

**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): December 21, 2022

EnerSys

(Exact name of registrant as specified in its charter)

Commission File Number: 1-32253

Delaware
(State or other jurisdiction
of incorporation)

23-3058564
(IRS Employer
Identification No.)

2366 Bernville Road, Reading, Pennsylvania 19605
(Address of principal executive offices, including zip code)

(610) 208-1991
(Registrant's telephone number, including area code)

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

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

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

SECURITIES REGISTERED PURSUANT TO SECTION 12(b) OF THE ACT:

Title of each class	Trading Symbol	Name of each exchange on which registered
Common Stock, \$0.01 par value per share	ENS	New York Stock Exchange

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**

On December 21, 2022, EnerSys (in its individual capacity (“ENS”), and in its capacity as the “Master Servicer”) entered into a Receivables Purchase Agreement (the “Receivables Agreement”) with Wells Fargo Bank, National Association as the administrative agent (“Wells”), EnerSys Finance, LLC as the seller (the “Seller”) and certain other persons from time to time and party thereto as purchasers (together with Wells, the “Purchasers”), pursuant to which, and upon the Seller’s request, the Purchasers will make payments to the Seller in an aggregate amount of up to \$150,000,000 (the “Transaction”). In consideration of such payments, the Seller will sell, assign and transfer to Wells certain receivables purchased from ENS under a separate sale and contribution agreement, the collections related to such receivables and the proceeds of the foregoing (collectively, the “Receivables”). The Seller will use the proceeds of such sale to pay for the Receivables purchased from ENS.

The Purchasers may purchase the Receivables from the Seller from time to time, or on a revolving basis, such that as collections are received on the sold Receivables, the availability to purchase additional, new Receivables will increase. The Seller (or the Master Servicer on its behalf) will continue to service the Receivables sold to Wells. The transfers of Receivables from ENS to the Seller are intended to qualify as true sales and will begin in January in the United States. The initial term of the Receivables Agreement is three (3) years.

The Receivables Agreement contains customary representations and warranties and affirmative and negative covenants, including as to the eligibility of the Receivables being sold, termination events and indemnification provisions. All payment obligations related to the sale of Receivables are guaranteed by the Seller, but not ENS, subject to customary exceptions. Such guaranteed obligations may be accelerated or modified at any time, subject to customary default provisions.

ENS has provided to the Seller a customary performance undertaking pursuant to which ENS has agreed to guaranty the performance by the Seller of certain indemnification obligations of the Seller under the Receivables Agreement. As is customary for such parent undertakings, ENS is not guarantying the collection of any of the Receivables, and ENS will not be responsible for any failure of the obligations of any wholly-owned subsidiary of ENS who is originating the Receivables, where such failure results from the Receivables being uncollectible on account of the insolvency, bankruptcy or lack of creditworthiness of the related account debtor.

The Seller is a subsidiary of ENS. Wells, in its capacity as a lender, is party to that certain Credit Agreement, dated as of August 4, 2017, by and among ENS, Bank of America, N.A., as administrative agent and the lenders party thereto, as amended.

The Receivables Agreement is attached hereto as Exhibit 10.1.

On December 21, 2022, EnerSys issued a press release announcing the closing of the Transaction. A copy of the press release is attached hereto as Exhibit 99.1.

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

The information set forth in Item 1.01 of this Form 8-K is incorporated herein by reference.

Item 9.01 **Financial Statements and Exhibits.**

(d) Exhibits.

- 10.1 [Receivables Purchase Agreement, dated December 21, 2022, by and among EnerSys, Wells Fargo Bank, National Association, EnerSys Finance, LLC and certain other persons from time to time party thereto as purchasers.](#)
- 99.1 [Press Release, dated December 21, 2022, issued by EnerSys.](#)
- 104 Cover Page Interactive Data File (embedded within the Inline XBRL document).

Signature(s)

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.

EnerSys

Date: December 21, 2022

By: /s/ Andrea J. Funk

Andrea J. Funk

Chief Financial Officer

RECEIVABLES PURCHASE AGREEMENT

DATED AS OF DECEMBER 21, 2022

BY AND AMONG

ENERSYS FINANCE LLC, AS SELLER,

THE PERSONS FROM TIME TO TIME PARTY HERETO, AS PURCHASERS,

WELLS FARGO BANK, NATIONAL ASSOCIATION, AS ADMINISTRATIVE AGENT,

AND

ENERSYS, *AS INITIAL MASTER SERVICER*

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EXHIBITS

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Exhibit V	Form of Assignment and Acceptance
Exhibit VI	Credit and Collection Policy
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Schedule A	Commitments
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Schedule E	Parties' Addresses for Notices
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RECEIVABLES PURCHASE AGREEMENT

This RECEIVABLES PURCHASE AGREEMENT (as amended, restated, supplemented or otherwise modified from time to time, this “*Agreement*”) is entered into as of December 21, 2022 (the “*Closing Date*”) by and among the following parties:

- (i) ENERSYS FINANCE LLC, a Delaware limited liability company (the “*SPE*”), as seller (in such capacity, the “*Seller*”);
- (ii) the Persons from time to time party hereto as Purchasers;
- (iii) WELLS FARGO BANK, NATIONAL ASSOCIATION (“*Wells*”), as Administrative Agent; and
- (iv) ENERSYS, a Delaware corporation, in its individual capacity (“*ENS*”) and as initial Master Servicer (in such capacity, together with its successors and assigns in such capacity, the “*Master Servicer*”).

PRELIMINARY STATEMENTS

From time to time on and after the date hereof, the SPE will acquire Receivables pursuant to that certain Receivables Sale and Contribution Agreement, dated as of December 21, 2022 (as the same may be amended, supplemented, restated or otherwise modified from time to time, the “*Sale Agreement*”), by and among EnerSys Delaware, Inc., a Delaware corporation (“*ENS-DE*”) and certain of its affiliates that from time to time become parties thereto as sellers (each, including ENS-DE, an “*Originator*” and, collectively, the “*Originators*”), the Master Servicer, and the SPE, as buyer. The SPE desires to sell and pledge certain of such Receivables and the associated Related Security 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):

“*ABR Investment*” means an Investment at any time it is accruing Yield at a rate based on the Alternate Base Rate.

“*Adjusted Dilution Ratio*” means, at any time, the rolling average of the Dilution Ratio for the 12 Calculation Periods then most recently ended.

“**Adjusted Term SOFR**” means, for purposes of any calculation, the rate per annum equal to the sum of (a) Term SOFR plus (b) the Term SOFR Adjustment; provided that if Adjusted Term SOFR as so determined shall ever be less than the Floor, then Adjusted Term SOFR shall be deemed to be the Floor.

“**Administrative Agent**” means Wells, in its capacity as contractual representative for the Purchaser Parties, and any successor thereto in such capacity appointed pursuant to Section 11.09 or Section 13.03(g).

“**Adverse Claim**” means a lien, security interest or other charge or encumbrance, or any other type of preferential arrangement, other than (i) in favor of Seller or the Administrative Agent (on behalf of Seller, the Affected Persons and the Indemnified Parties) or (ii) a Permitted Lien.

“**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 any Person that directly or indirectly controls, is controlled by or is under common control with such Person. The term “**control**” shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

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

“**Aggregate Unpays**” means the Guaranteed Obligations, the Seller Guaranty and all other Seller Obligations.

“**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.

“**Alternate Base Rate**” or “**ABR**” means, for each day of determination, a rate per annum equal to the greatest as of such day of (a) the Prime Rate, (b) one-half of one percent (0.50%) above the Federal Funds Rate in effect on such day, (c) the sum of Adjusted Term SOFR for a one-month tenor in effect on such day plus 1.00%, provided that this clause (c) shall not be applicable during any period in which Term SOFR is unavailable or unascertainable, and (d) the Floor. For purposes of determining the Alternate Base Rate for any day, changes in the Prime Rate, the Federal Funds Rate or one-month Adjusted Term SOFR shall be effective on the date of each such change.

“**Amortization Date**” means the earliest to occur of (a) the Business Day immediately prior to the occurrence of an Amortization Event set forth in Section 10.01(j), (b) the Business Day specified in a written notice from the Administrative Agent at the direction of the Required Purchasers following the occurrence and during continuation of any other Amortization Event, and (c) the date which is ten (10) Business Days after the Administrative Agent’s receipt of (i) written notice from Seller that Seller or the Originator wishes to terminate the facility evidenced by this Agreement (such notice, a “**Termination Notice**”); **provided** that the Administrative Agent and the Purchasers receive Interim Reports for each week thereafter beginning with the week in which such Termination Notice is delivered and ending on the Final Payout Date.

“**Amortization Event**” has the meaning specified in Section 10.01. For the avoidance of doubt, any Amortization Event that occurs shall be deemed to be continuing at all times thereafter unless and until waived in accordance with Section 13.01.

“**Anti-Corruption Laws**” means all Laws of any jurisdiction applicable to ENS or any of its Subsidiaries from time to time concerning or relating to bribery or corruption, including the United States Foreign Corrupt Practices Act of 1977 and the rules and regulations thereunder and the U.K. Bribery Act 2010 and the rules and regulations thereunder.

“**Anti-Terrorism Laws**” means any and all Laws related to terrorism or money laundering, including any predicate crime to money laundering or any financial record keeping, including Executive Order No. 13324, any applicable provision of the PATRIOT Act and The Currency and Foreign Transactions Reporting Act (also known as the “**Bank Secrecy Act**,” 31 U.S.C. §§ 5311-5330 and 12 U.S.C. §§ 1818(s), 1820(b) and 1951-1959), as any of the foregoing may from time to time be amended, renewed, extended or replaced.

“**Applicable Law**” means, with respect to any Person, (x) all provisions of law, statute, treaty, constitution, ordinance, rule, regulation, requirement, restriction, permit, executive order, certificate, decision, directive or order of any Governmental Authority applicable to such Person or any of its property and (y) all judgments, injunctions, orders, writs, decrees and awards of all courts and arbitrators in proceedings or actions in which such Person is a party or by which any of its property is bound.

“**Applicable Margin**” has the meaning set forth in the Fee Letter.

“**Approved Foreign Country**” means each of Canada, Mexico, The Dominican Republic, Finland and Switzerland.

“**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, Seller, pursuant to which such Eligible Assignee may become a party to this Agreement, in substantially the form of Exhibit V hereto.

“**Attorney Costs**” means and includes all reasonable fees and disbursements of any law firm or other external counsel.

“**Available Tenor**” means, as of any date of determination and with respect to the then-current Benchmark, as applicable, (x) if such Benchmark is a term rate, any tenor for such Benchmark (or component thereof) that is or may be used for determining the length of an interest period pursuant to this Agreement or (y) otherwise, any payment period for interest calculated with reference to such Benchmark (or component thereof) that is or may be used for determining any frequency of making payments of interest calculated with reference to such Benchmark, in each case, as of such date and not including, for the avoidance of doubt, any tenor for such Benchmark that is then-removed from the definition of “Yield Period” pursuant to Section 5.07(d).

“**Bail-In Action**” means the exercise of any Write-Down and Conversion Powers by the applicable Resolution Authority in respect of any liability of an Affected Financial Institution.

“**Bail-In Legislation**” means, (a) with respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union, the implementing law, rule, regulation or requirement for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule, and (b) with respect to the United Kingdom, Part I of the United Kingdom Banking Act 2009 (as amended from time to time) and any other law, regulation or rule applicable in the United Kingdom relating to the resolution of unsound or failing banks, investment firms or other financial institutions or their affiliates (other than through liquidation, administration or other insolvency proceedings).

“**Benchmark**” means, initially, the Term SOFR Reference Rate; provided that if a Benchmark Transition Event has occurred with respect to the Term SOFR Reference Rate or the then-current Benchmark, then “**Benchmark**” means the applicable Benchmark Replacement to the extent that such Benchmark Replacement has replaced such prior benchmark rate pursuant to Section 5.07(a).

“**Benchmark Replacement**” means, with respect to any Benchmark Transition Event, the sum of: (A) the alternate benchmark rate that has been selected by the Administrative Agent and Seller 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 to the then-current Benchmark for U.S. Dollar-denominated syndicated credit facilities at such time and (B) the related Benchmark Replacement Adjustment; provided that, if such Benchmark Replacement as so determined would be less than the Floor, such Benchmark Replacement will be deemed to be the Floor for the purposes of this Agreement and the other Transaction Documents.

“**Benchmark Replacement Adjustment**” means, with respect to any replacement of the then-current Benchmark with an Unadjusted Benchmark Replacement for any applicable Available Tenor, 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 Seller giving due consideration to (i) any selection or recommendation of a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement by the Relevant Governmental Body or (ii) any evolving or then-prevailing market convention for determining a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement for U.S. Dollar-denominated syndicated credit facilities.

“**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); or

(2) in the case of clause (3) of the definition of “**Benchmark Transition Event**”, the first date on which such Benchmark (or the published component used in the calculation thereof) has been determined and announced by the regulatory supervisor for the administrator of such Benchmark (or such component thereof) to be non-representative; provided that such non-representativeness will be determined by reference to the most recent statement or publication referenced in such clause (c) and even if any Available Tenor of such Benchmark (or such component thereof) continues to be provided on such date. For the avoidance of doubt, the “**Benchmark Replacement Date**” will be deemed to have occurred in the case of clause (1) or (2) 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 such component thereof);

(2) a public statement or publication of information by 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) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark (or the published component used in the calculation thereof) announcing that all Available Tenors of such Benchmark (or such component thereof) are not, or as of a specified future date will not be, representative.

For the avoidance of doubt, a “**Benchmark Transition Event**” will be deemed to have occurred with respect to any Benchmark if a public statement or publication of information set forth above has occurred with respect to each then-current Available Tenor of such Benchmark (or the published component used in the calculation thereof).

“**Benchmark Transition Start Date**” means, in the case of a Benchmark Transition Event, the earlier of (a) the applicable Benchmark Replacement Date and (b) if such Benchmark Transition Event is a public statement or publication of information of a prospective event, the 90th day prior to the expected date of such event as of such public statement or publication of information (or if the expected date of such prospective event is fewer than 90 days after such statement or publication, the date of such statement or publication).

“**Benchmark Unavailability Period**” means the period (if any) (x) beginning at the time that a Benchmark Replacement Date 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 Section 5.07 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 Section 5.07.

“**Beneficial Ownership Certification**” means a certification regarding beneficial ownership as required by the Beneficial Ownership Regulation.

“**Beneficial Ownership Regulation**” means 31 CFR § 1010.230.

“**Benefit Plan**” means any of (a) an “employee benefit plan” (as defined in ERISA) that is subject to Title I of ERISA, (b) a “plan” as defined in and subject to Section 4975 of the Code or (c) any Person whose assets include (for purposes of ERISA Section 3(42) or otherwise for purposes of Title I of ERISA or Section 4975 of the Code) the assets of any such “employee benefit plan” or “plan”.

“**BHC Act Affiliate**” of a party means an “affiliate” (as such term is defined under, and interpreted in accordance with, 12 U.S.C. 1841(k)) of such party.

“**Board**” means the Board of Governors of the Federal Reserve System of the United States.

“**Billed Receivable**” means, at any time, any Receivable as to which the invoice or bill with respect thereto has been sent to the Obligor thereof.

“**Board of Directors**” means, with respect to any Person, (a) in the case of any corporation, the board of directors of such Person, (b) in the case of any limited liability company, the board of managers of such Person, (c) in the case of any partnership, the board of directors of the general partner of such Person and (d) in any other case, the functional equivalent of the foregoing.

“**Business Day**” means any day (other than a Saturday or Sunday) on which: (a) banks are not authorized or required to close in Atlanta, Georgia, or New York, New York and (b) if this definition of “**Business Day**” is utilized in connection with payments of Capital or Yield on Investments accruing Yield at Term SOFR Index Rate is also a U.S. Government Securities Business Day.

“**Calculation Period**” means each period from and including the first day of a calendar month to and including the last day of such calendar month, *provided* the initial Calculation Period shall be the period from and including the Closing Date to and including the last day of the month in which the Closing Date occurs.

“**Capital**” means, with respect to any Purchaser, the aggregate amounts paid to, or on behalf of, 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 4.01; 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 Net Pool Balance at such time, minus (b) the Required Reserve 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 Expenditures**” means, with respect to any Person, for any period, all expenditures by such Person which should be capitalized in accordance with GAAP during such period and are, or are required to be, included in property, plant or equipment reflected on the consolidated balance sheet of such Person (including, without limitation, expenditures for maintenance and repairs which should be so capitalized in accordance with GAAP) and, without duplication, the amount of all Capitalized Lease Obligations incurred by such Person during such period.

“**Capital Lease**,” as applied to any Person, means any lease of any property (whether real, personal or mixed) by that Person as lessee which, in conformity with GAAP (determined as provided in Section 1.03 of the Senior Credit Agreement), is accounted for as a capital lease on the balance sheet of that Person.

“**Capitalized Lease Obligation**” has the meaning specified in the Senior Credit Agreement.

“**Capital Settlement Date**” means the second Business Day after any Settlement Report revealing a Capital Coverage Deficit is delivered and each Business Day from and after the Amortization Date designated by the Administrative Agent as a “**Capital Settlement Date**.”

“**Capital Stock**” means, with respect to any Person, all shares, interests, participations or other equivalents (however designated, whether voting or non-voting) of such Person’s capital, whether now outstanding or issued or acquired after the Closing Date, including common shares, preferred shares, membership interests in a limited liability company, limited or general partnership interests in a partnership, interests in a trust, interests in other unincorporated organizations, warrants, options or other rights for the purchase or acquisition from such Person of shares of capital stock of (or other ownership or profit interests in) such Person or warrants, rights or options for the purchase or acquisition from such Person of such shares (or such other interests) or any other equivalent of such ownership interest.

“**Certification of Beneficial Ownership**” means, for any Seller Party, a certificate in form and substance acceptable to the Purchasers (as amended or modified by the Administrative Agent from time to time in its sole discretion), certifying, among other things, the beneficial owner(s) of a Seller 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, (w) the final rule titled Risk-Based Capital Guidelines; Capital Adequacy Guidelines; Capital Maintenance: Regulatory Capital; Impact of Modifications to Generally Accepted Accounting Principles; Consolidation of Asset-Backed Commercial Paper Programs; and Other Related Issues, adopted by the United States bank regulatory agencies on December 15, 2009, (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” (as amended, supplemented or otherwise modified or replaced from time to time), shall in each case be deemed to be a “Change in Law”, regardless of the date enacted, adopted, implemented or issued.

“Change of Control” means (a) any “person” or “group” (as such terms are used in Sections 13(d) and 14(d) of the Exchange Act) is or shall become, or obtain rights to become, the “beneficial owner” (as defined in Rules 13(d)-3 and 13(d)-5 under the Exchange Act), directly or indirectly, of voting stock of ENS representing more than 35% of the combined voting power of ENS’ outstanding voting stock ordinarily having the power to vote for the election of directors of ENS, (b) ENS shall cease to own, directly or indirectly, beneficially or of record, shares representing one hundred percent (100%) of the aggregate ordinary voting power represented by the issued and outstanding Capital Stock of each Originator, or (c) ENS-DE shall cease to own, directly or indirectly, beneficially or of record, membership interest representing one hundred percent (100%) of the aggregate ordinary voting power represented by the issued and outstanding Capital Stock of Seller.

“Closing Date” means, for purposes of the initial Investment hereunder, December 21, 2022.

“Code” means the Internal Revenue Code of 1986, and the regulations thereunder, each as amended or modified from time to time.

“Collection Account” means, collectively or individually as context may require, the Hawker Account and each concentration account, depository account, Lock-Box clearing account or similar account in which any Collections are collected or deposited and which is listed on Schedule B hereto (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).

“Collection Bank” means, at any time, any bank at which a Collection Account or Lock-Box is maintained.

“Collections” means, with respect to any Pool Receivable, all cash collections and other cash proceeds in respect of such Pool Receivable, including all interest, Finance Charges or other related amounts accruing in respect thereof and all cash proceeds of Related Security with respect to 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 A or in a similar schedule under the agreement pursuant to which it became a Purchaser, as such amount may be (i) 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) or (ii) increased by written amendment to Schedule A and the definition of “**Facility Limit**” executed by Seller, Master Servicer, the Administrative Agent and the Purchasers required pursuant to Section 2.02(g). If the context so requires, “**Commitment**” also refers to a Purchaser’s obligation to fund Investments hereunder in accordance with this Agreement.

“**Commitment Increase**” has the meaning set forth in Section 2.02(g).

“**Competitor**” means any competitor of ENS or any of its Subsidiaries that is in the same or a similar line of business as ENS or any of its Subsidiaries and is designated in writing from time to time by ENS to the Administrative Agent.

“**Compliance Authority**” means each and all of the (a) U.S. Treasury Department/Office of Foreign Assets Control, (b) U.S. Treasury Department/Financial Crimes Enforcement Network, (c) U.S. State Department/Directorate of Defense Trade Controls, (d) U.S. Commerce Department/Bureau of Industry and Security, (e) U.S. Internal Revenue Service, (f) U.S. Justice Department, and (g) U.S. Securities and Exchange Commission.

“**Concentration Percentage**” means, at any time, in relation to any single Obligor on a Pool Receivable and its Affiliates (if any) considered as if they were one and the same Obligor, an amount equal to (a) the aggregate Outstanding Balance of Eligible Receivables in the Receivables Pool owed by such single Obligor and its Affiliates (if any), multiplied by (b) the applicable concentration percentage below for such Obligors who have short term unsecured debt ratings currently assigned to them by S&P and Moody’s (or in the absence thereof, the equivalent long term unsecured senior debt ratings):

<u>S&P Short-Term Rating/Equivalent Long-Term Rating</u>	<u>Moody’s Short-Term Rating/Equivalent Long-Term Rating</u>	<u>Concentration Percentage</u>
A-1+/AA-	P-1/Aa3	[25.00%]
A-1/A	P-1/A2	[20.00%]
A-2/BBB+	P-2/Baa1	[18.00%]
A-3/BBB-	P-3/Baa3	[9.00%]
Below A-3/BBB- or Not Rated by either S&P or Moody’s	Below P-3/Baa3 or Not Rated by either S&P or Moody’s	[4.50%]

; **provided, however**, that (i) if any Obligor has a split rating, the applicable rating will be the lower of the two, (ii) if any Obligor is a Non-Rated Obligor, the applicable Concentration Percentage shall be the one set forth in the last line of the table above, and (iii) upon Seller's request from time to time, the Purchasers, in their sole discretion, may agree to a higher percentage of Eligible Receivables for a particular Obligor and its Affiliates (each such amount calculated using such higher percentage, a "**Special Concentration Percentage**"), it being understood that any Special Concentration Percentage may be reduced by the Administrative Agent at the direction of any Purchaser (but not below the regularly applicable Concentration Percentage) in its reasonable credit judgment upon not less than five (5) days' written notice to Seller.

"Conforming Changes" means, with respect to either the use or administration of Term SOFR or the use, administration, adoption or implementation of any Benchmark Replacement, any technical, administrative or operational changes (including changes to the definition of "**Alternate Base Rate**," the definition of "**Business Day**," the definition of "**U.S. Government Securities Business Day**," the definition of "**Yield Period**" or any similar or analogous definition (or the addition of a concept of "**interest period**"), timing and frequency of determining rates and making payments of interest, timing of borrowing requests or prepayment, conversion or continuation notices, the applicability and length of lookback periods and other technical, administrative or operational matters) that the Administrative Agent decides may be appropriate to reflect the adoption and implementation of any such rate or to permit the use and 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 any such rate 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).

"Consolidated Debt" has the meaning set forth in the Senior Credit Agreement as in effect on the Closing Date.

"Consolidated EBIT" means, for any period, the Consolidated Net Income of ENS and its Restricted Subsidiaries plus, in each case to the extent actually deducted in determining Consolidated Net Income for such period, consolidated interest expense of ENS and its Restricted Subsidiaries and provision for income taxes, adjusted to exclude for such period (a) any extraordinary gains or losses, (b) gains or losses from sales of assets other than inventory sold in the ordinary course of business, (c) any write-downs of non-current assets relating to impairments or the sale of non-current assets, or (d) any non-cash expenses incurred in connection with stock options, stock appreciation rights or similar equity rights.

“**Consolidated EBITDA**” means for any period, Consolidated EBIT, adjusted by (a) adding thereto (in each case to the extent deducted in determining Consolidated Net Income for such period and not already added back in determining Consolidated EBIT), with respect to ENS and its Restricted Subsidiaries, the amount of, without duplication, (i) all amortization and depreciation that were deducted in arriving at Consolidated EBIT for such period, (ii) any non-cash charges in such period to the extent that such non-cash charges do not give rise to a liability that would be required to be reflected on the consolidated balance sheet of ENS and its Restricted Subsidiaries and so long as no cash payments or cash expenses will be associated therewith (whether in the current period or for any other period), (iii) fees and expenses incurred by ENS and its Restricted Subsidiaries during such period in connection with the Transaction (as defined in the Senior Credit Agreement), the consummation of a Permitted Acquisition or any other Investment or Disposition (as each of the foregoing is defined in the Senior Credit Agreement), the issuance of any Equity Interests, any actual or proposed incurrence of Indebtedness or the investment in any Joint Venture (as defined in the Senior Credit Agreement) or Unrestricted Subsidiary, in each case permitted hereunder, (iv) cash charges not to exceed \$10,000,000 incurred in connection with the termination of Swap Agreements during such period, (v) any non-recurring charges, costs, fees and expenses directly incurred or paid directly as a result of discontinuing operations, (vi) any other extraordinary, unusual or non-recurring cash charges or expenses incurred outside the ordinary course of business, **provided** that the aggregate amount added pursuant to this clause (vi), clause (vii) below and clause (viii) below shall not exceed 25% of Consolidated EBITDA (determined prior to giving effect to such add-backs) for such period, (vii) the amount of cost savings and synergies projected by ENS in good faith to be realized as a result of any Acquisition (as defined in the Senior Credit Agreement) permitted under the Senior Credit Agreement within the first four consecutive fiscal quarters following the consummation of such Acquisition, calculated as though such cost savings and synergies had been realized on the first day of such period and net of the amount of actual benefits received during such period from such Acquisition; **provided** that Seller shall only be responsible for the reasonable documented out-of-pocket fees and disbursements of one primary counsel to the Administrative Agent and the Purchasers and, if reasonably necessary, one regulatory counsel and one local counsel in each jurisdiction the laws of which govern any of the Transaction Documents or in which any of the Seller Parties is organized or owns property or assets (a “**Relevant Jurisdiction**”), and, solely in the case of any actual or potential conflict of interest as determined by the Administrative Agent or Purchaser affected by such conflict, the Administrative Agent’s or such Purchaser’s own firm of counsel and, if reasonably necessary, one regulatory counsel and one local counsel in each Relevant Jurisdiction to such affected Administrative Agent or Purchaser, that, (A) such cost savings or synergies are reasonably identifiable and factually supportable and (B) the aggregate amount added pursuant to this clause (vii), clause (vi) above and clause (viii) below shall not exceed 25% of Consolidated EBITDA (determined prior to giving effect to such add-backs) for such period, (viii) restructuring and related charges, integration costs, business optimization expenses and charges attributable to, and payments of, legal settlements, fines, judgments or orders and severance, relocation costs, facilities start-up costs, recruiting fees, signing costs, retention or completion bonuses and transition costs, **provided** that the aggregate amount added pursuant to this clause (viii), clause (vi) above and clause (vii) above shall not exceed 25% of Consolidated EBITDA (determined prior to giving effect to such add-backs) for such period, (ix) any costs or expenses incurred pursuant to any management equity plan, stock option plan or any other management or employee benefit plan, agreement or any stock subscription or shareholder agreement, to the extent that such costs or expenses are funded with cash proceeds contributed to the capital of such Person or net cash proceeds of an issuance of Equity Interests of such Person (other than Disqualified Preferred Stock), (x) any non-cash impairment charge or asset write-off or write-down (other than write-offs or write-downs of current assets) in each case, pursuant to GAAP,

and the amortization of intangibles arising pursuant to GAAP, (xiii) any expenses, charges or losses to the extent covered by insurance that are, directly or indirectly, reimbursed or reimbursable by a third party, and any expenses, charges or losses that are covered by indemnification or other reimbursement provisions only to the extent that such amount is in fact reimbursed within 365 days of the date of such determination (with a deduction in the applicable future period for any amount so excluded to the extent not so reimbursed within such 365 days) and (b) subtracting therefrom, to the extent included in arriving at Consolidated EBIT for such period, with respect to ENS and its Restricted Subsidiaries, the amount of, without duplication, (i) the amount of non-cash gains during such period, (ii) any income directly attributable to discontinued operations.

“**Consolidated Interest Coverage Ratio**” means, as of any date of determination, the ratio of (a) Consolidated EBITDA for the most recently completed four fiscal quarters to (b) Consolidated Net Interest Expense for such period.

“**Consolidated Net Income**” means, for any period, the net after tax income (or loss) of ENS and its Restricted Subsidiaries determined on a consolidated basis in accordance with GAAP; **provided** that in determining Consolidated Net Income of ENS and its Restricted Subsidiaries (a) the net income of any Person which is not a Restricted Subsidiary of ENS or is accounted for by ENS by the equity method of accounting shall be included only to the extent of the payment of dividends or disbursements by such Person to ENS or a wholly-owned Restricted Subsidiary of ENS during such period, (b) except for determinations expressly required to be made on a Pro Forma Basis (as defined in the Senior Credit Agreement), the net income (or loss) of any Person accrued prior to the date it becomes a Restricted Subsidiary or all or substantially all of the property or assets of such Person are acquired by a Restricted Subsidiary shall be excluded from such determination, and (c) the net income of any Restricted Subsidiary to the extent that the declaration or payment of dividends or similar distributions by such Restricted Subsidiary of such net income is not at the time permitted by the operation of the terms of its charter or any agreement, instrument, judgment, decree, order, statute, rule or governmental regulation applicable to such Restricted Subsidiary shall be excluded from such determination. Consolidated Net Income shall be calculated without regard to (i) the cumulative effect of a change in accounting principles during such period and (ii) effects of adjustments pursuant to GAAP resulting from the application of application of recapitalization accounting or purchase accounting (including in the inventory, property and equipment, software, goodwill, intangible assets, in process research and development, deferred revenue and debt line items).

“**Consolidated Net Interest Expense**” means, for any period, (a) the total consolidated interest expense of ENS and its Restricted Subsidiaries for such period (calculated without regard to any limitations on payment thereof) plus, to the extent not included above, the Foreign Receivables Facilities Financing Costs and the Receivables Facilities Financing Costs for such period, adjusted to exclude (to the extent same would otherwise be included in the calculation above in this clause (a)) (i) the amortization of any deferred financing costs for such period, (ii) non-cash interest expense (including amortization of discount and interest which will be added to, and thereafter become part of, the principal or liquidation preference of the respective Indebtedness or Preferred Stock through a pay-in-kind feature or otherwise, but excluding all regularly accruing interest expense which will be payable in cash in a subsequent period) payable in respect of any Indebtedness or Preferred Stock and (iii) dividends on Qualified Preferred Stock in the form of additional Qualified Preferred Stock, plus (b) without duplication, that portion of Capitalized Lease Obligations of ENS and its

Restricted Subsidiaries on a consolidated basis representing the interest factor for such period minus (c) the cash portion of interest income of ENS and its Restricted Subsidiaries on a consolidated basis for such period (for this purpose, excluding any cash interest income received by any non-wholly owned Restricted Subsidiary to the same extent as such amount, if representing net income, would be excluded from Consolidated Net Income pursuant to the proviso to the definition thereof), all as determined in accordance with GAAP (subject to the express requirements set forth above).

“Consolidated Secured Net Leverage Ratio” means, as of any date of determination, the ratio of (a) Consolidated Debt (other than Consolidated Debt of ENS and its Restricted Subsidiaries that is not secured by a Lien on any property of ENS or any Restricted Subsidiary) of ENS and its Restricted Subsidiaries as of such date to (b) Consolidated EBITDA for the most recently completed four fiscal quarters.

“Consolidated Total Assets” means, as of any date of determination, total assets of ENS and its Restricted Subsidiaries on a consolidated basis determined in accordance with GAAP, as shown on the most recent consolidated balance sheet of ENS delivered (or required to be delivered) pursuant to Section 8.01(a) or 8.01(b).

“Consolidated Total Net Leverage Ratio” means, as of any date of determination, the ratio of (a) Consolidated Debt of ENS and its Restricted Subsidiaries as of such date to (b) Consolidated EBITDA for the most recently completed four fiscal quarters.

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

“Contractual Dilution” means any dilution or similar adjustments arising out of chargebacks, terms discounts, indirect rebates, direct rebates (net of any direct rebate recovery), promotional programs or similar arrangements which are customary for the Originator(s) and specified in the related Contract or applicable marketing program related to the applicable Receivable and Obligor thereof.

“Contractual Dilution Accrual” means, at any time of determination on or after the Contractual Dilution Accrual Start Date, the aggregate amount of Contractual Dilution that is expected by the Master Servicer 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 Originator(s) and Seller and reserved for by the Originator(s) and Seller, as determined by the Master Servicer in consultation with the external accountants of the Originator(s) and Seller and in accordance with the customary procedures established by the Originator(s), Seller and such accountants.

“Contractual Dilution Accrual Start Date” means the date, if any, on or after the Closing Date selected by the Administrative Agent and consented to in writing by Seller and each Purchaser.

“Control Agreement” means an agreement, in form reasonably acceptable to the Administrative Agent, in which a Collection Bank agrees to take instructions from the Administrative Agent, either directly or as assignee of Seller, with respect to the disposition of funds in a Collection Account without further consent of Seller, the Master Servicer or the applicable Originator); provided, however, that any such agreement shall allow Seller (or the Master Servicer on its behalf) to give instructions with respect to such Collection Account prior to delivery of a Notice of Exclusive Control.

“Covered Entity” means any of the following: (i) a “covered entity” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b); (ii) a “covered bank” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 47.3(b); or (iii) “covered FSI” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 382.2(b).

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

“Cut-Off Date” means, on any date of determination, the last day of the Calculation Period then most recently ended provided the initial Cut-Off Date shall be November 30, 2022.

“Days’ Sales Outstanding” means, as of any day, an amount equal to the product of (a) 91, multiplied by (b) the amount obtained by dividing (i) the aggregate Outstanding Balance of all Pool Receivables as of the most recent Cut-Off Date, by (ii) the aggregate amount of Receivables created during the three (3) Calculation Periods including and immediately preceding such Cut-Off Date.

“Deemed Collections” means the aggregate of all amounts Seller shall have been deemed to have received as a Collection of a Pool Receivable as a result of any Dilution which occurs with respect to such Pool Receivable. The amount of the Collection which Seller shall be deemed to have received shall equal, in the case of clauses (a)-(d) of the definition of “Dilution,” the amount by which the Outstanding Balance of such Pool Receivable was reduced as a result thereof and, in the case of clause (e) of the definition of “Dilution,” the Outstanding Balance of such Pool Receivable.

“Default Horizon Ratio” means, as of any Cut-Off Date, the ratio (expressed as a decimal) computed by dividing (a) the sum of (i) the aggregate sales generated by the applicable Originator during the last five (5) months ending on such Cut-Off Date, plus (ii) 75% of the aggregate sales generated by the applicable Originator during the month ending on the sixth (6th) preceding Cut-Off Date, by (b) the Net Pool Balance as of such Cut-Off Date.

“Default Rate” means, for any day while an Amortization Event exists and is continuing, a per annum rate of Yield equal to the sum of (a) the Alternate Base Rate plus (b) the Applicable Margin plus 2.00%.

“Default Ratio” means, as of any Cut-Off Date, the ratio (expressed as a percentage) computed by dividing (a) the aggregate amount of Pool Receivables which became Defaulted Receivables during the Calculation Period that includes such Cut-Off Date, by (b) the aggregate sales generated by the applicable Originator during the Calculation Period occurring [five (5)] months prior to the Calculation Period ending on such Cut-Off Date.

“**Default Right**” has the meaning assigned to that term in, and shall be interpreted in accordance with, 12 C.F.R. §§ 252.81, 47.2 or 382.1, as applicable.

“**Defaulted Receivable**” means a Pool Receivable: (a) as to which the Obligor thereof has suffered an Event of Bankruptcy; (b) which, consistent with the applicable Originator’s Credit and Collection Policy, has been or should be written off as uncollectible; or (c) which remains unpaid, in whole or in part, more than 120 days from the original due date thereof.

“**Defaulting Purchaser**” means, subject to Section 2.05(b), any Purchaser that (a) has failed to fund all or any portion of its Investments within two (2) Business Days of the date such Investments were required to be funded hereunder unless such Purchaser notifies the Administrative Agent and Seller in writing that such failure is the result of such Purchaser’s determination that one or more conditions precedent to funding (each of which conditions precedent, together with any applicable Potential Amortization Event or Amortization Event, shall be specifically identified in such writing) has not been satisfied, (b) has notified the Administrative Agent and Seller in writing that it does not intend to comply with its funding obligations hereunder, or has made a public statement to that effect (unless such writing or public statement relates to such Purchaser’s obligation to fund an Investment hereunder and states that such position is based on such Purchaser’s good faith determination that a condition precedent to funding (which condition precedent, together with any applicable Potential Amortization Event or Amortization Event, shall be specifically identified in such writing or public statement) cannot be satisfied), (c) has failed, within three (3) Business Days after written request by the Administrative Agent or Seller, to confirm in writing to the Administrative Agent and Seller that it will comply with its prospective funding obligations hereunder (provided that such Purchaser shall cease to be a Defaulting Purchaser pursuant to this clause (c) upon receipt of such written confirmation by the Administrative Agent and Seller), or (d) has, or has a direct or indirect parent company that has, (i) become the subject of a proceeding under the Federal Bankruptcy Code or any other applicable bankruptcy, insolvency, reorganization or other similar laws relating to or limiting creditors’ rights generally, or (ii) had appointed for it a receiver, custodian, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or assets, including the Federal Deposit Insurance Corporation or any other state or federal regulatory authority acting in such a capacity or such Purchaser or its direct or indirect parent company has taken any action in furtherance of or indicating its consent to or acquiescence in any such proceeding or appointment or become insolvent, or is generally unable to pay its debts as they become due, or admits in writing its inability to pay its debts as they become due, or makes a general assignment for the benefit of creditors; provided that a Purchaser shall not be a Defaulting Purchaser solely by virtue of the ownership or acquisition of any equity interest in that Purchaser or any direct or indirect parent company thereof by a Governmental Authority so long as such ownership interest does not result in or provide such Purchaser with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Purchaser (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Purchaser. Any determination by the Administrative Agent that a Purchaser is a Defaulting Purchaser under any one or more of clauses (a) through (d) above, and of the effective date of such status, shall be conclusive and binding absent manifest error, and such Purchaser shall be deemed to be a Defaulting Purchaser (subject to Section 2.05(b)) as of the date established therefor by the Administrative Agent in a written notice of such determination, which shall be delivered by the Administrative Agent to Seller and each Purchaser promptly following such determination. Failure of the Administrative Agent to conclude that a Purchaser is a Defaulting Purchaser shall not limit the rights and remedies of Seller in regard to any Purchaser that constitutes a Defaulting Purchaser.

“Delinquency Ratio” means, at any time, a percentage equal to (a) the aggregate amount of all Delinquent Receivables at such time (calculated as set forth in the definition of “Delinquent Receivable”), divided by (b) the aggregate Outstanding Balance of all Pool Receivables at such time.

“Delinquent Receivable” means a Pool Receivable which remains unpaid, in whole or in part, more than 90 days from the original due date thereof.

“Dilution” means any reduction or cancellation of the Outstanding Balance of a Pool Receivable due to (a) any defective or rejected goods or services, any cash discount or any other adjustment by the applicable Originator or any Affiliate thereof (other than as a result of any Collections), or as a result of any governmental or regulatory action, (b) any setoff in respect of any claim by the Obligor thereof (whether such claim arises out of the same or a related or an unrelated transaction), (c) any warranty claim, rebate or refund, or (d) any misstatement of the amount thereof, or any misrepresentation with respect to such Pool Receivable under any of [Section 7.01\(n\)](#), [Section 7.01\(o\)](#), [Section 7.01\(p\)](#), [Section 7.01\(q\)](#), [Section 7.01\(s\)](#) or [Section 7.01\(t\)](#); provided, however, that **“Dilution”** shall not include a credit memo where offset by a re-bill or correction on the same day when the original due date is not extended and such re-bill or correction can be captured and reported.

“Dilution Horizon Ratio” means, as of any Cut-Off Date, a ratio (expressed as a decimal), computed by dividing (a) 100% of the aggregate sales generated by the applicable Originator during the [second (2nd)] Calculation Period ending prior to such Cut-Off Date, by (b) the Net Pool Balance as of such Cut-Off Date. 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 Master Servicer and the Originators, to the extent such audit or exam demonstrates that the actual horizon has been different than that set forth in the numerator of the Dilution Horizon Ratio set forth above, the numerator of the Dilution Horizon Ratio may be adjusted by the Administrative Agent in its reasonable discretion to better reflect the actual horizon determined in such audit or exam upon not less than ten (10) Business Days’ notice to Seller.

“Dilution Ratio” means, as of any Cut-Off Date, a ratio (expressed as a percentage), computed by dividing (a) the total amount of decreases in outstanding principal balances due to (i) prior to the Contractual Dilution Accrual Start Date, Dilution and (ii) on or after the Contractual Dilution Accrual Start Date, Non-Contractual Dilution, in either case, during the Calculation Period ending on such Cut-Off Date, by (b) the aggregate sales generated by the Originators during the Calculation Period ending [two (2)] months prior to such Cut-Off Date.

“Dilution Reserve” means, for any Calculation Period, the product (expressed as a percentage) of: (a) the sum of (i) 2.0 times the Adjusted Dilution Ratio as of the immediately preceding Cut-Off Date, plus (ii) the Dilution Volatility Component as of the immediately preceding Cut-Off Date, times (b) the Dilution Horizon Ratio as of the immediately preceding Cut-Off Date.

“**Dilution Volatility Component**” means, at any time, the product (expressed as a percentage) of (i) the difference between (a) the highest three-month rolling average Dilution Ratio over the 12-month period then most recently ended and (b) the Adjusted Dilution Ratio, and (ii) a fraction, the numerator of which is equal to the amount calculated in (i)(a) of this definition and the denominator of which is equal to the amount calculated in (i)(b) of this definition.

“**Disqualified Institutions**” means (a) any Competitor that has been identified by legal name in writing to the Administrative Agent following the Closing Date (such list, as supplemented from time to time in accordance with this definition, the “**DQ List**”), (b) any owner of the Equity Interests of any Competitor identified pursuant to clause (a), but only to the extent such Person has been identified by legal name on the DQ List delivered to the Administrative Agent, or (c) any Affiliate of any Competitor identified pursuant to clause (a) that, in each case, is obviously (based solely on the similarity of the legal name of such Affiliate to the name of such Competitor) an Affiliate of such Competitor; **provided** that, (i) the foregoing shall not apply to retroactively disqualify any Person that has previously acquired an assignment of or participation in the Investments or Commitments under this Agreement to the extent that any such Person was not a Disqualified Institution at the time of the applicable assignment or participation, as the case may be and (ii) “**Disqualified Institutions**” shall exclude any Person that the Company has designated as no longer being a “**Disqualified Institution**” by written notice delivered to the Administrative Agent and the Lenders from time to time.

“**Disqualified Preferred Stock**” means, as to any Person, any Preferred Stock of such Person which is not Qualified Preferred Stock.

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

“**Domestic**” means a Person that is organized under the laws of any political subdivision of the United States of America.

“**Dominion Date**” means the date on which the Administrative Agent delivers to any Collection Bank(s) a Notice of Exclusive Control pursuant to Section 9.03.

“**EEA Financial Institution**” means (a) any credit institution or investment firm established in any EEA Member Country which is subject to the supervision of an EEA Resolution Authority, (b) any entity established in an EEA Member Country which is a parent of an institution described in clause (a) of this definition, or (c) any financial institution established in an EEA Member Country which is a subsidiary of an institution described in clauses (a) or (b) of this definition and is subject to consolidated supervision with its parent.

“**EEA Member Country**” means any of the member states of the European Union, Iceland, Liechtenstein, and Norway.

“**EEA Resolution Authority**” means any public administrative authority or any person entrusted with public administrative authority of any EEA Member Country (including any delegee) having responsibility for the resolution of any EEA Financial Institution.

“**Electronic Signature**” has the meaning assigned to that term by 15 USC §7006.

“**Eligible Assignee**” means any commercial bank or non-bank financial institution organized under the law of a country that is not a Sanctioned Country or under the law of a political subdivision of such a country, including any insurance company, savings bank or savings and loan association, having total assets in excess of \$1,000,000,000; **provided, however**, the foregoing shall not include any Subsidiary or Affiliate of ENS or any Disqualified Institution.

“**Eligible Receivable**” means a Pool Receivable:

(a) the Obligor of which (i) is not a Sanctioned Person or a Governmental Authority, (ii) is not an Affiliate of the applicable Originator or Seller Party, and (iii) is domiciled in (A) the United States of America, or (B) an Approved Foreign Country;

(b) (i) which is not a Defaulted Receivable, and (ii) which is not owing from an Obligor as to which more than 50% of the aggregate Outstanding Balance of all Pool Receivables owing from such Obligor are Delinquent Receivables;

(c) which is due within 150 days of the original invoice date therefor or such later date as may be reasonably agreed to by the Purchasers;

(d) which is an “account” or a “payment intangible” as defined in Section 9-102 of the UCC of all applicable jurisdictions;

(e) which is denominated and payable only in United States dollars to a Lock-Box or Collection Account located in the United States;

(f) which is evidenced by an invoice and arises under a Contract which, together with such Pool Receivable, is in full force and effect and constitutes the legal, valid and binding obligation of the related Obligor enforceable against such Obligor in accordance with its terms, except as such enforcement may be limited by applicable bankruptcy, insolvency, reorganization or other similar laws relating to or limiting creditors’ rights generally and by general principles of equity (regardless of whether enforcement is sought in a proceeding in equity or at law);

(g) which arises under a Contract that contains an obligation to pay a specified sum of money, contingent only upon the sale of goods or the provision of services by the applicable Originator;

(h) which, together with the Contract related thereto, does not contravene in any material respect any Law applicable thereto (including usury laws, the Federal Truth in Lending Act, and Regulation Z, Regulation D and Regulation B of the Federal Reserve Board, and applicable judgments, decrees, injunctions, writs, orders, or line of action of any court, arbitrator or other administrative, judicial, or quasi-judicial tribunal or agency of competent jurisdiction) and with respect to which no part of the Contract related thereto is in violation of any such Law;

(i) which satisfies in all material respects all applicable requirements of the Credit and Collection Policy;

(j) which was generated in the ordinary course of the applicable Originator’s business;

(k) which arises solely from the sale of goods or the provision of services to the related Obligor by the applicable Originator, and not by any other Person that is not the applicable Originator (in whole or in part);

(l) which is not subject to (A) any right of rescission or set-off, or (B) any currently asserted counterclaim or other defense (including defenses arising out of violation of usury laws) or any other Lien of the applicable Obligor against the applicable Originator (i.e., the Obligor with the right, claim or defense has such right claim or defense directly against the applicable Originator rather than against an Affiliate of such Originator), and the Obligor thereon holds no right as against the applicable Originator to cause such Originator to repurchase the goods or merchandise the sale of which gave rise to such Receivable (except with respect to sale discounts effected pursuant to the Contract, or defective goods returned in accordance with the terms of the Contract); provided, however, that (1) if such rescission, set-off, counterclaim, defense or repurchase right affects only a portion of the Outstanding Balance of such Pool Receivable, then such Pool Receivable may be deemed an Eligible Receivable to the extent of the portion of such Outstanding Balance which is not so affected (i.e., the amount of the outstanding claim or the amount the Obligor is entitled to set-off against the applicable Originator based on the amount which such Originator owes the applicable Obligor would be netted against the applicable Pool Receivable, but the excess of the Pool Receivable over such outstanding claim or set-off would be included as an Eligible Receivable) and (2) Pool Receivables of any Obligor which has any accounts payable from the applicable Originator (thus giving rise to a potential offset against such Obligor's Receivables) may be treated as Eligible Receivable to the extent that such Obligor has agreed pursuant to a written agreement in form and substance satisfactory to the Administrative Agent, that such Receivable shall not be subject to such offset;

(m) as to which the applicable Originator has satisfied and fully performed all obligations on its part with respect to such Receivable required to be fulfilled by it, and no further action is required to be performed by any Person with respect thereto other than payment thereon by the applicable Obligor;

(n) as to which all right, title and interest to and in which has been validly transferred by the applicable Originator to Seller pursuant to the Sale Agreement, and Seller has good and marketable title thereto free and clear of any Lien (other than Permitted Liens); and

(o) is required by the applicable Originator and Master Servicer to be paid to a Lock-Box or Collection Account that, except in the case of the Hawker Account, is subject to a Control Agreement that has been assigned to or executed directly in favor of the Administrative Agent with the consent of the applicable Collection Bank.

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

“*ENS-DE*” has the meaning set forth in the Preliminary Statements.

“*Equity Interests*” has the meaning specified in the Senior Credit Agreement.

“*ERISA*” means the Employee Retirement Income Security Act of 1974, as amended.

“**ERISA Event**” has the meaning specified in the Senior Credit Agreement.

“**Event of Bankruptcy**” means, with respect to any Person, that such Person becomes insolvent or generally fails to pay, or admits in writing its inability or refusal to pay, debts as they become due; or such Person applies for, consents to, or acquiesces in the appointment of a trustee, receiver or other custodian for such Person or any property thereof, or makes a general assignment for the benefit of creditors; or, in the absence of such application, consent or acquiescence, a trustee, receiver or other custodian is appointed for such Person or for a substantial part of the property of any thereof and, unless such Person is Seller, is not controverted within twenty (20) days or discharged within ninety (90) days; or any Insolvency Proceeding is commenced in respect of such Person, and if such Insolvency Proceeding is not commenced by such Person, it is consented to or acquiesced in by such Person, or, unless such Person is Seller, remains for ninety (90) days undismissed; or such Person takes any action to authorize, or in furtherance of, any of the foregoing.

“**Excess Concentration**” means, as of any date, the sum of the following amounts, without duplication:

(a) the sum of the amounts calculated for each of the Obligor 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, the Obligor of which is domiciled in any Approved Foreign Country, over (ii) the product of (x) 3.0%, multiplied by (y) 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 that are due 61-90 days after the original invoice date therefor, over (ii) the product of (x) 35.0%, multiplied by (y) 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 are due 91-150 days after the original invoice date therefor, over (ii) the product of (x) 10.0%, multiplied by (y) the aggregate Outstanding Balance of all Eligible Receivables then in the Receivables Pool.

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

“**Excluded Taxes**” means any of the following Taxes imposed on or with respect to any Recipient or required to be withheld or deducted from a payment to any Recipient: (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 Recipient 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 an Investment, a Receivable or a Commitment pursuant to a law in effect on the date on which (i) such Purchaser acquires such interest in such Investment, Receivable or Commitment (other than pursuant to an assignment request by the Seller under the last paragraph of Section 13.03), or (ii) such Purchaser changes its lending office, except in each case to the extent 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 its changed its lending office, (c) Taxes attributable to any Recipient's failure to comply with Section 5.03(e)(ii), and (d) any withholding Taxes imposed under FATCA.

"Facility Account" means such account in the name of Seller as may be designated by Seller in writing from time to time.

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

"Facility Termination Date" means the earlier of (i) the Scheduled Termination Date, and (ii) the Amortization Date.

"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 applicable agreements entered into pursuant to Section 1471(b)(1) of the Code and any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement, treaty or convention among Governmental Authorities and implementing such sections of the Code.

"Federal Bankruptcy Code" means Title 11 of the United States Code entitled "Bankruptcy," as amended, and any successor statute thereto.

"Federal Funds Rate" means, for any day, the greater of (a) the rate calculated by the Federal Reserve Bank of New York based on such day's federal funds transactions by depository institutions (as determined in such manner as the Federal Reserve Bank of New York shall set forth on its public website from time to time) and published on the next succeeding Business Day by the Federal Reserve Bank of New York as the federal funds effective rate and (b) the Floor.

"Federal Reserve Bank" means a regional bank of the Federal Reserve System, the central banking system of the U.S., created by the Federal Reserve Act of 1913.

"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" means that certain Fee Letter, dated as of the Closing Date, by and among Seller, the Purchaser(s) and the Administrative Agent, as it may be amended, restated, supplemented or otherwise modified from time to time.

"Fees" means, collectively, any fees payable pursuant to the Fee Letter.

“**Final Payout Date**” means the date on or after the Amortization 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 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.

“**Finance Charges**” means, with respect to a Contract, any finance, interest, late payment charges or similar charges owing by an Obligor pursuant to such Contract.

“**Floor**” means zero percent (0.00%) per annum.

“**Foreign Purchaser**” means a Purchaser that is not a U.S. Person.

“**40 Act**” means the Investment Company Act of 1940 or any successor thereto, as amended or otherwise modified from time to time.

“**Funding Office**” means, as to any Purchaser, the office of such Purchaser from time to time notified to the Seller Parties and the Administrative Agent by electronic mail or other writing, which office may include any Affiliate of such Purchaser or any domestic or foreign branch of such Purchaser or such Affiliate. Unless the context otherwise requires each reference to a Purchaser shall include its applicable Funding Office.

“**GAAP**” means generally accepted accounting principles in the United States set forth in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or such other principles as may be approved by a significant segment of the accounting profession in the United States, that are applicable to the circumstances as of the date of determination, consistently applied.

“**Governmental Authority**” means any nation or government, any state or other political subdivision thereof, any central bank (or similar monetary or regulatory authority) thereof, any body or entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government, including any court, and any Person owned or controlled, through stock or capital ownership or otherwise, by any of the foregoing.

“**Guaranteed Obligations**” has the meaning set forth in [Section 3.01](#).

“**Hawker**” means Hawker Powersource, Inc., a Delaware corporation.

“**Hawker Account**” means Hawker’s account no. 35100737 at The Northern Trust Company, together with any lockbox that clears through such account.

“**Hawker Agreement**” means that certain Acknowledgement, Assignment and Security Agreement, dated as of the date hereof, by and between Hawker in favor and for the benefit of ENS-DE.

“**Hedge Agreement**” means (a) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement, and (b) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement, or any other master agreement; provided that no phantom stock or similar plan providing for payments only on account of services provided by current or former directors, officers, employees or consultants of ENS or the Restricted Subsidiaries shall be a Hedge Agreement.

“**Indebtedness**” has the meaning specified in the Senior Credit Agreement.

“**Indemnified Party**” has the meaning set forth in [Section 12.01\(a\)](#).

“**Indemnified Taxes**” means Taxes other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any obligation of Seller under any Transaction Document.

“**Independent Director**” means a director or manager of Seller who shall be a natural person who (a) shall not have been at the time of such person’s appointment or at any time during the preceding five (5) years and shall not be as long as such person is a director or manager of Seller: (i) a director, officer, employee, partner, shareholder, member, manager or Affiliate of any of the following Persons (collectively, the “**ENS Group**”): ENS, any Originator, or any of their respective Affiliates (other than Seller or another special purpose entity which is an Affiliate of ENS), (ii) a supplier to any of the ENS Group or Seller, (iii) the beneficial owner (at the time of such individual’s appointment as an Independent Director or at any time thereafter while serving as an Independent Director) of any of the outstanding membership or other equity interests of Seller or any of the ENS Group having general voting rights, (iv) a Person controlling or under common control with any director, officer, employee, partner, shareholder, member, manager, Affiliate or supplier of any of the ENS Group or Seller, or (v) a member of the immediate family of any director, officer, employee, partner, shareholder, member, manager, Affiliate or supplier of any of the ENS Group or Seller; (b) has not less than three (3) years of experience in serving as an independent director or Independent Director for special purpose vehicles engaged in securitization and/or structured financing transactions; and (c) is employed by Global Securitization Services, LLC, Lord Securities Corporation, AMACAR Group LLC, CT Corporation, Corporation Service Company, KRH Staffing, LLC, NCR, Maples Fiduciary Services (Delaware) Inc. or such other Person that provides independent director or Independent Director services for special purpose vehicles engaged in securitization and/or structured financing transactions in the ordinary course of its business, and their respective successors. For purposes of this definition, the term “control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ownership of voting securities or general partnership or managing member interests, by contract or otherwise.

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

“**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, or 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 U.S. federal, state or foreign law, including the Federal Bankruptcy Code.

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

“**Interim Report**” means a report in substantially the form of Exhibit IV.

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

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

“**Law**” means any international, foreign, federal, state and local statute, treaty, rule, guideline, regulation, ordinance, code and administrative or judicial precedent or authority, including the interpretation or administration thereof by any Governmental Authority charged with the enforcement, interpretation or administration thereof, and any applicable administrative order, directed duty, request, license, authorization or permit of, or agreement with, any Governmental Authority, in each case whether or not having the force of law.

“**LCR Security**” means any commercial paper or security (other than equity securities issued to ENS or the applicable Originator that is a consolidated subsidiary of ENS under GAAP) within the meaning of Paragraph __.321(viii) of the final rules titled Liquidity Coverage Ratio: Liquidity Risk Measurement Standards, 79 Fed. Reg. 197, 61440 et seq. (October 10, 2014).

“**Lien**” means any mortgage, pledge, hypothecation, assignment, deposit arrangement, security interest, encumbrance, lien (statutory or otherwise), preference, priority or charge of any kind (including any agreement to give any of the foregoing, any conditional sale or other title retention agreement, any financing or similar statement or notice filed under the UCC as adopted and in effect in the relevant jurisdiction or other similar recording or notice statute, and any lease in the nature thereof).

“**Lock-Box**” means each locked postal box associated with a Collection Account for the purpose of retrieving and processing payments made on the Receivables and which is listed on Schedule B (as such schedule may be modified from time to time with the addition or removal of any Lock-Box in accordance with the terms hereof).

“**Loss Reserve**” means, for any Calculation Period, the product (expressed as a percentage) of (a) 2.0 times (b) the highest three-month rolling average Default Ratio during the 12 Calculation Periods ending on the immediately preceding Cut-Off Date, times (c) the Default Horizon Ratio as of the immediately preceding Cut-Off Date.

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

“**Master Servicer Indemnified Amounts**” has the meaning set forth in Section 12.02.

“**Material Adverse Change**” means a material adverse change in the (a) the business, property, results of operations or financial condition of (i) Seller, or (ii) ENS and the Originator(s) taken as a whole; (b) the ability (other than financial ability) of ENS and the applicable Originator(s) considered as a whole to perform any of the applicable Originator’s payment or other obligations under the Transaction Documents to which it is a party; (c) the legality, validity, or enforceability of this Agreement or any of the other Transaction Documents; (d) the status, perfection, enforceability or priority of the Administrative Agent’s (on behalf of Seller, the Affected Persons and the Indemnified Parties) or Seller’s interest in the Sold Assets or Seller Collateral; or (e) the collectability of any substantial portion of the Pool Receivables.

“**Material Adverse Effect**” means a material adverse effect on (a) the business, property, results of operations or financial condition of (i) Seller, or (ii) ENS and the Originator(s) taken as a whole; (b) the ability (other than financial ability) of ENS and any Originator considered as a whole to perform any of the applicable Originator’s payment or other obligations under the Transaction Documents to which it is a party; (c) the legality, validity, or enforceability of this Agreement or any of the other Transaction Documents; (d) the status, perfection, enforceability or priority of the Administrative Agent’s (on behalf of Seller, the Affected Persons and the Indemnified Parties) or Seller’s interest in the Sold Assets or Seller Collateral; or (e) the collectability of any substantial portion of the Pool Receivables, taking into account in the case of any of clauses (a) or (b) above (in each such case to the extent relevant) insurance, indemnities, rights of contribution and/or similar rights and claims available and applicable to any determination pursuant to this definition so long as consideration is given to the nature and quality of, and likelihood of recovery under, such insurance, indemnities, rights of contribution and/or similar rights and claims.

“**Monthly Payment Date**” means the 5th day of each calendar month hereafter commencing with January 5, 2023 (or if any such day is not a Business Day, the next succeeding Business Day thereafter).

“**Monthly Report**” means a report in substantially the form of Exhibit III hereto (appropriately completed), furnished by the Master Servicer to the Administrative Agent and the Purchasers pursuant to Section 8.03(j)(iii).

“**Monthly Reporting Date**” the 15th day of each month after the Closing Date (or, if any such day is not a Business Day, the next succeeding Business Day thereafter) commencing with January 16, 2023.

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

“**Net Pool Balance**” means, at any time, (a) the aggregate Outstanding Balance of all Pool Receivables that are Eligible Receivables at such time, minus (b) the Excess Concentration at such time, minus (c) on or after the Contractual Dilution Accrual Start Date, the Contractual Dilution Accrual at such time.

“**Net Worth**” means, in respect of Seller as of the last Business Day of each Calculation Period preceding any date of determination, the excess, if any, of (i) the aggregate Outstanding Balance of the Receivables at such time, over (ii) the sum of (a) Aggregate Capital outstanding at such time, plus (b) the aggregate outstanding principal balance of the Subordinated Loans at such time.

“**Non-Consenting Purchaser**” means (a) any Purchaser that does not approve any consent, waiver or amendment that (i) requires the approval of all Purchasers or all affected Purchasers in accordance with the terms of Section 13.01 and (ii) has been approved by the Required Purchasers.

“**Non-Rated Obligor**” means any Obligor rated below either A-3/BBB- or below P-3/Baa3 by S&P or Moody’s, respectively, or which is not rated by either S&P or Moody’s.

“**Notice of Exclusive Control**” means, with respect to a Control Agreement, a notice given by the Administrative Agent to the related Collection Bank in substantially the form prescribed by or attached to such Control Agreement pursuant to which the Administrative Agent exercises its exclusive right to direct the disposition of funds on deposit in the applicable Collection Account(s) or Lock-Box(es) in accordance with such Control Agreement.

“**Obligor**” means a Person obligated to make payments pursuant to a Contract.

“**Organizational Document**” means, relative to any Person, its certificate or articles of incorporation or formation, its by-laws, its partnership agreement, its memorandum and articles of association, its limited liability company agreement and/or operating agreement, share designations or similar organization documents and all shareholder agreements, voting trusts and similar arrangements applicable to any of its authorized Capital Stock.

“**Originator(s)**” has the meaning specified in the Preliminary Statements.

“**Other Connection Taxes**” means, with respect to any Recipient, Taxes imposed as a result of a present or former connection between such Recipient and the jurisdiction imposing such Tax (other than connections arising solely from such Recipient 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 Security Interest or Transaction Document).

“**Other Taxes**” means all present or future stamp, court or documentary, or intangible Taxes that arise from the delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, any Transaction Document, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment.

“**Outstanding Balance**” of any Pool Receivable means, at any time, the then outstanding principal balance of such Pool Receivable at such time.

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

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

“**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 ENS.

“**Performance Undertaking**” means that certain Performance Undertaking in substantially the form of Exhibit VIII hereto, dated as of the Closing Date, executed by the Performance Guarantor in favor of Seller and its assigns, as the same may be amended, restated or otherwise modified from time to time in accordance with the terms thereof.

“**Permitted Lien**” means, with respect to any Person or its assets, (a) Liens for taxes or other governmental charges not at the time delinquent or thereafter payable without penalty or being contested in good faith by appropriate proceedings and, in each case, for which such Person maintains adequate reserves, (b) Liens created under the Transaction Documents, (c) Liens being contested in good faith by appropriate proceedings with respect to which adequate reserves for losses or other appropriate revisions are being maintained in accordance with GAAP and as to which enforcement or execution proceedings have not been commenced, (d) bankers’ liens, rights of setoff and other similar Liens existing solely with respect to cash on deposit in a Collection Account to the extent such Liens are not terminated pursuant to a Control Agreement, (e) any Lien resulting from a judgment or award, the time for the appeal or petition for rehearing of which shall not have expired, or in respect of which such Person shall at any time in good faith be prosecuting an appeal or proceeding for a review and with respect to which (i) adequate reserves for losses or other appropriate revisions are being maintained in accordance with GAAP and (ii) enforcement or execution proceedings have not been commenced, and (f) any Lien in respect of any Receivable which will be automatically released on or prior to the sale or transfer (or purported sale or transfer) of such Receivable under the Sale Agreement.

“**Person**” means an individual, partnership, corporation (including a business trust), limited liability company, joint stock company, trust, unincorporated association, joint venture or other entity, or a government or any political subdivision or agency thereof.

“**Plan**” has the meaning specified in the Senior Credit 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.

“Portion of Capital” means, with respect to any Purchaser and its related Capital, the portion of such Capital being funded or maintained by such Purchaser by reference to a particular interest rate basis.

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

“Potential Sale Termination Event” means an event that but for notice or lapse of time or both would constitute a Sale Termination Event.

“Preferred Stock” has the meaning specified in the Senior Credit Agreement.

“Prime Rate” mean, on any day, the rate of interest announced, from time to time, within Wells at its principal office in San Francisco as its “prime rate” in effect on such day, with the understanding that the “prime rate” is one of Wells’ base rates (not necessarily the lowest of such rates) and serves as the basis upon which effective rates of interest are calculated for those loans making reference thereto and is evidenced by the recording thereof after its announcement in such internal publications as Wells may designate; provided that if the Prime Rate determined in accordance with the foregoing provisions of this definition would otherwise be less than the Floor, the Prime Rate shall be deemed to equal the Floor for purposes of this Agreement.

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

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

“Purchasers” means Wells and each other Person that is or becomes a party to this Agreement in the capacity of a “Purchaser,” together with their respective Funding Offices.

“QFC” has the meaning assigned to the term “qualified financial contract” in, and shall be interpreted in accordance with, 12 U.S.C. 5390(c)(8) (D).

“Qualified Preferred Stock” has the meaning set forth in the Senior Credit Agreement.

“Receivable” means any indebtedness and other obligations owed to the applicable Originator (or Seller as its assignee) by, or any right of the applicable Originator (or Seller as its assignee) to payment from or on behalf of, an Obligor, whether constituting an account, chattel paper, instrument or general intangible, arising in connection with the sale of goods or the rendering of services by the applicable Originator, and includes the obligation to pay any finance charges, fees and other charges with respect thereto. Indebtedness, other obligations and rights to payment arising from any one transaction, including indebtedness, other obligations and rights to payment represented by an individual invoice or agreement, shall constitute a Pool Receivable separate from a Pool Receivable consisting of the indebtedness, other obligations and rights to payment arising from any other transaction.

“**Receivables Pool**” means, at any time of determination, all of the then outstanding Receivables (including both Sold Receivables and Unsold Receivables) that have been transferred (or purported to be transferred) to Seller pursuant to the Sale Agreement prior to the Amortization Date.

“**Recipient**” means the Administrative Agent, any Purchaser or any other recipient of any payment to be made by or on account of any obligation of any Purchaser hereunder.

“**Records**” means, with respect to any Receivable, all Contracts and other documents, books, records and other information (including, without limitation, computer programs, tapes, disks, punch cards, data processing software and related property and rights) relating to such Receivable, any Related Security therefor and the related Obligor.

“**Reduction Notice**” means a notice in substantially the form of Exhibit II hereto executed and delivered by Seller to the Administrative Agent and the Purchasers pursuant to Section 2.02(d).

“**Register**” has the meaning set forth in Section 13.03(c).

“**Related Security**” means, solely to the extent applicable to any Receivable:

(i) all right, title and interest (if any) of the applicable Originator or Seller in the goods, the sale of which gave rise to such Receivable,

(ii) all other Security Interests or Liens and property subject thereto from time to time, if any, purporting to secure payment of such Receivable, whether pursuant to the Contract related to such Receivable, the Hawker Agreement or otherwise, together with all financing statements and security agreements describing any collateral securing such Receivable;

(iii) all guaranties, letters of credit, insurance and other supporting obligations, agreements or arrangements of whatever character from time to time supporting or securing payment of such Receivable whether pursuant to the Contract related to such Receivable or otherwise; provided that, prior to the Amortization Date, it is understood and agreed that notwithstanding anything herein or in any Transaction Document to the contrary, no Originator nor Seller nor the Master Servicer shall be required to take any action to cause any such guarantee, letter of credit, insurance or other supporting obligation to be transferred to or for the benefit of, or otherwise assigned to, the Administrative Agent or any Purchaser to the extent any such transfer or assignment requires the consent of any Person or is prohibited by Applicable Law,

(iv) all service contracts and other contracts and agreements associated with such Receivable,

(v) all Records related to such Receivable,

(vi) all right, title and interest of the applicable Originator or Seller in each Lock-Box and each Collection Account relating to such Receivable, the Hawker Agreement, and any Control Agreement executed in favor of the Seller as the original or assignee secured party thereunder, and

(vii) all Collections and proceeds of any of the foregoing.

When used in this Agreement, the term **“Related Security”** shall also include all of Seller’s rights and remedies under the Sale Agreement, the Performance Undertaking and each Control Agreement executed in favor of an Originator or the Master Servicer as the original secured party, and the proceeds of all of the foregoing.

“Release” has the meaning set forth in Section 4.01(a).

“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 successors thereto.

“Reportable Compliance Event” means ENS, an Originator or Seller becomes a Sanctioned Person, or is indicted, arraigned, investigated or custodially detained, or receives an inquiry from regulatory or law enforcement officials, in connection with any Anti-Terrorism Law or any predicate crime to any Anti-Terrorism Law, or self-discovers facts or circumstances implicating any aspect of its operations with the actual or possible violation of any Anti-Terrorism Law.

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

“Required Capital Amount” has the meaning set forth in the Sale Agreement.

“Required 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 100% of the aggregate outstanding Capital held by all the Purchasers); provided, however, that in no event shall the Required Purchasers include fewer than two (2) Purchasers at any time when there are two (2) or more Purchasers.

“Required Reserve” means, on any day during a Calculation Period, the product of (a) the greater of (i) the sum of the Required Reserve Factor Floor, the Yield Reserve and the Servicing Reserve, and (ii) the sum of the Loss Reserve, the Yield Reserve, the Dilution Reserve and the Servicing Reserve, times (b) the Net Pool Balance as of the Cut-Off Date immediately preceding such Calculation Period.

“Required Reserve Factor Floor” means, for any month, the sum (expressed as a percentage) of (a) 18.00%, plus (b) the product of the Adjusted Dilution Ratio and the Dilution Horizon Ratio, in each case, as of the immediately preceding Cut-Off Date.

“Resolution Authority” means an EEA Resolution Authority or, with respect to any UK Financial Institution, a UK Resolution Authority.

“Responsible Officer” means, in respect of any Seller Party, the chief financial officer, treasurer or assistant treasurer of such Seller Party.

“Restricted Junior Payments” means (i) any dividend or other distribution, direct or indirect, on account of any membership interest of any class of Seller now or hereafter outstanding, except a dividend payable solely in membership interests of Seller of that class or any junior class, (ii) any redemption, retirement, sinking fund or similar payment, purchase or other acquisition for value, direct or indirect, of any shares of Seller now or hereafter outstanding, (iii) any payment or

prepayment of principal of, premium, if any, or interest, fees or other charges on or with respect to, and any redemption, purchase, retirement, defeasance, sinking fund or similar payment and any claim for rescission with respect to the Subordinated Loans, (iv) any payment made to redeem, purchase, repurchase or retire, or to obtain the surrender of, any outstanding warrants, options or other rights to acquire any membership interest of Seller now or hereafter outstanding, and (v) any payment of management fees by Seller (except for reasonable management fees to the applicable Originator or its Affiliates in reimbursement of actual management services performed).

“**Restricted Subsidiary**” has the meaning specified in the Senior Credit Agreement.

“**Review**” shall have the meaning specified in Section 8.01(m) of this Agreement.

“**Sale Agreement**” has the meaning set forth in the Preliminary Statements.

“**Sale Date**” means each of the following: (a) the Closing Date, (b) the last day of each calendar month of Seller to the extent that an Investment occurred during such calendar month, (c) the last day of each fiscal quarter of Seller, and (d) each other day (if any) designated as a “**Sale Date**” by 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 Amortization Date.

“**Sale Termination Event**” means a “**Termination Event**” as defined in the Sale Agreement.

“**Sanctioned Country**” means at any time, a country, region or territory which is itself (or whose government is) the subject or target of any Sanctions (including, as of the Closing Date, Cuba, Iran, North Korea, Russia, Syria, Venezuela and Crimea).

“**Sanctioned Person**” means, at any time, (a) any Person listed in any Sanctions-related list of designated Persons maintained by OFAC (including OFAC’s Specially Designated Nationals and Blocked Persons List and OFAC’s Consolidated Non-SDN List), the U.S. Department of State, the United Nations Security Council, the European Union, any European member state, His Majesty’s Treasury, or other relevant sanctions authority, (b) any Person operating, organized or resident in a Sanctioned Country, (c) any Person owned or controlled by, or acting or purporting to act for or on behalf of, directly or indirectly, any such Person or Persons described in clauses (a) and (b), including a Person that is deemed by OFAC to be a Sanctions target based on the ownership of such legal entity by Sanctioned Person(s) or (d) any Person otherwise a target of Sanctions, including vessels and aircraft, that are designated under any Sanctions program.

“**Sanctions**” means any and all economic or financial sanctions, sectoral sanctions, secondary sanctions, trade embargoes and restrictions and Anti-Terrorism Laws, including but not limited to those imposed, administered or enforced from time to time by the U.S. government (including those administered by OFAC or the U.S. Department of State), the United Nations Security Council, the European Union, any European member state, His Majesty’s Treasury, or other relevant sanctions authority in any jurisdiction in which (a) any Seller Party or any of its Subsidiaries or Affiliates is located or conducts business, (b) in which any of the proceeds of the Investments will be used, or (c) from which repayment of Seller Obligations will be derived.

“**Scheduled Termination Date**” means December 21, 2025.

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

“**Secured Parties**” means each Indemnified Party and each Affected Person.

“**Securities Act**” means the Securities Act of 1933, as amended or otherwise modified from time to time.

“**Security Interest**” has the meaning ascribed thereto in Article 9 of the UCC.

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

“**Seller Collateral**” has the meaning set forth in Section 3.09(a).

“**Seller Guaranty**” has the meaning set forth in Section 3.01.

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

“**Seller Obligation Final Due Date**” means the date that is the earlier of (i) the Scheduled Termination Date and (ii) such earlier date on which the Aggregate Capital becomes due and payable pursuant to Section 10.01.

“**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 Seller to any Indemnified Party, arising under or in connection with this Agreement or any other Transaction Document or the transactions contemplated hereby or thereby, and shall include, without limitation, all obligations of 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, without limitation, interest, fees and other obligations that accrue after the commencement of any Insolvency Proceeding with respect to Seller (in each case whether or not allowed as a claim in such proceeding).

“**Seller Party**” means (a) Seller, (b) at any time while ENS or one of its Subsidiaries is acting as the Master Servicer, the Master Servicer, and (c) at any time while ENS or one of its Subsidiaries is acting as the Performance Guarantor, the Performance Guarantor.

“**Senior Credit Agreement**” means that certain Credit Agreement, dated as of August 4, 2017, among ENS and the other “Borrowers” party thereto, the Guarantors from time to time party thereto, the several banks and other financial institutions or entities from time to time parties thereto, as “Lenders”, and Bank of America, N.A., as “Administrative Agent,” Swing Line Lender” and “L/C Issuer,” as amended, restated, supplemented or otherwise modified from time to time unless otherwise expressly provided in the text of this Agreement, and regardless of whether it remains in effect.

“**Servicing Fee**” means the fee referred to in Section 9.06(a) of this Agreement.

“**Servicing Fee Rate**” means the rate referred to in Section 9.06(a) of this Agreement.

“**Servicing Reserve**” means, for any Calculation Period, the product (expressed as a percentage) of (a) 1.0%, times (b) a fraction, the numerator of which is the highest Days’ Sales Outstanding for the most recent 12 months and the denominator of which is 360.

“**Settlement Date**” means each Monthly Payment Date and each Capital Settlement Date.

“**Settlement Report**” means a Monthly Report or an Interim Report, as the case may be.

“**SOFR**” means a rate equal to the secured overnight financing rate as administered by the SOFR Administrator.

“**SOFR Administrator**” means the Federal Reserve Bank of New York (or a successor administrator of the secured overnight financing rate).

“**SOFR Investment**” means an Investment that accrues Yield at a rate determined by reference to Adjusted Term SOFR (other than pursuant to clause (c) of the definition of “**Alternate Base Rate**”).

“**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 each Monthly Report delivered hereunder and (iii) all additional Pool Receivables designated as “Sold Receivables” and transferred by Seller pursuant to Section 2.01(b) in connection with a Release as contemplated by the first paragraph in Section 4.01(a).

“**Solvent**” means, in respect of any Person, on any date of determination, that (i) the present fair saleable value of the assets of such Person exceeds the Indebtedness (as defined in the Senior Credit Agreement) of such Person as it becomes absolute and matured; (ii) the capital of such Person is not unreasonably small in relation to its business as contemplated on such date; (iii) such Person has not incurred and does not intend to incur or believe that it will incur Indebtedness (including current liabilities), beyond its ability to pay such Indebtedness as it becomes due (whether at maturity or otherwise) and (iv) such Person is “solvent” within the meaning given to that term and similar terms under Applicable Laws relating to fraudulent transfers and conveyances. The amount of contingent liabilities at any time shall be computed as the amount that, in light of all the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability.

“**Special Concentration Percentage**” has the meaning set forth in the definition of “**Concentration Percentage**.”

“**S&P**” means Standard & Poor’s Ratings Services, a Standard & Poor’s Financial Services, LLC business, or any successor thereto.

“**Subordinated Loan**” has the meaning set forth in the Sale Agreement.

“**Subordinated Note**” has the meaning set forth in the Sale Agreement.

“**Sub-Servicer**” has the meaning set forth in Section 9.01(d).

“**Subsidiary**” or “**Subsidiaries**” of a Person shall mean (i) any corporation or trust of which 50% or more (by number of shares or number of votes) of the outstanding capital stock or shares of beneficial interest normally entitled to vote for the election of one or more directors or trustees (regardless of any contingency which does or may suspend or dilute the voting rights) is at such time owned directly or indirectly by such Person or one or more of such Person’s Subsidiaries, (ii) any partnership of which such Person is a general partner or of which 50% or more of the partnership interests is at the time directly or indirectly owned by such Person or one or more of such Person’s Subsidiaries, (iii) any limited liability company of which such Person is a manager or managing member or of which 50% or more of the limited liability company interests is at the time directly or indirectly owned by such Person or one or more of such Person’s Subsidiaries or (iv) any corporation, trust, partnership, limited liability company or other entity which is controlled or capable of being controlled by such Person or one or more of such Person’s Subsidiaries.

“**Tax**” and “**Taxes**” means any and all present or future taxes, levies, imposts, duties, deductions, charges or withholdings imposed by any Governmental Authority and all interest, penalties, or additions to tax.

“**Term SOFR**” means, on any day, the Term SOFR Reference Rate for a one-month tenor published by the Term SOFR Administrator on such day; provided, however, that if, as of 5:00 p.m. (New York City time) on such day, the Term SOFR Reference Rate for a one-month tenor has not been published by the Term SOFR Administrator, then Term SOFR will be the Term SOFR Reference Rate for a one-month tenor as published by the Term SOFR Administrator on the first preceding U.S. Government Securities Business Day for which such Term SOFR Reference Rate for such tenor was published by the Term SOFR Administrator so long as such first preceding U.S. Government Securities Business Day is not more than three (3) U.S. Government Securities Business Days prior to such day; provided, further, that if, on any such day, Term SOFR determined as provided above (including pursuant to the preceding proviso) shall ever be less than the Floor, then Term SOFR for such day shall be deemed to be equal to the Floor.

“**Term SOFR Adjustment**” means a percentage equal to 0.05% per annum.

“**Term SOFR Administrator**” means the CME Group Benchmark Administration Limited (CBA) (or a successor administrator of the Term SOFR Reference Rate selected by the Administrative Agent in its reasonable discretion).

“**Term SOFR Index Rate**” means on any date of determination, Adjusted Term SOFR for a one-month tenor, changing when and as the published Term SOFR rate for such tenor changes.

“**Term SOFR Investment**” means any Investment that accrues Yield at a rate per annum based on Adjusted Term SOFR.

“**Term SOFR Reference Rate**” means the forward-looking term rate based on SOFR.

“**Termination Notice**” has the meaning set forth in the definition of “Amortization Date.”

“Transaction Documents” means this Agreement, the Sale Agreement, the Control Agreements and any assignments or amendments related thereto, the Fee Letter, each Subordinated Note, the Performance Undertaking, the Hawker 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.

“UK Financial Institution” means any BRRD Undertaking (as such term is defined under the PRA Rulebook (as amended from time to time) promulgated by the United Kingdom Prudential Regulation Authority) or any person subject to IFPRU 11.6 of the FCA Handbook (as amended from time to time) promulgated by the United Kingdom Financial Conduct Authority, which includes certain credit institutions and investment firms, and certain affiliates of such credit institutions or investment firms.

“United Kingdom” and **“UK”** mean the United Kingdom of Great Britain and Northern Ireland.

“UK Resolution Authority” means the Bank of England or any other public administrative authority having responsibility for the resolution of any UK Financial Institution.

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

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

“United States” and **“U.S.”** mean the United States of America.

“Unused Fee” has the meaning specified in the Fee Letter.

“U.S. Government Securities Business Day” means any day except for (i) a Saturday, (ii) a Sunday or (iii) 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. Person” means a United States person (within the meaning of Section 7701(a)(30) of the Code).

“U.S. Tax Compliance Certificate” has the meaning set forth in Section 5.03(e)(ii)(B)(III).

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

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

“Write-Down and Conversion Powers” means, (a) with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule, and (b) with respect to the United Kingdom, any powers of the applicable Resolution Authority under the Bail-In Legislation to cancel, reduce, modify or change the form of a liability of any UK Financial Institution or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that Bail-In Legislation that are related to or ancillary to any of those powers.

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

“Yield Period” means, with respect to any Purchaser’s Capital (or any portion thereof), (a) before the Amortization Date: (i) initially, the period commencing on the date of the Investment pursuant to which such Capital (or portion thereof) is funded by a Purchaser to Seller 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 last day of the applicable Calculation Period and (ii) thereafter, each Calculation Period and (b) on and after the Amortization Date, such period (including a period of one day) as shall be selected from time to time by the Administrative Agent (with the consent or at the direction of the Required Purchasers) or, in the absence of any such selection, each Calculation Period.

“Yield Rate” means, for any day in any Yield Period for any Purchaser’s Capital (or any portion thereof), the sum of (i) Term SOFR Index Rate plus (ii) the Applicable Margin; **provided** that the **“Yield Rate”** for any Purchaser’s Capital (or any portion thereof) on any day while an Amortization Event has occurred and is continuing shall be a rate per annum equal to the sum of 2.00% per annum plus the greater of (i) the applicable **“Yield Rate”** for such Purchaser’s Capital as set forth above and (ii) the sum of the Alternate Base Rate in effect on such day plus the Applicable Margin; **provided, further,** that (x) no provision of this Agreement shall require the payment or permit the collection of Yield in excess of the maximum permitted by Applicable Law; and (y) that Yield for any Capital (or such portion thereof) shall not be considered paid by any distribution to the extent that at any time all or a portion of such distribution is rescinded or must otherwise be returned for any reason.

“Yield Reserve” means for any Calculation Period, the product (expressed as a percentage) of (i) 1.5 times (ii) the Alternate Base Rate as of the immediately preceding Cut-Off Date times (iii) a fraction, the numerator of which is the highest Days Sales’ Outstanding for the most recent 12 Calculation Periods and the denominator of which is 360.

Capitalized terms used and not otherwise defined in this Agreement, are used with the meanings attributed thereto in the Sale Agreement.

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*” means 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 Applicable Law refer to that Applicable Law as amended from time to time and include any successor Applicable 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.

ARTICLE II

TERMS OF THE PURCHASES AND INVESTMENTS

SECTION 2.01 Purchase Facility.

(a) Investments. Upon a request by 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 Seller from time to time during the period from the Closing Date to (but excluding) the Facility Termination Date. Each such payment of Capital by a Purchaser to 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. Each Purchaser’s several Commitment shall automatically terminate on the Facility Termination Date.

(b) Sale of Receivables and Other Sold Assets. In consideration of the Purchasers' respective agreements to make Investments in accordance with the terms hereof, 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 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 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 Sale. It is the intention of the parties to this Agreement that the transfer and conveyance of 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 5.05 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 sales, assignments, transfers and conveyances set forth in Section 2.01(b) do not constitute, and are not intended to result in, the creation or an assumption by the Administrative Agent or any Purchaser of any obligation or liability of Seller, the applicable Originator, the Master 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 Seller, the applicable Originator, the Master Servicer and such other Persons, as applicable.

(e) Selection, Designation and Reporting of Sold Receivables. Seller (or the Master 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) Seller shall ensure that each Sold Receivable is both (x) an Eligible Receivable and (y) a Billed Receivable, on the date when first included as a Sold Receivable, (ii) Seller shall select Sold Receivables from the Pool Receivables on an invoice-by-invoice basis, and Seller shall transfer pursuant to Section 2.01(b) 100% of its interest in any invoice that reflects Sold Receivables, such that all Receivables reflected or evidenced by such an invoice shall be included as Sold Receivables, and (iii) Seller shall not permit the aggregate Outstanding Balance of Sold Receivables to exceed the Aggregate Capital at any time. Seller shall maintain (or cause the Master Servicer to maintain) books and records sufficient to readily identify the Sold Receivables. Seller and Master Servicer shall cause all Sold Receivables to be identified (i) on each Monthly Report delivered hereunder for which the related Calculation Period is the last Calculation Period of a quarter and (ii) on each other Monthly Report delivered hereunder to the extent that an Investment occurred during the related Calculation Period.

(f) No Right to Repurchase. Seller hereby acknowledges and agrees that under no circumstance shall Seller have any right to repurchase all or any portion of the Sold Assets from the Administrative Agent or any Purchaser.

SECTION 2.02 Making Investments; Return of Capital.

(a) Requesting Investments. Each Investment hereunder shall be made on written request from Seller to the Administrative Agent and each Purchaser delivered on a Business Day in the form of an Investment Request attached hereto as Exhibit I. Each such request for an Investment shall be made no later than 12:00 noon (New York City time) on the proposed date of such Investment (*it being understood* that any such request made after such time may be deemed to have been made on the following Business Day in the discretion of the Administrative Agent) and shall specify (i) the amount of Capital requested (which amount shall not (x) be less than \$500,000 and (y) 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) and (iii) the date such requested Investment is to be made (which shall be a Business Day). Unless the information in each Investment Request is also entered by Seller on-line in the Administrative Agent's electronic "C.E.O." portal, the requested Investment shall be subject to (and unless the Administrative Agent elects otherwise in the exercise of its sole discretion, such Investment shall not be funded until) satisfactory completion of the Administrative Agent's authentication process.

(b) Funding Investments.

(i) 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 VI and pursuant to the other conditions set forth in this Article II, deliver to the Administrative Agent by wire transfer of immediately available funds at the account from time to time designated in writing by the Administrative Agent, an amount equal to such Purchaser's ratable share of the amount of Capital requested. On the date of each Investment, the Administrative Agent will make available to Seller, in immediately available funds, at the Facility Account, the amount of such Capital funded by all Purchasers on such date.

(ii) Unless the Administrative Agent shall have received notice from a Purchaser, with a copy to Seller, prior to the proposed date of any Investment that such Purchaser will not make available to the Administrative Agent such Purchaser's share of such Investment, the Administrative Agent may assume that such Purchaser has made such share available on such date in accordance with the foregoing clause (b)(i) and may, in reliance upon such assumption, make available to Seller a corresponding amount. In such event, if a Purchaser has not in fact made its share of the applicable Investment available to the Administrative Agent, then such Purchaser agrees to pay to the Administrative Agent within two (2) Business Days after demand therefor, together with interest thereon, for

each day from and including the date such amount was made available to Seller to but excluding the date of payment to the Administrative Agent, at the greater of the Federal Funds Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation. Upon payment to the Administrative Agent by such Purchaser of such reimbursed Capital, together with interest as provided in the preceding sentence, then such Capital amount shall constitute such Purchaser's Investment. In the event that such Purchaser does not reimburse the Administrative Agent in accordance with the preceding two sentences, then Seller shall reimburse the Administrative Agent for such Capital, together with interest thereon at the sum of the Term SOFR Index Rate plus the Applicable Margin, and any such payment by Seller shall be without prejudice to any claim Seller may have against a Purchaser that shall have failed to make such payment to the Administrative Agent.

(c) Each Purchaser's obligation shall be several, such that the failure of any Purchaser to make available to 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 Seller in connection with any Investment hereunder).

(d) The outstanding Capital of each Purchaser shall become due on Seller Obligation Final Due Date and shall be payable from Collections in accordance with the priorities set forth in Section 4.01. Prior thereto, Seller shall, on each Settlement Date, reduce the outstanding Capital of the Purchasers to the extent required under Section 4.01 and otherwise in accordance with such Section 4.01 (subject to the priorities for payment set forth therein) by paying the amount of such reduction to the Administrative Agent for distribution to the Purchasers in accordance with Section 4.02. Additionally, if on any Business Day Seller or the Master Servicer determines or is advised that a Capital Coverage Deficit exists, Seller shall within two (2) Business Days reduce the outstanding Capital of the Purchasers to the extent required to eliminate such Capital Coverage Deficit. Notwithstanding the foregoing, Seller, in its discretion, shall have the right to reduce, in whole or in part by payment in accordance with Section 4.02, the outstanding Capital of the Purchasers on any Business Day upon two (2) Business Days' prior written notice thereof to the Administrative Agent and each Purchaser in the form of a Reduction Notice attached hereto as Exhibit II; **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; **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 and (ii) 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.

(e) Seller may, upon at least five (5) Business Days' irrevocable written notice to the Administrative Agent and the Purchasers, permanently reduce the Facility Limit to a level not less than \$50,000,000; **provided** that (i) each partial reduction of the Facility Limit shall be in an aggregate amount of not less than \$1,000,000, (ii) in connection with any partial reduction in the Facility Limit, the Commitment of each Purchaser shall be ratably reduced. In addition, Seller may terminate the facility evidenced by this Agreement and reduce the Commitments to \$0.00 by delivering an irrevocable Termination Notice to the Administrative Agent and the Purchasers at least ten (10) Business Days prior to the desired effective date of such termination, together with Interim Reports beginning with the week in which such Termination Notice is delivered and ending with the week in which the Final Payout Date occurs.

(f) In connection with any partial or total reduction of the Commitments, Seller shall remit to the Administrative Agent (i) instructions regarding such reduction and (ii) for payment to the Purchasers, Collections in an amount sufficient to pay (A) Capital of each Purchaser equal to 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). Upon receipt by the Administrative Agent 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, by paying such amounts to the Purchasers.

(g) Seller may at any time or from time to time after the Closing Date, by written notice to the Administrative Agent (whereupon the Administrative Agent shall promptly deliver a copy to each of the Purchasers), request one or more increases in the aggregate amount of the Commitments (each such increase, a “**Commitment Increase**”); **provided** that (i) both at the time of any such request and on the effective date of any Commitment Increase, no Amortization Event or Potential Amortization Event exists or will exist after giving effect to the requested Commitment Increase and each of the representations and warranties made by any Seller Party in or pursuant to any Transaction Document shall be true and correct in all material respects on and as of such date as if made on and as of such date (except to the extent that such representations and warranties specifically refer to an earlier date, in which case they shall be true and correct in all material respects as of such earlier date); (ii) each requested Commitment Increase shall be in an aggregate amount of not less than \$10,000,000 or a larger integral multiple of \$5,000,000 and notwithstanding anything to the contrary herein, the aggregate amount of the Commitments after giving effect to any requested Commitment Increase shall not exceed the maximum amount permitted by the Senior Credit Agreement, and (iii) each notice from Seller pursuant to this Section 2.08(g) shall set forth the requested amount of the Commitment Increase and proposed effective date of each requested Commitment Increase; and **provided, further**, that no Purchaser shall have any obligation to provide any portion of a requested Commitment Increase unless it agrees to do so in its sole discretion. Each Commitment Increase will give rise to an increase in the Facility Limit in a like amount, and will be evidenced by an amendment, duly executed by the Persons required to be a party thereto under Section 13.01 or Section 13.03, as applicable (including, without limitation, each Purchaser or other Person that provides all or any portion of the requested Commitment Increase).

SECTION 2.03 Yield and Fees.

(a) On each Settlement Date, Seller shall pay to the Administrative Agent for distribution to each Purchaser and the Administrative Agent certain fees (collectively, the “**Fees**”) in the amounts set forth in the Fee Letter.

(b) Each Purchaser’s Capital shall accrue Yield on each day when such Capital remains outstanding at the then applicable Yield Rate for such Capital (or each applicable portion thereof). Seller shall pay all Yield and Fees accrued during each Yield Period on each Settlement Date.

(c) For the avoidance of doubt, Seller’s obligation to pay all Fees and Yield hereunder when due shall not be contingent up the receipt or availability of Collections and to the extent any such amount is not otherwise paid on the related Settlement Date, such amount shall be paid on the following Settlement Date in accordance with the terms and priorities for payment set forth in Section 4.01.

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 Yield Rate 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(d), 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 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 Defaulting Purchasers. Notwithstanding anything to the contrary contained in this Agreement, if any Purchaser becomes a Defaulting Purchaser, then, until such time as that Purchaser is no longer a Defaulting Purchaser, to the extent permitted by Applicable Law:

(a) Such Defaulting Purchaser’s right to approve or disapprove any amendment, waiver or consent with respect to this Agreement shall be restricted as set forth in Section 13.01(b).

(b) Any payment of Capital, Yield, Fees or other amounts received by the Administrative Agent for the account of such Defaulting Purchaser (whether voluntary or mandatory, at maturity or otherwise) or received by the Administrative Agent from a Defaulting Purchaser pursuant to Section 13.16 shall be applied at such time or times as may be determined by the Administrative Agent as follows: first, to the payment of any amounts owing by such Defaulting Purchaser to the Administrative Agent hereunder; second, as Seller may request (so long as no Amortization Event or Potential Amortization Event exists), to the funding of any Investment in respect of which such Defaulting Purchaser has failed to fund its portion thereof as required by this Agreement, as determined by the Administrative Agent; third, so long as no Amortization Event or Potential Amortization Event exists, if so determined by the Administrative Agent and Seller, to be held in a deposit account and released pro rata in order to satisfy such Defaulting Purchaser’s potential future funding obligations with respect to Investments under this Agreement; fourth, to the payment of any amounts owing to the Administrative Agent or the other Purchasers as a result

of any judgment of a court of competent jurisdiction obtained by the Administrative Agent or such other Purchaser against such Defaulting Purchaser as a result of such Defaulting Purchaser's breach of its obligations under this Agreement; **fifth**, so long as no Amortization Event or Potential Amortization Event exists, to the payment of any amounts owing to Seller as a result of any judgment of a court of competent jurisdiction obtained by Seller against such Defaulting Purchaser as a result of such Defaulting Purchaser's breach of its obligations under this Agreement; and **sixth**, to such Defaulting Purchaser or as otherwise directed by a court of competent jurisdiction; provided that if (x) such payment is a payment of the Capital amount of any Investment in respect of which such Defaulting Purchaser has not fully funded its appropriate share, and (y) such Investment was made at a time when the conditions set forth in Section 6.02 were satisfied or waived, such payment shall be applied solely to pay the Investments of all Purchasers that are not Defaulting Purchasers on a pro rata basis prior to being applied to the payment of any Investments of such Defaulting Purchaser until such time as all Investments are funded and held by the Purchasers pro rata in accordance with the Commitments hereunder. Any payments, prepayments or other amounts paid or payable to a Defaulting Purchaser that are applied (or held) to pay amounts owed by a Defaulting Purchaser pursuant to this Section 2.05(b) shall be deemed paid to and redirected by such Defaulting Purchaser, and each Purchaser irrevocably consents hereto.

(c) No Defaulting Purchaser shall be entitled to receive any Unused Fee for any period during which that Purchaser is a Defaulting Purchaser (and Seller shall not be required to pay any such Unused Fee that otherwise would have been required to have been paid to that Defaulting Purchaser).

(d) If Seller and the Administrative Agent agree in writing that a Purchaser is no longer a Defaulting Purchaser, the Administrative Agent will so notify the other parties hereto, whereupon as of the effective date specified in such notice and subject to any conditions set forth therein, that Purchaser will, to the extent applicable, purchase at par that portion of outstanding Investments of the other Purchasers or take such other actions as the Administrative Agent may determine to be necessary to cause the Investments to be funded on a *pro rata* basis by the Purchasers in accordance with their respective Percentages, whereupon such Purchaser will cease to be a Defaulting Purchaser; **provided** that no adjustments will be made retroactively with respect to Fees accrued or payments made by or on behalf of Seller while that Purchaser was a Defaulting Purchaser; and **provided, further**, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Purchaser to Purchaser will constitute a waiver or release of any claim of any party hereunder arising from that Purchaser's having been a Defaulting Purchaser.

(e) At any time there is more than one Purchaser, Seller shall be permitted to replace any Purchaser that becomes a Defaulting Purchaser; **provided** that Seller shall be permitted to replace any Purchaser which is the Administrative Agent or an Affiliate thereof only if, in either case, the Administrative Agent is also replaced contemporaneously, pursuant to documents reasonably satisfactory to the Administrative Agent and the Administrative Agent has received payment of an amount equal to all amounts payable to the Administrative Agent hereunder and under each other Transaction Document; provided, further that (i) such replaced Purchaser shall have received payment of an amount equal to the Aggregate Unpaid payable to it hereunder and under the other Transaction Documents from the assignee or Seller, (ii) the replacement Purchaser shall be reasonably satisfactory to the Administrative Agent (except in instances in which the replaced Purchaser is serving as the Administrative Agent, in which case the replacement Purchaser shall be reasonably satisfactory to Seller) and (iii) any such replacement shall not be deemed to be a waiver of any rights that Seller, the Administrative Agent or any other Purchaser(s) shall have against the replaced Purchaser.

SECTION 2.06 Divisions. For all purposes under the Transaction Documents, in connection with any division or plan of division under Delaware law (or any comparable event under a different jurisdiction's laws), if any asset, right, obligation or liability of any Person becomes the asset, right, obligation or liability of a different Person, then it shall be deemed to have been transferred from the original Person to the subsequent Person.

ARTICLE III

SELLER GUARANTY

SECTION 3.01 Guaranty of Payment. 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 Seller hereunder in respect to the Seller Guaranty shall be adjudicated to be invalid or unenforceable for any reason (including because of any Applicable Law relating to fraudulent conveyances or transfers) then such obligations of Seller shall be limited to the maximum amount that is permissible under Applicable Law (whether federal or state or otherwise and including the Federal Bankruptcy Code and any other applicable bankruptcy, insolvency, reorganization or other similar laws).

SECTION 3.02 Unconditional Guaranty. The obligations of 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. 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, Seller Obligations or otherwise, and Seller hereby waives the right to require the Administrative Agent or the Purchasers to make demand on or proceed against any Obligor, the applicable Originator, the Master Servicer, 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. 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 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 Seller's obligations under the Seller Guaranty; it being the purpose and intent of 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, the applicable Originator, or the Master Servicer or by reason of the bankruptcy or insolvency of any Obligor, the applicable Originator, or the Master Servicer. Seller hereby waives any and all 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, the applicable Originator, the Master Servicer or Seller, 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. 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 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 Amortization Events) 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) [reserved], (E) [reserved], (F) any defenses, set-offs or counterclaims which the applicable Originator, the Master Servicer 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 Seller as an obligor in respect of the Sold Assets or the Guaranteed Obligations.

SECTION 3.03 Modifications. 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, the applicable Originator, Seller or the Master Servicer and any other party (including any co-guarantor) liable for payment of any Guaranteed Obligation may be granted indulgences generally; (e) [reserved]; and (f) any deposit balance for the credit of any Obligor, the

applicable Originator, the Master Servicer or Seller 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 prior notice to or further assent by Seller, which shall remain bound thereon, notwithstanding any such exchange, compromise, surrender, extension, renewal, acceleration, modification, indulgence or release.

SECTION 3.04 Waiver of Rights. 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 security therefor; (d) prior 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; (e) [reserved]; (f) any right to require the Administrative Agent or any Purchaser as a condition of payment or performance by Seller, to (A) proceed against any Obligor, the applicable Originator, the Master Servicer or any other Person, (B) proceed against or exhaust any other security held from any Obligor, the applicable Originator, the Master Servicer, 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, the applicable Originator, the Master Servicer 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, the applicable Originator, the Master Servicer 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) [reserved]; (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 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 conflict with the terms of this Agreement and the Seller Guaranty.

SECTION 3.05 Reinstatement. Notwithstanding anything contained in this Agreement or the other Transaction Documents, the obligations of Seller under this Article III 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 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 3.06 Remedies. Seller agrees that, as between 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 X (and shall be deemed to have become automatically due and payable in the circumstances provided in Article X) 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 Seller.

SECTION 3.07 Subrogation. 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, the applicable Originator, the Master Servicer, 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. 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, the applicable Originator, the Master Servicer, or any other Person in respect of the Guaranteed Obligations.

SECTION 3.08 Inducement. The Purchasers have been induced to make the Investments under this Agreement in part based upon the Seller Guaranty that Seller desires that the Seller Guaranty be honored and enforced as separate obligations of Seller, should Administrative Agent and the Purchasers desire to do so.

SECTION 3.09 Security Interest.

(a) To secure the prompt payment and performance of the Guaranteed Obligations, the Seller Guaranty and all other Seller Obligations, Seller hereby grants to the Administrative Agent, for its benefit and for the ratable benefit of the Purchasers and the other Secured Parties, a continuing security interest in and lien upon all property and assets of 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 Seller's right in the Lock-Boxes and the 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 Seller in its capacity as the buyer under the Sale Agreement, (vi) 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), (vii) all other personal and fixture property or assets of Seller of every kind and nature, and (viii) all proceeds of, and all amounts received or receivable under any or all of the foregoing.

(b) The Administrative Agent (for the benefit of the Secured Parties) shall have, with respect to all 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. 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.

(c) Immediately upon the occurrence of the Final Payout Date, 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 Purchaser Parties hereunder shall terminate, all without delivery of any instrument or performance of any act by any party, and all rights to Seller Collateral shall revert to Seller; **provided, however**, that promptly following any such termination, at the expense of Seller, the Administrative Agent shall execute (if legally required) and deliver to Seller UCC-3 termination statements and such other documents as Seller shall reasonably request to evidence such termination.

(d) For the avoidance of doubt, the grant of security interest pursuant to this Section 3.09 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 Seller’s grant of security interest pursuant to Section 5.05.

(e) Further Assurances. Promptly upon request, Seller shall deliver such instruments, assignments or other documents or agreements, and shall take such actions, as the Administrative Agent or any Purchaser deems reasonably appropriate to evidence or perfect its security interest and lien on any of Seller Collateral, or otherwise to give effect to the intent of this Article III.

ARTICLE IV

SETTLEMENT PROCEDURES AND PAYMENT PROVISIONS

SECTION 4.01 Settlement Procedures.

(a) The Master Servicer shall set aside and hold in trust for the benefit of the Secured Parties (or, if so requested by the Administrative Agent when an Amortization Event exists, segregate in a separate account designated by the Administrative Agent, which shall be an account maintained and controlled by the Administrative Agent unless the Administrative Agent otherwise instructs in its sole discretion), for application in accordance with the priority of payments set forth below, all Collections on Pool Receivables that are received by the Master Servicer or 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 6.03 is satisfied on such date, (A) the Master Servicer may release to Seller from such Collections received on Unsold Receivables the amount (if any) necessary to pay the purchase price for Receivables purchased by Seller on such date in accordance with the

terms of the Sale Agreement and (B) the Master Servicer may release to Seller all or a portion of such Collections received on Sold Receivables in exchange for 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(c), which new Sold Receivables will be automatically and immediately sold by 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 Master Servicer (or, from and after the Dominion Date, the Administrative Agent) shall, distribute such Collections in the following order of priority:

(i) **first**, to the Master 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 Master Servicer);

(ii) **second**, to the Administrative Agent for distribution to the Purchaser Parties (ratably, based on the amount then due and owing), all accrued and unpaid Yield and Fees due to each Purchaser Party for the immediately preceding Yield Period (including any additional amounts or indemnified amounts payable under Sections 5.03 and 13.04 in respect of such payments), plus, if applicable, the amount of any such Yield and Fees (including any additional amounts or indemnified amounts payable under Sections 5.03 and 13.04 in respect of such payments) payable for any prior Yield Period to the extent such amount has not been distributed to such Purchaser Party;

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

(x) prior to the occurrence of the Amortization Date and so long as the Interim Reports are not then being required to be delivered, to the extent that a Capital Coverage Deficit exists on such date, to the Administrative Agent for distribution 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 (\$0.00);

(y) on and after the occurrence of the Amortization Date, to the Administrative Agent for distribution 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 Amortization Date, at the election of Seller and in accordance with Section 2.02(d), to the Administrative Agent for distribution to each Purchaser for 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 Administrative Agent for distribution to the 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 Seller to the Indemnified Parties; and

(v) **fifth**, the balance, if any, to be paid to Seller for its own account or such account as the Seller may direct.

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. 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 Seller for Seller's provision of the Seller Guaranty and the Purchaser Parties' interests in Seller Collateral.

(b) All payments or distributions to be made by the Master Servicer, Seller and any other Person to the Purchasers (or their respective related Affected Persons and the Indemnified Parties), shall be paid or distributed to the Administrative Agent for distribution 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 Indemnified Parties ratably; **provided** that if the Administrative Agent shall have received insufficient funds to pay all of the above amounts in full on any such date, the Administrative Agent shall pay such amounts to the applicable 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. Notwithstanding anything to the contrary set forth in this Section 4.01, the Administrative Agent shall have no obligation to distribute or pay any amount under this Section 4.01 except to the extent actually received by the Administrative Agent. Additionally, each Purchaser hereby covenants and agrees to provide timely and accurate responses to each of the Administrative Agent's requests for information necessary for the Administrative Agent to make the allocations to the Purchasers required to be made by the Administrative Agent hereunder, including the applicable account of each Purchaser for which amounts should be distributed.

(c) If and to the extent any 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 Seller and, accordingly, such Indemnified Party shall have a claim against Seller for such amount.

(d) For the purposes of this Section 4.01:

(i) if on any day the Outstanding Balance of any Pool Receivable is reduced or adjusted as a result of any defective, rejected, returned, repossessed or foreclosed goods or services, or any revision, cancellation, allowance, rebate, credit memo, discount or other adjustment made by Seller, the applicable Originator, the Master Servicer or any Affiliate of the Master Servicer, or any setoff, counterclaim or dispute between Seller

or any Affiliate of Seller, the applicable Originator or any Affiliate of the applicable Originator, or the Master Servicer or any Affiliate of the Master Servicer, and an Obligor (any such reduction or adjustment, a “*Dilution*”), 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, to the extent that either (x) the effect of such Dilution is to cause a Capital Coverage Deficit or (y) such Dilution occurs on or after the Amortization Date or when an Amortization Event exists, shall within two (2) Business Days after written notice to, or knowledge thereof by, any Seller Party pay 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 4.01(a), an amount equal to (x) if such Dilution occurs prior to the Amortization Date and at a time when no Amortization Event exists, the lesser of (A) the sum of all deemed Collections with respect to such Dilution and (B) the amount necessary to eliminate any Capital Coverage Deficit and (y) if such Dilution occurs on or after the Amortization Date or at any time when an Amortization Event exists, the sum of all deemed Collections with respect to such Dilution;

(ii) if on any day any of the representations or warranties in Section 7.01 is not true with respect to any Pool Receivable, Seller shall be deemed to have received on such day a Collection of such Pool Receivable in full and, to the extent that either (x) the effect of such breach is to cause a Capital Coverage Deficit or (y) such breach occurs on or after the Amortization Date or when an Amortization Event exists, shall within two (2) Business Days after written notice to, or knowledge thereof by, any Seller Party pay 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 4.01(a), an amount equal to (x) if such breach occurs prior to the Amortization Date and at a time when no Amortization Event exists, the lesser of (A) the sum of all deemed Collections with respect to such breach and (B) the amount necessary to eliminate any Capital Coverage Deficit and (y) if such breach occurs on or after the Amortization Date or at any time when an Amortization Event exists, the sum of all deemed Collections with respect to such breach (Collections deemed to have been received pursuant to Section 4.01(d)(i) and (ii) 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 any 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 Seller and, accordingly, such Person shall have a claim against 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 4.02 Payments and Computations, Etc.

(a) All amounts to be paid by Seller or the Master Servicer to any Indemnified Party hereunder shall be paid no later than noon (New York City time) on the day when due in same day funds to the account(s) designated by the Administrative Agent. All amounts to be paid by any Purchaser to the Administrative Agent hereunder shall be paid no later than 2:00 p.m. (New York City time) on the day when due in same day funds to the account(s) designated by the Administrative Agent. Unless the Administrative Agent shall have received notice from Seller prior to the date on which any payment is due to the Administrative Agent for the account of any Purchasers hereunder that Seller (or the Master Servicer on its behalf) will not make such payment (including because Collections are not available therefor), the Administrative Agent may assume that Seller has made or will make such payment on such date in accordance herewith and may (but shall not be obligated to), in reliance upon such assumption, distribute to the Purchasers the amount due. In such event, if Seller (or the Master Servicer on its behalf) has not in fact made such payment and such payment is not recovered under the Seller Guaranty, then each Purchaser severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Purchaser, with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at the greater of the Federal Funds Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.

(b) Each of Seller and the Master 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 Alternate Base Rate, 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 Alternate 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 V

INCREASED COSTS; FUNDING LOSSES; TAXES; ILLEGALITY AND BACK-UP SECURITY INTEREST

SECTION 5.01 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 Purchaser Party 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, 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, Seller shall pay 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, 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, reduction or charge.

(c) Duty to Mitigate. Each Purchaser may make any Investment through any Funding Office; *provided* that the exercise of this option shall not affect the obligation of Seller to pay the Aggregate Unpaid in accordance with the terms of this Agreement. If any Purchaser requests compensation under Section 5.01 or Seller is required to pay any Indemnified Taxes or additional amounts to any Purchaser or any Governmental Authority for the account of any Purchaser pursuant to Section 5.03, or if any Purchaser gives an Illegality Notice pursuant to Section 5.04(b), then such Purchaser shall use reasonable efforts to designate a different Funding Office for funding or booking its Investments hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates), if, in the judgment of such Purchaser, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 5.01 or 5.03, as

the case may be, in the future, or eliminate the need for the Illegality Notice pursuant to Section 5.04(b), as applicable, and (ii) in each case, would not subject such Purchaser to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Purchaser. Seller hereby agrees to pay all reasonable costs and expenses incurred by any Purchaser in connection with any such designation or assignment.

(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) or (b) of this Section and delivered to Seller, shall be conclusive absent manifest error. Seller shall, subject to the priorities of payment set forth in Section 4.01, pay such Affected Person the amount shown as due on any such certificate on the first Settlement Date occurring after Seller's receipt of such certificate. Notwithstanding anything to the contrary in this Section, the Seller shall not be required to compensate an Affected Person pursuant to this Section for any amounts incurred more than nine (9) months prior to the date that such an Affected Person notifies the Seller of such Affected Person's intention to claim compensation therefor; *provided* that, if the circumstances giving rise to such claim have a retroactive effect, then such six-month period shall be extended to include the period of such retroactive effect.

SECTION 5.02 [Reserved].

SECTION 5.03 Taxes.

(a) Payments Free of Taxes; Obligation to Withhold; Payments on Account of Taxes.

(i) Any and all payments by or on account of any obligation of any Seller Party 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 Administrative Agent) require the deduction or withholding of any Tax from any such payment by the Administrative Agent or a Seller Party, then the Administrative Agent or such Seller Party shall be entitled to make such deduction or withholding, upon the basis of the information and documentation to be delivered pursuant to subsection (e) below.

(ii) If any Seller Party or the Administrative Agent shall be required by the Code to withhold or deduct any Taxes, including both United States federal backup withholding and withholding taxes, from any payment, then (A) the Administrative Agent shall withhold or make such deductions as are determined by the Administrative Agent to be required based upon the information and documentation it has received pursuant to subsection (e) below, (B) the Administrative Agent shall timely pay the full amount withheld or deducted to the relevant Governmental Authority in accordance with the Code, and (C) to the extent that the withholding or deduction is made on account of Indemnified Taxes, the sum payable by the applicable Seller Party shall be increased as necessary so that after any required withholding or the making of all required deductions (including deductions applicable to additional sums payable under this Section 5.03) the applicable Purchaser Party receives an amount equal to the sum it would have received had no such withholding or deduction been made.

(iii) If any Seller Party or the Administrative Agent shall be required by any Applicable Law other than the Code to withhold or deduct any Taxes from any payment, then (A) such Seller Party or the Administrative Agent, as required by such Laws, shall withhold or make such deductions as are determined by it to be required based upon the information and documentation it has received pursuant to subsection (e) below, (B) such Seller Party or the Administrative Agent, to the extent required by such Laws, shall timely pay the full amount withheld or deducted to the relevant Governmental Authority in accordance with such Laws, and (C) to the extent that the withholding or deduction is made on account of Indemnified Taxes, the sum payable by the applicable Seller Party shall be increased as necessary so that after any required withholding or the making of all required deductions (including deductions applicable to additional sums payable under this Section 5.03) the applicable Purchaser Party receives an amount equal to the sum it would have received had no such withholding or deduction been made.

(b) Payment of Other Taxes by the Seller Parties. Without limiting the provisions of subsection (a) above, the Seller Parties shall timely pay to the relevant Governmental Authority in accordance with Applicable Laws, or at the option of the Administrative Agent timely reimburse it for the payment of, any Other Taxes.

(c) Tax Indemnifications.

(i) Seller does hereby indemnify each Recipient, and shall make payment in respect thereof within ten (10) days after demand therefor, for the full amount of any Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section 5.03) payable or paid by such Recipient or required to be withheld or deducted from a payment to such Recipient, and any 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. A certificate as to the amount of such payment or liability delivered to a Seller Party by a Purchaser (with a copy to the Administrative Agent), or by the Administrative Agent on its own behalf or on behalf of a Purchaser, shall be conclusive absent manifest error. Seller does hereby indemnify the Administrative Agent, and shall make payment in respect thereof within ten (10) days after demand therefor, for any amount that a Purchaser for any reason fails to pay indefeasibly to the Administrative Agent as required pursuant to Section 5.03(c)(iii) below.

(ii) [Reserved].

(iii) Each Purchaser shall, and does hereby, severally indemnify, and shall make payment in respect thereof within ten (10) days after demand therefor, (x) the Administrative Agent against any Indemnified Taxes attributable to such Purchaser (but only to the extent that Seller has not already indemnified the Administrative Agent for such Indemnified Taxes and without limiting the obligation of Seller to do so), (y) the Administrative Agent and the Seller Parties, as applicable, against any Taxes attributable to

such Purchaser's failure to comply with the provisions of Section 13.03(f) relating to the maintenance of a Participant Register and (z) the Administrative Agent and the Seller Parties, as applicable, against any Excluded Taxes attributable to such Purchaser that are payable or paid by the Administrative Agent or any Seller Party 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 under this Agreement or any other Transaction Document against any amount due to the Administrative Agent under this clause (iii).

(d) Evidence of Payments. Upon request by any Seller Party or the Administrative Agent, as the case may be, after any payment of Taxes by such Seller Party or by the Administrative Agent to a Governmental Authority as provided in this Section 5.03, such Seller Party shall deliver to the Administrative Agent or the Administrative Agent shall deliver to such Seller Party, as the case may be, the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of any return required by Laws to report such payment or other evidence of such payment reasonably satisfactory to such Seller Party or the Administrative Agent, as the case may be.

(e) Status of Purchasers; Tax Documentation.

(i) Any Recipient 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 Parties and the Administrative Agent, at the time or times reasonably requested by such Seller Party or the Administrative Agent, such properly completed and executed documentation reasonably requested by such Seller Party 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 a Seller Party or the Administrative Agent, shall deliver such other documentation prescribed by Applicable Law or reasonably requested by a Seller Party or the Administrative Agent as will enable such Seller Party 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 Section 5.03(e)(ii)(A), 5.03(e)(ii)(B) and 5.03(e)(ii)(D), below) shall not be required if in the Recipient reasonable judgment such completion, execution or submission would subject such Recipient to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Purchaser Party.

(ii) Without limiting the generality of the foregoing, in the event that a Seller Party is a U.S. Person,

(A) any Purchaser that is a U.S. Person shall deliver to ENS and the Administrative Agent on or prior to the date on which such Purchaser becomes a Purchaser under this Agreement (and from time to time thereafter upon the reasonable request of ENS or the Administrative Agent), executed copies of IRS Form W-9 certifying that such Purchaser is exempt from U.S. federal backup withholding tax;

(B) any Foreign Purchaser shall, to the extent it is legally entitled to do so, deliver to ENS and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Purchaser becomes a Purchaser under this Agreement (and from time to time thereafter upon the reasonable request of ENS or the Administrative Agent), whichever of the following is applicable:

(I) in the case of a Foreign 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 Loan Document, executed copies of IRS 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 Loan Document, IRS 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,

(II) executed copies of IRS Form W-8ECI,

(III) in the case of a Foreign Purchaser claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate substantially in the form of Exhibit IX-1 to the effect that such Foreign Purchaser is not a “bank” within the meaning of Section 881(c)(3)(A) of the Code, a “10 percent shareholder” of 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 copies of IRS Form W-8BEN or W-8BEN-E, as applicable; or

(IV) to the extent a Foreign Purchaser is not the beneficial owner, executed copies of IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BEN, W-8BEN-E, a U.S. Tax Compliance Certificate substantially in the form of Exhibit IX-2 or Exhibit IX-3, IRS Form W-9, and/or other certification documents from each beneficial owner, as applicable; provided that if the Foreign Purchaser is a partnership and one or more direct or indirect partners of such Foreign Purchaser are claiming the portfolio interest exemption, such Foreign Purchaser may provide a U.S. Tax Compliance Certificate substantially in the form of Exhibit IX-4 on behalf of each such direct and indirect partner,

(C) any Foreign Purchaser shall, to the extent it is legally entitled to do so, deliver to Seller and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Purchaser becomes a Purchaser under this Agreement (and from time to time thereafter upon the reasonable request of Seller or the Administrative Agent), executed copies 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 Seller or the Administrative Agent to determine the withholding or deduction required to be made; and

(D) 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 Seller and the Administrative Agent at the time or times prescribed by law and at such time or times reasonably requested by 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 Seller or the Administrative Agent as may be necessary for 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 (D), "**FATCA**" shall include any amendments made to FATCA after the Closing Date.

(iii) Each Purchaser agrees that if any form or certification it previously delivered pursuant to this Section 5.03 expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify ENS and the Administrative Agent in writing of its legal inability to do so.

(iv) For purposes of determining withholding Taxes imposed under FATCA, from and after the Closing Date, the Seller Parties and the Administrative Agent shall treat (and the Purchasers hereby authorize the Administrative Agent to treat) this Agreement as not qualifying as a "grandfathered obligation" within the meaning of Treasury Regulation Section 1.1471-2(b)(2)(i).

(v) [Reserved].

(f) Treatment of Certain Refunds. Unless required by Applicable Laws, at no time shall the Administrative Agent have any obligation to file for or otherwise pursue on behalf of a Purchaser, or have any obligation to pay to any Purchaser, any refund of Taxes withheld or deducted from funds paid for the account of such Purchaser. If any Recipient determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified by any Seller Party or with respect to which any Seller Party has paid additional amounts pursuant to this Section 5.03, it shall pay to the Seller Party an amount equal to such refund (but only to the extent of indemnity payments made, or additional amounts paid, by a Seller Party under this Section 5.03 with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) incurred by such Recipient, and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund); **provided** that the Seller Party, upon the request of the Recipient, agrees to repay the amount paid over to the Seller Party (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Recipient in the event the Recipient is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this subsection, in no event will the applicable Recipient be required to pay any amount to the Seller Party pursuant to this subsection the payment of which would place the Recipient in a less favorable net after-Tax position than such

Recipient 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 subsection shall not be construed to require any Recipient to make available its tax returns (or any other information relating to its taxes that it deems confidential) to any Seller Party or any other Person.

(g) Survival. Each party's obligations under this Section 5.03 shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Purchaser, the termination of the Commitments and the repayment, satisfaction or discharge of all other Aggregate Unpaid.

SECTION 5.04 Circumstances Affecting Benchmark Availability; Change in Legality.

(a) Subject to Section 5.06, in connection with any request for any Investment accruing Yield at a rate based on Term SOFR or Term SOFR Index Rate, if for any reason (i) the Administrative Agent shall determine (which determination shall be conclusive and binding absent manifest error) that reasonable and adequate means do not exist for ascertaining Term SOFR or Term SOFR Index Rate with respect to a proposed Investment or Portion of Capital, as applicable, accruing Yield by reference to Term SOFR Index Rate on any day or (ii) the Required Purchasers shall determine (which determination shall be conclusive and binding absent manifest error) that Term SOFR Index Rate does not adequately and fairly reflect the cost to such Purchasers of making or maintaining any such Investment or Portion of Capital, as applicable, on any day and, in the case of clause (ii), the Required Purchasers have provided notice of such determination to the Administrative Agent, then, in each case, the Administrative Agent shall promptly give notice thereof to the Seller. Upon notice thereof by the Administrative Agent to the Seller, any obligation of the Purchasers to make Investments accruing Yield at a rate based on Term SOFR Index Rate and any right of Seller to request an Investment or Portion of Capital, as applicable, accruing Yield at a rate based on Term SOFR Index Rate, shall be suspended (to the extent of the affected Investment or Portion of Capital, as applicable) until the Administrative Agent (with respect to clause (ii), at the instruction of the Required Purchasers) revokes such notice. Upon receipt of such notice, (A) Seller may revoke any pending request for a making of any Investment or Portion of Capital accruing Yield at a rate based on Term SOFR Index Rate (to the extent of the affected Investment or Portion of Capital, as applicable) or, failing that, Seller will be deemed to have converted any such request into a request for a making of an Investment or Portion of Capital, as applicable, accruing Yield at the sum of another available Benchmark Replacement plus the Applicable Margin in the amount specified therein and (B) any outstanding affected Investment or Portion of Capital, as applicable, will be deemed to have been immediately converted into an Investment or Portion of Capital, as applicable, accruing Yield at the sum of the Alternate Base Rate plus the Applicable Margin with respect to any Investment or Portion of Capital, as applicable, accruing Yield at a rate based on Term SOFR Index Rate.

(b) If, after the date hereof, the introduction of, or any change in, any Applicable Law or any change in the interpretation or administration thereof by any Governmental Authority, central bank or comparable agency charged with the interpretation or administration thereof, or compliance by any of the Purchasers (or any of their respective lending offices) with any request or directive (whether or not having the force of law) of any such Governmental Authority, central bank or comparable agency, shall make it unlawful or impossible for any of the Purchasers

(or any of their respective lending offices) to honor its obligations hereunder to make or maintain any Investment accruing Yield at a rate based on Term SOFR Index Rate, or to determine or charge Yield based upon SOFR, the Term SOFR Reference Rate or Term SOFR Index Rate, such Purchaser shall promptly give notice thereof to the Administrative Agent and the Administrative Agent shall promptly give notice to Seller and the other Purchasers (an “**Illegality Notice**”). Thereafter, until each affected Purchaser notifies the Administrative Agent and the Administrative Agent notifies Seller that the circumstances giving rise to such determination no longer exist, (i) any obligation of the Purchasers to make any Investment accruing Yield at a rate based on Term SOFR Index Rate and any right of Seller to convert any request for an Investment to an Investment accruing Yield at a rate based on Term SOFR Index Rate, shall be suspended and (ii) if necessary to avoid such illegality, the Administrative Agent shall compute the Alternate Base Rate without reference to clause (c) of the definition of “**Alternate Base Rate**.” Upon receipt of an Illegality Notice, Seller shall, if necessary to avoid such illegality, upon demand from any Purchaser (with a copy to the Administrative Agent), prepay or, if applicable, convert all affected Investments or Portions of Capital, as applicable, to an Investment or Portion of Capital, as applicable, accruing Yield at the sum of another available Benchmark Replacement plus the Applicable Margin with respect to any Investment or Portion of Capital, as applicable, accruing Yield at a rate based on the sum of the Term SOFR Index Rate plus the Applicable Margin, on the last day of the Yield Period therefor, if all affected Purchasers may lawfully continue to maintain such Investment or Portion of Capital, as applicable, accruing Yield at a rate based on Term SOFR Index Rate to such day, or immediately, if any Purchaser may not lawfully continue to maintain such Investment or Portion of Capital, as applicable, accruing Yield at a rate based on Term SOFR Index Rate to such day.

SECTION 5.05 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 Seller to the Administrative Agent (for the ratable benefit of the Purchasers) to secure the payment and performance of all 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 Seller of all the terms, covenants and agreements on the part of 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, Seller hereby grants to the Administrative Agent for its benefit and for the ratable benefit of the Purchasers and the other Secured Parties, a continuing security interest in, all of Seller’s right, title and interest in, to and under all of the Sold Assets, whether now or hereafter owned, existing or arising and agrees that this Agreement is a security agreement under the applicable UCC and other Applicable Law.

(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. 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.

(c) For the avoidance of doubt, (i) the grant of security interest pursuant to this Section 5.05 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 Seller's grant of security interest pursuant to Section 3.09, (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 5.05, and (iii) subject to the foregoing clauses (i) and (ii), this Section 5.05 shall not be construed to contradict the intentions of the parties set forth in Section 2.01(c).

SECTION 5.06 No Warranty. Neither the Administrative Agent nor any Purchaser warrants or accepts any responsibility for, and shall not have any liability with respect to, the administration of, submission of, calculation of or any other matter related to Term SOFR, any rate based thereon, or with respect to any alternative, comparable or successor rate thereto, or replacement rate thereof, including whether the composition or characteristics of any such alternative, successor or replacement reference rate, as it may or may not be adjusted, will be similar to, or produce the same value or economic equivalence of, the London interbank offered rate of any other replacement benchmark therefor, or have the same volume or liquidity as did the London interbank offered rate or any other replacement benchmark therefor prior to its discontinuance or unavailability.

SECTION 5.07 Benchmark Replacement Adjustment.

(a) **Benchmark Replacement.** Notwithstanding anything to the contrary herein or in any other Transaction Document, upon the occurrence of a Benchmark Transition Event, the Administrative Agent and Seller may amend this Agreement to replace such Benchmark with a Benchmark Replacement. Any such amendment with respect to a Benchmark Transition Event will become effective at 5:00 p.m. (New York City time) on the fifth (5th) Business Day (or such earlier time as may be agreed to in writing by the Required Purchasers) after the Administrative Agent has posted such proposed amendment to all affected Purchasers and Seller so long as the Administrative Agent has not received, by such time, written notice of objection to such amendment from Purchasers comprising the Required Purchasers. No replacement of a Benchmark with a Benchmark Replacement pursuant to this Section 5.07 will occur prior to the applicable Benchmark Transition Start Date.

(b) **Benchmark Replacement Conforming Changes.** In connection with the use, administration, adoption or 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 Seller and the Purchasers of (i) the implementation of any Benchmark Replacement and (ii) the effectiveness of any Conforming Changes in connection with the use, administration, adoption or implementation of a Benchmark Replacement. The Administrative

Agent will promptly notify Seller of the removal or reinstatement of any tenor of a Benchmark pursuant to Section 5.07(d). 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 5.07, 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 5.07.

(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 any then-current Benchmark is a term rate (including the Term SOFR Reference 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 not or will not be representative, then the Administrative Agent may modify the definition of “*Yield Period*” (or any similar or analogous definition) 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 clause (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 not or will not be representative for a Benchmark (including a Benchmark Replacement), then the Administrative Agent may modify the definition of “*Yield Period*” (or any similar or analogous definition) for all Benchmark settings at or after such time to reinstate such previously removed tenor.

(e) Benchmark Unavailability Period. Upon Seller’s receipt of notice of the commencement of a Benchmark Unavailability Period, Seller may revoke any request for a conversion to or continuation of Investments to be made, converted or continued during such Benchmark Unavailability Period and, failing that, Seller will be deemed to have converted any such request into a request for a conversion to another Benchmark Replacement. During a Benchmark Unavailability Period or at any time that a tenor for the then-current Benchmark is not an Available Tenor, the component of the Alternate 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 Alternate Base Rate.

(f) Initial Benchmark Conforming Changes. In connection with the use or administration of any Benchmark, 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. The Administrative Agent will promptly notify Seller and the Purchasers of the effectiveness of any Conforming Changes in connection with the use or administration of any Benchmark.

ARTICLE VI

CONDITIONS TO EFFECTIVENESS AND INVESTMENTS

SECTION 6.01 Conditions Precedent to Effectiveness and the Initial Investment. This Agreement shall become effective as of the initial 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 checklist attached as Exhibit VIII hereto (other than those that are expressly designated as post-closing deliverables), in each case, in form and substance acceptable to the Administrative Agent and (b) all fees and expenses payable by Seller on the initial Closing Date to the Purchaser Parties have been paid in full in accordance with the terms of the Transaction Documents.

SECTION 6.02 Conditions Precedent to All Investments. Each Investment hereunder on or after the Closing Date shall be subject to the conditions precedent that:

(a) 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 Master Servicer shall have delivered to the Administrative Agent and each Purchaser all Monthly Reports and Interim 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) the most recently delivered Settlement Report does not show that a Capital Coverage Deficit will result from such Investment; and

(e) on the date of such Investment the following statements shall be true and correct (and upon the occurrence of such Investment, Seller and the Master Servicer shall be deemed to have represented and warranted that such statements are then true and correct): (i) the representations and warranties of Seller and the Master Servicer contained in Sections 7.01 and 7.02 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 Amortization Event or Potential Amortization Event has occurred and is continuing, and no Amortization Event or Potential Amortization Event would result from such Investment; (iii) no Capital Coverage Deficit exists or would exist after giving effect to such Investment; and (iv) the Facility Termination Date has not occurred.

SECTION 6.03 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 Master 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 and 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 through the date of such Release;

(b) Seller shall use the proceeds of such Release solely to pay the purchase price for Receivables purchased by Seller in accordance with the terms of the Sale Agreement; and

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

(i) the representations and warranties of Seller and the Master Servicer contained in Sections 7.01 and 7.02 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 Amortization Event or Potential Amortization Event has occurred and is continuing, and no Amortization Event or Potential Amortization Event would result from such Release;

(iii) no Capital Coverage Deficit exists or would exist after giving effect to such Release; and

(d) the Amortization Date has not occurred.

ARTICLE VII

REPRESENTATIONS AND WARRANTIES

SECTION 7.01 Representations and Warranties of Seller. 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 Qualification. Seller is a limited liability company duly organized, validly existing and in good standing under the Laws of Delaware. Seller (i) is a duly organized and validly existing company in good standing under the laws of the jurisdiction of its organization, (ii) has the power and authority to own its property and assets and to transact the business in which it is engaged and presently proposes to engage, except where the failure to have such power and authority (x) has not had and (y) is not reasonably likely to have, a Material Adverse Effect and (iii) is duly qualified and is authorized to do business and is in good standing in all jurisdictions where it is required to be so qualified, except where the failure to be so qualified (x) has not had (unless same has ceased to exist in all respects) or (y) is not reasonably likely to have, a Material Adverse Effect.

(b) Power and Authority; Due Execution and Enforceability. Seller has the requisite power and authority to execute, deliver and carry out the terms and provisions of the Transaction Documents to which it is a party and has taken all necessary action to authorize the execution, delivery and performance of the Transaction Documents to which it is a party. Except as

may have been obtained or made on or prior to the Closing Date (and which remain in full force and effect on the Closing Date), no order, consent, approval, license, authorization or validation of, or filing, recording or registration with, or exemption by, any Governmental Authority is required to authorize or is required in connection with (i) the execution, delivery and performance of any Transaction Document or (ii) the legality, validity, binding effect or enforceability of any Transaction Document. Seller has duly executed and delivered each Transaction Document to which it is a party and each such Transaction Document constitutes the legal, valid and binding obligation of such Person enforceable in accordance with its terms, except to the extent that the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws generally affecting creditors' rights and by equitable principles (regardless of whether enforcement is sought in equity or at law).

(c) No Violation. None of the execution, delivery or performance by Seller of the Transaction Documents to which it is a party, nor compliance by Seller with the terms and provisions thereof, nor the consummation of the transactions contemplated herein or therein, (a) will contravene any material provision of any material Applicable Law, (b) will violate or result in a default under any material indenture, agreement or instrument to which Seller is a party or by which it or any of its property or assets are bound or to which it may be subject, (c) will result in the creation or imposition of (or the obligation to create or impose) any Lien upon any of the property or assets of Seller (other than pursuant to the Transaction Documents) or (d) will violate any provision of the certificate of limited liability company, limited liability company agreement or equivalent organizational document, as the case may be, of Seller.

(d) Regulation U. Seller is not engaged in the business of extending credit for the purpose of purchasing or carrying margin stock (within the meaning of Regulation U of the Board of Governors of the Federal Reserve System), and no part of the proceeds of the Investments 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. If requested by any Purchaser Party, Seller will furnish to the Administrative Agent and each Purchaser a statement to the foregoing effect in conformity with the requirements of FR Form G-3 or FR Form U-1, as applicable, referred to in Regulation U.

(e) Investment Company Act; Volcker Rule. Seller (i) is not a "covered fund" under the Volcker Rule and (ii) is not required to register as, an "investment company" within the meaning of the '40 Act. In determining that Seller is not a covered fund, Seller does not rely solely on the exemption from the definition of "investment company" set forth in Section 3I(1) and/or 3I(7) of the '40 Act or is entitled to the benefit of the exclusion for loan securitizations in the Volcker Rule under 17 C.F.R. 75.10I(8).

(f) Solvency. Seller is and, upon acceptance of the proceeds of each Investment under this Agreement, will be, Solvent.

(g) Anti-Terrorism/International Trade Law Compliance. At all times until this Agreement has been terminated in accordance with its terms: (i) Seller (A) is not a Sanctioned Person, (B) has no assets in a Sanctioned Country or in the possession, custody or control of a Sanctioned Person, or (C) does not do business in or with, or derive any of its operating income from investments in or transactions with, any Sanctioned Country or Sanctioned Person in violation of any law, regulation, order or directive enforced by any Compliance Authority; (ii) the proceeds of

the Investments will not be used to fund any operations in, finance any investments or activities in, or, make any payments to, a Sanctioned Country or Sanctioned Person in violation of any Law or directive enforced by any Compliance Authority; and (iii) the funds used to repay the Indebtedness and other obligations hereunder and under the other Transaction Documents are not derived from any unlawful activity.

(h) Anti-Terrorism Laws. Seller is not in violation in any material respect of any Anti-Terrorism Law or does not engage in or conspire to engage in any material respect in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in any Anti-Terrorism Law. None of Seller nor any of its Affiliates is any of the following (each a "**Blocked Person**"): (i) a Person that is listed in the annex to, or is otherwise subject to the provisions of, Executive Order No. 13224; (ii) a Person owned or controlled by, or acting for or on behalf of, any Person that is listed in the annex to, or is otherwise subject to the provisions of, Executive Order No. 13224; (iii) a Person with which any Purchaser is prohibited from dealing with or otherwise engaging in any transaction by any Anti-Terrorism Law; (iv) a Person that commits, threatens or conspires to commit or supports "terrorism" as defined in Executive Order No. 13224; (v) a Person that is named as a "specially designated national" on the most current list published by the U.S. Treasury Department Office of Foreign Asset Control at its official website or any replacement website or other replacement official publication of such list; or (vi) a Person who is affiliated or associated with a Person who meets any of the requirements of subclauses (i) through (v) listed above. Seller does not (A) conduct any business or engage in making or receiving any contribution of funds, goods or services to or for the benefit of any Blocked Person, or (B) deal in, or otherwise engages in any transaction relating to, any property or interests in property blocked pursuant to Executive Order No. 13224.

(i) Anti-Corruption Laws and Sanctions. Seller has implemented and maintains in effect policies and procedures designed to ensure compliance by Seller, its Subsidiaries and their respective directors, officers, employees and agents that will act in any capacity in connection with or benefit from the receivables facility established hereby with Anti-Corruption Laws and applicable Sanctions, and Seller, its Subsidiaries and their respective officers and directors and to the knowledge of Seller, its employees and agents, are in compliance with Anti-Corruption Laws and applicable Sanctions in all material respects and are not knowingly engaged in any activity that would reasonably be expected to result in Seller being designated as a Sanctioned Person. None of (i) Seller, any of its Subsidiaries nor to the knowledge of Seller or such Subsidiary, any of their respective directors, officers or employees, or (ii) to the knowledge of Seller, any agent of Seller or any Subsidiary that will act in any capacity in connection with or benefit from the receivables purchase facility established hereby, is a Sanctioned Person. No use of proceeds of any Investment will violate any Anti-Corruption Law or applicable Sanctions.

(j) Places of Business and Locations of Records. Seller's principal place of business, chief executive office and the other locations (if any) where its Records are located are at the addresses listed on Schedule F or such other locations of which the Administrative Agent has been given notification in jurisdictions where all action required to maintain the perfection of the Administrative Agent's interests in the Seller Collateral has been taken and completed.

(k) Names and Identification Numbers. In the five (5) years prior to the Closing Date, Seller has not used any legal names, trade names or assumed names other than the name in which it has executed this Agreement. Seller's Federal Employer Identification Number and State of organization identification number are correctly set forth on Schedule F.

(l) Ownership of Seller; Beneficial Ownership Regulation. Seller is an entity that is organized under the laws of the State of Delaware, United States of America, and 100 percent of whose membership interests are owned, directly or indirectly, by ENS whose Capital Stock is listed on the New York Stock Exchange or the American Stock Exchange or has been designated as a NASDAQ National Market Security listed on the NASDAQ stock exchange and is excluded on that basis from the definition of "Legal Entity Customer" as defined in the Beneficial Ownership Regulation.

(m) Good Title. Seller is the legal and beneficial owner of each Receivable, together with the Related Security and Collections with respect thereto, free and clear of any Lien except for Permitted Liens.

(n) Perfection. Assuming the filing of the financing statement approved by Seller on the date hereof, this Agreement, together with such financing statement, is effective to create in favor of the Administrative Agent, for the benefit of the Secured Parties, a valid and perfected Security Interest in the Seller Collateral to the extent such Security Interest can be perfected by the filing of a financing statement, free and clear of any Lien except for Permitted Liens.

(o) Compliance with Credit and Collection Policy. Seller has complied in all material respects with the Credit and Collection Policy with regard to each Receivable and the related Contract.

(p) Enforceability of Contracts. Each Contract with respect to each Receivable is effective to create, and has created, a valid and binding obligation of the related Obligor to pay the Outstanding Balance of such Receivable created thereunder and any accrued interest thereon, enforceable against such Obligor in accordance with its terms, except as such enforcement may be limited by applicable bankruptcy, insolvency, reorganization or other similar laws relating to or limiting creditors' rights generally and by general principles of equity (regardless of whether enforcement is sought in a proceeding in equity or at law).

(q) Accuracy of Information. No written information (including all Settlement Reports) heretofore furnished by Seller to the Administrative Agent or any of the Purchasers for purposes of or in connection with this Agreement or any transaction contemplated hereby, when taken as a whole (together with any information contained in public filings made by ENS pursuant to the Exchange Act), contains, and no such written information hereafter furnished by Seller to the Administrative Agent or any of the Purchasers, when taken as a whole, will contain, any material misstatement of fact or omit to state any material fact necessary to make such information (taken as a whole, together with any information contained in public filings made by ENS pursuant to the Exchange Act) not materially misleading in light of the circumstances under which made (it being recognized by the Administrative Agent and the Purchasers that any projections and forecasts provided by Seller are based on good faith estimates and assumptions believed by Seller Parties to be reasonable as of the date of the applicable projections or assumptions and that actual results during the period or periods covered by any such projections and forecasts may materially differ from projected or forecasted results).

(r) Material Adverse Effect. Since the date of Seller's formation, no event has occurred that would have a material adverse effect on (i) the financial condition or operations of Seller, (ii) the ability of Seller to perform its obligations under the Transaction Documents to which it is a party, (iii) the legality, validity or enforceability of this Agreement or any other Transaction Document to which Seller is a party, (iv) the Administrative Agent's Security Interest, for the benefit of the Purchasers, in any substantial portion of the Receivables, the Related Security or the Collections with respect thereto, or (v) the collectability of any substantial portion of the Receivables.

(s) Payments to the Applicable Originator. With respect to each Receivable, Seller has given reasonably equivalent value to the applicable Originator in consideration therefor and such transfer was not made for or on account of an antecedent debt, and no transfer by the applicable Originator of any Receivable under the Sale Agreement is or may be voidable under any section of the Federal Bankruptcy Code.

(t) Eligible Receivables. Each Sold Receivable included in any Settlement Report in the Net Pool Balance was an Eligible Receivable on the date so included or, as applicable, as of the last day of the period covered by such Settlement Report, and the Outstanding Balance of each such Sold Receivable as of the last day of the Calculation Period covered by such Settlement Report was accurately set forth in such Settlement Report.

(u) Financial Information. All balance sheets, all statements of income and of cash flow and all other financial information of Seller furnished to the Administrative Agent or any of the Purchasers and described in Section 8.01(c) have been or will be prepared in accordance with GAAP and do or will present fairly in all material respects the financial condition and results of operations of Seller, as at such dates and for such periods in accordance with GAAP, subject, in the case of unaudited financial statements, to changes resulting from normal year-end audit adjustments and the absence of footnotes.

(v) Liquidity Coverage Ratio. Seller has not issued any LCR Securities, and Seller is a consolidated subsidiary of ENS under GAAP.

SECTION 7.02 Representations and Warranties of the Master Servicer. The Master 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) Existence and Compliance with Law. The Master Servicer (i) is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization, (ii) has the power and authority, and the legal right, to own and operate its property, to lease the property it operates as lessee and to conduct the business in which it is currently engaged, (iii) is duly qualified as a foreign corporation or other organization and in good standing under the laws of each jurisdiction where its ownership, lease or operation of property or the conduct of its business requires such qualification, except where the failure to so qualify or be in good standing could not, in the aggregate, reasonably be expected to have a Material Adverse Effect and (iv) is in compliance with all Requirements of Law except to the extent that the failure to comply therewith could not, in the aggregate, reasonably be expected to have a Material Adverse Effect.

(b) Power; Authorization; Enforceable Obligations. The Master Servicer has the power and authority, and the legal right, to make, deliver and perform the Transaction Documents to which it is a party. The Master Servicer has taken all necessary organizational action to authorize the execution, delivery and performance of the Transaction Documents to which it is a party. No consent or authorization of, filing with, notice to or other act by or in respect of, any Governmental Authority or any other Person is required in connection with the Master Servicer's execution, delivery or performance or the validity or enforceability of this Agreement or any of the Transaction Documents to which the Master Servicer is a party, except for such consents, authorizations, filings and notices as have been obtained or made and are in full force and effect. Each Transaction Document to which the Master Servicer is a party has been duly executed and delivered on behalf of it. This Agreement constitutes, and each other Transaction Document to which the Master Servicer is a party, upon execution, will constitute, a legal, valid and binding obligation of the Master Servicer, enforceable against it in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and by general equitable principles (whether enforcement is sought by proceedings in equity or at law).

(c) Legal Agreements. This Agreement and each of the other Transaction Documents to which the Master Servicer is a party have been duly authorized, executed and delivered by the Master Servicer and constitute the legal, valid and binding obligations of the Master Servicer, enforceable against it in accordance with their respective terms, except to the extent that such enforcement may be limited by bankruptcy, insolvency or similar laws affecting the enforcement of creditors' rights generally or by general equitable principles.

(d) Anti-Terrorism/International Trade Law Compliance. The Master Servicer: (A) is not a Sanctioned Person, (B) has no assets in a Sanctioned Country or in the possession, custody or control of a Sanctioned Person, (C) does not do business in or with, or derive any of its operating income from investments in or transactions with, any Sanctioned Country or Sanctioned Person in violation of any law, regulation, order or directive enforced by any Compliance Authority; and (iii) is in compliance with, and does not engage in any dealings or transactions prohibited by any Anti-Terrorism Laws. The Master Servicer has implemented and maintains in effect policies and procedures designed to ensure compliance by the Master Servicer, its Subsidiaries and their respective directors, officers, employees and agents that will act in any capacity in connection with or benefit from the receivables purchase facility established hereby with Anti-Corruption Laws and applicable Sanctions, and the Master Servicer, its Subsidiaries and their respective officers and directors and to the knowledge of the Master Servicer, its employees and agents, are in compliance with Anti-Corruption Laws and applicable Sanctions in all material respects and are not knowingly engaged in any activity that would reasonably be expected to result in the Master Servicer being designated as a Sanctioned Person.

(e) Information. No Settlement Report or other written information furnished by the Master Servicer to the Administrative Agent or any Purchaser for purposes of or in connection with this Agreement and the transactions contemplated hereby, when taken as a whole (together with any information contained in public filings made by ENS pursuant to the Exchange Act), contains any material misstatement of fact or omits to state any material fact necessary to make such information (taken as a whole, together with any information contained in public filings made by ENS pursuant to the Exchange Act) not materially misleading in light of the circumstances under which made (it being recognized by the Administrative Agent and the Purchaser that any projections and forecasts provided by the Master Servicer are based on good faith estimates and assumptions believed by the Master Servicer to be reasonable as of the date of the applicable projections or assumptions and that actual results during the period or periods covered by any such projections and forecasts may materially differ from projected or forecasted results).

(f) Collections. The Master Servicer has directed the Obligors, or has directed the applicable Originator to direct the Obligors, to make payments on the Receivables directly to a Lock-Box or Collection Account listed on Schedule B hereto (as updated from time to time by written notice from the Master Servicer to the Administrative Agent). The conditions and requirements set forth in Section 7.01(m), Section 9.02 and Section 9.03 have at all times been satisfied and duly performed in all material respects by Seller or the Master Servicer. Schedule B hereto (as updated from time to time by written notice from the Master Servicer to the Administrative Agent), sets forth (i) the names and addresses of all Collection Banks, together with the account numbers of the Collection Accounts, and (ii) the addresses of all Lock-Boxes, the numbers of all associated Collection Accounts and the name and address of each Collection Bank. To the extent that funds other than Collections of Receivables are deposited into any Collection Account, the Master Servicer can promptly trace and identify which funds constitute Collections of the Receivables.

(g) Compliance with Credit and Collection Policy. The Master Servicer has complied in all material respects with the Credit and Collection Policy with regard to each Receivable and the related Contract.

(h) Beneficial Ownership Regulation. The Master Servicer is an entity that is organized under the laws of the United States of America or a state thereof and whose Capital Stock is listed on the New York Stock Exchange or the American Stock Exchange or has been designated as a NASDAQ National Market Security listed on the NASDAQ stock exchange and is excluded on that basis from the definition of “Legal Entity Customer” as defined in the Beneficial Ownership Regulation.

(i) Taxes. The Master Servicer has filed or caused to be filed all federal and state income and all other material tax returns that are required to be filed by it and has paid all taxes shown to be due and payable on said returns or on any assessments made against it or any of its property and all other taxes, fees or other charges imposed on it or any of its property by any Governmental Authority, except (i) the amount or validity of which are currently being contested in good faith by appropriate proceedings and with respect to which reserves in conformity with GAAP have been provided on the books of the Master Servicer or (ii) to the extent that the failure to do so could not reasonably be expected to have a Material Adverse Effect; no material tax Lien has been filed, and, to the knowledge of the Master Servicer, no claim is being asserted, with respect to any such tax, fee or other charge, other than any such tax, fee or other charge described in clauses (i) or (ii) above.

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 VIII

COVENANTS

SECTION 8.01 Affirmative Covenants of Seller and, Where Applicable, other Seller Parties. At all times from the Closing Date until the Final Payout Date:

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

(b) Financial Accounting Practices. Each Seller Party shall make and keep books, records and accounts which, in reasonable detail, accurately and fairly reflect in all material respects its transactions and dispositions of its assets and maintain a system of internal accounting controls sufficient to provide reasonable assurances that (i) transactions are executed in accordance with management's general or specific authorization, (ii) transactions are recorded as necessary (A) to permit preparation of financial statements in conformity with GAAP and (B) to maintain accountability for assets, (iii) access to assets is permitted only in accordance with management's general or specific authorization and (iv) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences.

(c) Seller's Annual Financial Statements. As soon as practicable, and in any event within ninety (90) days after the close of each fiscal year, Seller will furnish to the Administrative Agent (for prompt distribution to the Purchasers) its unaudited balance sheet and statements of income, all in reasonable detail and prepared in accordance with GAAP consistently applied.

(d) ENS Annual Reports and Related Reports and Certificates. As soon as practicable, and in any event within ninety (90) days after the close of each fiscal year of ENS, ENS shall furnish to the Administrative Agent (for prompt distribution to the Purchasers) the consolidated and consolidating annual financial statements required to be delivered under Section 6.01(a) of the Senior Credit Agreement, together with the audit report or certificates required thereunder; *provided* that ENS's delivery of such financial statements, reports and certificates under the Senior Credit Agreement shall be deemed to satisfy the requirements set forth in this Section 8.01(d) so long as each Purchaser hereunder remains a lender under the Senior Credit Agreement.

(e) ENS Quarterly Reports and Certificates. As soon as practicable, and in any event within forty-five (45) days after the close of each its first three fiscal quarters of each year after the Closing Date, ENS shall furnish to the Administrative Agent (for prompt distribution to the Purchasers) the consolidated quarterly financial statements required to be delivered under Section 6.01(b) of the Senior Credit Agreement, together with the certificates required thereunder; *provided* that ENS's delivery of such financial statements and certificates under the Senior Credit Agreement shall be deemed to satisfy the requirements set forth in this Section 8.01(e) so long as each Purchaser hereunder remains a lender under the Senior Credit Agreement.

(f) Compliance Certificates. Seller's and ENS's financial statements delivered pursuant to this Section 8.01 shall be accompanied by a certificate, addressed to the Administrative Agent and the Purchasers in substantially the form of Exhibit VII hereto, executed by a Responsible Officer of such Seller Party, stating that no Amortization Event or Potential Amortization Event exists and is continuing, or if any such event exists and is continuing, such certificate shall specify in detail the nature and period of existence of such Amortization Event or Potential Amortization Event and any action taken or contemplated to be taken by Seller with respect thereto, and, in the case of a certificate from ENS, demonstrating compliance with the financial ratios set forth in Section 10.01(k) of this Agreement.

(g) Reports to Governmental Agencies. As soon as practicable, and in any event within ten (10) days after the filing thereof, ENS shall notify the Administrative Agent, who will promptly notify the Purchasers, that ENS has filed its Form 10-K and 10-Q reports, each proxy statement, each registration statement and all other reports which ENS is or may be required to file with the United States Securities and Exchange Commission or any state securities commission (other than statements of beneficial ownership on Forms 3, 4 or 5).

(h) [Reserved].

(i) Notice of Certain Events. Promptly upon becoming aware of the occurrence of a downgrade of any Indebtedness that is publicly rated by S&P or Moody's (if, at any time, ENS has any such Indebtedness), a Sale Termination Event or an Potential Sale Termination Event under the Sale Agreement, an Amortization Event or Potential Amortization Event under this Agreement, or an Event of Default under and as defined in the Senior Credit Agreement, each Seller Party agrees to give the Administrative Agent and each Purchaser notice of such event, together with a written statement signed on behalf of such Seller Party setting forth the details of such event and any action taken or contemplated to be taken with respect thereto.

(j) Notice of Material Adverse Change; Etc.. Promptly, and in any event within five (5) Business Days after an officer of any of the Seller Parties obtains actual knowledge thereof, the Seller Parties will deliver to the Administrative Agent, who will promptly notify each Purchaser, of (i) the occurrence of any event which constitutes a Potential Amortization Event or an Amortization Event, which notice shall specify the nature and period of existence thereof and what action the applicable Seller Party proposes to take with respect thereto, and (ii) the occurrence of any other event which would reasonably be expected to result in a Material Adverse Change or to have a Material Adverse Effect.

(k) Notice of Proceedings. Promptly upon obtaining knowledge thereof, each Seller Party will give notice to the Administrative Agent, who will promptly notify each Purchaser, of the commencement, existence or threat of all proceedings by or before any Governmental Authority against or affecting any Seller Party or any of its Subsidiaries which, if adversely decided, would have a Material Adverse Effect.

(l) **Further Information.** Each Seller Party will promptly furnish to the Administrative Agent and each Purchaser such other information, and in such form, as the Administrative Agent or the Purchasers may reasonably request from time to time in order to protect the interests of the Administrative Agent, for the benefit of the Purchasers, under or as contemplated by this Agreement, or to assist any Purchaser in complying with the requirements of the Beneficial Ownership Regulation and other applicable “know your customer” and anti-money laundering rules and regulations, including the PATRIOT Act. Promptly following any change that would result in a change to the status of such Seller Party as an excluded “Legal Entity Customer” under the Beneficial Ownership Regulation, such Seller Party shall execute and deliver to the Administrative Agent, a Certification of Beneficial Ownership complying with the Beneficial Ownership Regulation, in form and substance reasonably acceptable to the Administrative Agent and the Purchasers. Each Seller Party will also provide to the Administrative Agent and the Purchasers: (i) promptly upon request, confirmation of the accuracy of the information set forth in Sections 7.01(l) and 7.02(h) or, if applicable, the accuracy of the most recent Certification of Beneficial Ownership provided to the Administrative Agent and the Purchasers; (ii) a new Certification of Beneficial Ownership, in form and substance acceptable to the Administrative Agent and the Purchasers, when any individual to be identified as a Beneficial Owner has 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 without limitation 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.

(m) **Audits.** Each Seller Party will, from time to time during regular business hours as requested by the Administrative Agent upon not less than ten (10) days’ written notice and at the sole cost of such Seller Party, permit the Administrative Agent and the Purchasers or their respective agents or representatives: (i) to examine and make copies of and abstracts from all Records in the possession or under the control of such Seller Party relating to the Receivables and the Related Security, including the related Contracts, and (ii) to visit the offices and properties of such Seller Party during reasonable business hours for the purpose of examining such materials described in clause (i) above, and to discuss matters relating to such Seller Party’s financial condition or the Receivables and the Related Security or any Seller Party’s performance under any of the Transaction Documents or any Person’s performance under the Contracts and, in each case, with any of the officers or employees of such Seller Party having knowledge of such matters (each such visit, a “**Review**”); **provided** that, so long as no Sale Termination Event or Amortization Event has occurred and is continuing and that the prior Review, if any, had no material adverse findings, (x) only one Review (which Review may apply to all Seller Parties and the Originator(s)) will be permitted under this Section 8.01(m) in any one calendar year and (y) the Administrative Agent and the Purchasers hereby agree to coordinate their Reviews to minimize disruptions to Seller Parties and the Originator(s) and avoid duplication of any Seller Party’s or Originator’s actions required to comply with such inspection.

(n) **Separateness.** Each Seller Party acknowledges that the Administrative Agent and the Purchasers are entering into the transactions contemplated by this Agreement in reliance upon Seller’s identity as a legal entity that is separate from the applicable Originator and their respective other Affiliates (each, a “**Related Entity**”). In furtherance thereof, Seller hereby

agrees to: (i) maintain its books and records and bank accounts separate from those of any other Related Entity; **provided, however**, that Hawker, the applicable Originator or ENS, as applicable, may maintain its Collection Accounts and Lock-Boxes for the benefit of Seller; (ii) at all times hold itself out to the public and all other Persons as a legal entity separate from its member and any other Person; (iii) have a board of directors separate from that of its member and any other Person; (iv) file its own tax returns, if any, as may be required under Applicable Law, to the extent (A) not part of a consolidated group filing a consolidated return or returns or (B) not treated as a division for tax purposes of another taxpayer, and pay any taxes so required to be paid under Applicable Law; (v) except as contemplated herein or in any other Transaction Document, not commingle its assets with assets of any other Person; (vi) conduct its business in its own name and strictly comply with all organizational formalities to maintain its separate existence; (vii) maintain separate financial statements; (viii) pay its own liabilities only out of its own funds; (ix) maintain an arm's length relationship with each other Related Entity; (x) pay the salaries of its own employees, if any; (xi) not hold out its credit or assets as being available to satisfy the obligations of others; (xii) allocate fairly and reasonably with other Persons any overhead for shared office space; (xiii) except as contemplated herein or in any other Transaction Document, use separate stationery, invoices and checks; (xiv) except as contemplated herein or in any other Transaction Document, not pledge its assets for the benefit of any other Person; (xv) correct any known misunderstanding regarding its separate identity; (xvi) maintain adequate capital in light of its contemplated business purpose, transactions and liabilities; (xvii) cause its board of directors to keep minutes of any meetings (if applicable) and actions and observe all other Delaware limited liability company formalities; (xviii) not acquire any securities of its member; (xix) act solely in its own name and through its own authorized managers, directors, members, officers and agents, except as expressly permitted under the Transaction Documents; and (xx) cause its directors, officers, agents and other representatives to act at all times with respect to Seller consistently and in furtherance of the foregoing and in the best interests of Seller.

(o) Preservation of Existence and Franchises. Each Seller Party shall maintain its organizational existence and its rights and franchises in full force and effect in its jurisdiction of incorporation or organization, as the case may be, except that ENS may merge with the applicable Originator so long as ENS is the surviving entity. Each Seller Party will qualify and remain licensed or qualified as a foreign corporation or limited liability company, as the case may be, in each jurisdiction in which the failure to receive or retain such licensing or qualification would have a Material Adverse Effect.

(p) Compliance with Laws. Each Seller Party will comply with all Applicable Laws, the non-compliance with which would have a Material Adverse Effect. ENS will maintain in effect and enforce policies and procedures designed to ensure compliance by ENS, its Subsidiaries and their respective directors, managers, officers, employees and agents that will act in any capacity in connection with or benefit from the receivables facility established hereby with Anti-Corruption Laws and applicable Sanctions.

(q) Further Assurances. Each Seller Party, at its own cost and expense, will cause to be promptly and duly taken, executed, acknowledged and delivered all such further acts, documents and assurances as the Administrative Agent and the Purchasers may reasonably request from time to time in order to carry out the intent and purposes of this Agreement more effectively and the transactions contemplated by this Agreement.

(r) Anti-Money-Laundering/International Trade Law Compliance. Each Seller Party shall immediately notify the Administrative Agent in writing upon obtaining knowledge of the occurrence of a Reportable Compliance Event.

(s) Anti-Terrorism Laws. Each Seller Party and its respective Affiliates and agents that will act in any capacity in connection with or benefit from the receivables facility established hereby shall not (i) conduct any business or engage in any transaction or dealing with any Blocked Person, including making or receiving any contribution of funds, goods or services to or for the benefit of any Blocked Person, (ii) deal in, or otherwise engage in any transaction relating to, any property or interests in property blocked pursuant to Executive Order No. 13224; or (iii) engage in or conspire to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in Executive Order No. 13224, the PATRIOT Act or any other Anti-Terrorism Law. Each Seller Party shall deliver to the Administrative Agent and the Purchasers any certification or other evidence reasonably requested from time to time by the Administrative Agent in its sole discretion, confirming such Seller Party's compliance with this Section 8.01(s).

(t) Change of Independent Director. At least ten (10) days prior to any proposed change of the Independent Director of Seller, Seller will deliver to the Administrative Agent (for the prompt distribution to the Purchasers) notice of such proposed change together with a certificate of Seller certifying that the proposed replacement manager satisfies the criteria set forth in the definition of "**Independent Director**."

(u) Performance and Enforcement of the Sale Agreement. Seller will perform its obligations as SPE under the Sale Agreement, and the Master Servicer, on Seller's behalf, will require the applicable Originator to perform, each of its obligations and undertakings under and pursuant to the Sale Agreement. Seller will purchase the Receivables under the Sale Agreement in compliance with the terms thereof and will diligently enforce the rights and remedies accorded to it as the "SPE" under the Sale Agreement. Seller will take all actions to perfect and enforce its rights and interests (and the rights and interests of the Administrative Agent and the Purchasers as assignees of Seller) under the Sale Agreement as the Administrative Agent may from time to time reasonably request, including making claims to which it may be entitled under any indemnity, reimbursement or similar provision contained in the Sale Agreement.

(v) Ownership. Seller will require (or the Master Servicer on its behalf will require) the applicable Originator to take all necessary action to (i) vest legal and equitable title to the Receivables, the Related Security and the Collections irrevocably in Seller, free and clear of any Liens other than Permitted Liens, and (ii) comply with the reasonable instructions of the Administrative Agent, for the benefit of the Purchasers, to establish and maintain a valid and perfected first priority Security Interest in the Seller Collateral to the full extent contemplated herein, free and clear of any Liens other than Permitted Liens (including the filing of all financing statements or other similar instruments or documents necessary under the UCC (or any comparable law) of all appropriate jurisdictions) to assist the Administrative Agent in perfecting, protecting or more fully evidencing the Security Interest of the Administrative Agent for the benefit of the Purchasers as the Administrative Agent or any Purchaser may reasonably request.

(w) Collections. Except for the Hawker Account, each of the Collection Accounts is maintained either in the name of Seller or in the name of the applicable Originator as a servicer for Seller and is listed on Schedule B hereto. Seller (or the Master Servicer on its behalf) shall, and shall cause the applicable Originator to, at all times, instruct all Obligor to deliver payments on the Receivables to a Collection Account that, except in the case of the Hawker Account, is subject to a Control Agreement, or to a Lock-Box that clears through a Collection Account that, except in the case of the Hawker Account, is subject to a Control Agreement. Seller (or the Master Servicer on its behalf) shall, and shall cause the applicable Originator to promptly (but in any event within two (2) Business Days after receipt and identification) remit all Collections received by them to a Collection Account that, except in the case of the Hawker Account, is subject to a Control Agreement. Seller (or the Master Servicer on its behalf) shall, and shall cause the applicable Originator to, at all times, maintain such books and records necessary to identify Collections received from time to time on Receivables and transfer such Collections to a Collection Account. Seller will not authorize funds other than Collections to be deposited into any Collection Account. If such other funds are nevertheless deposited into any Collection Account, Seller (or the Master Servicer on its behalf) will within two (2) Business Days of obtaining knowledge thereof, identify and transfer such funds to the Person entitled to such funds. Seller shall only add a Collection Account (or a related Lock-Box) or a Collection Bank to those listed on Schedule B to this Agreement if the Administrative Agent has received notice of such addition and, with respect to a Collection Account, an executed and acknowledged copy of a Control Agreement (or an amendment thereto) in form and substance acceptable to the Administrative Agent from the applicable Collection Bank. Seller shall only terminate a Control Agreement or close a Collection Account (or a related Lock-Box) with the prior written consent of the Purchasers (which consent shall not be unreasonably withheld or delayed). All Collections received in the Hawker Account shall be swept each Business Day to a Collection Account that is subject to a Control Agreement.

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

(y) Taxes. Seller will (i) timely file (including, without limitation, on or prior to any applicable deadline under any extension) all material tax returns (federal, state and local) required to be filed by it and (ii) pay, or cause 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.

(z) Seller's Tax Status. No action will be taken that would reasonably be expected to cause (and no action will be omitted which omission would reasonably be expected to cause) Seller to (i) be treated other than as a "disregarded entity" within the meaning of U.S. Treasury Regulation § 301.7701-3 for U.S. federal income tax purposes or (ii) become an association taxable as a corporation or a publicly traded partnership taxable as a corporation for U.S. federal income tax purposes.

SECTION 8.02 Negative Covenants of Seller Parties. At all times from the Closing Date until the Final Payout Date:

(a) Name or Structural Changes. Seller will not change its name, identity or legal structure (within the meaning of Section 9-507(c) of any applicable enactment of the UCC) unless it shall have: (i) given the Administrative Agent at least ten (10) Business Days' prior written notice thereof and (ii) delivered to the Administrative Agent all financing statements, instruments and other documents reasonably requested by the Administrative Agent in connection with such change. In addition, Seller will not change or relocate its chief executive office or any office where Records are kept unless it gives the Administrative Agent written notice of such change not later than ten (10) days thereafter.

(b) Change in Payment Instructions to Obligors. Except as may be required by the Administrative Agent pursuant to Section 9.04(a), from and after the Dominion Date, such Seller Party will not (i) add or terminate any bank as a Collection Bank, or (ii) add or terminate any Lock-Box or Collection Account, unless the Administrative Agent shall have received: (A) prior written notice of such addition, termination or change, together with an updated version of Schedule B to this Agreement, (B) with respect to the addition of a Collection Account, an executed Control Agreement (or an executed amendment to an existing Control Agreement) with respect to the new Collection Account prior to depositing any Collections therein, and (C) concurrently with or promptly after termination of any Collection Account, an executed amendment (or comparable alternative as approved in writing by the Administrative Agent in its reasonable discretion) to the applicable Control Agreement reflecting the terminated Collection Account's deletion. In addition, except as may be required by the Administrative Agent pursuant to Section 9.04(a) from and after the Dominion Date, such Seller Party will not make any change in the instructions to any Obligor as to where payments on the Pool Receivables should be made; **provided, however**, that the Master Servicer may make changes in instructions to Obligors regarding payments if such new instructions require such Obligor to make payments to another existing Collection Account (other than the Hawker Account) or any related Lock-Box.

(c) Modifications to Contracts and Credit and Collection Policy. The Master Servicer will not make any change to the Credit and Collection Policy that could reasonably be expected to adversely impact the Pool Receivables in any material respect without the prior written consent of the Purchasers (which consent will not be unreasonably withheld or delayed but which, may be conditioned upon changes in one or more ratios, reserves or Concentration Percentages contained in this Agreement to the extent they are impacted by such change). Except as provided in Section 9.02(a), no Seller Party will, or will permit the applicable Originator to, extend, amend or otherwise modify the payment terms of any Pool Receivable or any Contract related to such Receivable in any material respect other than in accordance with the Credit and Collection Policy.

(d) Sales, Liens. Other than as otherwise contemplated by the Transaction Documents, Seller 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 Lien upon (including the filing of any financing statement) or with respect to, any Pool Receivable, Related Security or Collections, or upon or with respect to any Contract under which any Receivable arises, or any Lock-Box or Collection Account, or assign any right to receive income with respect thereto (other than, in each case, the creation of the interests therein in favor of the Administrative Agent for the benefit of the Purchasers provided for herein), and Seller will defend the right, title and interest of the Administrative Agent and the Purchasers in, to and under any of the foregoing property, against all claims of third parties claiming through or under Seller or the applicable Originator.

(e) Termination or Modification of Sale Agreement, Subordinated Note or Performance Undertaking. Except as otherwise permitted under Section 10.01(o) of this Agreement, Seller will not terminate the Sale Agreement or send any termination notice to the applicable Originator or ENS in respect thereof, without the prior written consent of each of the Purchasers. Seller will not amend, modify or terminate the Performance Undertaking or the Subordinated Note without the prior written consent of each of the Purchasers.

(f) Restricted Junior Payments. After the occurrence and during the continuance of any Amortization Event, Seller will not make any Restricted Junior Payment.

(g) Seller Indebtedness. Seller will not incur or permit to exist any Indebtedness or liability on account of deposits except: (i) the Aggregate Unpaid, (ii) the Subordinated Loans, (iii) other current accounts payable arising in the ordinary course of business and not overdue, unless such overdue accounts payable are disputed and being contested in good faith, and (iv) as otherwise contemplated by the Transaction Documents.

(h) Use of Proceeds. Seller will not use the proceeds of any Investment, either directly or indirectly, for the purpose, whether immediate, incidental or ultimate, of “purchasing or carrying” any margin stock. Seller agrees that it shall not use, and shall procure that its respective directors, officers, employees and agents shall not use, the proceeds of any Investment hereunder (i) in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any Person in violation of any Anti-Corruption Laws, (ii) for the purpose of funding, financing or facilitating any activities, business or transaction of or with any Sanctioned Person, or in any Sanctioned Country, to the extent such activities, business or transaction would be prohibited by Sanctions if conducted by a corporation incorporated in the United States or in a European Union member state, or (iii) in any manner that would result in the violation of any Sanctions applicable to any party hereto.

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

SECTION 8.03 Covenants of the Master Servicer. At all times from the Closing Date until the Final Payout Date:

(a) Compliance with Laws. The Master Servicer and, to the extent that it ceases to be the Master Servicer, ENS shall comply (and shall cause the applicable Originator to comply) in all material respects with all Applicable Laws, rules, regulations and orders, and preserve and maintain its corporate existence, rights, franchises, qualifications and privileges, except to the extent that the failure so to comply with such Applicable Laws, rules and regulations or the failure so to preserve and maintain such existence, rights, franchises, qualifications and privileges would not have a Material Adverse Effect.

(b) Offices, Records and Books of Account, Etc.. The Master Servicer and, to the extent that it ceases to be the Master Servicer, ENS, shall keep the office where it keeps its records concerning the Receivables at the address of the Master Servicer set forth in Schedule E to this Agreement or, upon at least 10 days' prior written notice of a proposed change to the Administrative Agent, at any other locations in jurisdictions where all actions reasonably requested by the Administrative Agent to protect and perfect the interest of the Administrative Agent (on

behalf of the Secured Parties) in the Receivables and related items have been taken and completed. The Master Servicer and, to the extent that it ceases to be the Master Servicer, ENS, also will (and will cause the applicable Originator to) maintain and implement administrative and operating procedures (including an ability to recreate records evidencing Receivables and related Contracts in the event of the destruction of the originals thereof), and keep and maintain all documents, books, records, computer tapes and disks and other information reasonably necessary or advisable for the collection of all Receivables (including records adequate to permit the daily identification of each Receivable and all Collections of and adjustments to each existing Receivable).

(c) Performance and Compliance with Contracts and Credit and Collection Policy. The Master Servicer and, to the extent that it ceases to be the Master Servicer, ENS, shall (and shall cause the applicable Originator to), at its expense, timely and fully perform and comply with all material provisions, covenants and other promises required to be observed by it under the Contracts related to the Receivables, and timely and fully comply in all material respects with the Credit and Collection Policy with regard to each Receivable and the related Contract.

(d) Extension or Amendment of Pool Receivables. Except as provided in this Agreement (including without limitation, Section 9.02(a)), the Master Servicer and, to the extent that it ceases to be the Master Servicer, ENS, shall not extend (and shall not permit the applicable Originator to extend), the maturity 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 (which term or condition relates to payment or enforcement of any Pool Receivable) without the written consent of the Administrative Agent (not to be unreasonably withheld or delayed).

(e) Change in Business or Credit and Collection Policy. The Master Servicer and, to the extent that it ceases to be the Master Servicer, ENS, shall not make (and shall not permit the applicable Originator to make) any material change in the character of its business or in any Credit and Collection Policy, or any change in any Credit and Collection Policy that would be reasonably likely to have a Material Adverse Effect. The Master Servicer and, to the extent that it ceases to be the Master Servicer, ENS, shall not make (and shall not permit the applicable Originator to make) any other change in any Credit and Collection Policy without giving prior written notice thereof to the Administrative Agent.

(f) Audits. The Master Servicer and, to the extent that it ceases to be the Master Servicer, ENS, shall (and shall cause the applicable Originator to), from time to time during regular business hours as reasonably requested in advance (unless an Amortization Event or a Potential Amortization Event exists) by the Administrative Agent, permit the Administrative Agent, or its agents or representatives: (i) to examine and make copies of and abstracts from all books, records and documents (including computer tapes and disks) in its possession or under its control relating to Receivables and the Related Security, including the related Contracts (except if such review would violate any confidentiality or legal requirement (such as with respect to classified documents)); (ii) to visit its offices and properties for the purpose of examining such materials described in clause (i) above, and to discuss matters relating to Receivables and the Related Security or its performance hereunder or under the Contracts with any of its officers or employees having knowledge of such matters and (iii), without limiting the clauses (i) and (ii) above, to engage certified public accountants or other auditors acceptable to the Administrative Agent to conduct, at the Master Servicer's expense, a review of the Master Servicer's books and records with respect to such Receivables; **provided** that only one such review by certified public accountants or other auditors per year shall be at the Master Servicer's expense unless a Potential Amortization Event or an Amortization Event has occurred and is continuing.

(g) Change in Collection Banks, Collection Accounts and Payment Instructions to Obligors. The Master Servicer and, to the extent that it ceases to be the Master Servicer, ENS, shall not (and shall not permit the applicable Originator to) add or terminate any bank as a Collection Bank or any account as a Collection Account (or any related Lock-Box) from those listed in Schedule B to this Agreement, or make any change in its instructions to Obligors regarding payments to be made to the Master Servicer or any Collection Account (or the related Lock-Box) modifying the deposit account or the lock box address to which payments are directed to be made, unless the Administrative Agent shall have consented thereto in writing and the Administrative Agent shall have received copies of all agreements and documents (including Control Agreements) that it may request in connection therewith.

(h) Deposits to Collection Accounts. The Master Servicer shall: (i) instruct all Obligors to make payments of all Receivables to one or more Collection Accounts or to the Lock-Boxes to which only Collection Banks have access (and shall instruct the Collection Banks to cause all items and amounts relating to such Receivables received in such Lock-Boxes to be removed and deposited into a Collection Account on a daily basis), and (ii) deposit, or cause to be deposited, any Collections received by it into Collection Accounts not later than one (1) Business Day after receipt thereof. Each Collection Account (other than the Hawker Account) shall at all times be subject to a Control Agreement. The Master Servicer will not (and will not permit the applicable Originator to) deposit or otherwise credit, or cause or permit to be so deposited or credited, to any Collection Account cash or cash proceeds other than Collections. The Master Servicer shall ensure that no disbursements are made from any Collection Account, other than such disbursements that are made at the direction and for the account of Seller.

(i) Marking of Records. At its expense, the Master Servicer shall mark its accounts receivable aging relating to Pool Receivables with a legend evidencing that the Pool Receivables have been pledged in accordance with this Agreement.

(j) Reporting Requirements. The Master Servicer shall provide to the Administrative Agent (in multiple copies, if requested by the Administrative Agent) and each Purchaser the following:

(i) Quarterly Financial Statements of ENS. As soon as available and in any event within forty-five (45) days after the end of the first three quarters of each fiscal year of ENS, balance sheets of ENS and its consolidated Subsidiaries as of the end of such quarter and statements of income, retained earnings and cash flow of ENS and its consolidated Subsidiaries for the period commencing at the end of the previous fiscal year and ending with the end of such quarter, certified by the chief financial officer of such Person.

(ii) Annual Financial Statements of ENS. As soon as available and in any event within ninety (90) days after the end of each fiscal year of ENS, a copy of the annual report on Form 10 K for such year for ENS and its consolidated Subsidiaries, containing financial statements for such year audited by independent certified public accountants of nationally recognized standing, all in reasonable detail and prepared in accordance with GAAP, and such audited consolidated financial statements to be accompanied by a report and opinion of an independent certified public accountants of nationally recognized standing, which report and opinion shall be prepared in accordance with generally accepted auditing standards and applicable securities laws and shall not be subject to any “going concern” or like qualification or exception or any qualification or exception as to the scope of such audit or with respect to the absence of any material misstatement.

(iii) Monthly Reports. On or before 11:00 a.m. (New York City time) on each Monthly Reporting Date, the Master Servicer shall prepare and deliver to the Administrative Agent who will promptly forward to the Purchasers: (i) a Monthly Report for the Calculation Period (or portion thereof) then most recently ended in the form of Exhibit III hereto (appropriately completed and executed), and (ii) an electronic file of the data contained therein.

(iv) Interim Reports. On such additional date or dates as the Administrative Agent may specify, the Master Servicer shall prepare and deliver not later than 11:00 a.m. (New York City time) to the Purchasers, (i) an Interim Report in the form of Exhibit IV hereto for the weekly period then most recently ended, and (ii) an electronic file of the data contained therein.

(v) Agings. At such times as any Purchaser shall reasonably request but in no event more frequently than monthly, the Master Servicer shall prepare and deliver not later than 2:00 p.m. (New York City time) five (5) Business Days after such request a listing by Obligor of all Pool Receivables together with an aging of such Pool Receivables.

(vi) Notice of Amortization Events or Potential Events of Termination. As soon as possible and in any event within five (5) Business Days after becoming aware of the occurrence of any Amortization Event, a statement of the chief financial officer of ENS setting forth details of such Amortization Event and the action that ENS has taken and proposes to take with respect thereto.

(vii) SEC Filings. Promptly after the sending or filing thereof, copies of all reports that ENS sends to any of its security holders, and copies of all reports and registration statements that ENS or any Subsidiary files with the Securities and Exchange Commission or any national securities exchange; *provided* that any filings with the Securities and Exchange Commission that have been granted “confidential” treatment shall be provided promptly after such filings have become publicly available.

(viii) ERISA Event. Promptly after the filing or receiving thereof, copies of all reports and notices that ENS or any of its Affiliate files under ERISA with the Internal Revenue Service, the PBGC or the U.S. Department of Labor or that such Person or any of its Affiliates receives from any of the foregoing or from any Multiemployer Plan (within the meaning of Section 4001(a)(3) of ERISA) to which such Person or any of its Affiliate is or was,

within the preceding five years, a contributing employer, in each case if any such report or notice is in respect of the assessment of withdrawal liability or an event or condition that would reasonably be expected to result in the imposition of liability on ENS and/or any such Affiliate that would reasonably be expected to have a Material Adverse Effect.

(ix) Name Changes. At least ten (10) days before any change in ENS's or the applicable Originator's name or any other change requiring the amendment of UCC financing statements, a notice setting forth such changes and the effective date thereof.

(x) Litigation. Promptly after ENS obtains knowledge thereof, notice of any: (A) litigation, investigation or proceeding that may exist at any time between ENS or any of its Subsidiaries and any Governmental Authority that would be reasonably expected to result in a Material Adverse Effect; or (B) litigation or proceeding relating to any Transaction Document.

(xi) Material Adverse Change. Promptly after obtaining knowledge of the occurrence thereof, notice of each Material Adverse Change.

(xii) Other Information. Such other information respecting the Receivables or the condition or operations, financial or otherwise, of ENS or any of its Affiliates as the Administrative Agent may from time to time reasonably request.

(xiii) Compliance Certificates. Together with the financial statements required in clauses (i) and (ii) above, a certificate substantially in the form of Exhibit VII signed by the chief financial officer, treasurer or assistant treasurer of the Master Servicer, or such other Person as may be acceptable to the Administrative Agent.

(xiv) Know Your Customer. Promptly upon the request thereof, such other information and documentation required under applicable "know your customer" rules and regulations, the PATRIOT Act or any applicable Anti-Terrorism Laws or Anti-Corruption Laws, in each case as from time to time reasonably requested by the Administrative Agent or any Purchaser.

Documents required to be delivered by ENS pursuant to this Section may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date on which ENS posts such documents, or provides a link thereto, on ENS' website at [www.enersys.com].

(k) Security Interest, Etc. In order to evidence the security interests of the Administrative Agent under this Agreement, the Master Servicer shall, from time to time take such action, or execute and deliver such instruments as may be necessary (including, without limitation, 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. Notwithstanding anything else in the Transaction Documents to the contrary, the Master 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.

(l) Compliance with Anti-Corruption Laws; Beneficial Ownership Regulation, Anti-Terrorism Laws and Sanctions. The Master Servicer will (i) maintain in effect and enforce policies and procedures designed to ensure compliance by the Master Servicer, its Subsidiaries and their respective directors, officers, employees and agents with all Anti-Corruption Laws, Anti-Terrorism Laws and applicable Sanctions, (ii) notify the Administrative Agent and each Purchaser that previously received a Beneficial Ownership Certification (or a certification that Seller qualifies for an express exclusion to the “legal entity customer” definition under the Beneficial Ownership Regulation) upon obtaining knowledge of any change in the information provided in the Beneficial Ownership Certification that would result in a change to the list of beneficial owners identified therein (or, if applicable, Seller ceasing to fall within an express exclusion to the definition of “legal entity customer” under the Beneficial Ownership Regulation) and (iii) promptly upon the reasonable request of the Administrative Agent or any Purchaser, provide the Administrative Agent or directly to such Purchaser, as the case may be, any information or documentation reasonably requested by it for purposes of complying with the Beneficial Ownership Regulation.

(m) Seller’s Tax Status. The Master Servicer shall not take or cause any action to be taken that could result (and shall not fail to take any action the omission of which could result) in Seller’s (i) being treated other than as a “disregarded entity” within the meaning of U.S. Treasury Regulation § 301.7701-3 that is a wholly-owned subsidiary of a U.S. Person for U.S. federal income tax purposes 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.

SECTION 8.04 Separate Existence of Seller. Each of Seller and the Master Servicer hereby acknowledges that the Purchaser Parties are entering into the transactions contemplated by this Agreement and the other Transaction Documents in reliance upon Seller’s identity as a legal entity separate from the applicable Originator, the Master Servicer, ENS and their Affiliates (which, for purposes of this Section 8.04 only, shall not include the Seller). Therefore, each of Seller and Master Servicer shall take all steps specifically required by this Agreement or reasonably required by the Administrative Agent or any Purchaser to continue Seller’s identity as a separate legal entity and to make it apparent to third Persons that Seller is an entity with assets and liabilities distinct from those of ENS, the applicable Originator, the Master Servicer and any other Person, and is not a division of ENS, the applicable Originator, the Master Servicer, 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, each of Seller and the Master Servicer shall take such actions as shall be required in order that:

(a) Special Purpose Entity. 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 applicable Originator, 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. Seller shall not engage in any business or activity except as set forth in this Agreement nor, incur any indebtedness or liability other than as expressly permitted by the Transaction Documents.

(c) Independent Director. Not less than one member of Seller's Board of Directors (the "**Independent Director**") shall be a natural person who (A) for the five-year period prior to his or her appointment as a director of Seller has not been, and during the continuation of his or her service as a director of Seller is not: (i) an employee, director, stockholder, member, manager, partner or officer of Seller, ENS or any of their respective Affiliates (other than his or her service as a director of Seller); (ii) a customer or supplier of Seller, ENS or any of their respective Affiliates (other than his or her service as a director of Seller); or (iii) any member of the immediate family of a person described in (i) or (ii), (B) has, (i) prior experience as an independent director for a corporation or limited liability company whose charter documents required the unanimous consent of all independent directors 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 (ii) 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 and (C) has been appointed as an independent director of Seller in strict compliance with the terms of Seller's limited liability company agreement (without giving effect to any amendment or waiver thereof that the Administrative Agent has not consented to in writing).

Seller shall (A) give written notice to the Administrative Agent of the election or appointment, or proposed election or appointment, of a new Independent Director of Seller, which notice shall be given not later than one (1) Business Day prior to the date such appointment or election would be effective, and (B) with any such written notice, certify to the Administrative Agent that the Independent Director satisfies the criteria for an Independent Director set forth in this clause (c).

Seller's limited liability company agreement shall provide that: (A) Seller's Board of Directors shall not approve, or take any other action to cause the filing of, a voluntary bankruptcy petition with respect to Seller unless the Independent Director 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 Director cannot be amended without the prior written consent of the Independent Director.

The Independent Director shall not at any time serve as a trustee in bankruptcy for Seller, ENS or any Affiliate thereof.

(d) Conduct of Business. Seller shall conduct its affairs strictly in accordance with its organizational documents and observe all necessary, appropriate and customary company formalities, including, but not limited to, holding all regular and special members' and board of managers' 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, but not limited to, payroll and intercompany transaction accounts.

(e) Compensation. Any officer, employee, independent contractor, consultant or agent of Seller will be compensated from Seller's funds for services provided to Seller, and to the extent that Seller shares the same officers, employees, independent contractors, consultants or agents as the Master Servicer (or any other Affiliate thereof), the salaries, fees, costs and expenses relating to such Persons 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, employees, independent contractors, consultants and agents. Seller will not engage any agents other than its attorneys, auditors and other professionals as reasonably necessary to meet its obligations under this Agreement and the other Transaction Documents, 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, and a manager, which manager will be fully compensated from Seller's funds.

(f) Servicing and Costs. Seller will contract with the Master Servicer to perform for Seller all operations required on a daily basis to service the Receivables Pool. Seller will pay the Master Servicer the Servicing Fee pursuant hereto. Seller will not incur any indirect or overhead expenses for items shared with the Master Servicer (or any other Affiliate thereof) that are not reflected in the Servicing Fee. To the extent, if any, that 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; it being understood that ENS shall pay all expenses relating to the preparation, negotiation, execution and delivery of the Transaction Documents, including legal, agency and other fees.

(g) Operating Expenses. Seller's operating expenses will not be paid by the Master Servicer, ENS, the applicable Originator or any Affiliate thereof.

(h) Correspondence. All of Seller's business correspondence and other communications shall be conducted in Seller's own name and on its own separate stationery.

(i) Books and Records. Seller's books and records will be maintained separately from those of ENS and any other Affiliate thereof.

(j) Disclosure of Transactions. All financial statements of the Master Servicer, ENS, the applicable Originator or any Affiliate thereof that are consolidated to include Seller (other than internally prepared financial statements) will disclose that (i) Seller is a separate legal entity with its own separate creditors who will be entitled, upon its liquidation, to be satisfied out of Seller's assets prior to any assets or value in Seller becoming available to Seller's equity holders and (ii) the assets of Seller are not available to pay creditors of the Master Servicer, ENS, the applicable Originator or any Affiliate thereof.

(k) Segregation of Assets. Seller's assets will be maintained in a manner that facilitates their identification and segregation from those of the Master Servicer, ENS, the applicable Originator or any Affiliates thereof.

(l) Organizational Formalities. Seller will strictly observe limited liability company formalities in its dealings with the Master Servicer, ENS, the applicable Originator or any Affiliates thereof, and funds or other assets of Seller will not be commingled with those of the Master Servicer, ENS, the applicable Originator or any Affiliates thereof except as permitted by this

Agreement in connection with servicing the Pool Receivables. Seller shall not maintain joint bank accounts or other depository accounts to which the Master Servicer, ENS, the applicable Originator or any Affiliate thereof (other than the Master Servicer solely in its capacity as such) has independent access. 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 the Master Servicer, ENS, the applicable Originator or any Subsidiaries or other Affiliates thereof. 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 Seller and such Affiliate.

(m) Arm's-Length Relationships. Seller will maintain arm's-length relationships with the Master Servicer, ENS, the applicable Originator and any Affiliates thereof. Any Person that renders or otherwise furnishes services to Seller will be compensated by Seller at market rates for such services it renders or otherwise furnishes to Seller. Neither Seller on the one hand, nor the Master Servicer, ENS, the applicable Originator 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. Seller, the Master Servicer, ENS, the applicable Originator and their respective Affiliates will immediately correct any known misrepresentation with respect to the foregoing, and they will not operate or purport to operate as an integrated single economic unit with respect to each other or in their dealing with any other entity.

(n) Allocation of Overhead. To the extent that Seller, on the one hand, and the Master Servicer, ENS, the applicable Originator or any Affiliate thereof, on the other hand, have offices in the same location, jointly do business with vendors or service providers or otherwise share overhead expenses, there shall be a fair and appropriate allocation of such costs between them, and Seller shall bear its fair share of such expenses, which may be paid through the Servicing Fee or otherwise.

(o) Salaries. ENS shall not pay the salaries of Seller's employees, if any.

ARTICLE IX

ADMINISTRATION AND COLLECTION OF RECEIVABLES

SECTION 9.01 Appointment of the Master 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 Master Servicer in accordance with this Section 9.01. Until the Administrative Agent gives notice to ENS (in accordance with this Section 9.01) of the designation of a new Master Servicer following the occurrence of an Amortization Event, ENS is hereby designated as, and hereby agrees to perform the duties and obligations of, the Master Servicer pursuant to the terms hereof. Upon the occurrence of an Amortization Event, the Administrative Agent may and shall (at the direction of the Required Purchasers) designate as Master Servicer any Person (including itself) to succeed ENS or any successor Master Servicer, on the condition in each case that any such Person so designated shall agree to perform the duties and obligations of the Master Servicer pursuant to the terms hereof.

(b) Upon the designation of a successor Master Servicer as set forth in clause (a) above, ENS agrees that it will terminate its activities as Master Servicer hereunder in a manner that the Administrative Agent reasonably determines will facilitate the transition of the performance of such activities to the new Master Servicer, and ENS shall cooperate with and assist such new Master Servicer to the extent reasonably necessary. Such cooperation shall include access to and transfer of records (including all Contracts) related to Pool Receivables and use by the new Master 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) ENS acknowledges that, in making its decision to execute and deliver this Agreement, the Administrative Agent and each Purchaser have relied on ENS's agreement to act as Master Servicer hereunder. Accordingly, ENS agrees that it will not voluntarily resign as Master Servicer without the prior written consent of the Administrative Agent and the Purchasers.

(d) The Master Servicer may delegate its duties and obligations hereunder to any Originator of other Person (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 Master Servicer pursuant to the terms hereof, (ii) the Master Servicer shall remain primarily liable for the performance of the duties and obligations so delegated, (iii) Seller, the Administrative Agent and each Purchaser shall have the right to look solely to the Master 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 Master Servicer hereunder by giving notice of its desire to terminate such agreement to the Master Servicer (and the Master Servicer shall provide appropriate notice to each such Sub-Servicer) and (v) if such Sub-Servicer is not an Affiliate of ENS, the Administrative Agent and the Purchasers shall have consented in writing in advance to such delegation.

SECTION 9.02 Duties of the Master Servicer.

(a) The Master 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 Policies. The Master Servicer (and from and after the Dominion Date, the Administrative Agent) shall set aside, for the accounts of each Purchaser, the amount of Collections to which each such Purchaser is entitled in accordance with Article IV hereof. The Master Servicer may, in accordance with the applicable Credit and Collection Policy, take such action, including modifications, extensions of maturity, adjustments of Outstanding Balances, waivers or restructurings of Pool Receivables and related Contracts, as the Master Servicer may reasonably determine to be appropriate to maximize Collections thereof; and may require the Obligor of a Delinquent Receivable or Defaulted Receivable to execute and deliver a promissory note to evidence its obligations on such Receivable; **provided** that, unless otherwise agreed to by the Administrative Agent in writing, the Master Servicer shall promptly deliver the original of any such promissory note in a principal amount exceeding (i) if an Amortization Event or a Potential Amortization Event has occurred and is continuing at such time, \$0.00, or (ii) at any other time, \$10,000, to the Administrative Agent; and **provided, however**, 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 Amortization Event has occurred and is continuing, the Master Servicer may take such action only upon the prior written consent of the Administrative Agent. Seller shall deliver to the Master Servicer, and the Master 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 Amortization Event has occurred and is continuing, the Administrative Agent may direct the Master Servicer to commence or settle any legal action to enforce collection of any Pool Receivable or to foreclose upon or repossess any Related Security.

(b) The Master Servicer shall, as soon as practicable following actual receipt of collected funds, turn over to Seller the collections of any indebtedness owed to Seller that is not a Pool Receivable, less, if ENS or an Affiliate thereof is not the Master Servicer, all reasonable and appropriate out-of-pocket costs and expenses of such Master Servicer of servicing, collecting and administering such collections. The Master Servicer, if other than ENS or an Affiliate thereof, shall, as soon as practicable upon demand, deliver to Seller all records in its possession that evidence or relate to any indebtedness that is not a Pool Receivable, and copies of records in its possession that evidence or relate to any indebtedness that is a Pool Receivable.

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

SECTION 9.03 Collection Account Arrangements. On or prior to the Closing Date, except with respect to the Hawker Account, Seller shall have entered into Control Agreements with all of the Collection Banks and delivered executed counterparts of each such Control Agreement to the Administrative Agent. Upon the occurrence and during the continuance of an Amortization Event, the Administrative Agent may (upon the direction of any Purchaser, shall) at any time thereafter deliver a Notice of Exclusive Control to each Collection Bank. 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 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 Seller or the Master Servicer after the Dominion Date shall be sent immediately to, or as otherwise reasonably instructed by, the Administrative Agent. The parties hereto hereby acknowledge that if at any time the Administrative Agent takes control of any Collection Account (and any such related Lock-Box), the Administrative Agent shall not have any rights to the funds therein in excess of the unpaid amounts due to the Administrative Agent, the Purchasers or any other Person hereunder, and the Administrative Agent shall distribute or cause to be distributed such funds in accordance with Section 4.01 and Article II (in each case as if such funds were held by the Master Servicer thereunder).

SECTION 9.04 Enforcement Rights.

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

(i) upon thirty (30) days' prior written notice to the Seller and the Master Servicer, the Administrative Agent (at 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 Seller or the Master 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 Seller or the Master Servicer, as the case may be, shall give such notice at the expense of Seller or the Master Servicer, as the case may be; provided that if Seller or the Master 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 Seller's or the Master Servicer's, as the case may be, expense) may so notify the Obligor;

(iii) the Administrative Agent may request the Master Servicer to, and upon such request the Master 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 Master 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) the Administrative Agent may (and shall, at the direction of the Required Purchasers) deliver Notices of Exclusive Control to the Collection Banks;

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

(vi) the Administrative Agent may collect any amounts due from the applicable Originator under the Sale Agreement.

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

(b) 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 Seller, which appointment is coupled with an interest, to take any and all steps in the name of Seller and on behalf of Seller necessary or

desirable, in the reasonable determination of the Administrative Agent, after the occurrence and during the continuation of an Amortization Event, to collect any and all amounts or portions thereof due under any and all Sold Assets and Seller Collateral, including endorsing the name of 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.

SECTION 9.05 Responsibilities of Seller.

(a) Anything herein to the contrary notwithstanding, Seller shall 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 Seller from such obligations. 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 Seller, the Master Servicer or the applicable Originator thereunder.

(b) ENS hereby irrevocably agrees that if at any time it shall cease to be the Master Servicer hereunder, it shall act (if the then-current Master Servicer so requests) as the data-processing agent of the Master Servicer and, in such capacity, ENS shall conduct the data-processing functions of the administration of the Receivables and the Collections thereon in substantially the same way that ENS conducted such data-processing functions while it acted as the Master Servicer.

SECTION 9.06 Servicing Fee.

(a) Subject to clause (b) below, Seller shall pay the Master Servicer a fee (the “**Servicing Fee**”) equal to 1.00% per annum (the “**Servicing Fee Rate**”) of the daily average aggregate Outstanding Balance of the Pool Receivables. Accrued Servicing Fees shall be payable from Collections to the extent of available funds in accordance with Section 4.01.

(b) If the Master Servicer ceases to be ENS 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 Master Servicer not to exceed 110% of the aggregate reasonable costs and expenses incurred by such successor Master Servicer in connection with the performance of its obligations as Master Servicer hereunder.

ARTICLE X

AMORTIZATION EVENTS

SECTION 10.01 Amortization Events. If any of the following events (each, an “*Amortization Event*”) shall occur:

(a) Payment. (i) Seller shall fail to pay, or the Master Servicer (as long as ENS or an Affiliate continues to serve in such capacity) shall fail to turn over Collections in payment of, any Capital when due after taking into account any period of grace expressed elsewhere in this Agreement; or (ii) Seller shall fail to pay, or the Master Servicer (as long as ENS or an Affiliate continues to serve in such capacity) shall fail to turn over Collections in payment of, any Yield, Fees or other amounts (other than Capital) required to be paid or reimbursed under the Transaction Documents within three (3) days after the date such Yield, Fees or other amounts are due; or

(b) Misrepresentation. Any representation or warranty made or deemed made in writing by or on behalf of any Seller Party in or in connection with this Agreement, in any other Transaction Document, or any amendment or modification hereof or waiver hereunder, or in any report, certificate, financial statement or other document furnished pursuant to or in connection with this Agreement or any amendment or modification hereof or waiver hereunder, shall prove to have been untrue or incorrect in any material respect when made or deemed made; or

(c) Late Reporting. Any Seller Party shall fail to deliver any Settlement Report or other report when due pursuant to Section 8.03(j) of this Agreement, and such failure shall remain unremedied for two (2) consecutive Business Days; *provided, however*, that not more than twice in any calendar year, the Seller Parties may deliver a Settlement Report or other report due pursuant to Section 8.03(j) of this Agreement up to ten (10) Business Days after the due date therefor without causing an Amortization Event under this Section 10.01(c); or

(d) Plan of Division; Negative Covenants. (i) Seller shall adopt any plan of division, or (ii) any Seller Party shall default in the performance or observance of any covenant contained in Section 8.01(j) or Section 8.02 of this Agreement when due; or

(e) Other Covenants. Any Seller Party shall default in the performance or observance of any other covenant, agreement or duty under this Agreement or any other Transaction Document (not constituting an Amortization Event under any other provision of this Section 10.01) and such default shall continue for a period of thirty (30) consecutive days after the earlier to occur of (i) any officer of a Seller Party obtains knowledge thereof, or (ii) notice thereof from the Administrative Agent to Seller (which notice will be given at the request of any Purchaser); or

(f) Cross Default. (i) any “*Event of Default*” under and as defined in the Senior Credit Agreement shall occur and shall not be cured or waived in writing within any applicable period of grace specified therein; (ii) ENS or any Originator shall (x) default in any payment with respect to any Indebtedness (other than the “*Obligations*” under and as defined in the Senior Credit Agreement) with an aggregate principal amount in excess of \$75,000,000 beyond the period of grace, if any, provided in the instrument or agreement under which such Indebtedness was created or (y) default (or any similar term) in the observance or performance of any agreement or condition relating to any Indebtedness (other than the “*Obligations*” under and as defined in the Senior Credit Agreement) or contained in any instrument or agreement evidencing, securing or relating thereto, the effect of which default is to cause, or to permit the holder or holders of such Indebtedness (or a trustee or agent on behalf of such holder or holders) to cause (after the period of grace, if any, and with the giving of any notice that tolls a grace period, if required), any such Indebtedness to

become due prior to its stated maturity, it being understood that a default described above in this clause (y) shall cease to constitute an Event of Default if and when same has been cured or otherwise ceases to exist, in each case prior to the taking of any action by the “*Administrative Agent*” or the “*Required Lenders*” (each, as defined in the Senior Credit Agreement) pursuant to the last paragraph of Section 8.01 of the Senior Credit Agreement; or (iii) any Indebtedness (other than the “*Obligations*” under and as defined in the Senior Credit Agreement) with an aggregate principal amount in excess of \$75,000,000 of ENS or any Originator shall be declared to be due and payable, or shall be required to be prepaid as a result of a default thereunder or an event of the type that constitutes an Event of Default (as defined in the Senior Credit Agreement), in each case, prior to the stated maturity thereof; **provided** that, that this Section 10.01(f)(iii) shall not apply to (1) secured Indebtedness that becomes due solely as a result of the voluntary sale or transfer of the property or assets (to the extent not prohibited under the Senior Credit Agreement) securing such Indebtedness, (2) Guarantees (as defined in the Senior Credit Agreement) of Indebtedness that are satisfied promptly on demand or (3) with respect to Indebtedness incurred under any Hedge Agreement, termination events or equivalent events pursuant to the terms of the relevant Hedge Agreement which are not the result of any default thereunder by ENS or any of the Originators considered as a whole; or (iv) any event described in the foregoing clauses (ii) or (iii) shall occur with respect to Indebtedness of Seller in excess of \$18,599 in aggregate principal amount; or

(g) Judgments. (i) One or more final judgments for the payment of money in excess of \$75,000,000.00 (to the extent not covered by independent third-party insurance as to which the insurer has been notified of such judgment or order and has not denied coverage thereof) shall have been entered against ENS or the applicable Originator and shall remain undischarged or unstayed for a period of thirty (30) consecutive days; or (ii) one or more final judgments for the payment of money in excess of \$18,599 (to the extent not covered by independent third-party insurance as to which the insurer has been notified of such judgment or order and has not denied coverage thereof) shall have been entered against Seller and shall remain undischarged or unstayed for a period of thirty (30) consecutive days; or

(h) Performance Undertaking. The Performance Undertaking ceases to be effective or to be the legally valid, binding and enforceable obligation of the Performance Guarantor, or the Performance Guarantor directly or indirectly contests in any proceeding in any court or any mediation or arbitral proceeding such effectiveness, validity, binding nature or enforceability of its obligations thereunder; or

(i) Change of Control. A Change of Control shall occur with respect to any Seller Party or any Originator; or

(j) Event of Bankruptcy. Any Seller Party suffers an Event of Bankruptcy ; or

(k) Financial Ratios.

(i) The Consolidated Interest Coverage Ratio at the end of any of ENS’s fiscal quarters is less than 3.00 to 1.00; or

(ii) The Consolidated Total Net Leverage Ratio (A) on the last day of any fiscal quarter of ENS during the period from the Closing Date to and including the date that is the last day of the second fiscal quarter of ENS's 2024 fiscal year is greater than 4.25 to 1.00 or (B) on the last day of any fiscal quarter of ENS ending thereafter is greater than 4.00 to 1.00; **provided** that for each of the four (4) fiscal quarters immediately following a Qualified Acquisition (as defined in the Senior Credit Agreement), commencing with the fiscal quarter in which such Qualified Acquisition was consummated (such period of increase, the "**Leverage Increase Period**"), the maximum permitted ratio set forth above shall be increased to 4.50 to 1.00; and **provided, further** that (1) there shall only be two (2) Leverage Increase Periods during the term of the Senior Credit Agreement and (2) the maximum Consolidated Total Net Leverage Ratio shall revert to the otherwise applicable ratio set forth in this Section 10.01(k)(ii), at the end of such four (4) fiscal quarter period.

(l) Pool Performance Ratios. As at the end of any calendar month:

- (i) the average of the Delinquency Ratios for the three months then most recently ended shall exceed 10.00%;
- (ii) the average of the Default Ratios for the three months then most recently ended shall exceed 8.00%; or
- (iii) the average of the Dilution Ratio for the three months then most recently ended shall exceed 9.00%; or

(m) Resignation of Master Servicer. ENS shall resign as Master Servicer, and no successor Master Servicer reasonably satisfactory to the Administrative Agent shall have been appointed; or

(n) Sale Agreement. (i) Any Sale Termination Event shall occur, or (ii) the applicable Originator shall for any reason cease to transfer, or cease to have the legal capacity to transfer, or otherwise be incapable of transferring Receivables to Seller under the Sale Agreement for any reason; or

(o) Termination or Invalidity of this Agreement. This Agreement shall terminate in whole or in part (except in accordance with its terms), or shall cease to be effective or to be the legally valid, binding and enforceable obligation of Seller, or any other Seller Party shall directly or indirectly contest in any manner such effectiveness, validity, binding nature or enforceability, or the Administrative Agent for the benefit of the Purchasers shall cease to have a valid and perfected first priority Security Interest (subject to Permitted Liens) under the Applicable Laws of the United States of America or any applicable state or territory thereof, in any material part of the Receivables, the Related Security or Collections with respect thereto, or each of the Collection Accounts other than the Hawker Account; or

(p) ERISA. An ERISA Event shall occur which results or could reasonably be expected to have a Material Adverse Effect; or (ii) the PBGC shall file notice of a Lien with respect to an amount in excess of \$100,000 pursuant to Section 4068 of ERISA with respect to any of the Receivables or Related Security and such Lien shall not have been released or fully-secured with cash pledged to Seller (and collaterally assigned to the Administrative Agent for the benefit of the Purchasers pursuant to this Agreement) within thirty (30) days; or

(q) Seller's Inability to Pay for Receivables. On any Settlement Date, prior to giving effect to the purchase of Receivables that otherwise would occur under the Sale Agreement on such date, the Seller is not able to pay the Purchase Price (as defined therein) in cash or with the proceeds of Subordinated Loans;

then, and in any such event, the Administrative Agent may (or, at the direction of the Required Purchasers shall) by notice to Seller declare the Amortization Date to have occurred (in which case the Amortization Date shall be deemed to have occurred); *provided* that, automatically upon the occurrence of any Event of Bankruptcy with respect to Seller (without any requirement for the giving of notice), the Amortization Date and Seller Obligation Final Due 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 4.01.

ARTICLE XI

THE ADMINISTRATIVE AGENT

SECTION 11.01 Authorization and Action. Each Purchaser Party hereby appoints and authorizes the Administrative Agent to take such action as agent on its behalf and to exercise such powers under this Agreement as are delegated to the Administrative Agent by the terms hereof, together with such powers as are reasonably incidental thereto. The Administrative Agent shall not have any duties other than those expressly set forth in the Transaction Documents, and no implied obligations or liabilities shall be read into any Transaction Document, or otherwise exist, against the Administrative Agent. The Administrative Agent does not assume, nor shall it be deemed to have assumed, any obligation to, or relationship of trust or agency with, Seller or any Affiliate thereof or any Purchaser Party except for any obligations expressly set forth herein. Notwithstanding any provision of this Agreement or any other Transaction Document, in no event shall the Administrative Agent ever be required to take any action which exposes the Administrative Agent to personal liability or which is contrary to any provision of any Transaction Document or Applicable Law.

SECTION 11.02 Administrative Agent's Reliance, Etc. Neither the Administrative Agent nor any of its directors, officers, agents or employees shall be liable for any action taken or omitted to be taken by it or them as Administrative Agent under or in connection with this Agreement (including, without limitation, the Administrative Agent's servicing, administering or collecting Pool Receivables in the event it replaces the Master Servicer in such capacity pursuant to Section 9.01), in the absence of its or their own gross negligence, willful misconduct or bad faith, as determined by a final and non-appealable judgment of a court of competent jurisdiction. Without limiting the generality of the foregoing, the Administrative Agent: (a) may consult with legal counsel (including counsel for any Purchaser Party or the Master Servicer), independent certified public accountants and other experts selected by it and shall not be liable for any action taken or omitted to be taken in good faith by it in accordance with the advice of such counsel, accountants or experts; (b) makes no warranty or representation to any Purchaser Party (whether written or oral) and shall not be

responsible to any Purchaser Party for any statements, warranties or representations (whether written or oral) made by any other party in or in connection with this Agreement; (c) shall not have any duty to ascertain or to inquire as to the performance or observance of any of the terms, covenants or conditions of this Agreement on the part of any Purchaser Party or to inspect the property (including the books and records) of any Purchaser Party; (d) shall not be responsible to any Purchaser Party for the due execution, legality, validity, enforceability, genuineness, sufficiency or value of this Agreement or any other instrument or document furnished pursuant hereto; and (e) shall be entitled to rely, and shall be fully protected in so relying, upon any notice (including notice by telephone), consent, certificate or other instrument or writing (which may be by facsimile) believed by it to be genuine and signed or sent by the proper party or parties.

SECTION 11.03 Administrative Agent and Affiliates. With respect to any Investment or interests therein owned by any Purchaser Party that is also the Administrative Agent, such Purchaser Party shall have the same rights and powers under this Agreement as any other Purchaser Party and may exercise the same as though it were not the Administrative Agent. The Administrative Agent and any of its Affiliates may generally engage in any kind of business with Seller or any Affiliate thereof and any Person who may do business with or own securities of Seller or any Affiliate thereof, all as if the Administrative Agent were not the Administrative Agent hereunder and without any duty to account therefor to any other Secured Party.

SECTION 11.04 Indemnification of Administrative Agent. Each Purchaser agrees to indemnify the Administrative Agent (to the extent not reimbursed by 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.

SECTION 11.05 Delegation of Duties. The Administrative Agent may execute any of its duties through agents or attorneys-in-fact and shall be entitled to advice of counsel concerning all matters pertaining to such duties. The Administrative Agent shall not be responsible for the negligence or misconduct of any agents or attorneys-in-fact selected by it with reasonable care.

SECTION 11.06 Action or Inaction by Administrative Agent. The Administrative Agent shall in all cases be fully justified in failing or refusing to take action under any Transaction Document unless it shall first receive such advice or concurrence of the Purchasers or the Required Purchasers, as the case may be, and assurance of its indemnification by the Purchasers, as it deems appropriate. The Administrative Agent shall in all cases be fully protected in acting, or in refraining from acting, under this Agreement or any other Transaction Document in accordance with a request or at the direction of the Purchasers or the Required Purchasers, as the case may be, and such request or direction and any action taken or failure to act pursuant thereto shall be binding upon all Purchaser Parties. The Purchaser Parties and the Administrative Agent agree that unless any action to be taken by the Administrative Agent under a Transaction Document (i) specifically requires the advice or concurrence of all Purchasers or (ii) may be taken by the Administrative Agent alone or without any advice or concurrence of any Purchaser, then the Administrative Agent may take action based upon the advice or concurrence of the Required Purchasers.

SECTION 11.07 Notice of Amortization Events; Action by Administrative Agent. The Administrative Agent shall not be deemed to have knowledge or notice of the occurrence of any Potential Amortization Event or Amortization Event unless the Administrative Agent has received notice from any Purchaser Party or Seller stating that a Potential Amortization Event or Amortization Event has occurred hereunder and describing such Potential Amortization Event or Amortization Event. If the Administrative Agent receives such a notice, it shall promptly give notice thereof to each Purchaser. The Administrative Agent may (but shall not be obligated to) take such action, or refrain from taking such action, concerning a Potential Amortization Event or Amortization Event or any other matter hereunder as the Administrative Agent deems advisable and in the best interests of the Secured Parties.

SECTION 11.08 Non-Reliance on Administrative Agent and Other Parties. Each Purchaser Party expressly acknowledges that neither the Administrative Agent nor any of its directors, officers, agents or employees has made any representations or warranties to it and that no act by the Administrative Agent hereafter taken, including any review of the affairs of Seller or any Affiliate thereof, shall be deemed to constitute any representation or warranty by the Administrative Agent. Each Purchaser Party represents and warrants to the Administrative Agent that, independently and without reliance upon the Administrative Agent or any other Purchaser Party and based on such documents and information as it has deemed appropriate, it has made and will continue to make its own appraisal of and investigation into the business, operations, property, prospects, financial and other conditions and creditworthiness of Seller, the applicable Originator, ENS or the Master Servicer and the Pool Receivables and its own decision to enter into this Agreement and to take, or omit, action under any Transaction Document. Except for items expressly required to be delivered under any Transaction Document by the Administrative Agent to any Purchaser Party, the Administrative Agent shall not have any duty or responsibility to provide any Purchaser Party with any information concerning Seller, the applicable Originator, ENS or the Master Servicer that comes into the possession of the Administrative Agent or any of its directors, officers, agents, employees, attorneys-in-fact or Affiliates.

SECTION 11.09 Successor Administrative Agent.

(a) The Administrative Agent may at any time give written notice of its resignation to the Purchasers and Seller at least thirty (30) days prior to such date of resignation. Except as provided below, such resignation shall not become effective until the Purchasers shall have appointed, with, prior to the occurrence of an Amortization Event, the consent of ENS, to a successor, which shall be a bank with an office in the United States, or an Affiliate of any such bank with an office in the United States. If no such successor shall have been so appointed by the Purchasers and shall have accepted such appointment within ninety (90) days after the retiring Administrative Agent gives notice of its resignation (or such earlier day as shall be agreed by the Required Purchasers) (the “**Resignation Closing 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 set forth above. Whether or not a successor has been appointed, such resignation shall become effective in accordance with such notice on the Resignation Closing Date.

Upon resignation or replacement of any Administrative Agent in accordance with this Section 11.09, the retiring Administrative Agent shall execute or authorize the filing of such UCC-3 assignments and amendments, and assignments and amendments of the Transaction Documents, as may be necessary to give effect to its replacement by a successor Administrative Agent. After any retiring Administrative Agent's resignation hereunder as Administrative Agent, the provisions of this Article XI and Article XII shall inure to its benefit as to any actions taken or omitted to be taken by it while it was Administrative Agent under this Agreement.

(b) If the Person serving as Administrative Agent is a Defaulting Purchaser pursuant to clause (d) of the definition thereof, the Required Purchasers may, to the extent permitted by Applicable Law, by written notice to Seller and such Person serving as Administrative Agent, remove such Person serving as Administrative Agent and, in consultation with Seller, appoint a successor. If no such successor shall have been so appointed by the Required Purchasers and shall have accepted such appointment within thirty (30) days after delivery of such notice (or such earlier day as shall be agreed by the Required Purchasers) (the "**Removal Closing Date**"), then such removal shall nonetheless become effective in accordance with such notice on the Removal Closing Date.

(c) With effect from the Resignation Closing Date or the Removal Closing Date (as applicable) (1) the retiring or removed 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 under any of the Transaction Documents, the retiring or removed Administrative Agent shall continue to hold such collateral security as gratuitous bailee until such time as a successor Administrative Agent is appointed and such collateral security may be assumed by such successor Administrative Agent) and (2) except for any indemnity payments or other amounts then owed to the retiring or removed Administrative Agent, all payments, communications and determinations to be made by, to or through the Administrative Agent shall instead be made by or to each Purchaser directly, until such time, if any, as the Required 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 or other amounts owed to the retiring or removed Administrative Agent as of the Resignation Closing Date or the Removal Closing Date, as applicable), and the retiring or removed Administrative Agent shall be discharged from all of its duties and obligations hereunder or under the other Transaction Documents (if not already discharged therefrom as provided above in this Section). The fees payable by Seller to a successor Administrative Agent shall be the same as those payable to its predecessor unless otherwise agreed between 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 XI and Article XII shall continue in effect for the benefit of such retiring or removed Administrative Agent, its sub agents and their respective and their respective assigns, officers, directors, agents and employees 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 11.10 Erroneous Payments.

(a) If the Administrative Agent notifies a Purchaser or any Person who has received funds on behalf of a Purchaser (any such Purchaser or Person, a "**Payment Purchaser Party**") 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 Purchaser Party from the Administrative Agent or any of its Affiliates were erroneously transmitted to, or otherwise erroneously or mistakenly received by, such Payment Purchaser Party (whether or not known to such Purchaser or other Payment Purchaser Party 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) in writing (provided that, without limiting any other rights or remedies (whether at law or in equity), the Administrative Agent may not make any such demand under this clause (a) with respect to an Erroneous Payment unless such demand is made within 30 days of the date of receipt of such Erroneous Payment by the applicable Payment Purchaser Party), such Erroneous Payment shall at all times remain the property of the Administrative Agent and shall be segregated by the Payment Purchaser Party and held in trust for the benefit of the Administrative Agent, and such Purchaser shall (or, with respect to any Payment Purchaser Party who received such funds on its behalf, shall cause such Payment Purchaser Party to) promptly, but in no event later than two (2) 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 Purchaser Party to the date such amount is repaid to the Administrative Agent in same day funds at the greater of the Federal Funds 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 Purchaser Party under this clause (a) shall be conclusive, absent manifest error.

(b) Without limiting the immediately preceding clause (a), each Recipient 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 (1) 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 11.10(b).

(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 Section 11.10(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 Section 11.10(a), from any Purchaser that has received such Erroneous Payment (or portion thereof) and/or from any Payment Purchaser Party 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 Investments, as applicable (but not its corresponding Commitment) with respect to which such Erroneous Payment was made (the “**Erroneous Payment Impacted Class**”) in an amount equal to the Erroneous Payment Return Deficiency (or such lesser amount as the Administrative Agent may specify) (such assignment of Investments (but not Commitments) of the Erroneous Payment Impacted Class, the “**Erroneous Payment Deficiency Assignment**”) at par plus any accrued and unpaid interest (with any assignment fee to be waived by the Administrative Agent in such instance), and is hereby (together with the Seller) deemed to execute and deliver assignment and assumption documentation with respect to such Erroneous Payment Deficiency Assignment, (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 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 Commitment(s) which shall survive as to such assigning Purchaser and (iv) the Administrative Agent may reflect in the Register its ownership interest in the Investments subject to the Erroneous Payment Deficiency Assignment. The Administrative Agent may, in its discretion, sell any Investments acquired pursuant to an Erroneous Payment Deficiency Assignment to an Eligible Assignee at par subject to the terms and conditions with respect to assignment of Investments set forth herein and upon receipt of the proceeds of such sale, the Erroneous Payment Return Deficiency owing by the applicable Purchaser shall be reduced by the net proceeds of the sale of such Investment (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 Commitment(s) of any Purchaser and such Commitment(s) shall remain available in accordance with the terms of this Agreement.

(e) The parties hereto agree that an Erroneous Payment shall not pay, prepay, repay, discharge or otherwise satisfy any Aggregate Unpaid owed by the Seller or any other Seller 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 Seller Party for the purpose of reducing the Aggregate Unpaid.

(f) To the extent permitted by Applicable Law, no Payment Purchaser Party 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 11.10 shall survive the resignation or replacement of the Administrative Agent, any transfer of rights or obligations by, or the replacement of, a Purchaser, the termination of the Commitments and/or the repayment, satisfaction or discharge of all Aggregate Unpays (or any portion thereof) under any Transaction Document.

(h) Nothing referenced in this Section 11.10, including the payment of an Erroneous Payment and the rights and obligations of the parties related thereto under this Section 11.10, shall trigger the Seller Parties’ indemnification obligations hereunder including under Article XII.

ARTICLE XII

INDEMNIFICATION

SECTION 12.01 Indemnities by Seller.

(a) Without limiting any other rights that the Administrative Agent, the Purchasers, the Affected Persons and their respective assigns, officers, directors, agents and employees (each, an “**Indemnified Party**”) may have hereunder or under Applicable Law, Seller hereby agrees to indemnify each Indemnified Party from and against any and all claims, losses and liabilities including Attorney Costs; **provided** that Seller shall only be responsible for the reasonable documented out-of-pocket fees and disbursements of one primary counsel to the Administrative Agent and the Purchasers and, if reasonably necessary, one regulatory counsel and one local counsel in each jurisdiction the laws of which govern any of the Transaction Documents or in which any of the Seller Parties is organized or owns property or assets (a “**Relevant Jurisdiction**”), and, solely in the case of any actual or potential conflict of interest as determined by the Administrative Agent or Purchaser affected by such conflict, the Administrative Agent’s or such Purchaser’s own firm of counsel and, if reasonably necessary, one regulatory counsel and one local counsel in each Relevant Jurisdiction to such affected Administrative Agent or Purchaser (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**, (1) Seller Indemnified Amounts to the extent a final non-appealable judgment of a court of competent jurisdiction holds that such Seller Indemnified Amounts resulted solely from the gross negligence, willful misconduct or bad faith by the Indemnified Party seeking indemnification and (2) Taxes (other than any Taxes that represent losses, claims, damages, etc.

arising from any non-Tax claim). Without limiting or being limited by the foregoing, 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 4.01), to each Indemnified Party any and all amounts necessary to indemnify such 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) and (b) above):

(i) any Pool Receivable which Seller or the Master Servicer includes as an Eligible Receivable as part of the Net Pool Balance but which is not an Eligible Receivable at such time;

(ii) any representation, warranty or statement made or deemed made by Seller (or any of its respective officers) under or in connection with this Agreement, any of the other Transaction Documents, any Monthly Report, any Interim Report or any other information or report delivered by or on behalf of Seller pursuant hereto which shall have been untrue or incorrect when made or deemed made;

(iii) the failure by Seller 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;

(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) delaying the Administrative Agent from 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, offset or defense (other than discharge in bankruptcy of the Obligor) of the Obligor to the payment of any Pool Receivable (including, without limitation, 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;

(vii) any failure of Seller to comply with its covenants, obligations and agreements contained in this Agreement or any other Transaction Document or to timely and reasonably 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 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 by Seller or in respect of any Pool Receivable, any other Sold Assets or any Seller Collateral or any related Contract;

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

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

(xiii) the failure by Seller to pay when due any taxes, including without limitation, sales, excise or personal property taxes, for which Seller is legally liable, except for such taxes as are being appropriately contested by appropriate proceedings;

(xiv) any failure of a Collection Bank (other than a Purchaser or an Affiliate thereof) to comply with the terms of the applicable Control Agreement, the termination by a Collection Bank (other than a Purchaser or an Affiliate thereof) of any Control Agreement or any amounts (including in respect of any indemnity) payable by the Administrative Agent to a Collection Bank (other than a Purchaser or an Affiliate thereof) under any Control Agreement;

(xv) the failure or delay by the applicable Originator to provide any Obligor with an invoice or other evidence of indebtedness;

(xvi) the use of proceeds of any Investment by Seller; or

(xvii) 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.

SECTION 12.02 Indemnification by the Master Servicer. Without limiting any other rights that any Indemnified Party may have hereunder or under Applicable Law, the Master Servicer hereby agrees to indemnify each Indemnified Party from and against any and all claims, losses and liabilities including Attorney Costs; ***provided*** that the Master Servicer shall only be responsible for the reasonable documented out-of-pocket fees and disbursements of one primary counsel to the Administrative Agent and the Purchasers and, if reasonably necessary, one regulatory counsel and one local counsel in each Relevant Jurisdiction, and, solely in the case of any actual or potential conflict of interest as determined by the Administrative Agent or Purchaser affected by such conflict, the Administrative Agent's or such Purchaser's own firm of counsel and, if reasonably necessary, one regulatory counsel and one local counsel in each Relevant Jurisdiction to such

affected Administrative Agent or Purchaser (all of the foregoing being collectively referred to as “*Master Servicer Indemnified Amounts*”) arising out of or resulting from (whether directly or indirectly): (i) the failure of any information contained in a Monthly Report or Interim Report to be true and correct, or the failure of any other information provided to any Purchaser or the Administrative Agent by, or on behalf of, the Master Servicer to be true and correct; (ii) any failure of a Collection Bank (other than a Purchaser or an Affiliate thereof) to comply with the terms of the applicable Control Agreement, the termination by a Collection Bank (other than Wells or an Affiliate thereof) of any Control Agreement or any amounts (including in respect of any indemnity) payable by the Administrative Agent to a Collection Bank (other than Wells or an Affiliate thereof) under any Control Agreement; (iii) the failure of any representation, warranty or statement made or deemed made by the Master Servicer (or any of its officers) under or in connection with this Agreement to have been true and correct as of the date made or deemed made in all respects when made; (iv) the failure by the Master Servicer to comply with any Applicable Law, rule or regulation with respect to any Pool Receivable or the related Contract; (v) any dispute, claim, offset or defense of the Obligor to the payment of any Receivable in, or purporting to be in, the Receivables Pool resulting from or related to the collection activities with respect to such Receivable; (vi) any failure of the Master Servicer to perform its duties or obligations in accordance with the provisions hereof or any other Transaction Document to which it is a party; (vii) delaying the Administrative Agent from filing, financing statements or other similar instruments or documents under the UCC of any applicable jurisdiction or other Applicable Laws with respect to any Receivables, in or purporting to be in the Receivables Pool and any other Sold Assets or Seller Collateral, whether at the time of any purchase or reinvestment or at any subsequent time; or (viii) the commingling of Collections of Pool Receivables at any time with other funds. This Section 12.02 shall not apply with respect to Taxes other than Taxes that represent losses, claims, damages, etc. arising from any non-Tax claim.

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 any Transaction Document or consent to any departure by any of Seller or any Affiliate thereof shall be effective unless in a writing signed by the Administrative Agent and the Required Purchasers (and, in the case of any amendment, also signed by 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 Master Servicer, affect the rights or duties of the Master Servicer under this Agreement; (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, Change in Control, Capital Coverage Deficit, Defaulted Receivable, Delinquent Receivable, Eligible Receivable, Facility Limit, Seller Obligation Final Due Date, Scheduled Termination Date, Net Pool Balance, or the Required Reserve contained in this Agreement, or increase the then existing Concentration Percentage for any Obligor or change the calculation of the Capital Coverage Amount (or any of the components thereof);

- (ii) reduce the amount of Capital or Yield that is payable hereunder or delay any scheduled date for payment thereof;
- (iii) change any Amortization Event;
- (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 Seller from any of its obligations under the Seller Guaranty or terminate the Seller Guaranty;
- (vi) change any of the provisions of this Section 13.01; or
- (vii) change the order of priority in which Collections are applied pursuant to Section 4.01.

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 Seller to any Purchaser or delay the dates on which any such Fees are payable, in either case, without the consent of such Purchaser.

(b) Notwithstanding anything to the contrary herein, no Defaulting Purchaser shall have any right to approve or disapprove any amendment, waiver or consent hereunder (and any amendment, waiver or consent which by its terms requires the consent of all Purchasers or each affected Purchaser may be effected with the consent of the applicable Purchasers other than Defaulting Purchaser), except that (x) the Commitment of any Defaulting Purchaser may not be increased or extended without the consent of such Purchaser, and (y) any waiver, amendment or modification requiring the consent of all Purchasers or each affected Purchaser that by its terms affects any Defaulting Purchaser disproportionately adversely relative to other affected Purchasers shall require the consent of such Defaulting Purchaser.

SECTION 13.02 Notices, Etc. All notices and other communications hereunder shall, unless otherwise stated herein, be in writing (which shall include email communication) and emailed or delivered, to each party hereto, at its address set forth under its name on Schedule E hereto or at such other address or email address as shall be designated by such party in a written notice to the other parties hereto. Notices and communications by email shall be effective when sent and receipt is 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, without limitation, 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 Seller (such consent not to be unreasonably withheld, conditioned or delayed; provided, however, that such consent shall not be required if an Amortization Event or a Potential Amortization Event 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; and

(iv) 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.

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) Assignments Required by Seller. If any Purchaser is a Defaulting Purchaser or a Non-Consenting Purchaser, then Seller may, at its sole expense and effort, upon notice to such Purchaser and the Administrative Agent, require such Purchaser to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in, and consents required by, this Section 13.03), all of its interests, rights (other than its existing rights to payments pursuant to Sections 5.01 and 5.03) and obligations under this Agreement and the related Transaction Documents to an Eligible Assignee that shall assume such obligations (which assignee may be another Purchaser, if another Purchaser accepts such assignment); **provided** that (i) such Purchaser shall have received payment of an amount equal to its outstanding Capital, accrued Yield thereon, accrued Fees and all other amounts payable to it hereunder and under the other Transaction Documents (including any amounts under Section 5.01 or 5.03 from the assignee (to the extent of such outstanding Capital and accrued Yield and Fees) or the Seller (in the case of all other amounts); (ii) [reserved]; (iii) such assignment does not violate Applicable Laws; and (iv) in the case of an assignment resulting from a Purchaser becoming a Non-Consenting Purchaser, the applicable assignee shall have consented to the applicable amendment, waiver or consent

(c) Register. The Administrative Agent shall, acting solely for this purpose as a non-fiduciary agent of Seller, maintain at its address referred to on Schedule E of this Agreement (or such other address of the Administrative Agent notified by the Administrative Agent to the other parties hereto), which shall be an office located in the United States, 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 Seller, the Master Servicer, the 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 Seller, the Master Servicer or any Purchaser at any reasonable time and from time to time upon reasonable prior notice.

(d) 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 Seller and the Master Servicer.

(e) 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, without limitation, 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, without limitation, its Commitment to 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, Seller and the Master 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. Seller agrees that each Participant shall be entitled to the benefits of Sections 5.01 and 5.03 (subject to the requirements and limitations therein, including the requirements under Section 5.03(e)(ii) (it being understood that the documentation required under Section 5.03(e)(2) 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 5.01 or 5.03, 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.

(f) Participant Register. Each Purchaser that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of 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.

(g) Assignments by Administrative Agent and Purchasers. This Agreement and the rights and obligations of the Administrative Agent and each Purchaser herein shall be assignable by the Administrative Agent or such Purchaser, as the case may be, 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 such Purchaser, so long as no Amortization Event or Potential Amortization Event has occurred and is continuing, such assignment shall require the Master Servicer's and Seller's consent (not to be unreasonably withheld, conditioned or delayed).

(h) Assignments by Seller or the Master Servicer. Neither Seller nor, except as provided in Section 9.01, the Master 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).

(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, without limitation, 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 Seller, the Master 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.

(j) Assignments Required by Seller. If less than all Purchasers make a request for compensation pursuant to Section 5.01 or for reimbursement of Indemnified Taxes under Section 5.03, Seller may require each requesting Purchaser to assign its rights and obligations under the Transaction Documents to an Eligible Assignee (which may be an existing Purchaser) that does not require payment of such compensation or reimbursement of such Indemnified Taxes. If any Purchaser is a Non-Consenting Purchaser, Seller may require such Non-Consenting Purchaser to assign all of its right title and interest in, to and under the Transaction Document to an Eligible Assignee (which may be an existing Purchaser) willing to consent to the requested waiver, consent or release. If any Purchaser is a Defaulting Purchaser, Seller may require such Defaulting Purchaser to assign its rights and obligations under the Transaction Documents to an Eligible Purchaser (which may be an existing Purchaser that is not a Defaulting Purchaser). No assignment pursuant to this Section 13.03(j) shall become effective unless and until all Aggregate Unpaid owing to the assigning Purchaser(s) are paid in full by the applicable Eligible Assignee(s) and, in the case of the requested amounts under Sections 5.01 and 5.03, Seller.

SECTION 13.04 Costs and Expenses. In addition to the rights of indemnification granted under Section 12.01 hereof, Seller agrees to pay on demand all reasonable out-of-pocket costs and expenses of the Administrative Agent 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, without limitation, (i) the reasonable and documented out-of-pocket Attorney Costs for the Purchaser Parties and any of their respective Affiliates with respect thereto and with respect to advising the 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 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, Seller agrees to pay on demand all reasonable and documented out-of-pocket costs and expenses (including reasonable Attorney Costs; *provided* that for purposes of subsections (i) and (ii) of this Section 13.04, Seller shall only be responsible for the reasonable documented out-of-pocket fees and disbursements of one primary counsel to the Administrative Agent and the Purchasers and, if reasonably necessary, one regulatory counsel and one local counsel in each Relevant Jurisdiction, and, solely in the case of any actual or potential conflict of interest as determined by the Administrative Agent or Purchaser affected by such conflict, the Administrative Agent's or such Purchaser's own firm of counsel and, if reasonably necessary, one regulatory counsel and one local counsel in each Relevant Jurisdiction to such affected Administrative Agent or Purchaser) of the 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. Notwithstanding any other provision of this Agreement, Seller shall not be responsible for indemnifying or reimbursing the Administrative Agent or any other Purchaser Party for any amounts that were incurred due to (x) the gross negligence, willful misconduct or bad faith by the Administrative Agent or such other Purchaser Party as determined by a final and non-appealable judgment of a court of competent jurisdiction, or (y) the material breach of the Administrative Agent's or such other Purchaser Party's confidentiality obligations under this Agreement or any other Transaction Document as determined by a final and nonappealable judgment of a court of competent jurisdiction.

SECTION 13.05 No Proceedings; Limitation on Payments.

(a) Each of the Master Servicer, the Administrative Agent, 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, Seller any Insolvency Proceeding until one year and one day after the Final Payout Date.

(b) The provisions of this Section 13.05 shall survive any termination of this Agreement.

SECTION 13.06 Confidentiality.

(a) Each of Seller and the Master Servicer covenants and agrees to hold in confidence, and not disclose to any Person, the terms of this Agreement or the Fee Letter (including any fees payable in connection with this Agreement, the Fee Letter or any other Transaction Document or the identity of the Administrative Agent or any other Purchaser Party), 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 Seller, the Master Servicer or their Advisors and Representatives or (iii) to the extent it should be (A) required by Applicable Law, or in connection with any legal or regulatory proceeding (including, without limitation, filings required under applicable rules of the U.S. Securities and Exchange Commission) or (B) requested by any Governmental Authority to disclose such information; **provided** that, in the case of clause (iii) above, Seller and the Master 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 Seller and the Master Servicer agrees to be responsible for any breach of this Section 13.06 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 13.06. Notwithstanding the foregoing, it is expressly agreed that each of Seller, the Master 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, 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 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 Seller, the Master 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 Seller or the Master 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 Eligible Assignees and Participants and potential Eligible Assignees and Participants and their respective counsel but only if they agree in a signed writing to hold such information confidential under substantially the same terms as those in this Section 13.06(b) and that Seller and ENS are third party beneficiaries to such confidentiality agreement, (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 should be (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 Seller and the Master Servicer of its intention to make any such disclosure prior to making such disclosure. 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 13.06, (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, without limitation 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; Electronic Execution.

(a) 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 electronic means shall be equally effective as delivery of an originally executed counterpart.

(b) The words “execution,” “signed,” “signature,” and words of like import in this Agreement or any Assignment and Acceptance Agreement shall be deemed to include Electronic Signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any Applicable Law, including 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 3.08, 5.01, 5.03, 11.04, 11.06, 13.01, 13.02, 13.04, 13.05, 13.06, 13.09, 13.10, 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 SELLER AND THE MASTER 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 THE COUNTY AND STATE OF 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 SELLER, THE MASTER 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. ANY JUDICIAL PROCEEDING BY ANY SELLER PARTY AGAINST THE ADMINISTRATIVE AGENT, ANY PURCHASER OR ANY AFFILIATE THEREOF INVOLVING, DIRECTLY OR INDIRECTLY, ANY MATTER IN ANY WAY ARISING OUT OF, RELATED TO, OR CONNECTED WITH THIS AGREEMENT OR ANY DOCUMENT EXECUTED BY SUCH SELLER PARTY PURSUANT TO THIS AGREEMENT SHALL BE BROUGHT ONLY IN A COURT IN THE BOROUGH OF MANHATTAN, NEW YORK. 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 SELLER OR THE MASTER SERVICER OR ANY OF THEIR RESPECTIVE PROPERTY IN THE COURTS OF OTHER JURISDICTIONS. EACH OF SELLER AND THE MASTER 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 SELLER AND THE MASTER 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 PURSUANT TO SECTION 13.02. 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 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 Seller and the Master 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 Seller or any Affiliate thereof or any other Person asserting claims on behalf of or in right of 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 Seller or any Affiliate thereof result from the breach of contract, gross negligence, willful misconduct or bad faith as determined in a final non-appealable judgment by a court of competent jurisdiction 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 each of the 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 Intent of the Parties. Seller has structured this Agreement with the intention that the obligations of Seller hereunder (including the obligation to return Capital to the Purchasers and make payments of Yield thereon) will be treated under United States federal, and applicable state, local and foreign tax law as debt (the "**Intended Tax Treatment**"). Seller, the Master Servicer, and the Purchaser Parties agree to file no tax return, or take any action, inconsistent with the Intended Tax Treatment unless required by Applicable Law or unless required by a "determination" within the meaning of Section 1313(a) of the Code. 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 PATRIOT Act. Each of the Purchaser Parties hereby notifies Seller and the Master 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 Purchaser Parties may be required to obtain, verify and record information that identifies Seller, the applicable Originator, the Master Servicer and ENS, which information includes the name, address, tax identification number and other information regarding Seller, the applicable Originator, the Master Servicer and ENS that will allow the Purchaser Parties to identify Seller, the applicable Originator, the Master Servicer and ENS in accordance with the PATRIOT Act. This notice is given in accordance with the requirements of the PATRIOT Act. Each of Seller and the Master Servicer agrees to provide each of the 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, without limitation, the PATRIOT Act.

SECTION 13.16 Right of Setoff. Each Purchaser Party is hereby authorized (in addition to any other rights it may have), at any time during the continuance of an Amortization Event, 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, Seller or the Master Servicer against amounts owing by Seller or the Master Servicer hereunder (even if contingent or unmatured); **provided** that such Purchaser Party shall notify Seller or the Master Servicer, as applicable, promptly following such setoff, and **provided further**, that if any Defaulting Purchaser shall exercise any such right of set-off, (i) all amounts so set off shall be paid over immediately to the Administrative Agent for further application in accordance with the provisions of this Agreement and, pending such payment, shall be segregated by such Defaulting Purchaser from its other funds and deemed held in trust for the benefit of the Administrative Agent and the Purchasers and (ii) the Defaulting Purchaser shall provide promptly to the Administrative Agent a statement describing in reasonable detail the obligations owing to such Defaulting Purchaser as to which it exercised such right of set off. Each Purchaser agrees promptly to notify Seller and the Administrative Agent after any such application made by such Purchaser, **provided** that the failure to give such notice shall not affect the validity of such application.

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 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 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.

SECTION 13.20 Acknowledgement and Consent to Bail-In of Affected Financial Institutions. Notwithstanding anything to the contrary in any Transaction Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any Purchaser that is an Affected Financial Institution arising under any Transaction Document, to the extent such liability is unsecured, may be subject to the Write-Down and Conversion Powers of the applicable Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by: (a) the application of any Write-Down and Conversion Powers by the applicable Resolution Authority to any such liabilities arising hereunder which may be payable to it by any Purchaser Party that is an Affected Financial Institution; and (b) the effects of any Bail-in Action on any such liability, including, if applicable: (i) a reduction in full or in part or cancellation of any such liability; (ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such Affected Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document; or (iii) the variation of the terms of such liability in connection with the exercise of the Write-Down and Conversion Powers of the applicable Resolution Authority.

SECTION 13.21 Acknowledgement Regarding Any Supported QFCs. To the extent that the Transaction Documents provide support, through a guarantee or otherwise, for Hedge Agreements or any other agreement or instrument that is a QFC (such support, “**QFC Credit Support**” and, each such QFC, a “**Supported QFC**”), the parties acknowledge and agree as follows with respect to the resolution power of the FDIC under the Federal Deposit Insurance Act and Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (together with the regulations promulgated thereunder, the “**U.S. Special Resolution Regimes**”) in respect of such Supported QFC and QFC Credit Support (with the provisions below applicable notwithstanding that the Transaction Documents and any Supported QFC may in fact be stated to be governed by the laws of the State of New York and/or of the United States or any other state of the United States):

In the event a Covered Entity that is party to a Supported QFC (each, a “**Covered Party**”) becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer of such Supported QFC and the benefit of such QFC Credit Support (and any interest and obligation in or under such Supported QFC and such QFC Credit Support, and any rights in property securing such Supported QFC or such QFC Credit Support) from such Covered Party will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if the Supported QFC and such QFC Credit Support (and any such interest, obligation and

rights in property) were governed by the laws of the United States or a state of the United States. In the event a Covered Party or a BHC Act Affiliate of a Covered Party becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights under the Transaction Documents that might otherwise apply to such Supported QFC or any QFC Credit Support that may be exercised against such Covered Party are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if the Supported QFC and the Transaction Documents were governed by the laws of the United States or a state of the United States.

[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.

ENERSYS FINANCE LLC, as Seller

BY: ENERSYS DELAWARE INC., ITS SOLE MEMBER

By: /s/ Thomas L. O'Neill

Name: Thomas L. O'Neill

Title: Treasurer

ENERSYS, as the Master Servicer

By: /s/ Thomas L. O'Neill

Name: Thomas L. O'Neill

Title: Treasurer

WELLS FARGO BANK, NATIONAL ASSOCIATION,
individually as a Purchaser and as Administrative Agent

By: /s/ Ryan Tozier

Name: Ryan Tozier

Title: Managing Director

EXHIBIT I
[FORM OF] INVESTMENT REQUEST

[Date]

To: Wells Fargo Bank, National Association, individually and as Administrative Agent

Cc: Purchasers

Re: INVESTMENT REQUEST

Ladies and Gentlemen:

Reference is hereby made to the Receivables Purchase Agreement dated as of December 21, 2022 (as amended, restated, supplemented or otherwise modified from time to time, the "**Receivables Purchase Agreement**"), among EnerSys Finance LLC ("**Seller**"), EnerSys, as initial Master Servicer, and the purchasers from time to time party thereto (the "**Purchasers**"), and Wells Fargo Bank, National Association, as administrative agent for the Purchasers (in such capacity, together with its successors and assigns in such capacity, the "**Administrative Agent**"). Capitalized terms used herein shall have the meanings assigned to such terms in the Receivables Purchase Agreement.

The Administrative Agent and the Purchasers are hereby notified of the following Incremental Investment:

Aggregate Capital of Incremental Advance: \$ _____
Wells' Percentage of Aggregate Capital (__ %): \$ _____
Investment Date: _____, 20__

Please transfer the Aggregate Capital of the Incremental Advance in immediately available funds to the Facility Account specified in the Receivables Purchase Agreement.

In connection with the Investment to be made on the above-specified Investment Date, Seller hereby certifies that the following statements are true on the date hereof, and will be true on the Investment Date (before and after giving effect to the proposed Investment):

- (i) the representations and warranties set forth in Article VII of the Receivables Purchase Agreement are true and correct in all material respects on and as of the Investment Date of such Investment as though made on and as of such date, except to the extent such representations and warranties expressly relate to an earlier date, in which case such representations and warranties shall remain true and correct in all material respects as of such earlier date;
- (ii) no event has occurred and is continuing, or would result from the proposed Investment, that will constitute an Amortization Event or a Potential Amortization Event;
- (iii) the Facility Termination Date has not occurred;
- (iv) no Capital Coverage Deficit exists or will result from such Investment; and

(v) except as otherwise waived by the Purchasers in their sole discretion, the Master Servicer has delivered to the Administrative Agent for distribution to the Purchasers on or prior to the date of such Investment, all Settlement Reports as and when due under the Receivables Purchase Agreement.

Very truly yours,

ENERSYS FINANCE LLC

By: _____

Name:

Title:

EXHIBIT II

FORM OF REDUCTION NOTICE

[Date]

To: Wells Fargo Bank, National Association, individually and as Administrative Agent

Cc: Purchasers

Re: REDUCTION NOTICE

Ladies and Gentlemen:

Reference is hereby made to the Receivables Purchase Agreement dated as of December 21, 2022 (as amended, restated, supplemented or otherwise modified from time to time, the "Receivables Purchase Agreement"), among EnerSys Finance LLC ("Seller"), EnerSys, as initial Master Servicer, the purchasers from time to time party thereto (the "Purchasers"), and Wells Fargo Bank, National Association, as administrative agent for the Purchasers (in such capacity, together with its successors and assigns in such capacity, the "Administrative Agent"). Capitalized terms used herein shall have the meanings assigned to such terms in the Receivables Purchase Agreement.

Pursuant to Section 2.02(d) of the Receivables Purchase Agreement, the Administrative Agent and the Purchasers are hereby notified of the following reduction of Aggregate Capital:

Reduction of Aggregate Capital: \$ _____

Wells' Percentage of Reduction (___%): \$ _____

Proposed reduction date: _____, 20__.

Very truly yours,

ENERSYS FINANCE LLC

By: _____

Name:

Title:

EXHIBIT III

FORM OF MONTHLY REPORT

[TO BE INSERTED INTO .PDF VERSION]

III-1

EXHIBIT IV

[TO BE INSERTED INTO .PDF VERSION]

IV-1

EXHIBIT V

FORM OF ASSIGNMENT AND ACCEPTANCE

ASSIGNMENT AND ACCEPTANCE AGREEMENT

This ASSIGNMENT AND ACCEPTANCE AGREEMENT (this "*Assignment Agreement*") is entered into as of the ___ day of _____, _____, by and between _____ ("*Assignor*") and _____ ("*Assignee*") and is accepted by Wells Fargo Bank, National Association, as Administrative Agent for the Purchasers (in such capacity, together with its successors and assigns, the "*Administrative Agent*").

PRELIMINARY STATEMENTS

This Assignment Agreement is being executed and delivered in accordance with Section 13.03 of that certain Receivables Purchase Agreement dated as of December 21, 2022 (as amended, restated or otherwise modified from time to time, the "*Receivables Purchase Agreement*"), by and among EnerSys Finance LLC ("*Seller*"), EnerSys, as initial Master Servicer, the Purchasers from time to time party thereto, and the Administrative Agent. Capitalized terms used and not otherwise defined herein are used with the meanings set forth or incorporated by reference in the Receivables Purchase Agreement.

Assignor is a Purchaser party to the Receivables Purchase Agreement, and Assignee wishes to become a Purchaser thereunder; and

Assignor is selling and assigning to Assignee an undivided _____% (the "*Transferred Percentage*") interest in all of Assignor's rights and obligations under the Receivables Purchase Agreement and the other Transaction Documents, including Assignor's Commitment and (if applicable) the Capital of Assignor's Investments as set forth herein.

AGREEMENT

The parties hereto hereby agree as follows:

1. The sale, transfer and assignment effected by this Assignment Agreement shall become effective on the date (the "*Closing Date*") on which the Administrative Agent records the fully executed Assignment Agreement in the Register and delivers a written notice of effectiveness hereof ("*Effective Notice*") to the parties hereto. From and after the Closing Date, Assignee shall be a Purchaser party to the Receivables Purchase Agreement for all purposes thereof as if Assignee were an original party thereto and Assignee agrees to be bound by all of the terms and provisions contained therein.
2. If Assignor has no outstanding Capital under the Receivables Purchase Agreement on the Closing Date, Assignor shall be deemed to have hereby transferred and assigned to Assignee, without recourse, representation or warranty (except as provided in paragraph 6 below), and the Assignee shall be deemed to have hereby irrevocably taken, received and assumed from Assignor, the Transferred Percentage of Assignor's Commitment and all rights and obligations associated therewith under the terms of the Receivables Purchase Agreement, including, without limitation, the Transferred Percentage of Assignor's future funding obligations under Section 2.01 of the Receivables Purchase Agreement.

3. If Assignor has any outstanding Capital under the Receivables Purchase Agreement, at or before 12:00 noon, local time of Assignor, on the Closing Date Assignee shall pay to Assignor, in immediately available funds, an amount equal to the sum of (i) the Transferred Percentage of the outstanding Capital of Assignor's Investments (such amount, being hereinafter referred to as the "*Assignee's Capital*"); (ii) all accrued but unpaid (whether or not then due) Interest attributable to Assignee's Capital; and (iii) accruing but unpaid fees and other costs and expenses payable in respect of Assignee's Capital for the period commencing upon each date such unpaid amounts commence accruing, to and including the Closing Date; whereupon, Assignor shall be deemed to have sold, transferred and assigned to Assignee, without recourse, representation or warranty (except as provided in paragraph 6 below), and Assignee shall be deemed to have hereby irrevocably taken, received and assumed from Assignor, the Transferred Percentage of Assignor's Commitment and the Capital of Assignor's Investments (if applicable) and all related rights and obligations under the Receivables Purchase Agreement and the Transaction Documents, including, without limitation, the Transferred Percentage of Assignor's future funding obligations under Section 2.01 of the Receivables Purchase Agreement.
4. Concurrently with the execution and delivery hereof, Assignor will provide to Assignee copies of all documents requested by Assignee which were delivered to Assignor pursuant to the Receivables Purchase Agreement.
5. Each of the Assignor and Assignee party to this Assignment Agreement agrees that at any time and from time to time upon the written request of any other party, it will execute and deliver such further documents and do such further acts and things as such other party may reasonably request in order to effect the purposes of this Assignment Agreement.
6. By executing and delivering this Assignment Agreement, Assignor and Assignee confirm to and agree with each other, and the other Purchasers as follows: (a) other than the representation and warranty that it has not created any Lien upon any interest being transferred hereunder, Assignor makes no representation or warranty and assumes no responsibility with respect to any statements, warranties or representations made by any other Person in or in connection with the Receivables Purchase Agreement, or the other Transaction Documents or the execution, legality, validity, enforceability, genuineness, sufficiency or value of the Receivables Purchase Agreement or any other instrument or document furnished pursuant thereto or the perfection, priority, condition, value or sufficiency of any Collateral; (b) Assignor makes no representation or warranty and assumes no responsibility with respect to the financial condition of Assignee, Seller, any Obligor, any Affiliate of Seller or the performance or observance by Seller, any Obligor or any Affiliate of Seller of any of their respective obligations under the Transaction Documents or any other instrument or document furnished pursuant thereto or in connection therewith; (c) Assignee confirms that it has received a copy of the Receivables Purchase Agreement and copies of such other Transaction Documents, and other documents and information as it has requested and deemed appropriate to make its own credit analysis and decision to enter into this Assignment Agreement; (d) Assignee will, independently and without reliance upon Administrative Agent, any Purchaser or Seller and based on such documents and information as

it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under the Receivables Purchase Agreement and the other Transaction Documents; (e) Assignee appoints and authorizes the Administrative Agent to take such action as agent on its behalf and to exercise such powers under the Transaction Documents as are delegated to such Administrative Agent by the terms thereof, together with such powers as are reasonably incidental thereto; and (f) Assignee agrees that it will perform in accordance with their terms all of the obligations which, by the terms of the Receivables Purchase Agreement and the other Transaction Documents, are required to be performed by it as a Purchaser.

7. Schedule I hereto sets forth the revised Commitment and Capital, if any, of Assignor and the Commitment and Capital, if any, of Assignee, as well as administrative information with respect to Assignee.
8. THIS ASSIGNMENT AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.

IN WITNESS WHEREOF, the parties hereto have caused this Assignment Agreement to be executed by their respective duly authorized officers of the date hereof.

[ASSIGNOR]

By: _____
Name:
Title:

[ASSIGNEE]

By: _____
Name:
Title:

Accepted by:

WELLS FARGO BANK, NATIONAL ASSOCIATION, solely in its capacity as Administrative Agent

By: _____
Name:
Title:

[Consented to:

ENERSYS FINANCE LLC

By: _____
Name:
Title:]

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SCHEDULE I TO ASSIGNMENT AGREEMENT

LIST OF LENDING OFFICES, ADDRESSES

FOR NOTICES AND COMMITMENT AMOUNTS

Date: _____, _____

Transferred Percentage: _____ %

	A-1 COMMITMENT (PRIOR TO GIVING EFFECT TO THE ASSIGNMENT AGREEMENT), IF ANY	A-2 COMMITMENT (AFTER GIVING EFFECT TO THE ASSIGNMENT AGREEMENT), IF ANY	B-1 OUTSTANDING CAPITAL, IF ANY
ASSIGNOR:			
ASSIGNEE:	A-1 COMMITMENT (PRIOR TO GIVING EFFECT TO THE ASSIGNMENT AGREEMENT), IF ANY	A-2 COMMITMENT (AFTER GIVING EFFECT TO THE ASSIGNMENT AGREEMENT), IF ANY	B-1 OUTSTANDING CAPITAL, IF ANY

Assignee's Address for Notices:

EXHIBIT VI

CREDIT AND COLLECTION POLICY

[TO BE INSERTED INTO .PDF VERSION]

EXHIBIT VII

FORM OF COMPLIANCE CERTIFICATE

COMPLIANCE CERTIFICATE

Date: _____, 202_

To: Wells Fargo Bank, National Association, individually as a Purchaser and as Administrative Agent

Reference is hereby made to the Receivables Purchase Agreement dated as of December 21, 2022 (as amended, restated, supplemented or otherwise modified from time to time, the “**Receivables Purchase Agreement**”), among EnerSys Finance LLC (the “**Seller**”), EnerSys, as initial Master Servicer (the “**Master Servicer**”), and the purchasers from time to time party thereto (the “**Purchasers**”), and Wells Fargo Bank, National Association, as administrative agent for the Purchasers (in such capacity, together with its successors and assigns in such capacity, the “**Administrative Agent**”). Capitalized terms used herein shall have the meanings assigned to such terms in the Receivables Purchase Agreement.

The undersigned hereby certifies to the Administrative Agent and the Purchasers as follows:

1. The undersigned is the duly qualified and acting _____ of [Seller/Master Servicer]. As such, the undersigned is a Responsible Officer and is familiar with the terms of the Receivables Purchase Agreement and the financial affairs of [Seller/Master Servicer].

2. Enclosed herewith are the [unaudited/audited] financial statements for [Seller/Master Servicer] for the fiscal [quarter/year] ended _____, 202_, prepared in accordance with GAAP, consistently applied[, except for the absence of footnotes].

3. As of the date hereof, no Amortization Event or Potential Amortization Event exists and is continuing[, except as specified below].

[If an Amortization Event or Potential Amortization Event exists and is continuing, specify in detail the nature and period of existence of such event and any action taken or contemplated to be taken by [Seller/Master Servicer] with respect thereto.]

4. [DELETE FOR SELLER’S COMPLIANCE CERTIFICATES:] Attached as Annex A hereto is a computation of compliance with the terms of Section 10.01(k) of the Receivables Purchase Agreement.

IN WITNESS WHEREOF, I have hereunto set my hand as of the date first above written.

By: _____
Name:
Title:

Enclosure

[Attach Annex A, if applicable]

FORM OF PERFORMANCE UNDERTAKING

Performance Undertaking

This Performance Undertaking is made as of December 21, 2022 (this “*Undertaking*”), and is given by EnerSys, a Delaware corporation (“*ENS*” or the “*Performance Guarantor*”), in favor of EnerSys Finance LLC, a Delaware limited liability company (the “*SPE*” or the “*Seller*” and, together with its successors and permitted assigns, the “*Beneficiary*”).

Whereas, EnerSys Delaware Inc., a Delaware corporation (“*ENS-DE*”), and each of the other direct or indirect wholly-owned Domestic subsidiaries of ENS that is now or hereafter becomes a seller (each, including ENS-DE, individually, an “*Originator*” and collectively, the “*Originators*”), and the SPE, as buyer, have entered into a Receivables Sale and Contribution Agreement, dated as of the date hereof (as amended, restated or otherwise modified from time to time, the “*Sale Agreement*”).

Whereas, the SPE, as Seller, ENS, as initial Master Servicer, the purchasers from time to time party thereto (the “*Purchasers*”), and Wells Fargo Bank, National Association, as administrative agent (in such capacity, together with its successors in such capacity, the “*Administrative Agent*”), have entered into a Receivables Purchase Agreement dated as of the date hereof (as amended, restated or otherwise modified from time to time, the “*Receivables Purchase Agreement*”).

Whereas, the Originators have jointly and severally undertaken the indemnification obligations set forth in Section 6.1 of the Sale Agreement (the “*Obligations*”), and pursuant to the Receivables Purchase Agreement, the Seller has collaterally assigned its rights with respect to the Originators’ Obligations and this Undertaking to the Administrative Agent, for the benefit of the Secured Parties (as defined below).

Whereas, the Performance Guarantor has, subject to the terms of this Undertaking, agreed to guarantee the payment when due by the Originators of the Obligations.

The Performance Guarantor hereby agrees as follows:

1. **Definitions.** All capitalized terms used but not defined herein shall have the meanings set forth in the Sale Agreement or, if not defined therein, the meanings set forth in the Receivables Purchase Agreement. In addition, as used in this Undertaking, “*Secured Parties*” means the Administrative Agent and the Purchasers.

2. **The Guaranty.**

2.1. The Performance Guarantor guarantees to the Beneficiary that in the event of a failure by any Originator to pay when due any of the Obligations, the Performance Guarantor, subject to the terms of this Undertaking, will promptly pay such Obligation. The liability of the Performance Guarantor under this Undertaking shall be absolute and unconditional irrespective of any lack of genuineness, validity, legality or enforceability of any Transaction Document or any other document, agreement or instrument relating thereto or any assignment or transfer of any thereof. The Performance Guarantor

hereby expressly and irrevocably waives, to the fullest extent permitted by law, any and all defenses, counterclaims or offsets available to it under applicable law, except the defense of discharge by payment in full or that any applicable statute of limitations on any claims hereunder has run. Subject to the immediately preceding sentence, the Obligations of the Performance Guarantor hereunder shall not be discharged, released or affected by any circumstance whatsoever, involving without limitation any bankruptcy, insolvency, reorganization or similar proceeding with respect to an Originator or any other Person or any taking, exchange, release or non-perfection of any collateral security for all or any portion of the Originators' Obligations, any manner of application of such collateral security or any proceeds thereof or any sale or other disposition of such collateral security or the exercise or failure to exercise any remedies by the Beneficiary (or the Administrative Agent on behalf of the Secured Parties) against any Originator or any taking, release, amendment or waiver of or consent to departure from any other guarantee of any of the Obligations. This Undertaking is in no way conditioned upon any attempt to collect or enforce performance or compliance by any Originator or any other event or circumstance. **Notwithstanding the foregoing, this Undertaking is not a guarantee of the recovery of any of the Receivables whether in part or in full, and the Performance Guarantor shall not be responsible or liable for any inability of any Person including but not limited to the Beneficiary, the Administrative Agent, and Secured Party or any Person deriving title from or claiming through any of them to collect any Receivable due to the inability, insolvency, bankruptcy, lack of creditworthiness, refusal or failure to pay of the related Obligor.** The Performance Guarantor acknowledges and agrees that it is informed of the financial situation of the Originators and the reasons for the request made by the Beneficiary to the Performance Guarantor to grant the undertakings set out herein.

2.2. The Performance Guarantor authorizes the Beneficiary and each Secured Party without notice or demand, from time to time to renew, accelerate, compromise, settle, restructure, refinance, refund or otherwise reduce the amount, and extend the time for payment, of the Obligations or any part thereof, or otherwise change the terms of the Obligations or any part thereof in each case as permitted by the Transaction Documents, without the consent of the Performance Guarantor. Any failure to take action by the Beneficiary under or in respect of the Receivables Purchase Agreement or the Sale Agreement shall not release, reduce or affect the liability of the Performance Guarantor.

2.3. Upon making a payment under this Section 2 in respect of any Obligation, the Performance Guarantor shall be subrogated to the rights of the payee against the applicable Originator with respect to such Obligation; *provided that* the Performance Guarantor shall not exercise any subrogation rights which it may have under this Undertaking nor shall the Performance Guarantor seek any reimbursement under this Undertaking from the applicable Originator unless and until (a) all of the outstanding Obligations have been paid in full and (b) all of the Commitments of the Purchasers under the Receivables Purchase Agreement have terminated or expired in accordance with the terms of the Receivables Purchase Agreement.

3. Miscellaneous.

3.1. The Performance Guarantor acknowledges that the Beneficiary and the Secured Parties are entering into the Receivables Purchase Agreement and other Transaction Documents to which they are parties in reliance upon this Undertaking. The Performance Guarantor acknowledges that the Beneficiary's rights under this Undertaking will be collaterally assigned to the Administrative Agent for the benefit of the Secured Parties under the Receivables Purchase Agreement, and the Performance Guarantor consents to such collateral assignment and to the exercise of the Beneficiary's rights under this Undertaking directly by the Administrative Agent to the extent permitted by the Receivables Purchase

Agreement and acknowledges and agrees that the Administrative Agent and Secured Parties and each of their respective successors and assigns are express third party beneficiaries of this Undertaking. The Performance Guarantor acknowledges that this Undertaking may not be modified or amended, or any provision hereof waived, except in a writing signed by the Performance Guarantor and the Administrative Agent. Subject to the provisions set forth in this Section 3.1 and in Section 3.8 below, on the date on which (i) Aggregate Unpaid have been paid in full (other than contingent indemnification Obligations to the extent no claim giving rise thereto has been asserted), and (ii) all of the Commitments of the Purchasers under the Receivables Purchase Agreement have terminated or expired, this Undertaking shall automatically terminate and expire with no further action being required by any party.

3.2. Any notice, payment, demand, or communication required or permitted to be given by any provision of this Undertaking shall be given or made (and shall be deemed to have been duly made or given upon receipt) by delivery in person, by courier service, by facsimile, by telegram, by electronic mail or by registered or certified mail (postage paid, return receipt requested) to the respective parties at the addresses pursuant to Section 13.02 of the Receivables Purchase Agreement.

3.3. No failure on the part of the Beneficiary or any third party beneficiary 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. The remedies herein provided are cumulative and not exclusive of any remedies provided by law. The Performance Guarantor hereby waives (i) notice of acceptance of this Undertaking, (ii) presentment and demand for payment of any of the Obligations, (iii) protest and notice of dishonor or default to the Performance Guarantor or to any other party with respect to any of the Obligations, and (iv) all other notices to which the Performance Guarantor might otherwise be entitled by applicable law or by any other party that may be liable with respect to the Obligations guaranteed hereby.

3.4. The Performance Guarantor agrees that it will upon demand pay to the Beneficiary or the Administrative Agent, on behalf of the Secured Parties, the amount of any and all reasonable documented out-of-pocket expenses, including the reasonable fees and expenses of counsel and of any experts and agents, that the Beneficiary or the Administrative Agent, on behalf of the Secured Parties, may incur in connection with the exercise or enforcement of any of the rights of the Beneficiary hereunder as a result of the failure by the Performance Guarantor to perform or observe any of the provisions hereof when due.

3.5. This Undertaking constitutes the entire agreement between the Performance Guarantor and the Beneficiary (and supersedes all prior written and oral agreements and understandings) with respect to the subject matter hereof.

3.6. If any one or more provisions contained in this Undertaking shall, for any reason, be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Undertaking, but this Undertaking shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

3.7. This Undertaking shall be governed by, and construed in accordance with, the laws of the State of New York, and the Performance Guarantor hereby submits to the non-exclusive jurisdiction of the United States District Court for the Southern District of New York and any New York State Court sitting in New York, New York. The Performance Guarantor irrevocably waives, to the fullest extent permitted by law, any objection which it may now or hereafter have to the laying of the venue of any such proceeding brought in such a court and any claim that any such proceeding brought in such court has been brought in an inconvenient forum. The Performance Guarantor and the Beneficiary hereby irrevocably waive any and all right to trial by jury in any legal proceeding arising out of or relating to this Undertaking or the transactions contemplated hereby.

3.8. This Undertaking shall continue to be effective or be reinstated, as the case may be, if at any time payment, in whole or in part, of any of the Obligations is rescinded or must otherwise be restored or returned by the Beneficiary upon the bankruptcy, insolvency, reorganization, dissolution, liquidation or the like, of any Originator or the Performance Guarantor, or as a result of the appointment of a custodian, receiver, trustee or other officer with similar powers with respect to any Originator or the Performance Guarantor or any substantial part of any such Person's respective property, all as though such payment had not been made, notwithstanding any termination of this Undertaking, the Receivables Purchase Agreement, the Sale Agreement or any other Transaction Document.

3.9. The Performance Guarantor may not assign its Obligations under this Undertaking without the prior written consent of the Beneficiary.

In Witness Whereof, the Performance Guarantor has executed this instrument as of the date first above written.

ENERSYS

By: _____
Name:
Title:

EXHIBIT IX-1

[FORM OF] U.S. TAX COMPLIANCE CERTIFICATE

(For Foreign Purchasers That Are Not Partnerships For U.S. Federal Income Tax Purposes)

Reference is hereby made to the Receivables Purchase Agreement dated as of December 21, 2022 (as amended, supplemented or otherwise modified from time to time, the "**Receivables Purchase Agreement**"), by and among (i) ENERSYS FINANCE LLC, a Delaware limited liability company (the "**SPE**"), as seller (in such capacity, the "**Seller**"); (ii) the Persons from time to time party hereto as Purchasers; (iii) WELLS FARGO BANK, NATIONAL ASSOCIATION ("**Wells**"), as Administrative Agent; and (iv) ENERSYS, a Delaware corporation, in its individual capacity ("**ENS**") and as initial Master Servicer (in such capacity, together with its successors and assigns in such capacity, the "**Master Servicer**").

Pursuant to the provisions of Section 5.03(f) of the Receivables Purchase Agreement, the undersigned hereby certifies that (i) it is the sole record and beneficial owner of the Investments in respect of which it is providing this certificate, (ii) it is not a "bank" within the meaning of Section 881(c)(3)(A) of the Code, (iii) it is not a "10 percent shareholder" of the Seller within the meaning of Section 871(h)(3)(B) of the Code and (iv) it is not a "controlled foreign corporation" related to the Seller as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished the Administrative Agent and the Seller with a certificate of its non-U.S. Person status on IRS Form W-8BEN or IRS Form W-8BEN-E. By executing this certificate, the undersigned agrees that (1) if the information provided in this certificate changes, the undersigned shall promptly so inform the Seller and the Administrative Agent, and (2) the undersigned shall have at all times furnished the Seller and the Administrative Agent with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Receivables Purchase Agreement and used herein shall have the meanings given to them in the Receivables Purchase Agreement.

[NAME OF PURCHASER]

By: _____
Name:
Title:
Date: _____, 202[]

[FORM OF] U.S. TAX COMPLIANCE CERTIFICATE

(For Foreign Participants That Are Not Partnerships For U.S. Federal Income Tax Purposes)

Reference is hereby made to the Receivables Purchase Agreement dated as of December 21, 2022 (as amended, supplemented or otherwise modified from time to time, the "**Receivables Purchase Agreement**"), by and among (i) ENERSYS FINANCE LLC, a Delaware limited liability company (the "**SPE**"), as seller (in such capacity, the "**Seller**"); (ii) the Persons from time to time party hereto as Purchasers; (iii) WELLS FARGO BANK, NATIONAL ASSOCIATION ("**Wells**"), as Administrative Agent; and (iv) ENERSYS, a Delaware corporation, in its individual capacity ("**ENS**") and as initial Master Servicer (in such capacity, together with its successors and assigns in such capacity, the "**Master Servicer**").

Pursuant to the provisions of Section 5.03 of the Receivables Purchase Agreement, the undersigned hereby certifies that (i) it is the sole record and beneficial owner of the participation in respect of which it is providing this certificate, (ii) it is not a "bank" within the meaning of Section 881(c)(3)(A) of the Code, (iii) it is not a "10 percent shareholder" of the Seller within the meaning of Section 871(h)(3)(B) of the Code and (iv) it is not a "controlled foreign corporation" related to the Seller as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished its participating Purchaser with a certificate of its non-U.S. Person status on IRS Form W-8BEN or IRS Form W-8BEN-E. By executing this certificate, the undersigned agrees that (1) if the information provided in this certificate changes, the undersigned shall promptly so inform such Purchaser in writing, and (2) the undersigned shall have at all times furnished such Purchaser with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Receivables Purchase Agreement and used herein shall have the meanings given to them in the Receivables Purchase Agreement.

[NAME OF PARTICIPANT]

By: _____
Name:
Title:
Date: _____, 20[]

[FORM OF] U.S. TAX COMPLIANCE CERTIFICATE

(For Foreign Participants That Are Partnerships For U.S. Federal Income Tax Purposes)

Reference is hereby made to the Receivables Purchase Agreement dated as of December 21, 2022 (as amended, supplemented or otherwise modified from time to time, the "**Receivables Purchase Agreement**"), by and among (i) ENERSYS FINANCE LLC, a Delaware limited liability company (the "**SPE**"), as seller (in such capacity, the "**Seller**"); (ii) the Persons from time to time party hereto as Purchasers; (iii) WELLS FARGO BANK, NATIONAL ASSOCIATION ("**Wells**"), as Administrative Agent; and (iv) ENERSYS, a Delaware corporation, in its individual capacity ("**ENS**") and as initial Master Servicer (in such capacity, together with its successors and assigns in such capacity, the "**Master Servicer**").

Pursuant to the provisions of Section 5.03 of the Receivables Purchase Agreement, the undersigned hereby certifies that (i) it is the sole record owner of the participation in respect of which it is providing this certificate, (ii) its direct or indirect partners/members are the sole beneficial owners of such participation, (iii) with respect such participation, neither the undersigned nor any of its direct or indirect partners/members is a "bank" extending credit pursuant to a loan agreement entered into in the ordinary course of its trade or business within the meaning of Section 881(c)(3)(A) of the Code, (iv) none of its direct or indirect partners/members is a "10 percent shareholder" of the Seller within the meaning of Section 871(h)(3)(B) of the Code and (v) none of its direct or indirect partners/members is a "controlled foreign corporation" related to the Seller as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished its participating Purchaser with IRS Form W-8IMY accompanied by one of the following forms from each of its partners/members that is claiming the portfolio interest exemption: (i) an IRS Form W-8BEN or IRS Form W-8BEN-E or (ii) an IRS Form W-8IMY accompanied by an IRS Form W-8BEN or IRS Form W-8BEN-E from each of such partner's/member's beneficial owners that is claiming the portfolio interest exemption. By executing this certificate, the undersigned agrees that (1) if the information provided in this certificate changes, the undersigned shall promptly so inform such Purchaser and (2) the undersigned shall have at all times furnished such Purchaser with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Receivables Purchase Agreement and used herein shall have the meanings given to them in the Receivables Purchase Agreement.

[NAME OF PARTICIPANT]

By: _____
Name:
Title:
Date: _____, 20[]

[FORM OF] U.S. TAX COMPLIANCE CERTIFICATE

(For Foreign Purchasers That Are Partnerships For U.S. Federal Income Tax Purposes)

Reference is hereby made to the Receivables Purchase Agreement dated as of December 21, 2022 (as amended, supplemented or otherwise modified from time to time, the "Receivables Purchase Agreement"), by and among (i) ENERSYS FINANCE LLC, a Delaware limited liability company (the "SPE"), as seller (in such capacity, the "Seller"); (ii) the Persons from time to time party hereto as Purchasers; (iii) WELLS FARGO BANK, NATIONAL ASSOCIATION ("Wells"), as Administrative Agent; and (iv) ENERSYS, a Delaware corporation, in its individual capacity ("ENS") and as initial Master Servicer (in such capacity, together with its successors and assigns in such capacity, the "Master Servicer").

Pursuant to the provisions of Section 5.03 of the Receivables Purchase Agreement, the undersigned hereby certifies that (i) it is the sole record owner of the Investments in respect of which it is providing this certificate, (ii) its direct or indirect partners/members are the sole beneficial owners of such Investment(s), (iii) with respect to the extension of credit pursuant to this Receivables Purchase Agreement or any other Transaction Document, neither the undersigned nor any of its direct or indirect partners/members is a "bank" extending credit pursuant to a loan agreement entered into in the ordinary course of its trade or business within the meaning of Section 881(c)(3)(A) of the Code, (iv) none of its direct or indirect partners/members is a "10 percent shareholder" of the Seller within the meaning of Section 871(h)(3)(B) of the Code and (v) none of its direct or indirect partners/members is a "controlled foreign corporation" related to the Seller as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished the Administrative Agent and the Seller with IRS Form W-8IMY accompanied by one of the following forms from each of its partners/members that is claiming the portfolio interest exemption: (i) an IRS Form W-8BEN or IRS Form W-8BEN-E or (ii) an IRS Form W-8IMY accompanied by an IRS Form W-8BEN or IRS Form W-8BEN-E from each of such partner's/member's beneficial owners that is claiming the portfolio interest exemption. By executing this certificate, the undersigned agrees that (1) if the information provided in this certificate changes, the undersigned shall promptly so inform the Seller and the Administrative Agent, and (2) the undersigned shall have at all times furnished the Seller and the Administrative Agent with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Receivables Purchase Agreement and used herein shall have the meanings given to them in the Receivables Purchase Agreement.

[NAME OF PURCHASER]

By: _____

Name:

Title:

Date: _____, 202[]

Date: _____, 20[]

EXHIBIT X

CLOSING CHECKLIST

CLOSING DATE: DECEMBER 21, 2022

[Attached Separately]

SCHEDULE A

COMMITMENT(S)

[AS OF DECEMBER 21, 2022]

<u>PURCHASER</u>	<u>COMMITMENT</u>
WELLS FARGO BANK, NATIONAL ASSOCIATION	\$ 150,000,000.00
AGGREGATE COMMITMENT	\$ 150,000,000.00

Schedule A-1

SCHEDULE B

LOCK-BOXES AND COLLECTION ACCOUNTS

[ATTACHED]

Schedule B-1

SCHEDULE C

[RESERVED]

Schedule C-1

SCHEDULE D

INITIAL SOLD RECEIVABLES

[ATTACHED]

Schedule D-1

SCHEDULE E

PARTIES' ADDRESSES FOR NOTICES

[ATTACHED]

Schedule E-1

SCHEDULE F

SELLER'S CHIEF EXECUTIVE OFFICE, CAPITAL PLACE OF BUSINESS, RECORDS LOCATIONS, FEDERAL TAXPAYER ID NUMBER
AND ORGANIZATIONAL ID NUMBER

[ATTACHED]

Schedule F-1

**ENERSYS CLOSES
TRADE RECEIVABLE SECURITIZATION FACILITY
TO SUPPORT FINANCIAL FLEXIBILITY**

READING, Pa. – EnerSys (NYSE: ENS), the global leader in stored energy solutions for industrial applications, today announced that it has closed a trade receivable securitization facility of \$150 million with Wells Fargo, N.A. The Company expects to utilize \$150 million of the facility, with this asset monetization providing annual interest savings of approximately \$1.4 million. The facility has a term of three years.

“We are pleased to announce the completion of a sizable asset securitization with Wells Fargo. This transaction will enhance our strong balance sheet, reduce interest expense, lower leverage under our Credit Agreement, and improve cash flow over time,” said Andrea J. Funk, Chief Financial Officer.

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 EnerSys:

EnerSys, the global leader in stored energy solutions for industrial applications, manufactures and distributes energy systems solutions and motive power batteries, specialty batteries, battery chargers, power equipment, battery accessories and outdoor equipment enclosure solutions to customers worldwide. Energy Systems, which combine enclosures, power conversion, power distribution and energy storage, are used in the telecommunication, broadband and utility industries, uninterruptible power supplies, and numerous applications requiring stored energy solutions. Motive power batteries and chargers are utilized in electric forklift trucks and other industrial electric powered vehicles. Specialty batteries are used in aerospace and defense applications, large over-the-road trucks, premium automotive, medical and security systems applications. EnerSys also provides aftermarket and customer support services to its customers in over 100 countries through its sales and manufacturing locations around the world. With the NorthStar acquisition, EnerSys has solidified its position as the market leader for premium Thin Plate Pure Lead batteries which are sold across all three lines of business. More information regarding EnerSys can be found at www.enersys.com.

Sustainability

Sustainability at EnerSys is about more than just the benefits and impacts of our products. Our commitment to sustainability encompasses many important environmental, social and governance issues. Sustainability is a fundamental part of how we manage our own operations. Minimizing our environmental footprint is a priority. Sustainability is our commitment to our employees, our customers and the communities we serve. Our products facilitate positive environmental, social and economic impacts around the world. To learn more visit: <https://www.enersys.com/en/about-us/sustainability/>.

Caution Concerning Forward-Looking Statements

This press release, and oral statements made regarding the subjects of this release, contains forward-looking statements, within the meaning of the Private Securities Litigation Reform Act of 1995, or the Reform Act, which may include, but are not limited to, statements regarding EnerSys' earnings estimates, intention to pay quarterly cash dividends, return capital to stockholders, plans, objectives, expectations and intentions and other statements contained in this press release that are not historical facts, including statements identified by words such as "believe," "plan," "seek," "expect," "intend," "estimate," "anticipate," "will," and similar expressions. All statements addressing operating performance, events, or developments that EnerSys expects or anticipates will occur in the future, including statements relating to sales growth, earnings or earnings per share growth, order intake, backlog, payment of future cash dividends, commodity prices, execution of its stock buy back program, judicial or regulatory proceedings, and market share, as well as statements expressing optimism or pessimism about future operating results or benefits from its cash dividend, its stock buy back programs, future responses to and effects of the COVID-19 pandemic, adverse developments with respect to the economic conditions in the U.S. in the markets in which we operate and other uncertainties, including the impact of supply chain disruptions, interest rate changes, inflationary pressures, geopolitical and other developments and labor shortages on the economic recovery and our business are forward-looking statements within the meaning of the Reform Act. The forward-looking statements are based on management's current views and assumptions regarding future events and operating performance, and are inherently subject to significant business, economic, and competitive uncertainties and contingencies and changes in circumstances, many of which are beyond the Company's control.

The statements in this press release are made as of the date of this press release, even if subsequently made available by EnerSys on its website or otherwise. EnerSys does not undertake any obligation to update or revise these statements to reflect events or circumstances occurring after the date of this press release.

Although EnerSys does not make forward-looking statements unless it believes it has a reasonable basis for doing so, EnerSys cannot guarantee their accuracy. The foregoing factors, among others, could cause actual results to differ materially from those described in these forward-looking statements. For a list of other factors which could affect EnerSys' results, including earnings estimates, see EnerSys' filings with the Securities and Exchange Commission, including "Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations," and "Forward-Looking Statements," set forth in EnerSys' Annual Report on Form 10-K for the fiscal year ended March 31, 2022. No undue reliance should be placed on any forward-looking statements.

CONTACT

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