address), the related amounts, the related goods or similar items.

“Erroneous Payment” has the meaning assigned to it in Section 10.13(a).

“Erroneous Payment Deficiency Assignment” has the meaning assigned to it in Section 10.13(d).

“Erroneous Payment Return Deficiency” has the meaning assigned to it in Section 10.13(d).

“Erroneous Payment Subrogation Rights” has the meaning assigned to it in Section 10.13(d).

“Event of Default” has the meaning specified in Section 9.01. For the avoidance of doubt, any Event of Default that occurs shall be deemed to be continuing at all times thereafter unless and until waived in accordance with Section 13.01.

“Excess Concentration” means the sum of the following amounts, without duplication:

(a) the sum of the amounts calculated for each of the Obligors equal to the excess (if any) of (i) the aggregate Outstanding Balance of the Eligible Receivables of such Obligor, over (ii) the product of (x) such Obligor’s Concentration Percentage, multiplied by (y) the aggregate Outstanding Balance of all Eligible Receivables then in the Receivables Pool; plus

(b) the excess (if any) of (i) the aggregate Outstanding Balance of all Eligible Receivables as to which any payment, or part thereof, remains unpaid for more than sixty (60) calendar days but less than ninety one (91) calendar days from the original due date for such payment, over (ii) 7.5% of the aggregate Outstanding Balance of all Eligible Receivables then in the Receivables Pool; plus

(c) the excess (if any) of (i) the aggregate Outstanding Balance of all Eligible Receivables as to which any payment, or part thereof, remains unpaid for more than ninety (90) calendar days but less than one hundred twenty-one (121) calendar days from the original due date for such payment, over (ii) 5.0% of the aggregate Outstanding Balance of all Eligible Receivables then in the Receivables Pool; plus

(d) the excess (if any) of (i) the aggregate Outstanding Balance of all Eligible Receivables that constitute Eligible Unbilled Receivables, over (ii) 25.0% of the aggregate Outstanding Balance of all Eligible Receivables then in the Receivables Pool; plus

(e) the excess (if any) of (i) the aggregate Outstanding Balance of all Eligible Receivables that constitute Eligible Unbilled Receivables for which more than thirty (30) days but less than sixty one (61) days have expired since the date such Eligible Unbilled Receivable arose, over (ii) 5.0% of the aggregate Outstanding Balance of all Eligible Receivables then in the Receivables Pool; plus

(f) the excess (if any) of (i) the aggregate Outstanding Balance of all Eligible Receivables that have a due date which is more than ninety days following the original invoice date therefor, over (ii) 8.0% of the aggregate Outstanding Balance of all Eligible Receivables then in the Receivables Pool; plus

(g) the excess (if any) of (i) the aggregate Outstanding Balance of all Eligible Receivables for which the Obligor thereof is an Eligible Foreign Obligor, over (ii) 2.5% of the aggregate Outstanding Balance of all Eligible Receivables then in the Receivables Pool.

“Exchange Act” means the Securities Exchange Act of 1934.

“Excluded Credit Rebill Dilution” means, with respect to any Receivable, any of the following: (i) any Dilution with respect thereto solely to the extent both (A) such Dilution occurred solely as a result of cancelling an Erroneous Invoice and replacing it with a Rebilled Invoice and (B) such Erroneous Invoice and the related Rebill Invoice were issued in the same calendar month, (ii) to the extent that each of the following are satisfied: (A) such Dilution occurred solely as a result of cancelling an Erroneous Invoice and replacing it with a Rebill Invoice, (B) such Erroneous Invoice and the related Rebill Invoice were issued within one calendar month of each other and (C) the principal balance of the related Rebill Invoice is less than the principal balance of the related Erroneous Invoice, then any Dilution with respect thereto other than the portion of such Dilution with respect thereto equal to the excess of (x) the principal balance of the related Erroneous Invoice over (y) the principal balance of the related Rebill Invoice or (iii) to the extent that each of the following are satisfied: (A) such Dilution occurred solely as a result of cancelling an Erroneous Invoice and replacing it with a Rebill Invoice, (B) such Erroneous Invoice and the related Rebill Invoice were issued within one calendar month of each other and (C) the principal balance of the related Rebill Invoice is greater than or equal to the principal balance of the related Erroneous Invoice, then any Dilution with respect thereto.

“Excluded Receivables” means (i) any tax refunds or credits owing by any Governmental Authority to an Originator, (ii) any notes and earn-out receivables payable to any Originator in connection with business divestitures by an Originator or an Affiliate thereof, (iii) receivables and loans owing to any Originator for which the Obligor thereof is an Affiliate of any Originator and (iv) any obligation to pay proceeds of insurance (other than trade credit insurance) to any Originator.

“Excluded Taxes” means any of the following Taxes imposed on or with respect to an Affected Person or required to be withheld or deducted from a payment to an Affected Person: (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes and branch profits Taxes, in each case, (i) imposed as a result of such Affected Person being organized under the laws of, or having its principal office or, in the case of any Purchaser, its applicable lending office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are Other Connection Taxes, (b) in the case of a Purchaser, U.S. federal withholding Taxes imposed on amounts payable to or for the account of such Purchaser with respect to an applicable interest in its Capital or Commitment pursuant to a law in effect on the date on which (i) such Purchaser funds an Investment or its Commitment or (ii) such Purchaser changes its lending office, except in each case to the extent that amounts with respect to such Taxes were payable either to such Purchaser’s assignor immediately before such Purchaser became a party hereto or to such Purchaser immediately before it changed its lending office, (c) any withholding Taxes imposed pursuant to FATCA, and (d) Taxes attributable to such Affected Person’s failure to comply with Sections 4.03(f) and (g).

“Facility Limit” means \$150,000,000 as reduced from time to time pursuant to Section 2.02(e). References to the unused portion of the Facility Limit shall mean, at any time of determination, an amount equal to (x) the Facility Limit at such time, minus (y) the Aggregate Capital at such time.

“FATCA” means Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof, any agreements entered into pursuant to Section 1471(b)(1) of the Code, any applicable intergovernmental agreement, treaty or convention entered into between the United States and any other Governmental Authority in connection with the implementation of the foregoing and any fiscal or regulatory legislation, rules or practices adopted pursuant to any such intergovernmental agreement, treaty or convention.

“Federal Reserve Board” means the Board of Governors of the Federal Reserve System, or any entity succeeding to any of its principal functions.

“Fee Letter” has the meaning specified in Section 2.03(a).

“Fees” has the meaning specified in Section 2.03(a).

“Final Payout Date” means the date on or after the Termination Date when (i) the Aggregate Capital has been reduced to zero and Aggregate Yield has been paid in full, (ii) all other Seller Obligations have been paid in full, (iii) all other amounts owing to the Purchaser

Parties and any other Seller Indemnified Party or Affected Person hereunder and under the other Transaction Documents have been paid in full and (iv) all accrued Servicing Fees have been paid in full.

“Financial Officer” of any Person means, the chief executive officer, president, the chief financial officer, vice president of corporate finance, general counsel, chief legal officer, the chief accounting officer, the principal accounting officer, the controller, the treasurer or the assistant treasurer of such Person.

“Fiscal Month” means each calendar month.

“GAAP” means generally accepted accounting principles in the United States of America, consistently applied.

“Governmental Authority” means the government of the United States of America or any other nation, or of any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including any supra-national bodies such as the European Union or the European Central Bank) and any group or body charged with setting financial accounting or regulatory capital rules or standards (including the Financial Accounting Standards Board, the Bank for International Settlements or the Basel Committee on Banking Supervision or any successor or similar authority to any of the foregoing).

“Group A Obligor,” “Group B Obligor” or “Group C Obligor” means any Obligor (or its parent or majority owner, as applicable, if such Obligor is not rated) with:

(a) a short-term rating of at least “A-1” (in the case of a Group A Obligor), “A-2” (in the case of a Group B Obligor) or “A-3” (in the case of a Group C Obligor), in any case, by S&P, or if such Obligor does not have a short-term rating from S&P, a rating of at least “A+” (in the case of a Group A Obligor), “BBB+” (in the case of a Group B Obligor) or “BBB-” (in the case of a Group C Obligor), in any case, or better by S&P on such Obligor’s, its parent’s, or its majority owner’s (as applicable) long-term senior unsecured and uncredit-enhanced debt securities, and

(b) a short-term rating of at least “P-1” (in the case of a Group A Obligor), “P-2” (in the case of a Group B Obligor) or “P-3” (in the case of a Group C Obligor), in any case, by Moody’s, or if such Obligor does not have a short-term rating from Moody’s, a rating of at least “A1” (in the case of a Group A Obligor), “Baa1” (in the case of a Group B Obligor) or “Baa3” (in the case of a Group C Obligor), in any case, or better by Moody’s on such Obligor’s, its parent’s or its majority owner’s (as applicable) long-term senior unsecured and uncredit-enhanced debt securities;

provided, however, if such Obligor is rated by only one of S&P or Moody’s, then such Obligor will be a Group A Obligor, Group B Obligor or Group C Obligor (as the case may be) if it satisfies either clause (a) or clause (b) above; provided, further, that if such Obligor (or its parent or majority owner, as applicable, if such Obligor is not rated) has split ratings from S&P and Moody’s, then such Obligor (or its parent or majority owner, as applicable) shall be deemed

to have only the lower of the two ratings for the purpose of determining whether such Obligor satisfies clause (a) or (b) above. Notwithstanding the foregoing, any Obligor that is a Subsidiary of an Obligor that satisfies the definition of Group A Obligor, Group B Obligor or Group C Obligor (as the case may be) shall be deemed to be a Group A Obligor, Group B Obligor or Group C Obligor (as the case may be) and shall be aggregated with its parent Obligor that satisfies such definition for the purposes of determining the "Concentration Reserve Percentage" and clause (a) of the definition of "Excess Concentration" for such Obligors unless such Subsidiary Obligor separately satisfies the definition of Group A Obligor, Group B Obligor or Group C Obligor (as the case may be), in which case such Obligor shall be separately treated as a Group A Obligor, Group B Obligor or Group C Obligor (as the case may be), as the case may be, and shall be aggregated and combined for such purposes with any of its Subsidiaries that are also Obligors.

"Group D Obligor" means any Obligor that is not a Group A Obligor, Group B Obligor or Group C Obligor; provided, that any Obligor (or its parent or majority owner, as applicable, if such Obligor is unrated) that is not rated by both Moody's and S&P shall be a Group D Obligor.

"Guaranteed Obligations" has the meaning set forth in Section 11.01.

"Guaranty" means, with respect to any Person, any obligation of such Person guarantying or in effect guarantying any Debt, liability or obligation of any other Person in any manner, whether directly or indirectly, including any such liability arising by virtue of partnership agreements, including any agreement to indemnify or hold harmless any other Person, any performance bond or other suretyship arrangement and any other form of assurance against loss, except endorsement of negotiable or other instruments for deposit or collection in the ordinary course of business.

"Harsco" has the meaning set forth in the preamble to this Agreement.

"Harsco Party" means each of Harsco, the Seller, the Servicer, each Originator, Holdings and the Performance Guarantor.

"Holdings" means Harsco.

"Indemnified Taxes" means (a) Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any obligation of the Seller or any of its Affiliates under any Transaction Document and (b) to the extent not otherwise described in clause (a) above, Other Taxes.

"Indenture" means that certain indenture, dated as of June 28, 2019 by and between Harsco, as issuer, and U.S. Bank National Association, as trustee, as amended, restated, supplemented and otherwise modified from time to time.

"Independent Manager" has the meaning set forth in Section 7.03(c).

"Information Package" means a report, in substantially the form of Exhibit F-1.

“Initial Schedule of Sold Receivables” means the list identifying all Sold Receivables as of the Closing Date, which list is attached as Schedule IV hereof.

“Insolvency” means with respect to any Multiemployer Plan, the condition that such Plan is insolvent within the meaning of Section 4245 of ERISA.

“Insolvency Proceeding” means (a) any case, action or proceeding before any court or other Governmental Authority relating to bankruptcy, reorganization, insolvency, liquidation, receivership, dissolution, winding-up or relief of debtors or (b) any general assignment for the benefit of creditors of a Person, composition, marshaling of assets for creditors of a Person, or other, similar arrangement in respect of its creditors generally or any substantial portion of its creditors, in each of clauses (a) and (b) undertaken under any Debtor Relief Law.

“Intended Tax Treatment” has the meaning set forth in Section 13.14.

“Intercompany Loan” means a “Subordinated Loan” as such term is defined in the Purchase and Contribution Agreement.

“Intercompany Loan Agreement” has the meaning set forth in the Purchase and Contribution Agreement.

“Investment” means any payment of Capital to the Seller by a Purchaser pursuant to Sections 2.01(a) or 2.02.

“Investment Company Act” means the Investment Company Act of 1940.

“Investment Request” means a letter in substantially the form of Exhibit A hereto executed and delivered by the Seller to the Administrative Agent and the Purchasers pursuant to Section 2.02(a).

“Law” means any law(s) (including common law), constitution, statute, treaty, regulation, rule, ordinance, opinion, issued guidance, release, ruling, order, executive order, injunction, writ, decree, bond, judgment, authorization or approval, lien or award of or any settlement arrangement, by agreement, consent or otherwise, with any Governmental Authority, foreign or domestic.

“LCR Security” means any commercial paper or security (other than equity securities issued to Holdings (so long as the Seller is its consolidated subsidiary under GAAP) or any Originator that is a consolidated subsidiary of Holdings under GAAP) within the meaning of Paragraph \_\_.32(e)(viii) of the final rules titled Liquidity Coverage Ratio: Liquidity Risk Measurement Standards, 79 Fed. Reg. 197, 61440 et seq. (October 10, 2014).

“Lock-Box” means each locked postal box associated with a Collection Account with respect to which the applicable Collection Account Bank has executed an Account Control Agreement pursuant to which it has been granted exclusive access for the purpose of retrieving and processing payments made on the Receivables and which is listed on Schedule II (as such schedule may be modified from time to time in connection with the addition or removal of any Lock-Box in accordance with the terms hereof).

“Loss Horizon Ratio” means, at any time of determination, the ratio (expressed as a percentage and rounded to the nearest 1/100 of 1%, with 5/1000th of 1% rounded upward) computed by dividing:

(a) the aggregate initial Outstanding Balance of all Pool Receivables generated by the Originators during the number of most recently ended Fiscal Months equal to the sum of (i) the WACP as of such day, plus (ii) 4.00, plus (iii) 0.30; provided that with respect to any fraction of a Fiscal Month, the aggregate initial Outstanding Balance of all Pool Receivables generated by the Originators during such fraction of a Fiscal Month shall be calculated as a percentage of the aggregate initial Outstanding Balance of all Pool Receivables generated by the Originators during the applicable Fiscal Month; by

(b) the Net Receivables Pool Balance as of such date.

“Loss Reserve Percentage” means, at any time of determination, the product (expressed as a percentage and rounded to the nearest 1/100th of 1%, with 5/1000th of 1% rounded upward) of (a) 2.0, multiplied by (b) the highest average of the Default Ratios for any three (3) consecutive Fiscal Months during the twelve (12) most recent Fiscal Months, multiplied by (c) the Loss Horizon Ratio.

“Majority Purchasers” means one or more Purchasers representing more than 50% of the aggregate Commitments of all Purchasers (or, if the Commitments have been terminated, Purchasers representing more than 50% of the aggregate outstanding Capital held by all the Purchasers); *provided, however*, that in no event shall the Majority Purchasers include fewer than two (2) Purchasers at any time when there are two (2) or more Purchasers.

“Material Adverse Effect” means relative to any Person (*provided* that if no particular Person is specified, “Material Adverse Effect” shall be deemed to be relative to (i) the Servicer, the Performance Guarantor and the Originators, taken as a whole, or (ii) the Seller) with respect to any event or circumstance, a material adverse effect on any of the following:

(a) the assets, operations, business or financial condition of (i) the Servicer, the Performance Guarantor and the Originators, taken as a whole or (ii) the Seller;

(b) the ability of (i) the Servicer, the Performance Guarantor and the Originators, taken as a whole to perform their obligations under this Agreement or any other Transaction Document to which it is a party or (ii) the Seller to perform its obligations under this Agreement or any other Transaction Document to which it is a party;

(c) the validity or enforceability of this Agreement or any other Transaction Document, or the validity, enforceability, value or collectability of any material portion of the Pool Receivables;

(d) the status, perfection, enforceability or priority of the Administrative Agent’s ownership or security interest in the Sold Assets or Seller Collateral; or

(e) the rights and remedies of any Purchaser Party under the Transaction Documents or associated with its respective interest in the Sold Assets or the Seller Collateral.

“Minimum Dilution Reserve Percentage” means, at any time of determination, the product (expressed as a percentage and rounded to the nearest 1/100th of 1%, with 5/1000th of 1% rounded upward) of (a) the average of the Dilution Ratios for the twelve (12) most recent Fiscal Months ended prior to the time of determination, multiplied by (b) the Dilution Horizon Ratio for the most recent Fiscal Month ended prior to the time of determination.

“Minimum Funding Threshold” means, on any day, an amount equal to the lesser of (a) the product of (i) 80.00% times (ii) the Facility Limit at such time and (b) the Capital Coverage Amount at such time; provided, however, that on any day that occurs during a Minimum Funding Threshold Holiday, the Minimum Funding Threshold shall be zero (\$0).

“Minimum Funding Threshold Holiday” means each period designated as a Minimum Funding Threshold Holiday by the Seller in writing to the Administrative Agent at least five (5) Business Days prior to the commencement thereof; provided, however, that the Seller shall not designate Minimum Funding Threshold Holidays totaling more than 30 days (which need not be consecutive) in any calendar year.

“Month”, with respect to a Yield Period under the BSBY Rate Option, means the interval between the days in consecutive calendar months numerically corresponding to the first day of such Yield Period. If any BSBY Rate Yield Period begins on a day of a calendar month for which there is no numerically corresponding day in the month in which such Yield Period is to end, the final month of such Yield Period shall be deemed to end on the last Business Day of such final month.

“Monthly Settlement Date” means the 20th day of each calendar month (or if such day is not a Business Day, the next occurring Business Day).

“Moody’s” means Moody’s Investors Service, Inc. and any successor thereto that is a nationally recognized statistical rating organization.

“Multiemployer Plan” means a Plan that is a multiemployer plan as defined in Section 4001(a)(3) of ERISA to which any Harsco Party or any Commonly Controlled Entity contributes, is obligated to contribute or has any liability.

“Net Receivables Pool Balance” means, at any time of determination: (a) the aggregate Outstanding Balance of all Eligible Receivables then in the Receivables Pool, minus (b) the Excess Concentration, minus (c) the Aggregate Contra Account Amount.

“Obligor” means, with respect to any Receivable, the Person obligated to make payments pursuant to the Contract relating to such Receivable.

“Obligor Percentage” means, at any time of determination, for each Obligor, a fraction, expressed as a percentage, (a) the numerator of which is the aggregate Outstanding Balance of the Eligible Receivables of such Obligor and its Affiliates less the amount (if any) then included

in the calculation of the Excess Concentration with respect to such Obligor and its Affiliates and (b) the denominator of which is the aggregate Outstanding Balance of all Eligible Receivables at such time.

“OFAC” means the Office of Foreign Assets Control of the United States Department of the Treasury.

“Originator” and “Originators” have the meaning set forth in the Purchase and Contribution Agreement, as the same may be modified from time to time by adding new Originators or removing Originators, in each case in accordance with the terms and restrictions set forth in the Purchase and Contribution Agreement.

“Other Connection Taxes” means, with respect to any Affected Person, Taxes imposed as a result of a present or former connection between such Affected Person and the jurisdiction imposing such Tax (other than connections arising from such Affected Person having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to or enforced any Transaction Document, or sold or assigned an interest in any Capital or Transaction Document).

“Other Taxes” means any and all present or future stamp or documentary Taxes or any other excise or property Taxes, charges or similar levies or fees arising from any payment made hereunder or from the execution, delivery, filing, recording, performance or enforcement of, or otherwise in respect of, this Agreement, the other Transaction Documents and the other documents or agreements to be delivered hereunder or thereunder, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment (other than an assignment at the request of the Seller).

“Outstanding Balance” means, at any time of determination, with respect to any Receivable, the then outstanding principal balance thereof.

“Overnight Bank Funding Rate” means for any day, the rate comprised of both overnight federal funds and overnight eurocurrency borrowings by U.S.-managed banking offices of depository institutions, as such composite rate shall be determined by the Federal Reserve Bank of New York, as set forth on its public website from time to time, and as published on the next succeeding Business Day as the overnight bank funding rate by the Federal Reserve Bank of New York (or by such other recognized electronic source (such as Bloomberg) selected by the Administrative Agent for the purpose of displaying such rate); provided, that if such day is not a Business Day, the Overnight Bank Funding Rate for such day shall be such rate on the immediately preceding Business Day; provided, further, that if such rate shall at any time, for any reason, no longer exist, a comparable replacement rate determined by the Administrative Agent at such time (which determination shall be conclusive absent demonstrable error). If the Overnight Bank Funding Rate determined as above would be less than zero, then such rate shall be deemed to be zero. The rate at which Yield accrues based on the Overnight Bank Funding Rate shall be adjusted as of each Business Day based on changes in the Overnight Bank Funding Rate without notice to the Seller.

“Parent Group” has the meaning set forth in Section 7.03(c).

“Participant” has the meaning set forth in Section 13.03(d).

“Participant Register” has the meaning set forth in Section 13.03(e).

“PATRIOT Act” has the meaning set forth in Section 13.15.

“PBGC” means the Pension Benefit Guaranty Corporation established pursuant to Subtitle A of Title IV of ERISA (or any successor).

“Percentage” means, at any time of determination, with respect to any Purchaser, a fraction (expressed as a percentage), (a) the numerator of which is (i) prior to the termination of all Commitments hereunder, its Commitment at such time or (ii) if all Commitments hereunder have been terminated, the aggregate outstanding Capital of such Purchasers at such time and (b) the denominator of which is (i) prior to the termination of all Commitments hereunder, the aggregate Commitments of all Purchasers at such time or (ii) if all Commitments hereunder have been terminated, the Aggregate Capital at such time.

“Performance Guarantor” means Harsco.

“Performance Guaranty” means the Performance Guaranty, dated as of the Closing Date, by Performance Guarantor in favor of the Administrative Agent for the benefit of the Secured Parties.

“Permitted Adverse Claims” means (a) solely with respect to any Collection Account (and the funds on deposit therein), liens of the applicable Collection Account Bank expressly permitted pursuant to the applicable Account Control Agreement; (b) inchoate liens for current taxes, assessments, levies, fees and other government and similar charges not yet due and payable and for which no claim has been made and no action has been taken to realize upon or perfect such lien; and (c) so long as such lien does not attach to any Sold Assets or Seller Collateral or any property of the Seller, (i) liens for taxes, assessments, levies, fees and other government and similar charges the amount or validity of which is being contested in good faith by appropriate proceedings and with respect to which adequate reserves have been established in accordance with GAAP, but only so long as foreclosure with respect to such lien is not imminent and the use and value of the property to which the liens attach are not impaired during the pendency of such proceeding and (ii) mechanics’, workers’, materialmen’s or other like liens arising in the ordinary course of an Originator’s business with respect to obligations which are not due and payable and for which no action has been taken to realize upon or perfect such lien.

“Person” means an individual, partnership, corporation (including a business trust), joint stock company, trust, unincorporated association, joint venture, limited liability company or other entity or any Governmental Authority.

“Plan” means at a particular time, any employee benefit plan that is covered by Title IV of ERISA and in respect of which the any Harsco Party or a Commonly Controlled Entity is (or, if such plan were terminated at such time, would under Section 4069 of ERISA be deemed to be) an “ employer ” as defined in Section 3(5) of ERISA.

“Pledge Agreement” means the Limited Recourse Pledge of Membership Interests, dated as of the Closing Date, pursuant to which the Contributing Originators pledge to the Administrative Agent all of their membership interests and any other equity interests in the Seller.

“PNC” has the meaning set forth in the preamble to this Agreement.

“Pool Receivable” means a Receivable in the Receivables Pool. For the avoidance of doubt, the Pool Receivables shall include both Sold Receivables and Unsold Receivables.

“Pool Report” means each Information Package, Weekly Report and Daily Report.

“Portion of Capital” means specified portions of Capital outstanding as follows: (a) any Capital to which a BSBY Rate Option applies under the same Investment Request by the Seller and which have the same Yield Period shall constitute one Portion of Capital, (b) all Capital to which a Daily BSBY Floating Rate Option applies shall constitute one Portion of Capital and (c) all Capital to which a Base Rate Option applies shall constitute one Portion of Capital.

“Prime Rate” means the interest rate per annum announced from time to time by the Administrative Agent at its main offices in Pittsburgh, Pennsylvania as its then prime rate, which rate may not be the lowest or most favorable rate then being charged to commercial borrowers or others by the Administrative Agent and may not be tied to any external rate of interest or index. Any change in the Prime Rate shall take effect at the opening of business on the day such change is announced.

“Purchase and Contribution Agreement” means the Purchase and Contribution Agreement, dated as of the Closing Date, among the Servicer, each Originator and the Seller.

“Purchase and Contribution Termination Event” has the meaning set forth in the Purchase and Contribution Agreement.

“Purchaser Party” means each Purchaser and the Administrative Agent.

“Purchaser’s Account” means, with respect to any Purchaser, the account(s) from time to time designated in writing by the applicable Purchaser to the Seller and the Servicer for purposes of receiving payments to or for the account of the members of such Purchaser hereunder.

“Purchasers” means PNC and each other Person that is or becomes a party to this Agreement in the capacity of a “Purchaser”.

“Ratings Event” means, at any time of determination, one or more of the following events have occurred and are continuing: (i) Harsco’s Long Term Corporate Rating by S&P is below B+ or Harsco does not have a Long Term Corporate Family Rating by S&P or (ii) Harsco’s Long Term Corporate Family Rating by Moody’s is below B1 or Harsco does not have a Long Term Corporate Family Rating by Moody’s.

“Receivable” means any right to payment of a monetary obligation, whether or not earned by performance, owed to any Originator or the Seller (as assignee of an Originator),

whether constituting an account, chattel paper, payment intangible, instrument or general intangible, in each instance arising in connection with the sale of goods that have been or are to be sold or for services rendered or to be rendered, and includes the obligation to pay any service charges, finance charges, interest, fees and other charges with respect thereto. Any such right to payment arising from any one transaction, including any such right to payment represented by an individual invoice or agreement, shall constitute a Receivable separate from a Receivable consisting of any such right to payment arising from any other transaction. Notwithstanding anything contained herein to the contrary, the term "Receivable" shall not include any Excluded Receivable.

"Receivables Pool" means, at any time of determination, all of the then outstanding Receivables (including both Sold Receivables and Unsold Receivables) transferred (or purported to be transferred) to the Seller pursuant to the Purchase and Contribution Agreement.

"Register" has the meaning set forth in Section 13.03(b).

"Related Parties" means, with respect to any Person, such Person's Affiliates and the partners, directors, officers, employees, agents and advisors of such Person and of such Person's Affiliates.

"Related Rights" has the meaning set forth in Section 1.1 of the Purchase and Contribution Agreement.

"Related Security" means, with respect to any Receivable:

(a) all of the Seller's and each Originator's interest in any goods (including Returned Goods), and documentation of title evidencing the shipment or storage of any goods (including Returned Goods), the sale of which gave rise to such Receivable;

(b) all instruments and chattel paper that may evidence such Receivable;

(c) all other security interests or liens and property subject thereto from time to time purporting to secure payment of such Receivable, whether pursuant to the Contract related to such Receivable or otherwise, together with all UCC financing statements or similar filings relating thereto;

(d) all of the Seller's and each Originator's rights, interests and claims under the related Contracts and all supporting obligations, guaranties, indemnities, letters of credit (including any letter-of-credit rights), insurance and other agreements (including the related Contract) or arrangements of whatever character from time to time supporting or securing payment of such Receivable or otherwise relating to such Receivable, whether pursuant to the Contract related to such Receivable or otherwise;

(e) all books and records of the Seller and each Originator to the extent related to any of the foregoing, and all rights, remedies, powers, privileges, title and interest (but not obligations) in and to each Lock-Box and all Collection Accounts, into which any Collections or other proceeds with respect to such Receivables may be deposited, and any related investment property acquired with any such Collections or other proceeds (as such term is defined in the applicable UCC);

(f) all of the Seller's rights, interests and claims under the Purchase and Contribution Agreement and the other Transaction Documents; and

(g) all Collections and other proceeds (as defined in the UCC) of any of the foregoing.

"Release" has the meaning set forth in Section 3.01(a).

"Rebilled Invoice" means, with respect to any Receivable, any invoice that was issued in replacement of a prior Erroneous Invoice, and not as a result of any credit memo, discount or other credit adjustment or dispute.

"Reportable Compliance Event" means that: (a) any Covered Entity becomes a Sanctioned Person, or is charged by indictment, criminal complaint, or similar charging instrument, arraigned, custodially detained, penalized or the subject of an assessment for a penalty, or enters into a settlement with a Governmental Authority in connection with any economic sanctions or other Anti-Terrorism Law or Anti-Corruption law, or any predicate crime to any Anti-Terrorism Law or Anti-Corruption Law, or has knowledge of facts or circumstances to the effect that it is reasonably likely that any aspect of its operations represents a violation of any Anti-Terrorism Law or Anti-Corruption Law; (b) any Covered Entity engages in a transaction that has caused or may cause any Purchaser Party to be in violation of any Anti-Terrorism Laws, including a Covered Entity's use of any proceeds of the Transaction Documents to fund any operations in, finance any investments or activities in, or, make any payments to, directly or indirectly, a Sanctioned Person or Sanctioned Country; (c) any Sold Assets or Seller Collateral becomes Embargoed Property; or (d) any Covered Entity otherwise violates, or reasonably believes that it will violate, any of the representations, warranties or covenants set forth in Sections 6.01(n), 6.01(o), 6.02(s), 6.02(t), 7.01(w) or 7.02(o) of this Agreement.

"Reportable Event" means any of the events set forth in Section 4043(c) of ERISA, other than those events as to which the thirty day notice period is waived.

"Representatives" has the meaning set forth in Section 13.06(c)(ii).

"Required Capital Amount" means \$20,000,000.

"Restricted Payments" has the meaning set forth in Section 7.01(r)(i).

"Returned Goods" means all right, title and interest in and to returned, repossessed or foreclosed goods and/or merchandise the sale of which gave rise to a Receivable; provided that such goods shall no longer constitute Returned Goods after a Deemed Collection has been deposited in a Collection Account with respect to the full Outstanding Balance of the related Receivables.

"S&P" means S&P Global Ratings a division of S&P Global Inc., and any successor thereto that is a nationally recognized statistical rating organization.

“Sale Date” means each of the following: (a) the Closing Date, (b) the date of each Investment, (c) the last day of each calendar month unless the Seller has (in its discretion) notified the Administrative Agent and each Purchaser in writing that such day shall not be a Sale Date, and (d) each other day (if any) designated as a “Sale Date” by the Seller in its discretion by prior written notice thereof to the Administrative Agent and each Purchaser; provided, however, that no Sale Date shall occur on or after the Termination Date.

“Sanctioned Country” means any country, territory, or region that is the subject of sanctions administered by OFAC.

“Sanctioned Person” means (a) a Person that is the subject of sanctions administered by OFAC or the U.S. Department of State (“State”), including by virtue of being (i) named on OFAC’s list of “Specially Designated Nationals and Blocked Persons”; (ii) organized under the Laws of, ordinarily resident in, or physically located in a Sanctioned Country; (iii) owned or controlled 50% or more in the aggregate, by one or more Persons that are the subject of sanctions administered by OFAC; (b) a Person that is the subject of sanctions maintained by the European Union (“E.U.”), including by virtue of being named on the E.U.’s “Consolidated list of persons, groups and entities subject to E.U. financial sanctions” or other, similar lists; (c) a Person that is the subject of sanctions maintained by the United Kingdom (“U.K.”), including by virtue of being named on the “Consolidated List Of Financial Sanctions Targets in the U.K.” or other, similar lists; or (d) a Person that is the subject of sanctions imposed by any Governmental Authority of a jurisdiction whose Laws apply to this Agreement.

“Scheduled Commitment Termination Date” means June 24, 2025.

“SEC” means the U.S. Securities and Exchange Commission or any governmental agencies substituted therefor.

“Secured Parties” means each Purchaser Party, each Seller Indemnified Party and each Affected Person.

“Securities Act” means the Securities Act of 1933.

“Seller” has the meaning specified in the preamble to this Agreement.

“Seller Collateral” has the meaning set forth in Section 11.09.

“Seller Guaranty” has the meaning set forth in Section 11.01.

“Seller Indemnified Amounts” has the meaning set forth in Section 12.01(a).

“Seller Indemnified Party” has the meaning set forth in Section 12.01(a).

“Seller Obligation Final Due Date” means the earliest to occur of (i) the date that is sixty (60) days following the Scheduled Commitment Termination Date, (ii) the date (if any) on which the Termination Date occurs other than pursuant to clause (a) of the definition thereof, and (iii) the date on which the “Seller Obligation Final Due Date” is declared or deemed to have occurred under Section 9.01.

“Seller Obligations” means all present and future indebtedness, reimbursement obligations, and other liabilities and obligations (howsoever created, arising or evidenced, whether direct or indirect, absolute or contingent, or due or to become due) of the Seller to any Purchaser Party, Seller Indemnified Party and/or any Affected Person, arising under or in connection with this Agreement or any other Transaction Document or the transactions contemplated hereby or thereby, and shall include, all obligations of the Seller in respect of the Seller Guaranty and the payment of all Capital, Yield, Fees and other amounts due or to become due under the Transaction Documents (whether in respect of fees, costs, expenses, indemnifications or otherwise), including, interest, fees and other obligations that accrue after the commencement of any Insolvency Proceeding with respect to the Seller (in each case whether or not allowed as a claim in such proceeding).

“Seller’s Net Worth” means, at any time of determination, an amount equal to (i) the sum of (A) the Outstanding Balance of all Pool Receivables at such time, plus (B) all cash then held in the Collection Accounts maintained in the name of the Seller, minus (ii) the sum of (A) the Aggregate Capital at such time, plus (B) the Aggregate Yield at such time, plus (C) the aggregate accrued and unpaid Fees at such time, plus (D) the aggregate outstanding principal balance owing under the Intercompany Loan Agreement at such time, plus (E) the aggregate accrued and unpaid interest owing under the Intercompany Loan Agreement at such time plus (F) without duplication, the aggregate accrued and unpaid other Seller Obligations at such time.

“Servicer” has the meaning set forth in the preamble to this Agreement.

“Servicer Indemnified Amounts” has the meaning set forth in Section 12.02(a).

“Servicer Indemnified Party” has the meaning set forth in Section 12.02(a).

“Servicing Fee” means the fee referred to in Section 8.06(a) of this Agreement.

“Servicing Fee Rate” means the rate referred to in Section 8.06(a) of this Agreement.

“Settlement Date” means with respect to any Portion of Capital for any Yield Period or any Yield or Fees, (i) so long as no Event of Default has occurred and is continuing and the Termination Date has not occurred, the Monthly Settlement Date and (ii) on and after the Termination Date or if an Event of Default has occurred and is continuing, each day selected from time to time by the Administrative Agent it being understood that the Administrative Agent may select such Settlement Date to occur as frequently as daily), or, in the absence of such selection, the Monthly Settlement Date.

“Significant Subsidiary” means any Subsidiary that would be a “significant subsidiary” as defined in Article 1, Rule 1-02 of Regulation S-X.

“Single Employer Plan” means any Plan that is covered by Title IV of ERISA, but which is not a Multiemployer Plan.

“Sold Assets” has the meaning set forth in Section 2.01(b).

“Sold Receivables” means, collectively, (i) the Pool Receivables specified as “Sold Receivables” on the Initial Schedule of Sold Receivables, (ii) all additional Pool Receivables specified as “Sold Receivables” on the Investment Requests delivered with respect to all subsequent Investments made hereunder and (iii) all additional Pool Receivables designated as “Sold Receivables” and transferred by the Seller pursuant to Section 2.01(b) in connection with a Release as contemplated by the first paragraph in Section 3.01(a).

“Solvent” means, with respect to any Person and as of any particular date, (i) the present fair market value (or present fair saleable value) of the assets of such Person is not less than the total amount required to pay the probable liabilities of such Person on its total existing debts and liabilities (including contingent liabilities) as they become absolute and matured, (ii) such Person is able to realize upon its assets and pay its debts and other liabilities, contingent obligations and commitments as they mature and become due in the normal course of business, (iii) such Person is not incurring debts or liabilities beyond its ability to pay such debts and liabilities as they mature and (iv) such Person is not engaged in any business or transaction, and is not about to engage in any business or transaction, for which its property would constitute unreasonably small capital after giving due consideration to the prevailing practice in the industry in which such Person is engaged.

“Special Obligor” means each Obligor listed on Schedule V to this Agreement.

“Special Obligor Conditions” means each of the following conditions:

- (a) the Special Obligor has a rating of “BB-” or better by S&P; and
- (b) the aggregate Outstanding Balance of all Delinquent Receivables then owing by the Special Obligor is less than 25.0% of the aggregate Outstanding Balance of all Pool Receivables then owing by the Special Obligor.

“Specifically Reserved Dilution Amount” means the aggregate amount of Deemed Collections, dilution or similar adjustments arising out of volume rebates, terms discounts, indirect rebates, direct rebates (net of any direct rebate recovery), key promotional programs or similar arrangements which are customary for the Originators and specified in the related Contract or applicable marketing program related to the applicable Receivable and Obligor thereof that are expected by any Harsco Party to be made or otherwise incurred with respect to the then outstanding Pool Receivables as such expected dilution and similar adjustments are reflected on the books and records of the Harsco Parties and reserved for by the Harsco Parties, as determined in consultation with the external accountants of the Harsco Parties and in accordance with the customary procedures established by the Originators and such accountants.

Within thirty (30) days of the completion and the receipt by the Administrative Agent of the results of any field exam of the Receivables, the definition of “Specifically Reserved Dilution Amount” may be adjusted by the Administrative Agent in its reasonable credit judgment upon not less than five (5) Business Days’ notice to the Seller.

“Structuring Agent” means PNC Capital Markets LLC, a Pennsylvania limited liability company.

“Sub-Servicer” has the meaning set forth in Section 8.01(d).

“Subsidiary” means, as to any Person, a corporation, partnership, limited liability company or other entity of which shares of stock of each class or other interests having ordinary voting power (other than stock or other interests having such power only by reason of the happening of a contingency) to elect a majority of the Board of Directors or other managers of such entity are at the time owned, or management of which is otherwise controlled:

(a) by such Person, (b) by one or more Subsidiaries of such Person or (c) by such Person and one or more Subsidiaries of such Person.

“Taxes” means any and all present or future taxes, levies, imposts, duties, deductions, charges, withholdings (including backup withholding), assessments, fees or other charges imposed by any Governmental Authority and all interest, penalties, additions to tax and any similar liabilities with respect thereto.

“Termination Date” means the earliest to occur of (a) the Scheduled Commitment Termination Date, (b) the date on which the “Termination Date” is declared or deemed to have occurred under Section 9.01, (c) the occurrence of a Purchase and Contribution Termination Date under the Purchase and Contribution Agreement and (d) the date selected by the Seller on which the Facility Limit has been reduced to zero pursuant to Section 2.02(e).

“Top Ten Obligors” means, at any time of determination, the Obligors that have the ten largest Obligor Percentages at such time.

“Total Reserves” means, at any time of determination, an amount equal to the product of (a) the sum of: (i) the Yield Reserve Percentage, plus (ii) the greater of (x) the sum of the Concentration Reserve Percentage plus the Minimum Dilution Reserve Percentage and (y) the sum of the Loss Reserve Percentage plus the Dilution Reserve Percentage, times (b) the Adjusted Net Receivables Pool Balance at such time.

“Transaction Documents” means this Agreement, the Purchase and Contribution Agreement, the Account Control Agreements, the Fee Letter, each Intercompany Loan Agreement, the Performance Guaranty, the Pledge Agreement and all other certificates, instruments, UCC financing statements, reports, notices, agreements and documents executed or delivered under or in connection with this Agreement.

“UCC” means the Uniform Commercial Code as from time to time in effect in the applicable jurisdiction.

“Unbilled Receivable” means, at any time, any Receivable as to which the invoice or bill with respect thereto has not yet been sent to the Obligor thereof.

“Unmatured Event of Default” means an event that but for notice or lapse of time or both would constitute an Event of Default.

“Unsold Receivables” means, at any time, all Pool Receivables that are not then Sold Receivables.

“U.S. Government Securities Business Day” means any day except for (a) a Saturday or Sunday or (b) a day on which the Securities Industry and Financial Markets Association recommends that the fixed income departments of its members be closed for the entire day for purposes of trading in United States government securities.

“U.S. Obligor” means an Obligor that is a corporation or other business organization and is organized under the laws of the United States of America (or of a United States of America territory, district, state, commonwealth, or possession, including, Puerto Rico and the U.S. Virgin Islands) or any political subdivision thereof.

“U.S. Tax Compliance Certificate” has the meaning set forth in Section 4.03(f)(ii)(B)(3).

“Volcker Rule” means Section 13 of the U.S. Bank Holding Company Act of 1956 and the applicable rules and regulations thereunder.

“Weekly Report” means a report, in substantially the form of Exhibit F-2.

“Weekly Reporting Date” means the second Business Day of each calendar week.

“WACP” means, at any time of determination, an amount equal to the quotient of (a) the positive difference of (i) the weighted average payment tenor (stated as a number of days) of all Eligible Receivables as of such date, minus (ii) 30, divided by (b) 30.

“Withholding Agent” means the Seller and any applicable Purchaser Party.

“Yield” means an amount payable to each Purchaser in respect of its Capital accruing on each day when such Purchaser has Capital outstanding, which amount for any Purchaser’s Capital (or portion thereof) for any day during any Accrual Period (or portion thereof) is the amount accrued on such Capital (or portion thereof) during such Accrual Period (or portion thereof) in accordance with Section 2.03(b).

“Yield Period” means the period of time selected by the Seller in connection with (and to apply to) any election permitted hereunder by the Seller to have Capital accrue Yield under the BSBY Rate Option. Subject to the last sentence of this definition, such period shall be one Month. Such Yield Period shall commence on the effective date of such BSBY Rate Option, which shall be (i) the date of such Investment if the Seller is requesting new Investments, or (ii) the date of renewal of or conversion to the BSBY Rate Option if the Seller is renewing or converting to the BSBY Rate Option applicable to outstanding Capital. Notwithstanding the second sentence hereof: (A) any Yield Period which would otherwise end on a date which is not a Business Day shall be extended to the next succeeding Business Day unless such Business Day falls in the next calendar month, in which case such Yield Period shall end on the next preceding Business Day, and (B) the Seller shall not select, convert to or renew a Yield Period for any Portion of Capital that would end after the Termination Date.

“Yield Rate Option” means any BSBY Rate Option, Daily BSBY Floating Rate Option or Base Rate Option.

“Yield Reserve Percentage” means at any time of determination:

where:

- BR = the Base Rate at such time;  
DSO = the Days' Sales Outstanding for the most recently ended Fiscal Month; and  
SFR = the Servicing Fee Rate.

SECTION 1.02. Other Interpretative Matters. All accounting terms not specifically defined herein shall be construed in accordance with GAAP. All terms used in Article 9 of the UCC in the State of New York and not specifically defined herein, are used herein as defined in such Article 9. Unless otherwise expressly indicated, all references herein to "Article," "Section," "Schedule," "Exhibit" or "Annex" shall mean articles and sections of, and schedules, exhibits and annexes to, this Agreement. For purposes of this Agreement, the other Transaction Documents and all such certificates and other documents, unless the context otherwise requires: (a) references to any amount as on deposit or outstanding on any particular date means such amount at the close of business on such day; (b) the words "hereof," "herein" and "hereunder" and words of similar import refer to such agreement (or the certificate or other document in which they are used) as a whole and not to any particular provision of such agreement (or such certificate or document); (c) references to any Article, Section, Schedule, Exhibit or Annex are references to Articles, Sections, Schedules, Exhibits and Annexes in or to such agreement (or the certificate or other document in which the reference is made), and references to any paragraph, subsection, clause or other subdivision within any Section or definition refer to such paragraph, subsection, clause or other subdivision of such Section or definition; (d) the term "including" means "including without limitation"; (e) references to any Law refer to that Law as amended from time to time and include any successor Law; (f) references to any agreement refer to that agreement as from time to time amended, restated or supplemented or as the terms of such agreement are waived or modified in accordance with its terms; (g) references to any Person include that Person's permitted successors and assigns; (h) headings are for purposes of reference only and shall not otherwise affect the meaning or interpretation of any provision hereof; (i) unless otherwise provided, in the calculation of time from a specified date to a later specified date, the term "from" means "from and including", and the terms "to" and "until" each means "to but excluding"; (j) terms in one gender include the parallel terms in the neuter and opposite gender; (k) references to any amount as on deposit or outstanding on any particular date means such amount at the close of business on such day and (l) the term "or" is not exclusive.

SECTION 1.03. Unavailability of BSBY Screen Rate. Section 4.05 of this Agreement provides a mechanism for determining an alternative rate of interest or yield in the event that the BSBY Screen Rate is no longer available or in certain other circumstances. The Administrative Agent does not warrant or accept any responsibility for and shall not have any liability with respect to, the administration, submission or any other matter related to the BSBY Screen Rate or with respect to any alternative or successor rate thereto, or replacement rate therefor.

SECTION 1.04. Conforming Changes Relating to BSBY. With respect to the BSBY Screen Rate, the Administrative Agent will have the right to make Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Transaction Document, any amendments implementing such Conforming Changes will become effective without any further action or consent of any other party to this Agreement or any other Transaction Document; provided that, with respect to any such amendment effected, the Administrative Agent shall provide notice to the Seller and the Purchasers each such amendment implementing such Conforming Changes reasonably promptly after such amendment becomes effective.

## ARTICLE II.

### TERMS OF THE PURCHASES AND INVESTMENTS

#### SECTION 2.01. Purchase Facility.

(a) *Investments*. Upon a request by the Seller pursuant to Section 2.02, and on the terms and subject to the conditions hereinafter set forth, the Purchasers shall, ratably in accordance with their respective Commitments, severally and not jointly, make payments of Capital to the Seller from time to time during the period from the Closing Date to the Termination Date. Each such payment of Capital by a Purchaser to the Seller shall constitute an Investment hereunder for all purposes. Under no circumstances shall any Purchaser be obligated to make any Investment if, after giving effect thereto:

- (i) the Aggregate Capital would exceed the Facility Limit at such time;
- (ii) the aggregate outstanding Capital of such Purchaser would exceed its Commitment; or
- (iii) the Aggregate Capital would exceed the Capital Coverage Amount at such time.

(b) *Sale of Receivables and Other Sold Assets*. In consideration of the Purchasers' respective agreements to make Investments in accordance with the terms hereof, the Seller, on each Sale Date, hereby sells, assigns and transfers to the Administrative Agent (for the ratable benefit of the Purchasers according to their Capital as increased or reduced from time to time hereunder), all of the Seller's right, title and interest in, to and under all of the following, whether now or hereafter owned, existing or arising (collectively, the "Sold Assets"): (i) all Sold Receivables, (ii) all Related Security with respect to such Sold Receivables, (iii) all Collections with respect to such Sold Receivables and (iv) all proceeds of the foregoing. Such sales, assignments and transfers by the Seller shall, in each case, occur and be deemed to occur for all purposes in accordance with the terms hereof automatically without further action, notice or consent of any party.

(c) *Intended Characterization as a Purchase and Sale*. It is the intention of the parties to this Agreement that the transfer and conveyance of the Seller's right, title and interest in, to and under the Sold Assets to the Administrative Agent (for the ratable benefit of

the Purchasers according to their Capital as increased or reduced from time to time hereunder) on each Sale Date pursuant to this Agreement shall constitute a purchase and sale and not a pledge for security, and such purchase and sale of the Sold Assets hereunder shall be treated as a sale for all purposes (except as provided in Sections 2.01(d) and 13.14). For the avoidance of doubt, this clause (c) shall not be construed to limit or otherwise modify Section 4.06 or any rights, interests, liabilities or obligations of any party thereunder.

(d) *Obligations Not Assumed.* Notwithstanding any provision contained in this Agreement or any other Transaction Document to the contrary, the foregoing sale, assignment, transfer and conveyance set forth in Section 2.01(b) does not constitute, and is not intended to result in, the creation or an assumption by the Administrative Agent or any Purchaser of any obligation or liability of the Seller, any Originator, the Servicer, or any other Person under or in connection with all, or any portion of, any Sold Assets, all of which shall remain the obligations and liabilities of the Seller, the Originators, the Servicer and such other Persons, as applicable.

(e) *Selection, Designation and Reporting of Sold Receivables.* The Seller (or the Servicer on its behalf) shall select and identify from the Pool Receivables all Sold Receivables to be sold pursuant to Section 2.01(b) in its sole discretion; provided, however, that (i) the Seller shall select Sold Receivables from the Pool Receivables and the Seller shall transfer pursuant to Section 2.01(b) 100% of its interest in such Sold Receivables, and (ii) the Seller shall not select Sold Receivables in a manner that results in the aggregate Outstanding Balance of Sold Receivables exceeding the Aggregate Capital. The Seller shall maintain (or cause the Servicer to maintain) books and records sufficient to readily identify the Sold Receivables. The Seller and Servicer shall cause (i) all Sold Receivables to be identified on each Investment Request in accordance with Section 2.02(a) and (ii) the aggregate Outstanding Balance of each Obligor's Sold Receivables to be identified on each Information Package delivered hereunder.

SECTION 2.02. Making Investments; Return of Capital. (a) Each Investment hereunder shall be made on a Business Day upon the written request from the Seller to the Administrative Agent and each Purchaser in the form of an Investment Request attached hereto as Exhibit A, provided that, at any time when PNC (or an Affiliate thereof) is both the Administrative Agent and the sole Purchaser hereunder, if the applicable Seller enters into a separate written agreement with the Administrative Agent regarding Administrative Agent's PINACLE® auto-advance service (or any similar or replacement electronic loan administration servicer implemented by the Administrative Agent), then any request for an Investment made using such service shall constitute an Investment Request, and each Investment made pursuant to such service shall be made on the date such Investment Request is received by the Administrative Agent. Each such request for an Investment shall be made no later than 1:00 p.m. (New York City time) on the proposed date of such Investment (it being understood that any such request made after such time shall be deemed to have been made on the following Business Day) and shall specify (i) the amount of Capital requested, which amount shall (x) not be less than \$100,000 and shall be an integral multiple of \$50,000 in excess thereof and (y) not cause the aggregate Outstanding Balance of all Sold Receivables (after giving effect to the addition of Pool Receivables to the Sold Receivables in connection with such Investment) to exceed the Aggregate Capital, (ii) the allocation of such amount among the Purchasers (which shall be ratable based on the Commitments), (iii) the account to which the Capital of such Investment shall be distributed, (iv) the date such requested Investment is to be made (which shall be a Business Day) and (v) all Pool Receivables that are or, effective upon the making of such Investment, will be, Sold Receivables.

(b) On the date of each Investment specified in the applicable Investment Request, the Purchasers shall, upon satisfaction of the applicable conditions set forth in Article V and pursuant to the other conditions set forth in this Article II, make available to the Seller in same day funds an aggregate amount equal to the amount of Capital requested, at the account set forth in the related Investment Request.

(c) Each Purchaser's obligation shall be several, such that the failure of any Purchaser to make available to the Seller any funds in connection with any Investment shall not relieve any other Purchaser of its obligation, if any, hereunder to make funds available on the date such Investments are requested (it being understood, that no Purchaser shall be responsible for the failure of any other Purchaser to make funds available to the Seller in connection with any Investment hereunder).

(d) The Seller shall return in full the outstanding Capital of each Purchaser on the Seller Obligation Final Due Date. Prior thereto, the Seller shall, on each Settlement Date, reduce the outstanding Capital of the Purchasers to the extent required under Section 3.01 and otherwise in accordance with such Section 3.01 (subject to the priorities for payment set forth therein) by paying the amount of such reduction to the Purchasers in accordance with Section 3.02. Notwithstanding the foregoing, the Seller, in its discretion, shall have the right to reduce, in whole or in part by payment in accordance with Section 3.02, the outstanding Capital of the Purchasers (i) at any time when PNC (or an Affiliate thereof) is both the Administrative Agent and the sole Purchaser hereunder, and to the extent the Seller has entered into a separate written agreement with the Administrative Agent regarding Administrative Agent's PINACLE® auto-advance service (or any similar or replacement electronic loan administration service implemented by the Administrative Agent) pursuant to Section 2.02(a) hereof, on any Business Day, or (ii) otherwise, on any Business Day upon one (1) Business Day's prior written notice thereof to the Administrative Agent and each Purchaser in the form of a Reduction Notice attached hereto as Exhibit B; provided, however, that (i) each such reduction shall be in a minimum aggregate amount of \$500,000 and shall be an integral multiple of \$100,000 in excess thereof, (ii) the Seller shall not provide any Reduction Notice, and no such Reduction Notice shall be effective, if after giving effect thereto, the Aggregate Capital at such time would be less than an amount equal to the then applicable Minimum Funding Threshold and (iii) any accrued Yield and Fees in respect of the portion(s) of Capital so reduced shall be paid in full on the immediately following Settlement Date; provided, however that notwithstanding the foregoing, a reduction may be in an amount necessary to reduce any Capital Coverage Deficit existing at such time to zero.

(e) The Seller may, at any time upon at least ten (10) days' prior written notice to the Administrative Agent and each Purchaser, terminate the Facility Limit in whole or ratably reduce the Facility Limit in part, *provided* that such notice may state that it is conditioned upon the effectiveness of the consummation of another transaction, in which case such notice may be revoked by the Seller if such condition is not satisfied prior to the stated effective date of the termination or reduction set forth in such notice. Each partial reduction in the Facility Limit shall be in a minimum aggregate amount of \$5,000,000 or integral multiples of \$1,000,000 in

excess thereof, no such partial reduction shall reduce the Facility Limit to an amount less than \$50,000,000. In connection with any partial reduction in the Facility Limit, the Commitment of each Purchaser shall be ratably reduced.

(f) In connection with any reduction of the Facility Limit and the corresponding Commitments of the Purchasers, the Seller shall remit to the Administrative Agent (i) instructions regarding such reduction and (ii) for payment to the Purchasers, cash in an amount sufficient to pay (A) Capital of each Purchaser in excess of its Commitment as so reduced and (B) all other outstanding Seller Obligations with respect to such reduction (determined based on the ratio of the reduction of the Commitments being effected to the amount of the Commitments prior to such reduction or, if the Administrative Agent reasonably determines that any portion of the outstanding Seller Obligations is allocable solely to that portion of the Commitments being reduced or has arisen solely as a result of such reduction, all of such portion) including, without duplication, any associated Breakage Fees. Upon receipt of any such amounts, the Administrative Agent shall apply such amounts first to the reduction of the outstanding Capital, and second to the payment of the remaining outstanding Seller Obligations with respect to such reduction, including any Breakage Fees, by paying such amounts to the Purchasers.

#### SECTION 2.03. Yield and Fees.

(a) On each Settlement Date, the Seller shall, in accordance with the terms and priorities for payment set forth in Section 3.01, pay to each Purchaser, the Administrative Agent and the Structuring Agent certain fees (collectively, the "Fees") in the amounts set forth in the fee letter agreements from time to time entered into, among the Seller, the Purchasers and/or the Administrative Agent or the Structuring Agent (each such fee letter agreement, as amended, restated, supplemented or otherwise modified from time to time, collectively being referred to herein as the "Fee Letter").

(b) Each Purchaser's Portion of Capital shall accrue Yield on each day when such Portion of Capital remains outstanding at the then applicable rate of Yield for such Portion of Capital. The Seller shall pay all Yield (including, for the avoidance of doubt, all Yield accrued on BSBY Rate Capital during an Accrual Period regardless of whether the applicable Yield Period has ended), Fees and Breakage Fees accrued during each Accrual Period on each Settlement Date in accordance with the terms and priorities for payment set forth in Section 3.01.

(c) For the avoidance of doubt, the Seller's obligation to pay all Fees and Yield hereunder when due shall not be contingent up the receipt or availability of Collections.

SECTION 2.04. Records of Investments and Capital. Each Purchaser shall record in its records, the date and amount of each Investment made by the Purchasers hereunder, the rate of Yield with respect to the related Capital (and each portion thereof), the Yield accrued on such Purchasers' Capital and each repayment and payment thereof. Subject to Section 13.03(b), such records shall be conclusive and binding absent manifest error. The failure to so record any such information or any error in so recording any such information shall not, however, limit or otherwise affect the obligations of the Seller hereunder or under the other Transaction Documents to repay the Capital of each Purchaser, together with all Yield accruing thereon and all other Seller Obligations.

SECTION 2.05. Yield Periods; Selection of Yield Rate Options. The Seller shall pay Yield in respect of the outstanding Capital as selected by it from the Base Rate Option, Daily BSBY Floating Rate Option or BSBY Rate Option specified below applicable to the Capital, it being understood that, subject to the provisions of this Agreement, the Seller may select different Yield Rate Options and different Yield Periods to apply simultaneously to the Capital comprising different Portion of Capitals and may convert to or renew one or more Yield Rate Options with respect to all or any portion of the Capital comprising any Portion of Capital; provided that there shall not be at any one time outstanding more than five (5) Portion of Capitals; *provided*, however, that two (2) or more Portions of Capital with the same Yield Rate Option shall be combined into a single Portion of Capital upon written request by the Seller; *provided* further that if an Event of Default occurs and is continuing, the Seller may not request, convert to, or renew the BSBY Rate Option or Daily BSBY Floating Rate Option for any Portion of Capital and the Majority Purchasers may demand that all existing Portions of Capital accruing Yield under the BSBY Rate Option or Daily BSBY Floating Rate Option shall be converted immediately to the Base Rate Option, subject to the obligation of the Seller to pay any Breakage Fees in connection with such conversion. If at any time the designated rate applicable to any Investment made by any Purchaser exceeds such Purchaser's highest lawful rate, the rate of yield on such Purchaser's Capital shall be limited to such Purchaser's highest lawful rate.

(a) Yield Rate Options. The Seller shall have the right to select from the following Yield Rate Options applicable to the Capital:

(i) Base Rate Option: A fluctuating rate per annum (computed on the basis of a year of 365 or 366 days, as the case may be, and actual days elapsed) equal to the Base Rate, such rate to change automatically from time to time effective as of the effective date of each change in the Base Rate; or

(ii) BSBY Rate Option: A rate per annum (computed on the basis of a year of 360 days and actual days elapsed) equal to the BSBY Rate as determined for each applicable Yield Period; or

(iii) Daily BSBY Floating Rate Option: A fluctuating rate per annum (computed on the basis of a year of 360 days and actual days elapsed) equal to the Daily BSBY Floating Rate, such rate to change automatically from day to day and time to time in accordance with the definition thereof.

(b) Rate Quotations. The Seller may call the Administrative Agent on or before the date on which an Investment Request is to be delivered to receive an indication of the rates then in effect, but it is acknowledged that such projection shall not be binding on the Administrative Agent or the Purchasers nor affect the rate of yield which thereafter is actually in effect when the election is made.

(c) Yield Periods. At any time when the Seller shall select, convert to or renew a BSBY Rate Option, the Seller shall notify the Administrative Agent thereof at least three

(3) Business Days prior to the effective date of such BSBY Rate Option by delivering an Investment Request; *provided*, that any failure to so select, convert or renew shall be deemed to be an election to renew the BSBY Rate Option then in effect. The notice shall specify a Yield Period during which such Yield Rate Option shall apply; *provided*, that any failure to so specify a Yield Period shall be deemed to be a specification of the same Yield Period as the Yield Period then in effect. Notwithstanding the preceding sentence, the following provisions shall apply to any selection of, renewal of, or conversion to a BSBY Rate Option.

(i) Amount of Portion of Capital. Each Portion of Capital under the BSBY Rate Option shall be in integral multiples of, and not less than, the respective amounts specified in Section 2.02; and

(ii) Renewals. In the case of the renewal of a BSBY Rate Option at the end of a Yield Period, the first day of the new Yield Period shall be the last day of the preceding Yield Period, without duplication in payment of Yield for such day.

(d) Yield After Default. To the extent permitted by Applicable Law, upon the occurrence of an Event of Default and until such time such Event of Default shall have been cured or waived, at the discretion of the Administrative Agent or upon written demand by the Majority Purchasers to the Administrative Agent:

(i) Yield Rate. The rate of Yield for each Portion of Capital otherwise applicable pursuant to this Section 2.05, shall be increased by 3.00% per annum;

(ii) Other Obligations. Each other obligation of the Seller hereunder if not paid when due shall accrue Yield at a rate per annum equal to the sum of the rate of yield applicable to Capital under the Base Rate Option plus an additional 3.00% per annum from the time such obligation of the Seller becomes due and payable until the time such obligation of the Seller is paid in full; and

(iii) Acknowledgment. The Seller acknowledges that the increase in rates referred to in this Section 2.05(d), if effected, reflects, among other things, the fact that such Capital or other amounts have become a substantially greater risk given their default status and that the Purchasers are entitled to additional compensation for such risk; and all such Yield shall be payable by Seller upon demand by Administrative Agent.

### ARTICLE III.

#### SETTLEMENT PROCEDURES AND PAYMENT PROVISIONS

##### SECTION 3.01. Settlement Procedures.

(a) Except with respect to Collections being held in a Collection Account (or in a separate account maintained by, and under the control of, the Administrative Agent for purposes of holding such Collections for distribution hereunder) after the Administrative Agent has taken exclusive dominion and control of such Collection Account pursuant to Section 8.03,

the Servicer shall set aside and hold in trust for the benefit of the Secured Parties (or, if so requested by the Administrative Agent in its sole discretion, segregate in a separate account designated by the Administrative Agent in writing, which may be a Collection Account, or an account maintained or controlled by the Administrative Agent), for application in accordance with the priority of payments set forth below, all Collections on Pool Receivables that are received by the Servicer or the Seller or received in any Lock-Box or Collection Account; provided, however, that so long as each of the conditions precedent set forth in Section 5.03 are satisfied on such date, (A) the Servicer may release to the Seller from such Collections received on Unsold Receivables the amount (if any) necessary to pay (x) the purchase price for Receivables purchased by the Seller on such date in accordance with the terms of the Purchase and Contribution Agreement or (y) amounts owing by the Seller to any Originator under any Intercompany Loan Agreement and (B) the Servicer may release to the Seller all or a portion of such Collections received on Sold Receivables in exchange for the Seller designating an equivalent amount (based on aggregate Outstanding Balances) of Unsold Receivables as new Sold Receivables on Seller's books and records pursuant to Section 2.01(e), which new Sold Receivables will be automatically and immediately sold by the Seller to the Administrative Agent (for the ratable benefit of the Purchasers) pursuant to Section 2.01(b) upon such release (each such release of Collections described in clauses (A) and (B) above, a "Release"). On each Settlement Date, the Servicer (or, to the extent Collections are on deposit in a Collection Account (or in a separate account maintained by, and under the control of, the Administrative Agent for purposes of holding such Collections for distribution hereunder) following the Administrative Agent's assumption of exclusive dominion and control of such Collection Accounts pursuant to Section 8.03, the Administrative Agent) shall, distribute such Collections in the following order of priority:

(i) first, to the Servicer for the payment of the accrued Servicing Fees payable for the immediately preceding Yield Period (plus, if applicable, the amount of Servicing Fees payable for any prior Yield Period to the extent such amount has not been distributed to the Servicer);

(ii) second, to each Purchaser and other Purchaser Party (ratably, based on the amount then due and owing), all accrued and unpaid Yield, Fees and Breakage Fees due to such Purchaser and other Purchaser Party for the immediately preceding Yield Period (including any additional amounts or indemnified amounts payable under Sections 4.03 and 12.01 in respect of such payments), plus, if applicable, the amount of any such Yield, Fees and Breakage Fees (including any additional amounts or indemnified amounts payable under Sections 4.03 and 12.01 in respect of such payments) payable for any prior Yield Period to the extent such amount has not been distributed to such Purchaser or Purchaser Party;

(iii) third, as set forth in clause (x), (y) or (z) below, as applicable:

(x) prior to the occurrence of the Termination Date, to the extent that a Capital Coverage Deficit exists on such date, to the Purchasers (ratably, based on the aggregate outstanding Capital of each Purchaser at such time) for the return of a portion of the outstanding Aggregate Capital at such time, in an aggregate amount equal to the amount necessary to reduce the Capital Coverage Deficit to zero (\$0);

(y) on and after the occurrence of the Termination Date, to each Purchaser (ratably, based on the aggregate outstanding Capital of each Purchaser at such time) for the return in full of the aggregate outstanding Capital of such Purchaser at such time; or

(z) prior to the occurrence of the Termination Date, at the election of the Seller and in accordance with Section 2.02(d), to the return of all or any portion of the outstanding Capital of the Purchasers at such time (ratably, based on the aggregate outstanding Capital of each Purchaser at such time);

(iv) fourth, to the Purchaser Parties, the Affected Persons and the Seller Indemnified Parties (ratably, based on the amount due and owing at such time), for the payment of all other Seller Obligations then due and owing by the Seller to the Purchaser Parties, the Affected Persons and the Seller Indemnified Parties; and

(v) fifth, the balance, if any, to be paid to the Seller for its own account.

Amounts payable pursuant to clauses first through fourth above shall be paid first from available Collections on Sold Receivables and other Sold Assets, and second, to the extent necessary in order to make all such payments in full, from Collections on Unsold Receivables and other Seller Collateral. The Seller's right to receive payments (if any) from time to time pursuant to clause fifth above shall, to the extent arising from Collections on Sold Receivables, constitute compensation to the Seller for the Seller's provision of the Seller Guaranty and the Purchaser Parties' interests in the Seller Collateral.

(b) All payments or distributions to be made by the Servicer, the Seller and any other Person to the Purchasers (or their respective related Affected Persons and the Seller Indemnified Parties), shall be paid or distributed to the related Purchaser at its Purchaser's Account. Each Purchaser, upon its receipt in the applicable Purchaser's Account of any such payments or distributions, shall distribute such amounts to the applicable Purchasers, Affected Persons and the Seller Indemnified Parties ratably; provided that if such Purchaser shall have received insufficient funds to pay all of the above amounts in full on any such date, such Purchaser shall pay such amounts to the applicable Purchasers, Affected Persons and the Seller Indemnified Parties in accordance with the priority of payments forth above, and with respect to any such category above for which there are insufficient funds to pay all amounts owing on such date, ratably (based on the amounts in such categories owing to each such Person) among all such Persons entitled to payment thereof.

(c) If and to the extent the Administrative Agent, any Purchaser Party, any Affected Person or any Seller Indemnified Party shall be required for any reason to pay over to any Person (including any Obligor or any trustee, receiver, custodian or similar official in any

Insolvency Proceeding) any amount received on its behalf hereunder, such amount shall be deemed not to have been so received but rather to have been retained by the Seller and, accordingly, the Administrative Agent, such Purchaser Party, such Affected Person or such Seller Indemnified Party, as the case may be, shall have a claim against the Seller for such amount.

(d) For the purposes of this Section 3.01:

(i) if on any day the Outstanding Balance of any Pool Receivable is reduced or adjusted as a result of any Returned Goods, defective, rejected or foreclosed goods or services, or any revision, cancellation, allowance, rebate, credit memo, discount or other adjustment made by the Seller, any Originator, the Servicer or any Affiliate of the Servicer, or any setoff, counterclaim or dispute between the Seller or any Affiliate of the Seller, an Originator or any Affiliate of an Originator, or the Servicer or any Affiliate of the Servicer, and an Obligor, the Seller shall be deemed to have received on such day a Collection of such Pool Receivable in the amount of such reduction or adjustment and shall promptly (but in any event within two (2) Business Days) pay any and all such amounts in respect thereof to a Collection Account (or as otherwise directed by the Administrative Agent at such time) for the benefit of the Purchaser Parties for application pursuant to Section 3.01(a). (Collections deemed to have been received pursuant to this Section 3.01(d)(i) are hereinafter sometimes referred to as “Dilution”);

(ii) if on any day any of the representations or warranties in Section 6.01 that expressly relate to Pool Receivables is not true with respect to any Pool Receivable, the Seller shall be deemed to have received on such day a Collection of such Pool Receivable in full and shall promptly (but in any event within two (2) Business Days) pay the amount of such deemed Collection to a Collection Account (or as otherwise directed by the Administrative Agent at such time) for the benefit of the Purchaser Parties for application pursuant to Section 3.01(a). (Collections deemed to have been received pursuant to Section 3.01(d) are hereinafter sometimes referred to as “Deemed Collections”);

(iii) except as provided in clauses (i) or (ii) above or otherwise required by Applicable Law or the relevant Contract, all Collections received from an Obligor of any Receivable shall be applied to the Receivables of such Obligor in the order of the age of such Receivables, starting with the oldest such Receivable, unless such Obligor designates in writing its payment for application to specific Receivables; and

(iv) if and to the extent the Administrative Agent, any Purchaser Party, any Affected Person or any Seller Indemnified Party shall be required for any reason to pay over to an Obligor (or any trustee, receiver, custodian or similar official in any Insolvency Proceeding) any amount received by it hereunder, such amount shall be deemed not to have been so received by such Person but rather to have been retained by the Seller and, accordingly, such Person shall have a claim against the Seller for such amount, payable when and to the extent that any distribution from or on behalf of such Obligor is made in respect thereof.

SECTION 3.02. Payments and Computations, Etc. (a) All amounts to be paid by the Seller or the Servicer to the Administrative Agent, any Purchaser Party, any Affected Person or any Seller Indemnified Party hereunder shall be paid no later than 1:00 p.m. (New York City time) on the day when due in same day funds to the applicable Purchaser's Account.

(b) Each of the Seller and the Servicer shall, to the extent permitted by Applicable Law, pay interest on any amount not paid or deposited by it when due hereunder, at an interest rate per annum equal to 2.00% per annum above the Base Rate in effect on such day, payable on demand.

(c) All computations of interest under subsection (b) above and all computations of Yield, Fees and other amounts hereunder shall be made on the basis of a year of 360 days (or, in the case of amounts determined by reference to the Base Rate, 365 or 366 days, as applicable) for the actual number of days (including the first but excluding the last day) elapsed. Whenever any payment or deposit to be made hereunder shall be due on a day other than a Business Day, such payment or deposit shall be made on the next succeeding Business Day and such extension of time shall be included in the computation of such payment or deposit.

#### ARTICLE IV.

##### INCREASED COSTS; FUNDING LOSSES; TAXES; ILLEGALITY AND BSBY RATE UNASCERTAINABLE

###### SECTION 4.01. Increased Costs.

(a) Increased Costs Generally. If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit, liquidity, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended or participated in by, any Affected Person;

(ii) subject any Affected Person to any Taxes (except to the extent such Taxes are (A) Indemnified Taxes, (B) Taxes described in clause (b) through (d) of the definition of Excluded Taxes or (C) Other Connection Taxes that are imposed on or measured by net income (however denominated) or that are franchise Taxes or branch profits Taxes) on its loans, loan principal, letters of credit, commitments or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto; or

(iii) impose on any Affected Person any other condition, cost or expense (other than Taxes) (A) affecting the Sold Assets, the Seller Collateral, this Agreement, any other Transaction Document, any Capital or any participation therein or (B) affecting its obligations or rights to make Investments or fund or maintain Capital;

and the result of any of the foregoing shall be to increase the cost to such Affected Person of (A) acting as the Administrative Agent or a Purchaser hereunder with respect to the transactions contemplated hereby, (B) making any Investment or funding or maintaining any Capital (or any portion thereof) or (C) maintaining its obligation to make any Investment or to fund or maintain any Capital (or any portion thereof), or to reduce the amount of any sum received or receivable by such Affected Person hereunder, then, upon request of such Affected Person, the Seller shall pay, in accordance with clause (d) of this Section, to such Affected Person such additional amount or amounts as will compensate such Affected Person for such additional costs incurred or reduction suffered.

(b) Capital and Liquidity Requirements. If any Affected Person determines that any Change in Law affecting such Affected Person or any lending office of such Affected Person or such Affected Person's holding company, if any, regarding capital or liquidity requirements, has or would have the effect of (x) increasing the amount of capital required to be maintained by such Affected Person or Affected Person's holding company, if any, (y) reducing the rate of return on such Affected Person's capital or on the capital of such Affected Person's holding company, if any, or (z) causing an internal capital or liquidity charge or other imputed cost to be assessed upon such Affected Person or Affected Person's holding company, if any, in each case, as a consequence of (A) this Agreement or any other Transaction Document, (B) the commitments of such Affected Person hereunder or under any other Transaction Document, (C) the Investments made by such Affected Person, or (D) any Capital (or portion thereof), to a level below that which such Affected Person or such Affected Person's holding company could have achieved but for such Change in Law (taking into consideration such Affected Person's policies and the policies of such Affected Person's holding company with respect to capital adequacy and liquidity), then from time to time, upon request of such Affected Person, the Seller will pay, to such Affected Person such additional amount or amounts as will compensate such Affected Person or such Affected Person's holding company for any such increase in capital, reduction or in rate of return on capital or liquidity charge.

(c) Adoption of Changes in Law. The Seller acknowledges that any Affected Person may institute measures in anticipation of a Change in Law (including, the imposition of internal charges on such Affected Person's interests or obligations under any Transaction Document), and may commence allocating charges to or seeking compensation from the Seller under this Section 4.01 in connection with such measures, in advance of the effective date of such Change in Law, and the Seller agrees to pay such charges or compensation to such Affected Person, following demand therefor in accordance with the terms of this Section 4.01, without regard to whether such effective date has occurred.

(d) Certificates for Reimbursement. A certificate of an Affected Person setting forth the amount or amounts necessary to compensate such Affected Person or its holding company, as the case may be, as specified in clause (a), (b) or (c) of this Section and delivered to the Seller, shall be conclusive absent manifest error. The Seller shall, subject to the priorities of payment set forth in Section 3.01, pay such Affected Person the amount shown as due on any such certificate on the first Settlement Date occurring after the Seller's receipt of such certificate.

(e) Delay in Requests. Failure or delay on the part of any Affected Person to demand compensation pursuant to this Section shall not constitute a waiver of such Affected Person's right to demand such compensation.

SECTION 4.02. Funding Losses.

(a) The Seller will pay each Purchaser all Breakage Fees.

(b) A certificate of a Purchaser setting forth the amount or amounts necessary to compensate such Purchaser, as specified in clause (a) above and delivered to the Seller, shall be conclusive absent manifest error. The Seller shall, subject to the priorities of payment set forth in Section 3.01, pay such Purchaser the amount shown as due on any such certificate on the first Settlement Date occurring after the Seller's receipt of such certificate.

SECTION 4.03. Taxes.

(a) Payments Free of Taxes. Any and all payments by or on account of any obligation of the Seller under any Transaction Document shall be made without deduction or withholding for any Taxes, except as required by Applicable Law. If any Applicable Law (as determined in the good faith discretion of the applicable Withholding Agent) requires the deduction or withholding of any Tax from any such payment to a Purchaser Party, then the applicable Withholding Agent shall be entitled to make such deduction or withholding and shall timely pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with Applicable Law, and, if such Tax is an Indemnified Tax, then the sum payable by the Seller shall be increased as necessary so that after such deduction or withholding has been made (including such deductions and withholdings applicable to additional sums payable under this Section), the applicable Purchaser Party receives an amount equal to the sum it would have received had no such deduction or withholding been made.

(b) Payment of Other Taxes by the Seller. The Seller shall timely pay to the relevant Governmental Authority in accordance with Applicable Law, or, at the option of the Administrative Agent, timely reimburse the Administrative Agent for the payment of, any Other Taxes.

(c) Indemnification by the Seller. The Seller shall indemnify each Purchaser Party, within ten (10) days after delivery of the certificate referred to in the last sentence of this clause (c), for the full amount of any (I) Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section) payable or paid by such Purchaser Party or required to be withheld or deducted from a payment to such Purchaser Party and any penalties, interest and reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority and (II) in the event that an Investment or any Capital is not treated for U.S. federal, state, local or franchise Tax purposes consistently with the Intended Tax Treatment by any Governmental Authority pursuant to a determination (within the meaning of Section 1313(a) of the Code or any similar provision of state or local law), for the amount of any Taxes imposed on such Purchaser Party in excess of the Taxes that would have been imposed on such Purchaser Party if such Investment or Capital had been treated consistently with the

Intended Tax Treatment (such indemnification will include any U.S. federal, state or local income and franchise Taxes necessary to make such Purchaser Party whole on an after-tax basis taking into account the taxability of receipt of payments under this clause (II) and any reasonable expenses (other than Taxes) arising out of, relating to, or resulting from the foregoing). A certificate as to the amount of such payment or liability delivered to the Seller by a Purchaser Party (with a copy to the Administrative Agent), or by the Administrative Agent on its own behalf or on behalf of a Purchaser Party, shall be conclusive absent manifest error.

(d) Indemnification by the Purchasers. Each Purchaser shall severally indemnify the Administrative Agent, within ten days after demand therefor, for (i) any Indemnified Taxes attributable to such Purchaser or any of its respective Affiliates that are Affected Persons (but only to the extent that the Seller and its Affiliates have not already indemnified the Administrative Agent for such Indemnified Taxes and without limiting any obligation of the Seller or its Affiliates to do so), (ii) any Taxes attributable to the failure of such Purchaser or any of their respective Affiliates that are Affected Persons to comply with Section 13.03(e) relating to the maintenance of a Participant Register and (iii) any Excluded Taxes attributable to such Purchaser or any of its respective Affiliates that are Affected Persons, in each case, that are payable or paid by the Administrative Agent in connection with any Transaction Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Purchaser by the Administrative Agent shall be conclusive absent manifest error. Each Purchaser hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Purchaser or any of its respective Affiliates that are Affected Persons under any Transaction Document or otherwise payable by the Administrative Agent to such Purchaser or any of its respective Affiliates that are Affected Persons from any other source against any amount due to the Administrative Agent under this clause (d).

(e) Evidence of Payments. As soon as practicable after any payment of Taxes by the Seller to a Governmental Authority pursuant to this Section 4.03, the Seller shall deliver to the Administrative Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(f) Status of Purchasers. (i) Any Purchaser that is entitled to an exemption from or reduction of withholding Tax with respect to payments made under any Transaction Document shall deliver to the Seller and the Administrative Agent, at the time or times reasonably requested by the Seller or the Administrative Agent, such properly completed and executed documentation reasonably requested by the Seller or the Administrative Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Purchaser, if reasonably requested by the Seller or the Administrative Agent, shall deliver such other documentation prescribed by Applicable Law or reasonably requested by the Seller or the Administrative Agent as will enable the Seller or the Administrative Agent to determine whether or not such Purchaser is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation set forth in Sections 4.03(f)(ii)(A), 4.03(f)(ii)(B) and 4.03(g)) shall not be

required if, in the Purchaser's reasonable judgment, such completion, execution or submission would subject such Purchaser to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Purchaser.

(i) Without limiting the generality of the foregoing:

(A) a Purchaser that is a U.S. Person shall deliver to the Seller and the Administrative Agent from time to time upon the reasonable request of the Seller or the Administrative Agent, executed originals of Internal Revenue Service Form W-9 certifying that such Purchaser is exempt from U.S. federal backup withholding tax;

(B) any Purchaser that is not a U.S. Person shall, to the extent it is legally entitled to do so, deliver to the Seller and the Administrative Agent (in such number of copies as shall be requested by the Seller or Administrative Agent) from time to time upon the reasonable request of the Seller or the Administrative Agent, whichever of the following is applicable:

(1) in the case of such a Purchaser claiming the benefits of an income tax treaty to which the United States is a party, (x) with respect to payments of interest under any Transaction Document, executed originals of Internal Revenue Service Form W-8BEN or W-8BEN-E, as applicable, establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "interest" article of such tax treaty and (y) with respect to any other applicable payments under any Transaction Document, Internal Revenue Service Form W-8BEN or W-8BEN-E, as applicable, establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "business profits" or "other income" article of such tax treaty;

(2) executed originals of Internal Revenue Service Form W-8ECI;

(3) in the case of such a Purchaser claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate to the effect that such Purchaser is not a "bank" within the meaning of Section 881(c)(3)(A) of the Code, a "10 percent shareholder" of the Seller within the meaning of Section 881(c)(3)(B) of the Code, or a "controlled foreign corporation" described in Section 881(c)(3)(C) of the Code (a "U.S. Tax Compliance Certificate") and (y) executed originals of Internal Revenue Service Form W-8BEN or W-8BEN-E, as applicable; or

(4) to the extent such Purchaser is not the beneficial owner, executed originals of Internal Revenue Service Form W-8IMY, accompanied by Internal Revenue Service Form W-8ECI, Internal Revenue Service Form W-8BEN or W-8BEN-E, as applicable, a U.S. Tax Compliance Certificate, Internal Revenue Service Form W-9, and/or other certification documents from each beneficial owner, as applicable; provided that, if such Purchaser is a partnership and one or more direct or indirect partners of such Purchaser are claiming the portfolio interest exemption, such Purchaser may provide a U.S. Tax Compliance Certificate on behalf of each such direct and indirect partner; and

(C) any Purchaser that is not a U.S. Person shall, to the extent it is legally entitled to do so, deliver to the Seller and the Administrative Agent (in such number of copies as shall be requested by the recipient), from time to time upon the reasonable request of the Seller or the Administrative Agent, executed originals of any other form prescribed by Applicable Law as a basis for claiming exemption from or a reduction in U.S. federal withholding Tax, duly completed, together with such supplementary documentation as may be prescribed by Applicable Law to permit the Seller or the Administrative Agent to determine the withholding or deduction required to be made.

(g) Documentation Required by FATCA. If a payment made to a Purchaser under any Transaction Document would be subject to U.S. federal withholding Tax imposed by FATCA if such Purchaser were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Purchaser shall deliver to the Seller and the Administrative Agent at the time or times prescribed by Applicable Law and at such time or times reasonably requested by the Seller or the Administrative Agent such documentation prescribed by Applicable Law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Seller or the Administrative Agent as may be necessary for the Seller and the Administrative Agent to comply with their obligations under FATCA and to determine that such Purchaser has complied with such Purchaser's obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this clause (g), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

(h) Status of the Administrative Agent. On or prior to the date on which it becomes the Administrative Agent under this Agreement, the Administrative Agent shall deliver to the Seller executed copies of (i) Internal Revenue Service Form W-9 (if it is a U.S. Person), or (ii) unless any Event of Default has occurred and continues prior to the date on which it becomes the Administrative Agent under this Agreement, Internal Revenue Service Form W-8IMY (or any applicable successor forms) (if it is not a U.S. Person) together with any appropriate attachments (provided that in the event any Event of Default has occurred and continues prior to the date on which it becomes the Administrative Agent under this Agreement, an Administrative Agent that is not a U.S. Person may provide any properly completed Form W-8 (or successor form)).

(i) Tax Refunds. If any party determines, in its reasonable discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified pursuant to this Section (including by the payment of additional amounts pursuant to this Section), it shall pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under this Section with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) of such indemnified party and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund). Such indemnifying party, upon the request of such indemnified party, shall repay to such indemnified party the amount paid over pursuant to this paragraph (i) (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) in the event that such indemnified party is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this paragraph (i), in no event will the indemnified party be required to pay any amount to an indemnifying party pursuant to this paragraph (i) the payment of which would place the indemnified party in a less favorable net after-Tax position than the indemnified party would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. This paragraph shall not be construed to require any indemnified party to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to the indemnifying party or any other Person.

(j) Survival. Each party's obligations under this Section 4.03 shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Purchaser Party or any other Affected Person, the termination of the Commitments and the repayment, satisfaction or discharge of all the Seller Obligations and the Servicer's obligations hereunder.

(k) Updates. Each Affected Person agrees that if any form or certification it previously delivered pursuant to this Section 4.03 expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify the Seller and the Administrative Agent in writing of its legal inability to do so.

SECTION 4.04. BSBY Rate Unascertainable; Increased Costs; Illegality.

(a) Unascertainable; Increased Costs. If, on or prior to the first day of a Yield Period:

(i) the Administrative Agent shall have determined (which determination shall be conclusive and binding absent manifest error) that (x) BSBY Rate or Daily BSBY Floating Rate Option cannot be determined because it is not available or published on a current basis; (y) adequate and reasonable means do not otherwise exist for determining any requested Yield Periods with respect to an existing or proposed BSBY Rate Capital; or (z) a fundamental change has occurred with respect to the BSBY Rate or Daily BSBY Floating Rate (including, without limitation, changes in national or international financial, political or economic conditions), and

(ii) any Purchaser determines that for any reason in connection with any request for a BSBY Rate Capital or Daily BSBY Floating Rate Capital or a conversion thereto or a continuation thereof that the BSBY Rate for any requested Yield Period with respect to a proposed BSBY Rate Capital or Daily BSBY Floating Rate Capital does not adequately and fairly reflect the cost to such Purchaser of funding such Investment,

then the Administrative Agent shall have the rights specified in this Section 4.04.

(b) Illegality. If at any time any Purchaser shall have determined that the making, maintenance or funding of any BSBY Rate Capital or Daily BSBY Floating Rate Capital has been made impracticable or unlawful by compliance by such Purchaser in good faith with any Applicable Law or any interpretation or application thereof by any Governmental Authority or with any request or directive of any such Governmental Authority (whether or not having the force of Applicable Law), then the Administrative Agent shall have the rights specified in 4.04.

(c) Administrative Agent's and Purchaser's Rights. In the case of any event specified in Section 4.04(a) above, the Administrative Agent shall promptly so notify the Purchasers and the Seller thereof, and in the case of an event specified in Section 4.04(b) above, such Purchaser shall promptly so notify the Administrative Agent and endorse a certificate to such notice as to the specific circumstances of such notice, and the Administrative Agent shall promptly send copies of such notice and certificate to the other Purchasers and the Seller. Upon such date as shall be specified in such notice (which shall not be earlier than the date such notice is given), the obligation of (i) the Purchasers, in the case of such notice given by the Administrative Agent, or (ii) such Purchaser, in the case of such notice given by such Purchaser, to allow the Seller to select, convert to or renew a BSBY Rate Capital or Daily BSBY Floating Rate Capital shall be suspended (to the extent of the affected Daily BSBY Floating Rate Capital, BSBY Rate Capital or Yield Periods) until the Administrative Agent shall have later notified the Seller, or such Purchaser shall have later notified the Administrative Agent, of the Administrative Agent's or such Purchaser's, as the case may be, determination that the circumstances giving rise to such previous determination no longer exist. If at any time the Administrative Agent makes a determination under Section 4.04(a) and the Seller has previously notified the Administrative Agent of its selection of, conversion to or renewal of a BSBY Rate Option or Daily BSBY Floating Rate Option and the BSBY Rate Option or Daily BSBY Floating Rate Option, as applicable, has not yet gone into effect, absent due notice from the Seller of revocation, conversion or prepayment, such notification shall be deemed to provide for selection of, conversion to or renewal of the Base Rate Option otherwise available with respect to such Capital. If any Purchaser notifies the Administrative Agent of a determination under Section 4.04(b), the Seller shall, subject to the Seller's obligation to pay any Breakage Fees, as to any Capital of the Purchaser to which a BSBY Rate Option or Daily BSBY Floating Rate Option applies, on the date specified in such notice either convert such Capital to the Base Rate Option otherwise available with respect to such Capital or reduce such Capital in accordance with Section 2.02(d). Absent due notice from the Seller of conversion or prepayment, such Capital shall automatically be converted to the Base Rate Option otherwise available with respect to such Capital upon such specified date.

SECTION 4.05. Benchmark Replacement Setting.

(a) Benchmark Replacement. Notwithstanding anything to the contrary herein or in any other Transaction Document, if a Benchmark Transition Event has occurred prior to the Reference Time in respect of any setting of the then-current Benchmark, then (x) if a Benchmark Replacement is determined in accordance with clause (1) or (2) of the definition of “Benchmark Replacement” for such Benchmark Replacement Date, such Benchmark Replacement will replace such Benchmark for all purposes hereunder and under any Transaction Document in respect of such Benchmark setting and subsequent Benchmark settings without any amendment to, or further action or consent of any other party to, this Agreement or any other Transaction Document and (y) if a Benchmark Replacement is determined in accordance with clause (3) of the definition of “Benchmark Replacement” for such Benchmark Replacement Date, such Benchmark Replacement will replace such Benchmark for all purposes hereunder and under any Transaction Document in respect of any Benchmark setting at or after 5:00 p.m. (New York City time) on the fifth (5th) Business Day after the date notice of such Benchmark Replacement is provided to the Purchasers without any amendment to, or further action or consent of any other party to, this Agreement or any other Transaction Document so long as the Administrative Agent has not received, by such time, written notice of objection to such Benchmark Replacement from the Majority Purchasers.

(b) Benchmark Replacement Conforming Changes. In connection with the implementation of a Benchmark Replacement, the Administrative Agent will have the right to make Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Transaction Document, any amendments implementing such Conforming Changes will become effective without any further action or consent of any other party to this Agreement or any other Transaction Document.

(c) Notices, Standards for Decisions and Determinations. The Administrative Agent will promptly notify the Seller and the Purchasers of (i) any occurrence of a Benchmark Transition Event and its related Benchmark Replacement Date, (ii) the implementation of any Benchmark Replacement, (iii) the effectiveness of any Conforming Changes, (iv) the removal or reinstatement of any tenor of a Benchmark pursuant to paragraph (e) below and (v) the commencement or conclusion of any Benchmark Unavailability Period. Any determination, decision or election that may be made by the Administrative Agent or, if applicable, any Purchaser (or group of Purchasers) pursuant to this Section 4.05, including any determination with respect to a tenor, rate or adjustment or of the occurrence or non-occurrence of an event, circumstance or date and any decision to take or refrain from taking any action or any selection, will be conclusive and binding absent manifest error and may be made in its or their sole discretion and without consent from any other party to this Agreement or any other Transaction Document, except, in each case, as expressly required pursuant to this Section 4.05.

(d) Unavailability of Tenor of Benchmark. Notwithstanding anything to the contrary herein or in any other Transaction Document, at any time (including in connection with the implementation of a Benchmark Replacement), (i) if the then-current Benchmark is a term

rate and either (A) any tenor for such Benchmark is not displayed on a screen or other information service that publishes such rate from time to time as selected by the Administrative Agent in its reasonable discretion or (B) the regulatory supervisor for the administrator of such Benchmark has provided a public statement or publication of information announcing that any tenor for such Benchmark is or will no longer be compliant with, or the administrator of such Benchmark fails to be aligned with, the International Organization of Securities Commissions (IOSCO) Principles for Financial Benchmarks, then the Administrative Agent may modify the definition of “Accrual Period” or “Yield Period” for any Benchmark settings at or after such time to remove such unavailable or non-representative tenor and (ii) if a tenor that was removed pursuant to subclause (i) above either (A) is subsequently displayed on a screen or information service for a Benchmark (including a Benchmark Replacement) or (B) is not, or is no longer, subject to an announcement that it is or will no longer be compliant with, or the administration of such Benchmark fails to be aligned with, the International Organization of Securities Commissions (IOSCO) Principles for Financial Benchmarks (including a Benchmark Replacement), then the Administrative Agent may modify the definition of “Accrual Period” or “Yield Period” for all Benchmark settings at or after such time to reinstate such previously removed tenor.

(e) Benchmark Unavailability Period. Upon the Seller’s receipt of notice of the commencement of a Benchmark Unavailability Period, the Seller may revoke any pending request for an Investment (or Capital thereof) accruing Yield based on the BSBY Screen Rate, conversion to or continuation of Investments accruing Yield based on the BSBY Screen Rate to be made, converted or continued during any Benchmark Unavailability Period and, failing that, the Seller will be deemed to have converted any such request into a request for, or conversion to, an Investment accruing Yield at the Base Rate. During any Benchmark Unavailability Period or at any time that a tenor for the then-current Benchmark is not an Available Tenor, the component of the Base Rate based upon the then-current Benchmark or such tenor for such Benchmark, as applicable, will not be used in any determination of the Base Rate.

(f) Certain Defined Terms. As used in this Section 4.05:

“Available Tenor” means, as of any date of determination and with respect to the then-current Benchmark, as applicable, (x) if the then-current Benchmark is a term rate or is based on a term rate, any tenor for such Benchmark that is or may be used for determining the length of a Yield Period or (y) otherwise, any payment period for interest calculated with reference to such Benchmark, as applicable, pursuant to this Agreement as of such date. For the avoidance of doubt, the Available Tenor for the Daily BSBY Floating Rate is one month.

“Benchmark” means, initially, the BSBY Screen Rate; provided that if a replacement of the Benchmark has occurred pursuant to this Section 4.05, then “Benchmark” means the applicable Benchmark Replacement to the extent that such Benchmark Replacement has replaced such prior benchmark rate pursuant to paragraph (a) of this Section 4.05.

“**Benchmark Replacement**” means, for any Available Tenor, the first alternative set forth in the order below that can be determined by the Administrative Agent for the applicable Benchmark Replacement Date:

- (1) the sum of: (a) Term SOFR and (b) the related Benchmark Replacement Adjustment;
- (2) the sum of: (a) Daily Simple SOFR and (b) the related Benchmark Replacement Adjustment;
- (3) the sum of: (a) the alternate benchmark rate that has been selected by the Administrative Agent and the Seller as the replacement for the then-current Benchmark for the applicable Corresponding Tenor giving due consideration to (i) any selection or recommendation of a replacement benchmark rate or the mechanism for determining such a rate by the Relevant Governmental Body or (ii) any evolving or then-prevailing market convention for determining a benchmark rate as a replacement for the then-current Benchmark for U.S. dollar-denominated syndicated credit facilities at such time and (b) the related Benchmark Replacement Adjustment;

provided that, in the case of clause (1), such Unadjusted Benchmark Replacement is displayed on a screen or other information service that publishes such rate from time to time as selected by the Administrative Agent in its reasonable discretion; provided; further that if the Benchmark Replacement as determined pursuant to clauses (1), (2) or (3) above would be less than the Floor, the Benchmark Replacement will be deemed to be the Floor for the purposes of this Agreement and the other Transaction Documents; and provided further, that any such Benchmark Replacement shall be administratively feasible as determined by the Administrative Agent in its sole discretion.

“**Benchmark Replacement Adjustment**” means, with respect to any replacement of the then-current Benchmark with an Unadjusted Benchmark Replacement for any applicable Available Tenor for any setting of such Unadjusted Benchmark Replacement:

(1) for purposes of clauses (1) and (2) of the definition of “Benchmark Replacement,” the applicable amount(s) set forth below:

<u>Available Tenor</u>	<u>Benchmark Replacement Adjustment</u>
One-Week	0.03839% (3.839 basis points)
One-Month	0.10% (10 basis points)
Two-Months	0.15% (15 basis points)
Three-Months	0.25% (25 basis points)
Six-Months	0.40% (40 basis points)

(2) for purposes of clause (3) of the definition of “Benchmark Replacement,” the spread adjustment, or method for calculating or determining such spread adjustment, (which may be a positive or negative value or zero) that has been selected by the Administrative Agent and the Seller for the applicable Corresponding Tenor giving due consideration to any evolving or then-prevailing market convention, including any applicable recommendations made by the Relevant Governmental Body, for U.S. dollar-denominated syndicated credit facilities at such time;

provided that, if the then-current Benchmark is a term rate, more than one tenor of such Benchmark is available as of the applicable Benchmark Replacement Date and the applicable Unadjusted Benchmark Replacement will not be a term rate, the Available Tenor of such Benchmark for purposes of this definition of “Benchmark Replacement Adjustment” shall be deemed to be the Available Tenor that has approximately the same length (disregarding business day adjustments) as the payment period for yield calculated with reference to such Unadjusted Benchmark Replacement.

“Benchmark Replacement Date” means the earliest to occur of the following events with respect to the then-current Benchmark:

(1) in the case of clause (1) or (2) of the definition of “Benchmark Transition Event,” the later of (A) the date of the public statement or publication of information referenced therein and (B) the date on which the administrator of such Benchmark (or the published component used in the calculation thereof) permanently or indefinitely ceases to provide all Available Tenors of such Benchmark (or such component thereof);

(2) in the case of clause (3) of the definition of “Benchmark Transition Event,” the later of (A) the date of the public statement or publication of information referenced therein and (B) the date specified by the administrator of such Benchmark or a Governmental Authority having jurisdiction over the Administrative Agent or such administrator on which the Benchmark is or will no longer be compliant with, or the administration of such Benchmark fails to be aligned with, the International Organization of Securities Commissions (IOSCO) Principles for Financial Benchmarks the International Organization of Securities Commissions (IOSCO) Principles for Financial Benchmarks; or

(3) in the case of clause (4) of the definition of “Benchmark Transition Event,” the first Business Day following the fifth (5th) consecutive Business Day that all Available Tenors of such Benchmark are not published.

For the avoidance of doubt, (i) if the event giving rise to the Benchmark Replacement Date occurs on the same day as, but earlier than, the Reference Time in respect of any determination, the Benchmark Replacement Date will be deemed to have occurred prior to the Reference Time for such determination and (ii) the “Benchmark Replacement Date” will be deemed to

have occurred in the case of clause (1), (2) and (3) with respect to any Benchmark upon the occurrence of the applicable event or events set forth therein with respect to all then-current Available Tenors of such Benchmark (or the published component used in the calculation thereof).

“Benchmark Transition Event” means the occurrence of one or more of the following events with respect to the then-current Benchmark:

(1) a public statement or publication of information by or on behalf of the administrator of such Benchmark (or the published component used in the calculation thereof), announcing that such administrator has ceased or will cease to provide all Available Tenors of such Benchmark, (or such component thereof), permanently or indefinitely, provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide any Available Tenor of such Benchmark (or component thereof);

(2) a public statement or publication of information by a Governmental Authority having jurisdiction over the Administrative Agent, the regulatory supervisor for the administrator of such Benchmark (or the published component used in the calculation thereof), the Federal Reserve Board, the Federal Reserve Bank of New York, an insolvency official with jurisdiction over the administrator for such Benchmark (or such component), a resolution authority with jurisdiction over the administrator for such Benchmark (or such component) or a court or an entity with similar insolvency or resolution authority over the administrator for such Benchmark (or such component), which states that the administrator of such Benchmark (or such component) has ceased or will cease to provide all Available Tenors of such Benchmark (or such component thereof) permanently or indefinitely, provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide any Available Tenor of such Benchmark (or such component thereof); or

(3) the administrator of the Benchmark or a Governmental Authority having jurisdiction over the Administrative Agent or such administrator has made a public statement identifying a specific date after which all Available Tenors of the Benchmark are or will no longer be compliant with, or the administration of all Available Tenors of the Benchmark fails to be aligned with, the International Organization of Securities Commissions (IOSCO) Principles for Financial Benchmarks; or

(4) all Available Tenors of the Benchmark are not published by the administrator of such Benchmark for five (5) consecutive Business Days and such failure is not the result of a temporary moratorium, embargo or disruption declared by the administrator of such Benchmark or by the regulatory supervisor for the administrator of such Benchmark.

“Benchmark Unavailability Period” means the period (if any) (x) beginning at the time that a Benchmark Replacement Date pursuant to clauses (1) or (2) of that definition has occurred if, at such time, no Benchmark Replacement has replaced the then-current Benchmark for all purposes hereunder and under any Transaction Document in accordance with this Section 4.05 and (y) ending at the time that a Benchmark Replacement has replaced the then-current Benchmark for all purposes hereunder and under any Transaction Document in accordance with this Section 4.05.

“Corresponding Tenor” with respect to any Available Tenor means, as applicable, either a tenor (including overnight) or an interest or yield payment period having approximately the same length (disregarding business day adjustment) as such Available Tenor.

“Daily Simple SOFR” means, for any day, SOFR, with the conventions for this rate (which will include a lookback) being established by the Administrative Agent in accordance with the conventions for this rate selected or recommended by the Relevant Governmental Body for determining “Daily Simple SOFR” for business loans; provided, that if the Administrative Agent decides that any such convention is not administratively feasible for the Administrative Agent, then the Administrative Agent may establish another convention in its reasonable discretion.

“Floor” means the benchmark rate floor, if any, provided in this Agreement initially (as of the execution of this Agreement, the modification, amendment or renewal of this Agreement or otherwise) with respect to the BSBY Rate or Daily BSBY Floating Rate or, if no floor is specified, zero.

“Reference Time” means, with respect to any setting of the then-current Benchmark, the time determined by the Administrative Agent in its reasonable discretion.

“Relevant Governmental Body” means the Federal Reserve Board or the Federal Reserve Bank of New York, or a committee officially endorsed or convened by the Federal Reserve Board or the Federal Reserve Bank of New York, or any successor thereto.

“SOFR” means, with respect to any Business Day, a rate per annum equal to the secured overnight financing rate for such Business Day published by the Federal Reserve Bank of New York (or a successor administrator of the secured overnight financing rate) on the website of the Federal Reserve Bank of New York, currently at <http://www.newyorkfed.org> (or any successor source for the secured overnight financing rate identified as such by the administrator of the secured overnight financing rate from time to time).

“Term SOFR” means, for the applicable Corresponding Tenor as of the applicable Reference Time, the forward-looking term rate based on SOFR that has been selected or recommended by the Relevant Governmental Body.

“Unadjusted Benchmark Replacement” means the applicable Benchmark Replacement excluding the related Benchmark Replacement Adjustment.

SECTION 4.06. Back-Up Security Interest.

(a) If, notwithstanding the intent of the parties stated in Section 2.01(c), the sale, assignment and transfer of any Sold Assets to the Administrative Agent (for the ratable benefit of the Purchasers) hereunder (including pursuant to Section 2.01(b)) is not treated as a sale for all purposes (except as provided in Sections 2.01(d) and 13.14), then such sale, assignment and transfer of such Sold Assets shall be treated as the grant of a security interest by the Seller to the Administrative Agent (for the ratable benefit of the Purchasers) to secure the payment and performance of all the Seller’s obligations to the Administrative Agent, the Purchasers and the other Secured Parties hereunder and under the other Transaction Documents (including all Seller Obligations). Therefore, as security for the performance by the Seller of all the terms, covenants and agreements on the part of the Seller to be performed under this Agreement or any other Transaction Document, including the punctual payment when due of the Aggregate Capital and all Yield and all other Seller Obligations, the Seller hereby grants to the Administrative Agent for its benefit and the ratable benefit of the Secured Parties, a continuing security interest in, all of the Seller’s right, title and interest in, to and under all of the Sold Assets, whether now or hereafter owned, existing or arising.

(b) The Administrative Agent (for the benefit of the Secured Parties) shall have, with respect to all the Sold Assets, and in addition to all the other rights and remedies available to the Administrative Agent (for the benefit of the Secured Parties), all the rights and remedies of a secured party under any applicable UCC. The Seller hereby authorizes the Administrative Agent to file financing statements describing the collateral covered thereby as “all of the debtor’s personal property or assets” or words to that effect, notwithstanding that such wording may be broader in scope than the collateral described in this Agreement.

(c) For the avoidance of doubt, (i) the grant of security interest pursuant to this Section 4.06 shall be in addition to, and shall not be construed to limit or modify, the sale of Sold Assets pursuant to Section 2.01(b) or the Seller’s grant of security interest pursuant to Section 11.09, (ii) nothing in Section 2.01 shall be construed as limiting the rights, interests (including any security interest), obligations or liabilities of any party under this Section 4.06, and (iii) subject to the foregoing clauses (i) and (ii), this Section 4.06 shall not be construed to contradict the intentions of the parties set forth in Section 2.01(c).

**ARTICLE V.**

CONDITIONS TO EFFECTIVENESS AND INVESTMENTS

SECTION 5.01. Conditions Precedent to Effectiveness and the Initial Investment. This Agreement shall become effective as of the Closing Date when (a) the Administrative Agent shall have received each of the documents, agreements (in fully executed form), opinions of counsel, lien search results, UCC filings, certificates and other deliverables listed on the closing memorandum attached as Exhibit H hereto, in each case, in form and substance acceptable to the Administrative Agent and (b) all fees and expenses payable by the Seller on the Closing Date to the Purchaser Parties have been paid in full in accordance with the terms of the Transaction Documents.

SECTION 5.02. Conditions Precedent to All Investments. Each Investment hereunder on or after the Closing Date shall be subject to the conditions precedent that:

- (a) the Seller shall have delivered to the Administrative Agent and each Purchaser an Investment Request for such Investment, in accordance with Section 2.02(a);
- (b) the Servicer shall have delivered to the Administrative Agent and each Purchaser all Pool Reports required to be delivered hereunder;
- (c) the conditions precedent to such Investment specified in Section 2.01(a)(i) through (iii) shall be satisfied;
- (d) on the date of such Investment the following statements shall be true and correct (and upon the occurrence of such Investment, the Seller and the Servicer shall be deemed to have represented and warranted that such statements are then true and correct):
  - (i) the representations and warranties of the Seller and the Servicer contained in Sections 6.01 and 6.02 are true and correct in all material respects on and as of the date of such Investment as though made on and as of such date unless such representations and warranties by their terms refer to an earlier date, in which case they shall be true and correct in all material respects on and as of such earlier date;
  - (ii) no Event of Default or Unmatured Event of Default has occurred and is continuing, and no Event of Default or Unmatured Event of Default would result from such Investment;
  - (iii) no Capital Coverage Deficit exists or would exist after giving effect to such Investment; and
  - (iv) the Termination Date has not occurred.

SECTION 5.03. Conditions Precedent to All Releases. Each Release hereunder on or after the Closing Date shall be subject to the conditions precedent that:

- (a) after giving effect to such Release, the Servicer shall be holding in trust for the benefit of the Secured Parties an amount of Collections sufficient to pay the sum of (x) all accrued and unpaid Servicing Fees, Yield, Fees and Breakage Fees, in each case, through the date of such Release, (y) the amount of any Capital Coverage Deficit and (z) the amount of all other accrued and unpaid Seller Obligations (other than Capital) through the date of such Release;
- (b) the Seller shall use the proceeds of such Release solely to pay the purchase price for Receivables purchased by the Seller in accordance with the terms of the Purchase and Contribution Agreement and amounts owing by the Seller to the Originators under any Intercompany Loan; and

(c) on the date of such Release the following statements shall be true and correct (and upon the occurrence of such Release, the Seller and the Servicer shall be deemed to have represented and warranted that such statements are then true and correct):

- (i) the representations and warranties of the Seller and the Servicer contained in Sections 6.01 and 6.02 are true and correct in all material respects on and as of the date of such Release as though made on and as of such date unless such representations and warranties by their terms refer to an earlier date, in which case they shall be true and correct in all material respects on and as of such earlier date;
- (ii) no Event of Default or Unmatured Event of Default has occurred and is continuing, and no Event of Default or Unmatured Event of Default would result from such Release;
- (iii) no Capital Coverage Deficit exists or would exist after giving effect to such Release;
- (iv) the Termination Date has not occurred; and
- (v) the Aggregate Capital exceeds the Minimum Funding Threshold.

## ARTICLE VI.

### REPRESENTATIONS AND WARRANTIES

SECTION 6.01. Representations and Warranties of the Seller. The Seller represents and warrants to each Purchaser Party as of the Closing Date, on each Settlement Date, and on the day of each Investment and Release:

(a) Organization and Good Standing. The Seller is a limited liability company, duly organized and validly existing in good standing under the laws of the State of Delaware and has full power and authority under its constitutional documents and under the laws of its jurisdiction to own its properties and to conduct its business as such properties are currently owned and such business is presently conducted.

(b) Due Qualification. The Seller is duly qualified to do business as a limited liability company, is in good standing as a foreign limited liability company and has obtained all necessary licenses and approvals in all jurisdictions in which the conduct of its business requires such qualification, licenses or approvals, except where the failure to do so could not reasonably be expected to have a Material Adverse Effect.

(c) Power and Authority; Due Authorization. The Seller (i) has all necessary limited liability company power and authority to (A) execute and deliver this Agreement and the other Transaction Documents to which it is a party, (B) perform its obligations under this

Agreement and the other Transaction Documents to which it is a party and (C) grant a security interest in the Sold Assets and Seller Collateral to the Administrative Agent on the terms and subject to the conditions herein provided and (ii) has duly authorized by all necessary limited liability company action such grant and the execution, delivery and performance of, and the consummation of the transactions provided for in, this Agreement and the other Transaction Documents to which it is a party.

(d) Binding Obligations. This Agreement and each of the other Transaction Documents to which the Seller is a party constitute the legal, valid and binding obligations of the Seller, enforceable against the Seller in accordance with their respective terms, except (i) as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally and (ii) as such enforceability may be limited by general principles of equity, regardless of whether such enforceability is considered in a proceeding in equity or at law.

(e) No Conflict or Violation. The execution, delivery and performance of, and the consummation of the transactions contemplated by, this Agreement and the other Transaction Documents to which the Seller is a party, and the fulfillment of the terms hereof and thereof, will not (i) conflict with, result in any breach of any of the terms or provisions of, or constitute (with or without notice or lapse of time or both) a default under its organizational documents or any indenture, sale agreement, credit agreement (including the Credit Agreement), loan agreement, security agreement, mortgage, deed of trust, or other agreement or instrument to which the Seller is a party or by which it or any of its properties is bound, (ii) result in the creation or imposition of any Adverse Claim (other than a Permitted Adverse Claim) upon any of the Sold Assets or Seller Collateral pursuant to the terms of any such indenture, credit agreement (including the Credit Agreement), loan agreement, security agreement, mortgage, deed of trust, or other agreement or instrument other than this Agreement and the other Transaction Documents or (iii) conflict with or violate any Applicable Law, except to the extent that any such conflict or violation of any Applicable Law could not reasonably be expected to have a Material Adverse Effect.

(f) Litigation and Other Proceedings. (i) There is no action, suit, litigation, arbitration, proceeding or investigation pending or, to the knowledge of the Seller, threatened, against the Seller before any Governmental Authority and (ii) the Seller is not subject to any order, judgment, decree, injunction, stipulation or consent order of or with any Governmental Authority that, in the case of either of the foregoing clauses (i) and (ii), (A) asserts the invalidity of this Agreement or any other Transaction Document, (B) seeks to prevent the grant of a security interest in any Sold Assets or Seller Collateral by the Seller to the Administrative Agent, the ownership or acquisition by the Seller of any Pool Receivables, any other Sold Assets or any Seller Collateral or the consummation of any of the transactions contemplated by this Agreement or any other Transaction Document, (C) seeks any determination or ruling that could materially and adversely affect the performance by the Seller of its obligations under, or the validity or enforceability of, this Agreement or any other Transaction Document or (D) individually or in the aggregate for all such actions, suits, proceedings and investigations could reasonably be expected to have a Material Adverse Effect.

(g) Governmental Approvals. Except where the failure to obtain or make such authorization, consent, order, approval or action could not reasonably be expected to have a Material Adverse Effect, all authorizations, consents, orders and approvals of, or other actions by, any Governmental Authority that are required to be obtained by the Seller in connection with the grant of a security interest in the Sold Assets or Seller Collateral to the Administrative Agent hereunder or the due execution, delivery and performance by the Seller of this Agreement or any other Transaction Document to which it is a party and the consummation by the Seller of the transactions contemplated by this Agreement and the other Transaction Documents to which it is a party have been obtained or made and are in full force and effect.

(h) Margin Regulations. The Seller is not engaged, principally or as one of its important activities, in the business of extending credit for the purpose of purchasing or carrying margin stock (within the meaning of Regulations T, U and X of the Federal Reserve Board).

(i) Solvency. After giving effect to the transactions contemplated by this Agreement and the other Transaction Documents, the Seller is Solvent.

(j) Offices; Legal Name. The Seller's sole jurisdiction of organization is the State of Delaware and such jurisdiction has not changed within four months prior to the date of this Agreement. The office of the Seller is located at Two Logan Square 100 North 18th Street, Suite 1700 Philadelphia, PA 19103. The legal name of the Seller is Harsco Receivables LLC.

(k) Investment Company Act; Volcker Rule. The Seller (i) is not an "investment company" registered or required to be registered under the Investment Company Act and (ii) is not a "covered fund" under the Volcker Rule.

(l) No Material Adverse Effect. Since the date of formation of the Seller there has been no Material Adverse Effect with respect to the Seller.

(m) Accuracy of Information. No Pool Report, Investment Request, certificate, report, statement, document or other information (other than projections, pro forma financial information and information of a general economic or industry nature) furnished to the Administrative Agent or any other Purchaser Party by or on behalf of the Seller pursuant to any provision of this Agreement or any other Transaction Document, or in connection with or pursuant to any amendment or modification of, or waiver under, this Agreement or any other Transaction Document, taken as a whole, contained as of the date such report, request, certificate, report, statement or document was so furnished, as modified or supplemented by any other information so furnished, any untrue statement of a material fact or omitted to state a material fact necessary to make the statements contained herein or therein not misleading, when taken as a whole. The projections and pro forma financial information contained in the materials referenced above are based upon good faith estimates and assumptions believed by management of the Seller to be reasonable at the time made, it being recognized that such financial information as it relates to future events is not to be viewed as fact and that actual results during the period or periods covered by such financial information may differ from the projected results set forth therein by a material amount.

(n) Sanctions and other Anti-Terrorism Laws. No: (i) Covered Entity, nor any employees, officers, directors, affiliates, consultants, brokers, or agents acting on a Covered Entity's behalf in connection with this Agreement: (x) is a Sanctioned Person; or (y) directly, or indirectly through any third party, is engaged in any transactions or other dealings with or for the benefit of any Sanctioned Person or Sanctioned Country in violation of sanctions, or any transactions or other dealings that otherwise are prohibited by any Anti-Terrorism Laws; or (ii) Seller Collateral or Sold Asset is Embargoed Property.

(o) Anti-Corruption Laws. Each Covered Entity has (i) conducted its business in compliance with all Anti-Corruption Laws and (ii) has instituted and maintains policies and procedures designed to ensure compliance with such Laws.

(p) Perfection Representations.

(i) This Agreement creates a valid and continuing ownership or security interest (as defined in the applicable UCC) in the Seller's right, title and interest in, to and under the Sold Assets and Seller Collateral which (A) ownership or security interest has been perfected and is enforceable against creditors of and purchasers from the Seller and (B) will be free of all Adverse Claims (other than Permitted Adverse Claims) in such Sold Assets and Seller Collateral.

(ii) The Receivables constitute "accounts" or "general intangibles" within the meaning of Section 9-102 of the UCC.

(iii) Prior to the sale of, or grant of security interest in, the Sold Assets and Seller Collateral hereunder, the Seller owns and has good and marketable title to such Sold Assets and Seller Collateral free and clear of any Adverse Claim (other than Permitted Adverse Claims) of any Person. After giving effect to the sale of, or grant of security interest in, the Sold Assets and Seller Collateral hereunder, the Administrative Agent owns or has a first priority perfected security interest in the Sold Assets and Seller Collateral free and clear of any Adverse Claim (other than Permitted Adverse Claims) of any Person.

(iv) All appropriate financing statements, financing statement amendments and continuation statements have been filed in the proper filing office in the appropriate jurisdictions under Applicable Law in order to perfect (and continue the perfection of) the sale and contribution of the Receivables and (solely to the extent perfection may be achieved by filing a financing statement under the UCC) Related Security from each Originator to the Seller pursuant to the Purchase and Contribution Agreement and the Seller's sale of, and grant of a security interest in, the Sold Assets and Seller Collateral (with respect to any Related Security, solely to the extent perfection may be achieved by filing a financing statement under the UCC) to the Administrative Agent pursuant to this Agreement.

(v) Other than the security interest granted to the Administrative Agent pursuant to this Agreement, the Seller has not pledged, assigned, sold, granted a security interest in, or otherwise conveyed any of the Sold Assets or Seller Collateral except as permitted by this Agreement and the other Transaction Documents. The Seller has not authorized the filing of and is not aware of any financing statements filed against the Seller that include a description of collateral covering the Sold Assets or Seller Collateral other than any financing statement (i) in favor of the Administrative Agent or (ii) that has been terminated. The Seller is not aware of any judgment lien, ERISA lien or tax lien filings against the Seller.

(vi) Notwithstanding any other provision of this Agreement or any other Transaction Document, the representations contained in this Section 6.01(p) shall be continuing and remain in full force and effect until the Final Payout Date.

(q) The Lock-Boxes and Collection Accounts.

(i) Nature of Collection Accounts. Each Collection Account constitutes a “deposit account” within the meaning of the applicable UCC.

(ii) Ownership. Each Lock-Box and Collection Account is in the name of the Seller, and the Seller owns and has good and marketable title to each Collection Account free and clear of any Adverse Claim (other than a Permitted Adverse Claim).

(iii) Perfection. The Seller has delivered to the Administrative Agent a fully executed Account Control Agreement relating to each Lock-Box and Collection Account, pursuant to which each applicable Collection Account Bank has agreed to comply with the instructions originated by the Administrative Agent directing the disposition of funds in such Lock-Box and Collection Account without further consent by the Seller, the Servicer or any other Person. The Administrative Agent has “control” (as defined in Section 9-104 of the UCC) over each Collection Account.

(iv) Instructions. Neither the Lock-Boxes nor the Collection Accounts are in the name of any Person other than the Seller. Neither the Seller nor the Servicer has consented to the applicable Collection Account Bank complying with instructions of any Person other than the Administrative Agent.

(r) Ordinary Course of Business. Each remittance of Collections by or on behalf of the Seller to the Purchaser Parties under this Agreement will have been (i) in payment of an obligation incurred by the Seller in the ordinary course of business or financial affairs of the Seller and (ii) made in the ordinary course of business or financial affairs of the Seller.

(s) Compliance with Law. The Seller has complied with all Applicable Laws to which it may be subject, except where such failure to comply could not reasonably be expected to have a Material Adverse Effect.

(t) Bulk Sales Act. No transaction contemplated by this Agreement requires compliance by it with any bulk sales act or similar law.

(u) Eligible Receivables. Each Receivable included as an Eligible Receivable in the calculation of the Net Receivables Pool Balance as of any date is an Eligible Receivable as of such date.

(v) Taxes. The Seller has (i) timely filed all tax returns (federal, state and local) required to be filed by it and (ii) paid, or caused to be paid, all federal and other material taxes, assessments and other governmental charges, if any, other than taxes, assessments and other governmental charges being contested in good faith by appropriate proceedings and as to which adequate reserves have been provided in accordance with GAAP.

(w) Tax Status. The Seller (i) is, and has been since its formation, either a “disregarded entity” within the meaning of U.S. Treasury Regulation § 301.7701-3 for U.S. federal income tax purposes that is wholly owned by a “United States person” (within the meaning of Section 7701(a)(30) of the Code) or a partnership for U.S. federal income tax purposes that is wholly owned by “United States persons” (within the meaning of Section 7701(a)(30) of the Code) and (ii) is not and has not at any relevant time been treated as an association (or publicly traded partnership) taxable as a corporation for U.S. federal income tax purposes. The Seller is not subject to any Tax in any jurisdiction outside the United States. The Seller is not subject to any material Taxes based on net income or gross receipts imposed by a state or local taxing authority.

(x) Opinions. The facts regarding each Harsco Party, the Receivables, the Related Security and the related matters set forth or assumed in each of the opinions of counsel delivered in connection with this Agreement and the Transaction Documents are true and correct in all material respects.

(y) Other Transaction Documents. Each representation and warranty made by the Seller under each other Transaction Document to which it is a party is true and correct in all material respects as of the date when made.

(z) Liquidity Coverage Ratio. The Seller has not, does not and will not during this Agreement issue any LCR Security. The Seller further represents and warrants that its assets and liabilities are consolidated with the assets and liabilities of Holdings for purposes of GAAP.

(aa) Certificate of Beneficial Ownership. The Certificate of Beneficial Ownership executed and delivered to the Administrative Agent and the Purchasers for the Seller on or prior to the Closing Date, as updated from time to time in accordance with this Agreement, is accurate, complete and correct as of the Closing Date and as of the date any such update is delivered.

Notwithstanding any other provision of this Agreement or any other Transaction Document, the representations and warranties contained in this Section shall be continuing, and remain in full force and effect until the Final Payout Date.

SECTION 6.02. Representations and Warranties of the Servicer. The Servicer represents and warrants to each Purchaser Party as of the Closing Date, on each Settlement Date, and on the day of each Investment and Release:

- (a) Organization and Good Standing. The Servicer is a corporation, duly organized and validly existing in good standing under the laws of the State of Delaware and has full power and authority under its constitutional documents and under the laws of the State of Delaware to own its properties and to conduct its business as such properties are currently owned and such business is presently conducted, except (as it relates to good standing), to the extent that the failure to comply therewith could not reasonably be expected to have a Material Adverse Effect.
- (b) Due Qualification. The Servicer is duly qualified to do business, is in good standing as a foreign entity and has obtained all necessary licenses and approvals, in all jurisdictions in which the conduct of its business or the servicing of the Pool Receivables as required by this Agreement requires such qualification, licenses or approvals, except where the failure to do so could not reasonably be expected to have a Material Adverse Effect.
- (c) Power and Authority; Due Authorization. The Servicer (i) has all necessary power and authority to (A) execute and deliver this Agreement and the other Transaction Documents to which it is a party and (B) perform its obligations under this Agreement and the other Transaction Documents to which it is a party, and (ii) has been duly authorized by the Servicer by all necessary action and the execution, delivery and performance of, and the consummation of the transactions provided for in, this Agreement and the other Transaction Documents to which it is a party.
- (d) Binding Obligations. This Agreement and each of the other Transaction Documents to which it is a party constitute the legal, valid and binding obligations of the Servicer, enforceable against the Servicer in accordance with their respective terms, except (i) as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally and (ii) as such enforceability may be limited by general principles of equity, regardless of whether such enforceability is considered in a proceeding in equity or at law.
- (e) No Conflict or Violation. The execution, delivery and performance of, and the consummation of the transactions contemplated by, this Agreement and the other Transaction Documents to which the Servicer is a party, and the fulfillment of the terms hereof and thereof will not (i) conflict with, result in any breach of any of the terms or provisions of, or constitute (with or without notice or lapse of time or both) a default under, its organizational documents or any indenture, sale agreement, credit agreement (including the Credit Agreement), loan agreement, security agreement, mortgage, deed of trust or other agreement or instrument to which the Servicer is a party or by which it or any of its properties is bound, (ii) result in the creation or imposition of any Adverse Claim (other than a Permitted Adverse Claim) upon any of the Sold Assets or Seller Collateral pursuant to the terms of any such indenture, credit agreement (including the Credit Agreement), loan agreement, security agreement, mortgage, deed of trust, or other agreement or instrument, other than this Agreement and the other Transaction Documents or (iii) conflict with or violate any Applicable Law, except, in each case described in clauses (i), (ii) and (iii), to the extent that any such conflict, breach, default, Adverse Claim or violation could not reasonably be expected to have a Material Adverse Effect.

(f) Litigation and Other Proceedings. (i) There is no action, suit, litigation, arbitration, proceeding or investigation pending, or to the Servicer's knowledge threatened, against the Servicer before any Governmental Authority and (ii) the Servicer is not subject to any order, judgment, decree, injunction, stipulation or consent order of or with any Governmental Authority that, in the case of either of the foregoing clauses (i) and (ii), (A) asserts the invalidity of this Agreement or any of the other Transaction Documents; (B) seeks to prevent the consummation of any of the transactions contemplated by this Agreement or any other Transaction Document; or (C) seeks any determination or ruling that could reasonably be expected to materially and adversely affect the performance by the Servicer of its obligations under, or the validity or enforceability of, this Agreement or any of the other Transaction Documents.

(g) No Consents. The Servicer is not required to obtain the consent of any other party or any consent, license, approval, registration, authorization or declaration of or with any Governmental Authority in connection with the execution, delivery, or performance of this Agreement or any other Transaction Document to which it is a party that has not already been obtained, except where the failure to obtain such consent, license, approval, registration, authorization or declaration could not reasonably be expected to have a Material Adverse Effect.

(h) Compliance with Applicable Law. The Servicer (i) shall duly satisfy, in all material respects, all obligations on its part to be fulfilled under or in connection with the Pool Receivables and the related Contracts, (ii) has maintained in effect all qualifications required under Applicable Law in order to properly service the Pool Receivables except for any failure to comply that could not reasonably be expected to have a Material Adverse Effect and (iii) has complied with all Applicable Laws in connection with servicing the Pool Receivables except for any failure to comply that could not reasonably be expected to have a Material Adverse Effect.

(i) Accuracy of Information. No Pool Report, Investment Request, certificate, report, statement, document or other information (other than projections, pro forma financial information and information of a general economic or industry nature) furnished to the Administrative Agent or any other Purchaser Party by or on behalf of the Servicer pursuant to any provision of this Agreement or any other Transaction Document, or in connection with or pursuant to any amendment or modification of, or waiver under, this Agreement or any other Transaction Document, taken as a whole, contained as of the date such report, request, certificate, report, statement or document was so furnished, as modified or supplemented by any other information so furnished, any untrue statement of a material fact or omitted to state a material fact necessary to make the statements contained herein or therein not misleading, when taken as a whole. The projections and pro forma financial information contained in the materials referenced above are based upon good faith estimates and assumptions believed by management of the Servicer to be reasonable at the time made, it being recognized that such financial information as it relates to future events is not to be viewed as fact and that actual results during the period or periods covered by such financial information may differ from the projected results set forth therein by a material amount.

(j) Location of Records. The offices where the initial Servicer keeps all of its records relating to the servicing of the Pool Receivables are located at the Servicer's address specified on Schedule III.

(k) Credit and Collection Policy. The Servicer has complied in all material respects with the Credit and Collection Policy with regard to each Pool Receivable and the related Contracts.

(l) Eligible Receivables. Each Receivable included as an Eligible Receivable in the calculation of the Net Receivables Pool Balance as of any date is an Eligible Receivable as of such date.

(m) Servicing Programs. No license or approval is required for the Administrative Agent's use of any software or other computer program used by the Servicer, any Originator or any Sub-Servicer in the servicing of the Pool Receivables, other than those which have been obtained and are in full force and effect.

(n) Servicing of Pool Receivables. Since the Closing Date there has been no material adverse change in the ability of the Servicer or any Sub-Servicer to service and collect the Pool Receivables and the Related Security.

(o) Other Transaction Documents. Each representation and warranty made by the Servicer under each other Transaction Document to which it is a party (including, without limitation, the Purchase and Contribution Agreement) is true and correct in all material respects as of the date when made.

(p) No Material Adverse Effect. Since December 31, 2021, there has been no Material Adverse Effect with respect to the Servicer.

(q) Investment Company Act. The Servicer is not an "investment company," within the meaning of the Investment Company Act.

(r) Sanctions and other Anti-Terrorism Laws. No: (i) Covered Entity, nor any employees, officers, directors, affiliates, consultants, brokers, or agents acting on a Covered Entity's behalf in connection with this Agreement: (x) is a Sanctioned Person; or (y) directly, or indirectly through any third party, is engaged in any transactions or other dealings with or for the benefit of any Sanctioned Person or Sanctioned Country in violation of sanctions, or any transactions or other dealings that otherwise are prohibited by any Anti-Terrorism Laws; or (ii) Sold Asset or Seller Collateral is Embargoed Property.

(s) Anti-Corruption Laws. Each Covered Entity has (i) conducted its business in material compliance with Anti-Corruption Laws and (ii) has instituted and maintains policies and procedures designed to ensure compliance with such Laws.

(t) Financial Condition. The consolidated balance sheets of Holdings and its consolidated Subsidiaries as of December 31, 2021 and the related statements of income and shareholders' equity of Holdings and its consolidated Subsidiaries for the fiscal quarter then ended, copies of which have been furnished or made available to the Administrative Agent and

the Purchasers, present fairly in all material respects the consolidated financial position of Holdings and its consolidated Subsidiaries for the period ended on such date, all in accordance with GAAP, subject, in the case of quarterly financial statements, to normal year-end and audit adjustments, and except for the absence of footnotes.

(u) Bulk Sales Act. No transaction contemplated by this Agreement requires compliance by it with any bulk sales act or similar law.

(v) Taxes. Except as could not reasonably be expected to have a Material Adverse Effect, the Servicer has (i) timely filed all material tax returns (federal, state and local) required to be filed by it and (ii) paid, or caused to be paid, all material taxes, assessments and other governmental charges, if any, other than taxes, assessments and other governmental charges being contested in good faith by appropriate proceedings and as to which adequate reserves have been provided in accordance with GAAP.

(w) Labor Matters. As of the Closing Date, there are no strikes or other labor disputes against the Servicer pending or, to the knowledge of the Servicer, threatened that (individually or in the aggregate) could reasonably be expected to have a Material Adverse Effect.

(x) Opinions. The facts regarding each Harsco Party, the Receivables, the Related Security and the related matters set forth or assumed in each of the opinions of counsel delivered in connection with this Agreement and the Transaction Documents are true and correct in all material respects.

(y) Permitted Securitization Financing. The facility established by this Agreement and the other Transaction Documents constitutes a "Permitted Securitization Financing" under and as defined in the Credit Agreement as in effect on the relevant date of determination, and such facility is permitted by the Credit Agreement.

Notwithstanding any other provision of this Agreement or any other Transaction Document, the representations and warranties contained in this Section shall be continuing, and remain in full force and effect until the Final Payout Date.

## ARTICLE VII.

### COVENANTS

SECTION 7.01. Covenants of the Seller. At all times from the Closing Date until the Final Payout Date:

(a) Payment of Principal and Yield. The Seller shall duly and punctually pay Capital, Yield, Fees and all other amounts payable by the Seller hereunder in accordance with the terms of this Agreement.

(b) Existence. The Seller shall keep in full force and effect its existence and rights as a limited liability company under the laws of the State of Delaware, and shall obtain and preserve its qualification to do business in each jurisdiction in which such qualification is or shall be necessary to protect the validity and enforceability of this Agreement, the other Transaction Documents, the Sold Assets and the Seller Collateral.

(c) Financial Reporting. The Seller will maintain a system of accounting established and administered in accordance with GAAP, and the Seller (or the Servicer on its behalf) shall furnish to the Administrative Agent and each Purchaser:

(i) Annual Financial Statements of the Seller. Promptly upon completion and in no event later than 90 days after the close of each fiscal year of the Seller, annual unaudited trial balance sheet and income statement of the Seller certified by a Financial Officer of the Seller that they fairly present in all material respects, in accordance with GAAP, the financial condition of the Seller as of the date indicated and the results of its operations for the periods indicated.

(ii) Pool Reports. (A) As soon as available and, in any event, at least two (2) Business Days prior to each Monthly Settlement Date, an Information Package as of the last day of the most recently completed Fiscal Month, (B) if a Ratings Event has occurred and is continuing, on or prior to each Weekly Reporting Date, a Weekly Report as of the last Business Day of the preceding calendar week and (C) if an Event of Default or Unmatured Event of Default has occurred and is continuing and the Administrative Agent has notified the Seller or the Servicer that Daily Reports will be required, then not later than the close of business on each Business Day, a Daily Report as of the close of business on the immediately preceding Business Day.

(iii) Quarterly Financial Statements of Holdings. As soon as available, but in any event within 45 days after the end of each the first three (3) fiscal quarters of each fiscal year of Holdings, unaudited consolidated balance sheets and related consolidated statements of income, stockholders' equity and cash flows of Holdings and its consolidated Subsidiaries and related explanations as of the end of and for such fiscal quarter (except in the case of cash flows) and the then elapsed portion of the fiscal year, and setting forth in each case in comparative form the figures for the corresponding period or periods of (or, in the case of the balance sheets, as of the end of) the previous fiscal year, all certified by a Financial Officer of Holdings as presenting fairly in all material respects the consolidated financial position and consolidated results of operations and cash flows of Holdings and its consolidated Subsidiaries as of the end of and for such fiscal quarter (except in the case of cash flows) and such portion of the fiscal year on a consolidated basis in accordance with GAAP consistently applied throughout the periods reflected therein and with prior periods (except as approved by such accountants or officer, as the case may be, and disclosed therein), subject to normal year-end audit adjustments and the absence of footnotes.

(iv) Annual Financial Statements of Holdings. As soon as available, but in any event within 90 days after the end of each fiscal year of Holdings and its consolidated Subsidiaries, audited consolidated balance sheets and related audited consolidated statements of income, stockholders' equity and cash flows of

Holdings and its consolidated Subsidiaries as of the end of and for such year, and related notes and related explanations thereto, setting forth in each case in comparative form the figures for the previous fiscal year, all reported on by PricewaterhouseCoopers LLP or other independent public accountants of recognized national standing (without a “going concern” or like qualification or exception and without any qualification or exception as to the scope of such audit (other than with respect to or resulting from, (A) the maturity of any Debt or (B) any potential inability to satisfy any financial covenant on a future date or for a future period) to the effect that such consolidated financial statements present fairly in all material respects the consolidated financial position and consolidated results of operations and cash flows of Holdings and its consolidated Subsidiaries as of the end of and for such year on a consolidated basis in accordance with GAAP consistently applied throughout the periods reflected therein and with prior periods (except as approved by such accountants and disclosed therein).

(v) Compliance Certificates. Concurrently with the delivery of financial statements pursuant to clause (iii) or (iv) above, a compliance certificate in form and substance substantially similar to Exhibit G signed by a Financial Officer of the Servicer stating that no Event of Default or Unmatured Event of Default has occurred and is continuing, or if any Event of Default or Unmatured Event of Default has occurred and is continuing, stating the nature and status thereof.

(vi) Other Reports and Filings. Promptly (but in any event within five days) after the filing or delivery thereof, copies of all financial statements and reports that Harsco generally sends to the holders of any class of its debt securities or public equity securities and, within five days after the same are filed, copies of all financial statements and reports that Harsco may make to, or file with, the SEC.

(vii) Other Information. Such other information (including non-financial information) as the Administrative Agent or any Purchaser may from time to time reasonably request.

Documents required to be delivered pursuant to clause (iii), (iv), (v) and (vi) above (to the extent any such documents are included in materials otherwise filed with the SEC) may be delivered electronically and shall be deemed to have been delivered on the date (i) on which the Seller posts such documents, or provides a link thereto, on Harsco’s website on the Internet and gives written notice thereof to the Administrative Agent; or (ii) on which such documents are posted on a U.S. government website or on any Harsco Party’s behalf on an Internet or intranet website, if any, in each case, to which the Administrative Agent has access (whether a commercial, third-party website or whether sponsored by the Administrative Agent).

(d) Notices. The Seller (or the Servicer on its behalf) will notify the Administrative Agent and each Purchaser in writing of any of the following events promptly upon a Financial Officer or other officer learning of the occurrence thereof, with such notice describing the same, and if applicable, the steps being taken by the Person(s) affected with respect thereto:

(i) Notice of Events of Default or Unmatured Events of Default. A statement of a Financial Officer of the Seller setting forth details of any Event of Default or Unmatured Event of Default that has occurred and is continuing and the action which the Seller proposes to take with respect thereto.

(ii) Representations and Warranties. The failure of any representation or warranty made or deemed to be made by the Seller under this Agreement or any other Transaction Document to be true and correct in any material respect when made.

(iii) Litigation. The institution of any litigation, arbitration proceeding or governmental proceeding with respect to any Harsco Party, which could reasonably be expected to have a Material Adverse Effect.

(iv) Adverse Claim. (A) Any Person shall obtain an Adverse Claim (other than a Permitted Adverse Claim) upon the Sold Assets or Seller Collateral or any portion thereof, (B) any Person other than the Seller, the Servicer or the Administrative Agent shall obtain any rights or direct any action with respect to any Collection Account (or related Lock-Box) or (C) any Obligor shall receive any change in payment instructions with respect to Pool Receivable(s) from a Person other than the Servicer or the Administrative Agent.

(v) Name Changes. At least fifteen (15) days before any change in any Originator's or the Seller's name, jurisdiction of organization or any other change requiring the amendment of UCC financing statements.

(vi) Change in Accountants or Accounting Policy. Any change in (A) the external accountants of any Harsco Party (B) any accounting policy of the Seller or (C) any material accounting policy of any Originator that is relevant to the transactions contemplated by this Agreement or any other Transaction Document (it being understood that any change to the manner in which any Originator accounts for the Pool Receivables shall be deemed "material" for such purpose).

(vii) Termination Event. The occurrence of a Purchase and Contribution Termination Event under the Purchase and Contribution Agreement.

(viii) Material Adverse Effect. Promptly after the occurrence thereof, notice of any Material Adverse Effect.

(ix) Insolvency Proceeding. The occurrence of any Insolvency Proceeding with respect to an Originator.

(e) Conduct of Business. The Seller will carry on and conduct its business in substantially the same manner and in substantially the same fields of enterprise as it is presently conducted and will do all things necessary to remain duly organized, validly existing and in good standing as a domestic organization in its jurisdiction of organization and maintain all requisite authority to conduct its business in each jurisdiction in which its business is conducted.

(f) Compliance with Laws. The Seller will comply with all Applicable Laws to which it may be subject if the failure to comply could reasonably be expected to have a Material Adverse Effect.

(g) Furnishing of Information and Inspection of Receivables. The Seller will furnish or cause to be furnished to the Administrative Agent and each Purchaser from time to time such information with respect to the Pool Receivables, the other Sold Assets and the Seller Collateral as the Administrative Agent or any Purchaser may reasonably request. The Seller will, at the Seller's expense, during regular business hours with reasonable prior written notice (i) permit the Administrative Agent and each Purchaser or their respective agents or representatives to (A) examine and make copies of and abstracts from all books and records relating to the Pool Receivables, the other Sold Assets and the Seller Collateral, (B) visit the offices and properties of the Seller for the purpose of examining such books and records and (C) discuss matters relating to the Pool Receivables, the other Sold Assets, the Seller Collateral or the Seller's performance hereunder or under the other Transaction Documents to which it is a party with any of the officers, directors, employees or independent public accountants of the Seller having knowledge of such matters and (ii) without limiting the provisions of clause (i) above, during regular business hours, at the Seller's expense, upon reasonable prior written notice from the Administrative Agent, permit certified public accountants or other auditors acceptable to the Administrative Agent to conduct a review of its books and records with respect to such Pool Receivables, the other Sold Assets and the Seller Collateral; provided, that the Seller shall be required to reimburse the Administrative Agent for only one (1) such review pursuant to clause (ii) above in any twelve-month period, unless an Event of Default has occurred and is continuing.

(h) Payments on Receivables, Collection Accounts. The Seller (or the Servicer on its behalf) will, and will cause each Originator to, at all times, instruct all Obligors to deliver payments on Pool Receivables to a Collection Account or a Lock-Box. The Seller (or the Servicer on its behalf) will, and will cause each Originator to, at all times, maintain such books and records necessary (i) to identify Collections received from time to time on Pool Receivables and (ii) to segregate such Collections from other property of the Servicer and the Originators and any other Person. If any payments on the Pool Receivables or other Collections are received by any Harsco Party in any manner other than directly in a Collection Account or Lock-Box, it shall hold such payments in trust for the benefit of the Administrative Agent, the Purchasers and the other Secured Parties and promptly (but in any event within two (2) Business Days after receipt) remit such funds into a Collection Account. The Seller (or the Servicer on its behalf) will cause each Collection Account Bank to comply with the terms of each applicable Account Control Agreement. The Seller shall not permit funds other than (i) Collections on Pool Receivables and (ii) other Sold Assets and Seller Collateral to be deposited into any Collection Account. If funds other than Collections and proceeds of Collateral are nevertheless deposited into any Collection Account, the Seller (or the Servicer on its behalf) will within two (2) Business Days identify and transfer such funds to the appropriate Person entitled to such funds. The Seller will not, and will not permit the Servicer, any Originator or any other Person to commingle Collections or other

funds to which the Administrative Agent, any Purchaser or any other Secured Party is entitled, with any other funds. The Seller shall only add a Collection Account (or a related Lock-Box) or a Collection Account Bank to those listed on Schedule II to this Agreement, if the Administrative Agent has received notice of such addition and an executed and acknowledged copy of an Account Control Agreement (or an amendment thereto) in form and substance reasonably acceptable to the Administrative Agent from the applicable Collection Account Bank. The Seller shall only terminate a Collection Account Bank or close a Collection Account (or a related Lock-Box), in each case, with the prior written consent of the Administrative Agent. The Seller shall ensure that no disbursements are made from any Collection Account other than disbursements expressly permitted by this Agreement.

(i) Sales, Liens, etc. Except as otherwise provided herein, the Seller will not sell, assign (by operation of law or otherwise) or otherwise dispose of, or create or suffer to exist any Adverse Claim (other than a Permitted Adverse Claim) upon (including the filing of any financing statement) or with respect to, any Pool Receivable, other Sold Assets or any Seller Collateral, or assign any right to receive income in respect thereof.

(j) Extension or Amendment of Pool Receivables. Except as otherwise permitted in Section 8.02, the Seller will not, and will not permit the Servicer to, alter the delinquency status or adjust the Outstanding Balance or otherwise modify the terms of any Pool Receivable in any material respect, or amend, modify or waive, in any material respect, any term or condition of any related Contract. The Seller shall at its expense, timely and fully perform and comply in all material respects with all provisions, covenants and other promises required to be observed by it under the Contracts related to the Pool Receivables, and timely and fully comply with the Credit and Collection Policy with regard to each Pool Receivable and the related Contract.

(k) Change in Credit and Collection Policy. The Seller will not make any material change in the Credit and Collection Policy without the prior written consent of the Administrative Agent. Promptly following any change in the Credit and Collection Policy, the Seller will deliver a copy of the updated Credit and Collection Policy to the Administrative Agent and each Purchaser.

(l) Fundamental Changes. The Seller shall not, without the prior written consent of the Administrative Agent, permit itself to (i) merge or consolidate with or into, or convey, transfer, lease or otherwise dispose of (whether in one transaction or in a series of transactions) all or substantially all of its assets (whether now owned or hereafter acquired) to, any Person, (ii) undertake any division of its rights, assets, obligations, or liabilities pursuant to a plan of division or otherwise pursuant to Applicable Law or (iii) to be directly owned by any Person other than an Originator. The Seller shall not, without the prior written consent of the Administrative Agent and the Majority Purchasers, make any change in the Seller's name, identity, organizational type or location or make any other change in the Seller's identity or organizational type that could impair or otherwise render any UCC financing statement filed in connection with this Agreement or any other Transaction Document "seriously misleading" as such term (or similar term) is used in the applicable UCC.

(m) Books and Records. The Seller shall maintain and implement (or cause the Servicer to maintain and implement) administrative and operating procedures (including (i) an ability to recreate records evidencing Pool Receivables and related Contracts in the event of the destruction of the originals thereof and (ii) procedures to identify and track sales with respect to, and collections on, Excluded Receivables), and keep and maintain (or cause the Servicer to keep and maintain) all documents, books, records, computer tapes and disks and other information reasonably necessary or advisable for the collection of all Pool Receivables and the identification and reporting of all Excluded Receivables (including records adequate to permit the daily identification of each Pool Receivable and Excluded Receivable and all Collections of and adjustments to each existing Pool Receivable and Excluded Receivable).

(n) Identifying of Records. The Seller shall (i) indicate (or cause the Servicer to indicate) in its master data processing records relating to Pool Receivables and related Contracts that the Pool Receivables have been assigned in accordance with this Agreement and (ii) cause each Originator to so indicate in its master data processing records.

(o) Change in Payment Instructions to Obligors. The Seller shall not (and shall not permit the Servicer or any Sub-Servicer to) add, replace or terminate any Collection Account (or any related Lock-Box) or make any change in its (or their) instructions to the Obligors regarding payments to be made to the Collection Accounts (or any related Lock-Box), other than any instruction to remit payments to a different Collection Account (or any related Lock-Box).

(p) Ownership Interest, Further Assurances, Etc. The Seller shall (and shall cause the Servicer to), at its expense, take all action necessary or reasonably desirable to establish and maintain a valid and enforceable ownership or security interest in the Sold Assets and Seller Collateral, and a first priority perfected security interest in the Sold Assets and Seller Collateral, in each case free and clear of any Adverse Claim, in favor of the Administrative Agent (on behalf of the Secured Parties), including taking such action to perfect, protect or more fully evidence the security interest of the Administrative Agent (on behalf of the Secured Parties) as the Administrative Agent or any Secured Party may reasonably request. In order to evidence the security interests of the Administrative Agent under this Agreement, the Seller shall, from time to time take such action, or execute and deliver such instruments as may be necessary (including such actions as are reasonably requested by the Administrative Agent) to maintain and perfect, as a first-priority interest, the Administrative Agent's security interest in the Pool Receivables, Related Security and Collections. The Seller shall, from time to time and within the time limits established by law, prepare and present to the Administrative Agent for the Administrative Agent's authorization and approval, all financing statements, amendments, continuations or initial financing statements in lieu of a continuation statement, or other filings necessary to continue, maintain and perfect the Administrative Agent's security interest as a first-priority interest. The Administrative Agent's approval of such filings shall authorize the Seller to file such financing statements under the UCC without the signature of the Seller, any Originator or the Administrative Agent where allowed by Applicable Law. Notwithstanding anything else in the Transaction Documents to the contrary, the Seller shall not have any authority to file a termination, partial termination, release, partial release, or any amendment that deletes the name of a debtor or excludes any Sold Assets or Seller Collateral of any such financing statements filed in connection with the Transaction Documents, without the prior written consent of the Administrative Agent.

(q) Certain Agreements. Without the prior written consent of the Administrative Agent and the Majority Purchasers, the Seller will not (and will not permit any Originator or the Servicer to) amend, modify, waive, revoke or terminate any Transaction Document to which it is a party or any provision of the Seller's organizational documents which requires the consent of the "Independent Manager" (as such term is used in the Seller's Certificate of Formation and Limited Liability Company Agreement).

(r) Restricted Payments. (i) Except pursuant to clause (ii) below, the Seller will not: (A) purchase or redeem any of its membership interests, (B) declare or pay any dividend or set aside any funds for any such purpose, (C) prepay, purchase or redeem any Debt (other than any Capital as required or permitted hereunder), (D) lend or advance any funds or (E) repay any loans or advances to, for or from any of its Affiliates (the amounts described in clauses (A) through (E) being referred to as "Restricted Payments").

(ii) Subject to the limitations set forth in clause (iii) below, the Seller may make Restricted Payments so long as such Restricted Payments are made only in one or more of the following ways: (A) the Seller may make cash payments (including prepayments) on the Intercompany Loans in accordance with their respective terms and (B) the Seller may declare and pay dividends if, both immediately before and immediately after giving effect thereto, the Seller's Net Worth is not less than the Required Capital Amount.

(iii) The Seller may make Restricted Payments only out of the funds, if any, it receives pursuant to Section 3.01 of this Agreement; provided that the Seller shall not pay, make or declare any Restricted Payment (including any dividend) if, after giving effect thereto, any Event of Default or Unmatured Event of Default shall have occurred and be continuing.

(s) Other Business. The Seller will not: (i) engage in any business other than the transactions contemplated by the Transaction Documents, (ii) create, incur or permit to exist any Debt of any kind (or cause or permit to be issued for its account any letters of credit or bankers' acceptances) other than pursuant to this Agreement or the Intercompany Loan Agreements or (iii) form any Subsidiary or make any investments in any other Person.

(t) Use of Collections Available to the Seller. The Seller shall apply the Collections available to the Seller to make payments in the following order of priority: (i) the payment of its obligations under this Agreement and each of the other Transaction Documents (other than the Intercompany Loan Agreements), (ii) the payment of accrued and unpaid interest on the Intercompany Loan Agreements and (iii) other legal and valid purposes.

(u) Further Assurances; Change in Name or Jurisdiction of Origination, etc. (i) The Seller hereby authorizes and hereby agrees from time to time, at its own expense, promptly to execute (if necessary) and deliver all further instruments and documents, and to take all further actions, that may be necessary or desirable, or that the Administrative Agent may

reasonably request, to perfect, protect or more fully evidence the security interest granted pursuant to this Agreement or any other Transaction Document, or to enable the Administrative Agent (on behalf of the Secured Parties) to exercise and enforce the Secured Parties' rights and remedies under this Agreement and the other Transaction Document. Without limiting the foregoing, the Seller hereby authorizes, and will, upon the request of the Administrative Agent, at the Seller's own expense, execute (if necessary) and file such financing statements or continuation statements, or amendments thereto, and such other instruments and documents, that may be necessary or desirable, or that the Administrative Agent may reasonably request, to perfect, protect or evidence any of the foregoing.

(ii) The Seller authorizes the Administrative Agent to file financing statements, continuation statements and amendments thereto and assignments thereof, relating to the Pool Receivables, the Related Security, the related Contracts, Collections with respect thereto and the other Sold Assets and Seller Collateral without the signature of the Seller. A photocopy or other reproduction of this Agreement shall be sufficient as a financing statement where permitted by law.

(iii) The Seller shall at all times be organized under the laws of the State of Delaware and shall not take any action to change its jurisdiction of organization.

(iv) The Seller will not change its name, location, identity or corporate structure unless (x) the Seller, at its own expense, shall have taken all action necessary or appropriate to perfect or maintain the perfection of the security interest under this Agreement (including the filing of all financing statements and the taking of such other action as the Administrative Agent may request in connection with such change or relocation) and (y) if requested by the Administrative Agent, the Seller shall cause to be delivered to the Administrative Agent, an opinion, in form and substance satisfactory to the Administrative Agent as to such UCC perfection and priority matters as the Administrative Agent may request at such time.

(v) Seller's Net Worth. The Seller shall not permit the Seller's Net Worth to be less than the Required Capital Amount.

(w) Sanctions and other Anti-Terrorism Laws; Anti-Corruption Laws. The Seller hereby covenants and agrees that:

(i) it shall immediately notify the Administrative Agent and each Purchaser in writing upon the occurrence of a Reportable Compliance Event;

(ii) if at any time any Seller Collateral or Sold Assets become Embargoed Property, in addition to all other rights and remedies available to the Purchaser Parties, upon request by the Administrative Agent or any of the Purchasers, the Seller shall provide substitute Seller Collateral or Sold Assets acceptable to the Administrative Agent and the Purchasers that is not Embargoed Property;

(iii) it shall, and shall require each other Covered Entity to, conduct its business in compliance with all Anti-Corruption Laws and maintain policies and procedures designed to ensure compliance with such Laws;

(iv) it will not: (a) become a Sanctioned Person or allow any employees, officers, directors, affiliates, consultants, brokers, or agents acting on its behalf in connection with this Agreement to become a Sanctioned Person; (b) directly, or indirectly through a third party, engage in any transactions or other dealings with or for the benefit of any Sanctioned Person or Sanctioned Country in violation of sanctions, including any use of the proceeds of the Investments to fund any operations in, finance any investments or activities in, or, make any payments to, a Sanctioned Person or Sanctioned Country; (c) repay the Capital or pay any other Seller Obligations with Embargoed Property or funds derived from any unlawful activity; (d) permit any Collateral to become Embargoed Property; or (e) cause any Purchaser Party to violate any Anti-Terrorism Laws; and

(v) it will not directly or knowingly indirectly, use the Investments or any proceeds thereof for any purpose which would breach any Anti-Corruption Laws in any jurisdiction in which any Covered Entity conducts business.

(x) Taxes. The Seller will (i) timely file all federal and other material tax returns required to be filed by it and (ii) pay, or cause to be paid, all federal and other material taxes, assessments and other governmental charges, if any, other than taxes, assessments and other governmental charges being contested in good faith by appropriate proceedings and as to which adequate reserves have been provided in accordance with GAAP.

(y) Seller's Tax Status. The Seller will remain a wholly-owned subsidiary of a United States person (within the meaning of Section 7701(a)(30) of the Code). No action will be taken that would cause the Seller to (i) be treated other than as either a "disregarded entity" within the meaning of U.S. Treasury Regulation § 301.7701-3 for U.S. federal income tax purposes or a partnership for U.S. federal income tax purposes that is wholly owned by "United States persons" (within the meaning of Section 7701(a)(30) of the Code), (ii) become an association taxable as a corporation or a publicly traded partnership taxable as a corporation for U.S. federal income tax purposes, or (iii) become subject to any Tax in any jurisdiction outside the United States. The Seller will not become subject to any material Taxes based on net income or gross receipts imposed by a state or local taxing authority.

(z) Certificate of Beneficial Ownership and Other Additional Information. The Seller shall provide to the Administrative Agent and the Purchasers: (i) confirmation of the accuracy of the information set forth in the most recent Certificate of Beneficial Ownership provided to the Administrative Agent and the Purchasers; (ii) a new Certificate of Beneficial Ownership, in form and substance acceptable to the Administrative Agent and each Purchaser, when the individual(s) to be identified as a Beneficial Owner have changed; and (iii) such other information and documentation as may reasonably be requested by the Administrative Agent or

any Purchaser from time to time for purposes of compliance by the Administrative Agent or such Purchaser with Applicable Laws (including the PATRIOT Act and other “know your customer” and anti-money laundering rules and regulations), and any policy or procedure implemented by the Administrative Agent or such Purchaser to comply therewith.

(aa) Liquidity Coverage Ratio. The Seller shall not issue any LCR Security.

(bb) ERISA. Except as could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, (a) neither a Reportable Event nor an ERISA Event has occurred during the five year period prior to the date on which this representation is made or deemed made with respect to any applicable Plan that is not a Multiemployer Plan, and each such Plan has complied in all material respects with the applicable provisions of ERISA and the Code, (b) no termination of a Single Employer Plan has occurred other than pursuant to a standard termination under Title IV of ERISA, and no Lien in favor of the PBGC or a Single Employer Plan has arisen on the assets of any Harsco Party and remains in force, during such five-year period, (c) the present value of all accrued benefits under each Single Employer Plan (based on those assumptions used to fund such Plans) is as reflected in the actuarial report of Willis Towers Watson prepared as of December 31, 2021 is accurate and such report fairly presents the funded status of such Single Employer Plan on the basis set forth therein, (d) neither any Harsco Party nor any Commonly Controlled Entity has had a complete or partial withdrawal from any Multiemployer Plan that has resulted or could reasonably be expected to result in liability under ERISA, and neither any Harsco Party nor any Commonly Controlled Entity would become subject to any liability under ERISA if any Harsco Party or any such Commonly Controlled Entity were to withdraw completely from all Multiemployer Plans as of the valuation date most closely preceding the date on which this representation is made or deemed made and (e) no such Multiemployer Plan is Insolvent.

(cc) Permitted Receivables Financing. The Seller shall cause the facility established by this Agreement and the other Transaction Documents to at all times (i) constitute a “Permitted Receivables Financing” under and as defined in the Credit Agreement as in effect on the relevant date of determination and (ii) be permitted by the terms of the Credit Agreement.

(dd) Minimum Funding Threshold. The Seller shall cause the Aggregate Capital to exceed the Minimum Funding Threshold at all times.

SECTION 7.02. Covenants of the Servicer. At all times from the Closing Date until the Final Payout Date:

(a) Existence. The Servicer shall keep in full force and effect its existence and rights as a corporation or other entity under the laws of the State of Delaware. The Servicer shall obtain and preserve its qualification to do business in each jurisdiction in which the conduct of its business or the servicing of the Pool Receivables as required by this Agreement requires such qualification, except where the failure to do so could not reasonably be expected to have a Material Adverse Effect.

(b) Financial Reporting. The Servicer will maintain a system of accounting established and administered in accordance with GAAP, and the Servicer shall (unless otherwise furnished by the Seller) furnish to the Administrative Agent and each Purchaser:

(i) Pool Reports. (A) As soon as available and, in any event, at least two (2) Business Days prior to each Monthly Settlement Date, an Information Package as of the last day of the most recently completed Fiscal Month, (B) if a Ratings Event has occurred and is continuing, on or prior to each Weekly Reporting Date, a Weekly Report as of the last Business Day of the preceding calendar week, and (C) if an Event of Default or Unmatured Event of Default is continuing and the Administrative Agent has notified the Seller or the Servicer that Daily Reports will be required, then not later than the close of business on each Business Day, a Daily Report as of the close of business on the immediately preceding Business Day.

(ii) Financial Statements. Each of the financial statements, reports and other documents required to be delivered by the Seller pursuant to paragraphs (iii), (iv) and (vi) of Section 7.01(c), when due to be delivered by the Seller thereunder.

(iii) Compliance Certificates. Concurrently with the delivery of financial statements pursuant to clauses (iii) or (iv) of Section 7.01(c), a compliance certificate in form and substance substantially similar to Exhibit G signed by a Financial Officer of the Servicer (x) stating that no Event of Default or Unmatured Event of Default has occurred and is continuing, or if any Event of Default or Unmatured Event of Default has occurred and is continuing, stating the nature and status thereof and (y) setting forth the computations of the Credit Agreement Financial Covenant.

(iv) Other Information. Such other information (including non-financial information) as the Administrative Agent or any Purchaser may from time to time reasonably request.

Documents required to be delivered pursuant to clause (ii) and (iii) above (to the extent any such documents are included in materials otherwise filed with the SEC) may be delivered electronically and shall be deemed to have been delivered on the date (i) on which the Servicer posts such documents, or provides a link thereto, on Harsco's website on the Internet and gives written notice thereof to the Administrative Agent; or (ii) on which such documents are posted on a U.S. government website or on any Harsco Party's behalf on an Internet or intranet website, if any, in each case, to which the Administrative Agent has access (whether a commercial, third-party website or whether sponsored by the Administrative Agent).

(c) Notices. The Servicer will notify the Administrative Agent and each Purchaser in writing of any of the following events promptly upon a Financial Officer or other officer learning of the occurrence thereof, with such notice describing the same, and if applicable, the steps being taken by the Person(s) affected with respect thereto:

(i) Notice of Events of Default or Unmatured Events of Default. A statement of a Financial Officer of the Servicer setting forth details of any Event of Default or Unmatured Event of Default that has occurred and is continuing and the action which the Servicer proposes to take with respect thereto.

(ii) Representations and Warranties. The failure of any representation or warranty made or deemed made by the Servicer under this Agreement or any other Transaction Document to be true and correct in any material respect when made.

(iii) Litigation. The institution of any litigation, arbitration proceeding or governmental proceeding with respect to any Harsco Party, which could reasonably be expected to have a Material Adverse Effect.

(iv) Adverse Claim. (A) Any Person shall obtain an Adverse Claim (other than a Permitted Adverse Claim) upon the Sold Assets or the Seller Collateral or any portion thereof, (B) any Person other than the Seller, the Servicer or the Administrative Agent shall obtain any rights or direct any action with respect to any Collection Account (or related Lock-Box) or (C) any Obligor shall receive any change in payment instructions with respect to Pool Receivable(s) from a Person other than the Servicer or the Administrative Agent.

(v) Name Changes. At least fifteen (15) days before any change in any Originator's or the Seller's name, jurisdiction of organization or any other change requiring the amendment of UCC financing statements.

(vi) Change in Accountants or Accounting Policy. Any change in (A) the external accountants of any Harsco Party, (B) any accounting policy of the Seller or (C) any material accounting policy of any Originator that is relevant to the transactions contemplated by this Agreement or any other Transaction Document (it being understood that any change to the manner in which any Originator accounts for the Pool Receivables shall be deemed "material" for such purpose).

(vii) Termination Event. The occurrence of a Purchase and Contribution Termination Event under the Purchase and Contribution Agreement.

(viii) Material Adverse Effect. Promptly after the occurrence thereof, notice of any Material Adverse Effect.

(ix) Insolvency Proceeding. The occurrence of any Insolvency Proceeding with respect to an Originator

(d) Conduct of Business. Except with respect to the sale of the Servicer's rail business, the Servicer will carry on and conduct its business in substantially the same manner and in substantially the same fields of enterprise as it is presently conducted or fields that are extensions thereof or are otherwise incidental, synergistic, reasonably related, or ancillary thereto, and will do all things necessary to remain duly organized, validly existing and in good

standing as a domestic corporation or other entity in its jurisdiction of organization and maintain all requisite authority to conduct its business in each jurisdiction in which its business is conducted if the failure to have such authority could reasonably be expected to have a Material Adverse Effect.

(e) Compliance with Laws. The Servicer will comply with all Applicable Laws to which it may be subject if the failure to comply could reasonably be expected to have a Material Adverse Effect.

(f) Furnishing of Information and Inspection of Receivables. The Servicer will furnish or cause to be furnished to the Administrative Agent and each Purchaser from time to time such information with respect to the Pool Receivables and the other Sold Assets and Seller Collateral as the Administrative Agent or any Purchaser may reasonably request. The Servicer will, at the Servicer's expense, during regular business hours with reasonable prior written notice, (i) permit the Administrative Agent and each Purchaser or their respective agents or representatives to (A) examine and make copies of and abstracts from all books and records relating to the Pool Receivables, other Sold Assets and the Seller Collateral, (B) visit the offices and properties of the Servicer for the purpose of examining such books and records and (C) discuss matters relating to the Pool Receivables, the other Sold Assets, the Seller Collateral or the Servicer's performance hereunder or under the other Transaction Documents to which it is a party with any of the officers, directors, employees or independent public accountants of the Servicer (provided that representatives of the Servicer are present during such discussions) having knowledge of such matters and (ii) without limiting the provisions of clause (i) above, during regular business hours, at the Servicer's expense, upon reasonable prior written notice from the Administrative Agent, permit certified public accountants or other auditors acceptable to the Administrative Agent to conduct a review of its books and records with respect to the Pool Receivables, the other Sold Assets and the Seller Collateral; provided, that the Servicer shall be required to reimburse the Administrative Agent for only one (1) such review pursuant to clause (ii) above in any twelve-month period, unless an Event of Default has occurred and is continuing.

(g) Payments on Receivables, Collection Accounts. The Servicer will, and will cause each Originator to, at all times, instruct all Obligor to deliver payments on Pool Receivables to a Collection Account or a Lock-Box. The Servicer will, and will cause each Originator to, at all times, maintain such books and records necessary (i) to identify Collections received from time to time on Pool Receivables and (ii) to segregate such Collections from other property of the Servicer and the Originators and any other Person. If any payments on the Pool Receivables or other Collections are received by any Harsco Party in any manner other than directly in a Collection Account or Lock-Box, it shall hold such payments in trust for the benefit of the Administrative Agent, the Purchasers and the other Secured Parties and promptly (but in any event within two (2) Business Days after receipt) remit such funds into a Collection Account. Servicer will cause each Collection Account Bank to comply with the terms of each applicable Account Control Agreement. The Servicer shall not permit funds other than (i) Collections on Pool Receivables and (ii) other Sold Assets and Seller Collateral to be deposited into any Collection Account. If funds other than Collections and proceeds of Collateral are nevertheless deposited into any Collection Account, the Servicer will within two (2) Business Days identify and transfer such funds to the appropriate Person entitled to such funds. The

Servicer will not, and will not permit any Originator or any other Person to commingle Collections or other funds to which the Administrative Agent, any Purchaser or any other Secured Party is entitled, with any other funds. The Servicer shall only add a Collection Account (or a related Lock-Box) or a Collection Account Bank to those listed on Schedule II to this Agreement, if the Administrative Agent has received notice of such addition and an executed and acknowledged copy of an Account Control Agreement (or an amendment thereto) in form and substance acceptable to the Administrative Agent from the applicable Collection Account Bank. The Servicer shall only terminate a Collection Account Bank or close a Collection Account (or a related Lock-Box), in each case, with the prior written consent of the Administrative Agent. The Servicer shall ensure that no disbursements are made from any Collection Account other than disbursements expressly permitted by this Agreement.

(h) Extension or Amendment of Pool Receivables. Except as otherwise permitted in Section 8.02, the Servicer will not alter the delinquency status or adjust the Outstanding Balance or otherwise modify the terms of any Pool Receivable in any material respect, or amend, modify or waive, in any material respect, any term or condition of any related Contract. The Servicer shall at its expense, timely and fully perform and comply in all material respects with all provisions, covenants and other promises required to be observed by it under the Contracts related to the Pool Receivables, and timely and fully comply with the Credit and Collection Policy with regard to each Pool Receivable and the related Contract.

(i) Change in Credit and Collection Policy. The Servicer will not make any material change in the Credit and Collection Policy without the prior written consent of the Administrative Agent. Promptly following any change in the Credit and Collection Policy, the Servicer will deliver a copy of the updated Credit and Collection Policy to the Administrative Agent and each Purchaser.

(j) Books and Records. The Servicer will maintain and implement administrative and operating procedures (including (i) an ability to recreate records evidencing Pool Receivables and related Contracts in the event of the destruction of the originals thereof and (ii) procedures to identify and track sales with respect to, and collections on, Excluded Receivables), and keep and maintain all documents, books, records, computer tapes and disks and other information reasonably necessary or advisable for the collection of all Pool Receivables and the identification and reporting of all Excluded Receivables (including records adequate to permit the daily identification of each Pool Receivable and Excluded Receivable and all Collections of and adjustments to each existing Pool Receivable and Excluded Receivable).

(k) Identifying of Records. The Servicer shall identify its master data processing records relating to Pool Receivables and related Contracts with a legend or other indication that indicates that the Pool Receivables have been sold in accordance with this Agreement.

(l) Change in Payment Instructions to Obligors. The Servicer shall not (and shall not permit any Sub-Servicer to) add, replace or terminate any Collection Account (or any related Lock-Box) or make any change in its instructions to the Obligors regarding payments to be made to the Collection Accounts (or any related Lock-Box), other than any instruction to remit payments to a different Collection Account (or any related Lock-Box).

(m) Ownership Interest, Further Assurances, etc. The Servicer shall, at its expense, take all action necessary or reasonably desirable to establish and maintain a valid and enforceable ownership or security interest in the Sold Assets and Seller Collateral, and a first priority perfected security interest in the Sold Assets and Seller Collateral, in each case free and clear of any Adverse Claim (other than a Permitted Adverse Claim) in favor of the Administrative Agent (on behalf of the Secured Parties), including taking such action to perfect, protect or more fully evidence the security interest of the Administrative Agent (on behalf of the Secured Parties) as the Administrative Agent or any Secured Party may reasonably request. In order to evidence the security interests of the Administrative Agent under this Agreement, the Servicer shall, from time to time take such action, or execute and deliver such instruments as may be necessary (including such actions as are reasonably requested by the Administrative Agent) to maintain and perfect, as a first-priority interest, the Administrative Agent's security interest in the Pool Receivables, Related Security and Collections. The Servicer shall, from time to time and within the time limits established by law, prepare and present to the Administrative Agent for the Administrative Agent's authorization and approval, all financing statements, amendments, continuations or initial financing statements in lieu of a continuation statement, or other filings necessary to continue, maintain and perfect the Administrative Agent's security interest as a first-priority interest. The Administrative Agent's approval of such filings shall authorize the Servicer to file such financing statements under the UCC without the signature of the Seller, any Originator or the Administrative Agent where allowed by Applicable Law. Notwithstanding anything else in the Transaction Documents to the contrary, the Servicer shall not have any authority to file a termination, partial termination, release, partial release, or any amendment that deletes the name of a debtor or excludes collateral of any such financing statements filed in connection with the Transaction Documents, without the prior written consent of the Administrative Agent.

(n) Further Assurances; Change in Name or Jurisdiction of Origination, etc. The Servicer hereby authorizes and hereby agrees from time to time, at its own expense, promptly to execute (if necessary) and deliver all further instruments and documents, and to take all further actions, that may be necessary or desirable, or that the Administrative Agent may reasonably request, to perfect, protect or more fully evidence the security interest granted pursuant to this Agreement or any other Transaction Document, or to enable the Administrative Agent (on behalf of the Secured Parties) to exercise and enforce their respective rights and remedies under this Agreement or any other Transaction Document. Without limiting the foregoing, the Servicer hereby authorizes, and will, upon the request of the Administrative Agent, at the Servicer's own expense, execute (if necessary) and file such financing statements or continuation statements, or amendments thereto, and such other instruments and documents, that may be necessary or desirable, or that the Administrative Agent may reasonably request, to perfect, protect or evidence any of the foregoing.

(o) Sanctions and other Anti-Terrorism Laws; Anti-Corruption Laws. The Servicer hereby covenants and agrees that:

(i) (A) it shall immediately notify the Administrative Agent and each Purchaser in writing upon the occurrence of a Reportable Compliance Event;

(ii) if at any time any Seller Collateral or Sold Assets becomes Embargoed Property, in addition to all other rights and remedies available to the Purchaser Parties, upon request by the Administrative Agent or any of the Purchasers, the Servicer shall cause the Seller to provide substitute Seller Collateral or Sold Assets acceptable to the Administrative Agent and the Purchasers that is not Embargoed Property.

(iii) It shall, and shall require each of its Subsidiaries to, conduct its business in compliance with all Anti-Corruption Laws and maintain policies and procedures designed to ensure compliance with such Anti-Corruption Laws;

(iv) it and its Subsidiaries will not: (a) become a Sanctioned Person or allow its employees, officers, directors, affiliates, consultants, brokers, or agents acting on its behalf in connection with this Agreement to become a Sanctioned Person; (b) directly, or indirectly through a third party, engage in any transactions or other dealings with any Sanctioned Person or Sanctioned Country in violation of sanctions; (c) repay the Capital or pay any other Seller Obligations with Embargoed Property or funds derived from any unlawful activity; (d) permit any Collateral to become Embargoed Property; or (e) cause any Purchaser Party to violate any Anti-Terrorism Laws; and

(v) it will not directly or knowingly indirectly, use the Investments or any proceeds thereof for any purpose which would breach any Anti-Corruption Laws in any jurisdiction in which any Covered Entity conducts business.

(p) Taxes. Except as could not reasonably be expected to have a Material Adverse Effect, the Servicer will (i) timely file all tax returns (federal, state and local) required to be filed by it and (ii) pay, or cause to be paid, all taxes, assessments and other governmental charges, if any, other than taxes, assessments and other governmental charges being contested in good faith by appropriate proceedings and as to which adequate reserves have been provided in accordance with GAAP.

(q) Seller's Tax Status. The Servicer shall not take or cause any action to be taken that would result in the Seller (i) being treated other than as either a "disregarded entity" within the meaning of U.S. Treasury Regulation § 301.7701-3 for U.S. federal income tax purposes that is wholly owned by a "United States person" (within the meaning of Section 7701(a)(30) of the Code) or a partnership for U.S. federal income tax purposes that is wholly owned by "United States persons" (within the meaning of Section 7701(a)(30) of the Code) or (ii) becoming an association taxable as a corporation or a publicly traded partnership taxable as a corporation for U.S. federal income tax purposes.

(r) Maintenance of Property; Insurance. The Servicer shall (i) keep all property and systems necessary in its business in good working order and condition, ordinary wear and tear excepted and except where failure to do so could individually or in the aggregate not reasonably be expected to have a Material Adverse Effect and (ii) maintain with financially sound and reputable insurance companies insurance on all its property in at least such amounts and against at least such risks (but including in any event public liability, product liability and business interruption) as are usually insured against in the same general area by companies engaged in the same or a similar business.

(s) Permitted Receivables Financing. The Servicer shall cause the facility established by this Agreement and the other Transaction Documents to at all times (i) constitute a “Permitted Receivables Financing” under and as defined in the Credit Agreement as in effect on the relevant date of determination and (ii) be permitted by the terms of the Credit Agreement.

SECTION 7.03. Separate Existence of the Seller. Each of the Seller and the Servicer hereby acknowledges that the Secured Parties, the Purchasers and the Administrative Agent are entering into the transactions contemplated by this Agreement and the other Transaction Documents in reliance upon the Seller’s identity as a legal entity separate from any other Harsco Party and their Affiliates. Therefore, each of the Seller and Servicer shall take all steps specifically required by this Agreement or reasonably required by the Administrative Agent or any Purchaser to continue the Seller’s identity as a separate legal entity and to make it apparent to third Persons that the Seller is an entity with assets and liabilities distinct from those of any other Harsco Party and any other Person, and is not a division of any other Harsco Party or any other Person. Without limiting the generality of the foregoing and in addition to and consistent with the other covenants set forth herein, each of the Seller and the Servicer shall take such actions as shall be required in order that:

(a) Special Purpose Entity. The Seller will be a special purpose company whose primary activities are restricted in its Limited Liability Company Agreement to: (i) purchasing or otherwise acquiring from the Originators, owning, holding, collecting, granting security interests or selling interests in the Sold Assets and Seller Collateral, (ii) entering into agreements for the selling, servicing and financing of the Receivables Pool (including the Transaction Documents) and (iii) conducting such other activities as it deems necessary or appropriate to carry out its primary activities.

(b) No Other Business or Debt. The Seller shall not engage in any business or activity except as set forth in this Agreement and the other Transaction Documents nor, incur any indebtedness or liability other than as expressly permitted by the Transaction Documents.

(c) Independent Manager. Not fewer than one manager of the Seller (the “Independent Manager”) shall be a natural person who (i) is not an equityholder, director, officer, manager, member, partner, officer, employee or associate, or any relative of the foregoing, of any member of the Parent Group (as hereinafter defined) (other than his or her service as an Independent Manager of the Seller or an independent manager of any other bankruptcy-remote special purpose entity formed for the sole purpose of securitizing, or facilitating the securitization of, financial assets of any member or members of the Parent Group), (ii) is not a customer or supplier of any member of the Parent Group (other than his or her service as an Independent Manager of the Seller or an independent director of any other bankruptcy-remote special purpose entity formed for the sole purpose of securitizing, or facilitating the securitization of, financial assets of any member or members of the Parent Group), (iii) is not any member of the immediate family of a person described in (i) or (ii) above, and (iv) has (x) prior experience as an independent director or manager for a corporation or limited liability company whose organizational or charter documents required the unanimous

consent of all independent directors (or managers) thereof before such corporation or limited liability company could consent to the institution of bankruptcy or insolvency proceedings against it or could file a petition seeking relief under any applicable federal or state law relating to bankruptcy and (y) at least three years of employment experience with one or more entities that provide, in the ordinary course of their respective businesses, advisory, management or placement services to issuers of securitization or structured finance instruments, agreements or securities. For purposes of this clause (c), “Parent Group” shall mean (i) Holdings, the Servicer, the Performance Guarantor and each Originator, (ii) each person that directly or indirectly, owns or controls, whether beneficially, or as a trustee, guardian or other fiduciary, five percent (5%) or more of the membership interests in Holdings, (iii) each person that controls, is controlled by or is under common control with Holdings and (iv) each of such person’s officers, directors, managers, joint venturers and partners. For the purposes of this definition, “control” of a person means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person or entity, whether through the ownership of voting securities, by contract or otherwise. A person shall be deemed to be an “associate” of (A) a corporation or organization of which such person is an officer, director, partner or manager or is, directly or indirectly, the beneficial owner of ten percent (10%) or more of any class of equity securities, (B) any trust or other estate in which such person serves as trustee or in a similar capacity and (C) any relative or spouse of a person described in clause (A) or (B) of this sentence, or any relative of such spouse.

The Seller shall (A) give written notice to the Administrative Agent of the election or appointment, or proposed election or appointment, of a new Independent Manager of the Seller, which notice shall be given not later than five (5) Business Days prior to the date such appointment or election would be effective (except when such election or appointment is necessary to fill a vacancy caused by the death, disability, or incapacity of the existing Independent Manager, or the failure of such Independent Manager to satisfy the criteria for an Independent Manager set forth in this clause (c), in which case the Seller shall provide written notice of such election or appointment within one (1) Business Day) and (B) with any such written notice, certify to the Administrative Agent that the Independent Manager satisfies the criteria for an Independent Manager set forth in this clause (c).

The Seller’s Limited Liability Company Agreement shall provide that: (A) the Seller shall not approve, or take any other action to cause the filing of, a voluntary bankruptcy petition with respect to the Seller unless the Independent Manager shall approve the taking of such action in writing before the taking of such action and (B) such provision and each other provision requiring an Independent Manager cannot be amended without the prior written consent of the Independent Manager.

The Independent Manager shall not at any time serve as a trustee in bankruptcy for any Harsco Party or any of their respective Affiliates.

(d) Organizational Documents. The Seller shall maintain its organizational documents in conformity with this Agreement, such that it does not amend, restate, supplement or otherwise modify its ability to comply with the terms and provisions of any of the Transaction Documents, including Section 7.01(p).

(e) Conduct of Business. The Seller shall conduct its affairs strictly in accordance with its organizational documents and observe all necessary, appropriate and customary company formalities, including holding all regular and special members' and board of directors' meetings appropriate to authorize all company action, keeping separate and accurate minutes of its meetings, passing all resolutions or consents necessary to authorize actions taken or to be taken, and maintaining accurate and separate books, records and accounts, including payroll and intercompany transaction accounts.

(f) Compensation. Any employee, consultant or agent of the Seller will be compensated from the Seller's funds for services provided to the Seller, and to the extent that Seller shares the same officers or other employees as the Servicer (or any other Affiliate thereof), the salaries and expenses relating to providing benefits to such officers and other employees shall be fairly allocated among such entities, and each such entity shall bear its fair share of the salary and benefit costs associated with such common officers and employees. The Seller will not engage any agents other than its attorneys, auditors and other professionals, and a Servicer and any other agent contemplated by the Transaction Documents for the Receivables Pool, which Servicer will be fully compensated for its services by payment of the Servicing Fee.

(g) Servicing and Costs. The Seller will contract with the Servicer to perform for the Seller all operations required on a daily basis to service the Receivables Pool. The Seller will not incur any indirect or overhead expenses for items shared with the Servicer (or any other Affiliate thereof) that are not reflected in the Servicing Fee. To the extent, if any, that the Seller (or any Affiliate thereof) shares items of expenses not reflected in the Servicing Fee, such as legal, auditing and other professional services, such expenses will be allocated to the extent practical on the basis of actual use or the value of services rendered, and otherwise on a basis reasonably related to the actual use or the value of services rendered.

(h) Operating Expenses. The Seller's operating expenses will not be paid by any other Harsco Party or any Affiliate thereof other than permitted by the Transaction Documents.

(i) Stationery. The Seller will have its own separate stationery, in electronic form or otherwise.

(j) Books and Records. The Seller's books and records will be maintained separately from those of any other Harsco Party and any of their Affiliates and in a manner such that it will not be difficult or costly to segregate, ascertain or otherwise identify the assets and liabilities of the Seller.

(k) Disclosure of Transactions. All financial statements of the Servicer, the Performance Guarantor, the Originators or any Affiliate thereof that are consolidated to include the Seller will disclose that (i) the Seller's sole business consists of the purchase or acceptance through capital contributions of the Receivables and Related Rights from the Originators and the subsequent retransfer of or granting of a security interest in such Receivables and Related Rights to the Administrative Agent pursuant to this Agreement, (ii) the Seller is a separate legal entity with its own separate creditors who will be entitled, upon its liquidation, to be satisfied out of the Seller's assets prior to any assets or value in the Seller becoming available to the Seller's equity holders and (iii) the assets of the Seller are not available to pay creditors of any other Harsco Party or any Affiliate thereof.

(l) Segregation of Assets. The Seller's assets will be maintained in a manner that facilitates their identification and segregation from those of any other Harsco Party or any Affiliates thereof.

(m) Corporate Formalities. The Seller will strictly observe limited liability company formalities in its dealings with any other Harsco Party or any Affiliates thereof, and funds or other assets of the Seller will not be commingled with those of any other Harsco Party or any Affiliates thereof except as permitted by this Agreement in connection with servicing the Pool Receivables. The Seller shall not maintain joint bank accounts or other depository accounts to which any other Harsco Party or any Affiliate thereof (other than the Servicer solely in its capacity as such) has independent access. The Seller is not named, and has not entered into any agreement to be named, directly or indirectly, as a direct or contingent beneficiary or loss payee on any insurance policy with respect to any loss relating to the property of any other Harsco Party or any Subsidiaries or other Affiliates thereof. The Seller will pay to the appropriate Affiliate the marginal increase or, in the absence of such increase, the market amount of its portion of the premium payable with respect to any insurance policy that covers the Seller and such Affiliate.

(n) Arm's-Length Relationships. The Seller will maintain arm's-length relationships with any other Harsco Party and any Affiliates thereof. Any Person that renders or otherwise furnishes services to the Seller will be compensated by the Seller at market rates for such services it renders or otherwise furnishes to the Seller. Neither the Seller on the one hand, nor any other Harsco Party or any Affiliate thereof, on the other hand, will be or will hold itself out to be responsible for the debts of the other or the decisions or actions respecting the daily business and affairs of the other. Each Harsco Party and their respective Affiliates will promptly correct any known misrepresentation with respect to the foregoing, and the Seller will not operate or purport to operate as an integrated single economic unit with respect to any other Harsco Party or their respective Affiliates.

(o) Allocation of Overhead. To the extent that Seller, on the one hand, and any other Harsco Party or any Affiliate thereof, on the other hand, have offices in the same location, there shall be a fair and appropriate allocation of overhead costs between them, and the Seller shall bear its fair share of such expenses, which may be paid through the Servicing Fee or otherwise.

## ARTICLE VIII.

### ADMINISTRATION AND COLLECTION OF RECEIVABLES

#### SECTION 8.01. Appointment of the Servicer.

(a) The servicing, administering and collection of the Pool Receivables shall be conducted by the Person so designated from time to time as the Servicer in accordance with

this Section 8.01. Until the Administrative Agent gives notice to Harsco (in accordance with this Section 8.01) of the designation of a new Servicer, Harsco is hereby designated as, and hereby agrees to perform the duties and obligations of, the Servicer pursuant to the terms hereof. Upon the occurrence and during the continuance of an Event of Default, the Administrative Agent may (with the consent of the Majority Purchasers) and shall (at the direction of the Majority Purchasers) designate as Servicer any Person (including itself) to succeed Harsco or any successor Servicer, on the condition in each case that any such Person so designated shall agree to perform the duties and obligations of the Servicer pursuant to the terms hereof.

(b) Upon the designation of a successor Servicer as set forth in clause (a) above, Harsco agrees that it will terminate its activities as Servicer hereunder in a manner that the Administrative Agent reasonably determines will facilitate the transition of the performance of such activities to the new Servicer, and Harsco shall cooperate with and assist such new Servicer. Such cooperation shall include access to and transfer of records (including all Contracts) related to Pool Receivables and use by the new Servicer of all licenses (or the obtaining of new licenses), hardware or software necessary or reasonably desirable to collect the Pool Receivables and the Related Security.

(c) Harsco acknowledges that, in making its decision to execute and deliver this Agreement, the Administrative Agent and each Purchaser have relied on Harsco's agreement to act as Servicer hereunder. Accordingly, Harsco agrees that it will not voluntarily resign as Servicer without the prior written consent of the Administrative Agent and the Majority Purchasers.

(d) The Servicer may delegate its duties and obligations hereunder to any subservicer (each a "Sub-Servicer"); provided, that, in each such delegation: (i) such Sub-Servicer shall agree in writing to perform the delegated duties and obligations of the Servicer pursuant to the terms hereof, (ii) the Servicer shall remain liable for the performance of the duties and obligations so delegated, (iii) the Seller, the Administrative Agent and each Purchaser shall have the right to look solely to the Servicer for performance, (iv) the terms of any agreement with any Sub-Servicer shall provide that the Administrative Agent may terminate such agreement upon the termination of the Servicer hereunder by giving notice of its desire to terminate such agreement to the Servicer (and the Servicer shall provide appropriate notice to each such Sub-Servicer) and (v) if such Sub-Servicer is not an Affiliate of Harsco, the Administrative Agent and the Majority Purchasers shall have consented in writing in advance to such delegation.

#### SECTION 8.02. Duties of the Servicer.

(a) The Servicer shall take or cause to be taken all such action as may be necessary or reasonably advisable to service, administer and collect each Pool Receivable from time to time, all in accordance with this Agreement and all Applicable Laws, with reasonable care and diligence, and in accordance with the Credit and Collection Policy and consistent with the past practices of each Originator. The Servicer shall set aside, for the accounts of each Purchaser, the amount of Collections to which each such Purchaser is entitled in accordance with Article III hereof. The Servicer may, in accordance with the Credit and Collection Policy and consistent with past practices of each Originator, take such action, including modifications,

waivers or restructurings of Pool Receivables and related Contracts, as the Servicer may reasonably determine to be appropriate to maximize Collections thereof or reflect adjustments expressly permitted under the Credit and Collection Policy or as expressly required under Applicable Laws or the applicable Contract; provided, that for purposes of this Agreement: (i) such action shall not, and shall not be deemed to, change the number of days such Pool Receivable has remained unpaid from the date of the original due date related to such Pool Receivable, (ii) such action shall not alter the status of such Pool Receivable as a Delinquent Receivable or a Defaulted Receivable or limit the rights of any Secured Party under this Agreement or any other Transaction Document and (iii) if an Event of Default has occurred and is continuing, the Servicer may take such action only upon the prior written consent of the Administrative Agent. The Seller shall deliver to the Servicer and the Servicer shall hold for the benefit of the Administrative Agent (individually and for the benefit of each Purchaser), in accordance with their respective interests, all records and documents (including computer tapes or disks) with respect to each Pool Receivable. Notwithstanding anything to the contrary contained herein, if an Event of Default has occurred and is continuing, the Administrative Agent may direct the Servicer to commence or settle any legal action to enforce collection of any Pool Receivable that is a Defaulted Receivable or to foreclose upon or repossess any Related Security with respect to any such Defaulted Receivable.

(b) The Servicer's obligations hereunder shall terminate on the Final Payout Date. Promptly following the Final Payout Date, the Servicer shall deliver to the Seller all books, records and related materials that the Seller previously provided to the Servicer, or that have been obtained by the Servicer, in connection with this Agreement.

SECTION 8.03. Collection Account Arrangements. Prior to the Closing Date, the Seller shall have entered into Account Control Agreements with all of the Collection Account Banks and delivered executed counterparts of each to the Administrative Agent. At any time (x) on or after the Termination Date or (y) during the continuance of an Unmatured Event of Default or Event of Default (whether or not the Termination Date has been declared), the Administrative Agent may (with the consent of the Majority Purchasers) and shall (upon the direction of the Majority Purchasers) at any time thereafter give notice to each Collection Account Bank that the Administrative Agent is exercising its rights under the Account Control Agreements to do any or all of the following: (a) to have the exclusive ownership and control of each Collection Account and Collection Account transferred to the Administrative Agent (for the benefit of the Secured Parties) and to exercise exclusive dominion and control over the funds deposited therein (for the benefit of the Secured Parties), (b) to have the proceeds that are sent to any Collection Account redirected pursuant to the Administrative Agent's instructions rather than deposited in such Collection Account and (c) to take any or all other actions permitted under the applicable Account Control Agreement. The Seller hereby agrees that if the Administrative Agent at any time takes any action set forth in the preceding sentence, the Administrative Agent shall have exclusive control (for the benefit of the Secured Parties) of the proceeds (including Collections) of all Pool Receivables and the Seller hereby further agrees to take any other action that the Administrative Agent may reasonably request to transfer such control. Any proceeds of Pool Receivables received by the Seller or the Servicer thereafter shall be sent immediately to, or as otherwise instructed by, the Administrative Agent.

SECTION 8.04. Enforcement Rights.

(a) At any time following the occurrence and during the continuation of an Event of Default:

(i) the Administrative Agent (at the Seller's expense) may direct the Obligor that payment of all amounts payable under any Pool Receivable is to be made directly to the Administrative Agent or its designee;

(ii) the Administrative Agent may instruct the Seller or the Servicer to give notice of the Secured Parties' interest in Pool Receivables to each Obligor, which notice shall direct that payments be made directly to the Administrative Agent or its designee (on behalf of the Secured Parties), and the Seller or the Servicer, as the case may be, shall give such notice at the expense of the Seller or the Servicer, as the case may be; provided, that if the Seller or the Servicer, as the case may be, fails to so notify each Obligor within two (2) Business Days following instruction by the Administrative Agent, the Administrative Agent (at the Seller's or the Servicer's, as the case may be, expense) may so notify the Obligor;

(iii) the Administrative Agent may request the Servicer to, and upon such request the Servicer shall: (A) assemble all of the records necessary or desirable to collect the Pool Receivables and the Related Security, and transfer or license to a successor Servicer the use of all software necessary or desirable to collect the Pool Receivables and the Related Security, and make the same available to the Administrative Agent or its designee (for the benefit of the Secured Parties) at a place selected by the Administrative Agent and (B) segregate all cash, checks and other instruments received by it from time to time constituting Collections in a manner reasonably acceptable to the Administrative Agent and, promptly upon receipt, remit all such cash, checks and instruments, duly endorsed or with duly executed instruments of transfer, to the Administrative Agent or its designee;

(iv) notify any Collection Account Bank that the Seller and the Servicer will no longer have any access to the related Collection Accounts;

(v) the Administrative Agent may (or, at the direction of the Majority Purchasers shall) replace the Person then acting as Servicer; and

(vi) the Administrative Agent may collect any amounts due from an Originator under the Purchase and Contribution Agreement or the Performance Guarantor under the Performance Guaranty.

For the avoidance of doubt, the foregoing rights and remedies of the Administrative Agent upon an Event of Default are in addition to and not exclusive of the rights and remedies contained herein and under the other Transaction Documents.

(b) The Seller hereby authorizes the Administrative Agent (on behalf of the Secured Parties), and irrevocably appoints the Administrative Agent as its attorney-in-fact with

full power of substitution and with full authority in the place and stead of the Seller, which appointment is coupled with an interest, to take any and all steps in the name of the Seller and on behalf of the Seller necessary or desirable, in the reasonable determination of the Administrative Agent, after the occurrence and during the continuation of an Event of Default, to collect any and all amounts or portions thereof due under any and all Sold Assets and Seller Collateral, including endorsing the name of the Seller on checks and other instruments representing Collections and enforcing such Sold Assets and Seller Collateral. Notwithstanding anything to the contrary contained in this subsection, none of the powers conferred upon such attorney-in-fact pursuant to the preceding sentence shall subject such attorney-in-fact to any liability if any action taken by it shall prove to be inadequate or invalid, nor shall they confer any obligations upon such attorney-in-fact in any manner whatsoever.

(c) The Servicer hereby authorizes the Administrative Agent (on behalf of the Secured Parties), and irrevocably appoints the Administrative Agent as its attorney-in-fact with full power of substitution and with full authority in the place and stead of the Servicer, which appointment is coupled with an interest, to take any and all steps in the name of the Servicer and on behalf of the Servicer necessary or desirable, in the reasonable determination of the Administrative Agent, after the occurrence and during the continuation of an Event of Default, to collect any and all amounts or portions thereof due under any and all Sold Assets and Seller Collateral, including endorsing the name of the Servicer on checks and other instruments representing Collections and enforcing such Sold Assets and Seller Collateral. Notwithstanding anything to the contrary contained in this subsection, none of the powers conferred upon such attorney-in-fact pursuant to the preceding sentence shall subject such attorney-in-fact to any liability if any action taken by it shall prove to be inadequate or invalid, nor shall they confer any obligations upon such attorney-in-fact in any manner whatsoever.

#### SECTION 8.05. Responsibilities of the Seller.

(a) Anything herein to the contrary notwithstanding, the Seller shall: (i) perform all of its obligations, if any, under the Contracts related to the Pool Receivables to the same extent as if interests in such Pool Receivables had not been transferred hereunder, and the exercise by the Administrative Agent, or any other Purchaser Party of their respective rights hereunder shall not relieve the Seller from such obligations and (ii) pay when due any taxes, including any sales taxes, payable in connection with the Pool Receivables and their creation and satisfaction, other than any such taxes being contested in good faith by appropriate proceedings and as to which adequate reserves have been provided in accordance with GAAP. None of the Purchaser Parties shall have any obligation or liability with respect to any Sold Assets or Seller Collateral, nor shall any of them be obligated to perform any of the obligations of any Harsco Party thereunder.

(b) Harsco hereby irrevocably agrees that if at any time it shall cease to be the Servicer hereunder, it shall act (if the then-current Servicer so requests) as the data-processing agent of the Servicer and, in such capacity, Harsco shall conduct the data-processing functions of the administration of the Receivables and the Collections thereon in substantially the same way that Harsco conducted such data-processing functions while it acted as the Servicer. In connection with any such processing functions, the Seller shall pay to Harsco its reasonable out-of-pocket costs and expenses from the Seller's own funds (subject to the priority of payments set forth in Section 3.01).

SECTION 8.06. Servicing Fee.

(a) Subject to clause (b) below, the Seller shall pay the Servicer a fee (the "Servicing Fee") accruing during each Fiscal Month equal to 1.00% per annum (the "Servicing Fee Rate") of the aggregate Outstanding Balance of the Pool Receivables as of the last day of the immediately preceding Fiscal Month. Accrued Servicing Fees shall be payable from Collections to the extent of available funds in accordance with Section 3.01.

(b) If the Servicer ceases to be Harsco or an Affiliate thereof, the Servicing Fee shall be the greater of: (i) the amount calculated pursuant to clause (a) above and (ii) an alternative amount specified by the successor Servicer not to exceed 110% of the aggregate reasonable costs and expenses incurred by such successor Servicer in connection with the performance of its obligations as Servicer hereunder.

**ARTICLE IX.**

**EVENTS OF DEFAULT**

SECTION 9.01. Events of Default. If any of the following events (each an "Event of Default") shall occur:

(a) (i) any Harsco Party shall fail to perform or observe any term, covenant or agreement under this Agreement or any other Transaction Document (other than any such failure which would constitute an Event of Default under clause (ii) or (iii) of this paragraph (a)), and such failure, solely to the extent capable of cure, shall continue for thirty (30) days after knowledge thereof by any Harsco Party or notice thereof by the Administrative Agent or any Purchaser, (ii) any Harsco Party shall fail to make when due any payment or deposit to be made by it under this Agreement or any other Transaction Document and such failure shall continue unremedied for two (2) Business Days or (iii) Harsco shall resign as Servicer, and no successor Servicer reasonably satisfactory to the Administrative Agent shall have been appointed;

(b) any representation or warranty made or deemed made by any Harsco Party (or any of their respective officers) under or in connection with this Agreement or any other Transaction Document or any information or report delivered by any Harsco Party pursuant to this Agreement or any other Transaction Document, shall prove to have been incorrect or untrue in any material respect when made or deemed made or delivered;

(c) the Seller or the Servicer shall fail to deliver any Pool Report pursuant to this Agreement, and such failure shall remain unremedied for (i) in the case of any Information Package Report, two (2) Business Days, or (ii) in the case of any Weekly Report or Daily Report, one (1) Business Day;

(d) this Agreement or any security interest granted pursuant to this Agreement or any other Transaction Document shall for any reason cease to create, or for any reason cease to be, a valid and enforceable first priority perfected security interest in favor of the Administrative Agent with respect to the Pool Receivables any of the other Sold Assets or Seller Collateral, free and clear of any Adverse Claim;

(e) Harsco or any of its Significant Subsidiaries, or the Seller, shall generally not pay its debts as such debts become due, or shall admit in writing its inability to pay its debts generally, or shall make a general assignment for the benefit of creditors; or any Insolvency Proceeding shall be instituted by or against Harsco or any of its Significant Subsidiaries, or the Seller, and, in the case of any such proceeding instituted against such Person (but not instituted by such Person), either such proceeding shall remain undismissed or unstayed for a period of sixty (60) consecutive days, or any of the actions sought in such proceeding (including the entry of an order for relief against, or the appointment of a receiver, trustee, custodian or other similar official for, it or for any substantial part of its property) shall occur; or Harsco or any of its Significant Subsidiaries, or the Seller, shall take any corporate or organizational action to authorize any of the actions set forth above in this paragraph;

(f) (i) the average for three consecutive Fiscal Months of: (A) the Default Ratio shall exceed 4.00%, (B) the Delinquency Ratio shall exceed 12.00% or (C) the Dilution Ratio shall exceed 12.00% or (ii) the Days' Sales Outstanding shall exceed sixty-five (65) days;

(g) a Change in Control shall occur;

(h) a Capital Coverage Deficit shall occur, and shall not have been cured within two (2) Business Days;

(i) (A) the Seller shall fail to pay any principal of or premium or interest on any of its Debt when the same becomes due and payable (whether by scheduled maturity, required prepayment, acceleration, demand or otherwise), and such failure shall continue after the applicable grace period, if any, specified in the agreement, mortgage, indenture or instrument relating to such Debt (whether or not such failure shall have been waived under the related agreement), (B) any other event shall occur or condition shall exist under any agreement, mortgage, indenture or instrument relating to any such Debt of the Seller and shall continue after the applicable grace period (not to exceed thirty (30) days), if any, specified in such agreement, mortgage, indenture or instrument (whether or not such failure shall have been waived under the related agreement), if the effect of such event or condition is to give the applicable debtholders the right (whether acted upon or not) to accelerate the maturity of such Debt of the Seller or to terminate the commitment of any lender thereunder or (C) any such Debt of the Seller shall be declared to be due and payable, or required to be prepaid (other than by a regularly scheduled required prepayment), redeemed, purchased or defeased, or an offer to repay, redeem, purchase or defease such Debt shall be required to be made or the commitment of any lender thereunder terminated, in each case before the stated maturity thereof;

(j) (A) any Harsco Party (other than the Seller), or any of their respective Subsidiaries, individually or in the aggregate, shall fail to pay any principal of or premium or interest on any of its Debt that is outstanding in a principal amount of at least \$150,000,000 in the aggregate when the same becomes due and payable (whether by scheduled maturity, required prepayment, acceleration, demand or otherwise), and such failure shall continue after the applicable grace period, if any, specified in the agreement, mortgage, indenture or instrument

relating to such Debt (whether or not such failure shall have been waived under the related agreement); (B) any other event shall occur or condition shall exist under any agreement, mortgage, indenture or instrument relating to any such Debt (as referred to in clause (A) of this paragraph) (i.e., that is outstanding in a principal amount of at least \$150,000,000) and shall continue after the applicable grace period (not to exceed 30 days), if any, specified in such agreement, mortgage, indenture or instrument (whether or not such failure shall have been waived under the related agreement), if the effect of such event or condition is to give the applicable debtholders the right (whether acted upon or not) to accelerate the maturity of such Debt or to terminate the commitment of any lender thereunder, or (C) any such Debt (as referred to in clause (A) of this paragraph) shall be declared to be due and payable, or required to be prepaid (other than by a regularly scheduled required prepayment), redeemed, purchased or defeased, or an offer to repay, redeem, purchase or defease such Debt shall be required to be made or the commitment of any lender thereunder terminated, in each case before the stated maturity thereof;

(k) [Reserved];

(l) the Seller shall fail (x) at any time (other than for ten (10) Business Days following notice of the death or resignation of any Independent Manager) to have an Independent Manager who satisfies each requirement and qualification specified in Section 7.03(c) of this Agreement for Independent Managers, or (y) to timely notify the Administrative Agent of any replacement or appointment of any Independent Manager of the Seller as required pursuant to Section 7.03(c) of this Agreement;

(m) [Reserved];

(n) either (i) the Internal Revenue Service shall file notice of a lien pursuant to Section 6323 of the Code with regard to any assets of any Harsco Party or (ii) the PBGC shall, or shall indicate its intention to, file notice of a lien pursuant to Section 303(k) or Section 4068 of ERISA with regard to any of the assets of any Harsco Party;

(o) (i) any Person shall engage in any non-exempt "prohibited transaction" (as defined in Section 406 of ERISA or Section 4975 of the Code) involving any Plan, (ii) the occurrence of an ERISA Event, whether or not waived, shall exist with respect to any Plan, or any Adverse Claim in favor of the PBGC or a Plan shall arise on the assets of any Harsco Party or any Commonly Controlled Entity, (iii) a Reportable Event shall occur with respect to, or proceedings under Title IV of ERISA shall commence to have a trustee appointed under Title IV of ERISA, or a trustee shall be appointed, to administer or to terminate, any Single Employer Plan, which Reportable Event or commencement of proceedings or appointment of a trustee is likely to result in the termination of such Plan for purposes of Title IV of ERISA, (iv) any Single Employer Plan shall terminate for purposes of Title IV of ERISA, (v) any Harsco Party or any Commonly Controlled Entity shall, or in the reasonable opinion of the Majority Purchasers shall be likely to, incur any liability in connection with a withdrawal from, or the Insolvency of, a Multiemployer Plan; and in each case in clauses (i) through (v) above, such event or condition, together with all other such events or conditions, if any, could reasonably be expected to have a Material Adverse Effect;

(p) [Reserved];

(q) (i) a Purchase and Contribution Termination Event shall occur under the Purchase and Contribution Agreement or (ii) Receivables generated by any Originator cease being sold or contributed to the Seller by such Originator pursuant to the Purchase and Contribution Agreement (other than as a result of (A) the removal of such Originator from the Purchase and Contribution Agreement in accordance with the terms of the Purchase and Contribution Agreement or (B) the occurrence of an Insolvency Proceeding with respect to such Originator);

(r) the Seller shall be (i) required to register as an “investment company” within the meaning of the Investment Company Act or (ii) become a “covered fund” within the meaning of the Volcker Rule;

(s) [Reserved];

(t) any material provision of this Agreement or any other Transaction Document shall cease to be in full force and effect or any Harsco Party (or any of their respective Affiliates) shall so state in writing;

(u) (i) one or more judgments or decrees shall be entered against the Seller and the aggregate amount of all such judgments equals or exceeds \$18,600 or (ii) one or more judgments or decrees shall be entered against any Harsco Party, or any Affiliate of any of the foregoing involving in the aggregate a liability (not paid or to the extent not covered by a reputable and solvent insurance company) and such judgments and decrees either shall be final and non-appealable or shall not be vacated, discharged or stayed or bonded pending appeal for any period of 60 consecutive days, and the aggregate amount of all such judgments equals or exceeds \$25,000,000; or

(v) Harsco shall fail to satisfy the Credit Agreement Financial Covenant. If, after the date hereof, the Credit Agreement Financial Covenant (or any of the defined terms used in connection with such covenant) is amended, modified or waived, then the test set forth in this clause (v) or the defined terms used therein, as applicable, shall, for all purposes of this Agreement, automatically and without further action on the part of any Person, be deemed to be also so amended, modified or waived, if at the time of the effectiveness of such amendment, modification or waiver, (i) the Administrative Agent (or an Affiliate thereof) is a party to the Credit Agreement and (ii) such amendment, modification or waiver is consummated in accordance with the terms of the Credit Agreement. In the event the Credit Agreement is terminated or replaced, the Credit Agreement Financial Covenant and respective meaning assigned to related terms immediately preceding such termination shall continue for all purposes of this clause (v);

then, and in any such event, the Administrative Agent may (or, at the direction of the Majority Purchasers shall) by notice to the Seller (x) declare the Termination Date to have occurred (in which case the Termination Date shall be deemed to have occurred), (y) declare the Seller Obligation Final Due Date to have occurred (in which case the Seller Obligation Final Due Date shall be deemed to have occurred) and (z) declare the Aggregate Capital and all other Seller

Obligations to be immediately due and payable (in which case the Aggregate Capital and all other Seller Obligations shall be immediately due and payable); provided that, automatically upon the occurrence of any event (without any requirement for the giving of notice) described in subsection (e) of this Section 9.01 with respect to the Seller, the Termination Date shall occur and the Aggregate Capital and all other Seller Obligations shall be immediately due and payable. Upon any such declaration or designation or upon such automatic termination, the Administrative Agent and the other Secured Parties shall have, in addition to the rights and remedies which they may have under this Agreement and the other Transaction Documents, all other rights and remedies provided after default under the UCC and under other Applicable Law, which rights and remedies shall be cumulative. Any proceeds from liquidation of the Sold Assets and Seller Collateral shall be applied in the order of priority set forth in Section 3.01.

## ARTICLE X.

### THE ADMINISTRATIVE AGENT

SECTION 10.01. Authorization and Action. Each of the Purchasers hereby irrevocably appoints PNC Bank, National Association to act on its behalf as the Administrative Agent hereunder and under the other Transaction Documents and authorizes the Administrative Agent to take such actions on its behalf and to exercise such powers as are delegated to the Administrative Agent by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto. The provisions of this Article are solely for the benefit of the Administrative Agent and the other Purchaser Parties and neither the Seller nor any other Harsco Party shall have rights as a third-party beneficiary of any of such provisions. It is understood and agreed that the use of the term “agent” herein or in any other Transaction Documents (or any other similar term) with reference to the Administrative Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable Law. Instead such term is used as a matter of market custom and is intended to create or reflect only an administrative relationship between contracting parties.

SECTION 10.02. Rights as a Purchaser. The Person serving as the Administrative Agent hereunder shall have the same rights and powers in its capacity as a Purchaser as any other Purchaser and may exercise the same as though it were not the Administrative Agent, and the term “Purchaser” or “Purchasers” shall, unless otherwise expressly indicated or unless the context otherwise requires, include the Person serving as the Administrative Agent hereunder in its individual capacity. Such Person and its Affiliates may accept deposits from, lend money to, own securities of, act as the financial advisor or in any other advisory capacity for, and generally engage in any kind of business with, any Harsco Party or other Affiliate thereof as if such Person were not the Administrative Agent hereunder and without any duty to account therefor to the Purchasers.

#### SECTION 10.03. Exculpatory Provisions.

(a) The Administrative Agent shall not have any duties or obligations except those expressly specified herein and in the other Transaction Documents, and its duties hereunder shall be administrative in nature. Without limiting the generality of the foregoing, the Administrative Agent:

(i) shall not be subject to any fiduciary or other implied duties, regardless of whether an Unmatured Event of Default or Event of Default has occurred and is continuing;

(ii) shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Transaction Documents that the Administrative Agent is required to exercise as directed in writing by the Majority Purchasers (or such other number or percentage of the Purchasers as shall be expressly provided for herein or in the other Transaction Documents); provided that the Administrative Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose the Administrative Agent to liability or that is contrary to any Transaction Document or applicable Law, including for the avoidance of doubt any action that may be in violation of the automatic stay under any Debtor Relief Law or that may effect a forfeiture, modification or termination of property of a Purchaser in violation of any Debtor Relief Law; and

(iii) shall not, except as expressly specified herein and in the other Transaction Documents, have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Seller or any of its Affiliates that is communicated to or obtained by the Person serving as the Administrative Agent or any of its Affiliates in any capacity.

(b) The Administrative Agent shall not be liable for any action taken or not taken by it (i) with the consent or at the request of the Purchasers (or such other number or percentage of the Purchasers as shall be necessary, or as the Administrative Agent shall believe in good faith shall be necessary, under the circumstances as provided in Sections 13.01 and 9.01), or (ii) in the absence of its own gross negligence or willful misconduct as determined by a court of competent jurisdiction by final and nonappealable judgment. The Administrative Agent shall be deemed not to have knowledge of any Event of Default unless and until notice describing such Event of Default is given to the Administrative Agent in writing by the Seller or a Purchaser.

(c) The Administrative Agent shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Agreement or any other Transaction Document, (ii) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions specified herein or therein or the occurrence of any Event of Default, (iv) the validity, enforceability, effectiveness or genuineness of this Agreement, any other Transaction Document or any other agreement, instrument or document, or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent.

SECTION 10.04. Reliance by Administrative Agent. The Administrative Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic

message, Internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. The Administrative Agent also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person, and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to the making of an Investment, that by its terms must be fulfilled to the satisfaction of a Purchaser or the Purchaser, the Administrative Agent may presume that such condition is satisfactory to such Purchaser or Purchaser unless the Administrative Agent shall have received notice to the contrary from such Purchaser or the Purchaser prior to the making of such Investment. The Administrative Agent may consult with legal counsel (who may be counsel for the Seller), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

SECTION 10.05. Delegation of Duties. The Administrative Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Transaction Document by or through any one or more sub-agents appointed by the Administrative Agent. The Administrative Agent and any such sub-agent may perform any and all of its duties and exercise its rights and powers by or through their respective Related Parties. The exculpatory provisions of this Article shall apply to any such sub-agent and to the Related Parties of the Administrative Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the facilities as well as activities as Administrative Agent. The Administrative Agent shall not be responsible for the negligence or misconduct of any sub-agents except to the extent that a court of competent jurisdiction determines in a final and nonappealable judgment that the Administrative Agent acted with gross negligence or willful misconduct in the selection of such sub-agents.

SECTION 10.06. Resignation of Administrative Agent.

(a) The Administrative Agent may at any time give notice of its resignation to the Purchasers, the Purchaser and the Seller. Upon receipt of any such notice of resignation, the Purchasers shall have the right, in consultation with the Seller (so long as no Event of Default has occurred and is continuing), to appoint a successor, which shall be a bank with an office in New York City, New York, or an Affiliate of any such bank with an office in New York City, New York. If no such successor shall have been so appointed by the Purchasers and shall have accepted such appointment within 30 days after the retiring Administrative Agent gives notice of its resignation (or such earlier day as shall be agreed by the Purchasers) (the "Resignation Effective Date"), then the retiring Administrative Agent may (but shall not be obligated to), on behalf of the Purchasers, appoint a successor Administrative Agent meeting the qualifications specified above. Whether or not a successor has been appointed, such resignation shall become effective in accordance with such notice on the Resignation Effective Date.

(b) With effect from the Resignation Effective Date (i) the retiring Administrative Agent shall be discharged from its duties and obligations hereunder and under the other Transaction Documents (except that in the case of any collateral security held by the Administrative Agent on behalf of the Purchasers or the Purchaser under any of the Transaction Documents, the retiring or removed Administrative Agent shall continue to hold such collateral security until such time as a successor Administrative Agent is appointed) and (ii) except for any

indemnity payments owed to the retiring or removed Administrative Agent, all payments, communications and determinations provided to be made by, to or through the Administrative Agent shall instead be made by or to each Purchaser and Purchaser directly, until such time, if any, as the Purchasers appoint a successor Administrative Agent as provided for above. Upon the acceptance of a successor's appointment as Administrative Agent hereunder, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring or removed Administrative Agent (other than any rights to indemnity payments owed to the retiring or removed Administrative Agent), and the retiring or removed Administrative Agent shall be discharged from all of its duties and obligations hereunder or under the other Transaction Documents. The fees payable by the Seller to a successor Administrative Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Seller and such successor. After the retiring or removed Administrative Agent's resignation or removal hereunder and under the other Transaction Documents, the provisions of this Article and Section 12.02 shall continue in effect for the benefit of such retiring or removed Administrative Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while the retiring or removed Administrative Agent was acting as Administrative Agent.

SECTION 10.07. Non-Reliance on Administrative Agent and Other Purchasers. Each Purchaser and the Purchaser acknowledges that it has, independently and without reliance upon the Administrative Agent or any other Purchaser or any of their Related Parties and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Purchaser also acknowledges that it will, independently and without reliance upon the Administrative Agent or any other Purchaser or any of their Related Parties and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any other Transaction Document or any related agreement or any document furnished hereunder or thereunder.

SECTION 10.08. Collateral and Guaranty Matters. Each of the Secured Parties irrevocably authorizes the Administrative Agent, at its option and in its discretion to release any lien on any property granted to or held by the Administrative Agent under any Transaction Document (x) upon the Final Payout Date or (y) subject to Section 13.01, if approved, authorized or ratified in writing by the Purchasers. The Administrative Agent shall not be responsible for or have a duty to ascertain or inquire into any representation or warranty regarding the existence, value or collectability of the Collateral, the existence, priority or perfection of the Administrative Agent's lien thereon, or any certificate prepared by any Harsco Party in connection therewith, nor shall the Administrative Agent be responsible or liable to the Purchasers for any failure to monitor or maintain any portion of the Sold Assets and Seller Collateral.

SECTION 10.09. No Other Duties, Etc. Anything herein to the contrary notwithstanding, none of the bookrunners, arrangers or structuring agent listed on the cover page hereof shall have any powers, duties or responsibilities under this Agreement or any of the other Transaction Documents, except in its capacity, as applicable, as the Administrative Agent or a Purchaser Party hereunder.

SECTION 10.10. Administrative Agent May File Proofs of Claim. In case of the pendency of any proceeding under any Insolvency Proceeding, the Administrative Agent (irrespective of whether the capital of any Investment shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on the Seller) shall be entitled and empowered (but not obligated) by intervention in such proceeding or otherwise:

(a) to file and prove a claim for the whole amount of the capital and yield owing and unpaid in respect of any Investment and all other Seller Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Purchaser Parties and the Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Purchaser Parties and the Administrative Agent and their respective agents and counsel and all other amounts due the Purchaser Parties and the Administrative Agent allowed in such judicial proceeding; and

(b) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Purchaser Party to make such payments to the Administrative Agent and, in the event that the Administrative Agent shall consent to the making of such payments directly to the Purchaser Party, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Administrative Agent and its agents and counsel, and any other amounts due the Administrative Agent.

SECTION 10.11. No Reliance on Administrative Agent's Customer Identification Program. Each Purchaser acknowledges and agrees that neither such Purchaser, nor any of its Affiliates, participants or assignees, may rely on the Administrative Agent to carry out such Purchaser's, Affiliate's, participant's or assignee's customer identification program, or other obligations required or imposed under or pursuant to the USA PATRIOT Act or the regulations thereunder, including the regulations contained in 31 CFR 103.121 (as hereafter amended or replaced, the "CIP Regulations"), or any other Anti-Terrorism Law or any Anti-Corruption Law, including any programs involving any of the following items relating to or in connection with any Harsco Party, their Affiliates or their agents, the Transaction Documents or the transactions hereunder or contemplated hereby: (i) any identity verification procedures, (ii) any recordkeeping, (iii) comparisons with government lists, (iv) customer notices or (v) other procedures required under the CIP Regulations or such other Laws.

SECTION 10.12. Structuring Agent. Each of the parties hereto hereby acknowledges and agrees that the Structuring Agent shall not have any right, power, obligation, liability, responsibility or duty under this Agreement, other than the Structuring Agent's right to receive fees pursuant to Section 2.03. Each Purchaser Party acknowledges that it has not relied, and will not rely, on the Structuring Agent in deciding to enter into this Agreement and to take, or omit to take, any action under any Transaction Document.

SECTION 10.13. Erroneous Payments.

(a) If the Administrative Agent notifies a Purchaser or any Person who has received funds on behalf of a Purchaser, such Purchaser (any such Purchaser or other recipient, a "Payment Recipient") that the Administrative Agent has determined in its sole discretion (whether or not after receipt of any notice under immediately succeeding clause (b)) that any funds received by such Payment Recipient from the Administrative Agent or any of its Affiliates were erroneously transmitted to, or otherwise erroneously or mistakenly received by, such Payment Recipient (whether or not known to such Purchaser or other Payment Recipient on its behalf) (any such funds, whether received as a payment, prepayment or repayment of principal, interest, fees, distribution or otherwise, individually and collectively, an "Erroneous Payment") and demands the return of such Erroneous Payment (or a portion thereof), such Erroneous Payment shall at all times remain the property of the Administrative Agent and shall be segregated by the Payment Recipient and held in trust for the benefit of the Administrative Agent, and such Purchaser shall (or, with respect to any Payment Recipient who received such funds on its behalf, shall cause such Payment Recipient to) promptly, but in no event later than two Business Days thereafter, return to the Administrative Agent the amount of any such Erroneous Payment (or portion thereof) as to which such a demand was made, in same day funds (in the currency so received), together with interest thereon in respect of each day from and including the date such Erroneous Payment (or portion thereof) was received by such Payment Recipient to the date such amount is repaid to the Administrative Agent in same day funds at the greater of the Overnight Bank Funding Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation from time to time in effect. A notice of the Administrative Agent to any Payment Recipient under this clause (a) shall be conclusive, absent manifest error.

(b) Without limiting immediately preceding clause (a), each Purchaser or any Person who has received funds on behalf of a Purchaser hereby further agrees that if it receives a payment, prepayment or repayment (whether received as a payment, prepayment or repayment of principal, interest, fees, distribution or otherwise) from the Administrative Agent (or any of its Affiliates) (x) that is in a different amount than, or on a different date from, that specified in a notice of payment, prepayment or repayment sent by the Administrative Agent (or any of its Affiliates) with respect to such payment, prepayment or repayment, (y) that was not preceded or accompanied by a notice of payment, prepayment or repayment sent by the Administrative Agent (or any of its Affiliates), or (z) that such Purchaser or other such recipient, otherwise becomes aware was transmitted, or received, in error or by mistake (in whole or in part) in each case:

(i) (A) in the case of immediately preceding clauses (x) or (y), an error shall be presumed to have been made (absent written confirmation from the Administrative Agent to the contrary) or (B) an error has been made (in the case of immediately preceding clause (z)), in each case, with respect to such payment, prepayment or repayment; and

(ii) such Purchaser shall (and shall cause any other recipient that receives funds on its respective behalf to) promptly (and, in all events, within one Business Day of its knowledge of such error) notify the Administrative Agent of its receipt of such payment, prepayment or repayment, the details thereof (in reasonable detail) and that it is so notifying the Administrative Agent pursuant to this Section 10.13.

(c) Each Purchaser hereby authorizes the Administrative Agent to set off, net and apply any and all amounts at any time owing to such Purchaser under any Transaction Document, or otherwise payable or distributable by the Administrative Agent to such Purchaser from any source, against any amount due to the Administrative Agent under immediately preceding clause (a) or under the indemnification provisions of this Agreement.

(d) In the event that an Erroneous Payment (or portion thereof) is not recovered by the Administrative Agent for any reason, after demand therefor by the Administrative Agent in accordance with immediately preceding clause (a), from any Purchaser that has received such Erroneous Payment (or portion thereof) (and/or from any Payment Recipient who received such Erroneous Payment (or portion thereof) on its respective behalf) (such unrecovered amount, an “Erroneous Payment Return Deficiency”), upon the Administrative Agent’s notice to such Purchaser at any time, (i) such Purchaser shall be deemed to have assigned its Capital (but not its Commitments) in an amount equal to the Erroneous Payment Return Deficiency (or such lesser amount as the Administrative Agent may specify) (such assignment of the Capital (but not Commitments), the “Erroneous Payment Deficiency Assignment”) at par plus any accrued and unpaid interest (with the assignment fee to be waived by the Administrative Agent in such instance), and is hereby (together with the Seller) deemed to execute and deliver an Assignment and Acceptance Agreement with respect to such Erroneous Payment Deficiency Assignment, and such Purchaser shall deliver any notes evidencing such investments to the Seller or the Administrative Agent, (ii) the Administrative Agent as the assignee Purchaser shall be deemed to acquire the Erroneous Payment Deficiency Assignment, (iii) upon such deemed acquisition, the Administrative Agent as the assignee Purchaser shall become a Purchaser hereunder with respect to such Erroneous Payment Deficiency Assignment and the assigning Purchaser shall cease to be a Purchaser, as applicable, hereunder with respect to such Erroneous Payment Deficiency Assignment, excluding, for the avoidance of doubt, its obligations under the indemnification provisions of this Agreement and its applicable Commitments which shall survive as to such assigning Purchaser and (iv) the Administrative Agent may reflect in the Register its ownership interest in the loans subject to the Erroneous Payment Deficiency Assignment. The Administrative Agent may, in its discretion, sell any loans acquired pursuant to an Erroneous Payment Deficiency Assignment and upon receipt of the proceeds of such sale, the Erroneous Payment Return Deficiency owing by the applicable Purchaser be reduced by the net proceeds of the sale of such loan (or portion thereof), and the Administrative Agent shall retain all other rights, remedies and claims against such Purchaser (and/or against any recipient that receives funds on its respective behalf). For the avoidance of doubt, no Erroneous Payment Deficiency Assignment will reduce the Commitments of any Purchaser and such Commitments shall remain available in accordance with the terms of this Agreement. In addition, each party hereto agrees that, except to the extent that the Administrative Agent has sold a loan (or portion thereof) acquired pursuant to an Erroneous Payment Deficiency Assignment, and irrespective of whether the Administrative Agent may be equitably subrogated, the Administrative Agent shall be contractually subrogated to all the rights and interests of the applicable Purchaser under the Transaction Documents with respect to each Erroneous Payment Return Deficiency (the “Erroneous Payment Subrogation Rights”).

(e) The parties hereto agree that an Erroneous Payment shall not pay, prepay, repay, discharge or otherwise satisfy any obligations owed by the Seller or any other Harsco Party, except, in each case, to the extent such Erroneous Payment is, and solely with respect to

the amount of such Erroneous Payment that is, comprised of funds received by the Administrative Agent from the Seller or any other Harsco Party for the purpose of making such Erroneous Payment.

(f) To the extent permitted by applicable Law, no Payment Recipient shall assert any right or claim to an Erroneous Payment, and hereby waives, and is deemed to waive, any claim, counterclaim, defense or right of set-off or recoupment with respect to any demand, claim or counterclaim by the Administrative Agent for the return of any Erroneous Payment received, including without limitation waiver of any defense based on “discharge for value” or any similar doctrine

(g) Each party’s obligations, agreements and waivers under this Section 10.13 shall survive the resignation or replacement of the Administrative Agent, the termination of the Commitments and/or the repayment, satisfaction or discharge of all obligations (or any portion thereof) under any Transaction Document.

SECTION 10.14. Indemnification of Administrative Agent. Each Purchaser agrees to indemnify the Administrative Agent (to the extent not reimbursed by the Seller or any Affiliate thereof), ratably according to the respective Percentage of such Purchaser, from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever which may be imposed on, incurred by, or asserted against the Administrative Agent in any way relating to or arising out of this Agreement or any other Transaction Document or any action taken or omitted by the Administrative Agent under this Agreement or any other Transaction Document; provided that no Purchaser shall be liable for any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements resulting from the Administrative Agent’s gross negligence or willful misconduct.

## ARTICLE XI.

### SELLER GUARANTY

SECTION 11.01. Guaranty of Payment. The Seller hereby absolutely, irrevocably and unconditionally guarantees to each Purchaser, the Administrative Agent and the other Secured Parties the prompt payment of the Sold Receivables by the related Obligor and all other payment obligations included in the Sold Assets (collectively, the “Guaranteed Obligations”), in each case, in full when due, whether at stated maturity, as a mandatory prepayment, by acceleration or otherwise (such guaranty, the “Seller Guaranty”). The Seller Guaranty is a guaranty of payment and not of collection and is a continuing irrevocable guaranty and shall apply to all Guaranteed Obligations whenever arising. To the extent the obligations of the Seller hereunder in respect to the Seller Guaranty shall be adjudicated to be invalid or unenforceable for any reason (including because of any applicable state or federal Law relating to fraudulent conveyances or transfers) then such obligations of the Seller shall be limited to the maximum amount that is permissible under Applicable Law (whether federal or state or otherwise and including the Bankruptcy Code and any other applicable bankruptcy, insolvency, reorganization or other similar laws).

SECTION 11.02. Unconditional Guaranty. The obligations of the Seller under the Seller Guaranty are absolute and unconditional, irrespective of the value, genuineness, validity, regularity or enforceability of any Guaranteed Obligations, any Contract, any Transaction Document or any other agreement or instrument referred to therein, to the fullest extent permitted by Applicable Law, irrespective of any other circumstance whatsoever which might otherwise constitute a legal or equitable discharge or defense of a surety or guarantor. The Seller agrees that the Seller Guaranty may be enforced by the Administrative Agent or the Purchasers without the necessity at any time of resorting to or exhausting any other security or collateral and without the necessity at any time of having recourse to any of the other Transaction Documents or any collateral, including the Sold Assets, hereafter securing the Guaranteed Obligations, the Seller Obligations or otherwise, and the Seller hereby waives the right to require the Administrative Agent or the Purchasers to make demand on or proceed against any Obligor, any Originator, the Servicer or the Performance Guarantor or any other Person or to require the Administrative Agent or the Purchasers to pursue any other remedy or enforce any other right. The Seller further agrees that no Person or Governmental Authority shall have any right to request any return or reimbursement of funds from the Administrative Agent or the Purchasers in connection with monies received under or in respect of the Seller Guaranty. The Seller further agrees that nothing contained herein shall prevent the Administrative Agent or the Purchasers from suing on any of the other Transaction Documents or foreclosing its or their, as applicable, security interest in or lien on the Sold Assets or any other collateral securing the Guaranteed Obligations or the Seller Obligations or from exercising any other rights available to it or them, as applicable, under any Transaction Document, or any other instrument of security and the exercise of any of the aforesaid rights and the completion of any foreclosure proceedings shall not constitute a discharge of the Seller's obligations under the Seller Guaranty; it being the purpose and intent of the Seller that its obligations under the Seller Guaranty shall be absolute, independent and unconditional under any and all circumstances. Neither the Seller Guaranty nor any remedy for the enforcement thereof shall be impaired, modified, changed or released in any manner whatsoever by an impairment, modification, change, release, increase or limitation of the liability of any Obligor, any Originator, the Servicer or the Performance Guarantor or by reason of the bankruptcy or insolvency of any Obligor, any Originator, the Servicer or the Performance Guarantor. The Seller hereby waives any and all notice of the creation, renewal, extension, accrual, or increase of any of the Guaranteed Obligations and notice of or proof of reliance by the Administrative Agent or any Purchaser on the Seller Guaranty or acceptance of the Seller Guaranty. All dealings between any Obligor, any Harsco Party, on the one hand, and the Administrative Agent and the Purchasers, on the other hand, shall be conclusively presumed to have been had or consummated in reliance upon the Seller Guaranty. The Seller hereby represents and warrants that it is, and immediately after giving effect to the Seller Guaranty and the obligation evidenced hereby, will be, solvent. The Seller Guaranty and the obligations of the Seller under the Seller Guaranty shall be valid and enforceable and shall not be subject to any limitation, impairment or discharge for any reason (other than payment in full of all Guaranteed Obligations), including the occurrence of any of the following, whether or not the Administrative Agent or any Purchaser shall have had notice or knowledge of any of them: (A) any failure to assert or enforce or agreement not to assert or enforce, or the stay or enjoining, by order of court, by operation of law or otherwise, of the exercise or enforcement of, any claim or demand or any right, power or remedy with respect to the Sold Assets or the Guaranteed Obligations or any agreement relating thereto, or with respect to any guaranty of or other security for the payment of

the Sold Assets or the Guaranteed Obligations, (B) any waiver, amendment or modification of, or any consent to departure from, any of the terms or provisions (including provisions relating to Events of Default) of any Transaction Document or any agreement or instrument executed pursuant thereto, or of any guaranty or other security for the Sold Assets or the Guaranteed Obligations, (C) to the fullest extent permitted by Applicable Law, any of the Guaranteed Obligations, or any agreement relating thereto, at any time being found to be illegal, invalid or unenforceable in any respect, (D) the application of payments received from any source to the payment of Debt other than the Guaranteed Obligations, even though the Administrative Agent might have elected to apply such payment to any part or all of the Guaranteed Obligations, (E) any failure to perfect or continue perfection of a security interest in any of the Sold Assets or other Seller Collateral, (F) any defenses, set-offs or counterclaims which any Harsco Party or any Obligor may allege or assert against the Administrative Agent or any Purchaser in respect of the Sold Assets or the Guaranteed Obligations, including failure of consideration, breach of warranty, payment, statute of frauds, statute of limitations, accord and satisfaction and usury, and (G) any other act or thing or omission, or delay to do any other act or thing, which may or might in any manner or to any extent vary the risk of the Seller as an obligor in respect of the Sold Assets or the Guaranteed Obligations.

SECTION 11.03. Modifications. The Seller agrees that: (a) all or any part of any security interest, lien, collateral security or supporting obligation now or hereafter held for any Guaranteed Obligation may be exchanged, compromised or surrendered from time to time; (b) none of the Purchasers or the Administrative Agent shall have any obligation to protect, perfect, secure or insure any security interest or lien now or hereafter held, if any, for the Guaranteed Obligations; (c) the time or place of payment of any Guaranteed Obligation may be changed or extended, in whole or in part, to a time certain or otherwise, and may be renewed or accelerated, in whole or in part; (d) any Obligor, any Harsco Party and any other party (including any co-guarantor) liable for payment of any Guaranteed Obligation may be granted indulgences generally; (e) any of the provisions of Contracts or any other agreements or documents governing or giving rise to any Guaranteed Obligation may be modified, amended or waived; and (f) any deposit balance for the credit of any Obligor, any Harsco Party or any other party (including any co-guarantor) liable for the payment of any Guaranteed Obligation or liable upon any security therefor may be released, in whole or in part, at, before or after the stated, extended or accelerated maturity of the Guaranteed Obligations, all without notice to or further assent by the Seller, which shall remain bound thereon, notwithstanding any such exchange, compromise, surrender, extension, renewal, acceleration, modification, indulgence or release.

SECTION 11.04. Waiver of Rights. The Seller expressly waives to the fullest extent permitted by Applicable Law: (a) notice of acceptance of the Seller Guaranty by the Purchasers and the Administrative Agent; (b) presentment and demand for payment or performance of any of the Guaranteed Obligations; (c) protest and notice of dishonor or of default (except as specifically required in this Agreement) with respect to the Guaranteed Obligations or with respect to any security therefor; (d) notice of the Purchasers or the Administrative Agent obtaining, amending, substituting for, releasing, waiving or modifying any security interest or lien, if any, hereafter securing the Guaranteed Obligations, or the Purchasers or the Administrative Agent subordinating, compromising, discharging or releasing such security interests or liens, if any; (e) all other notices, demands, presentments, protests or any agreement or instrument related to the Sold Assets or the Guaranteed Obligations to which the Seller might

otherwise be entitled; (f) any right to require the Administrative Agent or any Purchaser as a condition of payment or performance by the Seller, to (A) proceed against any Obligor, any Originator, the Servicer, the Performance Guarantor or any other Person, (B) proceed against or exhaust any other security held from any Obligor, any Originator, the Servicer, the Performance Guarantor or any other Person, (C) proceed against or have resort to any balance of any deposit account, securities account or credit on the books of the Administrative Agent, the Purchasers or any other Person, or (D) pursue any other remedy in the power of the Administrative Agent or the Purchasers whatsoever; (g) any defense arising by reason of the incapacity, lack of authority or any disability or other defense of any Obligor, any Originator, the Servicer, the Performance Guarantor or any other Person including any defense based on or arising out of the lack of validity or the unenforceability of the Sold Assets or the Guaranteed Obligations or any agreement or instrument relating thereto or by reason of the cessation of the liability of any Obligor, any Originator, the Servicer, the Performance Guarantor or any other Person from any cause other than payment in full of the Sold Assets and the Guaranteed Obligations; (h) any defense based upon any Applicable Law which provides that the obligation of a surety must be neither larger in amount nor in other respects more burdensome than that of the principal; (i) any defense based upon the Administrative Agent's or any Purchaser's errors or omissions in the administration of the Sold Assets or the Guaranteed Obligations; (j) (A) any principles or provisions of law, statutory or otherwise, which are or might be in conflict with the terms of this Agreement and any legal or equitable discharge of the Sold Assets or the Guaranteed Obligations, (B) the benefit of any statute of limitations affecting the Seller's liability under the Seller Guaranty or the enforcement of the Seller Guaranty, (C) any rights to set-offs, recoupments and counterclaims, and (D) promptness, diligence and any requirement that the Administrative Agent and the Purchasers protect, secure, perfect or insure any other security interest or lien or any property subject thereto; and (k) to the fullest extent permitted by Applicable Law, any defenses or benefits that may be derived from or afforded by Applicable Law which limit the liability of or exonerate guarantors or sureties, or which may conflict with the terms of this Agreement and the Seller Guaranty.

SECTION 11.05. Reinstatement. Notwithstanding anything contained in this Agreement or the other Transaction Documents, the obligations of the Seller under this Article XI shall be automatically reinstated if and to the extent that for any reason any payment by or on behalf of any Person in respect of the Guaranteed Obligations is rescinded or must be otherwise restored by any holder of any of the Guaranteed Obligations, whether as a result of any proceedings in bankruptcy or reorganization or otherwise, and the Seller agrees that it will indemnify Administrative Agent and each Purchaser on demand for all reasonable costs and expenses (including reasonable fees of counsel) incurred by such Person in connection with such rescission or restoration, including any such costs and expenses incurred in defending against any claim alleging that such payment constituted a preference, fraudulent transfer or similar payment under any bankruptcy, insolvency or similar law.

SECTION 11.06. Remedies. The Seller agrees that, as between the Seller, on the one hand, and Administrative Agent and the Purchasers, on the other hand, the Guaranteed Obligations may be declared to be forthwith due and payable as provided in Article VIII (and shall be deemed to have become automatically due and payable in the circumstances provided in Article VIII) notwithstanding any stay, injunction or other prohibition preventing such declaration (or preventing such Guaranteed Obligations from becoming automatically due and

payable) as against any other Person and that, in the event of such declaration (or such Guaranteed Obligations being deemed to have become automatically due and payable), such Guaranteed Obligations (whether or not due and payable by any other Person) shall forthwith become due and payable by the Seller.

SECTION 11.07. Subrogation. The Seller hereby waives all rights of subrogation (whether contractual or otherwise) to the claims of the Administrative Agent, the Purchasers and the other Secured Parties against any Obligor, any Originator, the Servicer, the Performance Guarantor or any other Person in respect of the Guaranteed Obligations until such time as all Guaranteed Obligations have been indefeasibly paid in full in cash and the Final Payout Date has occurred. The Seller further agrees that, to the extent such waiver of its rights of subrogation is found by a court of competent jurisdiction to be void or voidable for any reason, any rights of subrogation shall be junior and subordinate to any rights the Administrative Agent or any Purchaser may have against any Obligor, any Originator, the Servicer, the Performance Guarantor or any other Person in respect of the Guaranteed Obligations.

SECTION 11.08. Inducement. The Purchasers have been induced to make the Investments under this Agreement in part based upon the Seller Guaranty that the Seller desires that the Seller Guaranty be honored and enforced as separate obligations of the Seller, should Administrative Agent and the Purchasers desire to do so.

SECTION 11.09. Security Interest. To secure the prompt payment and performance of the Guaranteed Obligations, the Seller Guaranty and all other Seller Obligations, the Seller hereby grants to the Administrative Agent, for the benefit of the Purchasers and the other Secured Parties, a continuing security interest in and lien upon all property and assets of the Seller, whether now or hereafter owned, existing or arising and wherever located, including the following (collectively, the "Seller Collateral"): (i) all Unsold Receivables, (ii) all Related Security with respect to such Unsold Receivables, (iii) all Collections with respect to such Unsold Receivables, (iv) the Lock-Boxes and Collection Accounts and all amounts on deposit therein, and all certificates and instruments, if any, from time to time evidencing such Lock-Boxes and Collection Accounts and amounts on deposit therein, (v) all rights (but none of the obligations) of the Seller under the Purchase and Contribution Agreement; (vi) all other personal and fixture property or assets of the Seller of every kind and nature including all goods (including inventory, equipment and any accessions thereto), instruments (including promissory notes), documents, accounts, chattel paper (whether tangible or electronic), deposit accounts, securities accounts, securities entitlements, letter-of-credit rights, commercial tort claims, securities and all other investment property, supporting obligations, money, any other contract rights or rights to the payment of money, insurance claims and proceeds, and all general intangibles (including all payment intangibles) (each as defined in the UCC) and (vii) all proceeds of, and all amounts received or receivable under any or all of, the foregoing. The Administrative Agent (for the benefit of the Secured Parties) shall have, with respect to all the Seller Collateral, and in addition to all the other rights and remedies available to the Administrative Agent (for the benefit of the Secured Parties), all the rights and remedies of a secured party under any applicable UCC. The Seller hereby authorizes the Administrative Agent to file financing statements describing the collateral covered thereby as "all of the debtor's personal property or assets" or words to that effect, notwithstanding that such wording may be broader in scope than the collateral described in this Agreement.

(c) Immediately upon the occurrence of the Final Payout Date, the Seller Collateral shall be automatically released from the lien created hereby, and this Agreement and all obligations (other than those expressly stated to survive such termination) of the Administrative Agent, the Purchasers and the other Purchaser Parties hereunder shall terminate, all without delivery of any instrument or performance of any act by any party, and all rights to the Seller Collateral shall revert to the Seller; provided, however, that promptly following written request therefor by the Seller delivered to the Administrative Agent following any such termination, and at the expense of the Seller, the Administrative Agent shall execute and deliver to the Seller UCC-3 termination statements and such other documents as the Seller shall reasonably request to evidence such termination.

(d) For the avoidance of doubt, the grant of security interest pursuant to this Section 11.09 shall be in addition to, and shall not be construed to limit or modify, the sale of Sold Assets pursuant to Section 2.01(b) or the Seller's grant of security interest pursuant to Section 4.06. Further Assurances. Promptly upon request, the Seller shall deliver such instruments, assignments or other documents or agreements, and shall take such actions, as the Administrative Agent or any Purchaser deems appropriate to evidence or perfect its security interest and lien on any of the Seller Collateral, or otherwise to give effect to the intent of this Article XI.

## ARTICLE XII.

### INDEMNIFICATION

#### SECTION 12.01. Indemnities by the Seller.

(a) Without limiting any other rights that the Administrative Agent, the Purchaser Parties, the Affected Persons and their respective assigns, officers, directors, agents and employees (each, a "Seller Indemnified Party") may have hereunder or under Applicable Law, the Seller hereby agrees to indemnify each Seller Indemnified Party from and against any and all claims, losses and liabilities (including Attorney Costs) (all of the foregoing being collectively referred to as "Seller Indemnified Amounts") arising out of or resulting from this Agreement or any other Transaction Document or the use of proceeds of the Investments or the security interest in respect of any Pool Receivable or any other Sold Assets or Seller Collateral; excluding, however, (a) Seller Indemnified Amounts to the extent a final non-appealable judgment of a court of competent jurisdiction holds that such Seller Indemnified Amounts resulted from the bad faith, gross negligence or willful misconduct by the Seller Indemnified Party seeking indemnification, (b) Taxes (other than (x) as specifically enumerated below and (y) any Taxes that represent losses, claims, damages, etc. arising from any non-Tax claim), (c) Seller indemnified Amounts that arise from any settlement of any proceeding effected without the Seller's written consent (which consent shall not be unreasonably withheld, delayed or conditioned), but if settled with the Seller's written consent, or if there is a judgment against a Seller Indemnified Party in any such proceeding, the Seller agrees to indemnify and hold harmless each Seller Indemnified Party in the manner set forth in this Section 12.01(a) (provided that the Seller's consent shall not be required to effect any settlement of any such proceeding if an Event of Default has occurred and is continuing at the time such settlement is to be effected; provided, further that, if at any time a Seller Indemnified Party shall have requested in

accordance with this Agreement that the Seller reimburse such Seller Indemnified Party for legal or other expenses in connection with investigating, responding to or defending any proceeding, the Seller shall be liable for any settlement of any proceeding effected without the Seller's written consent if (x) such settlement is entered into more than 30 days after receipt by the Seller of such request for reimbursement and (y) the Seller shall not have reimbursed such Seller Indemnified Party in accordance with such request prior to the date of such settlement) and (d) Seller Indemnified Amounts to the extent a final non-appealable judgment of a court of competent jurisdiction holds that such Seller Indemnified Amounts resulted from disputes arising solely among Seller Indemnified Parties (other than the Administrative Agent or the Structuring Agent) and that do not involve any act or omission by the Seller or any of its Affiliates. Without limiting or being limited by the foregoing, the Seller shall pay on demand (it being understood that if any portion of such payment obligation is made from Collections, such payment will be made at the time and in the order of priority set forth in Section 3.01), to each Seller Indemnified Party any and all amounts necessary to indemnify such Seller Indemnified Party from and against any and all Seller Indemnified Amounts relating to or resulting from any of the following (but excluding Seller Indemnified Amounts and Taxes described in clauses (a), (b), (c) and (d) above):

- (i) any Pool Receivable which the Seller or the Servicer includes as an Eligible Receivable as part of the Net Receivables Pool Balance but which is not an Eligible Receivable at such time;
- (ii) any representation, warranty or statement made or deemed made by the Seller (or any of its respective officers) under or in connection with this Agreement, any of the other Transaction Documents, any Pool Report or any other information or report delivered by or on behalf of the Seller pursuant hereto which shall have been untrue or incorrect when made or deemed made;
- (iii) the failure by the Seller to comply with any Applicable Law with the Assignment of Claims Act (or any other similar Applicable Law) respect to any Pool Receivable or the related Contract; or the failure of any Pool Receivable or the related Contract to conform to any such Applicable Law;
- (iv) the failure to vest in the Administrative Agent a first priority perfected ownership or security interest in all or any portion of the Sold Assets or Seller Collateral, in each case free and clear of any Adverse Claim;
- (v) the failure to have filed, or any delay in filing, financing statements, financing statement amendments, continuation statements or other similar instruments or documents under the UCC of any applicable jurisdiction or other Applicable Laws with respect to any Pool Receivable, any other Sold Assets or any Seller Collateral, whether at the time of any Investment or at any subsequent time;
- (vi) any dispute, claim or defense (other than discharge in bankruptcy) of an Obligor to the payment of any Pool Receivable (including, a defense based on such Pool Receivable or the related Contract not being a legal, valid and

binding obligation of such Obligor enforceable against it in accordance with its terms), or any other claim resulting from or relating to collection activities with respect to such Pool Receivable;

(vii) any failure of the Seller to perform any of its duties or obligations in accordance with the provisions hereof and of each other Transaction Document related to Pool Receivables or to timely and fully comply with the Credit and Collection Policy in regard to each Pool Receivable;

(viii) any products liability, environmental or other claim arising out of or in connection with any Pool Receivable or other merchandise, goods or services which are the subject of or related to any Pool Receivable;

(ix) the misdirection of Collection or the commingling of Collections of Pool Receivables at any time with other funds;

(x) any investigation, litigation or proceeding (actual or threatened) related to this Agreement or any other Transaction Document or the use of proceeds of any Investments or in respect of any Pool Receivable, any other Sold Assets or any Seller Collateral or any related Contract;

(xi) any failure of the Seller to comply with its covenants, obligations and agreements contained in this Agreement or any other Transaction Document;

(xii) any setoff with respect to any Pool Receivable;

(xiii) any claim brought by any Person other than a Seller Indemnified Party arising from any activity by the Seller or any Affiliate of the Seller in servicing, administering or collecting any Pool Receivable;

(xiv) the failure by the Seller to pay when due any taxes, including, sales, excise or personal property taxes;

(xv) any failure of a Collection Account Bank to comply with the terms of the applicable Account Control Agreement, the termination by a Collection Account Bank of any Account Control Agreement or any amounts (including in respect of any indemnity) payable by the Administrative Agent to a Collection Account Bank under any Account Control Agreement;

(xvi) any dispute, claim, offset or defense (other than discharge in bankruptcy of the Obligor) of the Obligor to the payment of any Pool Receivable (including, a defense based on such Pool Receivable or the related Contract not being a legal, valid and binding obligation of such Obligor enforceable against it in accordance with its terms), or any other claim resulting from the sale of goods or the rendering of services related to such Pool Receivable or the furnishing or failure to furnish any such goods or services or other similar claim or defense not arising from the financial inability of any Obligor to pay undisputed indebtedness;

(xvii) any action taken by the Administrative Agent as attorney-in-fact for the Seller, any Originator or the Servicer pursuant to this Agreement or any other Transaction Document;

(xviii) the failure of delay to provide any Obligor with an invoice or other evidence of indebtedness;

(xix) the use of proceeds of any Investment; or

(xx) any reduction in Capital as a result of the distribution of Collections if all or a portion of such distributions shall thereafter be rescinded or otherwise must be returned for any reason.

(b) Notwithstanding anything to the contrary in this Agreement, solely for purposes of the Seller's indemnification obligations in clauses (ii), (iii), (vii) and (xi) of this Article XII, any representation, warranty or covenant qualified by the occurrence or non-occurrence of a material adverse effect or similar concepts of materiality shall be deemed to be not so qualified.

(c) If for any reason the foregoing indemnification is unavailable to any Seller Indemnified Party or insufficient to hold it harmless, then the Seller shall contribute to such Seller Indemnified Party the amount paid or payable by such Seller Indemnified Party as a result of such loss, claim, damage or liability in such proportion as is appropriate to reflect the relative economic interests of the Seller and its Affiliates on the one hand and such Seller Indemnified Party on the other hand in the matters contemplated by this Agreement as well as the relative fault of the Seller and its Affiliates and such Seller Indemnified Party with respect to such loss, claim, damage or liability and any other relevant equitable considerations. The reimbursement, indemnity and contribution obligations of the Seller under this Section shall be in addition to any liability which the Seller may otherwise have, shall extend upon the same terms and conditions to each Seller Indemnified Party, and shall be binding upon and inure to the benefit of any successors, assigns, heirs and personal representatives of the Seller and the Seller Indemnified Parties.

(d) Any indemnification or contribution under this Section shall survive the termination of this Agreement.

#### SECTION 12.02. Indemnification by the Servicer.

(a) The Servicer hereby agrees to indemnify and hold harmless the Seller, the Administrative Agent, the Purchaser Parties, the Affected Persons and their respective assigns, officers, directors, agents and employees (each, a "Servicer Indemnified Party"), from and against any loss, liability, expense, damage or injury suffered or sustained by reason of any acts, omissions or alleged acts or omissions arising out of activities of the Servicer pursuant to this Agreement or any other Transaction Document, including any judgment, award, settlement, Attorney Costs and other costs or expenses incurred in connection with the defense of any actual or threatened action, proceeding or claim (all of the foregoing being collectively referred to as, "Servicer Indemnified Amounts"); excluding (i) Servicer Indemnified Amounts to the extent a final non-appealable judgment of a court of competent jurisdiction holds that such Servicer

Indemnified Amounts resulted from the bad faith, gross negligence or willful misconduct by the Servicer Indemnified Party seeking indemnification, (ii) Taxes (other than any Taxes that represent losses, claims, damages, etc. arising from any non-Tax claim), (iii) Servicer Indemnified Amounts to the extent the same includes losses in respect of Pool Receivables that are uncollectible solely on account of the insolvency, bankruptcy, lack of creditworthiness or other financial inability to pay of the related Obligor, (iv) Servicer indemnified Amounts that arise from any settlement of any proceeding effected without the Servicer's written consent (which consent shall not be unreasonably withheld, delayed or conditioned), but if settled with the Servicer's written consent, or if there is a judgment against a Servicer Indemnified Party in any such proceeding, the Servicer agrees to indemnify and hold harmless each Servicer Indemnified Party in the manner set forth in this Section 12.02(a) (provided that the Servicer's consent shall not be required to effect any settlement of any such proceeding if an Event of Default has occurred and is continuing at the time such settlement is to be effected; provided, further that, if at any time a Servicer Indemnified Party shall have requested in accordance with this Agreement that the Servicer reimburse such Servicer Indemnified Party for legal or other expenses in connection with investigating, responding to or defending any proceeding, the Servicer shall be liable for any settlement of any proceeding effected without the Servicer's written consent if (x) such settlement is entered into more than 30 days after receipt by the Servicer of such request for reimbursement and (y) the Servicer shall not have reimbursed such Servicer Indemnified Party in accordance with such request prior to the date of such settlement) and (v) Servicer Indemnified Amounts to the extent a final non-appealable judgment of a court of competent jurisdiction holds that such Servicer Indemnified Amounts resulted from disputes arising solely among Servicer Indemnified Parties (other than the Administrative Agent or the Structuring Agent) and that do not involve any act or omission by the Servicer or any of its Affiliates. Without limiting or being limited by the foregoing, the Servicer shall pay on demand, to each Servicer Indemnified Party any and all amounts necessary to indemnify such Servicer Indemnified Party from and against any and all Servicer Indemnified Amounts relating to or resulting from any of the following (but excluding Servicer Indemnified Amounts described in clauses (i), (ii) and (iii) above):

- (i) any representation, warranty or statement made or deemed made by the Servicer (or any of its respective officers) under or in connection with this Agreement, any of the other Transaction Documents, any Pool Report or any other information or report delivered by or on behalf of the Servicer pursuant hereto which shall have been untrue or incorrect when made or deemed made;
- (ii) the failure by the Servicer to comply with any Applicable Law with respect to any Pool Receivable or the related Contract; or the failure of any Pool Receivable or the related Contract to conform to any such Applicable Law;
- (iii) the misdirection of Collections or the commingling of Collection of Pool Receivables at any time with other funds;
- (iv) any failure of a Collection Account Bank to comply with the terms of the applicable Account Control Agreement, the termination by a Collection Account Bank of any Account Control Agreement or any amounts (including in respect of any indemnity) payable by the Administrative Agent to a Collection Account Bank under any Account Control Agreement;

- (v) the failure of delay to provide any Obligor with an invoice or other evidence of indebtedness; or
- (vi) any failure of the Servicer to comply with its covenants, obligations and agreements contained in this Agreement or any other Transaction Document.

(b) If for any reason the foregoing indemnification is unavailable to any Servicer Indemnified Party or insufficient to hold it harmless, then the Servicer shall contribute to the amount paid or payable by such Servicer Indemnified Party as a result of such loss, claim, damage or liability in such proportion as is appropriate to reflect the relative economic interests of the Servicer and its Affiliates on the one hand and such Servicer Indemnified Party on the other hand in the matters contemplated by this Agreement as well as the relative fault of the Servicer and its Affiliates and such Servicer Indemnified Party with respect to such loss, claim, damage or liability and any other relevant equitable considerations. The reimbursement, indemnity and contribution obligations of the Servicer under this Section shall be in addition to any liability which the Servicer may otherwise have, shall extend upon the same terms and conditions to Servicer Indemnified Party, and shall be binding upon and inure to the benefit of any successors, assigns, heirs and personal representatives of the Servicer and the Servicer Indemnified Parties.

- (c) Any indemnification or contribution under this Section shall survive the termination of this Agreement.

### **ARTICLE XIII.**

#### **MISCELLANEOUS**

##### SECTION 13.01. Amendments, Etc.

(a) No failure on the part of any Purchaser Party to exercise, and no delay in exercising, any right hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any right hereunder preclude any other or further exercise thereof or the exercise of any other right. No amendment or waiver of any provision of this Agreement or consent to any departure by any of the Seller or any Affiliate thereof shall be effective unless in a writing signed by the Administrative Agent and the Majority Purchasers (and, in the case of any amendment, also signed by the Seller), and then such amendment, waiver or consent shall be effective only in the specific instance and for the specific purpose for which given; provided, however, that (A) no amendment, waiver or consent shall, unless in writing and signed by the Servicer, affect the rights or duties of the Servicer under this Agreement and (B) no amendment, waiver or consent shall, unless in writing and signed by the Administrative Agent and each Purchaser:

- (i) change (directly or indirectly) the definitions of Capital Coverage Deficit, Defaulted Receivable, Delinquent Receivable, Eligible Receivable, Facility Limit, Seller Obligation Final Due Date, Net Receivables Pool Balance or

Total Reserves contained in this Agreement, or increase the then existing Concentration Percentage for any Obligor or change the calculation of the Capital Coverage Amount;

- (ii) reduce the amount of Capital or Yield that is payable hereunder or delay any scheduled date for payment thereof;
- (iii) change any Event of Default;
- (iv) release all or a material portion of the Sold Assets or Seller Collateral from the Administrative Agent's security interest created hereunder;
- (v) release the Performance Guarantor from any of its obligations under the Performance Guaranty or terminate the Performance Guaranty;
- (vi) change any of the provisions of this Section 13.01 or the definition of "Majority Purchasers"; or
- (vii) change the order of priority in which Collections are applied pursuant to Section 3.01.

Notwithstanding the foregoing, (A) no amendment, waiver or consent shall increase any Purchaser's Commitment hereunder without the consent of such Purchaser and (B) no amendment, waiver or consent shall reduce any Fees payable by the Seller to any Purchaser or delay the dates on which any such Fees are payable, in either case, without the consent of such Purchaser.

SECTION 13.02. Notices, Etc. All notices and other communications hereunder shall, unless otherwise stated herein, be in writing (which shall include facsimile and email communication) and faxed, emailed or delivered, to each party hereto, at its address, facsimile number or email set forth under its name on Schedule III hereto or at such other address, facsimile number or email address as shall be designated by such party in a written notice to the other parties hereto. Notices and communications by facsimile or email shall be effective when sent receipt confirmed by electronic or other means (such as by the "return receipt requested" function, as available, return electronic mail or other acknowledgement), and notices and communications sent by other means shall be effective when received.

SECTION 13.03. Assignability; Addition of Purchasers.

(a) Assignment by Purchasers. Each Purchaser may assign to any Eligible Assignee or to any other Purchaser all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment and any Capital or interests therein owned by it); provided, however that

- (i) except for an assignment by a Purchaser to either an Affiliate of such Purchaser or any other Purchaser, each such assignment shall require the prior written consent of the Servicer and the Seller (such consent not to be unreasonably withheld, conditioned or delayed; provided, however, that such consent shall not be required if an Event of Default or an Unmatured Event of Default has occurred and is continuing);

- (ii) each such assignment shall be of a constant, and not a varying, percentage of all rights and obligations under this Agreement;
- (iii) the amount being assigned pursuant to each such assignment (determined as of the date of the Assignment and Acceptance Agreement with respect to such assignment) shall in no event be less than the lesser of (x) \$5,000,000 and (y) all of the assigning Purchaser's Commitment;
- (iv) each such assignment (or sale, participation, pledge or similar transfer) by a Purchaser of any Investments, Sold Assets, or Pool Receivables (whether in whole or in part) shall require and be deemed a transfer of the associated rights and obligations under this Agreement in respect therewith; and
- (v) the parties to each such assignment shall execute and deliver to the Administrative Agent, for its acceptance and recording in the Register, an Assignment and Acceptance Agreement and any documentation required by Sections 4.03(f) and 4.03(g).

Upon such execution, delivery, acceptance and recording from and after the effective date specified in such Assignment and Acceptance Agreement, (x) the assignee thereunder shall be a party to this Agreement, and to the extent that rights and obligations under this Agreement have been assigned to it pursuant to such Assignment and Acceptance Agreement, have the rights and obligations of a Purchaser hereunder and (y) the assigning Purchaser shall, to the extent that rights and obligations have been assigned by it pursuant to such Assignment and Acceptance Agreement, relinquish such rights and be released from such obligations under this Agreement (and, in the case of an Assignment and Acceptance Agreement covering all or the remaining portion of an assigning Purchaser's rights and obligations under this Agreement, such Purchaser shall cease to be a party hereto).

(b) Register. The Administrative Agent shall, acting solely for this purpose as a non-fiduciary agent of the Seller, maintain at its address referred to on Schedule III of this Agreement (or such other address of the Administrative Agent notified by the Administrative Agent to the other parties hereto) a copy of each Assignment and Acceptance Agreement delivered to and accepted by it and a register for the recordation of the names and addresses of the Purchasers, the Commitment of each Purchaser and the aggregate outstanding Capital (and stated Yield) of each Purchaser from time to time (the "Register"). The entries in the Register shall be conclusive and binding for all purposes, absent manifest error, and the Seller, the Servicer, the Administrative Agent, the Purchasers, and the other Purchaser Parties shall treat each Person whose name is recorded in the Register pursuant to the terms of this Agreement as a Purchaser under this Agreement for all purposes of this Agreement. The Register shall be available for inspection by the Seller, the Servicer or any Purchaser at any reasonable time and from time to time upon reasonable prior notice.

(c) Procedure. Upon its receipt of an Assignment and Acceptance Agreement executed and delivered by an assigning Purchaser and an Eligible Assignee or assignee Purchaser, the Administrative Agent shall, if such Assignment and Acceptance Agreement has been duly completed, (i) accept such Assignment and Acceptance Agreement, (ii) record the information contained therein in the Register and (iii) give prompt notice thereof to the Seller and the Servicer.

(d) Participations. Each Purchaser may sell participations to one or more Eligible Assignees (each, a “Participant”) in or to all or a portion of its rights and/or obligations under this Agreement (including all or a portion of its Commitment and its Capital and Yield thereon); provided, however, that

(i) such Purchaser’s obligations under this Agreement (including its Commitment to the Seller hereunder) shall remain unchanged; and

(ii) such Purchaser shall remain solely responsible to the other parties to this Agreement for the performance of such obligations.

The Administrative Agent, the other Purchasers, the Seller and the Servicer shall have the right to continue to deal solely and directly with such Purchaser in connection with such Purchaser’s rights and obligations under this Agreement. The Seller agrees that each Participant shall be entitled to the benefits of Sections 4.01 and 4.03 (subject to the requirements and limitations therein, including the requirements under Section 4.03(f) (it being understood that the documentation required under Section 4.03(f) shall be delivered to the participating Purchaser)) to the same extent as if it were a Purchaser and had acquired its interest by assignment pursuant to clause (b) of this Section; provided that such Participant shall not be entitled to receive any greater payment under Section 4.01 or 4.03, with respect to any participation, than its participating Purchaser would have been entitled to receive, except to the extent such entitlement to receive a greater payment results from a Change in Law that occurs after the Participant acquired the applicable participation.

(e) Participant Register. Each Purchaser that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of the Seller, maintain a register on which it enters the name and address of each Participant and the Capital (and stated Yield) participated to each Participant, together with each Participant’s interest in the other obligations under this Agreement (the “Participant Register”); provided that no Purchaser shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a Participant’s interest in any Commitments, Capital, Yield or its other obligations under any this Agreement) to any Person except to the extent that such disclosure is necessary to establish that such Commitment, Capital, Yield or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and such Purchaser shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. For the avoidance of doubt, the Administrative Agent (in its capacity as Administrative Agent) shall have no responsibility for maintaining a Participant Register.

(f) Assignments by the Seller or the Servicer. Neither the Seller nor, except as provided in Section 8.01, the Servicer may assign any of its respective rights or obligations hereunder or any interest herein without the prior written consent of the Administrative Agent and each Purchaser (such consent to be provided or withheld in the sole discretion of such Person).

(g) Assignments by the Administrative Agent. This Agreement and the rights and obligations of the Administrative Agent herein shall be assignable by the Administrative Agent and its successors and assigns; provided that in the case of an assignment to a Person that is not an Affiliate of the Administrative Agent or a Purchaser, so long as no Event of Default or Unmatured Event of Default has occurred and is continuing, such assignment shall require the Purchaser's consent (not to be unreasonably withheld, conditioned or delayed).

(h) Addition of Purchasers. The Seller may, with written notice to the Administrative Agent and each Purchaser, add additional Persons as Purchasers or cause an existing Purchaser to increase its Commitment; provided, however, that the Commitment of any existing Purchaser may only be increased with the prior written consent of such Purchaser. Each new Purchaser shall become a party hereto, by executing and delivering to the Administrative Agent and the Seller, an assumption agreement (each, an "Assumption Agreement") in the form of Exhibit D hereto (which Assumption Agreement shall, in the case of any new Purchaser, be executed by such Purchaser).

(i) Pledge to a Federal Reserve Bank. Notwithstanding anything to the contrary set forth herein, (i) any Purchaser or any of their respective Affiliates may at any time pledge or grant a security interest in all or any portion of its interest in, to and under this Agreement (including rights to payment of Capital and Yield) and any other Transaction Document to secure its obligations to a Federal Reserve Bank, without notice to or the consent of the Seller, the Servicer, any Affiliate thereof or any Purchaser Party; provided, however, that that no such pledge shall relieve such assignor of its obligations under this Agreement.

SECTION 13.04. Costs and Expenses. In addition to the rights of indemnification granted under Section 12.01 hereof, the Seller agrees to pay on demand all reasonable and documented out-of-pocket costs and expenses in connection with the preparation, negotiation, execution, delivery and administration of this Agreement (or any supplement or amendment thereof) related to this Agreement and the other Transaction Documents (together with all amendments, restatements, supplements, consents and waivers, if any, from time to time hereto and thereto), including (i) the reasonable Attorney Costs for the Administrative Agent and the other Purchaser Parties and any of their respective Affiliates with respect thereto and with respect to advising the Administrative Agent and the other Purchaser Parties and their respective Affiliates as to their rights and remedies under this Agreement and the other Transaction Documents and (ii) reasonable accountants', auditors' and consultants' fees and expenses for the Administrative Agent and the other Purchaser Parties and any of their respective Affiliates incurred in connection with the administration and maintenance of this Agreement or advising the Administrative Agent or any other Purchaser Party as to their rights and remedies under this Agreement or as to any actual or reasonably claimed breach of this Agreement or any other Transaction Document. In addition, the Seller agrees to pay on demand all reasonable and documented out-of-pocket costs and expenses (including reasonable Attorney Costs), of the

Administrative Agent and the other Purchaser Parties and their respective Affiliates, incurred in connection with the enforcement of any of their respective rights or remedies under the provisions of this Agreement and the other Transaction Documents.

SECTION 13.05. No Proceedings; Limitation on Payments. Each of the Servicer, each Purchaser, each Purchaser and each assignee of Capital or any Yield thereof or of any other Seller Obligations, hereby covenants and agrees that it will not institute against, or join any other Person in instituting against, the Seller any Insolvency Proceeding until one year and one day after the Final Payout Date; provided, that the Administrative Agent may take any such action in its sole discretion following the occurrence of an Event of Default. The provisions of this Section 13.05 shall survive any termination of this Agreement.

SECTION 13.06. Confidentiality.

(a) Each of the Seller and the Servicer covenants and agrees to hold in confidence, and not disclose to any Person, the terms of the Fee Letter (including any fees payable in connection with the Fee Letter), except as the Administrative Agent and each Purchaser may have consented to in writing prior to any proposed disclosure; provided, however, that it may disclose such information (i) to its Advisors and Representatives, (ii) to the extent such information has become available to the public other than as a result of a disclosure by or through the Seller, the Servicer or their Advisors and Representatives or (iii) to the extent it is (A) required by Applicable Law, or in connection with any legal or regulatory proceeding or (B) requested by any Governmental Authority to disclose such information; provided, that, in the case of clause (iii) above, the Seller and the Servicer will use reasonable efforts to maintain confidentiality and will (unless otherwise prohibited by Applicable Law) notify the Administrative Agent and the affected Purchaser Party of its intention to make any such disclosure prior to making such disclosure. Each of the Seller and the Servicer agrees to be responsible for any breach of this Section by its Representatives and Advisors and agrees that its Representatives and Advisors will be advised by it of the confidential nature of such information and shall agree to comply with this Section. Notwithstanding the foregoing, it is expressly agreed that each of the Seller, the Servicer and their respective Affiliates may publish a press release or otherwise publicly announce the existence and principal amount of the Commitments under this Agreement and the transactions contemplated hereby; provided that the Administrative Agent shall be provided a reasonable opportunity to review such press release or other public announcement prior to its release and provide comment thereon; and provided, further, that no such press release shall name or otherwise identify the Administrative Agent, any other Purchaser Party or any of their respective Affiliates without such Person's prior written consent (such consent not to be unreasonably withheld, conditioned or delayed). Notwithstanding the foregoing, the Seller consents to the publication by the Administrative Agent or any other Purchaser Party of a tombstone or similar advertising material relating to the financing transactions contemplated by this Agreement.

(b) Each of the Administrative Agent and each other Purchaser Party, severally and with respect to itself only, agrees to hold in confidence, and not disclose to any Person, any confidential and proprietary information concerning the Seller, the Servicer and their respective Affiliates and their businesses or the terms of this Agreement (including any fees payable in connection with this Agreement or the other Transaction Documents), except as the

Seller or the Servicer may have consented to in writing prior to any proposed disclosure; provided, however, that it may disclose such information (i) to its Advisors and Representatives, (ii) to its assignees and Participants and potential assignees and Participants and their respective counsel if they agree in writing to hold it confidential, (iii) to the extent such information has become available to the public other than as a result of a disclosure by or through it or its Representatives or Advisors, (iv) at the request of a bank examiner or other regulatory authority or in connection with an examination of any of the Administrative Agent or any Purchaser or their respective Affiliates or (v) to the extent it is (A) required by Applicable Law, or in connection with any legal or regulatory proceeding or (B) requested by any Governmental Authority to disclose such information; provided, that, in the case of clause (v) above, the Administrative Agent and each Purchaser will use reasonable efforts to maintain confidentiality and will (unless otherwise prohibited by Applicable Law) notify the Seller and the Servicer of its making any such disclosure as promptly as reasonably practicable thereafter. Each of the Administrative Agent and each Purchaser, severally and with respect to itself only, agrees to be responsible for any breach of this Section by its Representatives and Advisors and agrees that its Representatives and Advisors will be advised by it of the confidential nature of such information and shall agree to comply with this Section.

(c) As used in this Section, (i) “Advisors” means, with respect to any Person, such Person’s accountants, attorneys and other confidential advisors and (ii) “Representatives” means, with respect to any Person, such Person’s Affiliates, Subsidiaries, directors, managers, officers, employees, members, investors, financing sources, insurers, professional advisors, representatives and agents; *provided* that such Persons shall not be deemed to Representatives of a Person unless (and solely to the extent that) confidential information is furnished to such Person.

(d) Notwithstanding the foregoing, to the extent not inconsistent with applicable securities laws, each party hereto (and each of its employees, representatives or other agents) may disclose to any and all persons of any kind, the tax treatment and tax structure (as defined in Section 1.6011-4 of the Treasury Regulations) of the transactions contemplated by the Transaction Documents and all materials of any kind (including opinions or other tax analyses) that are provided to such Person relating to such tax treatment and tax structure.

SECTION 13.07. GOVERNING LAW. THIS AGREEMENT, INCLUDING THE RIGHTS AND DUTIES OF THE PARTIES HERETO, SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK (INCLUDING SECTIONS 5-1401 AND 5-1402 OF THE GENERAL OBLIGATIONS LAW OF THE STATE OF NEW YORK, BUT WITHOUT REGARD TO ANY OTHER CONFLICTS OF LAW PROVISIONS THEREOF, EXCEPT TO THE EXTENT THAT THE PERFECTION, THE EFFECT OF PERFECTION OR PRIORITY OF THE INTERESTS OF ADMINISTRATIVE AGENT OR ANY PURCHASER IN THE SOLD ASSETS OR SELLER COLLATERAL IS GOVERNED BY THE LAWS OF A JURISDICTION OTHER THAN THE STATE OF NEW YORK).

SECTION 13.08. Execution in Counterparts. This Agreement may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original and all of which when taken together shall constitute one and the same agreement. Delivery of an

executed counterpart hereof by facsimile or other electronic means shall be equally effective as delivery of an originally executed counterpart. The words "execution", "executed", "signed", "signature", and words of like import in this Agreement and the other Transaction Documents shall be deemed to include electronic signatures or electronic records, 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 the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

SECTION 13.09. Integration; Binding Effect; Survival of Termination. This Agreement and the other Transaction Documents contain the final and complete integration of all prior expressions by the parties hereto with respect to the subject matter hereof and shall constitute the entire agreement among the parties hereto with respect to the subject matter hereof superseding all prior oral or written understandings. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns. This Agreement shall create and constitute the continuing obligations of the parties hereto in accordance with its terms and shall remain in full force and effect until the Final Payout Date; provided, however, that the provisions of Sections 4.01, 4.02, 4.03, 10.04, 10.06, 12.01, 12.02, 13.04, 13.05, 13.06, 13.09, 13.11 and 13.13 shall survive any termination of this Agreement.

SECTION 13.10. CONSENT TO JURISDICTION. (a) EACH PARTY HERETO HEREBY IRREVOCABLY SUBMITS TO (I) WITH RESPECT TO THE SELLER AND THE SERVICER, THE EXCLUSIVE JURISDICTION, AND (II) WITH RESPECT TO EACH OF THE OTHER PARTIES HERETO, THE NON-EXCLUSIVE JURISDICTION, IN EACH CASE, OF ANY NEW YORK STATE OR FEDERAL COURT SITTING IN NEW YORK CITY, NEW YORK IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER TRANSACTION DOCUMENT, AND EACH PARTY HERETO HEREBY IRREVOCABLY AGREES THAT ALL CLAIMS IN RESPECT OF SUCH ACTION OR PROCEEDING (I) IF BROUGHT BY THE SELLER, THE SERVICER OR ANY AFFILIATE THEREOF, SHALL BE HEARD AND DETERMINED, AND (II) IF BROUGHT BY ANY OTHER PARTY TO THIS AGREEMENT OR ANY OTHER TRANSACTION DOCUMENT, MAY BE HEARD AND DETERMINED, IN EACH CASE, IN SUCH NEW YORK STATE COURT OR, TO THE EXTENT PERMITTED BY LAW, IN SUCH FEDERAL COURT. NOTHING IN THIS SECTION 13.10 SHALL AFFECT THE RIGHT OF THE ADMINISTRATIVE AGENT OR ANY OTHER PURCHASER PARTY TO BRING ANY ACTION OR PROCEEDING AGAINST THE SELLER OR THE SERVICER OR ANY OF THEIR RESPECTIVE PROPERTY IN THE COURTS OF OTHER JURISDICTIONS. EACH OF THE SELLER AND THE SERVICER HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT IT MAY EFFECTIVELY DO SO, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING. THE PARTIES HERETO AGREE THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW.

(b) EACH OF THE SELLER AND THE SERVICER CONSENTS TO THE SERVICE OF ANY AND ALL PROCESS IN ANY SUCH ACTION OR PROCEEDING BY THE MAILING OF COPIES OF SUCH PROCESS TO IT AT ITS ADDRESS SPECIFIED IN SCHEDULE III. NOTHING IN THIS SECTION 13.10 SHALL AFFECT THE RIGHT OF THE ADMINISTRATIVE AGENT OR ANY OTHER PURCHASER PARTY TO SERVE LEGAL PROCESS IN ANY OTHER MANNER PERMITTED BY LAW.

SECTION 13.11. WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY WAIVES, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, TRIAL BY JURY IN ANY JUDICIAL PROCEEDING INVOLVING, DIRECTLY OR INDIRECTLY, ANY MATTER (WHETHER SOUNDING IN TORT, CONTRACT OR OTHERWISE) IN ANY WAY ARISING OUT OF, RELATED TO, OR CONNECTED WITH THIS AGREEMENT OR ANY OTHER TRANSACTION DOCUMENT.

SECTION 13.12. Ratable Payments. If any Purchaser Party, whether by setoff or otherwise, has payment made to it with respect to any Seller Obligations in a greater proportion than that received by any other Purchaser Party entitled to receive a ratable share of such Seller Obligations, such Purchaser Party agrees, promptly upon demand, to purchase for cash without recourse or warranty a portion of such Seller Obligations held by the other Purchaser Parties so that after such purchase each Purchaser Party will hold its ratable proportion of such Seller Obligations; provided that if all or any portion of such excess amount is thereafter recovered from such Purchaser Party, such purchase shall be rescinded and the purchase price restored to the extent of such recovery, but without interest.

SECTION 13.13. Limitation of Liability.

(a) No claim may be made by the Seller or any Affiliate thereof or any other Person against any Purchaser Party or their respective Affiliates, members, directors, officers, employees, incorporators, attorneys or agents for any special, indirect, consequential or punitive damages in respect of any claim for breach of contract or any other theory of liability arising out of or related to the transactions contemplated by this Agreement or any other Transaction Document, or any act, omission or event occurring in connection herewith or therewith; and each of the Seller and the Servicer hereby waives, releases, and agrees not to sue upon any claim for any such damages, whether or not accrued and whether or not known or suspected to exist in its favor. None of the Purchaser Parties and their respective Affiliates shall have any liability to the Seller or any Affiliate thereof or any other Person asserting claims on behalf of or in right of the Seller or any Affiliate thereof in connection with or as a result of this Agreement or any other Transaction Document or the transactions contemplated hereby or thereby, except to the extent that any losses, claims, damages, liabilities or expenses incurred by the Seller or any Affiliate thereof result from the breach of contract, gross negligence or willful misconduct of such Purchaser Party in performing its duties and obligations hereunder and under the other Transaction Documents to which it is a party.

(b) The obligations of the Administrative Agent and each of the other Purchaser Parties under this Agreement and each of the Transaction Documents are solely the corporate obligations of such Person. No recourse shall be had for any obligation or claim arising out of or based upon this Agreement or any other Transaction Document against any member, director, officer, employee or incorporator of any such Person.

SECTION 13.14. Intended Tax Treatment. The parties hereto agree that the obligations of the Seller hereunder (including the obligation to return Capital to the Purchasers and make payments of Yield thereon) are intended to be treated under United States federal, and applicable state, local and foreign tax law as debt (the "Intended Tax Treatment"). The Seller, the Servicer, the Administrative Agent and the other Purchaser Parties agree to file no tax return, or take any action, inconsistent with the Intended Tax Treatment unless required by law. Each assignee and each Participant acquiring an interest in an Investment, by its acceptance of such assignment or participation, agrees to comply with the immediately preceding sentence.

SECTION 13.15. USA Patriot Act. Each of the Administrative Agent and each of the other Purchaser Parties hereby notifies the Seller and the Servicer that pursuant to the requirements of the USA PATRIOT Act, Title III of Pub. L. 107-56 (signed into law October 26, 2001) (the "PATRIOT Act"), the Administrative Agent and the other Purchaser Parties may be required to obtain, verify and record information that identifies each Harsco Party, which information includes the name, address, tax identification number and other information regarding each Harsco Party that will allow the Administrative Agent and the other Purchaser Parties to identify each Harsco Party in accordance with the PATRIOT Act. This notice is given in accordance with the requirements of the PATRIOT Act. Each of the Seller and the Servicer agrees to provide the Administrative Agent and each other Purchaser Parties, from time to time, with all documentation and other information required by bank regulatory authorities under "know your customer" and anti-money laundering rules and regulations, including the PATRIOT Act.

SECTION 13.16. Right of Setoff.

(a) Each Purchaser Party is hereby authorized (in addition to any other rights it may have), at any time during the continuance of an Event of Default, to setoff, appropriate and apply (without presentment, demand, protest or other notice which are hereby expressly waived) any deposits and any other indebtedness held or owing by such Purchaser Party (including by any branches or agencies of such Purchaser Party) to, or for the account of, the Seller against unpaid and outstanding amounts due and owing by the Seller hereunder; provided that such Purchaser Party shall notify the Seller promptly following such setoff.

(b) Each Purchaser Party is hereby authorized (in addition to any other rights it may have), at any time during the continuance of an Event of Default, to setoff, appropriate and apply (without presentment, demand, protest or other notice which are hereby expressly waived) any deposits and any other indebtedness held or owing by such Purchaser Party (including by any branches or agencies of such Purchaser Party) to, or for the account of, the Servicer against unpaid and outstanding amounts due and owing by the Servicer hereunder; provided that such Purchaser Party shall notify the Servicer promptly following such setoff.

SECTION 13.17. Severability. Any provisions of this Agreement which are prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

SECTION 13.18. Mutual Negotiations. This Agreement and the other Transaction Documents are the product of mutual negotiations by the parties thereto and their counsel, and no party shall be deemed the draftsperson of this Agreement or any other Transaction Document or any provision hereof or thereof or to have provided the same. Accordingly, in the event of any inconsistency or ambiguity of any provision of this Agreement or any other Transaction Document, such inconsistency or ambiguity shall not be interpreted against any party because of such party's involvement in the drafting thereof.

SECTION 13.19. Captions and Cross References. The various captions (including the table of contents) in this Agreement are provided solely for convenience of reference and shall not affect the meaning or interpretation of any provision of this Agreement. Unless otherwise indicated, references in this Agreement to any Section, Schedule or Exhibit are to such Section Schedule or Exhibit to this Agreement, as the case may be, and references in any Section, subsection, or clause to any subsection, clause or subclause are to such subsection, clause or subclause of such Section, subsection or clause.

**[Signature Pages Follow]**

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their respective officers thereunto duly authorized, as of the date first above written.

**HARSCO RECEIVABLES LLC,**  
as the Seller

By: /s/ Michael Kolinsky  
Name: Michael Kolinsky  
Title: Vice President

**HARSCO CORPORATION,**  
as the Servicer

By: /s/ Michael Kolinsky  
Name: Michael Kolinsky  
Title: Vice President - Treasurer, Tax and Real Estate

S-1

*Harsco/PNC –  
Receivables Purchase Agreement*

**PNC BANK, NATIONAL ASSOCIATION,**  
as Administrative Agent

By: /s/ Eric Bruno  
Name: Eric Bruno  
Title: Senior Vice President

**PNC BANK, NATIONAL ASSOCIATION,**  
as a Purchaser

By: /s/ Eric Bruno  
Name: Eric Bruno  
Title: Senior Vice President

**PNC CAPITAL MARKETS LLC,**  
as Structuring Agent

By: /s/ Eric Bruno  
Name: Eric Bruno  
Title: Managing Director

**SCHEDULE I**

**Commitments**

**PNC Bank, National Association**

<u>Party</u>	<u>Capacity</u>	<u>Commitment</u>
PNC Bank, National Association	Purchaser	\$150,000,000

Schedule I-1

PURCHASE AND CONTRIBUTION AGREEMENT

Dated as of June 24, 2022

among

VARIOUS ENTITIES LISTED ON SCHEDULE I HERETO,  
as Originators,

HARSCO CORPORATION,  
as Servicer,

and

HARSCO RECEIVABLES LLC,  
as Buyer

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This PURCHASE AND CONTRIBUTION AGREEMENT (as amended, restated, supplemented or otherwise modified from time to time, this "Agreement"), dated as of June 24, 2022 is entered into among the VARIOUS ENTITIES LISTED ON SCHEDULE I HERETO as "Originators" (as such schedule may be amended from time to time in accordance with the terms hereof) (collectively, including the Contributing Originators (as defined below), the "Originators" and each, an "Originator"), HARSCO CORPORATION, a Delaware corporation ("Harsco"), as initial Servicer (as defined below) and an Originator, and HARSCO RECEIVABLES LLC, a Delaware limited liability company (the "Buyer").

## DEFINITIONS

Unless otherwise indicated herein, capitalized terms used and not otherwise defined in this Agreement are defined in the Receivables Purchase Agreement, dated as of the date hereof (as the same may be amended, restated, supplemented or otherwise modified from time to time, the "Receivables Purchase Agreement"), among the Buyer, as borrower, Harsco, as initial Servicer (in such capacity together with any successors and assigns, the "Servicer"), the Persons from time to time party thereto as Purchasers, PNC Bank, National Association, as Administrative Agent and PNC Capital Markets LLC, as Structuring Agent. The rules of construction set forth in Section 1.02 of the Receivables Purchase Agreement are hereby incorporated in this Agreement by reference as if such rules of construction were set forth herein in their entirety.

## BACKGROUND

1. The Buyer is a special purpose limited liability company, all of the Capital Stock of which is owned by the Originators set forth on Schedule V, as such schedule may be amended from time to time in accordance with the terms of this Agreement (in such capacity, the "Contributing Originators").
2. The Originators generate Receivables in the ordinary course of their businesses.
3. The Originators wish to sell and/or, in the case of any Contributing Originator, contribute Receivables and the Related Rights to the Buyer, and the Buyer is willing to purchase and/or accept such Receivables and the Related Rights from the Originators, on the terms and subject to the conditions set forth herein.
4. The Originators and the Buyer intend each such transaction to be a true sale and/or, in the case of any Contributing Originator, an absolute contribution and conveyance of Receivables and the Related Rights by each Originator to the Buyer, providing the Buyer with the full benefits of ownership of the Receivables, and the Originators and the Buyer do not intend the transactions hereunder to be, or to be characterized as, a loan from the Buyer to any Originator.
5. The Buyer intends to sell and pledge the Receivables and the Related Rights to the Administrative Agent pursuant to the Receivables Purchase Agreement.

*Purchase and Contribution Agreement*

NOW, THEREFORE, in consideration of the premises and the mutual agreements herein contained, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, agree as follows:

## ARTICLE I AGREEMENT TO PURCHASE AND SELL

SECTION 1.1 Agreement To Purchase and Sell. On the terms and subject to the conditions set forth in this Agreement, each Originator, severally and for itself, agrees to sell to the Buyer, and the Buyer agrees to purchase from such Originator, from time to time on or after the Closing Date, but before the Purchase and Contribution Termination Date (as defined in Section 1.4), all of such Originator's right, title and interest in and to:

- (a) each Receivable (other than Contributed Receivables as defined in Section 3.1(a)) of such Originator that existed and was owing to such Originator at the closing of such Originator's business on the Cut-Off Date (as defined below);
- (b) each Receivable (other than Contributed Receivables) generated by such Originator from and including the Cut-Off Date to but excluding the Purchase and Contribution Termination Date;
- (c) all of such Originator's interest in any goods (including Returned Goods), and documentation of title evidencing the shipment or storage of any goods (including Returned Goods), the sale of which gave rise to such Receivable;
- (d) all instruments and chattel paper that may evidence such Receivable;
- (e) all letter of credit rights and security interests or liens and property subject thereto from time to time purporting to secure payment of such Receivable, whether pursuant to the Contract related to such Receivable or otherwise, together with all UCC financing statements or similar filings relating thereto;
- (f) solely to the extent applicable to such Receivable, all of such Originator's rights, interests and claims under the related Contracts and all guaranties, indemnities, insurance and other agreements (including the related Contract) or arrangements of whatever character from time to time supporting or securing payment of such Receivable or otherwise relating to such Receivable, whether pursuant to the Contract related to such Receivable or otherwise;
- (g) all books and records of such Originator to the extent related to any of the foregoing, and all rights, remedies, powers, privileges, title and interest (but not obligations) in and to each Lock-Box and all Collection Accounts, into which any Collections or other proceeds with respect to such Receivables may be deposited, and any related investment property acquired with any such Collections or other proceeds (as such term is defined in the applicable UCC); and
- (h) all Collections and other proceeds (as defined in the UCC) of any of the foregoing that are or were received by such Originator on or after the Cut-Off Date, including all funds which either are received by such Originator, the Buyer or the Servicer from or on behalf of the Obligors in payment of any amounts owed (including invoice price, finance charges,

interest and all other charges) in respect of any of the above Receivables or are applied to such amounts owed by the Obligors (including any insurance payments that such Originator, the Buyer or the Servicer applies in the ordinary course of its business to amounts owed in respect of any of the above Receivables, and net proceeds of sale or other disposition of Returned Goods or other collateral of the Obligors in respect of any of the above Receivables or any other parties directly or indirectly liable for payment of such Receivables).

All purchases and contributions hereunder shall be made without recourse, but shall be made pursuant to, and in reliance upon, the representations, warranties and covenants of the Originators set forth in this Agreement. No obligation or liability to any Obligor on any Receivable is intended to be assumed by the Buyer hereunder, and any such assumption is expressly disclaimed. The property, proceeds and rights described in clauses (c) through (h) above, including with respect to any Contributed Receivable, are herein referred to as the “Related Rights”, and the Buyer’s foregoing agreement to purchase Receivables and Related Rights is herein called the “Purchase Facility”.

As used herein, “Cut-Off Date” means (a) with respect to each Originator party hereto on the date hereof, May 31, 2022, and (b) with respect to any additional Originator that becomes a party hereto after the date hereof, the Business Day immediately prior to the date on which such Originator becomes a party hereto or such other date as the Buyer and such Originator agree to in writing.

#### SECTION 1.2 Timing of Purchases.

(a) Closing Date Purchases. Effective on the Closing Date, each Originator hereby sells to the Buyer, and the Buyer hereby purchases, such Originator’s entire right, title and interest in, to and under (i) each Receivable (other than Contributed Receivables) that existed and was owing to such Originator at the Cut-Off Date, (ii) each Receivable (other than Contributed Receivables) generated by such Originator from and including the Cut-Off Date, to and including the Closing Date, and (iii) all Related Rights with respect thereto.

(b) Subsequent Purchases. After the Closing Date, until the Purchase and Contribution Termination Date, each Receivable and the Related Rights generated by each Originator shall be, and shall be deemed to have been, sold or contributed, as applicable, by such Originator to the Buyer immediately (and without further action) upon the creation of such Receivable.

SECTION 1.3 Consideration for Purchases. On the terms and subject to the conditions set forth in this Agreement, the Buyer agrees to make Purchase Price payments to the Originators and to reflect all capital contributions in accordance with Article III.

SECTION 1.4 Purchase and Contribution Termination Date. The “Purchase and Contribution Termination Date” shall be the earliest to occur of (a) the date the Purchase Facility is terminated by any Contributing Originator pursuant to Section 3.1(e), (b) the date the Purchase Facility is terminated by Buyer (with the prior written consent of the Administrative Agent) pursuant to Section 8.2(a) and (c) the Final Payout Date.

SECTION 1.5 Intention of the Parties. It is the express intent of each Originator and the Buyer that each conveyance by such Originator to the Buyer of the Receivables pursuant to this Agreement, including all Receivables, if any, constituting general intangibles as defined in the UCC, and all Related Rights be a true sale and/or contribution and be construed as a valid and perfected sale (or contribution) and an absolute and irrevocable assignment (without recourse except as provided herein) of such Receivables and Related Rights by such Originator to the Buyer (rather than the grant of a security interest to secure a debt or other obligation of such Originator), providing the Buyer with the full risk and benefit of ownership of the Receivables and Related Rights, and that the right, title and interest in and to such Receivables and Related Rights conveyed to the Buyer be prior to the rights of and enforceable against all other Persons at any time, including lien creditors, secured lenders, purchasers and any Person claiming through such Originator. If, contrary to the mutual intent of the parties, any conveyance of Receivables, including without limitation any Receivables constituting general intangibles as defined in the UCC, and all Related Rights is not construed to be both a valid and perfected sale (or contribution) and absolute assignment of such Receivables and Related Rights, then, it is the intent of each Originator and the Buyer that, (i) this Agreement also shall be deemed to be, and hereby is, a security agreement within the meaning of the UCC and (ii) for the purpose of securing all obligations of such Originator hereunder, each Originator shall be deemed to have granted to the Buyer as of the date of this Agreement, and such Originator hereby grants to the Buyer a security interest in, to and under all of such Originator's right, title and interest in and to: (A) the Receivables and the Related Rights now existing and hereafter arising or created by such Originator transferred or purported to be transferred hereunder, (B) all monies due or to become due and all amounts received with respect thereto and (C) all books and records of such Originator to the extent related to any of the foregoing.

## ARTICLE II PURCHASE RECORDS; CALCULATION OF PURCHASE PRICE

SECTION 2.1 Purchase Records. On the Closing Date and on or prior to each date when an Information Package is due to be delivered under the Receivables Purchase Agreement (each such date, a "Monthly Purchase Record Date"), the Servicer shall record in its books and records, which it shall maintain and make available to the Buyer and the Originators upon request, the following information (the "Purchase Records"):

- (a) Receivables purchased by the Buyer from any Originator, or contributed to the capital of the Buyer by any Contributing Originator, on the Closing Date (in the case of the Purchase Records to be recorded on the Closing Date);
- (b) Receivables purchased by the Buyer from any Originator, or contributed to the capital of the Buyer by any Contributing Originator, during the calendar month ended immediately preceding such Monthly Purchase Record Date (in the case of each Monthly Purchase Record Date after the Closing Date); and
- (c) the calculations of reductions of the Purchase Price for any Receivables as provided in Section 3.3(a) and (b).

(d) For the avoidance of doubt, no failure by the Servicer to maintain any Purchase Records, or the existence of any error therein, shall derogate from the Buyer's and its assigns' right, title and interest in, to or under any Receivables or Related Rights conveyed or purported to be conveyed to Buyer hereunder.

SECTION 2.2 Calculation of Purchase Price. The "Purchase Price" to be paid to each Originator on any Payment Date in accordance with the terms of Article III for the Receivables and the Related Rights that are purchased hereunder from such Originator shall be (i) determined in accordance with the following formula and (ii) subject to the reductions as provided in Sections 3.3(a) and (b):

$$PP = OB \times FMVD$$

where:

PP = Purchase Price for each Receivable (and its Related Rights) as calculated on the relevant Payment Date.

OB = The Outstanding Balance of such Receivable on the relevant Payment Date.

FMVD = Fair Market Value Discount, as measured on such Payment Date, which is equal to the quotient (expressed as a percentage) of (a) one, divided by (b) the sum of (i) one, plus (ii) the product of (A) the Prime Rate on such Payment Date, times (B) a fraction, the numerator of which is the Days' Sales Outstanding (calculated as of the last day of the calendar month immediately preceding such Payment Date) and the denominator of which is 365 or 366, as applicable.

"Payment Date" means (i) the Closing Date and (ii) each Business Day thereafter on which any Receivable is generated by an Originator. Notwithstanding anything to the contrary, sale and/or contribution of Receivables and Related Rights, and the application of proceeds with respect thereto, shall occur on a daily basis in accordance with Section 1.2(b) and Sections 3.1 and 3.2; provided that (x) settlement as to the reporting or presentation of such transactions shall occur on the Monthly Purchase Record Date and (y) amounts owing to such Originator shall be payable at any time upon demand by the applicable Originator.

"Prime Rate" has the meaning assigned to such term in the Receivables Purchase Agreement.

### ARTICLE III CONTRIBUTIONS AND PAYMENT OF PURCHASE PRICE

#### SECTION 3.1 Initial Contribution of Receivables and Initial Purchase Price Payment.

(a) On the Closing Date, each applicable Contributing Originator shall, and hereby does, contribute to the capital of the Buyer certain Receivables and Related Rights

consisting of each Receivable and Related Rights of the applicable Contributing Originators that exists and is owing to the applicable Contributing Originators on the Closing Date such that the equity (taking into account any cash contributions made on or prior to the Closing Date) held by the Contributing Originators in the Buyer, after giving effect to such contribution of Receivables (the value of which shall be determined based on the Purchase Price definition) and Related Rights, shall be at least equal to the Required Capital Amount. Each Receivable and Related Rights contributed by any Contributing Originator to the capital of the Buyer hereunder is herein referred to as a “Contributed Receivable”.

(b) On the terms and subject to the conditions set forth in this Agreement, the Buyer agrees to pay to each Originator the Purchase Price for the purchase to be made from such Originator on the Closing Date (i) to the extent the Buyer has cash available therefor, including after giving effect to any advances made to the Buyer under the Receivables Purchase Agreement, partially in cash (in an amount to be agreed between the Buyer and such Originator and set forth in the initial Purchase Records) and, solely in the case of any Contributing Originator if elected by such Contributing Originator in its sole discretion, by accepting a contribution to the Buyer’s capital and (ii) the remainder by accepting a Subordinated Loan from the Servicer on behalf of such Originator that was made under the intercompany loan agreement in the form of Exhibit B (such intercompany loan agreement, as it may be amended, supplemented or otherwise modified from time to time, the “Intercompany Loan Agreement”) with an initial principal amount equal to the aggregate remaining Purchase Price payable to the Originators not paid in cash or, in the case of the Contributing Originators, contributed to the Buyer’s capital.

(c) From time to time after the Closing Date, any Contributing Originator may (in its discretion) contribute to the capital of the Buyer additional Receivables and Related Rights, in lieu of selling such Receivables and Related Rights to Buyer pursuant to Section 1.1. In addition, if on any Business Day the Buyer’s Net Worth would be less than the Required Capital Amount after utilizing all the Buyer’s available cash and the Buyer’s incurrence of any necessary Subordinated Loans in order to pay in full the Purchase Price then due to the Originators hereunder, then the Contributing Originators shall, and hereby do (as of such time) contribute to the capital of the Buyer any additional Receivables and Related Rights then owing to such Contributing Originator (together with cash of such Contributing Originator if it lacks sufficient Receivables and Related Rights at such time) to the extent necessary to prevent the Buyer’s Net Worth from becoming less than the Required Capital Amount.

(d) The Contributing Originators and Servicer shall maintain records of all contributions to the capital of the Buyer hereunder. Notwithstanding such records (or lack thereof), any contributions of Receivables, Related Rights or cash to the capital of the Buyer that are required to be made by the Contributing Originators pursuant to this Section 3.1 shall be made automatically and irrevocably on each day from the Closing Date until the Purchase and Contribution Termination Date.

(e) At any time when the Buyer’s Net Worth would be less than the Required Capital Amount absent additional capital contributions by the Contributing Originators pursuant to Section 3.1(c), any Contributing Originator may, with thirty (30) days’ prior written notice to the Buyer and the Administrative Agent, declare the Purchase Facility terminated; provided,

however, that, for the avoidance of doubt, no such declaration shall become effective until both the Buyer and the Administrative Agent have received such thirty (30) days' prior written notice thereof from any Contributing Originator.

(f) Each Originator hereby authorizes the Servicer, and irrevocably appoints the Servicer as its attorney-in-fact with full power of substitution and with full authority in the place and stead of such Originator, which appointment is coupled with an interest, to (i) enter into the Intercompany Loan Agreement, (ii) enter into any amendment or waiver of the Intercompany Loan Agreement from time to time and (iii) take any and all other actions under or in connection with the Intercompany Loan Agreement or any Subordinated Loan, in each case, in the name and on behalf of such Originator. As used herein, "Subordinated Loan" has the meaning set forth in the Intercompany Loan Agreement.

SECTION 3.2 Subsequent Purchase Price Payments. On each Payment Date subsequent to the Closing Date, on the terms and subject to the conditions set forth in this Agreement, the Buyer shall pay the Purchase Price to each Originator for the Receivables and the Related Rights generated by such Originator and sold to the Buyer pursuant to Sections 1.1 and 1.2 on such Payment Date as follows:

(a) First, in cash to such Originator to the extent the Buyer has cash available therefor, including pursuant to any Release or any available cash proceeds of Capital under the Receivables Purchase Agreement on or prior to such Payment Date (and such payment is not prohibited under the Receivables Purchase Agreement);

(b) Second, solely in the case of the Contributing Originators, if elected by any Contributing Originator in its sole discretion, to the extent any portion of the Purchase Price remains unpaid, by accepting a contribution of such Receivable and the Related Rights to its capital in an amount equal to such remaining unpaid portion of such Purchase Price designated as a contribution to Buyer's capital; and

(c) Third, to the extent any portion of the Purchase Price remains unpaid, a Subordinated Loan shall automatically be made by the Servicer on behalf of and for the benefit of such Originator to the Buyer with an initial principal amount equal to the lesser of (x) such remaining unpaid portion of such Purchase Price and (y) the maximum amount that could be made without rendering the Buyer's Net Worth less than the Required Capital Amount;

provided, however, that (x) if more than one Originator is selling Receivables to the Buyer on the date of such purchase, the Buyer shall make any cash payments among the Originators in such a way as to minimize to the greatest extent practicable the aggregate outstanding principal amount of all Subordinated Loans and (y) if on any Payment Date, the entire Purchase Price for any Receivable is not paid by the Buyer as a result of any of the limitations set forth above, then the Contributing Originators shall, and hereby do as of such Payment Date, automatically contribute to the capital of the Buyer any additional Receivables and Related Rights of the Contributing Originators (together with cash of the Contributing Originators if the Contributing Originators then lacks sufficient Receivables) to the extent necessary to permit the Buyer to satisfy its obligation to pay such Purchase Price in full.

“Net Worth” has the meaning set forth under “Seller’s Net Worth” in the Receivables Purchase Agreement.

All amounts paid by the Buyer to any Originator shall be allocated first to the payment of any Purchase Price then due and unpaid, second to the payment of accrued and unpaid interest on the Subordinated Loans made by the Servicer for the benefit of such Originator and third to the repayment of the outstanding principal amount on the Subordinated Loans made by the Servicer for the benefit of such Originator to the extent of such outstanding principal amount thereof as of the date of such payment, in each case before such amounts may be allocated for any other purpose.

The Servicer shall make all appropriate record keeping entries with respect to the Intercompany Loan Agreement to reflect (x) the foregoing payments and reductions made pursuant to Section 3.3 and (y) the portion of aggregate principal amount outstanding under the Intercompany Loan Agreement payable for the benefit of each Originator. The Servicer’s books and records shall constitute rebuttable presumptive evidence of (x) the principal amount of, and accrued interest on, under the Intercompany Loan Agreement at any time and (y) the respective portions of aggregate principal amount outstanding under the Intercompany Loan Agreement payable for the benefit of each Originator at any time.

Except as otherwise provided in Sections 3.3, any payments made by the Buyer in reduction of the outstanding principal balance under, or accrued and unpaid interest under the Intercompany Loan Agreement shall be allocated to the principal and interest payable for the benefit of the respective Originators ratably in accordance with the respective amounts of principal or interest, as applicable, payable for their benefit under the Intercompany Loan Agreement.

Each Originator acknowledges that it has received a copy of the Intercompany Loan Agreement and agrees to be bound by, and to comply with, all the terms of the Intercompany Loan Agreement, including, without limitation, the subordination provisions set forth therein.

If, on any Business Day, the Buyer is unable to pay the Purchase Price for Receivables and Related Rights pursuant to this Section 3.2, then the Originators shall on such Business Day provide written notice thereof to the Administrative Agent.

### SECTION 3.3 Settlement as to Specific Receivables and Dilution.

(a) If, (i) on the day of purchase of any Receivable from an Originator hereunder, any of the representations or warranties set forth in Sections 5.5, 5.12, 5.13, 5.21, 5.23, 5.26 or 5.27 are not true with respect to such Receivable or (ii) as a result of any action or inaction (other than solely as a result of the failure to collect such Receivable due to a discharge in bankruptcy or similar insolvency proceeding or other credit related reasons with respect to the relevant Obligor) of such Originator, on any subsequent day, any of such representations or warranties set forth in Sections 5.5, 5.12, 5.13, 5.21, 5.23, 5.26 or 5.27 is no longer true with respect to such Receivable, then the Purchase Price for such Receivable shall be reduced by an amount equal to the Outstanding Balance of such Receivable and shall be accounted to such Originator as provided in clause (c) below; provided that, if the Buyer thereafter receives payment on account of the Outstanding Balance of such Receivable, the Buyer promptly shall deliver such funds to such Originator.

(b) If, on any day, the Outstanding Balance of any Receivable purchased or contributed hereunder is either (i) reduced or canceled as a result of (A) any Returned Goods, defective, rejected or foreclosed goods or services, any cash or other discount, or any failure by an Originator to deliver any goods or perform any services or otherwise perform under the underlying Contract or invoice, (B) any change in or cancellation of any of the terms of such Contract or invoice or any other adjustment by an Originator, the Servicer or the Buyer which reduces the amount payable by the Obligor on the related Receivable, (C) any rebates, warranties, allowances or charge-backs or (D) any setoff or credit in respect of any claim by the Obligor thereof (whether such claim arises out of the same or a related transaction or an unrelated transaction), or (ii) subject to any specific dispute, offset, counterclaim or defense whatsoever (other than solely as a result of the failure to collect such Receivable due to a discharge in bankruptcy or similar insolvency proceeding or other credit related reasons with respect to the relevant Obligor), then the Purchase Price with respect to such Receivable shall be reduced by the amount of such net reduction or dispute and shall be accounted to such Originator as provided in clause (c) below.

(c) Any reduction in the Purchase Price of any Receivable pursuant to clause (a) or (b), above shall be applied as a credit for the account of the Buyer against the Purchase Price of Receivables subsequently purchased by the Buyer from such Originator hereunder; provided, however, if, on such day, there have been no purchases of Receivables from such Originator (or insufficiently large purchases of Receivables) to create a Purchase Price sufficient to so apply such credit against, the amount of such credit:

(i) to the extent of any outstanding principal balance under the Subordinated Loans made by the Servicer for the benefit of such Originator, shall be deemed to be a payment under, and shall be deducted from the outstanding principal amount of, the Subordinated Loans made by the Servicer for the benefit of such Originator; and

(ii) after making any deduction pursuant to clause (i) above, shall be paid in cash to the Buyer by such Originator in the manner and for application as described in the following proviso:

provided, further, that at any time (x) when an Event of Default or an Unmatured Event of Default exists under the Receivables Purchase Agreement or (y) on or after the Termination Date or the Purchase and Contribution Termination Date, the amount of any such credit shall be paid by such Originator to the Buyer in cash by deposit of immediately available funds into a Collection Account for application by the Servicer to the same extent as if Collections of the applicable Receivable in such amount had actually been received on such date.

ARTICLE IV  
CONDITIONS OF PURCHASES; ADDITIONAL ORIGINATORS; REMOVAL OF ORIGINATORS

SECTION 4.1 Conditions Precedent to Initial Purchase. The initial purchase hereunder is subject to the condition precedent that the Buyer, the Administrative Agent (as the Buyer's assignee) and each Purchaser shall have received, on or before the Closing Date, the following, each (unless otherwise indicated) dated the Closing Date, and each in form and substance reasonably satisfactory to the Buyer and the Administrative Agent (as the Buyer's assignee) and each Purchaser:

- (a) a copy of the resolutions or unanimous written consent of the board of directors or other governing body of each Originator, approving this Agreement and the other Transaction Documents to be executed and delivered by it and the transactions contemplated hereby and thereby, certified by the Secretary or Assistant Secretary of such Originator;
- (b) good standing certificates for each Originator issued as of a recent date acceptable to the Buyer and the Administrative Agent (as the Buyer's assignee) by the Secretary of State (or similar official) of the jurisdiction of such Originator's organization or formation;
- (c) a certificate of the Secretary or Assistant Secretary of each Originator, certifying the names and true signatures of the officers authorized on such Person's behalf to sign this Agreement and the other Transaction Documents to be executed and delivered by it (on which certificate the Servicer, the Buyer, the Administrative Agent (as the Buyer's assignee) and each Purchaser may conclusively rely until such time as the Servicer, the Buyer, the Administrative Agent (as the Buyer's assignee) and each Purchaser shall receive from such Person a revised certificate meeting the requirements of this clause (c));
- (d) the certificate of formation or articles of incorporation or other organizational document of each Originator (including all amendments and modifications thereto) duly certified by the Secretary of State (or similar official) of the jurisdiction of such Originator's organization as of a recent date, together with a copy of the by-laws or other governing documents of such Originator (including all amendments and modifications thereto), as applicable, each duly certified by the Secretary or an Assistant Secretary of such Originator;
- (e) proper financing statements (Form UCC-1) that have been duly authorized and name each Originator as the debtor/seller and the Buyer as the assignor secured party/buyer and the Administrative Agent, for the benefit of the Secured Parties (as assignee secured party) of the Receivables and the Related Rights sold or contributed, or purported to be sold or contributed, by such Originator as may be necessary or, in the Buyer's or the Administrative Agent's reasonable opinion, desirable under the UCC of all appropriate jurisdictions to perfect the Buyer's ownership or security interest in such Receivables and the Related Rights in which an ownership or security interest has been assigned to it hereunder;
- (f) a written search report from a Person satisfactory to the Buyer and the Administrative Agent (as the Buyer's assignee) listing all effective financing statements that name the Originators as debtors or sellers and that are filed in each Originator's jurisdiction of organization, together with copies of such financing statements (none of which, except for those described in the foregoing clause (e) (and/or released or terminated, as the case may be, on or prior to the date hereof), shall cover any Receivable or any Related Rights which are to be sold to the Buyer hereunder), and tax and judgment lien search reports (including liens of the PBGC) from a Person satisfactory to the Buyer and the Administrative Agent (as the Buyer's assignee) showing no evidence of such liens filed against any Originator;

(g) favorable opinions of counsel to the Originators, in form and substance reasonably satisfactory to the Buyer, the Administrative Agent and each Purchaser;

(h) a copy of the Intercompany Loan Agreement entered into by the Servicer and the Buyer, duly executed by the Servicer and the Buyer; and

(i) evidence (x) of the execution and delivery by each of the parties thereto of each of the other Transaction Documents to be executed and delivered by it in connection herewith and (y) that each of the conditions precedent to the execution, delivery and effectiveness of such other Transaction Documents has been satisfied to the Buyer's and the Administrative Agent's (as the Buyer's assignee) satisfaction.

SECTION 4.2 Certification as to Representations and Warranties. Each Originator, by accepting the Purchase Price related to each purchase or contribution of Receivables generated by such Originator, shall be deemed to have certified that the representations and warranties of such Originator contained in Article V, as from time to time amended in accordance with the terms hereof, are true and correct in all material respects (unless such representation or warranty contains a materiality qualification and, in such case, such representation and warranty shall be true and correct as made) on and as of such day, with the same effect as though made on and as of such day (except for representations and warranties which apply to an earlier date, in which case such representations and warranties shall be true and correct in all material respects (unless such representation or warranty contains a materiality qualification and, in such case, such representation and warranty shall be true and correct as made) as of such earlier date).

SECTION 4.3 Additional Originators. Additional Persons may be added as Originators hereunder, with the prior written consent of the Buyer, the Administrative Agent and each Purchaser (which consents may be granted or withheld in their sole discretion), in which such case, Schedules I, II and III hereto shall be deemed automatically updated in accordance with the related Joinder Agreement (as defined below) to reflect the addition of such Originator without need for any further action; provided that the following conditions are satisfied or waived in writing by the Administrative Agent and each Purchaser on or before the date of such addition:

(a) the Servicer shall have given the Buyer, the Administrative Agent and each Purchaser at least thirty (30) days' (or such shorter period of time as may be agreed to in writing by the Buyer and the Administrative Agent in its sole discretion) prior written notice of such proposed addition and the identity of the proposed additional Originator and shall have provided such other information with respect to such proposed additional Originator as the Buyer, the Administrative Agent or any Purchaser may reasonably request;

(b) such proposed additional Originator shall have executed and delivered to the Buyer, the Administrative Agent and each Purchaser an agreement substantially in the form attached hereto as Exhibit A (a "Joinder Agreement");

(c) such proposed additional Originator shall have delivered to the Buyer, the Administrative Agent (as the Buyer's assignee) and each Purchaser each of the documents with

respect to such Originator described in Section 4.1, in each case in form and substance reasonably satisfactory to the Buyer, the Administrative Agent (as the Buyer's assignee) and each Purchaser;

(d) if any Collections on Receivables originated by such proposed additional Originator will be remitted to any bank account or lock-box other than those listed on Schedule II to the Receivables Purchase Agreement, the Administrative Agent has received notice of such bank account or lock-box and an executed and acknowledged copy of an Account Control Agreement (or an amendment thereto) in form and substance reasonably acceptable to the Administrative Agent from the applicable Collection Account Bank;

(e) no Purchase and Contribution Termination Event (as defined below) or Unmatured Purchase and Contribution Termination Event (as defined below) shall have occurred and be continuing; and

(f) no Event of Default or Unmatured Event of Default shall have occurred and be continuing.

SECTION 4.4 Removal of Originators. Notwithstanding any other provision of this Agreement, any Originator may be removed as a party to this Agreement in connection with the sale or transfer of such Originator to one or more unrelated third parties without the prior written consent of the Administrative Agent or each Purchaser so long as each of the following conditions are then satisfied (any such entity, an "Excluded Originator"):

(a) the Servicer shall have given the Buyer, the Administrative Agent and each Purchaser at least thirty (30) days' (or such shorter period of time as may be agreed to in writing by the Buyer and the Administrative Agent in its sole discretion) prior written notice, which may be conditional, of such proposed removal and the identity of each such Excluded Originator;

(b) the Servicer shall have delivered to the Buyer, the Administrative Agent and each Purchaser a pro forma Information Package prepared after giving effect to such removal;

(c) such Excluded Originator has executed and delivered to the Buyer, each other Originator, the Administrative Agent and each Purchaser an officer's certificate signed by a Financial Officer of such Excluded Originator with respect to the removal of such Originator in form and substance reasonably acceptable to the Administrative Agent and each Purchaser which shall include, among other things, (i) a certification by such Financial Officer that the requirements set forth in this Section 4.4 have been satisfied and (ii) a statement that the remaining Originators are assuming the indemnity and other obligations of such removed Originator under this Agreement;

(d) the sum of (x) the aggregate Outstanding Balance of Receivables of such Excluded Originator at the time of removal plus (y) with respect to each other Originator (if any) previously removed as a party to this Agreement during the prior twelve months, the aggregate Outstanding Balance of Receivables of such Originator at the time of its removal, does not exceed 20.0% of the aggregate Outstanding Balance of all Receivables at such time;

(e) such Excluded Originator has instructed each Obligor of the Receivables generated by such Excluded Originator to cease remitting payments with respect to such Receivables to any Collection Account and to instead remit payments with respect thereto to any other account (other than a Collection Account) from time to time identified to such Obligor;

(f) such Excluded Originator has delivered such information, documents, certificates and instruments reasonably requested by the Administrative Agent in connection therewith;

(g) the principal amount owing to such Excluded Originator under any applicable Subordinated Loan has been (or substantially concurrently will be) reduced to zero;

(h) no Capital Coverage Deficit exists or would exist immediately after giving effect to such removal;

(i) no Purchase and Contribution Termination Event (as defined below) or Unmatured Purchase and Contribution Termination Event (as defined below) shall have occurred and be continuing; and

(j) no Event of Default or Unmatured Event of Default shall have occurred and be continuing.

Effective immediately prior to the removal of any Excluded Originator as party to this Agreement pursuant to this Section 4.4, such Excluded Originator hereby delegates to Harsco, and Harsco hereby assumes, all of such Excluded Originator's duties, obligations and liabilities (including the indemnity obligations under Section 9.1 of this Agreement) under this Agreement and each of the other Transaction Documents.

SECTION 4.5 Additional Contributing Originators. Additional Originators may be added as Contributing Originators hereunder, with the prior written consent of the Buyer, the Administrative Agent and each Purchaser (which consents may be granted or withheld in their sole discretion), in which such case, Schedules IV hereto shall be deemed automatically updated to reflect the addition of such Contributing Originator without need for any further action; provided that the following conditions are satisfied or waived in writing by the Administrative Agent and each Purchaser on or before the date of such addition:

(a) the Servicer shall have given the Buyer, the Administrative Agent and each Purchaser at least ten (10) days' (or such shorter period of time as may be agreed to in writing by the Buyer and the Administrative Agent in its sole discretion) prior written notice of such proposed addition and the identity of the proposed additional Contributing Originator and shall have provided such other information with respect to such proposed additional Contributing Originator as the Buyer, the Administrative Agent or any Purchaser may reasonably request;

(b) such proposed additional Contributing Originator shall have delivered to the Buyer, the Administrative Agent (as the Buyer's assignee) and each Purchaser a bring-down of the bankruptcy opinions delivered in connection with this Agreement and an amendment to the Buyer's Limited Liability Company Agreement, in each case in form and substance reasonably satisfactory to the Buyer, the Administrative Agent (as the Buyer's assignee) and each Purchaser;

(c) such proposed additional Contributing Originator shall have delivered to the Buyer, the Administrative Agent (as the Buyer's assignee) and each Purchaser a joinder to the Pledge Agreement, in form and substance reasonably satisfactory to the Buyer, the Administrative Agent (as the Buyer's assignee) and each Purchaser;

(d) no Purchase and Contribution Termination Event (as defined below) or Unmatured Purchase and Contribution Termination Event (as defined below) shall have occurred and be continuing; and

(e) no Event of Default or Unmatured Event of Default shall have occurred and be continuing.

## ARTICLE V REPRESENTATIONS AND WARRANTIES OF THE ORIGINATORS

In order to induce the Buyer to enter into this Agreement and to make purchases hereunder, each Originator (and solely with respect to Section 5.22, the Buyer) hereby represents and warrants with respect to itself that each representation and warranty concerning it or the Receivables sold by it hereunder that is pledged as security under the Receivables Purchase Agreement is true and correct, and hereby makes the representations and warranties set forth in this Article V:

SECTION 5.1 Existence and Power. Such Originator (i) is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization or formation, (ii) has full power and authority under its organizational documents and under the laws of the jurisdiction of its organization or formation to own its properties and to conduct its business as such properties are currently owned and such business is presently conducted, except (as it relates to good standing), to the extent that the failure to comply therewith could not reasonably be expected to have a Material Adverse Effect and (iii) is duly qualified to do business, is in good standing as a foreign entity and has obtained all necessary licenses and approvals in all jurisdictions in which the conduct of its business requires such qualification, licenses or approvals, except where the failure to do so could not reasonably be expected to have a Material Adverse Effect.

SECTION 5.2 Power and Authority; Due Authorization. Such Originator (i) has all necessary organizational power and authority to (A) execute and deliver this Agreement and the other Transaction Documents to which it is a party, (B) perform its obligations under this Agreement and the other Transaction Documents to which it is a party and (C) grant a security interest in the Receivables and the Related Rights to the Buyer on the terms and subject to the conditions herein provided and (ii) has duly authorized by all necessary organizational action such grant and the execution, delivery and performance of, and the consummation of the transactions provided for in, this Agreement and the other Transaction Documents to which it is a party.

SECTION 5.3 No Conflict or Violation. The execution, delivery, performance and consummation of the transactions contemplated by, this Agreement and each other Transaction Document to which such Originator is a party, and the fulfillment of the terms hereof and thereof by such Originator, will not (i) conflict with, result in any breach of any of the terms or provisions of, or constitute (with or without notice or lapse of time or both) a default under (x) its organizational documents or (y) any indenture, sale agreement, credit agreement (including the Credit Agreement), loan agreement, security agreement, mortgage, deed of trust or other agreement or instrument to which such Originator is a party or by which it or any of its property is bound, (ii) result in the creation or imposition of any Adverse Claim (other than a Permitted Adverse Claim) upon any of the Sold Assets or Seller Collateral pursuant to the terms of any such indenture, credit agreement (including the Credit Agreement), loan agreement, security agreement, mortgage, deed of trust or other agreement or instrument, other than this Agreement and the other Transaction Documents or (iii) conflict with or violate any Applicable Law, except to the extent that any such conflict, breach, default, Adverse Claim or violation could not reasonably be expected to have a Material Adverse Effect.

SECTION 5.4 Governmental Approvals. Except where the failure to obtain or make such authorization, consent, order, approval or action could not reasonably be expected to have a Material Adverse Effect, all authorizations, consents, orders, licenses and approvals of, or other actions by, any Governmental Authority that are required to be obtained by such Originator in connection with the grant of a security interest in the Receivables and the Related Rights to the Buyer hereunder or the due execution, delivery and performance by such Originator of this Agreement or any other Transaction Document to which it is a party and the consummation by such Originator of the transactions contemplated by this Agreement and the other Transaction Documents to which it is a party have been obtained or made and are in full force and effect.

SECTION 5.5 Valid Sale. Each sale of Receivables and the Related Rights made by such Originator pursuant to this Agreement shall constitute a valid sale (or contribution), transfer and assignment of Receivables and Related Rights to the Buyer, enforceable against creditors of, and purchasers from, such Originator, except (i) as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally and (ii) as such enforceability may be limited by general principles of equity, regardless of whether such enforceability is considered in a proceeding in equity or at law.

SECTION 5.6 Binding Obligations. This Agreement and each of the other Transaction Documents to which such Originator is a party constitute legal, valid and binding obligations of such Originator, enforceable against such Originator in accordance with their respective terms, except (i) as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally and (ii) as such enforceability may be limited by general principles of equity, regardless of whether such enforceability is considered in a proceeding in equity or at law.

SECTION 5.7 Accuracy of Information. No Pool Report, Investment Request, certificate, report, statement, document or other information (other than projections, pro forma financial information and information of a general economic or industry nature) furnished to the Buyer, the Administrative Agent or any other Purchaser Party by or on behalf of such Originator

pursuant to any provision of this Agreement or any other Transaction Document, or in connection with or pursuant to any amendment or modification of, or waiver under, this Agreement or any other Transaction Document, taken as a whole, contained as of the date such report, request, certificate, report, statement or document was so furnished, as modified or supplemented by any other information so furnished, any untrue statement of a material fact or omitted to state a material fact necessary to make the statements contained herein or therein not misleading, when taken as a whole. The projections and pro forma financial information contained in the materials referenced above are based upon good faith estimates and assumptions believed by management of such Originator to be reasonable at the time made, it being recognized that such financial information as it relates to future events is not to be viewed as fact and that actual results during the period or periods covered by such financial information may differ from the projected results set forth therein by a material amount.

SECTION 5.8 Actions, Suits. (i) There is no action, suit, litigation, arbitration, proceeding or investigation pending or, to the knowledge of such Originator, threatened, against such Originator before any Governmental Authority and (ii) such Originator is not subject to any order, judgment, decree, injunction, stipulation or consent order of or with any Governmental Authority that, in the case of either of the foregoing clauses (i) and (ii), (A) asserts the invalidity or unenforceability of this Agreement or any other Transaction Document, (B) seeks to prevent the grant of a security interest in any Receivable or Related Right by such Originator to the Buyer, the ownership or acquisition by the Buyer of any Receivable or Related Right or the consummation of any of the transactions contemplated by this Agreement or any other Transaction Document, or (C) seeks any determination or ruling that could reasonably be expected to materially and adversely affect the performance by such Originator of its obligations under, or the validity or enforceability of, this Agreement or any other Transaction Document.

SECTION 5.9 No Material Adverse Effect. Since December 31, 2021, there has been no Material Adverse Effect with respect to such Originator.

SECTION 5.10 Names and Location. Except as described in Schedule III, such Originator has not used any corporate names, trade names or assumed names since the date occurring five calendar years prior to the Closing Date other than its name set forth on the signature pages hereto. Such Originator is "located" (as such term is defined in the applicable UCC) in the jurisdiction specified in Schedule I and since the date occurring five calendar years prior to the Closing Date, has not been "located" (as such term is defined in the applicable UCC) in any other jurisdiction (except as specified in Schedule I). The office(s) where such Originator keeps its records concerning the Receivables is at the address(es) set forth on Schedule II.

SECTION 5.11 Margin Regulations. Such Originator is not engaged, principally or as one of its important activities, in the business of extending credit for the purpose of purchasing or carrying margin stock (within the meaning of Regulations T, U and X of the Board of Governors of the Federal Reserve System), and no Purchase Price payments or proceeds under this Agreement will be used to purchase or carry any margin stock or to extend credit to others for the purpose of purchasing or carrying any margin stock.

SECTION 5.12 Eligible Receivables. Each Receivable sold, transferred, contributed or assigned hereunder is an Eligible Receivable on the date of sale, transfer, contribution or assignment, unless otherwise specified in the first Information Package, Weekly Report or Daily Report that includes such Receivable.

SECTION 5.13 Credit and Collection Policy. Such Originator has complied in all material respects with the Credit and Collection Policy with regard to each Receivable sold or contributed by it hereunder and the related Contracts.

SECTION 5.14 Investment Company Act. Such Originator is not an “investment company,” registered or required to be registered under the Investment Company Act.

SECTION 5.15 Sanctions and other Anti-Terrorism Laws. No: (i) Covered Entity, nor any employees, officers, directors, affiliates, consultants, brokers, or agents acting on a Covered Entity’s behalf in connection with this Agreement: (x) is a Sanctioned Person; or (y) directly, or indirectly through any third party, is engaged in any transactions or other dealings with or for the benefit of any Sanctioned Person or Sanctioned Country in violation of sanctions, or any transactions or other dealings that otherwise are prohibited by any Anti-Terrorism Laws; or (ii) Sold Assets or Seller Collateral is Embargoed Property.

SECTION 5.16 Anti-Corruption Laws. Each Covered Entity has (i) conducted its business in material compliance with Anti-Corruption Laws and (ii) has instituted and maintains policies and procedures designed to ensure compliance with such Laws.

SECTION 5.17 Financial Condition.

(a) The audited consolidated balance sheets of Holdings and its consolidated Subsidiaries as of December 31, 2021 and the related statements of income and shareholders’ equity of Holdings and its consolidated Subsidiaries for the fiscal year then ended, copies of which have been furnished or made available to the Administrative Agent and the Purchasers, present fairly in all material respects the consolidated financial position of Holdings and its consolidated Subsidiaries for the period ended on such date, all in accordance with GAAP.

(b) On the date hereof, and on the date of each purchase hereunder (both before and after giving effect to such purchase), such Originator is, and will be on such date, Solvent and no Insolvency Proceeding with respect to such Originator is, or will be on such date, pending or threatened.

SECTION 5.18 Taxes. Such Originator has (i) timely filed or caused to be filed all tax returns (federal, state, foreign and local) required to be filed by it and (ii) paid, or caused to be paid, all taxes, assessments and other governmental charges required to be paid by it, if any, other than taxes, assessments and other governmental charges being contested in good faith by appropriate proceedings and as to which adequate reserves have been provided in accordance with GAAP.

SECTION 5.19 ERISA. Except as could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, (a) neither a Reportable Event nor an ERISA Event has occurred during the five year period prior to the date on which this representation is made or deemed made with respect to any applicable Plan that is not a Multiemployer Plan, and each such Plan has complied in all material respects with the applicable

provisions of ERISA and the Code, (b) no termination of a Single Employer Plan has occurred other than pursuant to a standard termination under Title IV of ERISA, and no lien in favor of the PBGC or a Single Employer Plan has arisen on the assets of any Harsco Party and remains in force, during such five-year period, (c) the present value of all accrued benefits under each Single Employer Plan (based on those assumptions used to fund such Plans) is as reflected in the actuarial report of Willis Towers Watson prepared as of December 31, 2021 is accurate and such report fairly presents the funded status of such Single Employer Plan on the basis set forth therein, (d) neither any Harsco Party nor any Commonly Controlled Entity has had a complete or partial withdrawal from any Multiemployer Plan that has resulted or could reasonably be expected to result in liability under ERISA, and neither any Harsco Party nor any Commonly Controlled Entity would become subject to any liability under ERISA if any Harsco Party or any such Commonly Controlled Entity were to withdraw completely from all Multiemployer Plans as of the valuation date most closely preceding the date on which this representation is made or deemed made and (e) no such Multiemployer Plan is Insolvent.

SECTION 5.20 Bulk Sales Act. No transaction contemplated by this Agreement requires compliance by it with any bulk sales act or similar law.

SECTION 5.21 No Fraudulent Conveyance. No sale or contribution hereunder constitutes a fraudulent transfer or conveyance under any United States federal or applicable state bankruptcy or insolvency laws or is otherwise void or voidable under such or similar laws or principles or for any other reason.

SECTION 5.22 Ordinary Course of Business. Each of the Originators and the Buyer represents and warrants as to itself that each remittance of Collections by or on behalf of such Originator to the Buyer under this Agreement will have been (i) in payment of a debt incurred by such Originator in the ordinary course of business or financial affairs of such Originator and the Buyer and (ii) made in the ordinary course of business or financial affairs of such Originator and the Buyer.

SECTION 5.23 Perfection Representations.

(a) This Agreement creates a valid and continuing ownership or security interest (as defined in the applicable UCC) in each Originator's right, title and interest in, to and under the Receivables and Related Rights which (A) security interest has been perfected and is enforceable against creditors of and purchasers from such Originator and (B) is free of all Adverse Claims (other than Permitted Adverse Claims) in such Receivables and Related Rights.

(b) The Receivables constitute "accounts" or "general intangibles" within the meaning of Section 9-102 of the UCC.

(c) Prior to their sale or contribution to Buyer pursuant to this Agreement, such Originator owned and had good and marketable title to the Receivables and Related Rights free and clear of any Adverse Claim (other than Permitted Adverse Claims) of any Person.

(d) All appropriate financing statements, financing statement amendments and continuation statements have been filed in the proper filing office in the appropriate jurisdictions under Applicable Law in order to perfect (and continue the perfection of) the sale and contribution of the Receivables and Related Rights from each Originator to the Buyer pursuant to this Agreement.

(e) Other than the ownership or security interest granted to the Buyer pursuant to this Agreement, such Originator has not pledged, assigned, sold, granted a security interest in, or otherwise conveyed any of the Receivables or Related Rights except as permitted by this Agreement and the other Transaction Documents. Such Originator has not authorized the filing of and is not aware of any financing statements filed against such Originator that include a description of collateral covering the Receivables and Related Rights other than any financing statement (i) in favor of the Administrative Agent or (ii) that has been terminated. Such Originator is not aware of any judgment lien, ERISA lien or tax lien filings against such Originator.

(f) Notwithstanding any other provision of this Agreement or any other Transaction Document, the representations contained in this Section 5.23 shall be continuing and remain in full force and effect until the Final Payout Date.

SECTION 5.24 Reliance on Separate Legal Identity. Such Originator acknowledges that each of the Purchasers and the Administrative Agent are entering into the Transaction Documents to which they are party, respectively, in reliance upon the Buyer's identity as a legal entity separate from such Originator.

SECTION 5.25 Opinions. The facts regarding such Originator, the Receivables sold or contributed by it hereunder, the Related Security and the related matters set forth or assumed in each of the opinions of counsel delivered in connection with this Agreement and the Transaction Documents are true and correct in all material respects.

SECTION 5.26 Enforceability of Contracts. Each Contract related to any Receivable sold or contributed by such Originator hereunder is effective to create, and has created, a legal, valid and binding obligation of the related Obligor to pay the outstanding balance of such Receivable, enforceable against the Obligor in accordance with its terms, without being subject to any defense, deduction, offset or counterclaim and such Originator has fully performed its obligations under such Contract except as may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally and by general principles of equity regardless of whether enforceability is considered in a proceeding in equity or at law.

SECTION 5.27 Nature of Pool Receivables. All Pool Receivables: (i) were originated by such Originator in the ordinary course of its business, (ii) were sold to Buyer for fair consideration and reasonably equivalent value and (iii) represent all, or a portion of the purchase price of merchandise, insurance or services within the meaning of Section 3(c)(5)(A) of the Investment Company Act.

SECTION 5.28 Compliance with Applicable Laws. Each Originator is in compliance with the requirements of all laws, rules and regulations applicable to its property or business operations, except in such instance where any failure to comply therewith, individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect.

SECTION 5.29 Servicing Programs. No license or approval is required for Servicer's or Buyer's use of any software or other computer program used by such Originator in the servicing of the Receivables, other than those which have been obtained and are in full force and effect.

SECTION 5.30 Adverse Change in Receivables. Since March 31, 2022, there has been no material adverse change in either the collectability or the payment history of the Receivables originated by such Originator taken as a whole.

SECTION 5.31 Compliance with Transaction Documents. Each Originator has complied with all of the terms, covenants and agreements contained in the other Transaction Documents to which it is a party.

SECTION 5.32 Reaffirmation of Representations and Warranties by each Originator. On each day that a new Receivable is sold or contributed to the Buyer hereunder, such Originator shall be deemed to have certified that all representations and warranties set forth in this Article V are true and correct in all material respects (unless such representation or warranty contains a materiality qualification and, in such case, such representation or warranty shall be true and correct as made) with respect to itself and such new Receivable on and as of such day (except for representations and warranties which apply as to an earlier date, in which case such representations and warranties shall be true and correct in all material respects (unless such representation or warranty contains a materiality qualification and, in such case, such representation or warranty shall be true and correct as made) as of such earlier date). Notwithstanding any other provision of this Agreement or any other Transaction Document, the representations and warranties contained in this Article shall survive each sale or contribution of Receivables hereunder and remain in full force and effect until the Final Payout Date.

## ARTICLE VI COVENANTS OF THE ORIGINATORS

SECTION 6.1 Covenants. At all times from the Closing Date until the Final Payout Date, each Originator will, unless the Administrative Agent and the Buyer shall otherwise consent in writing, perform the following covenants:

(a) Financial Reporting. Each Originator will maintain a system of accounting established and administered in accordance with GAAP, and each Originator shall furnish to the Buyer, the Administrative Agent and each Purchaser such written information (including non-financial information) as the Buyer, the Administrative Agent or any Purchaser may from time to time reasonably request.

(b) Notices. Such Originator will notify the Buyer, Administrative Agent and each Purchaser in writing of any of the following events promptly upon a Financial Officer or other officer learning of the occurrence thereof, with such notice describing the same, and if applicable, the steps taken or being taken by the Person(s) affected with respect thereto (to the extent not furnished by the Buyer or the Servicer):

(i) Notice of Purchase and Contribution Termination Event, Unmatured Purchase and Contribution Termination Event, Event of Default or Unmatured Event of Default. A statement of a Financial Officer of such Originator setting forth details of any Purchase and Contribution Termination Event, Unmatured Purchase and Contribution Termination Event, Event of Default or Unmatured Event of Default that has occurred and is continuing and the action which such Originator has taken or proposes to take with respect thereto.

(ii) Representations and Warranties. The failure of any representation or warranty made or deemed to be made by such Originator under this Agreement or any other Transaction Document to be true and correct in any material respect when made.

(iii) Litigation. The institution of any litigation, arbitration proceeding or governmental proceeding with respect to any Harsco Party, which could reasonably be expected to have a Material Adverse Effect.

(iv) Adverse Claim. (A) Any Person shall obtain an Adverse Claim (other than a Permitted Adverse Claim) upon the Receivables or Related Rights or any portion thereof, (B) any Person other than the Buyer, the Servicer, any Collection Account Bank or the Administrative Agent shall obtain any rights or direct any action with respect to any Collection Account (or related Lock-Box) or (C) any Obligor shall receive any change in payment instructions with respect to Pool Receivable(s) from a Person other than the Servicer or the Administrative Agent.

(v) Name Changes. At least fifteen (15) days before any change in such Originator's name, jurisdiction of organization or any other change requiring the amendment of UCC financing statements.

(vi) Change in Accountants or Accounting Policy. Any change in (A) the external accountants of such Originator, (B) any accounting policy of such Originator or (C) any material accounting policy of such Originator that is relevant to the transactions contemplated by this Agreement or any other Transaction Document (it being understood that any change to the manner in which such Originator accounts for the Pool Receivables shall be deemed "material" for such purpose).

(vii) Material Adverse Change. Promptly after the occurrence thereof, notice of any Material Adverse Effect.

(viii) Insolvency Proceeding. The occurrence of any Insolvency Proceeding with respect to an Originator.

(c) Conduct of Business; Preservation of Existence. Each Originator will carry on and conduct its business in substantially the same manner and in substantially the same fields of enterprise as it is presently conducted or fields that are extensions thereof or are otherwise incidental, synergistic, reasonably related, or ancillary thereto, and will do all things necessary to remain duly organized, validly existing and in good standing as a domestic corporation or other entity in its jurisdiction of organization and maintain all requisite authority to conduct its business in each jurisdiction in which its business is conducted if the failure to have such authority could reasonably be expected to have a Material Adverse Effect.

(d) Compliance with Laws. Each Originator will comply with all Applicable Laws to which it may be subject if the failure to comply could reasonably be expected to have a Material Adverse Effect.

(e) Furnishing of Information and Inspection of Receivables. Each Originator will furnish or cause to be furnished to the Buyer, the Administrative Agent and each Purchaser from time to time such information with respect to the Pool Receivables, the Related Rights and the other Sold Assets and Seller Collateral, as the Buyer, the Administrative Agent or any Purchaser may reasonably request. Each Originator will, at such Originator's expense, during regular business hours with reasonable prior written notice (i) permit the Buyer, the Administrative Agent and each Purchaser or their respective agents or representatives to (A) examine and make copies of and abstracts from all books and records relating to the Pool Receivables or other Sold Assets and Seller Collateral, (B) visit the offices and properties of such Originator for the purpose of examining such books and records, and (C) discuss matters relating to the Pool Receivables, the other Sold Assets and Seller Collateral or such Originator's performance hereunder or under the other Transaction Documents to which it is a party with any of the officers, directors, employees or independent public accountants of such Originator (provided that representatives of such Originator are present during such discussions) having knowledge of such matters and (ii) without limiting the provisions of clause (i) above, during regular business hours, at such Originator's expense, upon reasonable prior written notice from the Buyer or the Administrative Agent, permit certified public accountants or other auditors acceptable to the Buyer or the Administrative Agent, as applicable, to conduct a review of its books and records with respect to the Pool Receivables and other Sold Assets and Seller Collateral; provided, that such Originator shall be required to reimburse the Administrative Agent for only one (1) such review pursuant to clause (ii) above in any twelve-month period, unless an Event of Default has occurred and is continuing.

(f) Payments on Receivables, Collection Accounts. Each Originator will, at all times, instruct all Obligors to deliver payments on the Pool Receivables to a Collection Account or a Lock-Box. Each Originator will, at all times, maintain such books and records necessary to (i) identify Collections received from time to time on Pool Receivables and (ii) segregate such Collections from other property of the Originators and any other Person. If any payments on the Pool Receivables or other Collections are received by such Originator in any manner other than directly in a Collection Account or Lock-Box, it shall hold such payments in trust for the benefit of the Buyer (and the Administrative Agent, the Purchasers and the other Secured Parties as the Buyer's assignees) and promptly (but in any event within two (2) Business Days after receipt) remit such funds into a Collection Account. Such Originator shall not permit funds other than Collections on Pool Receivables and other Sold Assets and Seller Collateral to

be deposited into any Collection Account. If such funds are nevertheless deposited into any Collection Account, such Originator (or the Servicer on its behalf) will within two (2) Business Days identify and transfer such funds to the appropriate Person entitled to such funds. Each Originator will not, and will not permit the Servicer, any other Originator or any other Person to commingle Collections or other funds to which the Administrative Agent, any Purchaser or any other Secured Party is entitled, with any other funds. Each Originator shall only add a Collection Account (or a related Lock-Box) or a Collection Account Bank to those listed in the Receivables Purchase Agreement, if the Administrative Agent has received notice of such addition and an executed and acknowledged copy of an Account Control Agreement (or an amendment thereto) in form and substance reasonably acceptable to the Administrative Agent from the applicable Collection Account Bank. Each Originator shall only terminate a Collection Account Bank or close a Collection Account (or a related Lock-Box), in each case, with the prior written consent of the Administrative Agent.

(g) Sales, Liens, etc. Except as otherwise provided herein, no Originator will sell, assign (by operation of law or otherwise) or otherwise dispose of, or create or suffer to exist any Adverse Claim (other than Permitted Adverse Claims) upon (including the filing of any financing statement) or with respect to, any Pool Receivable or other Related Rights, or assign any right to receive income in respect thereof.

(h) Extension or Amendment of Pool Receivables. Except as otherwise permitted by the Receivables Purchase Agreement, no Originator will, or will permit the Servicer to, alter the delinquency status or adjust the Outstanding Balance or otherwise modify the terms of any Pool Receivable in any material respect, or amend, modify or waive, in any material respect, any term or condition of any related Contract. Each Originator shall at its expense, timely and fully perform and comply in all material respects with all provisions, covenants and other promises required to be observed by it under the Contracts related to the Pool Receivables, and timely and fully comply with the Credit and Collection Policy with regard to each Pool Receivable and the related Contract.

(i) Fundamental Changes. Each Originator shall not make any change in such Originator's name, location or make any other change in such Originator's identity or corporate structure that could impair or otherwise render any UCC financing statement filed in connection with this Agreement or the Receivables Purchase Agreement "seriously misleading" as such term (or similar term) is used in the applicable UCC, in each case, unless the Buyer, the Administrative Agent and each Purchaser have each (A) received thirty (30) days' prior written notice thereof, (B) consented in writing thereto (such consent not to be unreasonably withheld), (C) received executed copies of all documents, certificates and opinions (including opinions relating to bankruptcy and UCC matters) as the Buyer or the Administrative Agent shall reasonably request and (D) been reasonably satisfied that all other action to perfect and protect the interests of the Buyer and the Administrative Agent, on behalf of the Purchasers, in and to the Receivables to be sold or contributed by it hereunder and other Related Rights, as reasonably requested by the Buyer or the Administrative Agent shall have been taken by, and at the expense of, such Originator (including the filing of any UCC financing statements, the receipt of certificates and other requested documents from public officials and all such other actions required pursuant to Section 7.3).

(j) Change in Credit and Collection Policy. No Originator will make, or direct the Servicer to make, any material change in the Credit and Collection Policy without the prior written consent of the Administrative Agent. Promptly following any change in the Credit and Collection Policy, each Originator will deliver a copy of the updated Credit and Collection Policy to the Buyer, Administrative Agent and each Purchaser.

(k) Books and Records. Each Originator will maintain and implement (or cause the Servicer to maintain and implement) administrative and operating procedures (including (i) an ability to recreate records evidencing Pool Receivables and related Contracts in the event of the destruction of the originals thereof and (ii) procedures to identify and track sales with respect to, and collections on, Excluded Receivables), and keep and maintain (or cause the Servicer to keep and maintain) all documents, books, records, computer tapes and disks and other information reasonably necessary or advisable for the collection of all Pool Receivables and the identification and reporting of all Excluded Receivables (including records adequate to permit the daily identification of each Pool Receivable and Excluded Receivable and all Collections of and adjustments to each existing Pool Receivable and Excluded Receivable).

(l) Ownership Interest, Etc. Each Originator shall (and shall cause the Servicer to), at its expense, take all action necessary or reasonably desirable to establish and maintain a valid and enforceable ownership or security interest in the Pool Receivables, the Related Rights and Collections with respect thereto, and a first priority perfected security interest in the Sold Assets and Seller Collateral, in each case free and clear of any Adverse Claim (other than Permitted Adverse Claims), in favor of the Buyer (and the Administrative Agent (on behalf of the Secured Parties), as the Buyer's assignee), including taking such action to perfect, protect or more fully evidence the interest of the Buyer (and the Administrative Agent (on behalf of the Secured Parties), as the Buyer's assignee) as the Buyer, the Administrative Agent or any Secured Party may reasonably request. In order to evidence the security interests of the Administrative Agent under this Agreement, each Originator shall, from time to time take such action, or execute and deliver such instruments as may be necessary (including such actions as are reasonably requested by the Administrative Agent) to maintain and perfect, as a first-priority interest, the Administrative Agent's security interest in the Receivables, Related Security and Collections. Each Originator shall, from time to time and within the time limits established by law, prepare and present to the Administrative Agent for the Administrative Agent's authorization and approval, all financing statements, amendments or continuations, or other filings necessary to continue, maintain and perfect the Buyer's and the Administrative Agent's security interest as a first-priority interest. The Administrative Agent's approval of such filings shall authorize such Originator to file such financing statements under the UCC without the signature of such Originator, any other Originator, the Buyer or the Administrative Agent where allowed by Applicable Law. Notwithstanding anything else in the Transaction Documents to the contrary, each Originator shall not have any authority to file a termination, partial termination, release, partial release, or any amendment that deletes the name of a debtor or excludes collateral of any such financing statements filed in connection with the Transaction Documents, without the prior written consent of the Administrative Agent.

(m) Further Assurances. Each Originator hereby authorizes and hereby agrees from time to time, at its own expense, promptly to execute (if necessary) and deliver all further instruments and documents, and to take all further actions, that may be reasonably necessary or

desirable, or that the Buyer, the Servicer, any Purchaser or the Administrative Agent may reasonably request, to perfect, protect or more fully evidence the purchases and contributions made hereunder or under the Receivables Purchase Agreement and/or security interest granted pursuant to the Receivables Purchase Agreement or any other Transaction Document, or to enable the Buyer or the Administrative Agent (on behalf of the Secured Parties) to exercise and enforce their respective rights and remedies hereunder, under the Receivables Purchase Agreement or under any other Transaction Document. Without limiting the foregoing, such Originator hereby authorizes, and will, upon the request of the Buyer or the Administrative Agent, at such Originator's own expense, execute (if necessary) and file such financing statements or continuation statements, or amendments thereto, and such other instruments and documents, that may be reasonably necessary or desirable, or that the Buyer or Administrative Agent may reasonably request, to perfect, protect or evidence any of the foregoing.

(n) Mergers, Acquisitions, Sales, etc. Each Originator shall not (i) be a party to any merger, consolidation or other restructuring, except a merger, consolidation or other restructuring where the Buyer, the Administrative Agent and each Purchaser have each (A) received thirty (30) days' prior written notice thereof, (B) consented in writing thereto (such consent not to be unreasonably withheld, conditioned or delayed), (C) received executed copies of all documents, certificates and opinions (including opinions relating to bankruptcy and UCC matters) as the Buyer or the Administrative Agent shall reasonably request and (D) been satisfied that all other action to perfect and protect the interests of the Buyer and the Administrative Agent, on behalf of the Secured Parties, in and to the Receivables to be sold by it hereunder and other Related Rights, as reasonably requested by the Buyer or the Administrative Agent shall have been taken by, and at the expense of, such Originator (including the filing of any UCC financing statements, the receipt of certificates and other requested documents from public officials and all such other actions required pursuant to Section 7.3) or (ii) directly or indirectly sell, transfer, assign, convey or lease (A) whether in one or a series of transactions, all or substantially all of its assets except a sale, transfer, assignment, conveyance or lease where the Buyer, the Administrative Agent and each Purchaser have both (i) received thirty (30) days' prior written notice thereof and (ii) consented in writing thereto (such consent not to be unreasonably withheld, conditioned or delayed) or (B) any Receivables or any interest therein (other than pursuant to this Agreement).

(o) Frequency of Billing. Prepare and deliver (or cause to be prepared and delivered) invoices with respect to all Receivables in accordance with the Credit and Collection Policies.

(p) Receivables Not to Be Evidenced by Promissory Notes or Chattel Paper. Such Originator shall not take any action to cause or permit any Receivable created, acquired or originated by it to become evidenced by any "instrument" or "chattel paper" (as defined in the applicable UCC) without the prior written consent of the Buyer and the Administrative Agent.

(q) Sanctions and other Anti-Terrorism Laws; Anti-Corruption Laws.

(i) Each Originator hereby covenants and agrees that (A) it shall immediately notify the Administrative Agent and each Purchaser in writing upon the occurrence of a Reportable Compliance Event; and (B) if at any time any

Seller Collateral or Sold Assets becomes Embargoed Property, in addition to all other rights and remedies available to the Purchaser Parties, upon request by the Administrative Agent or any of the Purchasers, each Originator shall cause the Buyer to provide substitute Seller Collateral or Sold Assets acceptable to the Administrative Agent and the Purchasers that is not Embargoed Property.

(ii) Each Originator shall, and shall require each other Covered Entity to, conduct its business in compliance with all Anti-Corruption Laws and maintain policies and procedures designed to ensure compliance with such Anti-Corruption Laws.

(iii) Each Originator hereby covenants and agrees it and its Subsidiaries will not: (a) become a Sanctioned Person or allow its employees, officers, directors, affiliates, consultants, brokers, or agents acting on its behalf in connection with this Agreement to become a Sanctioned Person; (b) directly, or indirectly through a third party, engage in any transactions or other dealings with or for the benefit of any Sanctioned Person or Sanctioned Country in violation of sanctions, including any use of the proceeds of the Investments to fund any operations in, finance any investments or activities in, or, make any payments to, a Sanctioned Person or Sanctioned Country; (c) repay the Capital or pay any other Seller Obligations with Embargoed Property or funds derived from any unlawful activity; (d) permit any Collateral to become Embargoed Property; or (e) cause any Purchaser Party to violate any Anti-Terrorism Laws.

(iv) Each Originator hereby covenants and agrees that it will not directly or knowingly indirectly, use the Investments or any proceeds thereof for any purpose which would breach any Anti-Corruption Laws in any jurisdiction in which any Covered Entity conducts business.

(r) Legend. Each Originator (or the Servicer on its behalf) shall have indicated on the most recent, and shall have taken all steps reasonably necessary to ensure that there shall be placed on each subsequent, data processing report that it generates which are of the type that a proposed purchaser or lender would use to evaluate the Receivables, that the Receivables and Related Rights have been sold in accordance with this Agreement and further pledged by Buyer pursuant to the Receivables Purchase Agreement, and none of the Originators or Servicer shall change or remove such notation without the consent of the Buyer and the Administrative Agent.

(s) Buyer's Tax Status. Neither Harsco nor any Originator shall permit the Buyer to (i) become treated other than as either a "disregarded entity" within the meaning of U.S. Treasury Regulation § 301.7701-3 for U.S. federal income tax purposes that is wholly owned by a "United States person" (within the meaning of Section 7701(a)(30) of the Code) or a partnership for U.S. federal income tax purposes that is wholly owned by "United States persons" (within the meaning of Section 7701(a)(30) of the Code), (ii) become an association taxable as a corporation or a publicly traded partnership taxable as a corporation for U.S. federal income tax purposes, (iii) become subject to any Tax in any jurisdiction outside the United States or (iv) become subject to any material amount of Taxes imposed by a state or local taxing authority.

(t) Maintenance of Property; Insurance. Such Originator shall (i) keep all property and systems necessary in its business in good working order and condition, ordinary wear and tear excepted and except where failure to do so could individually or in the aggregate not reasonably be expected to have a Material Adverse Effect and (ii) maintain with financially sound and reputable insurance companies insurance on all its property in at least such amounts and against at least such risks (but including in any event public liability, product liability and business interruption) as are usually insured against in the same general area by companies engaged in the same or a similar business.

(u) Subordinated Loans, Etc. Such Originator will not sell, assign (by operation of law or otherwise) or otherwise dispose of, or grant any option with respect to, or create or suffer to exist any Adverse Claim upon (including, without limitation, the filing of any financing statement) (other than Permitted Adverse Claims) or with respect to, the Intercompany Loan Agreement or any Subordinated Loan.

(v) Other Additional Information. Such Originator will provide to the Administrative Agent and the Purchasers such information and documentation as may reasonably be requested by the Administrative Agent or any Purchaser from time to time for purposes of compliance by the Administrative Agent or such Purchaser with Applicable Laws (including the PATRIOT Act and other “know your customer” and anti-money laundering rules and regulations), and any policy or procedure implemented by the Administrative Agent or such Purchaser to comply therewith.

(w) Change in Payment Instructions to Obligors. No Originator shall (and shall not permit the Servicer to) add, replace or terminate any Collection Account (or any related Lock-Box) or make any change in its instructions to the Obligors regarding payments to be made to the Collection Accounts (or any related Lock-Box), other than any instruction to remit payments to a different Collection Account (or any related Lock-Box).

(x) Ownership of Buyer. The Contributing Originators at all times shall own 100% of the Capital Stock of the Buyer free and clear of Adverse Claims.

SECTION 6.2 Separateness Covenants. Each Originator hereby acknowledges that this Agreement and the other Transaction Documents are being entered into in reliance upon the Buyer’s identity as a legal entity separate from such Originator and its Affiliates. Therefore, from and after the date hereof, each Originator shall take all reasonable steps necessary to make it apparent to third Persons that the Buyer is an entity with assets and liabilities distinct from those of such Originator and any other Person, and is not a division of such Originator, its Affiliates or any other Person. Without limiting the generality of the foregoing and in addition to and consistent with the other covenants set forth herein, such Originator shall take such actions as shall be required in order that:

- (a) such Originator shall not be involved in the day to day management of the Buyer;

(b) such Originator shall maintain separate records and books of account from the Buyer and otherwise will observe corporate formalities and have a separate area from the Buyer for its business (which may be located at the same address as the Buyer, and, to the extent that it and the Buyer have offices in the same location, there shall be a fair and appropriate allocation of overhead costs between them, and each shall bear its fair share of such expenses);

(c) the financial statements and books and records of such Originator shall be prepared after the date of creation of the Buyer to reflect and shall reflect the separate existence of the Buyer; provided, that the Buyer's assets and liabilities may be included in a consolidated financial statement issued by an Affiliate of the Buyer; provided, however, that any such consolidated financial statement or the notes thereto shall make clear that the Buyer's assets are not available to satisfy the obligations of such Affiliate;

(d) except as permitted by the Receivables Purchase Agreement, (i) such Originator shall maintain its assets (including deposit accounts) separately from the assets (including deposit accounts) of the Buyer and (ii) such Originator's assets, and records relating thereto, have not been, are not, and shall not be, commingled with those of the Buyer;

(e) such Originator shall not act as an agent for the Buyer (except in the capacity of Servicer or a Sub-Servicer);

(f) such Originator shall not conduct any of the business of the Buyer in its own name (except in the capacity of Servicer or a Sub-Servicer);

(g) other than with respect to initial organization expenses, such Originator shall not pay any liabilities of the Buyer out of its own funds or assets;

(h) except as contemplated by the Transaction Documents, such Originator shall maintain an arm's-length relationship with the Buyer;

(i) such Originator shall not assume or guarantee or become obligated for the debts of the Buyer or hold out its credit as being available to satisfy the obligations of the Buyer;

(j) such Originator shall not acquire obligations of the Buyer (other than the Intercompany Loan Agreement and the Subordinated Loans);

(k) such Originator shall allocate fairly and reasonably overhead or other expenses that are properly shared with the Buyer, including shared office space;

(l) such Originator shall identify and hold itself out as a separate and distinct entity from the Buyer;

(m) such Originator shall correct any known misunderstanding respecting its separate identity from the Buyer;

(n) such Originator shall not enter into, or be a party to, any transaction with the Buyer, except in the ordinary course of its business and on terms which are intrinsically fair and not less favorable to it than would be obtained in a comparable arm's-length transaction with an unrelated third party;

(o) such Originator shall not pay the salaries of the Buyer's employees, if any; and

(p) to the extent not already covered in paragraphs (a) through (o) above, such Originator shall comply and/or act in accordance with all of the other separateness covenants set forth in Section 7.03 of the Receivables Purchase Agreement.

ARTICLE VII  
ADDITIONAL RIGHTS AND OBLIGATIONS  
IN RESPECT OF RECEIVABLES

SECTION 7.1 Rights of the Buyer. Each Originator hereby authorizes the Buyer, the Servicer or their respective designees or assignees under this Agreement or the Receivables Purchase Agreement (including the Administrative Agent) to take any and all steps in such Originator's name reasonably necessary or desirable, in their respective determination, to collect all amounts due under any and all Receivables sold, contributed or otherwise conveyed or purported to be conveyed by it hereunder, including endorsing the name of such Originator on checks and other instruments representing Collections and enforcing such Receivables and the provisions of the related Contracts that concern payment and/or enforcement of rights to payment; provided, however, that the Administrative Agent shall not take any of the foregoing actions unless a Purchase and Contribution Termination Event or an Event of Default has occurred and is continuing.

SECTION 7.2 Responsibilities of the Originators. Notwithstanding anything herein to the contrary:

(a) Each Originator shall perform its obligations hereunder, and the exercise by the Buyer or its designee of its rights hereunder shall not relieve such Originator from such obligations.

(b) None of the Buyer, the Servicer, the Purchasers or the Administrative Agent shall have any obligation or liability to any Obligor or any other third Person with respect to any Receivables, Contracts related thereto or any other related agreements, nor shall the Buyer, the Servicer, the Purchasers or the Administrative Agent be obligated to perform any of the obligations of such Originator thereunder.

(c) Each Originator hereby grants to the Administrative Agent an irrevocable power-of-attorney, with full power of substitution, coupled with an interest, during the occurrence and continuation of an Event of Default to take in the name of such Originator all steps necessary or advisable to endorse, negotiate or otherwise realize on any writing or other right of any kind held or transmitted by such Originator or transmitted or received by the Buyer (whether or not from such Originator) in connection with any Receivable or Related Rights sold, contributed or otherwise conveyed or purported to be conveyed by it hereunder or Related Right.

SECTION 7.3 Further Actions. If any Originator fails to perform any of its agreements or obligations under this Agreement, the Buyer or its designee or assignee (including the Administrative Agent) may (but shall not be required to) itself perform, or cause the performance of, such agreement or obligation, and the expenses of the Buyer or its designee or assignee (including the Administrative Agent) incurred in connection therewith shall be payable by such Originator.

SECTION 7.4 Application of Collections. Any payment by an Obligor in respect of any indebtedness owed by it to any Originator shall, except as otherwise specified by such Obligor, required by Applicable Law and unless otherwise instructed by the Servicer (with the prior written consent of the Administrative Agent) or the Administrative Agent, be applied as a Collection of any Receivable or Receivables of such Obligor to the extent of any amounts then due and payable thereunder (such application to be made starting with the oldest outstanding Receivable or Receivables) before being applied to any other indebtedness of such Obligor.

SECTION 7.5 Performance of Obligations. Each Originator shall (i) perform all of its obligations under the Contracts related to the Receivables generated by such Originator to the same extent as if interests in such Receivables had not been transferred hereunder, and the exercise by the Buyer or the Administrative Agent of its rights hereunder shall not relieve any Originator from any such obligations and (ii) pay (or cause to be paid) when due any Taxes that are required to be paid by it, (including any sales Taxes) payable in connection with the Receivables generated by such Originator and their creation and satisfaction.

## ARTICLE VIII PURCHASE AND CONTRIBUTION TERMINATION EVENTS

SECTION 8.1 Purchase and Contribution Termination Events. Each of the following events or occurrences described in this Section 8.1 shall constitute a "Purchase and Contribution Termination Event" (each event which with notice or the passage of time or both would become a Purchase and Contribution Termination Event being referred to herein as an "Unmatured Purchase and Contribution Termination Event"):

(a) the Termination Date shall have occurred;

(b) any Originator shall fail to make when due any payment or deposit to be made by it under this Agreement or any other Transaction Document to which it is a party and such failure shall remain unremedied for two (2) Business Days;

(c) any representation or warranty made or deemed to be made by any Originator (or any of its officers) under or in connection with this Agreement, any other Transaction Documents to which it is a party, or any other information or report delivered by an Originator pursuant hereto or thereto shall prove to have been incorrect or untrue in any material respect when made or deemed made or delivered; provided, however that no breach of a representation or warranty set forth in Sections 5.5, 5.12, 5.13, 5.21, 5.23, 5.26 or 5.27 shall constitute a Purchase and Contribution Termination Event pursuant to this clause (c) if credit has been given for a reduction of the Purchase Price, the outstanding principal balance of the applicable Subordinated Loan has been reduced or the applicable Originator has made a cash payment to the Buyer, in any case, as required pursuant to Section 3.3(c) with respect to such breach;

(d) any Originator shall fail to perform or observe any term, covenant or agreement contained in this Agreement or any other Transaction Document to which it is a party on its part to be performed or observed and such failure, solely to the extent capable of cure, shall continue unremedied for ten (10) Business Days after knowledge thereof by any Harsco Party or notice thereof by the Buyer, the Administrative Agent or any Purchaser; or

(e) any Insolvency Proceeding shall be instituted against any Originator that is a Significant Subsidiary of Harsco and such proceeding shall remain undismissed or unstayed for a period of sixty (60) consecutive days or any of the actions sought in such proceeding (including the entry of an order for relief against, or the appointment of a receiver, trustee, custodian or other similar official for, it or for any substantial part of its property) shall occur.

#### SECTION 8.2 Remedies.

(a) Optional Termination. Upon the occurrence and during the continuation of a Purchase and Contribution Termination Event, the Buyer (and not the Servicer), with the prior written consent of the Administrative Agent shall have the option, by notice to the Originators (with a copy to the Administrative Agent and the Purchasers), to declare the Purchase Facility terminated.

(b) Remedies Cumulative. Upon any termination of the Purchase Facility pursuant to clause (a) above, the Buyer (and the Administrative Agent as Buyer's assignee) shall have, in addition to all other rights and remedies under this Agreement, all other rights and remedies provided under the UCC of each applicable jurisdiction and other Applicable Laws, which rights shall be cumulative.

### ARTICLE IX INDEMNIFICATION

SECTION 9.1 Indemnities by the Originators. Without limiting any other rights that the Buyer may have hereunder or under Applicable Law, each Originator and Harsco, jointly and severally, hereby agrees to indemnify the Buyer, each of its officers, directors, employees, agents, employees and respective assigns, the Administrative Agent and each Purchaser (each of the foregoing Persons being individually called a "Purchase and Contribution Indemnified Party"), forthwith on demand, from and against any and all damages, claims, losses, judgments, liabilities, penalties and related reasonable and documented costs and expenses (including Attorney Costs) (all of the foregoing being collectively called "Purchase and Contribution Indemnified Amounts") awarded against or incurred by any of them arising out of, relating to or in connection with:

(a) the breach of any representation or warranty made or deemed made by such Originator (or any employee, officer or agent of such Originator) under or in connection with this Agreement or any of the other Transaction Documents, or any information or report delivered by or on behalf of such Originator pursuant hereto or thereto which shall have been untrue or incorrect when made or deemed made or delivered;

- (b) the failure by such Originator to transfer good and marketable title in and to any Pool Receivable or Related Right to the Buyer, free and clear of any Adverse Claims, and that is freely assignable, pursuant to this Agreement;
- (c) the failure by such Originator to comply with the terms of any Transaction Document or with any Applicable Law with respect to any Pool Receivable or the related Contract; or the failure of any Pool Receivable or the related Contract to conform to any such Applicable Law;
- (d) the lack of an enforceable ownership interest, or a first priority perfected lien, in the Pool Receivables (and all Related Security) originated by such Originator against all Persons (including any bankruptcy trustee or similar Person), in either case, free and clear of any Adverse Claim;
- (e) the failure to have filed, or any delay in filing, financing statements, financing statement amendments, continuation statements or other similar instruments or documents under the UCC of any applicable jurisdiction or other Applicable Laws with respect to any Pool Receivable or the Related Rights;
- (f) any suit or claim related to the Pool Receivables originated by such Originator (including any products liability or environmental liability claim arising out of or in connection with the property, products or services that are the subject of any Pool Receivable originated by such Originator);
- (g) [reserved];
- (h) any failure of such Originator to perform any of its duties or obligations in accordance with the provisions hereof and of each other Transaction Document related to Pool Receivables or to timely and fully comply with the Credit and Collection Policy in regard to each Pool Receivable;
- (i) any products liability, environmental or other claim arising out of or in connection with any Receivable or other merchandise, goods or services which are the subject of or related to any Receivable;
- (j) the misdirection of Collections or the commingling of Collections of Pool Receivables at any time with other funds;
- (k) the failure to provide, or delay in providing, any Obligor with an invoice or other evidence of indebtedness;
- (l) any investigation, litigation or proceeding (actual or threatened) related to this Agreement or any other Transaction Document or in respect of any Pool Receivable or any Related Rights;
- (m) any claim brought by any Person other than a Purchase and Contribution Indemnified Party arising from any activity by such Originator or any Affiliate of such Originator in servicing, administering or collecting any Pool Receivable;

(n) the failure by such Originator to pay when due any Taxes, including sales, excise or personal property Taxes;

(o) any dispute, claim, offset or defense (other than discharge in bankruptcy of the Obligor) of the Obligor to the payment of any Pool Receivable (including a defense based on such Pool Receivable or the related Contract not being a legal, valid and binding obligation of such Obligor enforceable against it in accordance with its terms), or any other claim resulting from the sale of goods or the rendering of services related to such Pool Receivable or the furnishing or failure to furnish any such goods or services or other similar claim or defense not arising from the financial inability of any Obligor to pay undisputed indebtedness;

(p) any product liability claim arising out of or in connection with goods or services that are the subject of any Receivable generated by such Originator;

(q) the failure or delay to provide any Obligor with an invoice or other evidence of indebtedness;

(r) any Tax or governmental fee or charge, all interest and penalties thereon or with respect thereto, and all out-of-pocket costs and expenses, including Attorney Costs in defending against the same, which are required to be paid by reason of the purchase or ownership of the Receivables generated by such Originator or any Related Rights connected with any such Receivables;

(s) any liability under Section 4.03 of the Receivables Purchase Agreement; or

(t) any Receivable sold, transferred, contributed or assigned hereunder by such Originator as an Eligible Receivable on the date of sale, transfer, contribution or assignment of such Receivable but which is not an Eligible Receivable at such time.

provided that such indemnity shall exclude (i) Purchase and Contribution Indemnified Amounts to the extent a final non-appealable judgment of a court of competent jurisdiction holds that such Purchase and Contribution Indemnified Amounts resulted from the bad faith, gross negligence or willful misconduct by the Purchase and Contribution Indemnified Party seeking indemnification, (ii) Taxes (other than any Taxes that represent losses, claims, damages, etc. arising from any non-Tax claim), (iii) Purchase and Contribution Indemnified Amounts to the extent the same includes losses in respect of Pool Receivables that are uncollectible solely on account of the insolvency, bankruptcy, lack of creditworthiness or other financial inability to pay of the related Obligor, (iv) Purchase and Contribution Indemnified Amounts that arise from any settlement of any proceeding effected without the applicable Originator's written consent (which consent shall not be unreasonably withheld, delayed or conditioned), but if settled with such Originator's written consent, or if there is a judgment against a Purchase and Contribution Indemnified Party in any such proceeding, such Originator agrees to indemnify and hold harmless each Purchase and Contribution Indemnified Party in the manner set forth in this Section 9.1 (provided that such Originator's consent shall not be required to effect any settlement of any such proceeding if an Event of Default has occurred and is continuing at the time such settlement is to be effected; provided, further that, if at any time a Purchase and Contribution Indemnified Party shall have

requested in accordance with this Agreement that an Originator reimburse such Purchase and Contribution Indemnified Party for legal or other expenses in connection with investigating, responding to or defending any proceeding, such Originator shall be liable for any settlement of any proceeding effected without such Originator's written consent if (x) such settlement is entered into more than 30 days after receipt by such Originator of such request for reimbursement and (y) such Originator shall not have reimbursed such Purchase and Contribution Indemnified Party in accordance with such request prior to the date of such settlement) and (v) Purchase and Contribution Indemnified Amounts to the extent a final non-appealable judgment of a court of competent jurisdiction holds that such Purchase and Contribution Indemnified Amounts resulted from disputes arising solely among Purchase and Contribution Indemnified Parties (other than the Administrative Agent or the Structuring Agent) and that do not involve any act or omission by any Originator or any of their Affiliates).

Notwithstanding anything to the contrary in this Agreement, solely for purposes of such Originator's indemnification obligations in this Article IX, any representation, warranty or covenant qualified by the occurrence or non-occurrence of a material adverse effect or similar concepts of materiality shall be deemed to be not so qualified.

If for any reason the foregoing indemnification is unavailable to any Purchase and Contribution Indemnified Party or insufficient to hold it harmless, then the Originators, jointly and severally, shall contribute to the amount paid or payable by such Purchase and Contribution Indemnified Party as a result of such loss, claim, damage or liability in such proportion as is appropriate to reflect the relative economic interests of such Originator and its Affiliates, on the one hand, and such Purchase and Contribution Indemnified Party, on the other hand, in the matters contemplated by this Agreement as well as the relative fault of such Originator and its Affiliates and such Purchase and Contribution Indemnified Party with respect to such loss, claim, damage or liability and any other relevant equitable considerations. The reimbursement, indemnity and contribution obligations of such Originator under this Section 9.1 shall be in addition to any liability which such Originator may otherwise have (without duplication), shall extend upon the same terms and conditions to the Purchase and Contribution Indemnified Party, and shall be binding upon and inure to the benefit of any successors, permitted assigns, heirs and personal representatives of such Originator and the Purchase and Contribution Indemnified Parties. Any indemnification or contribution under this Section 9.1 shall survive the termination of this Agreement.

## ARTICLE X MISCELLANEOUS

### SECTION 10.1 Amendments, etc.

(a) The provisions of this Agreement may from time to time be amended, modified or waived, if such amendment, modification or waiver is in writing and executed by the Buyer, the Servicer and each Originator, with the prior written consent of the Administrative Agent and the Purchasers.

(b) No failure or delay on the part of the Buyer, the Servicer, any Originator, the Administrative Agent or any third-party beneficiary in exercising any power or right

hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such power or right preclude any other or further exercise thereof or the exercise of any other power or right. No notice to or demand on the Buyer, the Servicer or any Originator in any case shall entitle it to any notice or demand in similar or other circumstances. No waiver or approval by the Buyer, the Administrative Agent or the Servicer under this Agreement shall, except as may otherwise be stated in such waiver or approval, be applicable to subsequent transactions. No waiver or approval under this Agreement shall require any similar or dissimilar waiver or approval thereafter to be granted hereunder.

(c) The Transaction Documents contain a final and complete integration of all prior expressions by the parties hereto with respect to the subject matter thereof and shall constitute the entire agreement among the parties hereto with respect to the subject matter thereof, superseding all prior oral or written understandings.

SECTION 10.2 Notices, etc. All notices and other communications provided for hereunder shall, unless otherwise stated herein, be in writing (including facsimile or electronic mail communication) and shall be delivered or sent by facsimile, electronic mail, or by overnight mail, to the intended party at the mailing or electronic mail address or facsimile number of such party set forth under its name on Schedule IV hereof or at such other address or facsimile number as shall be designated by such party in a written notice to the other parties hereto or in the case of the Administrative Agent or any Purchaser, at their respective address for notices pursuant to the Receivables Purchase Agreement. All such notices and communications shall be effective (i) if delivered by overnight mail, when received, and (ii) if transmitted by facsimile or electronic mail, when sent, receipt confirmed by telephone or electronic means.

SECTION 10.3 No Waiver; Cumulative Remedies. The remedies herein provided are cumulative and not exclusive of any remedies provided by law. Without limiting the foregoing, Harsco and each Originator hereby authorizes the Buyer, the Administrative Agent and each Purchaser (collectively, the "Set-off Parties"), at any time and from time to time, to the fullest extent permitted by law, to set off, against any obligations of Harsco or such Originator to such Set-off Party arising in connection with the Transaction Documents (including amounts payable pursuant to Section 9.1) that are then due and payable or that are not then due and payable but have accrued, any and all deposits (general or special, time or demand, provisional or final) at any time held by, and any and all indebtedness at any time owing by, any Set-off Party to or for the credit or the account of Harsco or such Originator.

SECTION 10.4 Binding Effect; Assignability. This Agreement shall be binding upon and inure to the benefit of the Buyer and each Originator and their respective successors and permitted assigns. No Originator nor the Servicer may assign any of its rights hereunder or any interest herein without the prior written consent of the Buyer, the Administrative Agent and each Purchaser, except as otherwise herein specifically provided. This Agreement shall create and constitute the continuing obligations of the parties hereto in accordance with its terms, and shall remain in full force and effect until such time as the parties hereto shall agree. The rights and remedies with respect to any breach of any representation and warranty made by any Originator pursuant to Article V and the indemnification and payment provisions of Article IX and Section 10.6 shall be continuing and shall survive any termination of this Agreement.

SECTION 10.5 Governing Law. THIS AGREEMENT, INCLUDING THE RIGHTS AND DUTIES OF THE PARTIES HERETO, SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK (INCLUDING SECTIONS 5-1401 AND 5-1402 OF THE GENERAL OBLIGATIONS LAW OF THE STATE OF NEW YORK, BUT WITHOUT REGARD TO ANY OTHER CONFLICTS OF LAW PROVISIONS THEREOF), EXCEPT TO THE EXTENT THAT THE PERFECTION OF A SECURITY INTEREST OR REMEDIES HEREUNDER, IN RESPECT OF ANY PARTICULAR COLLATERAL ARE GOVERNED BY THE LAWS OF A JURISDICTION OTHER THAN THE STATE OF NEW YORK.

SECTION 10.6 Costs, Expenses and Taxes. In addition to the obligations of the Originators under Article IX, each Originator, severally and for itself alone, and Harsco, jointly and severally with each Originator, agrees to pay on demand:

(a) to the Buyer (and any successor and permitted assigns thereof) and any third-party beneficiary of the Buyer's rights hereunder all reasonable and documented out-of-pocket costs and expenses in connection with the preparation, negotiation, execution, delivery and administration of this Agreement (together with all amendments, restatements, supplements, consents and waivers, if any, from time to time hereto), including (i) the reasonable and documented Attorney Costs for the Buyer (and any successor and permitted assigns thereof) and any third-party beneficiary of the Buyer's rights hereunder with respect thereto and with respect to advising any such Person as to their rights and remedies under this Agreement and the other Transaction Documents and (ii) subject to Section 6.1(c), reasonable and documented out-of-pocket accountants', auditors' and consultants' fees and expenses for the Buyer (and any successor and permitted assigns thereof) and any third-party beneficiary of the Buyer's rights hereunder incurred in connection with the administration and maintenance of this Agreement or advising any such Person as to their rights and remedies under this Agreement or as to any actual or reasonably claimed breach of this Agreement or any other Transaction Document;

(b) to the Buyer (and any successor and permitted assigns thereof) and any third-party beneficiary of the Buyer's rights hereunder all reasonable and documented out-of-pocket costs and expenses (including reasonable and documented Attorney Costs), of any such Person incurred in connection with the enforcement of any of their respective rights or remedies under the provisions of this Agreement and the other Transaction Documents; and

(c) all Other Taxes payable in connection with the execution, delivery, filing and recording of this Agreement or the other Transaction Documents to be delivered hereunder, and agrees to indemnify each Purchase and Contribution Indemnified Party against any liabilities with respect to or resulting from any delay in paying or omitting to pay such Taxes.

SECTION 10.7 SUBMISSION TO JURISDICTION. (a) EACH PARTY HERETO HEREBY IRREVOCABLY SUBMITS TO THE EXCLUSIVE JURISDICTION OF ANY NEW YORK STATE OR FEDERAL COURT SITTING IN NEW YORK CITY, NEW YORK IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT, AND EACH PARTY HERETO HEREBY IRREVOCABLY AGREES THAT ALL CLAIMS IN RESPECT OF SUCH ACTION OR PROCEEDING SHALL BE HEARD AND DETERMINED IN SUCH NEW YORK STATE COURT OR, TO THE EXTENT

PERMITTED BY LAW, IN SUCH FEDERAL COURT. THE PARTIES HERETO HEREBY IRREVOCABLY WAIVE, TO THE FULLEST EXTENT THEY MAY EFFECTIVELY DO SO, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN SUCH COURT. THE PARTIES HERETO AGREE THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW.

(b) EACH PARTY HERETO CONSENTS TO THE SERVICE OF ANY AND ALL PROCESS IN ANY SUCH ACTION OR PROCEEDING BY THE MAILING OF COPIES OF SUCH PROCESS TO IT AT ITS ADDRESS SPECIFIED IN SCHEDULE IV. NOTHING IN THIS SECTION 10.7 SHALL AFFECT THE RIGHT OF THE PARTIES HERETO TO SERVE LEGAL PROCESS IN ANY OTHER MANNER PERMITTED BY LAW.

SECTION 10.8 WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY WAIVES, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, TRIAL BY JURY IN ANY JUDICIAL PROCEEDING INVOLVING, DIRECTLY OR INDIRECTLY, ANY MATTER (WHETHER SOUNDING IN TORT, CONTRACT OR OTHERWISE) IN ANY WAY ARISING OUT OF, RELATED TO, OR CONNECTED WITH THIS AGREEMENT OR ANY OTHER TRANSACTION DOCUMENT.

SECTION 10.9 Captions and Cross References; Incorporation by Reference. The various captions (including the table of contents) in this Agreement are included for convenience only and shall not affect the meaning or interpretation of any provision of this Agreement. References in this Agreement to any underscored Article, Section, Schedule or Exhibit are to such Article, Section, Schedule or Exhibit of this Agreement, as the case may be. The Schedules and Exhibits hereto are hereby incorporated by reference into and made a part of this Agreement.

SECTION 10.10 Execution in Counterparts. This Agreement may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original and all of which when taken together shall constitute one and the same agreement. Delivery of an executed counterpart hereof by facsimile or other electronic means shall be equally effective as delivery of an originally executed counterpart.

SECTION 10.11 Acknowledgment and Agreement. By execution below, each Originator expressly acknowledges and agrees that all of the Buyer's rights, title, and interests in, to, and under this Agreement (but not its obligations), shall be collaterally assigned by the Buyer to the Administrative Agent (for the benefit of the Secured Parties) pursuant to the Receivables Purchase Agreement, and each Originator consents to such collateral assignment. Each of the parties hereto acknowledges and agrees that the Purchasers and the Administrative Agent are third-party beneficiaries of the rights of the Buyer arising hereunder and under the other Transaction Documents to which any Originator is a party, and notwithstanding anything to the contrary contained herein or in any other Transaction Document, during the occurrence and continuation of an Event of Default under the Receivables Purchase Agreement, the Administrative Agent, and not the Buyer, shall have the sole right to exercise all such rights and related remedies.

SECTION 10.12 No Proceeding. Each Originator hereby agrees that it will not institute, or join any other Person in instituting, against the Buyer any Insolvency Proceeding for at least one year and one day following the Final Payout Date. Each Originator further agrees that notwithstanding any provisions contained in this Agreement to the contrary, the Buyer shall not, and shall not be obligated to, pay any amount in respect of any Subordinated Loan, the Intercompany Loan Agreement or otherwise to such Originator pursuant to this Agreement unless the Buyer has received funds which may, subject to Section 3.01 of the Receivables Purchase Agreement, be used to make such payment. Any amount which the Buyer does not pay pursuant to the operation of the preceding sentence shall not constitute a claim (as defined in §101 of the Bankruptcy Code) against, or corporate obligation of, the Buyer by such Originator for any such insufficiency unless and until the provisions of the foregoing sentence are satisfied. The agreements in this Section 10.12 shall survive any termination of this Agreement.

SECTION 10.13 Mutual Negotiations. This Agreement and the other Transaction Documents are the product of mutual negotiations by the parties thereto and their counsel, and no party shall be deemed the draftsman of this Agreement or any other Transaction Document or any provision hereof or thereof or to have provided the same. Accordingly, in the event of any inconsistency or ambiguity of any provision of this Agreement or any other Transaction Document, such inconsistency or ambiguity shall not be interpreted against any party because of such party's involvement in the drafting thereof.

SECTION 10.14 Limited Recourse. Except as explicitly set forth herein and in the Performance Guaranty, the obligations of the Buyer under this Agreement or any other Transaction Documents to which it is a party are solely the obligations of the Buyer. No recourse under any Transaction Document shall be had against, and no liability shall attach to, any officer, employee, director, or beneficiary, whether directly or indirectly, of the Buyer. The agreements in this Section 10.14 shall survive any termination of this Agreement.

SECTION 10.15 Joint and Several Liability. Each of the representations, warranties, covenants, obligations, indemnities and other undertakings of any Originator hereunder shall be made jointly and severally, and are joint and several liabilities of each of the Originators hereunder.

SECTION 10.16 Electronic Execution of Assignments and Certain Other Documents. The words "execution," "execute", "signed," "signature," and words of like import in or related to this Agreement and any document to be signed in connection with this Agreement and the transactions contemplated hereby (including Joinder Agreements, amendments or other waivers and consents) shall be deemed to include electronic signatures, the electronic matching of assignment terms and contract formations on electronic platforms approved by the Administrative Agent, 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 the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

SECTION 10.17 Severability. Any provisions of this Agreement which are prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

[Signature Pages Follow]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their respective officers thereunto duly authorized as of the date first above written.

HARSCO RECEIVABLES LLC,  
as Buyer

By: /s/ Michael Kolinsky  
Name: Michael Kolinsky  
Title: Vice President

HARSCO CORPORATION,  
as Servicer and as an Originator

By: /s/ Michael Kolinsky  
Name: Michael Kolinsky  
Title: Vice President - Treasurer, Tax and Real Estate

HARSCO CLEAN EARTH HOLDINGS, LLC, as an  
Originator

By: /s/ Jon S. Ploetz  
Name: Jon S. Ploetz  
Title: Secretary

21ST CENTURY ENVIRONMENTAL MANAGEMENT  
OF NEVADA, LLC  
21ST CENTURY ENVIRONMENTAL MANAGEMENT,  
LLC OF RHODE ISLAND  
ADVANCED REMEDIATION & DISPOSAL  
TECHNOLOGIES OF DELAWARE, LLC  
AERC ACQUISITION CORPORATION  
ALLIED ENVIRONMENTAL GROUP, LLC  
ALLWORTH, LLC  
BURLINGTON ENVIRONMENTAL, LLC  
CEHI ACQUISITION, LLC  
CEI HOLDING, LLC  
CHEMICAL POLLUTION CONTROL OF FLORIDA,  
LLC  
CHEMICAL RECLAMATION SERVICES, LLC  
CHEMICAL POLLUTION CONTROL, LLC OF  
NEW YORK  
CLEAN EARTH ENVIRONMENTAL SERVICES, INC.  
AES ASSET ACQUISITION CORPORATION  
CLEAN EARTH ENVIRONMENTAL SOLUTIONS, INC.  
CLEAN EARTH, LLC  
CLEAN EARTH HOLDINGS, LLC  
CLEAN EARTH SPECIALTY WASTE SOLUTIONS, INC.  
CLEAN EARTH OF ALABAMA, INC.  
CLEAN EARTH OF CARTERET, LLC  
CLEAN EARTH DREDGING TECHNOLOGIES, LLC  
CLEAN EARTH OF GEORGIA, LLC  
CLEAN EARTH OF GREATER WASHINGTON, LLC  
CLEAN EARTH OF MARYLAND, LLC  
CLEAN EARTH OF NEW CASTLE, LLC  
CLEAN EARTH OF NORTH JERSEY, INC.  
CLEAN EARTH OF PHILADELPHIA, LLC  
CLEAN EARTH OF SOUTHEAST PENNSYLVANIA,  
LLC  
CLEAN EARTH OF SOUTHERN FLORIDA, LLC  
CLEAN EARTH OF WILLIAMSPORT, LLC  
CLEAN EARTH OF MICHIGAN, LLC  
CLEAN ROCK PROPERTIES LTD.  
ESOL TOPCO LLC  
GENERAL ENVIRONMENTAL MANAGEMENT OF  
RANCHO CORDOVA LLC  
LUNTZ ACQUISITION (DELAWARE), LLC

NORTHLAND ENVIRONMENTAL, LLC  
NORTRU, LLC  
PHILIP RECLAMATION SERVICES, HOUSTON, LLC  
PSC ENVIRONMENTAL SERVICES LLC  
PSC RECOVERY SYSTEMS, LLC  
REAL PROPERTY ACQUISITION LLC  
REPUBLIC ENVIRONMENTAL RECYCLING  
(NEW JERSEY), INC.  
REPUBLIC ENVIRONMENTAL SYSTEMS  
(PENNSYLVANIA), LLC  
REPUBLIC ENVIRONMENTAL SYSTEMS  
(TRANSPORTATION GROUP), LLC  
RHO-CHEM, LLC  
SOLVENT RECOVERY, LLC  
GARDNER ROAD OIL, LLC  
CLEAN EARTH MOBILE SERVICES, LLC  
CLEAN EARTH OF PUERTO RICO, LLC  
ENVIRONMENTAL SOIL MANAGEMENT, INC.  
ENVIRONMENTAL SOIL MANAGEMENT OF  
NEW YORK, LIMITED LIABILITY COMPANY  
MKC ACQUISITION CORPORATION  
CLEAN EARTH CORPORATE SERVICES, LLC  
CLEAN EARTH GOVERNMENT SERVICES, LLC  
as Originators

By: /s/ Sarah Kowalczyk  
Name: Sarah Kowalczyk  
Title: Secretary

**AMENDMENT NO. 10 TO THIRD AMENDED AND RESTATED CREDIT AGREEMENT AND SECOND AMENDMENT TO GUARANTEE AND COLLATERAL AGREEMENT**, dated as of June 24, 2022 (this “**Amendment Agreement**”), among HARSCO CORPORATION, a Delaware corporation (the “**Company**”), the Subsidiary Guarantors party hereto, BANK OF AMERICA, N.A., as administrative agent (the “**Administrative Agent**”) and as Collateral Agent (the “**Collateral Agent**”), and the Lenders party hereto (each, a “**Consenting Lender**”).

Reference is made to the Third Amended and Restated Credit Agreement, dated as of November 2, 2016 (as amended by Amendment No. 1 to Credit Agreement, dated as of December 8, 2017, Amendment No. 2 to Credit Agreement, dated as of June 18, 2018, Amendment No. 3 to Credit Agreement, dated as of June 18, 2018, Amendment No. 4 to Credit Agreement, dated as of June 28, 2019, Amendment No. 5 to Credit Agreement, dated as of March 31, 2020, Amendment No. 6 to Credit Agreement, dated as of June 26, 2020, Amendment No. 7 to Credit Agreement, dated as of March 10, 2021, Amendment No. 8 to Credit Agreement, dated as of October 27, 2021, and Amendment No. 9 to Credit Agreement, dated as of February 22, 2022, the “**Existing Credit Agreement**”; the Existing Credit Agreement as amended by this Amendment Agreement, the “**Amended Credit Agreement**”), among the Company, the Approved Borrowers (as defined therein) from time to time party thereto, the lenders from time to time party thereto and Bank of America, N.A., as Administrative Agent and Collateral Agent. Unless otherwise defined herein, terms defined in the Amended Credit Agreement and used herein shall have the meanings given to them in the Amended Credit Agreement.

WHEREAS, the Company has requested certain amendments to the Existing Credit Agreement on the terms set forth herein (the “**Required Lender Amendments**”);

WHEREAS, in order to effect the foregoing, the Company and the Consenting Lenders, which Consenting Lenders constitute the Required Lenders (as defined in the Existing Credit Agreement), desire to amend the Existing Credit Agreement as of the Amendment No. 10 Effective Date and approve the Required Lender Amendments as provided herein; and

WHEREAS, all notice requirements set forth in Section 10.01 of the Existing Credit Agreement have been duly provided by the Company or waived by the Administrative Agent and the Consenting Lenders.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

*Section 1. Credit Agreement Amendments.* On the Amendment No. 10 Effective Date, the Company, the Administrative Agent, and the Consenting Lenders agree that the Existing Credit Agreement is, effective as of the Amendment No. 10 Effective Date, hereby amended pursuant to Section 10.01 of the Existing Credit Agreement, as follows:

- (a) The definition of “**Permitted Securitization Financing**” in the Existing Credit Agreement is hereby amended by adding the double-underlined text (indicated textually in the same manner as the following example: double-underlined text) and by deleting the stricken text (indicated textually in the same manner as the following example: ~~stricken text~~):

**“Permitted Securitization Financing”**: any transaction or series of transactions pursuant to which the Company and/or any ~~non-Guarantor~~ Subsidiaries of the Company may (a) sell, convey or otherwise transfer, on a standalone or revolving basis, Securitization Assets to a Securitization SPE or any other person and/or (b) grant a security interest in any Securitization Assets; *provided* that (i) recourse to any Borrower or any Subsidiary (other than any Securitization SPE) in connection with such transactions shall be limited to the extent customary for similar transactions in the applicable jurisdictions and/or to the extent necessary to comply with applicable laws or regulations and (ii) the Securitization Net Investment outstanding thereunder at any time shall not exceed \$150.0 ~~\$100.0~~ million ~~at any time~~.

(b) Clause (bb) of Section 7.03 of the Existing Credit Agreement is hereby amended by deleting the stricken text (indicated textually in the same manner as the following example: ~~stricken text~~):

(i) Liens on ~~other~~ Securitization Assets including any bank accounts into which collections or proceeds of Securitization Assets are deposited or all or a portion of the assets of the Securitization SPEs or (ii) precautionary Liens against the transferor of Securitization Assets, in each case arising in connection with a Permitted Securitization Financing;

(c) Clause (b) of Section 7.12 of the Existing Credit Agreement is hereby amended by deleting the words “any Lien arising pursuant to any”.

*Section 2. Guarantee and Collateral Agreement Amendments.* On the Amendment No. 10 Effective Date, the Company, the Subsidiary Guarantors party hereto, the Collateral Agent, and the Consenting Lenders agree that the Guarantee and Collateral Agreement is, effective as of the Amendment No. 10 Effective Date, hereby amended pursuant to Section 8.01 of the Existing Guarantee and Collateral Agreement, as follows:

The definition of “**Excluded Assets**” in the Existing Guarantee and Collateral Agreement is hereby amended by deleting “[reserved]” in clause (E) thereof and replacing it with “Capital Stock of a Securitization SPE and indebtedness of a Securitization SPE”.

*Section 3. Representations and Warranties.* The Company hereby represents and warrants to the Administrative Agent and each Lender party hereto that (x) no Default or Event of Default has occurred and is continuing on and as of the Amendment No. 10 Effective Date after giving effect hereto, and (y) each of the representations and warranties in each of the Loan Documents is true and correct in all material respects (except that any representation and warranty that is qualified by materiality shall be true and correct in all respects) on and as of the Amendment

No. 10 Effective Date after giving effect hereto (except to the extent such representations and warranties are specifically made as of an earlier date, in which case such representations and warranties were true and correct in all material respects as of such date).

*Section 4. Effectiveness of this Amendment Agreement.* This Amendment Agreement shall become effective as of the date hereof, subject to the satisfaction of the following conditions precedent on such date (the date on which all of such conditions shall first be satisfied, the “**Amendment No. 10 Effective Date**”):

(a) the Administrative Agent shall have received in .pdf or electronic format (followed promptly by originals to the extent requested by the Administrative Agent) and, unless otherwise specified, properly executed by a Responsible Officer of the signing Loan Party and by each other party thereto, each in form and substance reasonably satisfactory to the Administrative Agent and its legal counsel:

- (i) counterparts hereof that, when taken together, bear the signatures of the Loan Parties, the Administrative Agent, the Collateral Agent, and each other Consenting Lender collectively constituting the Majority Revolving Credit Facility Lenders; and
- (ii) a certificate of a Responsible Officer certifying as to the matters set forth in Section 3 hereof; and

(b) All fees and expenses (in the case of expenses, to the extent invoiced at least three (3) Business Days prior to the Amendment No. 10 Effective Date (except as otherwise reasonably agreed by the Company)) required to be paid hereunder, under the Amended Credit Agreement on the Amendment No. 10 Effective Date, shall have been paid.

*Section 5. Effect of Amendment; No Novation.*

(a) Except as expressly set forth herein or in the Amended Credit Agreement, this Amendment Agreement shall not by implication or otherwise limit, impair, constitute a waiver of or otherwise affect the rights and remedies of the Lenders or the Agents under the Existing Credit Agreement or any other Loan Document and shall not alter, modify, amend or in any way affect any of the terms, conditions, obligations, covenants or agreements contained in the Existing Credit Agreement or any other provision of the Existing Credit Agreement or of any other Loan Document, all of which are ratified and affirmed in all respects and shall continue in full force and effect.

(b) Nothing herein shall be deemed to entitle the Company to a consent to, or a waiver, amendment, modification or other change of, any of the terms, conditions, obligations, covenants or agreements contained in the Existing Credit Agreement or any other Loan Document in similar or different circumstances.

(c) On and after the Amendment No. 10 Effective Date, each reference in the Existing Credit Agreement to “this Agreement”, “hereunder”, “hereof”, “herein”, or words of like import, and each reference to the “Credit Agreement”, in any other Loan Document shall be deemed a reference to the Amended Credit Agreement. This Amendment Agreement shall constitute a “Loan Document” for all purposes of the Amended Credit

Agreement and the other Loan Documents. On and after the Amendment No. 10 Effective Date, each reference in the Guarantee and Collateral Agreement to “this Agreement”, “hereunder”, “hereof”, “herein”, or words of like import, and each reference to the “Guarantee and Collateral Agreement”, in any other Loan Document shall be deemed a reference to the Guarantee and Collateral Agreement as amended hereby.

(d) The parties hereto hereby consent to the Required Lender Amendments upon the terms and subject to the conditions set forth herein. Upon the Amendment No. 10 Effective Date, all conditions and requirements set forth in the Existing Credit Agreement or the other Loan Documents relating to the effectiveness of this Amendment Agreement, including the Required Lender Amendments, shall be deemed satisfied.

(e) Nothing contained in this Amendment Agreement, the Amended Credit Agreement or any other Loan Document shall constitute or be construed as a novation of any of the Obligations.

*Section 6. Governing Law.* THIS AMENDMENT AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES UNDER THIS AMENDMENT AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK, WITHOUT REGARD TO CONFLICT OF LAWS PRINCIPLES.

*Section 7. Costs and Expenses.* In accordance with, and subject to the limitations of, Section 10.05 of the Amended Credit Agreement, the Company agrees to reimburse the Administrative Agent for its reasonable documented out-of-pocket expenses in connection with this Amendment Agreement, including the reasonable documented fees, charges and disbursements of counsel for the Administrative Agent.

*Section 8. Electronic Execution; Electronic Records; Counterparts.* This Amendment Agreement and any document, amendment, approval, consent, information, notice, certificate, request, statement, disclosure or authorization related to this Agreement (each a “Communication”), including Communications required to be in writing, may, if agreed by the Administrative Agent, be in the form of an Electronic Record and may be executed using Electronic Signatures, including, without limitation, facsimile and/or .pdf and shall be considered an original, and shall have the same legal effect, validity and enforceability as a paper record. This Amendment Agreement may be executed in as many counterparts as necessary or convenient, including both paper and electronic counterparts, but all such counterparts are one and the same Amendment Agreement. For the avoidance of doubt, the authorization under this paragraph may include, without limitation, use or acceptance by the Administrative Agent of a manually signed paper Communication which has been converted into electronic form (such as scanned into PDF format), or an electronically signed Communication converted into another format, for transmission, delivery and/or retention. Notwithstanding anything contained herein to the contrary, the Administrative Agent is under no obligation to accept an Electronic Signature in any form or in any format unless expressly agreed to by the Administrative Agent pursuant to procedures approved by it; provided, further, without limiting the foregoing, (a) to the extent the Administrative Agent has agreed to accept such Electronic Signature, the Administrative Agent shall be entitled to rely on any such Electronic Signature without further verification and (b) upon the request of the Administrative Agent any Electronic Signature shall be promptly followed by a

manually executed, original counterpart. For purposes hereof, “Electronic Record” and “Electronic Signature” shall have the meanings assigned to them, respectively, by 15 USC §7006, as it may be amended from time to time.

*Section 9. Headings.* The headings of this Amendment Agreement are for purposes of reference only and shall not limit or otherwise affect the meaning hereof.

*[Remainder of page intentionally blank]*

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

**HARSCO CORPORATION,**  
as Borrower

By: /s/ Michael Kolinsky  
Name: Michael Kolinsky  
Title: Vice President - Treasurer, Tax and Real Estate

*[Signature Page to Amendment No. 10]*

**HARSCO DEFENSE HOLDING LLC  
HARSCO MINNESOTA FINANCE, INC.  
PROTRAN TECHNOLOGY LIMITED LIABILITY  
COMPANY  
HARSCO MINERALS TECHNOLOGIES LLC  
HARSCO FINANCIAL HOLDINGS, INC.**

By: /s/ Michael H. Kolinsky

Name: Michael H. Kolinsky

Title: President

*[Signature Page to Amendment No. 10]*

**HARSCO MINNESOTA LLC  
HARSCO TECHNOLOGIES LLC**

By: /s/ Daniel G. King

Name: Daniel G. King

Title: President

*[Signature Page to Amendment No. 10]*

**HARSCO RAIL, LLC**

By: /s/ Jon S. Ploetz

Name: Jon S. Ploetz

Title: Secretary

*[Signature Page to Amendment No. 10]*

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**HARSCO METRO RAIL HOLDINGS, LLC**  
**HARSCO METRO RAIL, LLC**

By: /s/ Jon S. Ploetz

Name: Jon S. Ploetz

Title: Vice President and Secretary

*[Signature Page to Amendment No. 10]*

**ALTEK, L.L.C.**  
**HARSCO CLEAN EARTH HOLDINGS, LLC**

By: /s/ Jon S. Ploetz

Name: Jon S. Ploetz

Title: Secretary

*[Signature Page to Amendment No. 10]*

21ST CENTURY ENVIRONMENTAL MANAGEMENT  
OF NEVADA, LLC  
21ST CENTURY ENVIRONMENTAL  
MANAGEMENT, LLC OF RHODE ISLAND  
ADVANCED REMEDIATION & DISPOSAL  
TECHNOLOGIES OF DELAWARE, LLC  
AERC ACQUISITION CORPORATION  
ALLIED ENVIRONMENTAL GROUP, LLC  
ALLWORTH, LLC  
BURLINGTON ENVIRONMENTAL, LLC  
CEHI ACQUISITION, LLC  
CEI HOLDING, LLC  
CHEMICAL POLLUTION CONTROL OF FLORIDA,  
LLC  
CHEMICAL RECLAMATION SERVICES, LLC  
CHEMICAL POLLUTION CONTROL, LLC OF  
NEW YORK  
CLEAN EARTH ENVIRONMENTAL SERVICES, INC.  
AES ASSET ACQUISITION CORPORATION  
CLEAN EARTH ENVIRONMENTAL SOLUTIONS,  
INC.  
CLEAN EARTH, LLC  
CLEAN EARTH HOLDINGS, LLC  
CLEAN EARTH SPECIALTY WASTE SOLUTIONS,  
INC.  
CLEAN EARTH OF ALABAMA, INC.  
CLEAN EARTH OF CARTERET, LLC  
CLEAN EARTH DREDGING TECHNOLOGIES, LLC  
CLEAN EARTH OF GEORGIA, LLC  
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CLEAN EARTH OF MARYLAND, LLC  
CLEAN EARTH OF NEW CASTLE, LLC  
CLEAN EARTH OF NORTH JERSEY, INC.  
CLEAN EARTH OF PHILADELPHIA, LLC  
CLEAN EARTH OF SOUTHEAST PENNSYLVANIA,  
LLC  
CLEAN EARTH OF SOUTHERN FLORIDA, LLC  
CLEAN EARTH OF WILLIAMSPORT, LLC  
CLEAN EARTH OF MICHIGAN, LLC  
CLEAN ROCK PROPERTIES LTD.  
ESOL TOPCO, LLC  
GENERAL ENVIRONMENTAL MANAGEMENT OF  
RANCHO CORDOVA LLC

*[Signature Page to Amendment No. 10]*

LUNTZ ACQUISITION (DELAWARE), LLC  
NORTHLAND ENVIRONMENTAL, LLC  
NORTRU, LLC  
PHILIP RECLAMATION SERVICES, HOUSTON,  
LLC  
PSC ENVIRONMENTAL SERVICES LLC  
PSC RECOVERY SYSTEMS, LLC  
REAL PROPERTY ACQUISITION LLC  
REPUBLIC ENVIRONMENTAL RECYCLING  
(NEW JERSEY), INC.  
REPUBLIC ENVIRONMENTAL SYSTEMS  
(PENNSYLVANIA), LLC  
REPUBLIC ENVIRONMENTAL SYSTEMS  
(TRANSPORTATION GROUP), LLC  
RHO-CHEM, LLC  
SOLVENT RECOVERY, LLC  
GARDNER ROAD OIL, LLC  
CLEAN EARTH MOBILE SERVICES, LLC  
CLEAN EARTH OF PUERTO RICO, LLC  
ENVIRONMENTAL SOIL MANAGEMENT INC  
ENVIRONMENTAL SOIL MANAGEMENT OF  
NEW YORK, LIMITED LIABILITY COMPANY  
MKC ACQUISITION CORPORATION

By: /s/ Sarah Kowalczyk \_\_\_\_\_

Name: Sarah Kowalczyk

Title: Secretary

[Signature Page to Amendment No. 10]

**CLEAN EARTH CORPORATE SERVICES, LLC  
CLEAN EARTH GOVERNMENT SERVICES, LLC**

By: /s/ Sarah Kowalczyk

Name: Sarah Kowalczyk

Title: Secretary

*[Signature Page to Amendment No. 10]*

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**BANK OF AMERICA, N.A.,**  
as Administrative Agent and Collateral Agent

By: /s/ Felicia Brinson

Name: Felicia Brinson

Title: Assistant Vice President

*[Signature Page to Amendment No. 10]*



## CONSENT AND REAFFIRMATION

Each of the undersigned hereby acknowledges receipt of a copy of the foregoing Amendment Agreement (the “**Amendment Agreement**”), dated as of June 24, 2022, which amends the Third Amended and Restated Credit Agreement dated as of November 2, 2016 (as amended by Amendment No. 1 to Credit Agreement, dated as of December 8, 2017, Amendment No. 2 to Credit Agreement, dated as of June 18, 2018, Amendment No. 3 to Credit Agreement, dated as of June 18, 2018, Amendment No. 4 to Credit Agreement, dated as of June 28, 2019, Amendment No. 5 to Credit Agreement, dated as of March 31, 2020, Amendment No. 6 to Credit Agreement, dated as of June 26, 2020, Amendment No. 7 to Credit Agreement, dated as of March 10, 2021, Amendment No. 8 to Credit Agreement, dated as of October 27, 2021 and Amendment No. 9 to Credit Agreement, dated as of February 22, 2022, the “**Existing Credit Agreement**”), among Harsco Corporation, a Delaware corporation, Bank of America, N.A., as Administrative Agent, and the several lenders from time to time party thereto. Capitalized terms used in this Consent and Reaffirmation and not defined herein shall have the meanings given to them in the Amended Credit Agreement (as defined in the Amendment Agreement). In connection with the execution and delivery of the Amendment Agreement, each of the undersigned, except as expressly set forth in the Amendment Agreement, (i) ratifies and affirms all the provisions in the Amended Credit Agreement, the Guarantee and Collateral Agreement, as amended pursuant to the Amendment Agreement, and the other Loan Documents, (ii) agrees that the terms and conditions of the Loan Documents, including the security provisions set forth therein, shall continue in full force and effect as amended thereby, and shall not be impaired or limited by the execution or effectiveness of the Amendment Agreement and (iii) acknowledges and agrees that the Collateral continues to secure, to the fullest extent possible in accordance with the Amended Credit Agreement and the Guarantee and Collateral Agreement, as amended pursuant to the Amendment Agreement, the payment and performance of all Obligations. All references in the Loan Documents to (i) the “Credit Agreement” shall hereafter mean and refer to the Existing Credit Agreement as amended pursuant to the Amendment Agreement, (ii) the “Guarantee and Collateral Agreement” shall hereafter mean and refer to the Guarantee and Collateral Agreement as amended pursuant to the Amendment Agreement and (iii) the term “Obligations” shall hereafter mean and refer to the Obligations as redefined in the Amended Credit Agreement and shall include all additional Obligations resulting from or incurred pursuant to the Amended Credit Agreement.

The terms and conditions of the Guarantee and Collateral Agreement and the other Security Documents are hereby reaffirmed by the Subsidiary Guarantors.

Dated: June 24, 2022

[Signature Pages Follow]

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**HARSCO CORPORATION,**  
as Borrower

By: /s/ Michael Kolinsky

Name: Michael Kolinsky

Title: Vice President - Treasurer, Tax and Real Estate

*[Signature Page to Consent and Reaffirmation]*

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**HARSCO DEFENSE HOLDING LLC  
HARSCO MINNESOTA FINANCE, INC.  
PROTRAN TECHNOLOGY LIMITED LIABILITY  
COMPANY  
HARSCO MINERALS TECHNOLOGIES LLC  
HARSCO FINANCIAL HOLDINGS, INC.**

By: /s/ Michael H. Kolinsky

Name: Michael H. Kolinsky

Title: President

*[Signature Page to Consent and Reaffirmation]*

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**HARSCO MINNESOTA LLC  
HARSCO TECHNOLOGIES LLC**

By: /s/ Daniel G. King

Name: Daniel G. King

Title: President

*[Signature Page to Consent and Reaffirmation]*

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**HARSCO RAIL, LLC**

By: /s/ Jon S. Ploetz

Name: Jon S. Ploetz

Title: Secretary

*[Signature Page to Consent and Reaffirmation]*

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**HARSCO METRO RAIL HOLDINGS, LLC**  
**HARSCO METRO RAIL, LLC**

By: /s/ Jon S. Ploetz

Name: Jon S. Ploetz

Title: Vice President and Secretary

*[Signature Page to Consent and Reaffirmation]*

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**ALTEK, L.L.C.**  
**HARSCO CLEAN EARTH HOLDINGS, LLC**

By: /s/ Jon S. Ploetz

Name: Jon S. Ploetz

Title: Secretary

*[Signature Page to Consent and Reaffirmation]*

21ST CENTURY ENVIRONMENTAL MANAGEMENT  
OF NEVADA, LLC  
21ST CENTURY ENVIRONMENTAL  
MANAGEMENT, LLC OF RHODE ISLAND  
ADVANCED REMEDIATION & DISPOSAL  
TECHNOLOGIES OF DELAWARE, LLC  
AERC ACQUISITION CORPORATION  
ALLIED ENVIRONMENTAL GROUP, LLC  
ALLWORTH, LLC  
BURLINGTON ENVIRONMENTAL, LLC  
CEHI ACQUISITION, LLC  
CEI HOLDING, LLC  
CHEMICAL POLLUTION CONTROL OF FLORIDA,  
LLC  
CHEMICAL RECLAMATION SERVICES, LLC  
CHEMICAL POLLUTION CONTROL, LLC OF NEW  
YORK  
CLEAN EARTH ENVIRONMENTAL SERVICES, INC.  
AES ASSET ACQUISITION CORPORATION  
CLEAN EARTH, LLC  
CLEAN EARTH ENVIRONMENTAL SOLUTIONS,  
INC.  
CLEAN EARTH HOLDINGS, INC.  
CLEAN EARTH SPECIALTY WASTE SOLUTIONS,  
INC.  
CLEAN EARTH OF ALABAMA, INC.  
CLEAN EARTH OF CARTERET, LLC  
CLEAN EARTH DREDGING TECHNOLOGIES, LLC  
CLEAN EARTH OF GEORGIA, LLC  
CLEAN EARTH OF GREATER WASHINGTON, LLC  
CLEAN EARTH OF MARYLAND, LLC  
CLEAN EARTH OF NEW CASTLE, LLC  
CLEAN EARTH OF NORTH JERSEY, INC.  
CLEAN EARTH OF PHILADELPHIA, LLC  
CLEAN EARTH OF SOUTHEAST PENNSYLVANIA,  
LLC  
CLEAN EARTH OF SOUTHERN FLORIDA, LLC  
CLEAN EARTH OF WILLIAMSPORT, LLC  
CLEAN EARTH OF MICHIGAN, LLC  
CLEAN ROCK PROPERTIES LTD.  
ESOL TOPCO, LLC

*[Signature Page to Consent and Reaffirmation]*

**GENERAL ENVIRONMENTAL MANAGEMENT OF  
RANCHO CORDOVA LLC  
LUNTZ ACQUISITION (DELAWARE), LLC  
NORTHLAND ENVIRONMENTAL, LLC  
NORTRU, LLC  
PHILIP RECLAMATION SERVICES, HOUSTON,  
LLC  
PSC ENVIRONMENTAL SERVICES LLC  
PSC RECOVERY SYSTEMS, LLC  
REAL PROPERTY ACQUISITION LLC  
REPUBLIC ENVIRONMENTAL RECYCLING  
(NEW JERSEY), INC.  
REPUBLIC ENVIRONMENTAL SYSTEMS  
(PENNSYLVANIA), LLC  
REPUBLIC ENVIRONMENTAL SYSTEMS  
(TRANSPORTATION GROUP), LLC  
RHO-CHEM, LLC  
SOLVENT RECOVERY, LLC  
GARDNER ROAD OIL, LLC  
CLEAN EARTH MOBILE SERVICES, LLC  
CLEAN EARTH OF PUERTO RICO, LLC  
ENVIRONMENTAL SOIL MANAGEMENT INC  
ENVIRONMENTAL SOIL MANAGEMENT OF  
NEW YORK, LIMITED LIABILITY COMPANY  
MKC ACQUISITION CORPORATION**

By: /s/ Sarah Kowalczyk

Name: Sarah Kowalczyk

Title: Secretary

*[Signature Page to Consent and Reaffirmation]*

**CLEAN EARTH CORPORATE SERVICES, LLC  
CLEAN EARTH GOVERNMENT SERVICES, LLC**

By: /s/ Sarah Kowalczyk

Name: Sarah Kowalczyk

Title: Secretary

*[Signature Page to Consent and Reaffirmation]*



Investor Contact

**David Martin**

717.612.5628

[damartin@harsco.com](mailto:damartin@harsco.com)

Media Contact

**Jay Cooney**

717.730.3683

[jcooney@harsco.com](mailto:jcooney@harsco.com)**FOR IMMEDIATE RELEASE****HARSCO CORPORATION COMPLETES ACCOUNTS  
RECEIVABLE SECURITIZATION TO SUPPORT FINANCIAL  
FLEXIBILITY**

**CAMP HILL, Pa.** – (June 30, 2022) - [Harsco Corporation](#) (NYSE: HSC) today announced that it has closed an accounts receivable securitization facility of \$150 million with PNC Bank, N.A. The Company expects to initially utilize approximately \$120 million of the facility, with this asset monetization providing annual interest savings of approximately \$2 million. This transaction also lowers Harsco's leverage as defined under its existing senior secured credit agreement. The remaining availability under the facility may be funded at the Company's discretion in subsequent quarters. The facility has a term of three years.

"We are pleased to have successfully completed a sizable asset securitization with one of our core banks," said Anshooman Aga, Senior Vice President and Chief Financial Officer. "Reducing leverage and improving cash flow are key financial priorities for Harsco."

This press release shall not constitute an offer to sell or a solicitation of an offer to purchase any loans or securities.

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**About Harsco Corporation**

Harsco Corporation is a global market leader providing environmental solutions for industrial and specialty waste streams. Based in Camp Hill, PA, the 12,000-employee company operates in more than 30 countries. Harsco's common stock is a component of the S&P SmallCap 600 Index and the Russell 2000 Index. Additional information can be found at [www.harsco.com](http://www.harsco.com).