

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

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**FORM 8-K**

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**CURRENT REPORT**

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

**Date of Report (Date of earliest event reported): November 21, 2014**

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**NCR CORPORATION**

(Exact name of registrant as specified in its charter)

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**Commission File Number 001-00395**

**Maryland**

(State or other jurisdiction of  
incorporation or organization)

**31-0387920**

(I.R.S. Employer  
Identification No.)

**3097 Satellite Boulevard**

**Duluth, Georgia 30096**

(Address of principal executive offices and zip code)

**Registrant's telephone number, including area code: (937) 445-5000**

**Not Applicable**

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

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

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
  - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
  - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
  - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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## **Item 1.01 Entry in to a Material Definitive Agreement.**

On November 21, 2014, NCR Corporation (the “Company”) entered into a Receivables Financing Agreement by and among the Company, as servicer, NCR Receivables LLC (“NCR Receivables”), a newly-formed and wholly-owned special purpose subsidiary, as borrower, PNC Bank, National Association (“PNC”), as administrative agent, and PNC, The Bank of Tokyo-Mitsubishi UFJ, Ltd., New York Branch, Victory Receivables Corporation and the other lenders from time to time party thereto (the “Receivables Financing Agreement”). In connection therewith, the Company simultaneously entered into a Purchase and Sale Agreement with NCR Receivables, as buyer, and the other originators who will, from time to time, be party thereto (the “Purchase Agreement”).

The Receivables Financing Agreement and the Purchase Agreement establish a revolving U.S. trade receivables securitization facility (the “A/R Facility”) that provides for up to \$200 million in funding based on the availability of eligible receivables and other customary factors, and the satisfaction of certain conditions. The A/R Facility has an initial term of two years, unless earlier terminated in accordance with the terms thereof, and may be extended by agreement of the parties.

Under the A/R Facility, the Company will sell or contribute its U.S. trade receivables to NCR Receivables, its wholly-owned subsidiary, as those trade receivables are originated. NCR Receivables has pledged those trade receivables to PNC, as administrative agent, for the benefit of the lenders and other secured parties under the A/R Facility, to secure NCR Receivables’ obligations to repay advances that it obtains from the lenders under the A/R Facility. Substantially all of the net proceeds of these advances are expected to be applied towards the purchase of trade receivables by NCR Receivables from the Company.

The assets of NCR Receivables are restricted collateral for the payment of its obligations under the A/R Facility. NCR Receivables’ assets and credit are not available to satisfy the debts and obligations owed to the creditors of the Company or any other originator under the A/R Facility. The Company is independently liable for its own customary representations, warranties, covenants and indemnities as the originator and as the servicer of the receivables, and to the extent additional originators become party to the A/R Facility, will be obligated to guaranty the performance of the obligations of such originators. The Company will include NCR Receivables’ assets, liabilities and results of operations in its consolidated financial statements.

Advances by a lender under the A/R Facility will accrue interest (i) at a reserve-adjusted LIBOR rate or a base rate equal to the highest of (a) the applicable lender’s prime rate or (b) the federal funds rate plus 0.50%, if the lender is a committed lender, or (ii) based on commercial paper interests rates if the lender is a commercial paper conduit lender. In addition, NCR Receivables paid certain upfront closing fees to the administrative agent for its services and will pay annual commitment and other customary fees to the lenders. NCR Receivables may prepay any advances with two business days’ notice, and may also reduce the facility limit with 15 days’ prior notice.

The A/R Facility contains various customary affirmative and negative covenants and default and termination provisions which provide for the acceleration of the advances under the A/R Facility in circumstances including, but not limited to, failure to pay interest or principal when due, breach of representation, warranty or covenant, certain insolvency events or failure to maintain the security interest in the trade receivables, and defaults under other material indebtedness.

The Receivables Financing Agreement and the Purchase Agreement are filed as exhibits 10.1 and 10.2 hereto, respectively, and are incorporated herein by reference, and the description of the A/R Facility contained herein is qualified in its entirety by the terms of the these agreements.

**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 is incorporated by reference herein.

**Item 9.01      Financial Statements and Exhibits.**

(d) Exhibits:

The following exhibits are attached with this current report on Form 8-K:

<u>Exhibit No.</u>	<u>Description</u>
10.1	Receivables Financing Agreement, dated as of November 21, 2014, by and among NCR Receivables LLC, as borrower, NCR Corporation, as servicer, PNC Bank, National Association, as administrative agent, and PNC Bank, National Association, The Bank of Tokyo-Mitsubishi UFJ, Ltd., New York Branch, Victory Receivables Corporation and the other lender parties from time to time party thereto.
10.2	Purchase and Sale Agreement, dated as of November 21, 2014, among NCR Receivables LLC, as buyer, and NCR Corporation and the other originator parties from time to time party thereto.

**SIGNATURES**

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

NCR Corporation

By: /s/ Robert Fishman

Robert Fishman

Senior Vice President and Chief Financial Officer

Date: November 25, 2014

## EXHIBIT INDEX

The following exhibits are attached with this current report on Form 8-K:

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10.1	Receivables Financing Agreement, dated as of November 21, 2014, by and among NCR Receivables LLC, as borrower, NCR Corporation, as servicer, PNC Bank, National Association, as administrative agent, and PNC Bank, National Association, The Bank of Tokyo-Mitsubishi UFJ, Ltd., New York Branch, Victory Receivables Corporation and the other lender parties from time to time party thereto.
10.2	Purchase and Sale Agreement, dated as of November 21, 2014, among NCR Receivables LLC, as buyer, and NCR Corporation and the other originator parties from time to time party thereto.

**RECEIVABLES FINANCING AGREEMENT**

Dated as of November 21, 2014

by and among

NCR RECEIVABLES LLC,  
as Borrower,

THE PERSONS FROM TIME TO TIME PARTY HERETO,  
as Lenders and as Group Agents,

PNC BANK, NATIONAL ASSOCIATION,  
as Administrative Agent,

and

NCR CORPORATION,  
as initial Servicer

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EXHIBIT C	–	Form of Assumption Agreement
EXHIBIT D	–	Credit and Collection Policy
EXHIBIT E	–	Form of Information Package
EXHIBIT F	–	Form of Compliance Certificate
EXHIBIT G	–	Closing Memorandum
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## SCHEDULES

SCHEDULE I	–	Commitments
SCHEDULE II	–	Lock-Boxes, Lock-Box Accounts and Lock-Box Banks
SCHEDULE III	–	Notice Addresses
SCHEDULE IV	–	Locations for Chattel Paper and Records

This RECEIVABLES FINANCING AGREEMENT (as amended, restated, supplemented or otherwise modified from time to time, this “Agreement”) is entered into as of November 21, 2014 by and among the following parties:

- (i) NCR RECEIVABLES LLC, a Delaware limited liability company, as Borrower (together with its successors and assigns, the “Borrower”);
- (ii) the Persons from time to time party hereto as Lenders and as Group Agents;
- (iii) PNC BANK, NATIONAL ASSOCIATION (“PNC”), as Administrative Agent; and
- (iv) NCR CORPORATION, a Maryland corporation (“NCR”), as initial Servicer (in such capacity, together with its successors and assigns in such capacity, the “Servicer”).

#### PRELIMINARY STATEMENTS

The Borrower has acquired, and will acquire from time to time, Receivables from the Originators pursuant to the Purchase and Sale Agreement. The Borrower has requested that the Lenders make Loans from time to time to the Borrower, on the terms, and subject to the conditions set forth herein, secured by, among other things, the Pool Receivables.

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):

“Adjusted Net Receivables Pool Balance” means, at any time, the excess of (i) the Net Receivables Pool Balance, over (ii) the Specifically Reserved Maintenance Revenue Amount; provided, however, that so long as the Level 1 Ratings Trigger is not in effect, the Specifically Reserved Maintenance Revenue Amount shall be deemed to be zero for purposes of this definition.

“Administrative Agent” means PNC, in its capacity as contractual representative for the Credit Parties, and any successor thereto in such capacity appointed pursuant to Article X.

“Adverse Claim” means a lien, security interest or other charge or encumbrance, or any other type of preferential arrangement; it being understood that none of the foregoing shall constitute an “Adverse Claim” to the extent (i) in favor of, or assigned to, the Administrative Agent (for the benefit of the Secured Parties) or (ii) created under or pursuant to, or expressly

contemplated to exist and not prohibited by, any Transaction Document (including the Permitted Revolver Pledge and any lien, security interest or other charge or encumbrance, or any other type of preferential arrangement in favor of any Lock-Box Bank).

“Affected Person” means each Credit Party and each Program Support Provider, the parent or holding company that Controls any Credit Party or Program Support Provider, and any of their respective Affiliates that are party to, or entitled to any payment under, the Transaction Documents.

“Affiliate” means, with respect to a specified Person, another Person that directly or indirectly Controls, is Controlled by or is under common Control with the Person specified.

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

“Aggregate Interest” means, at any time of determination, the aggregate accrued and unpaid Interest on the Loans of all Lenders at such time.

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

“Anti-Terrorism Laws” shall mean any Applicable Laws relating to terrorism, trade sanctions programs and embargoes, import/export licensing, money laundering or bribery, and any regulation, order, or directive promulgated, issued or enforced pursuant to such Applicable Laws, all as amended, supplemented or replaced from time to time.

“Applicable Law” means, with respect to any Person, any statutes, laws, treaties, rules, regulations, orders, decrees, writs, judgments, injunctions or determinations of any arbitrator or court or other Governmental Authority, in each case binding upon such Person or any of its property or to which such Person or any of its property is subject.

“Assignment and Acceptance Agreement” means an assignment and acceptance agreement entered into by a Committed Lender, an Eligible Assignee, such Committed Lender’s Group Agent and the Administrative Agent, and, if required, the Borrower, pursuant to which such Eligible Assignee may become a party to this Agreement, in substantially the form of Exhibit B hereto.

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

“Attorney Costs” means the reasonable and documented out-of-pocket fees, costs, expenses and disbursements of external counsel.

“Bank Rate” for any Portion of Capital funded by any Lender on any day, means an interest rate per annum equal to (a) the LIBOR Rate for such Lender on such day or (b) if the Base Rate is applicable to such Lender pursuant to Section 4.04, the Base Rate for such Lender on such day; provided, however, that the “Bank Rate” for any day while a Termination Event has occurred and is continuing shall be an interest rate per annum equal to the sum of 2.00% per annum plus the greater of (i) the Base Rate for such Lender on such day and (ii) the LIBOR Rate for such Lender on such day.

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

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

(a) the rate of interest in effect for such day as publicly announced from time to time by the applicable Group Agent or its Affiliate as its “reference rate” or “prime rate”, as applicable. Such “reference rate” or “prime rate” is set by the applicable Group Agent or its Affiliate based upon various factors, including such Person’s costs and desired return, general economic conditions and other factors, and is used as a reference point for pricing some loans, which may be priced at, above or below such announced rate, and is not necessarily the lowest rate charged to any customer; and

(b) 0.50% per annum above the latest Federal Funds Rate.

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

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

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

“Borrower Obligations” means all present and future indebtedness, reimbursement obligations and other liabilities and obligations (howsoever created, arising or evidenced, whether direct or indirect, absolute or contingent, or due or to become due) of the Borrower to any Credit Party, Borrower Indemnified Party and/or any Affected Person, arising under this Agreement or any other Transaction Document or the transactions contemplated hereby or thereby, and shall include, without limitation, all Capital and Interest on the Loans, all Fees and all 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 the Borrower (in each case whether or not allowed as a claim in such proceeding).

“Borrower’s Limited Liability Company Agreement” means the Amended and Restated Limited Liability Company Agreement of the Borrower, dated as of November 21, 2014, between NCR, as sole initial member, and Michelle Dreyer, as independent manager and special member.

“Borrower’s Net Worth” means, at any time of determination, an amount equal to (i) the sum of (A) the Outstanding Balance of all Pool Receivables at such time, plus (B) cash Collections held by the Borrower, minus (ii) the sum of (A) the Aggregate Capital at such time, plus (B) the Aggregate Interest at such time, plus (C) the aggregate accrued and unpaid Fees at such time, plus (D) the aggregate outstanding principal balance of all Subordinated Notes at such time, plus (E) the aggregate accrued and unpaid interest on all Subordinated Notes at such time, plus (F) without duplication, the aggregate accrued and unpaid other Borrower Obligations at such time.

“Borrowing Base” means, at any time of determination, the amount equal to (a) the sum of (i) the Adjusted Net Receivables Pool Balance at such time plus (ii) the amount of Collections then set aside and being held in trust by the Servicer or segregated in a separate account approved by the Administrative Agent, in either case, pursuant to and in accordance with Section 3.01(a), minus (b) the Total Reserves at such time; provided, however, that for purposes of reporting the Borrowing Base on any Information Package or Loan Request, the Borrowing Base shall be calculated assuming the amount set forth in clause (a)(ii) above is zero.

“Borrowing Base Deficit” means, at any time of determination, the amount, if any, by which (a) the Aggregate Capital at such time, exceeds (b) the lesser of (i) the Borrowing Base at such time and (ii) the Facility Limit at such time.

“Breakage Fee” means (i) for any Interest Period for which Interest is computed by reference to the CP Rate or the Euro Rate and a reduction of Capital is made for any reason on any day other than a Settlement Date or pursuant to Section 2.02(d), the amount, if any, by which (A) the additional Interest (calculated without taking into account any Breakage Fee) which would have accrued by the next Settlement Date (or, if earlier, the maturity of the underlying Note) on the portion of Capital so reduced exceeds (B) the income, if any, received by the applicable Lender from the investment of the proceeds of such reduction of Capital for a comparable time period or (ii) to the extent that the Borrower shall fail to borrow on the date specified by the Borrower in connection with any request for funding pursuant to Article II of this Agreement due to a cancellation by the Borrower, any failure by the Borrower to accept the related Loan or any failure by the Borrower to satisfy any of the conditions set forth in Section 5.02, the amount, if any, by which (A) the additional Interest (calculated without taking into account any Breakage Fee) which would have accrued by the next Settlement Date (or, if earlier, the maturity of the underlying Note) on the amounts so failed to be borrowed or accepted in connection with any such request for funding by the Borrower exceeds (B) the income, if any, received by the applicable Lender from the investment of the proceeds of such unborrowed amounts for a comparable time period. A certificate as to the amount of any Breakage Fee (including the computation of such amount) shall be submitted by the affected Lender (or applicable Group Agent on its behalf) to the Borrower and shall be conclusive and binding for all purposes, absent manifest error.

“BTMU” means The Bank of Tokyo-Mitsubishi UFJ, Ltd., New York Branch.

“Business Day” means any day (other than a Saturday or Sunday) on which: (a) banks are not authorized or required to close in Pittsburgh, Pennsylvania, or New York City, New York and (b) if this definition of “Business Day” is utilized in connection with calculating the LMIR or the Euro Rate, dealings are carried out in the London interbank market.

“Capital” means, with respect to any Lender, the aggregate principal amount of all Loans made to the Borrower by such Lender pursuant to Article II, as reduced from time to time by Collections distributed and applied on account of such Capital pursuant to Section 3.01; provided, that if such Capital shall have been reduced by any distribution and thereafter all or a portion of such distribution is rescinded or must otherwise be returned for any reason, such Capital shall be increased by the amount of such rescinded or returned distribution as though it had not been made.

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

(a) (i) the acquisition of ownership, directly or indirectly, beneficially or of record, by any Person or group (within the meaning of the Exchange Act and the rules of the SEC thereunder as in effect on the date hereof), other than an employee benefit plan or related trust of NCR or of NCR and any of its Subsidiaries, of Equity Interests in NCR representing more than 35% of the aggregate ordinary voting power represented by the issued and outstanding Equity Interests in NCR; (ii) persons who were (x) directors of NCR on the date hereof, (y) nominated by the board of directors of NCR or (z) appointed by directors who were directors of NCR on the date hereof or were nominated as provided in clause (y) above, in each case other than any person whose initial nomination or appointment occurred as a result of an actual or threatened solicitation of proxies or consents for the election or removal of one or more directors on the board of directors of NCR (other than any such solicitation made by such board of directors), ceasing to occupy a majority of the seats (excluding vacant seats) on the board of directors of NCR; or (iii) the occurrence of any “change in control” (or similar event, however denominated) with respect to NCR under and as defined in any indenture or other agreement or instrument evidencing, governing the rights of the holders of or otherwise relating to any Material Indebtedness of NCR;

(b) NCR ceases to own, directly or indirectly, 100% of the aggregate ordinary voting power represented by the issued and outstanding Equity Interests of each Originator (other than NCR) or otherwise ceases to Control any such Originator;

(c) NCR ceases to own, directly, 100% of the issued and outstanding Equity Interest of the Borrower free and clear of all Adverse Claims; or

(d) the Originators cease to own, directly, 100% of the Subordinated Notes free and clear of all Adverse Claims.

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

“Charged-Off Receivable” means a Receivable which, consistent with the Credit and Collection Policy, has been or should be written off the applicable Originator’s or the Borrower’s books as uncollectible.

“Closing Date” means November 21, 2014.

“Code” means the Internal Revenue Code of 1986, as amended, reformed or otherwise modified from time to time.

“Collateral” has the meaning set forth in Section 4.05(a).

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

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

“Committed Lenders” means PNC, BTMU and each other Person that is or becomes a party to this Agreement in the capacity of a “Committed Lender”.

“Concentration Percentage” means (i) for any Group A Obligor, 25.00%, (ii) for any Group B Obligor, 12.50%, (iii) for any Group C Obligor, 8.33% and (iv) for any Group D Obligor, 5.00%.

“Concentration Reserve Percentage” means, at any time of determination, the largest of: (a) the sum of the five largest Obligor Percentages of the Group D Obligors, (b) the sum of the three largest Obligor Percentages of the Group C Obligors, (c) the sum of the two largest Obligor Percentages of the Group B Obligors and (d) the largest Obligor Percentage of the Group A Obligors; provided, that for purposes of calculating the foregoing each Pool Obligor that is classified as a Group A Obligor, Group B Obligor or Group C Obligor, due to the credit ratings of its parent company or other Affiliate (rather than the credit ratings of such Pool Obligor) shall be aggregated with such parent company or Affiliate (as the case may be) and with each other Pool Obligor classified as a Group A Obligor, Group B Obligor or Group C Obligor due to the credit ratings of such parent company or Affiliate (as the case may be).

“Conduit Lender” means each commercial paper conduit that is or becomes a party to this Agreement in the capacity of a “Conduit Lender.”

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

“Control” means, with respect to any Person, the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities, by contract or otherwise. “Controlling” and “Controlled” have meanings correlative thereto.

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

“CP Rate” means, for any Conduit Lender and for any Interest Period (or portion thereof) for any Portion of Capital, the per annum rate equivalent to the weighted average cost (as determined by the applicable Group Agent and which shall include commissions of placement agents and dealers, incremental carrying costs incurred with respect to Notes of such Person maturing on dates other than those on which corresponding funds are received by such Conduit Lender, other borrowings by such Conduit Lender (other than under any Program Support Agreement) and any other costs associated with the issuance of Notes) of or related to the issuance of Notes that are allocated, in whole or in part, by the applicable Conduit Lender to fund or maintain such Portion of Capital (and which may be also allocated in part to the funding of other assets of such Conduit Lender); provided, however, that if any component of such rate is a discount rate, in calculating the “CP Rate” for such Portion of Capital for such Interest Period (or portion thereof), the applicable Group Agent shall for such component use the rate resulting from converting such discount rate to an interest bearing equivalent rate per annum; provided, further, that notwithstanding anything in this Agreement or the other Transaction Documents to the contrary, the Borrower agrees that any amounts payable to Conduit Lenders in respect of Interest for any Interest Period (or portion thereof) with respect to any Portion of Capital funded by such Conduit Lenders at the CP Rate shall include an amount equal to the portion of the face amount of the outstanding Notes issued to fund or maintain such Portion of Capital that corresponds to the portion of the proceeds of such Notes that was used to pay the interest component of maturing Notes issued to fund or maintain such Portion of Capital, to the extent that such Conduit Lenders had not received payments of interest in respect of such interest component prior to the maturity date of such maturing Notes (for purposes of the foregoing, the “interest component” of Notes equals the excess of the face amount thereof over the net proceeds received by such Conduit Lender from the issuance of Notes, except that if such Notes are issued on an interest-bearing basis its “interest component” will equal the amount of interest accruing



on such Notes through maturity). Notwithstanding the foregoing, the “CP Rate” for any Conduit Lender for any day while a Termination Event has occurred and is continuing shall be an interest rate equal to the greater of (i) 2.00% per annum above the Base Rate for each day during such Interest Period (or portion thereof) and (ii) 2.00% per annum above the “CP Rate” calculated without giving effect to such Termination Event.

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

“Credit Extension” means the making of any Loan.

“Credit Party” means each Lender, the Administrative Agent and each Group Agent.

“Credit Risk Losses” means, with respect to any Pool Receivable and its Related Rights, amounts owed but not received under such Pool Receivable or such Related Rights due to the relative creditworthiness (including willingness to pay) of the related Pool Obligor or other applicable obligor thereunder, but excluding, for the avoidance of doubt, any amounts not received due to any incidental credit risk exposure to parties administering or servicing the collections thereon or due to the fact that such amounts are not owed (whether due to discounts, rebates, returned goods, setoffs, defenses or otherwise).

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

“Debt” means, as to any Person at any time of determination, any and all indebtedness, obligations or liabilities (whether matured or unmatured, liquidated or unliquidated, direct or indirect, absolute or contingent, or joint or several) of such Person for or in respect of: (i) borrowed money, (ii) amounts raised under any bonds, debentures, notes or similar instruments, (iii) the maximum aggregate amount of all letters of credit and letters of guaranty in respect of which such Person is an account party, (iv) any other transaction (including production payments (excluding royalties), installment purchase agreements, forward sale or purchase agreements, capitalized leases and conditional sales agreements) having the commercial effect of a borrowing of money entered into by such Person to finance its operations or capital requirements (but excluding accounts payable incurred in the ordinary course of such Person’s business payable on terms customary in the trade), (v) all net obligations payable by such Person upon an early termination under any Hedging Agreement or (vi) any guarantee or other obligation that has the economic effect of guaranteeing any such Debt.

“Deemed Collections” means all amounts required to be paid in cash by any Originator to the Borrower (whether or not actually paid) pursuant to Section 3.3 of the Purchase and Sale Agreement.

“Default Ratio” means the ratio (expressed as a percentage and rounded to the nearest 1/100 of 1%, with 5/1000th of 1% rounded upward) computed as of the last day of each Fiscal Month by dividing: (a) the aggregate Outstanding Balance of all Pool Receivables that became Defaulted Receivables during such month, by (b) the aggregate initial Outstanding Balance of all Pool Receivables originated by the Originators during the month that is nine Fiscal Months before such month.

“Defaulted Receivable” means a Pool Receivable:

(a) as to which any payment, or part thereof, remains unpaid for more than 270 days from the original invoice date for such payment;

(b) that is a Charged-Off Receivable; or

(c) as to which an Insolvency Proceeding shall have occurred with respect to the Pool Obligor thereof.

“Defaulting Credit Party” means any Affected Person that (a) has failed to fund any portion of any Loan (whether directly or indirectly) required to be funded by it within two Business Days of the date required to be funded, (b) has notified the Borrower or any Credit Party in writing, or has made a public statement, to the effect that it does not intend or expect to comply with any of its funding obligations (whether direct or indirect) with respect to any Loan (unless such writing or public statement indicates that such position is based on such Lender’s good-faith determination that a condition precedent (specifically identified in such writing, including, if applicable, by reference to a specific Default) to funding a Loan cannot be satisfied) or generally under other agreements in which it commits to extend credit, (c) has failed, within three Business Days after request by a Credit Party made in good faith to provide a certification in writing from an authorized officer of such Affected Person that it will comply with its obligations (and is financially able to meet such obligations) to fund (whether directly or indirectly) prospective Loans, provided that such Affected Person shall cease to be a Defaulting Credit Party pursuant to this clause (c) upon such requesting Credit Party’s receipt of such certification in form and substance satisfactory to it and the Administrative Agent or (d) has (i) become the subject of an Insolvency Proceeding, 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; provided that an Affected Person shall not be a Defaulting Credit Party solely by virtue of the ownership or acquisition of any equity interest in that Affected Person 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 Affected Person 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 Affected Person (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Affected Person.

“Delinquency Ratio” means the ratio (expressed as a percentage and rounded to the nearest 1/100 of 1%, with 5/1000th of 1% rounded upward) computed as of the last day of each Fiscal Month by dividing: (a) the aggregate Outstanding Balance of all Pool Receivables that

were Delinquent Receivables on such day, by (b) the aggregate Outstanding Balance of all Pool Receivables on such day.

“Delinquent Receivable” means a Pool Receivable as to which any payment, or part thereof, remains unpaid for more than 180 days from the original invoice date for such payment.

“Dilution Amount” means, with respect to any Fiscal Month, an amount equal to the aggregate reduction in the Outstanding Balance of all Pool Receivables in such Fiscal Month (without giving effect to the receipt of any Deemed Collections) resulting from: (i) defective, rejected or returned goods or services, (ii) revisions, cancellations, allowances, rebates, credit memos, discounts, warranty payments or other voluntary reductions in the amounts actually owed by the applicable Pool Obligor made by the Borrower, any Originator, the Servicer or any of their respective Affiliates (other than as a result of the receipt of Collections), (iii) setoffs, counterclaims or disputes between any Pool Obligor and the Borrower, any Originator, the Servicer or their respective Affiliates (whether arising from the transaction giving rise to a Pool Receivable or any unrelated transaction) or (iv) corrections to the reported Outstanding Balance of any Pool Receivable previously included in the Net Receivables Pool Balance in excess of its actual Outstanding Balance as of the date of such inclusion.

“Dilution Horizon Ratio” means, for any Fiscal Month, the ratio (expressed as a percentage and rounded to the nearest 1/100th of 1%, with 5/1000th of 1% rounded upward) computed as of the last day of such Fiscal Month by dividing: (a) the aggregate initial Outstanding Balance of all Pool Receivables originated by the Originators during the most recent Fiscal Month, by (b) the Net Receivables Pool Balance as of the last day of such Fiscal Month.

“Dilution Ratio” means the ratio (expressed as a percentage and rounded to the nearest 1/100th of 1%, with 5/1000th of 1% rounded upward), computed as of the last day of each Fiscal Month by dividing: (a) the product of (i) 25.00% (or such other percentage reasonably determined by the Administrative Agent, based upon the results of its periodic audits and inspections of the Borrower and the Pool Receivables, to provide an estimate of the portion of Dilution Amounts not attributable to the crediting and rebilling of Pool Receivables) times (ii) the aggregate Dilution Amount with respect to all Pool Receivables for such Fiscal Month, by (b) the aggregate initial Outstanding Balance of all Pool Receivables originated by the Originators during the Fiscal Month prior to such Fiscal Month.

“Dilution Reserve Percentage” means, on any day, the product of (a) the sum of (i) 2.25 times the average of the Dilution Ratios for the twelve most recent Fiscal Months, plus (ii) the Dilution Volatility Component, multiplied by (b) the Dilution Horizon Ratio.

“Dilution Volatility Component” means, for any Fiscal Month, (a) the positive difference, if any, between: (i) the highest Dilution Ratio for any Fiscal Month during the twelve most recent Fiscal Months and (ii) the arithmetic average of the Dilution Ratios for such twelve Fiscal Months, times (b) (i) the highest Dilution Ratio for any Fiscal Month during the twelve most recent Fiscal Months, divided by (ii) the arithmetic average of the Dilution Ratios for such twelve Fiscal Months.

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

“Electronic Invoice System” means the electronic system or systems from time to time maintained by the Servicer or for the Servicer by third party vendors used in the ordinary course of the Servicer’s business, in either case for purposes of capturing invoice data, creating and/or generating invoices, storing and tracking invoices and otherwise administering invoices with respect to Pool Receivables.

“Eligible Assignee” means (i) any Committed Lender or any of its Affiliates, (ii) any bank or financial institution reasonably acceptable to the Administrative Agent and for so long as no Termination Event or Unmatured Termination Event has occurred and is continuing, consented to by the Borrower (such consent not to be unreasonably withheld or delayed) or (iii) in the case of a Conduit Lender’s assignee, a multi-seller asset backed commercial paper conduit sponsored or administered by such Conduit Lender’s Committed Lender or an Affiliate of such Committed Lender, which commercial paper conduit’s Notes have short-term credit ratings of “A1” (or better) by S&P and “P1” (or better) by Moody’s and for so long as no Termination Event or Unmatured Termination Event has occurred and is continuing, which commercial paper conduit has been consented to by the Borrower (such consent not to be unreasonably withheld or delayed).

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

(a) (a) the Pool Obligor of which is: (i) a resident of the United States of America; (ii) not a Sanctioned Person or a Person listed or otherwise recognized as a specially designated, prohibited, sanctioned or debarred person, group, regime, entity or thing, or subject to any limitations or prohibitions (including but not limited to the blocking of property or rejection of transactions), under any Anti-Terrorism Law; (iii) not subject to any Insolvency Proceeding; (iv) not an Affiliate of the Borrower, the Servicer or any Originator; (v) not the Obligor with respect to Defaulted Receivables with an aggregate Outstanding Balance exceeding 50% of the aggregate Outstanding Balance of all such Obligor’s Pool Receivables, (vi) not a natural person, and (vii) not an Excluded Obligor;

(b) that is denominated and payable only in U.S. dollars in the United States of America, and the Pool Obligor with respect to which has been instructed to remit Collections in respect thereof directly to a Lock-Box or Lock-Box Account in the United States of America;

(c) that does not have a due date which is more than 90 days after the original invoice date of such Receivable;

(d) that arises under a Contract for the sale of goods or services or the license of software in the ordinary course of the applicable Originator’s business;

(e) that arises under a duly authorized Contract that is in full force and effect and that is a legal, valid and binding obligation of the related Pool Obligor, enforceable against such Pool Obligor in accordance with its terms;

(f) that, together with the Contract related thereto, conforms in all material respects with all Applicable Laws then in effect;

(g) that is not subject to any existing dispute, right of rescission, set-off, counterclaim, hold back defense or other defense against payment or Adverse Claim, in each case, only with respect to the portion of the Outstanding Balance of such Pool Receivable that is subject to such dispute, right of rescission, set-off, counterclaim, defense or Adverse Claim; provided that the deferred revenue liability included in the Specifically Reserved Maintenance Revenue Amount shall not constitute a dispute, right of rescission, set-off, counterclaim, hold back defense or other defense for purposes of this definition;

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

(i) that, together with the provisions of the Contract affecting such Receivable, has not been modified, waived or restructured since its creation, except with the written consent of the Administrative Agent and the Majority Group Agents or as otherwise permitted pursuant to Section 8.02 of this Agreement;

(j) in which the Borrower owns good and marketable title, free and clear of any Adverse Claims, and that is freely assignable (including without any consent of the related Pool Obligor or any Governmental Authority), giving effect to any applicable provisions of the UCC regarding restrictions or prohibitions on assignment;

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

(l) that constitutes an “account,” “general intangible” or “chattel paper” and that is not evidenced by an “instrument,” each as defined in the UCC;

(m) that is neither a Defaulted Receivable nor a Delinquent Receivable;

(n) that represents amounts earned and payable by the Pool Obligor that are not subject to the performance of additional services or delivery of additional goods by the Originator thereof; provided, however, that if such Receivable is subject to the performance of additional services or delivery of additional goods by the Originator thereof, only the portion of such Receivable attributable to such additional services or goods shall be excluded from Eligible Receivables; and

(o) which Receivable has been or will be billed or invoiced to the Obligor thereon within the next thirty days (or such longer period consented to by the Administrator and the Group Agents).

“Equity Interest” means shares of capital stock, partnership interests, membership interests, beneficial interests or other ownership interests, whether voting or nonvoting, in, or

interests in the income or profits of, a Person, and any warrants, options or other rights entitling the holder thereof to purchase or acquire any of the foregoing.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended from time to time, and any rule or regulation issued thereunder.

“ERISA Affiliate” means any trade or business (whether or not incorporated) that, together with the Borrower, is treated as a single employer under Section 414(b) or 414(c) of the Code or, solely for purposes of Section 302 of ERISA and Section 412 of the Code, is treated as a single employer under Section 414(m) or 414(o) of the Code.

“Euro Rate” means for any day during any Interest Period, the interest rate per annum determined by the applicable Group Agent (which determination shall be conclusive absent manifest error) by dividing (i) the one-month Eurodollar rate for U.S. dollar deposits as reported by Bloomberg Finance L.P. and shown on US0001M Screen or any other service or page that may replace such page from time to time for the purpose of displaying offered rates of leading banks for London interbank deposits in United States dollars, as of 11:00 a.m. (London time) on the second Business Day preceding the first day of such Interest Period (or if not so reported, then as determined by the Administrative Agent from another recognized source for interbank quotation), by (ii) a number equal to 1.00 minus the Euro-Rate Reserve Percentage on such day. The calculation of the Euro Rate may also be expressed by the following formula:

$$\text{Euro Rate} = \frac{\text{One-month Eurodollar rate for U.S. Dollars shown on Bloomberg US0001M Screen or appropriate successor}}{1.00 - \text{Euro-Rate Reserve Percentage.}}$$

“Euro-Rate Reserve Percentage” means, the maximum effective percentage in effect on such day as prescribed by the Board of Governors of the Federal Reserve System (or any successor) for determining the reserve requirements (including without limitation, supplemental, marginal and emergency reserve requirements) with respect to eurocurrency funding (currently referred to as “Eurocurrency Liabilities”).

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

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

(b) the excess (if any) of (i) the aggregate Outstanding Balance of all Eligible Receivables as to which any payment, or part thereof, remains unpaid for more than 90 days from the original invoice date for such payment over (ii) the product of (x) 15.00%,

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 as to which any payment, or part thereof, remains unpaid for more than 120 days but less than 151 days from the original invoice date for such payment over (ii) the product of (x) 10.00%, 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 as to which any payment, or part thereof, remains unpaid for more than 150 days from the original invoice date for such payment over (ii) the product of (x) 5.00%, multiplied by (y) the aggregate Outstanding Balance of all Eligible Receivables then in the Receivables Pool; plus

(e) the excess (if any) of (i) the aggregate Outstanding Balance of all Eligible Receivables, the Obligor of which is a Governmental Authority, over (ii) the product of (x) 5.00%, multiplied by (y) the aggregate Outstanding Balance of all Eligible Receivables then in the Receivables Pool;

provided, however, that for the avoidance of doubt, the aggregate amount included in the Excess Concentration Amount at any time with respect to any Pool Obligor's Eligible Receivables shall not exceed the aggregate Outstanding Balance of all such Pool Obligor's Eligible Receivables at such time.

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

“Excluded Obligor” has the meaning set forth in the Purchase and Sale Agreement.

“Excluded Taxes” means any of the following Taxes imposed on or with respect to an Affected Person or required to be withheld or deducted from a payment to an Affected Person: (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes and branch profits Taxes, in each case, (i) imposed as a result of such Affected Person being organized under the laws of, or having its principal office or, in the case of any Lender, 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 Lender, U.S. federal withholding Taxes imposed on amounts payable to or for the account of such Lender with respect to an applicable interest in the Loans or Commitment pursuant to a law in effect on the date on which (i) such Lender acquires such interest in the Loan or Commitment (other than pursuant to an assignment request by the Borrower under Section 4.06) or (ii) such Lender changes its lending office, except in each case to the extent that amounts with respect to such Taxes were payable either to such Lender's assignor immediately before such Lender became a party hereto or to such Lender immediately before it changed its lending office, (c) Taxes attributable to such Recipient's failure to comply with Section 4.03(f) and (d) any U.S. federal withholding Taxes imposed under FATCA.

“Facility Limit” means, at any time of determination, the aggregate Commitment of all Committed Lenders, which as of the Closing Date is equal to \$200,000,000, as reduced from time to time pursuant to Section 2.02(e). References to the unused portion of the Facility Limit shall mean, at any time of determination, an amount equal to (x) the Facility Limit at such time, minus (y) the Aggregate Capital.

“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 and any agreements entered into pursuant to Section 1471(b)(1) of the Code.

“Federal Funds Rate” means, for any day, the per annum rate set forth in the weekly statistical release designated as H.15(519), or any successor publication, published by the Federal Reserve Board (including any such successor, “H.15(519)”) for such day opposite the caption “Federal Funds (Effective).” If on any relevant day such rate is not yet published in H. 15(519), the rate for such day will be the rate set forth in the daily statistical release designated as the Composite 3:30 p.m. Quotations for U.S. Government Securities, or any successor publication, published by the Federal Reserve Bank of New York (including any such successor, the “Composite 3:30 p.m. Quotations”) for such day under the caption “Federal Funds Effective Rate.” If on any relevant day the appropriate rate is not yet published in either H.15(519) or the Composite 3:30 p.m. Quotations, the rate for such day will be the arithmetic mean as determined by the Administrative Agent of the rates for the last transaction in overnight Federal funds arranged before 9:00 a.m. (New York time) on that day by each of three leading brokers of Federal funds transactions in New York City selected by the Administrative Agent.

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

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

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

“Final Payout Date” means the date on or after the Termination Date when (i) the Aggregate Capital and Aggregate Interest have been paid in full, (ii) all non-contingent Borrower Obligations then owed by the Borrower shall have been paid in full, (iii) all other non-contingent amounts then owing to the Credit Parties and any other Borrower Indemnified Party or Affected Person hereunder and under the other Transaction Documents have been paid in full and (iv) all accrued Servicing Fees have been paid in full.

“Financial Officer” of any Person means, the chief executive officer, the chief financial officer, the chief accounting officer, the principal accounting officer, the controller, the treasurer, the assistant treasurer, director of finance of such Person or any other employee of such Person exercising management control or responsibilities with respect to such Person’s involvement or performance of the transactions contemplated hereby.

“Fiscal Month” means the Servicer’s accounting month, as reported to the Administrative Agent from time to time.



“Fitch” means Fitch, Inc. and any successor thereto that is a nationally recognized statistical rating organization.

“Foreign Obligor” means an Obligor which is organized in or whose principal place of business is in, any country other than the United States.

“GAAP” means generally accepted accounting principles in the United States of America, consistently applied; provided, however, that if any Person hereafter changes its accounting standards in accordance with applicable laws and regulations, including those of the SEC, to adopt International Financial Reporting Standards, GAAP with respect to such Person will mean such International Financial Reporting Standards after the effective date of such adoption.

“Governmental Authority” means the government of the United States of America or any other nation, or of any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including any supra-national bodies such as the European Union or the European Central Bank).

“Group” means, (i) for any Conduit Lender, such Conduit Lender, together with such Conduit Lender’s Related Committed Lenders and related Group Agent, (ii) for PNC, PNC as a Committed Lender and as a Group Agent, (iii) for any other Lender that does not have a Related Conduit Lender, such Lender, together with such Lender’s related Group Agent and each other Lender for which such Group Agent acts as a Group Agent hereunder.

“Group A Obligor” means any Pool Obligor with short-term ratings of at least: (a) “A-1” by S&P, or if such Obligor does not have a short-term rating from S&P, a rating of at least “A+” by S&P on such Obligor’s long-term senior unsecured and uncredit-enhanced debt securities, and (b) “P-1” by Moody’s, or if such Obligor does not have a short-term rating from Moody’s, a rating of at least “A1” by Moody’s on such Obligor’s long-term senior unsecured and uncredit-enhanced debt securities; provided, however, if such Obligor is rated by only one of such rating agencies, then such Obligor will be a “Group A Obligor” if it satisfies either clause (a) or clause (b) above. Notwithstanding the foregoing, if (x) a Pool Obligor is wholly owned (directly or indirectly) by a parent company that satisfies that credit ratings requirements for a Group A Obligor or (y) such Pool Obligor’s Pool Receivables are guaranteed by an Affiliate of such Pool Obligor that satisfies that credit ratings requirements for a Group A Obligor, in either case, such Pool Obligor shall constitute a Group A Obligor and, for purposes of determining the “Concentration Reserve Percentage” and for purposes of clause (a) in the definition of “Excess Concentration Amount,” such Pool Obligor shall be aggregated with such parent company or Affiliate (as the case may be) and with each other Pool Obligor classified as a Group A Obligor due to the credit ratings of such parent company or Affiliate (as the case may be).

“Group Agent” means each Person acting as agent on behalf of a Group and designated as the Group Agent for such Group on the signature pages to this Agreement or any other Person who becomes a party to this Agreement as a Group Agent for any Group pursuant to an

Assumption Agreement, an Assignment and Acceptance Agreement or otherwise in accordance with this Agreement.

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

“Group B Obligor” means any Pool Obligor that is not a Group A Obligor, with short-term ratings of at least: (a) “A-2” by S&P, or if such Obligor does not have a short-term rating from S&P, a rating of at least “BBB+” by S&P on such Obligor’s long-term senior unsecured and uncredit-enhanced debt securities, and (b) “P-2” by Moody’s, or if such Obligor does not have a short-term rating from Moody’s, a rating of at least “Baa1” by Moody’s on such Obligor’s long-term senior unsecured and uncredit-enhanced debt securities; provided, however, if such Obligor is rated by only one of such rating agencies, then such Obligor will be a “Group B Obligor” if it satisfies either clause (a) or clause (b) above. Notwithstanding the foregoing, if (x) a Pool Obligor is wholly owned (directly or indirectly) by a parent company that satisfies that credit ratings requirements for a Group B Obligor or (y) such Pool Obligor’s Pool Receivables are guaranteed by an Affiliate of such Pool Obligor that satisfies that credit ratings requirements for a Group B Obligor, in either case, such Pool Obligor shall constitute a Group B Obligor and, for purposes of determining the “Concentration Reserve Percentage” and for purposes of clause (a) in the definition of “Excess Concentration Amount,” such Pool Obligor shall be aggregated with such parent company or Affiliate (as the case may be) and with each other Pool Obligor classified as a Group B Obligor due to the credit ratings of such parent company or Affiliate (as the case may be).

“Group C Obligor” means any Pool Obligor that is not a Group A Obligor or a Group B Obligor, with short-term ratings of at least: (a) “A-3” by S&P, or if such Obligor does not have a short-term rating from S&P, a rating of at least “BBB-” by S&P on such Obligor’s long-term senior unsecured and uncredit-enhanced debt securities, and (b) “P-3” by Moody’s, or if such Obligor does not have a short-term rating from Moody’s, at least “Baa3” by Moody’s on such Obligor’s long-term senior unsecured and uncredit-enhanced debt securities; provided, however, if such Obligor is rated by only one of such rating agencies, then such Obligor will be a “Group C Obligor” if it satisfies either clause (a) or clause (b) above. Notwithstanding the foregoing, if (x) a Pool Obligor is wholly owned (directly or indirectly) by a parent company that satisfies that credit ratings requirements for a Group C Obligor or (y) such Pool Obligor’s Pool Receivables are guaranteed by an Affiliate of such Pool Obligor that satisfies that credit ratings requirements for a Group C Obligor, in either case, such Pool Obligor shall constitute a Group C Obligor and, for purposes of determining the “Concentration Reserve Percentage” and for purposes of clause (a) in the definition of “Excess Concentration Amount,” such Pool Obligor shall be aggregated with such parent company or Affiliate (as the case may be) and with each other Pool Obligor classified as a Group C Obligor due to the credit ratings of such parent company or Affiliate (as the case may be).

“Group Commitment” means, with respect to any Group, at any time of determination, the aggregate Commitments of all Committed Lenders within such Group.

“Group D Obligor” means any Pool Obligor that is not a Group A Obligor, Group B Obligor or Group C Obligor.

“Hedging Agreement” means any agreement with respect to any swap, forward, future or derivative transaction, or any option or similar agreement, involving, or settled by reference to, one or more rates, currencies, commodities, prices of equity or debt securities or instruments, or economic, financial or pricing indices or measures of economic, financial or pricing risk or value, or any similar transaction or combination of the foregoing transactions; 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 a Person shall be a Hedging Agreement.

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

“Independent Manager” means a natural person appointed as an “Independent Manager” of the Borrower in accordance with and as defined in the Borrower’s Limited Liability Company Agreement who (A) for the five-year period prior to his or her appointment as an “Independent Manager” of the Borrower has not been, and during the continuation of his or her service as an “Independent Manager” of the Borrower is not: (i) an employee, director, stockholder, member, manager, partner or officer of the Borrower, its sole member or any of their respective Affiliates (other than his or her service as an “Independent Manager” of the Borrower); (ii) a customer or supplier of the Borrower, its sole member or any of their respective Affiliates (other than his or her service as an “Independent Manager” of the Borrower); or (iii) any member of the immediate family of a person described in (i) or (ii), and (B) (i) has prior experience as an independent director, manager or partner for an entity involved in a structured financing transaction whose charter documents require the consent of all independent directors, managers or partners thereof before such entity 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) is providing its services as an “Independent Manager” of the Borrower through a recognized third party provider of professional independent director, manager or partner services in the ordinary course of its business.

“Information” has the meaning set forth in Section 13.06.

“Information Package” means a report, in substantially the form of Exhibit E.

“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, (b) any general assignment for the benefit of creditors of a Person, composition, marshaling of assets for creditors of a Person, or other, similar arrangement in respect of its creditors generally or any substantial portion of its creditors, in each of cases (a) and (b) undertaken under U.S. Federal, state or foreign law, including the Bankruptcy Code.

“Inspection” has the meaning set forth in Section 7.01(g).

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

“Intercreditor Agreement” means the Intercreditor Agreement, dated as of November 21, 2014 by and among JPMorgan Chase Bank, N.A., as administrative agent and collateral agent under the NCR Credit Agreement and the “Guarantee and Collateral Agreement” as defined therein, PNC, as Administrative Agent, NCR and the Borrower, as the same may be amended, restated, supplemented or otherwise modified from time to time.

“Interest” means, for each Loan for any Interest Period (or portion thereof), the amount of interest accrued on the Capital of such Loan during such Interest Period (or portion thereof) in accordance with Section 2.03(b).

“Interest Period” means: (a) before the Termination Date: (i) initially the period commencing on the date of the initial Loan pursuant to Section 2.01 (or in the case of any fees payable hereunder, commencing on the Closing Date) and ending on (but not including) the next Monthly Settlement Date and (ii) thereafter, each period commencing on such Monthly Settlement Date and ending on (but not including) the next Monthly Settlement Date and (b) on and after the Termination 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 Majority Group Agents) or, in the absence of any such selection, each period of 30 days from the last day of the preceding Interest Period.

“Interest Rate” means, for any day in any Interest Period for any Loan (or any portion of Capital thereof):

(a) if such Loan (or such portion of Capital thereof) is being funded by a Conduit Lender on such day through the issuance of Notes, the applicable CP Rate; or

(b) if such Loan (or such portion of Capital thereof) is being funded by any Lender on such day other than through the issuance of Notes (including, without limitation, if a Conduit Lender is then funding such Loan (or such portion or Capital thereof) under a Program Support Agreement, or if a Committed Lender is then funding such Loan (or such portion or Capital thereof)), the applicable Bank Rate;

provided, however, that no provision of this Agreement or the RFA Notes shall require the payment or permit the collection of Interest in excess of the maximum permitted by Applicable Law; and provided, further, that Interest for any Loan 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.

“Investment Company Act” means the Investment Company Act of 1940, as amended or otherwise modified from time to time.

“IRS” means the United States Internal Revenue Service.

“Lenders” means the Conduit Lenders and the Committed Lenders.

“Level 1 Ratings Trigger” shall be deemed to be in effect at any time when (i) NCR has a long-term “corporate family rating” of less than “Ba3” by Moody’s or does not have a long-term “corporate family rating” from Moody’s or (ii) NCR has a long-term “corporate credit rating” of less than “BB-” by S&P or does not have a long-term “corporate credit rating” from S&P.

“LIBOR Rate” means (i) for any Lender with which the Borrower has agreed in writing that its LIBOR Rate shall be LMIR, LMIR, or (ii) for any other Lender (including, as of the Closing Date, PNC and BTMU), the Euro Rate.

“LMIR” means for any day during any Interest Period, the interest rate per annum determined by the applicable Group Agent (which determination shall be conclusive absent manifest error) by dividing (i) the one-month Eurodollar rate for U.S. dollar deposits as reported by Bloomberg Finance L.P. and shown on US0001M Screen or any other service or page that may replace such page from time to time for the purpose of displaying offered rates of leading banks for London interbank deposits in United States dollars, as of 11:00 a.m. (London time) on such day, or if such day is not a Business Day, then the immediately preceding Business Day (or if not so reported, then as determined by the Administrative Agent from another recognized source for interbank quotation), in each case, changing when and as such rate changes, by (ii) a number equal to 1.00 minus the Euro-Rate Reserve Percentage on such day. The calculation of LMIR may also be expressed by the following formula:

$$\text{LMIR} = \frac{\text{One-month Eurodollar rate for U.S. Dollars shown on Bloomberg US0001M Screen or appropriate successor}}{1.00 - \text{Euro-Rate Reserve Percentage.}}$$

LMIR shall be adjusted on the effective date of any change in the Euro-Rate Reserve Percentage as of such effective date.

“Loan” means any loan made by a Lender pursuant to Section 2.02.

“Loan Request” means a letter in substantially the form of Exhibit A hereto executed and delivered by the Borrower to the Administrative Agent and the Group Agents pursuant to Section 2.02(a).

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

“Lock-Box Account” means each account listed on Schedule II to this Agreement (as such schedule may be modified from time to time in connection with the closing or opening of any Lock-Box Account in accordance with the terms hereof) (in each case, in the name of the Borrower)

and maintained at a bank or other financial institution acting as a Lock-Box Bank pursuant to a Lock-Box Agreement for the purpose of receiving Collections.

“Lock-Box Agreement” means each agreement, in form and substance satisfactory to the Administrative Agent, among the Borrower, the Servicer (if applicable), the Administrative Agent and a Lock-Box Bank, governing the terms of the related Lock-Box Accounts, as the same may be amended, restated, supplemented or otherwise modified from time to time.

“Lock-Box Bank” means any of the banks or other financial institutions holding one or more Lock-Box Accounts.

“Loss Horizon Eight Months Ratio” means, at any time of determination, the ratio (expressed as a percentage and rounded to the nearest 1/100 of 1%, with 5/1000th of 1% rounded upward) computed by dividing: (a) the aggregate initial Outstanding Balance of all Pool Receivables originated by the Originators during the eight most recent Fiscal Months, by (b) the Net Receivables Pool Balance as of such date.

“Loss Horizon Five Months Ratio” means, at any time of determination, the ratio (expressed as a percentage and rounded to the nearest 1/100 of 1%, with 5/1000th of 1% rounded upward) computed by dividing: (a) the aggregate initial Outstanding Balance of all Pool Receivables originated by the Originators during the five most recent Fiscal Months, by (b) the Net Receivables Pool Balance as of such date.

“Loss Reserve Percentage” means, at any time of determination, the sum of (a) 85.00% times the product of (i) 2.25, times (ii) the highest average of the Default Ratios for any three consecutive Fiscal Months during the twelve most recent Fiscal Months, times (iii) the Loss Horizon Five Months Ratio, plus (b) 15.00% times the product of (i) 2.25, times (ii) the highest average of the Default Ratios for any three consecutive Fiscal Months during the twelve most recent Fiscal Months, times (iii) the Loss Horizon Eight Months Ratio.

“Majority Group Agents” means one or more Group Agents which in its Group, or their combined Groups, as the case may be, have Committed Lenders representing more than 50% of the aggregate Commitments of all Committed Lenders in all Groups (or, if the Commitments have been terminated, have Lenders representing more than 50% of the Aggregate Capital); provided, however, that so long as there are two or more Groups party hereto, no less than two Group Agents shall constitute the Majority Group Agents.

“Material Adverse Effect” means, with respect to any event or circumstance and with respect to any Person (or if no Person is specified, with respect to the Borrower, the Originators and the Servicer), a material adverse effect on:

(a) the assets, operations, business or financial condition of such Person;

(b) the ability of any such Person to perform its obligations under this Agreement or any other Transaction Document to which it is a party;

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

(d) the status, perfection, enforceability or priority of the interest of the Administrative Agent (for the benefit of the Secured Parties) in the Pool Receivables.

“Material Indebtedness” means Debt (other than Debt under the Transaction Documents), or obligations in respect of one or more Hedging Agreements, of any one or more of the Borrower, the Servicer or an Originator in an aggregate principal amount of (i) \$50,000,000 or more, in the case of Debt or Hedging Agreements of or guaranteed by the Servicer or an Originator and (ii) \$15,325 or more, in the case of Debt or Hedging Agreements of the Borrower. For purposes of determining Material Indebtedness, the “principal amount” of the obligations of the Borrower, the Servicer or an Originator in respect of any Hedging Agreement at any time shall be the maximum aggregate amount (giving effect to any netting agreements) that such Person would be required to pay if such Hedging Agreement were terminated at such time.

“Maturity Date” means the earlier to occur of (a) the date occurring 365 days following the Scheduled Termination Date and (b) the date on which the “Termination Date” is declared or deemed to have occurred under Section 9.01.

“Minimum Dilution Reserve Percentage” means, on any day, the product of (a) the average of the Dilution Ratios for the twelve most recent Fiscal Months, multiplied by (b) the Dilution Horizon Ratio.

“Monthly Settlement Date” means the 26th day of each calendar month (or if such day is not a Business Day, the next occurring Business Day).

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

“Multiemployer Plan” means a multiemployer plan as defined in Section 4001(a)(3) of ERISA to which the Borrower or any of its ERISA Affiliates is making or accruing an obligation to make contributions, or has within any of the preceding five plan years made or accrued an obligation to make contributions.

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

“NCR Credit Agreement” means the Credit Agreement, dated as of August 22, 2011, as amended and restated as of July 25, 2013, among NCR, as borrower, the lenders from time to time party thereto, JPMorgan Chase Bank, N.A., as administrative agent and collateral agent, and the various financial institutions party thereto as joint lead arrangers, joint bookrunners, co-documentation agents, joint syndication agents and joint senior managing agents, as amended, supplemented or otherwise modified from time to time.

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

“Notes” means short-term promissory notes issued, or to be issued, by any Conduit Lender to fund its investments in accounts receivable or other financial assets.

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

“Obligor Percentage” means, at any time of determination, for each Pool Obligor, a fraction, expressed as a percentage, (a) the numerator of which is the aggregate Outstanding Balance of the Eligible Receivables of such Obligor less the amount (if any) then included in the calculation of clause (a) of the Excess Concentration Amount with respect to such Obligor and (b) the denominator of which is the aggregate Outstanding Balance of all Eligible Receivables at such time.

“Originator” and “Originators” have the meaning set forth in the Purchase and Sale Agreement, as the same may be modified from time to time by adding new Originators or removing Originators, in each case with the prior written consent of the Administrative Agent.

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

“Other Taxes” means all present or future stamp, court or documentary, intangible, recording, filing or similar Taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, any Loan Document or RFA Note except any such Taxes that are Other Connection Taxes imposed with respect to an assignment (other than an assignment made pursuant to Section 4.06).

“Outstanding Balance” means, at any time of determination, with respect to any Receivable, the then outstanding principal amount of such Receivable; provided, that the Outstanding Balance of a Charged-Off Receivable shall be zero.

“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, or any successor thereto.

“Pension Plan” means a pension plan as defined in Section 3(2) of ERISA (other than a Multiemployer Plan) that is subject to the provisions of Title IV of ERISA or Section 412 of the Code or Section 302 of ERISA and with respect to which the Borrower or any of its ERISA Affiliates may have any liability, contingent or otherwise.



“Performance Guaranty” means any performance guaranty executed and delivered by NCR in favor of the Administrative Agent for the benefit of the Credit Parties pursuant to Section 4.3(d) of the Purchase and Sale Agreement, as any such performance guaranty may be amended, restated, supplemented or otherwise modified from time to time.

“Permitted Revolver Pledge” means the grant of a security interest in the Subordinated Notes to JPMorgan Chase Bank, N.A., as collateral agent, pursuant to the NCR Credit Agreement and the “Collateral Agreement” and “Security Documents” as defined therein.

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

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

“Pool Obligor” means an Obligor under a Pool Receivable.

“Pool Receivable” means a Receivable in the Receivables Pool.

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

“Pro Rata Percentage” means, at any time of determination, with respect to any Committed Lender, 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 all Loans being funded by the Lenders in such Committed Lender’s Group at such time and (b) the denominator of which is (i) prior to the termination of all Commitments hereunder, the aggregate Commitments of all Committed Lenders at such time or (ii) if all Commitments hereunder have been terminated, the Aggregate Capital at such time.

“Program Support Provider” means, with respect to a Conduit Lender, any bank, insurance company or other funding institution providing liquidity, credit enhancement or back-up purchase support or facilities to such Conduit Lender.

“Purchase and Sale Agreement” means the Purchase and Sale Agreement, dated as of the Closing Date, among NCR, as an Originator, the other Originators from time to time part thereto, and the Borrower, as such agreement may be amended, supplemented or otherwise modified from time to time.

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

“Rating Agency” means each of S&P, Fitch and Moody’s, to the extent then rating the Notes of any Conduit Lender (and/or each other rating agency then rating the Notes of any Conduit Lender).

“Receivable” means any right to payment of a monetary obligation owed to any Originator or the Borrower (as assignee of an Originator), whether constituting an account, chattel paper, payment intangible, instrument or general intangible, in each instance arising in connection with the sale of goods, for services rendered or the license of software, and includes, without limitation, the obligation to pay any finance charges, fees and other charges with respect thereto. Any such right to payment arising from any one transaction, including, without limitation, any such right to payment represented by an individual invoice or agreement, shall constitute a Receivable separate from a Receivable consisting of any such right to payment arising from any other transaction.

“Receivables Pool” means, at any time of determination, all of the then outstanding Receivables transferred (or purported to be transferred) to the Borrower pursuant to the Purchase and Sale Agreement prior to the Termination Date.

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

“Reinvestment” has the meaning set forth in Section 3.01(a).

“Related Committed Lender” means with respect to any Conduit Lender, each Committed Lender listed as such for each Conduit Lender as set forth on the signature pages of this Agreement or in any Assumption Agreement.

“Related Conduit Lender” means, with respect to any Committed Lender, each Conduit Lender which is, or pursuant to any Assignment and Acceptance Agreement or Assumption Agreement or otherwise pursuant to this Agreement becomes, included as a Conduit Lender in such Committed Lender’s Group, as designated on its signature page hereto or in such Assignment and Acceptance Agreement, Assumption Agreement or other agreement executed by such Committed Lender, as the case may be.

“Related Indemnified Party” means, with respect to any Person, such Person’s Related Parties and any other Person through which such first Person may claim reimbursement, compensation, contribution or indemnity hereunder by virtue of its relationship with such other Person.

“Related Party” means, with respect to any Person, such Person’s Affiliates and the officers, directors, managers, agents and employees of such Person and its Affiliates.

“Related Rights” has the meaning set forth in Section 1.1 of the Purchase and Sale Agreement.

“Related Security” means, with respect to any Pool Receivable:

(a) all of the Borrower’s and each Originator’s interest in any goods (including returned goods), and documentation of title evidencing the shipment or storage of any goods (including returned goods), the sale or license of which gave rise to such Receivable;

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

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

(d) solely to the extent applicable to such Receivable, all of the Borrower's and each Originator's rights, interests and claims under the related Contracts and all guaranties, indemnities, insurance and other agreements or arrangements constituting supporting obligations supporting payment and/or performance of any of the foregoing;

(e) all books and records of the Borrower and each Originator with respect to the foregoing;

(f) all of the Borrower's rights, interests and claims under the Purchase and Sale Agreement with respect to such Receivable; and

(g) all proceeds of the foregoing.

“Reportable Event” means any reportable event as defined in Section 4043(c) of ERISA or the regulations issued thereunder with respect to a Pension Plan (other than an event for which the 30-day notice period is waived).

“Required Capital Amount” means, at any time of determination, an amount equal to the Total Reserves at such time.

“Restricted Payments” has the meaning set forth in Section 7.01(s).

“RFA Notes” has the meaning set forth in Section 2.05.

“S&P” means Standard & Poor's Rating Services, a Standard & Poor's Financial Services LLC business, and any successor thereto that is a nationally recognized statistical rating organization.

“Sanctioned Country” means a country subject to a sanctions program identified by the U.S. Department of Treasury's Office of Foreign Assets Control.

“Sanctioned Person” means any Person on the list of Specially Designated Nationals and Blocked Persons or subject to the limitations or prohibitions under any other U.S. Department of Treasury's Office of Foreign Assets Control regulation or executive order.

“Scheduled Termination Date” means November 21, 2016.

“SEC” means the U.S. Securities and Exchange Commission.

“Secured Parties” means each Credit Party, each Borrower Indemnified Party and each Affected Person.

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

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

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

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

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

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

“Settlement Date” means with respect to any Portion of Capital for any Interest Period or any Fees, (i) prior to the Termination Date, the Monthly Settlement Date and (ii) on and after the Termination Date, each day selected from time to time by the Administrative Agent (with the consent or at the direction of the Majority Group Agents) (it being understood that the Administrative Agent (with the consent or at the direction of the Majority Group Agents) may select such Settlement Date to occur as frequently as daily) or, in the absence of such selection, the Monthly Settlement Date.

“Solvent” means, with respect to any Person and as of any particular date, (i) the present fair value of the assets of such Person exceeds the liabilities of such Person, (ii) the fair value of the assets of such Person exceeds the probable liability on such Person’s debts as such debts become absolute and matured, (iii) such Person is able to pay its debts as they mature and (iv) such Person’s capital is not unreasonably small for the business in which it is engaged.

“Specifically Reserved Maintenance Revenue Amount” means the lesser of (i) the amount then included in the deferred revenue liability reported on the Originators’ books and records in respect of payments made by Persons that are Obligor on Eligible Receivables for goods or services that have not yet been delivered or performed by the Originators (and, for the avoidance of doubt, excluding any portion of such deferred revenue liability in respect of outstanding Receivables, rather than payments, that remain subject to the performance of additional services or delivery of additional goods by Originators) and (ii) the aggregate Outstanding Balance of the Eligible Receivables then owing by such Obligor.

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

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

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

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

“Termination Date” means the earliest to occur of (a) the Scheduled Termination Date, (b) the date on which the “Termination Date” is declared or deemed to have occurred under Section 9.01, (c) the Purchase and Sale Termination Date (as defined in the Purchase and Sale Agreement) with respect to all remaining Originators, and (d) the date selected by the Borrower on which all Commitments have been reduced to zero pursuant to Section 2.02(e).

“Termination Event” has the meaning set forth in Section 9.01. For the avoidance of doubt, a Termination Event shall occur only after applicable cure periods, if any, specified in Section 9.01 have expired, and any Termination Event that occurs shall be deemed to be continuing at all times thereafter unless and until waived in accordance with Section 13.01.

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

“Transaction Documents” means this Agreement, the RFA Notes, the Purchase and Sale Agreement, the Lock-Box Agreements, the Fee Letter, the Intercreditor Agreement, each Subordinated Note, any Performance Guaranty, the Borrower’s Limited Liability Company Agreement, in each case as the same may be amended, supplemented or otherwise modified from time to time in accordance with this Agreement.

“Transaction Information” means any information provided to any Rating Agency for the purpose of such Rating Agency providing or proposing to provide a rating of any Notes or monitoring such rating including, without limitation, any such information relating to the Borrower, the Originator, the Servicer or the Pool Receivables.

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

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

“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 4.03(f)(ii)(D).

“Victory” means Victory Receivables Corporation, a Delaware corporation.

“Withdrawal Liability” means liability to a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as such terms are defined in Part I of Subtitle E of Title IV of ERISA.

“Withholding Agent” means the Borrower, the Servicer or the Administrative Agent.

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

$$\frac{1.50 \times \text{DSO} \times (\text{BR} + \text{SFR})}{360}$$

where:

BR = the Base Rate;

DSO = the Days’ Sales Outstanding for the most recently ended Fiscal Month; and

SFR = the Servicing Fee Rate.

SECTION 1.02. Other Interpretative Matters. All accounting terms not specifically defined herein shall be construed in accordance with GAAP. All terms used in Article 9 of the UCC in the State of New York and not specifically defined herein, are used herein as defined in such Article 9. Unless otherwise expressly indicated, all references herein to “Article,” “Section,” “Schedule,” “Exhibit” or “Annex” shall mean articles and sections of, and schedules, exhibits and annexes to, this Agreement. For purposes of this Agreement, 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 this Agreement as a whole and not to any particular provision of this Agreement (and the words “thereof,” “therein” and “thereunder” have a corresponding meaning when used with other agreements or documents); (c) references to any Section, Schedule or Exhibit are references to Sections, Schedules and Exhibits 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 where a particular date or timeframe is relevant refer to that Applicable Law as amended or otherwise modified and as in effect on such date or within such timeframe and, if applicable, includes any successor Applicable Law; (f) references to any agreement where a particular date or timeframe is relevant refer to that agreement as amended or otherwise modified and as in effect on such date or within such timeframe; (g) references to any Person include that Person’s permitted successors and assigns; (h) headings and captions 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 LOANS

SECTION 2.01. Loan Facility. Upon a request by the Borrower pursuant to Section 2.02, and on the terms and subject to the conditions hereinafter set forth, the Conduit Lenders, ratably, in accordance with the aggregate of the Commitments of the Related Committed Lenders with respect to each such Conduit Lender, severally and not jointly, may, in their sole discretion, make Loans to the Borrower on a revolving basis, and if and to the extent any Conduit Lender does not make any such requested Loan or if any Group does not include a Conduit Lender, the Related Committed Lender(s) for such Conduit Lender or the Committed Lender for such Group, as the case may be, shall, ratably in accordance with their respective Commitments, severally and not jointly, make such Loans to the Borrower, in either case, from time to time during the period from the Closing Date to the Termination Date. Under no circumstances shall any Lender be obligated to make any such Loan to the extent that, after giving effect to such Loan and all other Loans being made on such date:

- (i) the Aggregate Capital would exceed the Facility Limit;
- (ii) the sum of (A) the Capital of such Lender, plus (B) the aggregate outstanding Capital of each other Lender in its Group, would exceed the Group Commitment of such Lender's Group;
- (iii) if such Lender is a Committed Lender, the aggregate outstanding Capital of such Committed Lender would exceed its Commitment; or
- (iv) the Aggregate Capital would exceed the Borrowing Base.

SECTION 2.02. Making Loans; Repayment of Loans. (a) Each Loan hereunder shall be made on at least one (1) Business Day's prior written request from the Borrower to the Administrative Agent and each Group Agent in the form of a Loan Request attached hereto as Exhibit A. Each such request for a Loan shall be made no later than 11:00 a.m. (New York City time) on a Business Day (it being understood that any such request made after such time shall be deemed to have been made on the following Business Day) and shall specify (i) the amount of the Loan(s) requested (which shall not be less than \$1,000,000 and shall be an integral multiple of \$100,000), (ii) the allocation of such amount among the Groups (which shall be ratably based on the Group Commitments), (iii) the account to which the proceeds of such Loan shall be distributed and (iv) the date such requested Loan is to be made (which shall be a Business Day).

(b) On the date of each Loan, the Lenders shall, upon satisfaction of the applicable conditions set forth in Article V and in accordance with the other conditions set forth in this Article II, make available to the Borrower in same day funds an aggregate amount equal to the amount of such Loans requested, at the account set forth in the related Loan Request.

(c) Each Committed Lender's obligation shall be several, such that the failure of any Committed Lender to make available to the Borrower any funds in connection with any Loan shall not relieve any other Committed Lender of any obligation hereunder to make funds available on the date such Loans are requested (it being understood, that no Committed Lender

shall be responsible for the failure of any other Committed Lender to make funds available to the Borrower in connection with any Loan hereunder).

(d) The Borrower shall repay in full the outstanding Capital of each Lender on the Maturity Date. Prior thereto, the Borrower shall on each Settlement Date, make a prepayment of the outstanding Capital of the Lenders to the extent required under Section 3.01 in accordance with such Section. Without limiting the foregoing, on each Settlement Date the Borrower shall be obligated (without regard to the amount of Collections then available) to prepay the Capital of the Lenders to the extent necessary to cause no Borrowing Base Deficit (determined using the Borrowing Base calculated as of the last day of the preceding Fiscal Month assuming that the amount described in clause (a)(ii) of the definition of "Borrowing Base" is zero) to exist. Notwithstanding the foregoing, the Borrower, in its discretion, shall have the right to make a prepayment, in whole or in part, of the outstanding Capital of the Lenders (together with any accrued Interest and Fees in respect of such prepaid Capital): (i) on any Business Day upon two (2) Business Days' prior written notice (each, a "Reduction Notice") thereof to the Administrative Agent and each Group Agent; provided, however, that each such prepayment shall be in a minimum aggregate amount of \$1,000,000 and shall be an integral multiple of \$100,000 or (ii) within the same Business Day if requested by 10:00 a.m. (New York City time), or on the following Business Day if requested after such time, and without any minimum amount requirement, for the purpose of curing any Borrowing Base Deficit.

(e) The Borrower may, at any time upon at least fifteen (15) days prior written notice to the Administrative Agent and each Group Agent, terminate the Facility Limit in whole or ratably reduce the Facility Limit in part; provided, however, that no such reduction shall reduce the Facility Limit to an amount less than the Aggregate Capital at such time (after giving effect to any repayment of the Aggregate Capital pursuant to clause (f) below). Each partial reduction in the Facility Limit shall be in a minimum aggregate amount of \$2,000,000 and shall be an integral multiple of \$100,000, and no such reduction (other than a reduction of the Facility Limit to zero) shall reduce the Facility Limit to an amount less than \$75,000,000. In connection with any partial reduction in the Facility Limit, the Commitment of each Committed Lender shall be ratably reduced.

(f) In connection with any reduction of the Commitments, the Borrower shall remit to the Administrative Agent (i) instructions regarding such reduction and (ii) for payment to the Lenders, cash in an amount sufficient to pay (A) the Capital of the Lenders in each Group in excess of the Group Commitment of such Group following such reduction, (B) accrued Interest and Fees in respect of the portion of Capital being prepaid, (C) any associated Breakage Fees and (D) to the extent there are any other non-contingent Borrower Obligations then due and owing by the Borrower, the portion of the amount of such Borrower Obligations described in clause (D) above equal to the ratio of the reduction of the Commitments being effected relative to the amount of the Commitments immediately prior to such reduction. Upon receipt of any such amounts, the Administrative Agent shall apply such amounts first to the reduction of the outstanding Capital, and second to the payment of any remaining outstanding Borrower Obligations with respect to such reduction, including any Breakage Fees, by paying such amounts to the Lenders.

### SECTION 2.03. Interest and Fees.



(a) On each Settlement Date, the Borrower shall, in accordance with the terms and priorities for payment set forth in Section 3.01, pay to each Group Agent, each Lender and the Administrative Agent certain fees (collectively, the “Fees”) in the amounts set forth in the fee letter agreements from time to time entered into, among the Borrower, the members of the applicable Group (or their Group Agent on their behalf) and/or the Administrative Agent (each such fee letter agreement, as amended, restated, supplemented or otherwise modified from time to time, collectively being referred to herein as the “Fee Letter”).

(b) The Capital of each Lender shall accrue interest on each day when such Capital remains outstanding at the then applicable Interest Rate for such Lender. The Borrower shall pay all Interest, Fees and Breakage Fees accrued during each Interest Period on the immediately following Settlement Date in accordance with the terms and priorities for payment set forth in Section 3.01.

SECTION 2.04. Records of Loans. Each Group Agent shall record on the applicable RFA Note or in its records, the date and amount of each Loan made by the Lenders in its Group hereunder, the interest rate with respect thereto, the Interest accrued thereon and each repayment and payment thereof. Subject to Section 13.03(c), 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 affect the obligations of the Borrower hereunder or under the other Transaction Documents.

SECTION 2.05. RFA Notes. All Loans made by each Lender hereunder shall be evidenced by a promissory note (as amended, modified, extended or replaced from time to time, each a “RFA Note”) substantially in the form attached hereto as Exhibit H, with appropriate insertions, omissions, substitutions and other variations as are required or permitted by this Agreement, payable by the Borrower to such Lender. The RFA Notes, when signed by an authorized officer of the Borrower and delivered in accordance with the terms of this Agreement, will be duly executed and issued, and will be binding upon the Borrower. Each RFA Note shall be executed by manual or facsimile signature by the Borrower. RFA Notes bearing the manual or facsimile signature of the individual who was, at the time when such signature was affixed, authorized to sign on behalf of the Borrower shall not be rendered invalid, notwithstanding that such individual has ceased to be so authorized prior to the delivery of such RFA Notes or does not hold such office at the date of such RFA Notes.

### **ARTICLE III SETTLEMENT PROCEDURES AND PAYMENT PROVISIONS**

SECTION 3.01. Settlement Procedures.

(a) The Servicer shall set aside and hold in trust for the benefit of the Secured Parties (or, if so requested by the Administrative Agent, segregate in a separate account approved by the Administrative Agent), for application in accordance with the priority of payments set forth below, all Collections on Pool Receivables that are received by the Servicer or the Borrower or received in any Lock-Box or Lock-Box Account; provided, however, that the Servicer may from time to time release to the Borrower from such Collections any amounts

permitted to be released under Section 5.03 and applied by the Borrower towards the purchase price for any Receivables acquired by the Borrower under the Purchase and Sale Agreement (each such release, a “Reinvestment”). On each Settlement Date, the Servicer (or, following its assumption of control of the Lock-Box Accounts, the Administrative Agent) shall, distribute such Collections in the following order of priority:

(i) first, to each Lock-Box Bank, the amount of any fees, costs or expenses payable to such Lock-Box Bank by the Borrower in connection with maintaining its related Lock-Box Account(s) to the extent that such Lock-Box Bank is permitted to debit or otherwise pay itself such fees, costs or expenses from funds on deposit in such Lock-Box Account(s) pursuant to the terms of the applicable Lock-Box Agreement; provided, that the payment of such fees, costs and expenses from Collections on deposit in such Lock-Box Accounts on days other than Settlement Dates in accordance with the terms of the applicable Lock-Box Agreements shall not constitute a breach or default under this Agreement for any purpose;

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

(iii) third, to each Lender and other Credit Party (ratably, based on the amount then due and owing), all accrued and unpaid Interest and Fees and Breakage Fees due to such Lender and other Credit Party for the immediately preceding Interest Period, plus, if applicable, the amount of any such Interest, Fees and Breakage Fees payable for any prior Interest Period to the extent such amount has not been distributed to such Lender or Credit Party;

(iv) fourth, as set forth in clause (x) or (y) below, as applicable:

(x) prior to the occurrence of the Termination Date, to the Lenders (ratably, based on the aggregate outstanding Capital of each Lender at such time) for the payment of a portion of the outstanding Aggregate Capital at such time, an aggregate amount (if any) necessary to cause no Borrowing Base Deficit (determined using the Borrowing Base calculated as of the last day of the preceding Fiscal Month assuming that the amount described in clause (a)(ii) of the definition of “Borrowing Base” is zero) to exist; or

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

(v) fifth, to the Credit Parties, the Affected Persons, the Borrower Indemnified Parties and the Lock-Box Bank (ratably, based on the amount due and owing at such time), for the payment of all other Borrower Obligations then due and owing by the

Borrower to the Credit Parties, the Affected Persons, the Borrower Indemnified Parties and the Lock-Box Bank (including any amounts payable under Sections 4.01, 4.03, 12.01 or 13.04 or under the Lock-Box Agreement);

(vi) sixth, to the Borrower, the amount of any accrued and unpaid interest on the Subordinated Notes, which amount the Borrower shall pay to the applicable Originator(s);

(vii) seventh, prior to the occurrence of the Termination Date, at the election of the Borrower and in accordance with Section 2.02(d), to the payment of all or any portion of the outstanding Capital of the Lenders at such time (ratably, based on the aggregate outstanding Capital of each Lender at such time);

(viii) eighth, to the Borrower, the amount of any unpaid purchase price payable by the Borrower to the Originators for Pool Receivables under the Purchase and Sale Agreement to the extent required to be paid in cash on such Settlement Date, which amount the Borrower shall pay to the applicable Originator(s);

(ix) ninth, to the Borrower, the amount of any principal then due and payable on the Subordinated Notes, which amount the Borrower shall pay to the applicable Originator(s); and

(x) tenth, the remaining balance, if any, to the Borrower for its own account.

If the Servicer receives any cash payments or cash distributions from the Borrower or from Collections during any Interest Period (including in respect of Servicing Fees, expenses, or dividends) at any time during which a Borrowing Base Deficit existed or resulted from such payments or distributions (other than payments or distributions made to the Servicer on Settlement Dates pursuant to Section 3.01(a)), the Servicer shall return the amount of all such payments and distributions to the Borrower on the first Settlement Date following such Interest Period to be treated as Collections and applied in accordance with the priorities set forth in Section 3.01(a); provided, however, that the Servicer may net from the amount it is required to return to the Borrower, the amount (if any) that would otherwise be paid to the Servicer on such Settlement Date pursuant to Section 3.01(a) from available Collections (including Collections returned to the Borrower by the Servicer pursuant to this paragraph and by the Originators pursuant to Section 3.4 of the Purchase and Sale Agreement). If any delay by the Servicer to pay over such amounts causes the Borrower to incur the obligation to pay additional interest or fees in respect of such amounts, the Servicer shall additionally pay over to the Borrower, to be treated as Collections and applied in accordance with the priorities set forth in Section 3.01(a), an amount sufficient to compensate the Borrower for the amount of such interest and fees.

(b) All payments or distributions to be made by the Servicer, the Borrower and any other Person to the Lenders (or their respective related Affected Persons and the Borrower Indemnified Parties), shall be paid or distributed to the related Group Agent at its Group Agent's Account. Each Group Agent, upon its receipt in the applicable Group Agent's Account of any such payments or distributions, shall distribute such amounts to the applicable Lenders, Affected Persons and the Borrower Indemnified Parties within its Group ratably;

provided that if such Group Agent shall have received insufficient funds to pay all of the above amounts in full on any such date, such Group Agent shall pay such amounts to the applicable Lenders, Affected Persons and the Borrower Indemnified Parties within its Group in accordance with the priority of payments set 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 in such Group) among all such Persons in such Group entitled to payment thereof.

(c) If and to the extent the Administrative Agent, any Credit Party, any Affected Person or any Borrower Indemnified Party shall be required for any reason to return to the Borrower or any underlying Obligor (including to any trustee, receiver, custodian or similar official thereof as a result of any Insolvency Proceeding with respect to the Borrower or such Obligor) any amount received on its behalf hereunder, such amount shall be deemed not to have been so received but rather to have been retained by the Borrower and, accordingly, the Administrative Agent, such Credit Party, such Affected Person or such Borrower Indemnified Party, as the case may be, shall have a claim (which claim may be contingent or subject to defenses) against the Borrower for such amount.

(d) If on any day any Originator is required to make a cash payment of Deemed Collections to the Borrower under the Purchase and Sale Agreement, the Borrower shall deposit (or cause to be deposited) the amount of such Deemed Collections to a Lock-Box Account for application as Collections in accordance with Section 3.01(a). The Borrower shall promptly enforce the Originators' obligations to pay Deemed Collections in accordance with the terms of the Purchase and Sale Agreement.

(e) Except as otherwise required by Applicable Law or the relevant Contract and subject to the provisions of the Intercreditor Agreement, all Collections received from a Pool Obligor in payment of any Pool 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.

SECTION 3.02. Payments and Computations, Etc. (a) All amounts to be paid by the Borrower or the Servicer to the Administrative Agent, any Credit Party, any Affected Person or any Borrower Indemnified Party hereunder shall be initiated by wire transfer no later than 11:00 a.m. (New York City time) on the day when due in same day funds to the applicable Group Agent's Account.

(b) Each of the Borrower and the Servicer shall, to the extent permitted by Applicable Law, pay interest on any amount not paid by it when due hereunder, at an interest rate per annum equal to 2.00% per annum above the Base Rate, payable on demand and compounded monthly on each Monthly Settlement Date.

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

than a Business Day, such payment or deposit shall be made on the next succeeding Business Day and such extension of time shall be included in the computation of such payment or deposit.

(d) Solely for purposes of reporting information regarding the Pool Receivables, the Net Receivables Pool Balance and the Borrowing Base in any Information Package, Loan Request or similar report or certification, the portion of the Pool Receivables' aggregate Outstanding Balance that (x) is subject to potential set-off or a similar right of offset or that remains subject to the performance of additional services or delivery of additional goods by the Originators or (y) will be billed or invoiced to the Obligor thereon within the next thirty days (or such longer period consented to by the Administrator and the Group Agents) as contemplated by clause (o) of the definition of "Eligible Receivable," the Seller and the Servicer shall either (i) report the actual amount thereof or (ii) report an estimate of such amount calculated in manner and using assumptions approved by the Administrative Agent in consultation with the Servicer, and reporting such an estimate shall not be deemed to constitute a default under or breach of this Agreement or any other Transaction Document. For the avoidance of doubt, the reporting and use of such an estimated amount pursuant to this paragraph shall not derogate from (x) any obligation of the Seller to ensure that no Borrowing Base Deficit exists based upon the actual portion of the Pool Receivables' aggregate Outstanding Balance that is subject to potential set-off or a similar right of offset or that remains subject to the performance of additional services or delivery of additional goods by the Originators or (y) any obligation of the Seller or the Servicer to notify the other parties hereto that a Borrowing Base Deficit exists based upon such actual amounts.

#### **ARTICLE IV INCREASED COSTS; FUNDING LOSSES; TAXES; ILLEGALITY AND SECURITY INTEREST**

##### SECTION 4.01. Increased Costs.

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

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

(ii) subject any Affected Person to any Taxes (other than (A) Indemnified Taxes, (B) clauses (b) through (d) of Excluded Taxes and (C) Other Connection Taxes that are imposed on or measured by net income, profits or revenue) on its loans, commitments or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto; or

(iii) impose on any Affected Person or the London interbank market any other condition, cost or expense affecting the Collateral, this Agreement, any other Transaction Document, any Program Support Agreement, or any Loan made by, or supported by, such Affected Person;

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, a Group Agent or a Lender hereunder or as a Program Support Provider with respect to a Lender for the transactions contemplated hereby, (B) funding or maintaining any Loan (or of maintaining its obligation to make any such Loan) or to reduce the amount of any sum received or receivable by such Affected Person hereunder or under the RFA Notes (whether of principal, interest or otherwise), then, beginning on the Settlement Date following the Fiscal Month during which the Borrower received written demand therefor, the Borrower will pay to such Affected Person, in accordance with Section 3.01(a), such additional amount or amounts as will compensate such Affected Person for such additional costs or expenses incurred or reduction suffered.

(b) Capital Requirements. If any Affected Person determines that any Change in Law regarding capital requirements or liquidity has had or would have the effect of reducing the rate of return on such Affected Person's capital as a consequence of this Agreement, the Commitments of or the Loans made or supported by such Affected Person, in each case to a level below that which such Affected Person could have achieved but for such Change in Law (taking into consideration such Affected Person's policies with respect to capital adequacy and liquidity), then, beginning on the Settlement Date following the Fiscal Month during which the Borrower received written demand therefor, the Borrower will pay to such Affected Person, in accordance with Section 3.01(a), such additional amount or amounts as will compensate such Affected Person for any such reduction suffered.

(c) Certificates for Reimbursement. A certificate of a Group Agent or Lender on behalf of the related Affected Person setting forth the amount or amounts necessary to compensate such Affected Person as specified in clause (a) or (b) of this Section and delivered to the Borrower shall be conclusive absent manifest error.

(d) Delay in Requests. Failure or delay on the part of any Affected Person to demand compensation pursuant to this Section shall not constitute a waiver of such Affected Person's right to demand such compensation; provided that the Borrower shall not be required to compensate an Affected Person pursuant to this Section for any increased costs or expenses incurred or reductions suffered more than 180 days prior to the date that such Affected Person (or its related Group Agent or Lender on its behalf) notifies the Borrower of the Change in Law giving rise to such increased costs or expenses or reductions and of such Affected Person's intention to claim compensation therefor; provided further that, if the Change in Law giving rise to such increased costs or expenses or reductions is retroactive, then the 180-day period referred to above shall be extended to include the period of retroactive effect thereof.

#### SECTION 4.02. Funding Losses.

(a) The Borrower will pay each Lender all Breakage Fees.

(b) A certificate of a Lender (or its Group Agent on its behalf) setting forth the amount or amounts necessary to compensate such Lender, as specified in clause (a) above and delivered to the Borrower shall be conclusive absent manifest error. The Borrower shall, subject to the priorities of payment set forth in Section 3.01, pay such Lender the amount shown

as due on any such certificate beginning on the first Settlement Date following the Fiscal Month during which the Borrower received such certificate.

SECTION 4.03. Taxes.

(a) Withholding of Taxes; Gross-Up. Each payment by the Borrower under this Agreement or any other Transaction Document to any Affected Person shall be made without withholding for any Taxes, unless such withholding is required by any Applicable Law. If any Withholding Agent determines, in its sole discretion exercised in good faith, that it is so required to withhold Taxes, then such Withholding Agent may so withhold and shall timely pay the full amount of withheld Taxes to the relevant Governmental Authority in accordance with Applicable Law. If such Taxes are Indemnified Taxes, then the amount payable by the Borrower shall be increased as necessary so that, net of such withholding (including such withholding applicable to additional amounts payable under this Section), the applicable Affected Person receives the amount it would have received had no such withholding been made.

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

(c) Evidence of Payment. As soon as practicable after any payment of Taxes by or on behalf of the Borrower to a Governmental Authority pursuant to this Agreement, the Borrower shall deliver to the Administrative Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(d) Indemnification by the Borrower. The Borrower shall indemnify each Affected Person receiving any payment under any Transaction Document for any Indemnified Taxes that are paid or payable by such Affected Person in connection with this Agreement (including amounts paid or payable under this paragraph) 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. The indemnity under this paragraph shall be paid by the Borrower beginning on the Settlement Date following the Fiscal Month during which the Borrower receives a certificate from the related Group Agent of such Affected Person (with a copy to the Administrative Agent) stating the amount of any Indemnified Taxes so paid or payable by such Affected Person and describing in reasonable detail the basis for the indemnification claim. Such certificate shall be conclusive of the amount so paid or payable absent manifest error.

(e) Indemnification of the Administrative Agent by Affected Persons. Each Affected Person shall severally indemnify the Administrative Agent (i) for any Taxes (but, in the case of any Indemnified Taxes, only to the extent that the Borrower has not already indemnified (or is not already scheduled to indemnify) the Administrative Agent for such Indemnified Taxes and without limiting the obligation of the Borrower to do so), (ii) any Taxes attributable to the failure of such Lender, its Related Conduit Lender or any of their respective Affiliates that are

Affected Persons to comply with Section 13.03(f) relating to the maintenance of a Participant Register and (iii) any Excluded Taxes attributable to such Lender, its Related Conduit Lender or any of their respective Affiliates that are Affected Persons, in each case, that are payable or paid by the Administrative Agent in connection with any Transaction Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. The indemnity under this paragraph shall be paid by the Settlement Date following the Fiscal Month during which the Administrative Agent delivers to the applicable Affected Person a certificate stating the amount of Taxes so paid or payable by the Administrative Agent. Such certificate shall be conclusive of the amount so paid or payable absent manifest error.

(f) Status of Affected Persons. (i) Any Affected Person that is entitled to an exemption from, or reduction of, any applicable withholding Tax with respect to any payments under any Transaction Document shall deliver to each Withholding Agent, at the time or times reasonably requested by such Withholding Agent, such properly completed and executed documentation reasonably requested by such Withholding Agent as will permit such payments to be made without, or at a reduced rate of, withholding. In addition, any Affected Person receiving any payment under any Transaction Document, if requested by any Withholding Agent, shall deliver such other documentation prescribed by law or reasonably requested by such Withholding Agent as will enable such Withholding Agent to determine whether or not such Affected Person is subject to any withholding (including 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 clauses (A) through (E) of paragraph (f)(ii) below) shall not be required if in such Affected Person's judgment such completion, execution or submission would materially prejudice the legal or commercial position of such Affected Person. Upon the reasonable request of any Withholding Agent, an Affected Person shall update any form or certification previously delivered pursuant to this Section 4.03(f). If any form or certification previously delivered pursuant to this Section 4.03(f) expires or becomes obsolete or inaccurate in any respect with respect to any Affected Person, such Affected Person shall promptly (and in any event within 10 days after such expiration, obsolescence or inaccuracy) notify each Withholding Agent in writing of such expiration, obsolescence or inaccuracy and update the form or certification if it is legally eligible to do so. Notwithstanding any other provision of this paragraph, a Withholding Agent shall not be required to deliver any form pursuant to this paragraph that it is not legally able to deliver.

(ii) Without limiting the generality of the foregoing, each Affected Person receiving any payment under any Transaction Document shall, if it is legally eligible to do so, deliver to each Withholding Agent (in such number of copies as is reasonably requested by such Withholding Agent) on or prior to the date on which such Affected Person becomes a party hereto (or if not a party hereto, on or prior to the date on which it would, contingently or otherwise, become entitled to any payments hereunder), duly completed and executed copies of whichever of the following is applicable:

(A) in the case of an Affected Person receiving a payment under any Transaction Document that is a U.S. Person, IRS Form W-9



certifying that such Lender is exempt from U.S. Federal backup withholding tax;

(B) in the case of an Affected Person receiving a payment under any Transaction Document, other than a U.S. Person, that is claiming the benefits of an income tax treaty to which the United States of America is a party (1) with respect to payments of interest under this Agreement, IRS Form W-8BEN (or IRS Form 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 (2) with respect to any other applicable payments under this Agreement, IRS Form W-8BEN (or IRS Form 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;

(C) in the case of an Affected Person receiving a payment under any Transaction Document, other than a U.S. Person, for whom payments under this Agreement constitute income that is effectively connected with such Lender’s conduct of a trade or business in the United States of America, IRS Form W-8ECI;

(D) in the case of an Affected Person receiving a payment under any Transaction Document, other than a U.S. Person, claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, both (1) IRS Form W-8BEN (or IRS Form W-8BEN-E, as applicable) and (2) a certificate to the effect that such Affected Person is not (x) a “bank” within the meaning of Section 881(c)(3)(A) of the Code, (y) a “10 percent shareholder” of the Borrower within the meaning of Section 881(c)(3)(B) of the Code or (z) a “controlled foreign corporation” described in Section 881(c)(3)(C) of the Code (each, a “U.S. Tax Compliance Certificate”);

(E) in the case of an Affected Person receiving a payment under any Transaction Document, other than a U.S. Person, that is not the beneficial owner of payments made under this Agreement (including a partnership or a participating Lender), (1) an IRS Form W-8IMY on behalf of itself and (2) the relevant forms prescribed in clauses (A), (B), (C), (D) and (E) of this paragraph (f)(ii) that would be required of each such beneficial owner, partner of such partnership or participant if such beneficial owner, partner or participant were a Lender; provided that if such Lender is a partnership and one or more of its partners are claiming the exemption for portfolio interest under Section 881(c) of the Code, such Lender may provide a U.S. Tax Compliance Certificate on behalf of such partners; or

(F) any other form prescribed by law as a basis for claiming exemption from, or a reduction of, U.S. Federal withholding Tax, together

with such supplementary documentation as shall be necessary to enable each Withholding Agent to determine the amount of Tax (if any) required by Applicable Law to be withheld.

(iii) If a payment received by an Affected Person under any Transaction Document would be subject to U.S. Federal withholding Tax imposed by FATCA if such Affected Person 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 Affected Person shall deliver to any Withholding Agent, at the time or times prescribed by law and at such time or times reasonably requested by such Withholding 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 such Withholding Agent as may be necessary for such Withholding Agent to comply with its obligations under FATCA, to determine that such Affected Person has or has not complied with such Affected Person's obligations under FATCA and, as necessary, to determine the amount to deduct and withhold from such payment. Solely for purposes of this clause (f)(iii), "FATCA" shall include any and all amendments made to FATCA after the date of this Agreement and any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement entered into in connection with FATCA.

(g) Treatment of Certain Refunds. If any Affected Person 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 pursuant to this Section (including additional amounts paid pursuant to this Section), it shall pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under this Section with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including any Taxes) of such Affected Person and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund). In the event such Affected Person is required to repay such refund to the relevant Governmental Authority, such indemnifying party shall repay to such Affected Person, upon the request of the related Group Agent on behalf of such Affected Person (or in the event such indemnifying party is the Borrower, in accordance with Section 3.01(a) beginning on the Settlement Date following the Fiscal Month during which the Borrower has received such request), the amount of the refund paid by such Affected Person to such indemnifying party pursuant to the prior sentence (plus any penalties, interest or other charges imposed by the relevant Governmental Authority). Notwithstanding anything to the contrary in this paragraph, in no event will any Affected Person be required to pay any amount to any indemnifying party pursuant to this paragraph if such payment would place such Affected Person in a less favorable position (on a net after-Tax basis) than such Affected Person would have been in if the indemnification payments or additional amounts giving rise to such refund had never been paid. This paragraph shall not be construed to require any Affected Person to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to the indemnifying party or any other Person.

(h) Survival. Each party's obligations under this Section 4.03 shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Credit Party or any other Affected Person, the termination of the Commitments

and the repayment, satisfaction or discharge of all the Borrower obligations and the Servicer's obligations hereunder.

(i) Intended Tax Treatment. Notwithstanding anything to the contrary herein or in any other Transaction Document, all parties to this Agreement covenant and agree to treat each Loan under this Agreement as debt (and all Interest as interest) for all federal, state, local and franchise tax purposes and agree not to take any position on any tax return inconsistent with the foregoing.

(j) References to Applicable Law. All references to Applicable Law in this Section 4.03 shall be deemed to include FATCA.

#### SECTION 4.04. Inability to Determine LMIR; Change in Legality.

(a) If any Group Agent shall have determined (which determination shall be conclusive and binding upon the parties hereto) on any day, by reason of circumstances affecting the interbank Eurodollar market, either that: (i) dollar deposits in the relevant amounts and for the relevant day are not available, (ii) adequate and reasonable means do not exist for ascertaining the LIBOR Rate for such day or (iii) the LIBOR Rate determined pursuant hereto does not accurately reflect the cost to the applicable Affected Person (as conclusively determined by such Group Agent) of maintaining any Portion of Capital during such day, such Group Agent shall promptly give telephonic notice of such determination, confirmed in writing, to the Borrower on such day. Upon delivery of such notice: (i) no Portion of Capital shall be funded thereafter at the Bank Rate determined by reference to the LIBOR Rate unless and until such Group Agent shall have given notice to the Borrower that the circumstances giving rise to such determination no longer exist and (ii) with respect to any outstanding Portion of Capital then funded at the Bank Rate determined by reference to the LIBOR Rate, such Bank Rate shall automatically and immediately be converted to the Bank Rate determined by reference to the Base Rate.

(b) If on any day, any Group Agent shall have been notified by any Affected Person that such Affected Person has determined (which determination shall be final and conclusive) that any Change in Law, or compliance by such Affected Person with any Change in Law, shall make it unlawful or impossible for such Affected Person to fund or maintain any Portion of Capital at or by reference to the LIBOR Rate, such Group Agent shall notify the Borrower and the Administrative Agent thereof. Upon receipt of such notice, until the applicable Group Agent notifies the Borrower and the Administrative Agent that the circumstances giving rise to such determination no longer apply, (i) no Portion of Capital shall be funded at or by reference to the LIBOR Rate and (ii) the Interest for any outstanding portions of Capital then funded at the Bank Rate determined by reference to the LIBOR Rate shall automatically and immediately be converted to the Bank Rate determined by reference to the Base Rate.

#### SECTION 4.05. Security Interest.

(a) As security for the performance by the Borrower of all the terms, covenants and agreements on the part of the Borrower to be performed under this Agreement, the RFA Notes or any other Transaction Document, including the punctual payment when due of the

Aggregate Capital and all Interest in respect of the Loans and all other Borrower Obligations, the Borrower hereby grants to the Administrative Agent for its benefit and the ratable benefit of the Secured Parties, a continuing security interest in all of the Borrower's right, title and interest in, to and under all of the following, whether now or hereafter owned, existing or arising (collectively, the "Collateral"): (i) all Pool Receivables, (ii) all Related Security with respect to such Pool Receivables, (iii) all Collections with respect to such Pool Receivables, (iv) the Lock-Boxes and Lock-Box Accounts and all amounts on deposit therein, and all certificates and instruments, if any, from time to time evidencing such Lock-Boxes and Lock-Box Accounts and amounts on deposit therein, (v) all rights (but none of the obligations) of the Borrower under the Purchase and Sale Agreement, (vi) without duplication of the foregoing, all of its accounts, general intangibles (including payment intangibles), deposit accounts, investment property, financial assets, instruments, chattel paper and letter-of-credit rights, (vii) all supporting obligations relating to the foregoing 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 the Collateral, and in addition to all the other rights and remedies available to the Administrative Agent (for the benefit of the Secured Parties), all the rights and remedies of a secured party under any applicable UCC. The Borrower hereby authorizes the Administrative Agent (for the benefit of the Secured Parties) to file financing statements in each jurisdiction the Administrative Agent deems necessary and appropriate to perfect its security interest in the Collateral, describing the collateral covered thereby as "all of the debtor's personal property or assets" or words to that effect, notwithstanding that such wording may be broader in scope than the collateral described in this Agreement.

(c) Immediately upon the occurrence of the Final Payout Date, the Collateral shall be automatically released from the lien created hereby, and this Agreement and all obligations (other than those expressly stated to survive such termination) of the Administrative Agent, the Lenders and the other Credit Parties hereunder shall terminate, all without delivery of any instrument or performance of any act by any party, and all rights to the Collateral shall revert to the Borrower; provided, however, that (i) in connection with any such Final Payout Date, the Administrative Agent shall promptly send notice thereof to each Lock-Box Bank for the purposes of terminating the related Lock-Box Agreements and (ii) promptly following written request therefor by the Borrower delivered to the Administrative Agent following any such termination, and at the sole expense of the Borrower, the Administrative Agent shall execute and deliver to the Borrower UCC-3 termination statements and such other documents as the Borrower shall reasonably request to evidence such termination.

#### SECTION 4.06. Mitigation Obligations; Replacement of Affected Persons.

(a) If any Affected Person requests compensation under Section 4.01, or if the Borrower is required to pay any additional amount to any Affected Person or to any Governmental Authority for the account of any Affected Person pursuant to Section 4.03, then such Affected Person shall (at the request of the Borrower) use commercially reasonable efforts to designate a different lending office for funding or booking the related Loans hereunder or to assign and delegate (or cause to be assigned and delegated) such Affected Person's rights and obligations hereunder to another office, branch or Affiliate of such Affected Person if, in the

judgment of such Affected Person, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 4.01 or 4.03, as the case may be, in the future and (ii) would not subject such Affected Person to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Affected Person. The Borrower hereby agrees to pay all reasonable out of pocket costs and expenses incurred by any Affected Person in connection with any such designation or assignment and delegation.

(b) If (i) any Affected Person requests compensation under Section 4.01, (ii) the Borrower is required to pay any additional amount to any Affected Person or any Governmental Authority for the account of any Affected Person pursuant to Section 4.03, (iii) any Affected Person has become a Defaulting Credit Party or (iv) any Affected Person has failed to consent to a proposed amendment, waiver, discharge or termination that requires the consent of each Group Agent (or the Group Agent of each affected Group) and with respect to which the Majority Group Agents shall have or would have granted their consent, then the Borrower may, at its sole expense and effort, upon notice to the related Group Agent and the Administrative Agent, require such Group Agent to cause the related Affected Person to assign and delegate, without recourse (in accordance with and subject to all applicable transfer restrictions), all its interests, rights and obligations under this Agreement and the other Transaction Documents to another appropriate Person (which, in the case of a Lender, shall be an Eligible Assignee) that shall acquire such interest or, in the case of a Committed Lender, assume such Committed Lender's obligations (which assignee may, in each case, be an existing Lender); provided that (A) the Borrower shall have received the prior written consent of the Administrative Agent and the Majority Group Agents, which consent shall not unreasonably be withheld, (B) such Affected Person, if a Lender, shall have received payment of an amount equal to its outstanding Capital and, if applicable, accrued Interest and Fees thereon and all other amounts then owing to it hereunder from the assignee or the Borrower, (C) in the case of any such assignment and delegation resulting from a claim for compensation under Section 4.01 or payments required to be made pursuant to Section 4.03, such assignment is expected to result in a reduction in such compensation or payments for future periods and (D) in the case of any such assignment and delegation resulting from the failure of a to provide a consent, the assignee shall have given such consent and, as a result of such assignment and delegation and any contemporaneous assignments and delegations and consents, the applicable amendment, waiver, discharge or termination can be effected. An Affected Person shall not be required to make any such assignment and delegation if, prior thereto, as a result of a waiver or consent by such Affected Person or otherwise, the circumstances entitling the Borrower to require such assignment and delegation have ceased to apply.

## **ARTICLE V**

### **CONDITIONS TO EFFECTIVENESS AND CREDIT EXTENSIONS**

SECTION 5.01. Conditions Precedent to Effectiveness and the Initial Credit Extension. This Agreement shall become effective as of the Closing Date when (a) the Administrative Agent shall have received each of the documents, agreements (in fully executed form), opinions of counsel, lien search results, UCC filings, certificates and other deliverables listed on the closing memorandum attached as Exhibit G hereto, in each case, in form and substance acceptable to the Administrative Agent and (b) all fees and expenses due and payable by the

Borrower on the Closing Date to the Credit Parties have been paid in full in accordance with the terms of the Transaction Documents.

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

(a) the Borrower shall have delivered to the Administrative Agent and each Group Agent a Loan Request for such Loan in accordance with Section 2.02(a);

(b) the Servicer shall have delivered to the Administrative Agent and each Group Agent a pro forma Information Package, reflecting the Aggregate Capital, Total Reserves and the Borrowing Base, each as calculated after giving effect to the proposed Credit Extension;

(c) none of the conditions specified in Section 2.01(i) through (iv) shall exist after giving effect to such Credit Extension;

(d) on the date of such Credit Extension the following statements shall be true and correct (and upon the occurrence of such Credit Extension, the Borrower and the Servicer shall be deemed to have represented and warranted that such statements are then true and correct):

(i) the representations and warranties of the Borrower and the Servicer contained in Sections 6.01 and 6.02 are true and correct in all material respects on and as of the date of such Credit Extension 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 Termination Event or Unmatured Termination Event has occurred and is continuing, and no Termination Event or Unmatured Termination Event would result from such Credit Extension;

(iii) no Borrowing Base Deficit exists or would exist after giving effect to such Credit Extension; and

(e) the Termination Date shall not have occurred.

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

(a) (i) after giving effect to such Reinvestment, the Servicer shall be holding in trust for the benefit of the Secured Parties or shall have segregated in a separate account approved by the Administrative Agent, in either case, pursuant to and in accordance with Section 3.01(a), an amount of Collections sufficient to pay the sum of all accrued and unpaid Servicing Fees, Interest, Fees and Breakage Fees and, the amount of all other non-contingent Borrower Obligations that are then due and owing and (ii) no Borrowing Base Deficit shall have existed as of the last day of the most recently ended Fiscal Month;

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

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

(i) the representations and warranties of the Borrower and the Servicer contained in Sections 6.01 and 6.02 are true and correct in all material respects on and as of the date of such Reinvestment 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 Termination Event has occurred and is continuing, and no Termination Event would result from such Reinvestment; and

(iii) the Termination Date has not occurred.

## **ARTICLE VI REPRESENTATIONS AND WARRANTIES**

SECTION 6.01. Representations and Warranties of the Borrower. The Borrower represents and warrants as of the Closing Date, as of each day on which a Credit Extension or Reinvestment shall have occurred and as of each Settlement Date occurring prior to the Final Payout Date or acceleration under Article XI:

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

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

(c) Power and Authority; Due Authorization. The Borrower (i) has all necessary power and authority to (A) execute and deliver this Agreement, the RFA Notes and the other Transaction Documents to which it is a party, (B) perform its obligations under this Agreement, the RFA Notes and the other Transaction Documents to which it is a party and (C) grant a security interest in the Collateral to the Administrative Agent on the terms and subject to the conditions herein provided and (ii) has duly authorized by all necessary limited liability company action such grant and the execution, delivery and performance of, and the consummation of the transactions provided for in, this Agreement, the RFA Notes and the other Transaction Documents to which it is a party.

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

(e) No Conflict or Violation. The execution, delivery and performance of, and the consummation of the transactions contemplated by, this Agreement, the RFA Notes and the other Transaction Documents to which it is a party, and the fulfillment of the terms hereof and thereof, will not (i) violate any of the terms or provisions of, or constitute (with or without notice or lapse of time or both) a default under its organizational documents or any material agreement or instrument to which the Borrower is a party or by which it or any of its properties is bound, (ii) result in the creation or imposition of any Adverse Claim upon any of the Collateral pursuant to the terms of any agreement to which the Borrower is a party or by which it or any of its properties is bound or (iii) violate in any material respect any Applicable Law.

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

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

(h) Margin Regulations. The Borrower is not engaged, principally or as one of its important activities, in the business of extending credit for the purpose of purchasing or



carrying margin stock (within the meanings of Regulations T, U and X of the Board of Governors of the Federal Reserve System).

(i) Taxes.

(i) The Borrower has filed all material Tax returns required by Applicable Law to have been filed by it and has paid all material Taxes required by Applicable Law to be paid by it, other than any such Taxes that are being contested in good faith by appropriate proceedings and for which adequate reserves in accordance with GAAP have been established.

(ii) The Borrower is, and shall at all relevant times continue to be, classified as a disregarded entity for U.S. federal income tax purposes and has not made any election under U.S. Treasury Regulation § 301.7701-3 to be classified as anything other than a disregarded entity. Neither the Borrower nor any other Person shall take (or permit any other Person to take) any action that could (or could reasonably be expected to) cause Borrower to be classified as any entity other than a disregarded entity for U.S. federal income tax purposes.

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

(k) Offices; Legal Name. The Borrower's sole jurisdiction of organization is the State of Delaware and such jurisdiction has not changed within the four months prior to the date of this Agreement. The legal name of the Borrower is NCR Receivables LLC.

(l) Investment Company Act. The Borrower is not, and is not controlled by, an "Investment company" registered or required to be registered under the Investment Company Act. The Borrower is not a "covered fund" under Section 13 of the U.S. Bank Holding Company Act of 1956, as amended, and the applicable rules and regulations thereunder (the "Volcker Rule"). In determining that Borrower is not a "covered fund" under the Volcker Rule, although other exemptions or exclusions under the Investment Company Act may apply, the Borrower relies on the exemption from the definition of "investment company" set forth in Section 3(c)(5) of the Investment Company Act and does not rely solely on the exemption from the definition of "investment company" set forth in Section 3(c)(1) and/or 3(c)(7) of the Investment Company Act.

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

(n) Accuracy of Information. All Information Packages, Loan Requests, certificates, reports, statements, documents and other information furnished or caused to be furnished to the Administrative Agent or any other Credit Party by the Borrower or by the Servicer on the Borrower's behalf pursuant to any provision of this Agreement or any other Transaction Document, or in connection with or pursuant to any amendment or modification of, or waiver under, this Agreement or any other Transaction Document, is, at the time the same are so furnished, true and correct in all material respects on the date the same are furnished to the Administrative Agent or such other Credit Party (other than forward-looking or projected

information, with respect to which no representation or warranty is made, and otherwise as subsequently corrected as the Administrative Agent or such other Credit Party, as applicable, have deemed acceptable), and when taken as a whole, and in light of the circumstances in which and the purposes for which they were furnished, do not contain any material misstatement of fact or omit to state a material fact or any fact necessary to make the statements contained therein not misleading.

(o) No Sanctions.

(A) No Covered Entity (i) is a person whose property or interest in property is blocked or subject to blocking pursuant to Section 1 of Executive Order 13224 of September 23, 2001 Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism (66 Fed. Reg. 49079 (2001)), (ii) engages in any dealings or transactions prohibited by Section 2 of such executive order, or is otherwise associated with any such person in any manner violative in any material respect of Section 2, or (iii) is a Sanctioned Person.

(B) Each Covered Entity is in compliance, in all material respects, with (i) the Trading with the Enemy Act, as amended, and each of the foreign assets control regulations of the United States Treasury Department (31 CFR, Subtitle B, Chapter V, as amended) and any other enabling legislation or executive order relating thereto, and (ii) the Uniting And Strengthening America By Providing Appropriate Tools Required To Intercept And Obstruct Terrorism (USA PATRIOT Act of 2001). No part of the proceeds of the Loans will be used for the purpose of financing the activities of any Sanctioned Person or for any purpose in violation of the United States Foreign Corrupt Practices Act of 1977, as amended, the UK Bribery Act of 2010 or any other applicable bribery or corruption law, and the Borrower and the Subsidiaries are in compliance with such acts and laws, except where the failure to comply with any such acts or laws, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

(p) Transaction Information. Neither the Borrower nor any Affiliate of the Borrower acting on its behalf has delivered any Transaction Information to any Rating Agency without providing such Transaction Information to the applicable Group Agent prior to delivery to such Rating Agency. Neither the Borrower nor any Affiliate of the Borrower acting on its behalf has participated in any oral communications with any Rating Agency in which the Borrower or such Affiliate has provided any Transaction Information without the participation of the applicable Group Agent.

(q) Perfection Representations.

(i) This Agreement creates a valid and continuing security interest (as defined in the applicable UCC) in the Borrower's right, title and interest in, to and under the Collateral.

(ii) The security interest of the Administrative Agent (for the benefit of the Secured Parties) in the Collateral has been perfected (or solely with

respect to the Closing Date and the initial Credit Extensions and initial Reinvestments hereunder will be perfected on or prior to the fifth Business Day following the Closing Date).

(iii) The Receivables included in any calculation of the Borrowing Base constitute “accounts” or “general intangibles” or “tangible chattel paper” within the meaning of Section 9-102 of the UCC.

(iv) The Borrower owns and has good and marketable title to the Receivables and Related Security included in the Collateral free and clear of any Adverse Claim.

(v) All appropriate financing statements, financing statement amendments and continuation statements have been filed (or, solely with respect to the Closing Date and the initial Credit Extensions and initial Reinvestments hereunder, will be filed on or prior to the fifth Business Day following the Closing Date) in the proper filing office in the appropriate jurisdictions under Applicable Law in order to perfect (and continue the perfection of) the sale of the Pool Receivables and Related Security from each Originator to the Borrower pursuant to the Purchase and Sale Agreement and the Administrative Agent’s security interest in the Collateral.

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

(vii) The Servicer is holding all chattel paper evidencing Pool Receivables in its possession or control as bailee for the Secured Parties and the Borrower at the locations identified in Schedule IV, in the Electronic Invoice System or in other electronic document management systems (which may include document storage systems provided by third party vendors used in the ordinary course of the Servicer’s business).

(r) The Lock-Boxes and Lock-Box Accounts.

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

(ii) Ownership. Each Lock-Box and Lock-Box Account is in the name of the Borrower, and the Borrower owns and has good and marketable title to the Lock-Box Accounts free and clear of any Adverse Claim.

(iii) Perfection. The Borrower has delivered to the Administrative Agent a fully executed Lock-Box Agreement relating to each Lock-Box and Lock-Box Account, pursuant to which each applicable Lock-Box Bank has agreed to comply with the instructions originated by the Administrative Agent directing the disposition of funds in such Lock-Box and Lock-Box Account without further consent by the Borrower, the Servicer or any other Person.

(iv) Instructions. Neither the Lock-Boxes nor the Lock-Box Accounts are in the name of any Person other than the Borrower. Since the Closing Date, neither the Borrower nor the Servicer has consented to the applicable Lock-Box Bank complying with instructions of any other Person other than the Administrative Agent.

(s) Ordinary Course of Business. Each remittance of Collections by or on behalf of the Borrower to the Credit Parties under this Agreement will have been (i) in payment of a debt incurred by the Borrower in the ordinary course of business or financial affairs of the Borrower and (ii) made in the ordinary course of business or financial affairs of the Borrower.

(t) Compliance with Applicable Law. The Borrower has complied in all material respects with all Applicable Laws to which it is subject.

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

(v) Eligible Receivables. Each Receivable included as an Eligible Receivable in the calculation of the Net Receivables Pool Balance in any Information Package or in connection with any Credit Extension or Reinvestment is an Eligible Receivable as of the date of such Information Package, Credit Extension or Reinvestment.

(w) Opinions. The facts regarding the Borrower, the Servicer, each Originator, the Pool Receivables, the Related Security and the related matters set forth or assumed in the opinions of counsel relating to true sale and substantive non-consolidation matters delivered in connection with this Agreement and the Transaction Documents are true and correct in all material respects.

Notwithstanding any other provision of this Agreement or any other Transaction Document, the representations and warranties contained in this Section shall survive until the Final Payout Date.

SECTION 6.02. Representations and Warranties of the Servicer. The Servicer represents and warrants as of the Closing Date, as of each day on which a Credit Extension or Reinvestment shall have occurred and as of each Settlement Date occurring prior to the Final Payout Date or acceleration under Article XI:

(a) Organization and Good Standing. The Servicer is a duly organized and validly existing corporation in good standing under the laws of the State of Maryland, with the

power and authority under its organizational documents and under the laws of the State of Maryland to own its properties and to conduct its business as such properties are currently owned and such business is presently conducted.

(b) Due Qualification. The Servicer is duly qualified to do business, is in good standing as a foreign entity and has obtained all necessary licenses and approvals in all jurisdictions in which the conduct of its business or the servicing of the Pool Receivables as required by this Agreement requires such qualification, licenses or approvals, except where the failure to do so could not reasonably be expected to have a Material Adverse Effect.

(c) Power and Authority; Due Authorization. The Servicer has all necessary power and authority to (i) execute and deliver this Agreement and the other Transaction Documents to which it is a party and (ii) perform its obligations under this Agreement and the other Transaction Documents to which it is a party and the execution, delivery and performance of, and the consummation of the transactions provided for in, this Agreement and the other Transaction Documents to which it is a party have been duly authorized by the Servicer by all necessary corporate action.

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

(e) No Conflict or Violation. The execution and delivery of this Agreement and each other Transaction Document to which the Servicer is a party, the performance of the transactions contemplated by this Agreement and the other Transaction Documents and the fulfillment of the terms of this Agreement and the other Transaction Documents by the Servicer will not (i) violate any of the terms or provisions of, or constitute (with or without notice or lapse of time or both) a default under, the organizational documents of the Servicer or any material agreement or instrument to which the Servicer is a party or by which it or any of its property is bound, (ii) result in the creation or imposition of any Adverse Claim upon any of its properties pursuant to the terms of any such agreement to which the Servicer is a party or by which it or any of its properties is bound or (iii) conflict with or violate any Applicable Law, except to the extent that any such default, Adverse Claim or violation would not reasonably be expected to have a Material Adverse Effect.

(f) Litigation and Other Proceedings. There is no action, suit, proceeding or investigation pending, or to the knowledge of the Servicer based on written notice received by it threatened, against the Servicer before any Governmental Authority: (i) asserting the invalidity of this Agreement, the RFA Notes or any of the other Transaction Documents; (ii) seeking to prevent the consummation of any of the transactions contemplated by this Agreement, the RFA Notes or any other Transaction Document; or (iii) seeking any determination or ruling that would reasonably be expected to materially and adversely affect the performance by the Servicer of its

obligations under, or the validity or enforceability of, this Agreement, the RFA Notes or any of the other Transaction Documents.

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

(h) Compliance with Applicable Law. The Servicer (i) has maintained in effect all qualifications required under Applicable Law as are necessary to properly service the Pool Receivables and (ii) has complied in all material respects with all Applicable Law in connection with servicing the Pool Receivables.

(i) Accuracy of Information. All Information Packages, Loan Requests, certificates, reports, statements, documents and other information prepared or caused to be prepared by, or prepared at the direction of, the Servicer and furnished by it to the Administrative Agent or any other Credit Party pursuant to any provision of this Agreement or any other Transaction Document, or in connection with or pursuant to any amendment or modification of, or waiver under, this Agreement or any other Transaction Document, is, at the time the same are so furnished, true and correct in all material respects on the date the same are furnished to the Administrative Agent or such other Credit Party (other than forward-looking or projected information, with respect to which no representation or warranty is made, and otherwise as subsequently corrected as the Administrative Agent or such other Credit Party, as applicable, have deemed acceptable), and when taken as a whole, and in light of the circumstances in which and the purposes for which they were furnished, do not contain any material misstatement of fact or omit to state a material fact or any fact necessary to make the statements contained therein not misleading.

(j) Location of Records. The offices where the Servicer keeps all of its records relating to the servicing of the Pool Receivables are located at the addresses set forth in Schedule IV.

(k) Credit and Collection Policy. With respect to each Pool Receivable, the Servicer has complied in all material respects with the Credit and Collection Policy.

(l) Eligible Receivables. Each Receivable included by the Servicer as an Eligible Receivable in the calculation of the Net Receivables Pool Balance in any Information Package or in connection with any Credit Extension or Reinvestment was an Eligible Receivable as of the date of such Information Package, Credit Extension or Reinvestment.

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

(n) Servicing of Pool Receivables. Since the date of the Servicer's most recent annual report on form 10-K filed under the Exchange Act, there has been no material adverse change in the ability of the Servicer to service and administer the collection of the Pool Receivables.

(o) No Material Adverse Effect. Since the date of the Servicer's most recent annual report on form 10-K filed under the Exchange Act, there has been no Material Adverse Effect on the Servicer.

(p) Investment Company Act. The Servicer is not an "investment company," or a company "controlled" by an "investment company," within the meaning of the Investment Company Act.

(q) No Sanctions.

(A) No Covered Entity (i) is a person whose property or interest in property is blocked or subject to blocking pursuant to Section 1 of Executive Order 13224 of September 23, 2001 Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism (66 Fed. Reg. 49079 (2001)), (ii) engages in any dealings or transactions prohibited by Section 2 of such executive order, or is otherwise associated with any such person in any manner violative in any material respect of Section 2, or (iii) is a Sanctioned Person.

(B) Each Covered Entity is in compliance, in all material respects, with (i) the Trading with the Enemy Act, as amended, and each of the foreign assets control regulations of the United States Treasury Department (31 CFR, Subtitle B, Chapter V, as amended) and any other enabling legislation or executive order relating thereto, and (ii) the Uniting And Strengthening America By Providing Appropriate Tools Required To Intercept And Obstruct Terrorism (USA PATRIOT Act of 2001). No part of the proceeds of the Loans will be used for the purpose of financing the activities of any Sanctioned Person or for any purpose in violation of the United States Foreign Corrupt Practices Act of 1977, as amended, the UK Bribery Act of 2010 or any other applicable bribery or corruption law, and the Borrower and the Subsidiaries are in compliance with such acts and laws, except where the failure to comply with any such acts or laws, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

(r) Transaction Information. Neither the Servicer nor any Affiliate of the Servicer acting on its behalf has delivered any Transaction Information to any Rating Agency without providing such Transaction Information to the applicable Group Agent prior to delivery to such Rating Agency. Neither the Servicer nor any Affiliate of the Servicer acting on its behalf has participated in any oral communications with any Rating Agency in which the Servicer or such Affiliate has provided any Transaction Information without the participation of the applicable Group Agent.

(s) Financial Condition. The consolidated balance sheets of the Servicer and its consolidated Subsidiaries as of September 30, 2014 and the related statements of income and shareholders' equity of the Servicer and its consolidated Subsidiaries for the fiscal quarter then

ended, copies of which have been furnished to the Administrative Agent and the Group Agents, present fairly in all material respects the consolidated financial position of the Servicer and its consolidated Subsidiaries for the period ended on such date, all in accordance with GAAP.

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

(u) Taxes. The Servicer has filed all material Tax returns required by Applicable Law to have been filed by it and has paid all material Taxes required by Applicable Law to be paid by it, other than any such Taxes that are being contested in good faith by appropriate proceedings and for which adequate reserves in accordance with GAAP have been established.

(v) Opinions. The facts regarding the Borrower, the Servicer, each Originator, the Pool Receivables, the Related Security and the related matters set forth or assumed in the opinions of counsel relating to true sale and substantive non-consolidation matters delivered in connection with this Agreement and the Transaction Documents are true and correct in all material respects.

(w) Chattel Paper. The Servicer holds all chattel paper in its possession or control that evidence Pool Receivables as bailee for the Secured Parties and the Borrower, and shall not transfer possession or control of such chattel paper to any third party without the consent of the Administrative Agent and the Group Agents. All such chattel paper is held at the locations identified in Schedule IV, in the Electronic Invoice System or in other electronic document management systems (which may include document storage systems provided by third party vendors used in the ordinary course of the Servicer's business).

Notwithstanding any other provision of this Agreement or any other Transaction Document, the representations contained in this Section shall survive until the Final Payout Date.

## **ARTICLE VII COVENANTS**

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

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

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



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

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

(ii) Information Packages. As soon as available and in any event not later than three (3) Business Days prior to each Monthly Settlement Date, an Information Package as of the most recently completed Fiscal Month.

(iii) Other Information. Within a reasonable time following any such request, such additional information regarding the Pool Receivables or the operations, business or financial condition of the Borrower, the Servicer or the Originator as the Administrative Agent or any Group Agent may from time to time reasonably request as it deems reasonably necessary to protect the interests of the Administrative Agent, the Group Agents or the other Secured Parties with respect to the Pool Receivables or their respective rights and remedies under the Transaction Documents.

(iv) Quarterly and Annual Financial Statements of the Servicer. As soon as available and in no event later than 45 days following the end of each of the first three fiscal quarters in each of the Servicer's fiscal years, (i) the unaudited consolidated balance sheet and statements of income of the Servicer and its consolidated Subsidiaries as at the end of such fiscal quarter and the related unaudited consolidated statements of earnings and cash flows for such fiscal quarter and for the elapsed portion of the fiscal year ended with the last day of such fiscal quarter, in each case setting forth comparative figures for the corresponding fiscal quarter in the prior fiscal year, all of which shall be certified by a Financial Officer of the Servicer that they fairly present in all material respects, in accordance with GAAP, the financial condition of the Servicer and its consolidated Subsidiaries as of the dates indicated and the results of their operations for the periods indicated, subject to normal year-end audit adjustments and the absence of footnotes and (ii) management's discussion and analysis of the important operational and financial developments during such fiscal quarter.

(v) Annual Financial Statements of the Servicer. Within 90 days after the close of each of the Servicer's fiscal years, the consolidated balance sheet of the Servicer and its consolidated Subsidiaries as at the end of such fiscal year and the related consolidated statements of earnings and cash flows for such fiscal year setting forth comparative figures for the preceding fiscal year, all reported on by independent certified public accountants of recognized national standing (without a "going concern" or like qualification or exception) to the effect that such consolidated financial statements present fairly in all material respects, in accordance with GAAP, the financial condition

of the Servicer and its consolidated Subsidiaries as of the dates indicated and the results of their operations for the periods indicated.

(vi) Other Reports and Filings. Promptly (but in any event within ten days) after the filing or delivery thereof, copies of all financial information, proxy materials and reports, if any, which the Servicer or any of its consolidated Subsidiaries shall publicly file with the SEC or deliver to holders (or any trustee, agent or other representative therefor) of any of its material Debt pursuant to the terms of the documentation governing the same.

(vii) Notwithstanding anything herein to the contrary, any financial information, proxy statements or other material required to be delivered pursuant to this paragraph (c) shall be deemed to have been furnished to each of the Administrative Agent and each Group Agent on the date that such report, proxy statement or other material is posted on the SEC's website at [www.sec.gov](http://www.sec.gov).

(d) Notices. The Borrower (or the Servicer on its behalf) will notify the Administrative Agent and each Group Agent in writing of any of the following events promptly upon (but in no event later than two (2) Business Days after) a Financial Officer learning of the occurrence thereof, with such notice describing the same, and if applicable, the steps being taken by the Person(s) affected with respect thereto:

(i) Notice of Termination Events. A statement of a Financial Officer of the Borrower describing any Termination Event or Unmatured Termination Event that has occurred and is continuing and the action, if any, which the Borrower proposes to take with respect thereto.

(ii) Litigation. The institution of any litigation, arbitration proceeding or governmental proceeding against the Borrower, the Servicer or any Originator, which with respect to any Person other than the Borrower, would reasonably be expected to have a Material Adverse Effect.

(iii) Adverse Claim. Any Person shall obtain an Adverse Claim upon the Collateral or any portion thereof (including with respect to any Lock-Box, Lock-Box Account and any Collections).

(iv) Name Changes. At least thirty (30) days (or such shorter period agreed to by the Administrative Agent in writing) before any change in any Originator's or the Borrower's name, jurisdiction of organization or any other change requiring the amendment of UCC financing statements, a notice setting forth such changes and the proposed effective date thereof.

(v) Change in Accounting Policy. Any material change in any accounting policy of the Borrower or any Originator that would reasonably be expected to affect the transactions contemplated by this Agreement or any other Transaction Document (it being understood that any change to the manner in which any Originator accounts for the Pool Receivables shall be deemed "material" for such purpose).

(vi) Purchase and Sale Termination Date. The occurrence of the Purchase and Sale Termination Date with respect to all remaining Originators under, and as defined in, the Purchase and Sale Agreement.

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

(e) Conduct of Business. Except as otherwise expressly permitted under the Transaction Documents (including pursuant to and in accordance with Section 7.01(1)), the Borrower will carry on and conduct its business in substantially the same manner and in substantially the same fields of enterprise as it is presently conducted. The Borrower will do all things necessary to remain duly organized, validly existing and in good standing as a domestic organization in its jurisdiction of organization and maintain all requisite authority to conduct its business in each jurisdiction in which its business is conducted except where the failure to do so would not reasonably be expected to have a Material Adverse Effect.

(f) Compliance with Applicable Laws. The Borrower will comply with all Applicable Laws to which it may be subject, except where the failure to so comply would not reasonably be expected to have a Material Adverse Effect.

(g) Furnishing of Information and Inspection of Receivables. The Borrower will furnish or cause to be furnished to the Administrative Agent and each Group Agent from time to time such information with respect to the Pool Receivables and the other Collateral as the Administrative Agent or any Group Agent may reasonably request. The Borrower will, during regular business hours and with reasonable prior written notice, permit the Administrative Agent and each Group Agent, their respective agents or representatives and/or certified public accountants or other auditors acceptable to the Administrative Agent, to: (A) examine and make copies of and abstracts from all books and records relating to the Pool Receivables or other Collateral, (B) visit the offices and properties of the Borrower for the purpose of examining such books and records, (C) discuss matters relating to the Pool Receivables, the other Collateral or the Borrower's performance hereunder or under the other Transaction Documents to which it is a party with any of the officers, directors, employees or independent public accountants of the Borrower, to the extent reasonably available, having knowledge of such matters and (D) conduct a review of its books and records with respect to such Pool Receivables and other Collateral (each inspection and audit described in clauses (A) through (D) above, an "Inspection"). The Borrower shall reimburse the Administrative Agent and the Group Agents for their reasonable out-of-pocket costs and expenses incurred in connection with one such Inspection per twelve-month period (which Inspection shall include any related inspections of the Servicer and any Originators) and the Administrative Agent and Group Agents will each bear their own costs and expenses for any additional Inspections during such twelve-month period; provided, that the Borrower shall also reimburse the Administrative Agent and the Group Agents for their reasonable out-of-pocket costs and expenses incurred in connection with any additional Inspections that the Administrative Agent and the Group Agents deem desirable to conduct while any Termination Event has occurred and is continuing. In connection with any such Inspection, (1) to the extent no applicable confidentiality agreement is already in place with respect to such Person, each Person conducting such Inspection (including any third party certified public accounting firms or auditing firms) shall have agreed in writing to maintain the confidentiality of

the Borrower's and its Affiliates' confidential non-public information on terms reasonably acceptable to the parties thereto (it being understood that terms substantially comparable to the terms of confidentiality agreements previously agreed to by the Borrower or its Affiliates with respect to inspections of the Receivables shall be reasonably acceptable) and (2) the Administrative Agent and the Group Agents shall conduct, and shall cause their respective agents, representatives, accountants and auditors to conduct, such Inspection in a commercially reasonable manner so as to minimize any burden (financial or otherwise) on the Borrower and its Affiliates and any disruption to the business and operations of the Borrower and its Affiliates (it being understood and agreed that an Inspection conducted in a substantially similar manner and scope as that conducted by the Administrative Agent prior to the Closing Date shall be deemed commercially reasonable).

(h) Payments on Receivables; Lock-Box Accounts. The Borrower (or the Servicer on its behalf) will, and will cause each Originator to, instruct all Pool Obligor to deliver all payments on the Pool Receivables to a Lock-Box Account or a Lock-Box. The Borrower (or the Servicer on its behalf) will, and will cause each Originator to, maintain such books and records necessary to identify Collections received from time to time on Pool Receivables and necessary to segregate such Collections from other property of the Servicer and the Originators. If any Collections are received by the Borrower, the Servicer or an Originator other than in a Lock-Box Account, it shall hold such payments in trust for the benefit of the Administrative Agent (for the benefit of the Secured Parties) and promptly (but in any event within two (2) Business Days after receipt) remit such funds into a Lock-Box Account. If any funds other than Collections (or other proceeds of the Collateral) are deposited into any Lock-Box Account, the Borrower (or the Servicer on its behalf) will, within two (2) Business Days, identify and transfer such funds to the appropriate Person entitled to such funds. The Borrower shall only add a Lock-Box Account (or a related Lock-Box) or a Lock-Box Bank to those listed on Schedule II to this Agreement, if the Administrative Agent has received notice of such addition and an executed and acknowledged copy of a Lock-Box Agreement (or an amendment thereto) in form and substance acceptable to the Administrative Agent from the applicable Lock-Box Bank (or pursuant to other arrangements consented to in writing by the Administrative Agent and each Group Agent). The Borrower shall only terminate a Lock-Box Bank or close a Lock-Box Account (or a related Lock-Box) with the prior written consent of the Administrative Agent.

(i) Sales, Liens, etc. Except as otherwise provided herein, the Borrower will not sell, assign (by operation of law or otherwise) or otherwise dispose of, or create or suffer to exist any Adverse Claim upon or with respect to, any Pool Receivable or other Collateral.

(j) Extension or Amendment of Pool Receivables. Except as otherwise permitted in Section 8.02, (i) the Borrower will not, and will not permit the Servicer to, alter the delinquency status or adjust the Outstanding Balance or otherwise modify the terms of any Pool Receivable in any material respect, or amend, modify or waive, in any material respect, any term or condition of any related Contract that would affect any Pool Receivable and (ii) with respect to each Pool Receivable, the Borrower shall comply in all material respects with all provisions, covenants and other promises required to be observed by it under the Credit and Collection Policy and, to the extent material to such Pool Receivable and to the extent not reflected from time to time in the Dilution Amount, the terms of the related Contract.

(k) Change in Credit and Collection Policy. Except to the extent required by Applicable Law (in which case the Borrower shall give prompt written notice thereof to the Administrative Agent and each Group Agent), the Borrower will not make any change to the Credit and Collection Policy that would reasonably be expected to have a Material Adverse Effect without the prior written consent of the Administrative Agent and the Majority Group Agents. Promptly following any material change in the Credit and Collection Policy, the Borrower will deliver a copy of the updated Credit and Collection Policy identifying such material change to the Administrative Agent and each Group Agent.

(l) Fundamental Changes. The Borrower shall not, without the prior written consent of the Administrative Agent and the Majority Group Agents, permit itself (i) to merge or consolidate with or into, or convey, transfer, lease or otherwise dispose of (whether in one transaction or in a series of transactions) all or substantially all of its assets (whether now owned or hereafter acquired) to, any Person or (ii) to be directly owned by any Person other than an Originator. The Borrower shall provide the Administrative Agent with at least 30 days' (or such shorter period agreed to by the Administrative Agent in writing) prior written notice before making any change in the Borrower's name or location or making any other change in the Borrower's identity or corporate structure that would reasonably be expected to impair or otherwise render any UCC financing statement filed pursuant to this Agreement or any other Transaction Document "seriously misleading" as such term (or similar term) is used in the applicable UCC; each notice to the Administrative Agent and the Group Agents pursuant to this sentence shall set forth the applicable change and the proposed effective date thereof.

(m) Books and Records. The Borrower shall maintain and implement (or cause the Servicer to maintain and implement) administrative and operating procedures (including an ability to recreate records evidencing Pool Receivables and related Contracts in the event of the destruction of the originals thereof), and keep and maintain (or cause the Servicer to keep and maintain) all documents, books, records, computer tapes and disks and other information reasonably necessary for the servicing of each Pool Receivable (including records adequate to permit the daily identification of each Pool Receivable and all Collections of and adjustments to each existing Pool Receivable).

(n) Identifying of Records. The Borrower shall: (i) identify (or cause the Servicer to identify) its master data processing records relating to Pool Receivables and related Contracts with a legend that indicates that the Pool Receivables have been pledged in accordance with this Agreement and (ii) cause each Originator so to identify its master data processing records with such a legend; provided, that the Borrower shall not be obligated to include any notation or legend on, or otherwise mark, any Contracts.

(o) Change in Payment Instructions to Pool Obligors. The Borrower shall not (and shall not permit the Servicer or any Originator to) make any change in its (or their) instructions to the Pool Obligors regarding payments to be made to the Lock-Box Accounts (or any related Lock-Box), other than any instruction to remit payments to a different Lock-Box Account (or any related Lock-Box), unless the Administrative Agent shall have consented to such change in writing.

(p) Security Interest, Etc. The Borrower shall (and shall cause the Servicer to), at its expense, take all action necessary to establish and maintain a valid and enforceable first priority perfected security interest in the Collateral, in each case free and clear of any Adverse Claim, in favor of the Administrative Agent (for the benefit of the Secured Parties), including taking such action to perfect, protect or more fully evidence the security interest of the Administrative Agent (on behalf of the Secured Parties) as the Administrative Agent or any Secured Party may reasonably request. In furtherance of the foregoing, the Borrower hereby authorizes the Administrative Agent (for the benefit of the Secured Parties) to file such continuations of the financing statements described in Section 4.05 as it deems necessary and appropriate to maintain such perfected security interest. The Borrower shall cause the Servicer, from time to time and within the time limits established by law, to prepare and present to the Administrative Agent for the Administrative Agent's authorization and approval, all financing statements, amendments, continuations or initial financing statements in lieu of a continuation statement, or other filings necessary to continue, maintain and perfect the Administrative Agent's security interest as a first-priority interest. The Administrative Agent's approval of such filings shall authorize the Borrower to file such financing statements under the UCC. Notwithstanding anything else in the Transaction Documents to the contrary, the Borrower 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.

(q) Further Assurances. The Borrower hereby authorizes and hereby agrees from time to time, at its own expense, promptly to execute and deliver all further instruments and documents, and to take all further actions, that the Administrative Agent may reasonably request for the purpose of exercising and enforcing the rights and remedies of the Secured Parties under this Agreement, the RFA Notes or any other Transaction Document.

(r) Certain Amendments. Without the prior written consent of the Administrative Agent and the Majority Group Agents, the Borrower will not (and will not permit any Originator or the Servicer to) amend, modify, waive, revoke or terminate any Transaction Document to which it is a party in any material respect. Without the prior written consent of the Administrative Agent and the Majority Group Agents, the Borrower will not (and will not permit any Originator or the Servicer to) amend, modify, waive, revoke or terminate the Borrower's Limited Liability Company Agreement. Without the prior written consent of the Administrative Agent and the Majority Group Agents, the Borrower shall not permit the existence of any other "limited liability company agreement," as defined in the Delaware Limited Liability Company Act, of the Borrower, other than the Borrower's Limited Liability Company Agreement.

(s) Restricted Payments. (1) Except as set forth below, the Borrower will not: (A) purchase or redeem any of its membership interests, (B) declare or pay any dividend or set aside any funds for any such purpose, (C) prepay, purchase or redeem any Debt other than in accordance with or pursuant to any Transaction Document, (D) lend or advance any funds or (E) repay any loans or advances to, for or from any of its Affiliates (the amounts described in clauses (A) through (E) being referred to as "Restricted Payments").

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

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

(iv) For the avoidance of doubt, no Reinvestment made by the Borrower pursuant to Section 5.03 shall be deemed to be a Restricted Payment.

(t) Other Business. The Borrower will not: (i) engage in any business other than the transactions contemplated by the Transaction Documents, (ii) create, incur or permit to exist any Debt of any kind (or cause or permit to be issued for its account any letters of credit or bankers' acceptances) other than pursuant to this Agreement, the RFA Notes or the Subordinated Notes or (iii) form any Subsidiary.

(u) Use of Collections Available to the Borrower. The Borrower shall apply the Collections available to the Borrower for legal and valid purposes in accordance with the applicable terms of the Transaction Documents.

(v) [reserved].

(w) Transaction Information. The Borrower shall not deliver any Transaction Information to any Rating Agency without providing such Transaction Information to the applicable Group Agent prior to such delivery, nor permit any of its Affiliate to do so on its behalf. The Borrower shall not provide any Transaction Information in any oral communications with any Rating Agency without the participation of the applicable Group Agent, nor permit any of its Affiliates to do so on its behalf.

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

(y) Chattel Paper. The Borrower shall cause all chattel paper evidencing Pool Receivables held by the Servicer in its possession or control to be held by the Servicer as bailee for the Secured Parties and the Borrower at the locations identified in Schedule IV, in the Electronic Invoice System or in other electronic document management systems (which may include document storage systems provided by third party vendors used in the ordinary course of the Servicer's business); provided, however, that following the occurrence and during the continuance of a Termination Event, the Borrower shall cause the Servicer to as promptly as practicable following receipt of written request therefor from the Administrative Agent, (a) provide the Administrative Agent with such access to the Electronic Invoice System, and, to

the extent reasonably practicable, such other electronic document management systems, as is necessary to permit the Administrative Agent to identify, monitor and track the chattel paper stored therein, (b) implement such restrictions on the access of the officers, directors, agents and employees of the Servicer to the Electronic Invoice System as are reasonably necessary to ensure that possession or control of the chattel paper stored therein is not transferred to any third party, and/or (c) use its commercially reasonable efforts to deliver or cause to be delivered all tangible chattel paper to the Administrative Agent; provided, that the foregoing shall be conducted in a manner reasonably calculated to comply with any applicable confidentiality or restrictions on disclosure to which the Servicer or any Originator is subject (including with respect to Obligor information); and provided, further, that compliance with any such request by the Servicer will not materially impede or adversely affect Collections on, or the collectibility of, the Pool Receivables.

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

(a) Financial Reporting. The Servicer will maintain a system of accounting established and administered in accordance with GAAP, and the Servicer shall furnish to the Administrative Agent and each Group Agent:

(i) Compliance Certificates. (a) A compliance certificate promptly upon completion of the annual report of the Servicer and in no event later than 90 days after the close of the Servicer's fiscal year, in form and substance substantially similar to Exhibit F signed by its chief accounting officer or treasurer solely in their capacities as officers of the Servicer stating that no Termination Event or Unmatured Termination Event has occurred and is continuing, or if any Termination Event or Unmatured Termination Event has occurred and is continuing, stating the nature and status thereof and (b) within 30 days after the close of each fiscal quarter of the Servicer, a compliance certificate in form and substance substantially similar to Exhibit F signed by its chief accounting officer or treasurer solely in their capacities as officers of the Servicer stating that no Termination Event or Unmatured Termination Event has occurred and is continuing, or if any Termination Event or Unmatured Termination Event has occurred and is continuing, stating the nature and status thereof.

(ii) Information Packages. As soon as available and in any event not later than three (3) Business Days prior to each Monthly Settlement Date, an Information Package as of the most recently completed Fiscal Month.

(iii) Other Information. Within a reasonable time following any such request, such additional information regarding the servicing of the Pool Receivables or the operations, business or financial condition of the Servicer as the Administrative Agent or any Group Agent may from time to time reasonably request as it deems reasonably necessary to protect the interests of the Administrative Agent, the Group Agents or the other Secured Parties with respect to the Pool Receivables or their respective rights and remedies under the Transaction Documents.



(iv) Notwithstanding anything herein to the contrary, any materials required to be delivered pursuant to this paragraph (a) shall be deemed to have been furnished to each of the Administrative Agent and each Group Agent on the date that such materials are posted on the SEC's website at www.sec.gov.

(b) Notices. The Servicer will notify the Administrative Agent and each Group Agent in writing of any of the following events promptly upon (but in no event later than two (2) Business Days after) a Financial Officer learning of the occurrence thereof, with such notice describing the same, and if applicable, the steps being taken by the Person(s) affected with respect thereto:

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

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

(iii) Litigation. The institution of any litigation, arbitration proceeding or governmental proceeding against the Borrower, the Servicer, or any Originator which would reasonably be expected to have a Material Adverse Effect.

(iv) Adverse Claim. Any Person shall obtain an Adverse Claim upon the Collateral or any portion thereof (including with respect to any Lock-Box, Lock-Box Account and any Collections).

(v) Name Changes. At least thirty (30) days (or such shorter period agreed to by the Administrative Agent in writing) before any change in any Originator's or the Borrower's name, jurisdiction of organization or any other change requiring the amendment of UCC financing statements, a notice setting forth such changes and the effective date thereof.

(vi) Change in Accounting Policy. Any material change in any accounting policy of the Servicer that would reasonably be expected to affect the transactions contemplated by this Agreement or any other Transaction Document.

(vii) Purchase and Sale Termination Date. The occurrence of the Purchase and Sale Termination Date with respect to all remaining Originators under, and as defined in, the Purchase and Sale Agreement.

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

(c) Conduct of Business. The Servicer will do all things necessary to remain duly incorporated, validly existing and in good standing as a domestic corporation in its jurisdiction of incorporation and maintain all requisite authority to conduct its business in each

jurisdiction in which its business is conducted if the failure to have such authority could reasonably be expected to have a Material Adverse Effect. Except as otherwise permitted under the Transaction Documents, the Servicer will not make any material changes to its servicing practices or the conduct of its business, except to the extent any such change would not reasonably be expected to have a Material Adverse Effect.

(d) Compliance with Applicable Laws. The Servicer will comply in all material respects with all Applicable Laws to which it may be subject, except where the failure to so comply would not reasonably be expected to have a Material Adverse Effect.

(e) Cooperation with Inspections. The Servicer will cooperate in connection with any Inspection duly conducted hereunder pursuant to Section 7.01(g), including to permit the Administrative Agent and each Group Agent or their respective agents or representatives and/or certified public accountants or other auditors, during regular business hours and with reasonable prior written notice, to (i) examine and make copies of and abstracts from all books and records relating to the Pool Receivables or other Collateral, (ii) visit the offices and properties of the Servicer for the purpose of examining such books and records and (iii) discuss matters relating to the Pool Receivables, the other Collateral or the Servicer's performance hereunder or under the other Transaction Documents to which it is a party with any of the officers, directors, employees or independent public accountants of the Servicer, to the extent reasonably available, having knowledge of such matters; and (iv) conduct a review of its books and records with respect to such Pool Receivables and other Collateral.

(f) Payments on Receivables; Lock-Box Accounts. The Servicer will (or will cause each Originator to) instruct all Pool Obligor to deliver all payments on the Pool Receivables to a Lock-Box Account or a Lock-Box. The Servicer will, and will cause each Originator to, maintain such books and records necessary to identify Collections received from time to time on Pool Receivables and necessary to segregate such Collections received from other property of the Servicer and the Originators. If any Collections are received by the Servicer other than in a Lock-Box Account, it shall hold such payments in trust for the benefit of the Administrative Agent (for the benefit of the Secured Parties) and promptly (but in any event within two (2) Business Days after receipt) remit such funds into a Lock-Box Account. If any funds other than Collections (or other proceeds of the Collateral) are deposited into any Lock-Box Account, the Servicer will, within two (2) Business Days, identify and transfer such funds to the appropriate Person entitled to such funds. The Servicer shall only add a Lock-Box Account (or a related Lock-Box), or a Lock-Box Bank to those listed on Schedule II to this Agreement, if the Administrative Agent has received notice of such addition and an executed and acknowledged copy of a Lock-Box Agreement (or an amendment thereto) in form and substance acceptable to the Administrative Agent from the applicable Lock-Box Bank (or pursuant to other arrangements consented to in writing by the Administrative Agent and each Group Agent). The Servicer shall only terminate a Lock-Box Bank or close a Lock-Box Account (or a related Lock-Box) with the prior written consent of the Administrative Agent.

(g) Extension or Amendment of Pool Receivables. Except as otherwise permitted in Section 8.02, (i) the Servicer will not alter the delinquency status or adjust the Outstanding Balance or otherwise modify the terms of any Pool Receivable in any material respect, or amend, modify or waive, in any material respect, any term or condition of any related

Contract that would affect any Pool Receivable and (ii) with respect to each Pool Receivable, the Servicer shall comply in all material respects with all provisions, covenants and other promises required to be observed by it under the Credit and Collection Policy and, to the extent material to such Pool Receivable and to the extent not reflected from time to time in the Dilution Amount, the terms of the related Contract.

(h) Change in Credit and Collection Policy. Except to the extent required by Applicable Law (in which case the Servicer shall give prompt written notice thereof to the Administrative Agent), the Servicer will not make any change to the Credit and Collection Policy that would reasonably be expected to have a Material Adverse Effect without the prior written consent of the Administrative Agent and the Majority Group Agents. Promptly following any material change in the Credit and Collection Policy, the Servicer will deliver a copy of the updated Credit and Collection Policy identifying such material change to the Administrative Agent and each Group Agent

(i) Books and Records. The Servicer will maintain and implement administrative and operating procedures (including an ability to recreate records evidencing Pool 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 for the servicing of each Pool Receivable (including records adequate to permit the daily identification of each Pool Receivable and all Collections of and adjustments to each existing Pool Receivable).

(j) Identifying of Records. The Servicer shall identify its master data processing records relating to Pool Receivables and related Contracts with a legend that indicates that the Pool Receivables have been pledged in accordance with this Agreement; provided, that the Servicer shall not be obligated to include any notation or legend on, or otherwise mark, any Contracts.

(k) Change in Payment Instructions to Pool Obligors. The Servicer shall not (and shall not permit any Sub-Servicer to) make any change in its instructions to the Pool Obligors regarding payments to be made to the Lock-Box Accounts (or any related Lock-Box), other than any instruction to remit payments to a different Lock-Box Account (or any related Lock-Box), unless the Administrative Agent shall have consented to such change in writing.

(l) Security Interest, Etc. The Servicer shall, at its expense, take all action necessary to establish and maintain a valid and enforceable first priority perfected security interest in the Collateral, in each case free and clear of any Adverse Claim, in favor of the Administrative Agent (for the benefit of the Secured Parties), including taking such action to perfect, protect or more fully evidence the security interest of the Administrative Agent (on behalf of the Secured Parties) as the Administrative Agent or any Secured Party may reasonably request. The Servicer shall, from time to time and within the time limits established by law, prepare and present to the Administrative Agent for the Administrative Agent's authorization and approval, all financing statements, amendments, continuations or initial financing statements in lieu of a continuation statement, or other filings necessary to continue, maintain and perfect the Administrative Agent's security interest as a first-priority interest. The Administrative Agent's approval of such filings shall authorize the Servicer to file such financing statements

under the UCC. Notwithstanding anything else in the Transaction Documents to the contrary, the Servicer shall not have any authority to file a termination, partial termination, release, partial release, or any amendment that deletes the name of a debtor or excludes collateral of any such financing statements filed in connection with the Transaction Documents, without the prior written consent of the Administrative Agent.

(m) Further Assurances. The Servicer hereby agrees from time to time, at its own expense, promptly to execute and deliver all further instruments and documents, and to take all further actions, that the Administrative Agent may reasonably request for the purpose of exercising and enforcing the rights and remedies of the Secured Parties under this Agreement, the RFA Notes or any other Transaction Document.

(n) Certain Amendments. Without the prior written consent of the Administrative Agent and the Majority Group Agents, the Servicer will not amend, modify, waive, revoke or terminate any Transaction Document to which it is a party in any material respect. Without the prior written consent of the Administrative Agent and the Majority Group Agents, the Servicer will not amend, modify, waive, revoke or terminate the Borrower's Limited Liability Agreement. Without the prior written consent of the Administrative Agent and the Majority Group Agents, the Servicer shall not permit the existence of any other "limited liability company agreement," as defined in the Delaware Limited Liability Company Act, of the Borrower, other than the Borrower's Limited Liability Company Agreement.

(o) Transaction Information. The Servicer shall not deliver any Transaction Information to any Rating Agency without providing such Transaction Information to the applicable Group Agent prior to such delivery, nor permit any of its Affiliate to do so on its behalf. The Servicer shall not provide any Transaction Information in any oral communications with any Rating Agency without the participation of the applicable Group Agent, nor permit any of its Affiliates to do so on its behalf.

(p) Chattel Paper. The Servicer shall hold all chattel paper in its possession or control that evidence Pool Receivables as bailee for the Secured Parties and the Borrower, and shall not transfer possession or control of such chattel paper to any third party without the consent of the Administrative Agent and the Group Agents. All such chattel paper shall be held at the locations identified in Schedule IV, in the Electronic Invoice System or in other electronic document management systems (which may include document storage systems provided by third party vendors used in the ordinary course of the Servicer's business). During the occurrence and continuation of a Termination Event, the Servicer shall, as promptly as practicable following receipt of written request therefor from the Administrative Agent, (a) provide the Administrative Agent with such access to the Electronic Invoice System, and, to the extent reasonably practicable, such other electronic document management systems, as is necessary to permit the Administrative Agent to identify, monitor and track the chattel paper stored therein, (b) implement such restrictions on the access of the officers, directors, agents and employees of the Servicer to the Electronic Invoice System as are reasonably necessary to ensure that possession or control of the chattel paper stored therein is not transferred to any third party, and/or (c) use its commercially reasonable efforts to deliver or cause to be delivered all tangible chattel paper to the Administrative Agent; provided, that the foregoing shall be conducted in a manner reasonably calculated to comply with any applicable confidentiality or restrictions on disclosure

to which the Servicer or any Originator is subject (including with respect to Obligor information); and provided, further, that compliance with any such request by the Servicer will not materially impede or adversely affect Collections on, or the collectibility of, the Pool Receivables.

SECTION 7.03. Separate Existence of the Borrower. Each of the Borrower and the Servicer hereby acknowledges that the Secured Parties, the Group Agents and the Administrative Agent are entering into the transactions contemplated by this Agreement and the other Transaction Documents in reliance upon the Borrower's identity as a legal entity separate from any Originator, the Servicer and their Affiliates. Therefore, each of the Borrower and Servicer shall take all steps specifically required by this Agreement or reasonably required by the Administrative Agent or any Group Agent to continue the Borrower's identity as a separate legal entity and to make it apparent to third Persons that the Borrower is an entity with assets and liabilities distinct from those of the Originators, the Servicer and any other Person, and is not a division of the Originators, the 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 and in the other Transaction Documents, each of the Borrower and the Servicer shall (i) comply with all applicable provisions set forth in Section 9(j) of the Borrower's Limited Liability Company Agreement (as amended solely in accordance with this Agreement), (ii) not take any action inconsistent with the foregoing or contrary to the related matters set forth or assumed in the opinions of counsel relating to true sale and substantive non-consolidation matters and (iii) take such actions as shall be required in order that:

(a) Not fewer than one member of the Borrower's board of managers shall at all times meet the criteria set forth in the definition of "Independent Manager".

(b) The Borrower and the Servicer shall (A) give written notice to the Administrative Agent of the election or appointment, or proposed election or appointment, of a new Independent Manager of the Borrower, which notice shall be given not later than ten (10) Business Days prior to the date such appointment or election would be effective (except when such election or appointment is necessary to fill a vacancy caused by the death, disability, or incapacity of the existing Independent Manager, or the failure of such Independent Manager to satisfy the criteria for an Independent Manager set forth in the definition thereof, in which case the Borrower shall provide written notice of such election or appointment within one (1) Business Day) and (B) with any such written notice, certify to the Administrative Agent that the Independent Manager satisfies the criteria for an Independent Manager set forth in the definition thereof.

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

(d) The Borrower's Independent Manager shall not at any time serve as a trustee in bankruptcy for the Borrower, any Originator, the Servicer or any of their respective Affiliates.

**ARTICLE VIII  
ADMINISTRATION AND COLLECTION  
OF RECEIVABLES**

SECTION 8.01. Appointment of the Servicer.

(a) The servicing and administering of collections on the Pool Receivables shall be conducted by the Person so designated from time to time as the Servicer in accordance with this Section 8.01. Until the Administrative Agent gives notice to NCR (in accordance with this Section 8.01) of the designation of a new Servicer, NCR is hereby designated as, and hereby agrees to perform the duties and obligations of, the Servicer pursuant to the terms hereof. Upon the occurrence of a Termination Event (i) reasonably believed by the Administrative Agent or the Majority Group Agents to have resulted, in whole or in part, due to an act or omission of the Servicer or (ii) with respect to which, in the reasonable determination of the Administrative Agent or the Majority Group Agents, the replacement of the Servicer would be reasonably likely to cure or mitigate such Termination Event or otherwise reduce any losses expected to be suffered by the Administrative Agent or any Secured Party or maximize Collections on the Pool Receivables, then in any such case, the Administrative Agent may (with the consent of the Majority Group Agents) and shall (at the direction of the Majority Group Agents) designate as Servicer any Person (including itself) to succeed NCR or any successor Servicer, on the condition in each case that any such Person so designated shall agree to perform the duties and obligations of the Servicer pursuant to the terms hereof. For the avoidance of doubt, the Administrative Agent shall not have any obligation to designate itself as, or to become, a successor Servicer except in its sole discretion.

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

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

(d) The Servicer may delegate its duties and obligations hereunder to any subservicer (each a "Sub-Servicer"); provided, that, in each such delegation: (i) such Sub-

Servicer shall agree in writing to perform the delegated duties and obligations of the Servicer pursuant to the terms hereof, (ii) the Servicer shall remain liable for the performance of the duties and obligations so delegated, (iii) the Borrower, the Administrative Agent, each Lender and each Group Agent shall have the right to look solely to the Servicer for performance, (iv) the terms of any agreement with any Sub-Servicer shall provide that the Administrative Agent may terminate such agreement upon the termination of the Servicer hereunder by giving notice of its desire to terminate such agreement to the Servicer (and the Servicer shall provide appropriate notice to each such Sub-Servicer) and (v) if such Sub-Servicer is neither an Affiliate of NCR nor a collection agent for Defaulted Receivables, the Administrative Agent and the Majority Group Agents shall have consented in writing in advance to such delegation.

(e) If NCR is replaced as Servicer hereunder, NCR shall take such actions reasonably requested by the Administrative Agent and the successor Servicer to transition the servicing of the Pool Receivables to such successor and to permit the successor Servicer to service the Collections on the Pool Receivables, including, without limitation, providing the Administrative Agent and the successor Servicer with any information and data with respect to the Pool Receivables in the possession of, or reasonably available to, NCR or its Affiliates. In connection with any such actions by the Servicer, the Borrower shall pay to NCR its reasonable out-of-pocket costs and expenses from the Borrower's own funds if and when such funds are released to the Borrower from time to time pursuant to Section 3.01(a)(x).

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

(a) The Servicer shall take or cause to be taken all such action as may be necessary or appropriate to service and administer the collection of each Pool Receivable from time to time, all in accordance with this Agreement and all Applicable Laws, with commercially reasonable care and diligence, in accordance with the Credit and Collection Policy in a manner consistent in all material respects with the past practices of the Originators (after taking into consideration the transactions contemplated by the Transaction Documents). The Servicer shall set aside, for the accounts of each Group, the amount of Collections to which each such Group is entitled in accordance with Article III hereof. The Servicer may, in accordance with the Credit and Collection Policy and consistent with this Agreement and the other Transaction Documents to which it is a party, take such action, including modifications, waivers or restructurings of Pool Receivables and related Contracts, as the Servicer may reasonably determine to be appropriate to maximize Collections thereof, reflect adjustments expressly permitted under the Credit and Collection Policy or as expressly required under Applicable Laws or the applicable Contract or in a manner that does not adversely affect the Pool Receivables or Collections thereon; provided, that for purposes of this Agreement: (i) such action shall not, and shall not be deemed to, change the number of days such Pool Receivable has remained unpaid from the date of the original due date related to such Pool Receivable, (ii) such action shall not alter the status of such Pool Receivable as a Delinquent Receivable or a Defaulted Receivable and (iii) if a Termination Event has occurred and is continuing, the Servicer may modify, waive or restructure a Pool Receivable (or reflect any related adjustments) only upon the prior written consent of the Administrative Agent. The Servicer shall hold in trust for the Borrower and the Secured Parties all records and documents (including computer tapes or disks) that relate to the Pool Receivables. Notwithstanding anything to the contrary contained herein, if a Termination Event has occurred and is continuing, the Administrative Agent may direct the Servicer to commence

or settle any legal action to enforce collection of any Pool Receivable that is a Defaulted Receivable or to foreclose upon or repossess any Related Security with respect to any such Defaulted Receivable.

(b) The Servicer's obligations hereunder shall survive until, and terminate on, the Final Payout Date.

SECTION 8.03. Lock-Box Account Arrangements. Upon the occurrence and during the continuance of a Termination Event, the Administrative Agent may (with the consent of the Majority Group Agents) and shall (upon the direction of the Majority Group Agents) at any time thereafter give notice to each Lock-Box Bank that the Administrative Agent is exercising its rights under the Lock-Box Agreements to do any or all of the following: (a) to have the exclusive ownership and control of the Lock-Box Accounts transferred to the Administrative Agent (for the benefit of the Secured Parties) and to exercise exclusive dominion and control over the funds deposited therein, (b) to have the proceeds that are sent to the respective Lock-Box Accounts redirected pursuant to the Administrative Agent's instructions rather than deposited in the applicable Lock-Box Account and (c) to take any or all other actions permitted under the applicable Lock-Box Agreement. The Borrower hereby agrees that if the Administrative Agent at any time takes any action set forth in the preceding sentence, the Administrative Agent shall have exclusive control (for the benefit of the Secured Parties) of the proceeds (including Collections) of all Pool Receivables and the Borrower hereby further agrees to take any other action reasonably requested by the Administrative Agent for the purpose of transferring such control. Any proceeds of Pool Receivables received by the Borrower or the Servicer thereafter shall be sent promptly to, or as otherwise instructed by, the Administrative Agent (and until so sent, shall be deemed to be held in trust for the benefit of the Administrative Agent (for the benefit of the Secured Parties)).

SECTION 8.04. Enforcement Rights.

(a) At any time following the occurrence and during the continuation of a Termination Event, until the Final Payout Date:

(i) the Administrative Agent may instruct the Borrower or the Servicer to give notice of the Secured Parties' interest in Pool Receivables to each Pool Obligor, which notice shall direct that payments be made directly to the Administrative Agent or its designee (on behalf of the Secured Parties), and the Borrower or the Servicer, as the case may be, shall give such notice at the expense of the Borrower or the Servicer, as the case may be; provided, that (i) if the Borrower or the Servicer, as the case may be, fails to so notify each Pool Obligor within two (2) Business Days following instruction by the Administrative Agent to do so or (ii) at any time following the occurrence of a Termination Event pursuant to Section 9.01(e) or (f), then, in either case, the Administrative Agent (at the Borrower's or the Servicer's, as the case may be, expense) may so notify the Pool Obligors;

(ii) the Administrative Agent may request the Servicer to, and upon such request the Servicer shall: (A) assemble all of the records necessary or appropriate to service and administer the collection of the Pool Receivables and the Related Security,



and transfer or license to a successor Servicer the use of all software necessary or appropriate to service and administer the collection of 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) 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;

(iii) the Administrative Agent may assume exclusive control of each Lock-Box Account and notify the Lock-Box Banks that the Borrower and the Servicer will no longer have any access to the Lock-Box Accounts in accordance with Section 8.03;

(iv) the Administrative Agent may (or, at the direction of the Majority Group Agents shall) replace the Person then acting as Servicer in accordance with Section 8.01; and

(v) the Administrative Agent may collect any amounts due from an Originator under the Purchase and Sale Agreement or from NCR under any Performance Guaranty.

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

SECTION 8.05. Responsibilities of the Borrower. Anything herein to the contrary notwithstanding, the Borrower shall (i) perform all of its obligations, if any, under the Contracts related to the Pool Receivables to the same extent as if interests in such Pool Receivables had not been pledged hereunder, and the exercise by the Administrative Agent, or any other Credit Party of their respective rights hereunder shall not relieve the Borrower from such obligations and (ii) pay when due any Taxes, including any sales taxes payable in connection with the Pool Receivables and their creation and satisfaction. None of the Credit Parties shall have any obligation or liability with respect to any Collateral, nor shall any of them be obligated to perform any of the obligations of the Borrower, the Servicer or any Originator thereunder.

SECTION 8.06. Servicing Fee.

(a) Subject to clause (b) below, the Borrower shall pay the 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 3.01.

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

**ARTICLE IX  
TERMINATION EVENTS**

SECTION 9.01. Termination Events. If any of the following events (each a “Termination Event”) shall occur:

(a) the Borrower, any Originator or the Servicer shall fail to make when due any payment or deposit required to be made by it under this Agreement or any other Transaction Document, and such failure, shall continue unremedied for two (2) Business Days;

(b) any representation or warranty made or deemed made by the Borrower, any Originator or the Servicer (or any of their respective officers) under or in connection with this Agreement or any other Transaction Document or any information or report delivered by the Borrower, any Originator or the Servicer pursuant to this Agreement or any other Transaction Document, shall prove to have been incorrect or untrue in any material respect when made or deemed made or delivered, and such incorrect or untrue representation, warranty, information or report, solely to the extent capable of cure, shall continue unremedied for thirty (30) days;

(c) the Borrower, any Originator or the Servicer shall fail to perform or observe any term, covenant or agreement under this Agreement or any other Transaction Document (other than any such failure which would constitute a Termination Event under another clause set forth in this definition of “Termination Event”), and such failure, , solely to the extent capable of cure, shall continue unremedied for thirty (30) days;

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

(e) an involuntary proceeding shall be commenced or an involuntary petition shall be filed seeking (i) liquidation, reorganization or other relief in respect of the

Borrower, any Originator or the Servicer or their respective debts, or of a substantial part of their respective assets, under any federal, state or foreign bankruptcy, insolvency, receivership or similar law now or hereafter in effect or (ii) the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for the Borrower, any Originator or the Servicer or for a substantial part of their respective assets, and, in any such case, such proceeding or petition shall continue undismissed for 60 days or an order or decree approving or ordering any of the foregoing shall be entered;

(f) the Borrower, any Originator or the Servicer shall (i) voluntarily commence any proceeding or file any petition seeking liquidation, reorganization or other relief under any federal, state or foreign bankruptcy, insolvency, receivership or similar law now or hereafter in effect, (ii) consent to the institution of any proceeding or petition described in clause (e) of this Section 9.01, (iii) apply for or consent to the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for itself or for a substantial part of its assets, (iv) file an answer admitting the material allegations of a petition filed against it in any such proceeding or (v) make a general assignment for the benefit of creditors, or the board of managers (or similar governing body) of the Borrower, any Originator or the Servicer (or any committee thereof) shall adopt any resolution or otherwise authorize any action to approve any of the actions referred to above in this clause (f) or clause (e) of this Section 9.01;

(g) a Borrowing Base Deficit shall occur, and shall not have been cured within three (3) Business Days following the Borrower's or the Servicer's actual knowledge or receipt of notice thereof;

(h) the Borrower, any Originator or the Servicer fails to make any payment (whether of principal or interest) in respect of any Material Indebtedness when and as the same shall become due and payable, after giving effect to any period of grace specified for such payment in the agreement or instrument governing such Material Indebtedness;

(i) any event or condition exists under any Material Indebtedness of the Borrower, any Originator or the Servicer that causes such Material Indebtedness to become due prior to its scheduled maturity or any event or condition exists and continues without waiver or remedy for a period of 30 days that enables or permits (with or without the giving of notice, the lapse of time or both) the holder or holders of any such Material Indebtedness or any trustee or agent on its or their behalf to cause such Material Indebtedness to become due, or to require the prepayment, repurchase, redemption or defeasance thereof, prior to its scheduled maturity; provided that no Termination Event shall arise under this clause (i) due to (i) any secured Material Indebtedness becoming due solely as a result of the voluntary sale or transfer of the assets securing such Material Indebtedness or (ii) any Material Indebtedness that becomes due as a result of a refinancing thereof, in each case, so long as such Material Indebtedness is paid or otherwise satisfied as a result thereof within two Business Days of when due;

(j) any of the following shall occur:

- (A) the average Default Ratios for any three consecutive Fiscal Months exceeds 6.00%;
- (B) the average Delinquency Ratios for any three consecutive Fiscal Months exceeds 20.00%;
- (C) the average Dilution Ratios for any three consecutive Fiscal Months exceeds 6.00%; or
- (D) the Days' Sales Outstanding exceeds 80 days;

(k) the Borrower shall be required to register as an "investment company" within the meaning of the Investment Company Act;

(l) the Borrower or the Servicer shall fail to deliver an Information Package pursuant to this Agreement, and such failure shall remain unremedied for three (3) Business Days;

(m) any material provision of this Agreement or any other Transaction Document shall cease to be in full force and effect (except to the extent resulting from an act or omission of any Credit Party or any of their respective Affiliates), or any of the Borrower, any Originator or the Servicer (or any of their respective Affiliates) shall so state in writing;

(n) a Change in Control shall occur;

(o) NCR shall resign as Servicer other than in accordance with Section 8.01(c);

(p) the Borrower shall fail at any time (other than for ten (10) Business Days following notice of the death or resignation of any Independent Manager) to have an Independent Manager who satisfies each requirement and qualification specified in this Agreement's definition of "Independent Manager";

(q) either (i) the Internal Revenue Service shall file notice of a lien pursuant to Section 6323 of the Code with regard to any assets of the Borrower, any Originator or the Servicer, or (ii) the PBGC shall file notice of a lien pursuant to Section 4068 of ERISA, Section 303(k) of ERISA, or 430(k) of the Code with regard to any of the assets of the Borrower or any of its ERISA Affiliates;

(r) (i) the occurrence of a Reportable Event; (ii) the adoption of an amendment to a Pension Plan that would require the provision of security pursuant to Section 401(a)(29) of the Code or Section 307 of ERISA; (iii) the existence with respect to any Multiemployer Plan of an "accumulated funding deficiency" (as defined in Section 431 of the Code or Section 304 of ERISA), whether or not waived; (iv) the failure to satisfy the minimum funding standard under Section 412 of the Code or Section 302 of ERISA with respect to any Pension Plan; (v) the incurrence of any liability under Title IV of ERISA with respect to the termination of any Pension Plan or the withdrawal or partial

withdrawal of the Borrower or any of its ERISA Affiliates from any Multiemployer Plan; (vi) the receipt by the Borrower or any of its ERISA Affiliates from the PBGC or any plan administrator of any notice relating to the intention to terminate any Pension Plan or Multiemployer Plan or to appoint a trustee to administer any Pension Plan or Multiemployer Plan; (vii) the receipt by the Borrower or any of its ERISA Affiliates of any notice concerning the imposition of Withdrawal Liability or a determination that a Multiemployer Plan is, or is expected to be, insolvent or in reorganization within the meaning of Title IV of ERISA; (viii) the occurrence of a prohibited transaction with respect to the Borrower or any of its ERISA Affiliates (pursuant to Section 4975 of the Code); (ix) the occurrence or existence of any other similar event or condition with respect to a Pension Plan or a Multiemployer Plan, with respect to each of clause (i) through (ix), that either individually or in the aggregate, would reasonably be expected to result in a Material Adverse Effect;

(s) a Purchase and Sale Termination Event shall occur under the Purchase and Sale Agreement with respect to all remaining Originators; or

(t) one or more judgments or decrees shall be entered against the Borrower, any Originator, or the Servicer, or any Subsidiary of any of the foregoing involving in the aggregate a liability (not paid or to the extent not covered by a reputable and solvent insurance company) and such judgments and decrees either shall be final and non-appealable or shall not be vacated, discharged or stayed or bonded pending appeal for any period of 30 consecutive days, and the aggregate amount of all such judgments equals or exceeds \$50,000,000 (or solely with respect to the Borrower, \$15,325);

then, and in any such event, the Administrative Agent may (or, at the direction of the Majority Group Agents shall) by notice to the Borrower (x) declare the Termination Date to have occurred (in which case the Termination Date shall be deemed to have occurred) and (y) declare the Aggregate Capital and all other non-contingent Borrower Obligations to be immediately due and payable (in which case the Aggregate Capital and all other non-contingent Borrower Obligations shall be immediately due and payable); provided that, automatically upon the occurrence of any event (without any requirement for the giving of notice) described in subsection (e) or f of this Section 9.01 with respect to the Borrower, the Termination Date shall occur and the Aggregate Capital and all other non-contingent Borrower 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 Collateral shall be applied in the order of priority set forth in Section 3.01.

## **ARTICLE X THE ADMINISTRATIVE AGENT**

SECTION 10.01. Authorization and Action. Each Credit 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, the Borrower or any Affiliate thereof or any Credit 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 10.02. 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, in the absence of its or their own gross negligence or willful misconduct. Without limiting the generality of the foregoing, the Administrative Agent: (a) may consult with legal counsel (including counsel for any Credit Party or the 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 Credit Party (whether written or oral) and shall not be responsible to any Credit 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 Credit Party or to inspect the property (including the books and records) of any Credit Party; (d) shall not be responsible to any Credit Party for the due execution, legality, validity, enforceability, genuineness, sufficiency or value of this Agreement, the RFA Notes 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 10.03. Administrative Agent and Affiliates. With respect to any Credit Extension or interests therein owned by any Credit Party that is also the Administrative Agent, such Credit Party shall have the same rights and powers under this Agreement as any other Credit 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 the Borrower or any Affiliate thereof and any Person who may do business with or own securities of the Borrower 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 10.04. Indemnification of Administrative Agent. Each Committed Lender agrees to indemnify the Administrative Agent (to the extent not reimbursed by the Borrower or any Affiliate thereof), ratably according to the respective Pro Rata Percentage of such Committed Lender, 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 Committed Lender 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 10.05. 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 10.06. 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 Group Agents or the Majority Group Agents, as the case may be, and assurance of its indemnification by the Committed Lenders, 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 Group Agents or the Majority Group Agents, 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 Credit Parties. The Credit 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 Group Agents or (ii) may be taken by the Administrative Agent alone or without any advice or concurrence of any Group Agent, then the Administrative Agent may take action based upon the advice or concurrence of the Majority Group Agents.

SECTION 10.07. Notice of Termination Events; Action by Administrative Agent. The Administrative Agent shall not be deemed to have knowledge or notice of the occurrence of any Unmatured Termination Event or Termination Event unless the Administrative Agent has received notice from any Credit Party or the Borrower stating that an Unmatured Termination Event or Termination Event has occurred hereunder and describing such Unmatured Termination Event or Termination Event. If the Administrative Agent receives such a notice, it shall promptly give notice thereof to each Group Agent, whereupon each Group Agent shall promptly give notice thereof to its respective Conduit Lender(s) and Related Committed Lender(s). The Administrative Agent may (but shall not be obligated to) take such action, or refrain from taking such action, concerning an Unmatured Termination Event or Termination Event or any other matter hereunder as the Administrative Agent deems advisable and in the best interests of the Secured Parties.

SECTION 10.08. Non-Reliance on Administrative Agent and Other Parties. Each Credit 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 the Borrower or any Affiliate thereof, shall be deemed to constitute any representation or warranty by the

Administrative Agent. Each Credit Party represents and warrants to the Administrative Agent that, independently and without reliance upon the Administrative Agent or any other Credit 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 the Borrower, each Originator or the 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 Credit Party, the Administrative Agent shall not have any duty or responsibility to provide any Credit Party with any information concerning the Borrower, any Originator or the Servicer that comes into the possession of the Administrative Agent or any of its directors, officers, agents, employees, attorneys-in-fact or Affiliates.

**SECTION 10.09. Successor Administrative Agent.**

(a) The Administrative Agent may, upon at least thirty (30) days' notice to the Borrower, the Servicer and each Group Agent, resign as Administrative Agent. Except as provided below, such resignation shall not become effective until a successor Administrative Agent is appointed by the Majority Group Agents as a successor Administrative Agent and has accepted such appointment. If no successor Administrative Agent shall have been so appointed by the Majority Group Agents, within thirty (30) days after the departing Administrative Agent's giving of notice of resignation, the departing Administrative Agent may, on behalf of the Secured Parties, appoint a successor Administrative Agent as successor Administrative Agent. If no successor Administrative Agent shall have been so appointed by the Majority Group Agents within sixty (60) days after the departing Administrative Agent's giving of notice of resignation, the departing Administrative Agent may, on behalf of the Secured Parties, petition a court of competent jurisdiction to appoint a successor Administrative Agent. For so long as no Termination Event or Unmatured Termination Event has occurred and is continuing, the Borrower shall have the right to approve any successor Administrative Agent appointed hereunder, such approval not to be unreasonably withheld or delayed.

(b) Upon such acceptance of its appointment as Administrative Agent hereunder by a successor Administrative Agent, such successor Administrative Agent shall succeed to and become vested with all the rights and duties of the resigning Administrative Agent, and the resigning Administrative Agent shall be discharged from its duties and obligations under the Transaction Documents. After any resigning Administrative Agent's resignation hereunder, the provisions of this Article X and Article XII shall inure to its benefit as to any actions taken or omitted to be taken by it while it was the Administrative Agent.

**ARTICLE XI  
THE GROUP AGENTS**

**SECTION 11.01. Authorization and Action.** Each Credit Party that belongs to a Group hereby appoints and authorizes the Group Agent for such Group to take such action as agent on its behalf and to exercise such powers under this Agreement as are delegated to such Group Agent by the terms hereof, together with such powers as are reasonably incidental thereto. No



Group Agent shall 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 any Group Agent. No Group Agent assumes, nor shall it be deemed to have assumed, any obligation to, or relationship of trust or agency with the Borrower or any Affiliate thereof, any Lender except for any obligations expressly set forth herein. Notwithstanding any provision of this Agreement or any other Transaction Document, in no event shall any Group Agent ever be required to take any action which exposes such Group Agent to personal liability or which is contrary to any provision of any Transaction Document or Applicable Law.

SECTION 11.02. Group Agent's Reliance, Etc. No Group 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 a Group Agent under or in connection with this Agreement or any other Transaction Documents in the absence of its or their own gross negligence or willful misconduct. Without limiting the generality of the foregoing, a Group Agent: (a) may consult with legal counsel (including counsel for the Administrative Agent, the Borrower or the 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 Credit Party (whether written or oral) and shall not be responsible to any Credit Party for any statements, warranties or representations (whether written or oral) made by any other party in or in connection with this Agreement or any other Transaction Document; (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 or any other Transaction Document on the part of the Borrower or any Affiliate thereof or any other Person or to inspect the property (including the books and records) of the Borrower or any Affiliate thereof; (d) shall not be responsible to any Credit Party for the due execution, legality, validity, enforceability, genuineness, sufficiency or value of this Agreement, any other Transaction Documents 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. Group Agent and Affiliates. With respect to any Credit Extension or interests therein owned by any Credit Party that is also a Group Agent, such Credit Party shall have the same rights and powers under this Agreement as any other Lender and may exercise the same as though it were not a Group Agent. A Group Agent and any of its Affiliates may generally engage in any kind of business with the Borrower or any Affiliate thereof and any Person who may do business with or own securities of the Borrower or any Affiliate thereof or any of their respective Affiliates, all as if such Group Agent were not a Group Agent hereunder and without any duty to account therefor to any other Secured Party.

SECTION 11.04. Indemnification of Group Agents. Each Committed Lender in any Group agrees to indemnify the Group Agent for such Group (to the extent not reimbursed by the Borrower or any Affiliate thereof), ratably according to the proportion of the Pro Rata Percentage of such Committed Lender to the aggregate Pro Rata Percentages of all Committed Lenders in such Group, 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 such Group Agent in any way relating to or arising out of this Agreement or any other Transaction Document or any action taken or omitted by such Group Agent under this Agreement or any other Transaction Document; provided that no Committed Lender shall be liable for any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements resulting from such Group Agent's gross negligence or willful misconduct.

SECTION 11.05. Delegation of Duties. Each Group 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. No Group Agent shall be responsible for the negligence or misconduct of any agents or attorneys-in-fact selected by it with reasonable care.

SECTION 11.06. Notice of Termination Events. No Group Agent shall be deemed to have knowledge or notice of the occurrence of any Unmatured Termination Event or Termination Event unless such Group Agent has received notice from the Administrative Agent, any other Group Agent, any other Credit Party, the Servicer or the Borrower stating that an Unmatured Termination Event or Termination Event has occurred hereunder and describing such Unmatured Termination Event or Termination Event. If a Group Agent receives such a notice, it shall promptly give notice thereof to the Credit Parties in its Group and to the Administrative Agent (but only if such notice received by such Group Agent was not sent by the Administrative Agent). A Group Agent may take such action concerning an Unmatured Termination Event or Termination Event as may be directed by Committed Lenders in its Group representing a majority of the Commitments in such Group (subject to the other provisions of this Article XI), but until such Group Agent receives such directions, such Group Agent may (but shall not be obligated to) take such action, or refrain from taking such action, as such Group Agent deems advisable and in the best interests of the Conduit Lenders and Committed Lenders in its Group.

SECTION 11.07. Non-Reliance on Group Agent and Other Parties. Each Credit Party expressly acknowledges that neither the Group Agent for its Group nor any of such Group Agent's directors, officers, agents or employees has made any representations or warranties to it and that no act by such Group Agent hereafter taken, including any review of the affairs of the Borrower or any Affiliate thereof, shall be deemed to constitute any representation or warranty by such Group Agent. Each Credit Party represents and warrants to the Group Agent for its Group that, independently and without reliance upon such Group Agent, any other Group Agent, the Administrative Agent or any other Credit 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 the Borrower or any Affiliate thereof 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 a Group Agent to any Credit Party in its Group, no Group Agent shall have any duty or responsibility to provide any Credit Party in its Group with any information concerning the Borrower or any Affiliate thereof that comes into the possession of such Group Agent or any of its directors, officers, agents, employees, attorneys-in-fact or Affiliates.

SECTION 11.08. Successor Group Agent. Any Group Agent may, upon at least thirty (30) days' notice to the Administrative Agent, the Borrower, the Servicer and the Credit Parties in its Group, resign as Group Agent for its Group. Such resignation shall not become effective until a successor Group Agent is appointed by the Lender(s) in such Group. Upon such acceptance of its appointment as Group Agent for such Group hereunder by a successor Group Agent, such successor Group Agent shall succeed to and become vested with all the rights and duties of the resigning Group Agent, and the resigning Group Agent shall be discharged from its duties and obligations under the Transaction Documents. After any resigning Group Agent's resignation hereunder, 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 a Group Agent.

SECTION 11.09. Reliance on Group Agent. Unless otherwise advised in writing by a Group Agent or by any Credit Party in such Group Agent's Group, each party to this Agreement may assume that (i) such Group Agent is acting for the benefit and on behalf of each of the Credit Parties in its Group, as well as for the benefit of each assignee or other transferee from any such Person and (ii) each action taken by such Group Agent has been duly authorized and approved by all necessary action on the part of the Credit Parties in its Group.

## **ARTICLE XII INDEMNIFICATION**

SECTION 12.01. Indemnities by the Borrower.

(a) Without limiting any other rights that the Administrative Agent, the Credit Parties, the Affected Persons and their respective officers, directors, agents and employees (each, a "Borrower Indemnified Party") may have hereunder or under Applicable Law, the Borrower hereby agrees to indemnify each Borrower Indemnified Party from and against any and all claims, losses and liabilities (including Attorney Costs) arising out of or resulting from this Agreement or any other Transaction Document or the use of proceeds of the Credit Extensions or the security interest in respect of any Pool Receivable or any other Collateral (all of the foregoing being collectively referred to as "Borrower Indemnified Amounts"); excluding, however, (x) Borrower Indemnified Amounts to the extent arising out of or resulting from the gross negligence or willful misconduct of such Borrower Indemnified Party or any of its Related Indemnified Parties or the breach by such Borrower Indemnified Party or any of its Related Indemnified Parties of its obligations under any Transaction Document to which it is a party, in each case, as determined in a final non-appealable judgment by a court of competent jurisdiction, and (y) Taxes that are covered by Section 4.03. Without limiting the foregoing, the Borrower Indemnified Amounts shall include any and all claims, losses and liabilities (including Attorney Costs) arising out of or resulting from any of the following (but excluding amounts described in clauses (x) and (y) above):

(i) any Pool Receivable being included as an Eligible Receivable as part of the Net Receivables Pool Balance but which is not an Eligible Receivable at such time;

(ii) any representation or warranty by the Borrower under this Agreement, any of the other Transaction Documents, any Information Package or any other information or report delivered by or on behalf of the Borrower pursuant hereto being untrue or incorrect when made or deemed made;

(iii) any failure of the Borrower to perform any of its duties or obligations in accordance with the provisions hereof and of each other Transaction Document;

(iv) the commingling of Collections of Pool Receivables at any time with other funds;

(v) any third party investigation, litigation or proceeding (actual or threatened, but excluding any such investigation, litigation or proceeding brought by another Borrower Indemnified Party) against a Borrower Indemnified Party by reason of such Borrower Indemnified Party's participation in the transactions contemplated by this Agreement or any other Transaction Document or the use of proceeds of any Credit Extensions or in respect of any Pool Receivable or other Collateral or any related Contract;

(vi) any third party claim (actual or threatened, but excluding any such claim brought by another Borrower Indemnified Party) against a Borrower Indemnified Party arising from any activity by the Borrower or any Affiliate of the Borrower in servicing, administering or collecting any Pool Receivable;

(vii) any failure of a Lock-Box Bank to comply with the terms of the applicable Lock-Box Agreement or any amounts payable by the Administrative Agent to a Lock-Box Bank under any Lock-Box Agreement;

(viii) 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 or arising out of collection activities with respect to such Pool Receivable or 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; or

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

(b) In no event shall the Borrower be liable hereunder to any Borrower Indemnified Party or any other Person for any special, indirect, consequential or punitive damages, including but not limited to lost profits, even if the Borrower has been advised of the likelihood of such loss or damage and regardless of the form of action.

(c) If for any reason any indemnification to which a Borrower Indemnified Party would otherwise be entitled pursuant to the terms of Section 12.01(a) is unavailable to such Borrower Indemnified Party or insufficient to hold it harmless, then the Borrower shall contribute to such Borrower Indemnified Party the amount paid or payable by such Borrower Indemnified Party as a result of such loss, claim, damage or liability in such proportion as is appropriate to reflect the relative economic interests of the Borrower and its Affiliates on the one hand and such Borrower Indemnified Party on the other hand in the matters contemplated by this Agreement as well as the relative fault of the Borrower and its Affiliates and such Borrower Indemnified Party with respect to such loss, claim, damage or liability and any other relevant equitable considerations. The reimbursement, indemnity and contribution obligations of the Borrower under this Section shall, to the extent not duplicative, be in addition to any liability which the Borrower may otherwise have.

(d) All amounts owed by the Borrower under this Section 12.01 shall be paid by the Borrower, in accordance with Section 3.01(a), beginning on the Settlement Date following the Fiscal Month during which the Borrower and the Administrative Agent have received written demand of the related Borrower Indemnified Amounts from the Group Agent related to the Borrower Indemnified Party or its Group Agent on its behalf. Any indemnification or contribution under this Section shall survive the termination of this Agreement.

**SECTION 12.02. Indemnification by the Servicer.**

(a) The Servicer hereby agrees to indemnify and hold harmless the Borrower, the Administrative Agent, the Credit Parties, the Affected Persons and their respective officers, directors, agents and employees (each, a “Servicer Indemnified Party”), from and against any loss, liability, expense, damage or injury suffered or sustained by reason of (i) Servicer’s failure to duly and punctually perform its obligations pursuant to this Agreement or any other Transaction Document to which it is a party, (ii) the breach by the Servicer of any of its representations, warranties or covenants hereunder, (iii) any violation of Applicable Law by the Servicer, (iv) any Adverse Claim asserted by any creditor of the Servicer against any of the Collateral, (v) any third party claim against a Servicer Indemnified Party for damages caused by the Servicer’s servicing, administration or collection of Pool Receivables, (vi) any governmental investigation or proceeding against a Servicer Indemnified Party based on the Servicer’s servicing, administration or collection of Pool Receivables, (vii) the commingling of Collections of Pool Receivables at any time with other funds, (viii) the failure of any Pool Receivable which the Servicer includes as an Eligible Receivable as part of the Net Receivables Pool Balance to be an Eligible Receivable at such time or (ix) the voluntary resignation of the Servicer hereunder, in each case, including any judgment, award, settlement, Attorney Costs and other costs or expenses incurred in connection with the defense of any actual or threatened action, proceeding or claim (all of the foregoing being collectively referred to as, “Servicer Indemnified Amounts”); excluding, however, (A) Servicer Indemnified Amounts to the extent arising out of or resulting from the gross negligence or willful misconduct of such Servicer Indemnified Party or any of its Related Indemnified Parties or the breach by such Servicer Indemnified Party or any of its Related Indemnified Parties of its obligations under any Transaction Document to which it is a party, in each case, as determined in a final non-appealable judgment by a court of competent jurisdiction and (B) any Credit Risk Losses or losses arising under arrangements (synthetically or

otherwise) to the extent such arrangements have the effect of replicating, in whole or in part, exposure to Credit Risk Losses.

(b) In no event shall the Servicer be liable hereunder to any Servicer Indemnified Party or any other Person for any special, indirect, consequential or punitive damages, including but not limited to lost profits, even if the Servicer has been advised of the likelihood of such loss or damage and regardless of the form of action.

(c) If for any reason any indemnification to which a Servicer Indemnified Party would otherwise be entitled pursuant to the terms of Section 12.02(a) is unavailable to such Servicer Indemnified Party or insufficient to hold it harmless, then the Servicer shall contribute to the amount paid or payable by such Servicer Indemnified Party as a result of such loss, claim, damage or liability in such proportion as is appropriate to reflect the relative economic interests of the Servicer and its Affiliates on the one hand and such Servicer Indemnified Party on the other hand in the matters contemplated by this Agreement as well as the relative fault of the Servicer and its Affiliates and such Servicer Indemnified Party with respect to such loss, claim, damage or liability and any other relevant equitable considerations. The reimbursement, indemnity and contribution obligations of the Servicer under this Section shall, to the extent not duplicative, be in addition to any liability which the Servicer may otherwise have.

(d) All amounts owed by the Servicer under this Section 12.02 shall be paid by the Servicer by the Settlement Date following the Fiscal Month during which the Servicer has received written demand of the related Servicer Indemnified Amounts from the applicable Servicer Indemnified Party (or the related Group Agent on its behalf). Any indemnification or contribution under this Section shall survive the termination of this Agreement.

### **ARTICLE XIII MISCELLANEOUS**

#### **SECTION 13.01. Amendments, Etc.**

(a) No failure on the part of any Credit Party to exercise, and no delay in exercising, any right hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any right hereunder preclude any other or further exercise thereof or the exercise of any other right. No amendment or waiver of any provision of this Agreement or consent to any departure by any party from any such provision shall be effective unless in writing and signed by the Borrower, the Administrative Agent and the Majority Group Agents, and each waiver or consent granted hereunder 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 be enforceable against the Servicer unless in writing and signed by the Servicer; (B) no amendment, waiver or consent shall increase any Committed Lender's Commitment hereunder without the consent of such Committed Lender and (C) no amendment, waiver or consent shall, unless in writing and signed by the Administrative Agent and each Group Agent:

(i) change (directly or indirectly) the definitions of, Borrowing Base Deficit, Defaulted Receivable, Delinquent Receivable, Eligible Receivable, Facility

Limit, Scheduled Termination Date, Net Receivables Pool Balance or Total Reserves or any component of any of the foregoing contained in this Agreement, or increase the then existing Concentration Percentage for any Pool Obligor or change the calculation of the Borrowing Base;

- (ii) reduce the amount of Capital, Interest or Fees that are payable on account of any Loan or any Commitment or delay any scheduled date for payment thereof;
- (iii) change any Termination Event;
- (iv) change any of the provisions of this Section 13.01 or the definition of “Majority Group Agents”; or
- (v) change the order of priority in which Collections are applied pursuant to Section 3.01.

SECTION 13.02. Notices, Etc. All notices and other communications hereunder shall, unless otherwise stated herein, be in writing (which shall include facsimile communication) and faxed or delivered, to each party hereto, at its address set forth under its name on Schedule III hereto or at such other address as shall be designated by such party in a written notice to the other parties hereto. Notices and communications by facsimile shall be effective when sent (and shall be followed by hard copy sent by regular mail), and notices and communications sent by other means shall be effective when received.

SECTION 13.03. Assignability; Addition of Lenders.

(a) Assignment by Conduit Lenders. This Agreement and the rights of each Conduit Lender hereunder (including each Loan made by it hereunder) shall be assignable by such Conduit Lender and its successors and permitted assigns (i) to any Program Support Provider of such Conduit Lender without prior notice to or consent from the Borrower or any other party, or any other condition or restriction of any kind, (ii) to any other Lender with prior notice to the Borrower but without consent from the Borrower or (iii) with the prior written consent of the Borrower (such consent not to be unreasonably withheld, conditioned or delayed; provided, however, that such consent shall not be required if a Termination Event or Unmatured Termination Event has occurred and is continuing), to any other Eligible Assignee. Each assignor of a Loan or any interest therein may, in connection with the assignment or participation, disclose to the assignee or Participant any information relating to the Borrower and its Affiliates, including the Pool Receivables, furnished to such assignor by or on behalf of the Borrower and its Affiliates or by the Administrative Agent; provided that, prior to any such disclosure, the assignee or Participant agrees to preserve the confidentiality of any confidential information relating to the Borrower and its Affiliates received by it from any of the foregoing entities in a manner consistent with Section 13.06(b).

(b) Assignment by Committed Lenders. Each Committed Lender may assign to any Eligible Assignee or to any other Committed Lender all or a portion of its rights and obligations under this Agreement and the RFA Notes (including, without limitation, all or a

portion of its Commitment and any Loan or interests therein owned by it); provided, however that

(i) except for an assignment by a Committed Lender to either an Affiliate of such Committed Lender or any other Committed Lender, each such assignment shall require the prior written consent of the Borrower (such consent not to be unreasonably withheld, conditioned or delayed; provided, however, that such consent shall not be required if a Termination Event or an Unmatured Termination 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) \$10,000,000 and (y) all of the assigning Committed Lender'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 Committed Lender hereunder and (y) the assigning Committed Lender 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 Committed Lender's rights and obligations under this Agreement, such Committed Lender shall cease to be a party hereto).

(c) Register. The Administrative Agent shall, acting solely for this purpose as an agent of the Borrower, maintain at its address referred to on Schedule III of this Agreement (or such other address of the Administrative Agent notified by the Administrative Agent to the other parties hereto) a copy of each Assignment and Acceptance Agreement delivered to and accepted by it and a register for the recordation of the names and addresses of the Committed Lenders and the Conduit Lenders, the Commitment of each Committed Lender and the aggregate outstanding Capital (and stated interest) of the Loans of each Conduit Lender and Committed Lender from time to time (the "Register"). The entries in the Register shall be conclusive and binding for all purposes, absent manifest error, and the Borrower, the Servicer, the Administrative Agent, the Group Agents, and the other Credit Parties shall treat each Person whose name is recorded in the Register as a Committed Lender or

Conduit Lender, as the case may be, under this Agreement for all purposes of this Agreement. The Register shall be available for inspection by the Borrower, the Servicer, any Group Agent,



any Conduit Lender or any Committed Lender 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 Committed Lender and an Eligible Assignee or assignee Committed Lender, the Administrative Agent shall, if such Assignment and Acceptance Agreement has been duly completed, (i) accept such Assignment and Acceptance Agreement, (ii) record the information contained therein in the Register and (iii) give prompt notice thereof to the Borrower and the Servicer.

(e) Participations. Each Committed Lender 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 the interests in the Loans owned by it); provided, however, that:

(i) such Committed Lender's obligations under this Agreement (including, without limitation, its Commitment to the Borrower hereunder) shall remain unchanged;

(ii) such Committed Lender shall remain solely responsible to the other parties to this Agreement for the performance of such obligations;

(iii) the Borrower, the Servicer and each Credit Party shall continue to deal solely and directly with such Committed Lender in connection with such Committed Lender's rights and obligations under this Agreement; and

(iv) any agreement or instrument pursuant to which such Committed Lender sells such a participation shall provide that such Committed Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement or any other Loan Document (except that such agreement or instrument may provide that such Committed Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver described in clause (C) of the proviso to Section 13.01(a) that affects such Participant.

(f) Participant Register. Each Committed Lender that sells a participation shall, acting solely for this purpose as an agent of the Borrower, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each Participant's interest in the Loans or other obligations under this Agreement (the "Participant Register"); provided that no Committed Lender 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, Loans or its other obligations under this Agreement) to any Person except to the extent that such disclosure is necessary to establish that such Commitment, Loan 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 Committed Lender 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 Agents. This Agreement and the RFA Notes and the rights and obligations of the Administrative Agent and each Group Agent therein shall be assignable by the Administrative Agent or such Group Agent, 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 Group Agent, so long as no Termination Event or Unmatured Termination Event has occurred and is continuing, such assignment shall require the Borrower's consent (not to be unreasonably withheld, conditioned or delayed).

(h) Assignments by the Borrower or the Servicer. Neither the Borrower nor, except as provided in Section 8.01, the Servicer may assign any of its respective rights or obligations hereunder or under the RFA Notes or any interest therein without the prior written consent of the Administrative Agent and each Group Agent (such consent to be provided or withheld in the sole discretion of such Person).

(i) Addition of Lenders or Groups. The Borrower may, with written notice to the Administrative Agent and each Group Agent, add additional Persons as Lenders (by creating a new Group) or cause an existing Lender to increase its Commitment; provided, however, that the Commitment of any existing Lender may only be increased with the prior written consent of such Lender. Each new Lender (or Group) shall become a party hereto, by executing and delivering to the Administrative Agent and the Borrower, an assumption agreement (each, an "Assumption Agreement") in the form of Exhibit C hereto (which Assumption Agreement shall, in the case of any new Lender, be executed by each Person in such new Lender's Group).

(j) Pledge to a Federal Reserve Bank. Notwithstanding anything to the contrary set forth herein, (i) any Lender, Program Support Provider 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 Interest) and any other Transaction Document to secure its obligations to a Federal Reserve Bank, without notice to or the consent of the Borrower, the Servicer, any Affiliate thereof or any Credit Party; provided, however, that that no such pledge shall relieve such assignor of its obligations under this Agreement.

SECTION 13.04. Costs and Expenses. In addition to the rights of indemnification granted under Section 12.01 hereof, the Borrower agrees to pay, in accordance with Section 3.01(a) beginning on the Settlement Date following the Fiscal Month during which the Borrower has received written demand therefor, all reasonable and documented out-of-pocket costs and expenses incurred by any Credit Party in connection with the preparation, negotiation, execution, delivery and administration of this Agreement, the RFA Notes 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) Attorney Costs incurred in connection with obtaining advice regarding their rights and remedies under this Agreement, the RFA Notes and the other Transaction Documents or in connection with the enforcement of any such rights or remedies and (ii) reasonable accountants', auditors' and consultants' fees and expenses and fees and charges of any nationally recognized statistical

rating agency incurred in connection with the administration and maintenance of this Agreement and the RFA Notes or advising the Administrative Agent or any other Credit Party as to their rights and remedies under this Agreement or the RFA Notes or in connection with the enforcement of any such rights or remedies.

SECTION 13.05. No Proceedings; Limitation on Payments.

(a) Each of the Borrower, the Administrative Agent, the Servicer, each Group Agent and each Lender hereby covenants and agrees (and each other Person who acquires any interest in a Loan shall be deemed to have covenanted and agreed) with each Conduit Lender and with each other that, until the date that is one year plus one day after the Notes or other outstanding senior indebtedness of such Conduit Lender have been paid in full, it will not institute or cause or participate in the institution of any Insolvency Proceeding against such Conduit Lender.

(b) Each of the Servicer, each Group Agent and each Lender hereby covenants and agrees (and each other Person who acquires any interest in a Loan shall be deemed to have covenanted and agreed) with the Borrower and with each other that, until the date that is one year plus one day after the Final Payout Date, it will not institute or cause or participate in the institution of any Insolvency Proceeding against the Borrower. The Administrative Agent hereby covenants and agrees that, until the date that is one year plus one day after the Final Payout Date, it will not institute or cause or participate in the institution of any Insolvency Proceeding against the Borrower without the consent of the Majority Group Agents.

(c) Notwithstanding any provisions contained in this Agreement to the contrary, a Conduit Lender shall not, and shall be under no obligation to, pay any amount, if any, payable by it pursuant to this Agreement or any other Transaction Document unless (i) such Conduit Lender has received funds which may be used to make such payment and which funds are not required to repay such Conduit Lender's Notes when due and (ii) after giving effect to such payment, either (x) such Conduit Lender could issue Notes to refinance all of its outstanding Notes (assuming such outstanding Notes matured at such time) in accordance with the program documents governing such Conduit Lender's securitization program or (y) all of such Conduit Lender's Notes are paid in full. Any amount which any Conduit Lender does not pay pursuant to the operation of the preceding sentence shall not constitute a claim (as defined in Section 101 of the Bankruptcy Code) against or company obligation of such Conduit Lender for any such insufficiency unless and until such Conduit Lender satisfies the provisions of clauses (i) and (ii) above. The provisions of this Section 13.05 shall survive any termination of this Agreement.

SECTION 13.06. Confidentiality.

(a) Each of the Administrative Agent and the other Credit Parties agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (i) to its Related Parties, including its accountants, legal counsel, advisors and other agents, it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential,

(ii) to the extent requested by any Governmental Authority purporting to have jurisdiction over it, (iii) to the extent required by Applicable Law or by any subpoena or similar legal process, (iv) to any other party to this Agreement, any Program Support Provider or any Originator, (v) in connection with the exercise of any remedies under this Agreement or any other Transaction Document or any suit, action or proceeding relating to this Agreement or any other Transaction Document or the enforcement of rights hereunder or thereunder, (vi) to any nationally recognized statistical rating organization in connection with obtaining or maintaining the rating of any Conduit Lender's Notes or as contemplated by 17 CFR 240.17g-5(a)(3), (vii) subject to an agreement containing confidentiality undertakings substantially similar to those of this Section, to (x) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights or obligations under this Agreement or (y) any actual or prospective counterparty (or its Related Parties) to any swap or derivative transaction relating to the Borrower and its obligations, (viii) with the consent of the Borrower or the Servicer, as applicable, (ix) to the extent such Information (x) becomes publicly available other than as a result of a breach of this clause (a) or (y) becomes available to any Credit Party or any Affiliate of any Credit Party on a nonconfidential basis from a source other than the Borrower or the Servicer. For purposes of this clause (a), "Information" means all information received from the Borrower or the Servicer relating to the Borrower, the Servicer or their respective businesses, other than any such information that is available to any Credit Party on a nonconfidential basis prior to disclosure by the Borrower or the Servicer; provided that, in the case of information received from the Borrower or the Servicer after the date hereof (other than in connection with an Inspection), such information is clearly identified at the time of delivery as confidential. Any Person required to maintain the confidentiality of Information as provided in this clause (a) shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

(b) Each of the Borrower and the Servicer agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (i) to its Related Parties, including its accountants, legal counsel, advisors and other agents, it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential, (ii) to the extent requested by any Governmental Authority purporting to have jurisdiction over it (including any self-regulatory authority, such as the National Association of Insurance Commissioners), (iii) to the extent required by Applicable Law (including applicable filings under the Exchange Act) or by any subpoena or similar legal process, (iv) to any other party to this Agreement, any Program Support Provider or any Originator, (v) in connection with the exercise of any remedies under this Agreement or any other Transaction Document or any suit, action or proceeding relating to this Agreement or any other Transaction Document or the enforcement of rights hereunder or thereunder, (vi) with the consent of the applicable Credit Party, (vii) to the extent such Information (x) becomes publicly available other than as a result of a breach of this clause (b) or (y) becomes available to Borrower, Servicer, or any of their Affiliates on a nonconfidential basis from a source other than a Credit Party. For purposes of this clause (b), "Information" means the Fee Letter and all information received from a Credit Party that is clearly identified as confidential at the time of delivery. Any Person required to maintain the confidentiality of Information as provided in this clause (b) shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care

to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

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).

SECTION 13.08. Execution in Counterparts. This Agreement may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original and all of which when taken together shall constitute one and the same agreement. Delivery of an executed counterpart hereof by facsimile or other electronic means shall be equally effective as delivery of an originally executed counterpart.

SECTION 13.09. Integration; Binding Effect; Third-Party Beneficiaries; 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. The Secured Parties are express third-party beneficiaries hereunder; provided, that the rights of each such third-party beneficiary shall be subject to the compliance by such third-party beneficiary with the provisions of the Transaction Documents (including, to the extent applicable, the provisions of Section 4.03(f) and Section 4.06 of this Agreement) that relate to such rights. No other third-party beneficiary rights are intended or conferred hereunder. This Agreement shall create and constitute the continuing obligations of the parties hereto in accordance with its terms and shall remain in full force and effect until the Final Payout Date; provided, however, that the provisions of Sections 4.01, 4.02, 4.03, 10.04, 10.06, 11.04, 12.01, 12.02, 13.04, 13.05, 13.06, 13.07, 13.09, 13.11 and 13.13 shall survive any termination of this Agreement.

SECTION 13.10. CONSENT TO JURISDICTION. (a) EACH PARTY HERETO HEREBY IRREVOCABLY SUBMITS TO THE NON-EXCLUSIVE JURISDICTION OF ANY NEW YORK STATE OR FEDERAL COURT SITTING IN NEW YORK CITY, NEW YORK IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT, AND EACH PARTY HERETO HEREBY IRREVOCABLY AGREES THAT ALL CLAIMS IN RESPECT OF SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN SUCH NEW YORK STATE COURT OR, TO THE EXTENT PERMITTED BY LAW, IN SUCH FEDERAL COURT. THE PARTIES HERETO HEREBY IRREVOCABLY WAIVE, TO THE FULLEST EXTENT THEY MAY EFFECTIVELY DO SO, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING. THE PARTIES HERETO AGREE THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW.

(b) EACH OF THE PARTIES HERETO CONSENTS TO THE SERVICE OF ANY AND ALL PROCESS IN ANY SUCH ACTION OR PROCEEDING BY THE MAILING OF COPIES OF SUCH PROCESS TO IT AT ITS ADDRESS SPECIFIED IN SECTION 13.02. NOTHING IN THIS SECTION 13.10 SHALL AFFECT THE RIGHT OF ANY 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 Credit Party, whether by setoff or otherwise, has payment made to it with respect to any Borrower Obligations in a greater proportion than that received by any other Credit Party entitled to receive a ratable share of such Borrower Obligations, such Credit Party agrees, promptly upon demand, to purchase for cash without recourse or warranty a portion of such Borrower Obligations held by the other Credit Parties so that after such purchase each Credit Party will hold its ratable proportion of such Borrower Obligations; provided that if all or any portion of such excess amount is thereafter recovered from such Credit Party, such purchase shall be rescinded and the purchase price restored to the extent of such recovery, but without interest.

SECTION 13.13. **Limitation of Liability.**

(a) No claim may be made by the Borrower or any Affiliate thereof or any other Person against any Credit Party or their respective Affiliates, members, directors, officers, employees, incorporators, attorneys or agents for any special, indirect, consequential or punitive damages in respect of any claim for breach of contract or any other theory of liability arising out of or related to the transactions contemplated by this Agreement or any other Transaction Document, or any act, omission or event occurring in connection herewith or therewith; and each of the Borrower and the Servicer hereby waives, releases, and agrees not to sue upon any claim for any such damages, whether or not accrued and whether or not known or suspected to exist in its favor. None of the Credit Parties and their respective Affiliates shall have any liability to the Borrower or any Affiliate thereof or any other Person asserting claims on behalf of or in right of the Borrower or any Affiliate thereof in connection with or as a result of this Agreement or any other Transaction Document or the transactions contemplated hereby or thereby, except to the extent that any losses, claims, damages, liabilities or expenses incurred by the Borrower or any Affiliate thereof result from the gross negligence or willful misconduct of such Credit 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 parties under this Agreement and each of the Transaction Documents are solely the corporate or limited liability company obligations of such Person, and no recourse shall be had against, and no personal liability whatsoever shall

attach to or be incurred by any incorporator, stockholder, member, partner or Related Party of any such Person or those of any of their Affiliates by the enforcement of any assessment or by any legal or equitable proceeding, by virtue of any statute or otherwise, and any and all personal liability for breaches by any such Person of such obligations, either at common law or at equity, or by statute, rule or regulation, is hereby expressly waived with respect to every such incorporator, stockholder, member, partner or Related Party as a condition of and in consideration for the execution of this Agreement.

SECTION 13.14. Intent of the Parties. The parties have entered into this Agreement with the intention that the Loans and the obligations of the Borrower hereunder will be treated under United States federal, and applicable state, local and foreign tax law as debt (the “Intended Tax Treatment”). The Borrower, the Servicer, the Administrative Agent and the other Credit Parties agree to file no tax return, or take any action, inconsistent with the Intended Tax Treatment unless required by law. Each assignee and each Participant acquiring an interest in a Loan, by its acceptance of such assignment or participation, agrees to comply with the immediately preceding sentence.

SECTION 13.15. USA Patriot Act. Each of the Administrative Agent and each of the other Credit Parties hereby notifies the Borrower and the Servicer that pursuant to the requirements of the USA PATRIOT Act, Title III of Pub. L. 107-56 (signed into law October 26, 2001) (the “PATRIOT Act”), the Administrative Agent and the other Credit Parties may be required to obtain, verify and record information that identifies the Borrower and the Servicer, which information includes the name, address, tax identification number and other information regarding the Borrower and the Servicer that will allow the Administrative Agent and the other Credit Parties to identify the Borrower and the Servicer in accordance with the PATRIOT Act. This notice is given in accordance with the requirements of the PATRIOT Act. Each of the Borrower and the Servicer agrees to provide the Administrative Agent and each other Credit 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 Credit Party is hereby authorized (in addition to any other rights it may have), at any time during the continuance of a Termination 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 Credit Party (including by any branches or agencies of such Credit Party) to, or for the account of, the Borrower, against any non-contingent Borrower Obligations then owed by the Borrower hereunder; provided that such Credit Party shall notify each other party hereto promptly following such setoff, and any subsequent payments made by the Borrower under Section 3.01 shall be adjusted to correct for any non-pro rata exercise of the rights under this Section 13.16, as reasonably determined by the Administrative Agent.

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.

**[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.

NCR RECEIVABLES LLC

By: /s/ John Boudreau  
Name: John Boudreau  
Title: President and Treasurer

NCR CORPORATION,  
as the Servicer

By: /s/ Robert P. Fishman  
Name: Robert P. Fishman  
Title: Senior Vice President and Chief Financial Officer

PNC BANK, NATIONAL ASSOCIATION,  
as Administrative Agent

By: /s/ Mark Falcione  
Name: Mark Falcione  
Title: Executive Vice President

PNC BANK, NATIONAL ASSOCIATION,  
as Group Agent for the PNC Group

By: /s/ Mark Falcione  
Name: Mark Falcione  
Title: Executive Vice President

PNC BANK, NATIONAL ASSOCIATION,  
as a Committed Lender

By: /s/ Mark Falcione  
Name: Mark Falcione  
Title: Executive Vice President

THE BANK OF TOKYO-MITSUBISHI UFJ, LTD., NEW YORK BRANCH,  
as a Committed Lender for the BTMU Group

By: /s/ Lillian Kim  
Name: Lillian Kim  
Title: Director

THE BANK OF TOKYO-MITSUBISHI UFJ, LTD., NEW YORK BRANCH,  
as a Group Agent for the BTMU Group

By: /s/ Richard Gregory Hurst  
Name: Richard Gregory Hurst  
Title: Managing Director

VICTORY RECEIVABLES CORPORATION,  
as a Conduit Lender of the BTMU Group

By: /s/ David V. DeAngelis  
Name: David V. DeAngelis  
Title: Vice President

**EXHIBIT A**  
**Form of Loan Request**

[Letterhead of Borrower]

[Date]

[Administrative Agent]

[Group Agents]

Re: Loan Request

Ladies and Gentlemen:

Reference is hereby made to that certain Receivables Financing Agreement, dated as of November 21, 2014 among NCR Receivables LLC (the "Borrower"), NCR Corporation, as Servicer (the "Servicer"), the Lenders party thereto, the Group Agents party thereto and PNC Bank, National Association, as Administrative Agent (in such capacity, the "Administrative Agent") (as amended, supplemented or otherwise modified from time to time, the "Agreement"). Capitalized terms used in this Loan Request and not otherwise defined herein shall have the meanings assigned thereto in the Agreement.

This letter constitutes a Loan Request pursuant to Section 2.02(a) of the Agreement. The Borrower hereby request a Loan in the amount of [\$\_\_\_\_\_] to be made on [\_\_\_\_, 20\_\_] (of which \$[\_\_\_\_] will be funded by the PNC Group, and \$[\_\_\_\_] will be funded by the BTMU Group). The proceeds of such Loan should be deposited to [Account number], at [Name, Address and ABA Number of Bank]. After giving effect to such Loan, the Aggregate Capital will be [\$\_\_\_\_\_].

The Borrower hereby represents and warrants as of the date hereof, and after giving effect to such Credit Extension, as follows:

- (i) the representations and warranties of the Borrower and the Servicer contained in Sections 6.01 and 6.02 of the Agreement are true and correct in all material respects on and as of the date of such Credit Extension 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 Termination Event or Unmatured Termination Event has occurred and is continuing, and no Termination Event or Unmatured Termination Event would result from such Credit Extension;
- (iii) no Borrowing Base Deficit exists or would exist after giving effect to such Credit Extension; and
- (iv) the Termination Date has not occurred.

IN WITNESS WHEREOF, the undersigned has executed this letter by its duly authorized officer as of the date first above written.

Very truly yours,

NCR RECEIVABLES LLC

By:\_\_\_  
Name:  
Title

A-2

**EXHIBIT B**  
**[Form of Assignment and Acceptance Agreement]**

Dated as of \_\_\_\_\_, 20\_\_

Section 1.

Commitment assigned:	\$[_____]
Assignor's remaining Commitment:	\$[_____]
Capital allocable to Commitment assigned:	\$[_____]
Assignor's remaining Capital:	\$[_____]
Interest (if any) allocable to Capital assigned:	\$[_____]
Interest (if any) allocable to Assignor's remaining Capital:	\$[_____]

Section 2.

Effective Date of this Assignment and Acceptance Agreement: [\_\_\_\_\_]

Upon execution and delivery of this Assignment and Acceptance Agreement by the assignee and the assignor and the satisfaction of the other conditions to assignment specified in Section 13.03(b) of the Agreement (as defined below), from and after the effective date specified above, the assignee shall become a party to, and, to the extent of the rights and obligations thereunder being assigned to it pursuant to this Assignment and Acceptance Agreement, shall have the rights and obligations of a Committed Lender under that certain Receivables Financing Agreement, dated as of November 21, 2014 among NCR Receivables LLC, NCR Corporation, as Servicer, the Lenders party thereto, the Group Agents party thereto and PNC Bank, National Association, as Administrative Agent (as amended, supplemented or otherwise modified from time to time, the "Agreement"). Capitalized terms used and not otherwise defined herein shall have the meanings assigned thereto in the Agreement.

By executing this Assignment and Acceptance Agreement, the assignee hereby covenants and agrees with each other party to the Agreement that: (i) until the date that is one year plus one day after the Notes or other outstanding senior indebtedness of any Conduit Lender have been paid in full, it will not institute or cause or participate in the institution of any Insolvency Proceeding against such Conduit Lender, and (ii) until the date that is one year plus one day after the Final Payout Date, it will not institute or cause or participate in the institution of any Insolvency Proceeding against the Borrower. This covenant shall survive any termination of the Agreement.

(Signature Pages Follow)

Exhibit B-1

ASSIGNOR: [\_\_\_\_\_]

By: \_\_\_\_\_  
Name:  
Title

ASSIGNEE: [\_\_\_\_\_]

By: \_\_\_\_\_  
Name:  
Title:

[Address]

Accepted as of date first above  
written:

PNC BANK, NATIONAL ASSOCIATION,  
as Administrative Agent

By: \_\_  
Name:  
Title:

NCR RECEIVABLES LLC,  
as Borrower

By: \_\_  
Name:  
Title:

Exhibit B-2

**EXHIBIT C**  
**[Form of Assumption Agreement]**

THIS ASSUMPTION AGREEMENT (this "Agreement"), dated as of [\_\_\_\_\_, \_\_\_\_], is among NCR Receivables LLC (the "Borrower"), [\_\_\_\_\_, \_\_\_\_\_], as conduit lender (the "[\_\_\_\_\_] Conduit Lender"), [\_\_\_\_\_, \_\_\_\_\_], as the Related Committed Lender (the "[\_\_\_\_\_] Committed Lender" and together with the Conduit Lender, the "[\_\_\_\_\_] Lenders"), and [\_\_\_\_\_, \_\_\_\_\_], as group agent for the [\_\_\_\_\_] Lenders (the "[\_\_\_\_\_] Group Agent" and together with the [\_\_\_\_\_] Lenders, the "[\_\_\_\_\_] Group").

**BACKGROUND**

The Borrower and various others are parties to a certain Receivables Financing Agreement, dated as of November 21, 2014 (as amended through the date hereof and as the same may be amended, amended and restated, supplemented or otherwise modified from time to time, the "Receivables Financing Agreement"). Capitalized terms used and not otherwise defined herein have the respective meaning assigned to such terms in the Receivables Financing Agreement.

NOW, THEREFORE, the parties hereto hereby agree as follows:

SECTION 1. This letter constitutes an Assumption Agreement pursuant to Section 13.03(i) of the Receivables Financing Agreement. The Borrower desires [the [\_\_\_\_\_] Lenders] [the [\_\_\_\_\_] Committed Lender] to [become a Group] [increase its existing Commitment] under the Receivables Financing Agreement, and upon the terms and subject to the conditions set forth in the Receivables Financing Agreement, the [[\_\_\_\_\_] Lenders] [[\_\_\_\_\_] Committed Lender] agree[s] to [become Lenders within a Group thereunder] [increase its Commitment to the amount set forth as its "Commitment" under the signature of such [\_\_\_\_\_] Committed Lender hereto].

The Borrower hereby represents and warrants to the [\_\_\_\_\_] Lenders and the [\_\_\_\_\_] Group Agent as of the date hereof, as follows:

- (i) the representations and warranties of the Borrower contained in Section 6.01 of the Receivables Financing Agreement are true and correct on and as of such date as though made on and as of such date;
- (ii) no Termination Event or Unmatured Termination Event has occurred and is continuing, or would result from the assumption contemplated hereby; and
- (iii) the Termination Date shall not have occurred.

SECTION 2. Upon execution and delivery of this Agreement by the Borrower and each member of the [\_\_\_\_\_] Group, satisfaction of the other conditions with respect to the addition of a Group specified in Section 13.03(i) of the Receivables Financing Agreement (including the written consent of the Administrative Agent and the Majority Group Agents) and receipt by the Administrative Agent of counterparts of this Agreement (whether by facsimile or otherwise)



executed by each of the parties hereto, [the [\_\_\_\_\_] Lenders shall become a party to, and have the rights and obligations of Lenders under, the Receivables Financing Agreement and the “Commitment” with respect to the Committed Lenders in such Group as shall be as set forth under the signature of each such Committed Lender hereto] [the [\_\_\_\_\_] Committed Lender shall increase its Commitment to the amount set forth as the “Commitment” under the signature of the [\_\_\_\_\_] Committed Lender hereto].

SECTION 3. By executing this Agreement, each of the parties hereto hereby covenants and agrees with each other party to the Agreement that: (i) until the date that is one year plus one day after the Notes or other outstanding senior indebtedness of any Conduit Lender have been paid in full, it will not institute or cause or participate in the institution of any Insolvency Proceeding against such Conduit Lender, and (ii) until the date that is one year plus one day after the Final Payout Date, it will not institute or cause or participate in the institution of any Insolvency Proceeding against the Borrower. This covenant shall survive any termination of the Receivables Financing Agreement.

SECTION 4. 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). This Agreement may not be amended or supplemented except pursuant to a writing signed by each of the parties hereto and may not be waived except pursuant to a writing signed by the party to be charged. This Agreement may be executed in counterparts, and by the different parties on different counterparts, each of which shall constitute an original, but all together shall constitute one and the same agreement.

(Signature Pages Follow)

Exhibit C-2

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by their duly authorized officers as of the date first above written.

[\_\_\_\_\_], as a Conduit Lender

By:\_\_\_  
Name Printed:\_\_\_  
Title:\_\_\_  
[Address]

[\_\_\_\_\_], as a Committed Lender

By:\_\_\_  
Name Printed:\_\_\_  
Title:\_\_\_  
[Address]  
[Commitment]

[\_\_\_\_\_], as Group Agent for [\_\_\_\_\_]

By:\_\_\_  
Name Printed:\_\_\_  
Title:\_\_\_  
[Address]

Exhibit C-3

NCR RECEIVABLES LLC,  
as Borrower

By:\_\_\_

Name Printed:\_\_\_

Title:\_\_\_

Exhibit C-4

**EXHIBIT D**  
**Credit and Collection Policy**

(Attached)

Exhibit D

**EXHIBIT E**  
**Form of Information Package**

(Attached)

Exhibit E

**EXHIBIT F**  
**Form of Compliance Certificate**

To: PNC Bank, National Association, as Administrative Agent

This Compliance Certificate is furnished pursuant to that certain Receivables Financing Agreement, dated as of November 21, 2014 among NCR Receivables LLC (the "Borrower"), NCR Corporation, as Servicer (the "Servicer"), the Lenders party thereto, the Group Agents party thereto and PNC Bank, National Association, as Administrative Agent (in such capacity, the "Administrative Agent") (as amended, supplemented or otherwise modified from time to time, the "Agreement"). Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to them in the Agreement.

THE UNDERSIGNED HEREBY CERTIFIES THAT:

1. I am the duly elected \_\_\_\_\_ of the Servicer.

2. I have reviewed the terms of the Agreement and each of the other Transaction Documents and I have made, or have caused to be made under my supervision, a detailed review of the transactions and condition of the Borrower during the accounting period covered by the attached financial statements.

3. The examinations described in paragraph 2 above did not disclose, and I have no knowledge of, the existence of any condition or event which constitutes a Termination Event or an Unmatured Termination Event, as each such term is defined under the Agreement, during or at the end of the accounting period covered by the attached financial statements or as of the date of this Certificate [, except as set forth in paragraph 5 below].

4. Schedule I attached hereto sets forth financial statements of the Servicer and its Subsidiaries for the period referenced on such Schedule I.

[5. Described below are the exceptions, if any, to paragraph 3 above by listing, in detail, the nature of the condition or event, the period during which it has existed and the action which Borrower has taken, is taking, or proposes to take with respect to each such condition or event:]

Exhibit F-1

The foregoing certifications are made and delivered this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

NCR CORPORATION

By:\_\_\_  
Name:\_\_\_  
Title:\_\_\_

Exhibit F-2

SCHEDULE I TO COMPLIANCE CERTIFICATE

A. Schedule of Compliance as of \_\_\_\_\_, 20\_\_ with Section(s) \_\_\_\_ of the Agreement. Unless otherwise defined herein, the terms used in this Compliance Certificate have the meanings ascribed thereto in the Agreement.

This schedule relates to the month ended: \_\_\_\_\_.

B. The following financial statements of the Servicer and its Subsidiaries for the period ending on \_\_\_\_\_, 20\_\_, are attached hereto:



**EXHIBIT G**

**CLOSING MEMORANDUM**

**RECEIVABLES FINANCING AGREEMENT**

**among**

**NCR RECEIVABLES LLC,  
*as Borrower,***

**NCR CORPORATION,  
*as Servicer***

**THE VARIOUS CONDUIT LENDERS AND COMMITTED LENDERS,  
*as Lenders***

**THE VARIOUS GROUP AGENTS,  
*as Group Agents***

**and**

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

**Closing: November 21, 2014**

Exhibit G-1

*Abbreviations:*

Administrative Agent	PNC
Borrower	NCR Receivables LLC, a Delaware limited liability company
BTMU	Bank of Tokyo-Mitsubishi UFJ, Ltd, New York Branch
Committed Lenders	PNC and BTMU
Conduit Lender	Victory Receivables Corporation
Group Agents	PNC and BTMU
Independent Manager	Michelle Dreyer
Lenders	Committed Lenders and the Conduit Lender
Lock-box Bank	Bank of America, National Association
MB	Mayer Brown LLP, special counsel to Administrative Agent
NCR Parties	Each of the Servicer, the Originators and the Borrower
Originators	NCR Corporation and other parties that may become originators from time to time.
PNC	PNC Bank, National Association
Servicer	NCR Corporation, a Maryland corporation
Skadden	Skadden, Arps, Slate, Meagher & Flom LLP, special counsel to the NCR Parties
Structuring Agent	PNC Capital Markets LLC

Document	
•	Receivables Financing Agreement
	Exhibit A Form of Loan Request (incorporated) Exhibit B Form of Assignment and Acceptance Agreement (incorporated) Exhibit C Form of Assumption Agreement (incorporated) Exhibit D Credit and Collection Policy (add to final) Exhibit E Form of Information Package Exhibit F Form of Compliance Certificate (incorporated) Exhibit G Closing Memo Exhibit H Form of RFA Note (incorporated) Schedule I Commitments (incorporated) Schedule II Lock-Boxes, Lock-Box Accounts and Lock-Box Banks (incorporated) Schedule III Notice Addresses (incorporated) Schedule IV Locations of Chattel Paper (incorporated)
2.	Purchase and Sale Agreement (“ <u>PSA</u> ”)
	Schedule I List and Location of Each Originator (incorporated) Schedule II Location of Books and Records of Originators (incorporated) Schedule III Trade Names (incorporated) Schedule IV Notice Addresses (incorporated) Exhibit A Form of Purchase Report (incorporated) Exhibit B Form of Subordinated Note (incorporated) Exhibit C Form of Joinder Agreement (incorporated)
3.	Fee Letter

Document
4. Deposit Account Control Agreement
5. Subordinated Note issued by the Borrower under the PSA to the Servicer for the benefit of each Originator
6. RFA Notes payable to Lenders (PNC, BTMU, Victory)
7. Intercreditor Agreement
8. UCC lien searches against the Borrower in the State of Delaware
9. UCC lien searches against each Originator in the State in which such Originator is organized or incorporated
10. UCC-1 Financing Statements naming each Originator as debtor/seller, Borrower as buyer/assignor, and the Administrative Agent as secured party/assignee, for filing in the relevant jurisdiction of each Originator
11. UCC-1 Financing Statement naming Borrower as debtor/seller and the Administrative Agent as secured party/assignee, for filing with the Secretary of State of the State of Delaware (all assets filing)
12. UCC-3 releases with respect to the filings in favor of JPMorgan Chase Bank, N.A. file numbers 0000000181490318 and 0000000181427569.
13. Opinion of counsel to the NCR Parties re: general corporate matters, enforceability, no-conflicts with organizational documents, material agreements and New York and Federal law and, with respect to Borrower, '40 Act matters
14. Opinion of counsel to the NCR Parties re: true sale and substantive consolidation matters
15. Opinion of counsel to the NCR Parties re: UCC security interest and perfection matters
16. Back-Up Officers' Certificates as applicable to support the foregoing opinions
17. Officer's Certificate of Servicer / Originator <ul style="list-style-type: none"> <li>a. Authorizing Resolutions</li> <li>b. Articles of Incorporation</li> <li>c. By-laws</li> <li>d. Incumbency and signatures</li> </ul>

---

<sup>1</sup>In-house counsel to NCR Parties and Skadden to provide as appropriate. Skadden to cover enforceability, '40 Act matters and no-conflict with Federal and New York law.

Document
18. Officer's Certificate of Borrower a. Authorizing Resolutions b. Certificate of Formation c. Limited Liability Company Agreement d. Incumbency and signatures
19. Good Standing Certificate of Servicer / Originator from its jurisdiction of organization
20. Good Standing Certificate of Borrower from the State of Delaware
21. Initial Loan Request
22. Pro Forma Information Package
23. Internal Revenue Service Form W-8ECI, W-8BEN or W-9 for each of Administrative Agent, each Committed Lender, Conduit Lender, each Group Agent and each NCR Party

Exhibit G-4

**EXHIBIT H**  
**Form of RFA Note**

PROMISSORY NOTE

[\_\_\_\_\_], 20[\_\_]

FOR VALUE RECEIVED, the undersigned, NCR RECEIVABLES LLC, a Delaware limited liability company (the “Borrower”), promises to pay to [\_\_\_\_\_] (the “Lender”) in accordance with that certain Receivables Financing Agreement, dated as of November 21, 2014 (together with all amendments and other modifications, if any, from time to time thereafter made thereto, the “Agreement”), among the Borrower, NCR Corporation, as Servicer, PNC Bank, National Association, as administrative agent, and the lenders and group agents from time to time party thereto, the aggregate unpaid Capital of all Loans made or held by the Lender pursuant to the Agreement. Unless otherwise defined, capitalized terms, used herein have the meanings provided in the Agreement.

The Borrower also promises to pay interest on the unpaid Capital from time to time outstanding from the date hereof until maturity (whether by acceleration or otherwise) and, after maturity, until paid, at the rates per annum and on the dates specified in the Agreement.

Payments of both principal and interest are to be made in lawful money of the United States of America in same day or immediately available funds to the account designated by the Lender or its Group Agent on its behalf pursuant to the Agreement.

This Note is one of the RFA Notes referred to in, and evidences indebtedness incurred under, the Agreement, and the holder hereof is entitled to the benefits of the Agreement, to which reference is made for a description of the security for this Note and for a statement of the terms and conditions on which the Borrower is permitted and required to make prepayments and repayments of principal of the indebtedness evidenced by this Note and on which such indebtedness may be declared to be immediately due and payable.

All parties hereto, whether as makers, endorsers, or otherwise, severally waive presentment for payment, demand, protest and notice of dishonor.

Exhibit H-1

**THIS NOTE SHALL BE DEEMED TO BE A CONTRACT MADE UNDER AND GOVERNED BY THE INTERNAL LAWS OF THE STATE OF NEW YORK.**

**NCR RECEIVABLES LLC**

By: \_\_\_\_\_

Name:

Title:

Exhibit H-2

**SCHEDULE I  
Commitments**

<b>PNC Group</b>		
<u>Party</u>	<u>Capacity</u>	<u>Maximum Commitment</u>
PNC	Committed Lender	\$125,000,000
PNC	Group Agent	N/A

<b>BTMU Group</b>		
<u>Party</u>	<u>Capacity</u>	<u>Maximum Commitment</u>
BTMU	Committed Lender	\$75,000,000
Victory	Conduit Lender	N/A
BTMU	Group Agent	N/A

Schedule I-1

## SCHEDULE II

Accounts maintained at Bank of America, N.A., with the following account numbers:

- 8188215778
- 3282507021
- 1058908
- 3271595060
- 3284734334

Schedule II-1



**SCHEDULE III**  
**Notice Addresses**

(A) in the case of the Borrower, at the following address:

NCR Receivables LLC:  
3095 Satellite Blvd.  
Duluth, GA 30096  
Attn: President  
Telephone: 937-445-5000  
Email: john.boudreau@ncr.com

(B) in the case of the Servicer, at the following address:

NCR Corporation:  
3097 Satellite Blvd.  
Duluth, GA 30096  
Attn: Treasurer  
Telephone: 937-445-5000  
Email: john.boudreau@ncr.com

(C) in the case of PNC or the Administrative Agent, at the following address:

PNC Bank, National Association  
Three PNC Plaza  
225 Fifth Avenue  
Pittsburgh, PA 15222-2707  
Attention: Robyn Reeher  
Telephone: (412) 768-3090  
Facsimile: (412) 762-9184  
E-mail: robyn.reeher@pnc.com

(D) in the case of BTMU or Victory, at the following address:

The Bank of Tokyo-Mitsubishi UFJ, Ltd., New York Branch  
1251 Avenue of the Americas, 12<sup>th</sup> Floor  
New York, NY 10020  
Attn: Securitization Group  
Telephone: (212) 782-5980  
Facsimile: (212) 782-6448  
E-mail: securitization\_reporting@us.mufg.jp

(E) in the case of any other Person, at the address for such Person specified in the other Transaction Documents; in each case, or at such other address as shall be designated by such Person in a written notice to the other parties to this Agreement.

Schedule III-2

**SCHEDULE IV**  
**Locations for Chattel Paper and Records**

Physical Locations

3097 Satellite Boulevard  
Duluth, GA 30096

3095 Satellite Boulevard  
Duluth, GA 30096

Additional (hard copy and backup tape) backup services provided by:

Recall Corporation  
One Recall Center  
180 Technology Parkway  
Norcross, GA 30092

Electronic Storage

Business Operations Center (BOC)  
Electronic Order Jacket (EOJ)  
Web Ordering Tool (WOT)  
Invoice Engine  
Maintained from offices at:  
3095 Satellite Boulevard  
Duluth, GA 30096

Legal Electronic Contract Management System (ECMS)  
Maintained from offices at:  
3097 Satellite Boulevard  
Duluth, GA 30096

Additional electronic storage provided by:  
Datamatics Global Services Limited

PURCHASE AND SALE AGREEMENT

Dated as of November 21, 2014

among

VARIOUS ENTITIES LISTED ON SCHEDULE I HERETO,  
as Originators,

and

NCR RECEIVABLES LLC,  
as Buyer

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## SCHEDULES

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## EXHIBITS

EXHIBIT A	Form of Purchase Report
EXHIBIT B	Form of Subordinated Note
EXHIBIT C	Form of Joinder Agreement
EXHIBIT D	Form of Collateral Description

This PURCHASE AND SALE AGREEMENT (as amended, restated, supplemented or otherwise modified from time to time, this “Agreement”), dated as of November 21, 2014 is entered into among the various entities listed on Schedule I hereto or that become parties hereto from time to time pursuant to Section 4.3 hereof (the “Originators” and each, an “Originator”), and NCR RECEIVABLES LLC, a Delaware limited liability company (the “Buyer”).

#### DEFINITIONS

Unless otherwise indicated herein, capitalized terms used and not otherwise defined in this Agreement are defined in the Receivables Financing Agreement, dated as of the date hereof (as the same may be amended, restated, supplemented or otherwise modified from time to time, the “Receivables Financing Agreement”), among the Buyer, as borrower, NCR Corporation, a Maryland corporation (“NCR”), as initial Servicer (in such capacity, the “Servicer”), the Persons from time to time party thereto as Lenders and as Group Agents, and PNC Bank, National Association, as Administrative Agent. The interpretive provisions of Section 1.02 of the Receivables Financing Agreement are incorporated by reference herein, *mutatis mutandis*, substituting references to the Receivables Financing Agreement with references to this Agreement.

#### BACKGROUND

1. The Buyer is a special purpose limited liability company, all of the issued and outstanding membership interests of which are owned by NCR.
2. The Originators generate Receivables in the ordinary course of their businesses.
3. The Originators, in order to finance their respective businesses, wish to sell and/or, in the case of NCR, contribute Receivables and the Related Rights to the Buyer, and the Buyer is willing to purchase and/or accept such Receivables and the Related Rights from the Originators, on the terms and subject to the conditions set forth herein.
4. The Originators and the Buyer intend each such transaction to be a true sale and/or, in the case of NCR, an absolute contribution and conveyance of Receivables and the Related Rights by each Originator to the Buyer, providing the Buyer with the full benefits of ownership of the Receivables, and the Originators and the Buyer do not intend the transactions hereunder to be characterized as a loan from the Buyer to any Originator.
5. The Buyer intends to pledge the Receivables and the Related Rights to the Administrative Agent for the benefit of the Secured Parties pursuant to the Receivables Financing Agreement.

NOW, THEREFORE, in consideration of the premises and the mutual agreements herein contained, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, agree as follows:

*Purchase and Sale Agreement*

ARTICLE I  
AGREEMENT TO PURCHASE, SELL AND CONTRIBUTE

SECTION 1.1 Agreement To Purchase, Sell and Contribute. On the terms and subject to the conditions set forth in this Agreement, each Originator, severally and for itself, agrees to sell and/or, in the case of NCR, contribute, to the Buyer, and the Buyer agrees to purchase and/or receive from such Originator, from time to time on or after the Closing Date, but before the related Purchase and Sale Termination Date (as defined in Section 1.4), all of such Originator's right, title and interest in and to:

- (a) each Receivable of such Originator that existed and was owing to such Originator at the closing of such Originator's business on October 31, 2014, or with respect to any Originator that becomes party hereto pursuant to a Joinder Agreement, the date specified in such Joinder Agreement (the "Cut-Off Date" with respect to such Originator);
- (b) each Receivable generated by such Originator from and including the related Cut-Off Date to but excluding the related Purchase and Sale Termination Date;
- (c) all of such Originator's interest in any goods (including returned goods), and documentation of title evidencing the shipment or storage of any goods (including returned goods), the sale or license of which gave rise to such Receivable;
- (d) all instruments and chattel paper that may evidence such Receivable;
- (e) all other security interests or liens and property subject thereto from time to time purporting to secure payment of such Receivable, whether pursuant to the Contract related to such Receivable or otherwise, together with all UCC financing statements or similar filings relating thereto;
- (f) solely to the extent applicable to such Receivable, all of such Originator's rights, interests and claims under the related Contracts and all guaranties, indemnities, insurance and other agreements or arrangements constituting supporting obligations supporting payment and/or performance of any of the foregoing;
- (g) all books and records of such Originator with respect to the foregoing, and all rights, remedies, powers, privileges, title and interest (but not obligations) in and to each Lock-Box and all Lock-Box Accounts, into which any Collections or other proceeds with respect to such Receivables may be deposited, and any related investment property or financial assets (as defined in Article 8 of the UCC) acquired with any such Collections; and
- (h) all Collections of any of the foregoing that are or were received by such Originator on or after the related Cut-Off Date, and all other proceeds of the foregoing.

All purchases and contributions hereunder shall be made without recourse, but shall be made pursuant to, and in reliance upon, the representations, warranties and covenants of the applicable Originator set forth in this Agreement. No obligation or liability to any Obligor on any



Receivable is intended to be assumed by the Buyer hereunder, and any such assumption is expressly disclaimed. The property, proceeds and rights described in clauses (c) through (h) above are herein referred to as the “Related Rights”, and the Buyer’s foregoing agreement to purchase Receivables and Related Rights is herein called the “Purchase Facility.”

SECTION 1.2 Timing of Purchases.

(a) Closing Date Purchases. Effective on the Closing Date, each Originator hereby sells and/or, in the case of NCR, contributes, to the Buyer, and the Buyer hereby purchases and/or receives, such Originator’s entire right, title and interest in, to and under (i) each Receivable that existed and was owing to such Originator at the related Cut-Off Date, (ii) each Receivable generated by such Originator from and including the related Cut-Off Date, to and including the Closing Date, and (iii) all Related Rights with respect thereto.

(b) Subsequent Purchases. After the Closing Date, until the Purchase and Sale Termination Date for the applicable Originator, each Receivable and the Related Rights generated by such Originator shall be, and shall be deemed to have been, sold or contributed, as applicable, by such Originator to the Buyer immediately (and without further action) upon the creation of such Receivable.

SECTION 1.3 Consideration for Purchases. On the terms and subject to the conditions set forth in this Agreement, the Buyer agrees to make Purchase Price payments to the Originators and to accept all capital contributions, in each case, in accordance with Article III.

SECTION 1.4 Purchase and Sale Termination Date. The “Purchase and Sale Termination Date” with respect to any Originator shall be the earlier to occur of (a) the date the Purchase Facility is terminated with respect to such Originator pursuant to Section 8.2(a) and (b) the first Payment Date to occur following the day on which such Originator shall have given written notice to the Buyer, the Administrative Agent and each Group Agent at or prior to 10:00 a.m. (New York City time) that such Originator desires to terminate this Agreement.

SECTION 1.5 Intention of the Parties; Recharacterization. It is the express intent of each Originator and the Buyer that each conveyance of the Receivables and the Related Rights by such Originator to the Buyer under this Purchase Facility be absolute and irrevocable and provide Purchaser with the full benefits of ownership of such Receivables and Related Rights, and each Originator hereby relinquishes all title and control over such Receivables and Related Rights upon each such conveyance. However, if, contrary to the mutual intent of the parties, any conveyance of Receivables, including without limitation any Receivables constituting general intangibles as defined in the UCC, and all Related Rights is not construed to be both a valid and perfected sale and absolute assignment of such Receivables and Related Rights, and a conveyance of such Receivables and Related Rights that is prior to the rights of and enforceable against all other Persons at any time, including without limitation lien creditors, secured lenders, purchasers and any Person claiming through such Originator, then, it is the intent of such Originator and the Buyer that (i) this Agreement also shall be deemed to be, and hereby is, a security agreement within the meaning of the UCC and (ii) such Originator shall be deemed to have granted to the Buyer as of the date of this Agreement, and such Originator hereby grants to the Buyer a security interest in, to and under all of such Originator’s right, title and interest in

and to the Receivables and the Related Rights now existing and hereafter arising that are transferred or purported to be transferred hereunder, which security interest shall secure the payment of an amount equal to the aggregate Purchase Price of the Receivables conveyed by such Originator to the Buyer hereunder and any other payment obligation of such Originator to the Buyer hereunder (such Originator's "Originator Obligations"). In furtherance of the foregoing, each Originator hereby authorizes the filing of one or more financing statements with an indication or description of the property conveyed hereunder (which may describe such property in substantially the form attached hereto as Exhibit D), and such amendments thereto and continuations and assignments thereof, in each jurisdiction the Buyer or the Administrator deems necessary and appropriate to perfect their respective ownership and security interests in the property conveyed hereunder and the proceeds thereof.

SECTION 1.6 Excluded Receivables. Each Originator may from time to time, by written notice to the Buyer, the Administrative Agent and the Group Agents, propose to designate one or more Obligor, the Receivables of which will cease to be sold (or contributed) to the Buyer by such Originator from and after a specified date. If the Administrative Agent and the Group Agents consent to such proposed exclusion in writing, Receivables owed by any such Obligor (each, an "Excluded Obligor") created on or after the date specified in such written consent, or if no date is specified, from and after the fifth Business Day after the date of such written consent (such date, the "Exclusion Date" for such Excluded Obligor) shall not be sold (or contributed) by such Originator to the Buyer hereunder (each such Receivable, an "Excluded Receivable"). It is acknowledged and agreed that collections on Excluded Receivables shall not constitute Collections and shall be subject to the provisions of the Transaction Documents regarding the commingling of Collections with other funds. With the written consent of the Administrative Agent and the Group Agents, an Originator may designate any Excluded Obligor to cease to be an Excluded Obligor as of a specified date, and Receivables owed by such former Excluded Obligor created on or after such specified date shall not constitute Excluded Receivables."

## ARTICLE II

### PURCHASE REPORT; CALCULATION OF PURCHASE PRICE

SECTION 2.1 Purchase Report. On the Closing Date and on each date when an Information Package is due to be delivered under the Receivables Financing Agreement (each such date, a "Monthly Purchase Report Date"), each Originator shall deliver or cause to be delivered to the Buyer a report in substantially the form of Exhibit A (each such report being herein called a "Purchase Report") setting forth, among other things:

(c) Receivables purchased by the Buyer from each Originator, or contributed to the capital of the Buyer by NCR, on the Closing Date (in the case of the Purchase Report to be delivered on the Closing Date);

(d) Receivables purchased by the Buyer from each Originator, or contributed to the capital of the Buyer by NCR, during the Fiscal Month immediately preceding such Monthly Purchase Report Date (in the case of each subsequent Purchase Report); and

(c) the calculations of reductions of the Purchase Price for any Receivables as provided in Section 3.3(a) and (b).

SECTION 2.2 Calculation of Purchase Price. The “Purchase Price” to be paid to each Originator in accordance with the terms of Article III for the Receivables and the Related Rights that are purchased hereunder from such Originator shall be determined in accordance with the following formula:

$$PP = OB \times FMVD$$

where:

PP = Purchase Price for each Receivable as calculated on the relevant Payment Date.

OB = The Outstanding Balance of such Receivable on the relevant Payment Date.

FMVD = Fair Market Value Discount, as measured on such Payment Date, which is equal to the quotient (expressed as percentage) of (a) one, divided by (b) the sum of (i) one, plus (ii) the product of (A) the Prime Rate on such Payment Date, times (B) a fraction, the numerator of which is the Days’ Sales Outstanding (calculated as of the last day of the Fiscal Month immediately preceding such Payment Date) and the denominator of which is 365 or 366, as applicable.

“Payment Date” means (i) the Closing Date and (ii) each Business Day thereafter that the Originators are open for business.

“Prime Rate” means a per annum rate equal to the “U.S. Prime Rate” as published in the “Money Rates” section of The Wall Street Journal or if such information ceases to be published in The Wall Street Journal, such other publication as determined by the Administrative Agent in its sole discretion.

### ARTICLE III

#### CONTRIBUTIONS AND PAYMENT OF PURCHASE PRICE

SECTION 3.1 Initial Purchase Price Payment. On the terms and subject to the conditions set forth in this Agreement, the Buyer agrees to pay to each Originator the Purchase Price for the purchase to be made from such Originator on the Closing Date (i) to the extent the Buyer has cash available therefor, partially in cash (in an amount to be agreed between the Buyer and such Originator and set forth in the initial Purchase Report) and, solely in the case of NCR if elected by NCR in its sole discretion, by accepting a contribution from NCR to the Buyer’s capital and (ii) the remainder by issuing a promissory note in the form of Exhibit B to such Originator (each such promissory note, as it may be amended, supplemented, endorsed or otherwise modified from time to time, together with all promissory notes issued from time to time in substitution therefor or renewal thereof in accordance with the Transaction Documents,

each being herein called a “Subordinated Note”) with an initial principal amount equal to the remaining Purchase Price payable to such Originator that was not paid in cash or, in the case of NCR, that was not contributed to the Buyer’s capital.

SECTION 3.2 Subsequent Purchase Price Payments. On each Payment Date subsequent to the Closing Date, on the terms and subject to the conditions set forth in this Agreement, the Buyer shall pay to each Originator the Purchase Price for the Receivables and the Related Rights generated by such Originator on such Payment Date:

(a) First, in cash to the extent the Buyer has cash available therefor (and such payment is not prohibited under the Receivables Financing Agreement);

(b) Second, solely in the case of NCR, if elected by NCR in its sole discretion, to the extent any portion of the Purchase Price remains unpaid, by accepting a contribution of such Receivable and the Related Rights by NCR to its capital in an amount equal to such remaining unpaid portion of such Purchase Price; and

(c) Third, to the extent any portion of the Purchase Price remains unpaid, the principal amount outstanding under the applicable Subordinated Note shall be automatically increased by an amount equal to the lesser of (x) such remaining unpaid portion of such Purchase Price and (y) the maximum increase in the principal balance of the applicable Subordinated Note that could be made without rendering the Buyer’s Net Worth less than the Required Capital Amount;

provided, however, that if more than one Originator is selling Receivables to the Buyer on the date of such purchase, the Buyer shall make cash payments among the Originators in such a way as to minimize to the greatest extent practicable the aggregate principal amounts outstanding under the Subordinated Notes; provided, further, however, that the foregoing shall not be construed to require NCR to make any capital contribution to the Buyer.

“Net Worth” has the meaning set forth under “Borrower’s Net Worth” in the Receivables Financing Agreement.

On each Monthly Settlement Date, based on the most recent Purchase Report, the Buyer and each Originator shall determine the net amount of cash payments made by the Buyer to such Originator during the related Fiscal Month in respect of the Purchase Price for Receivables acquired from such Originator, after giving effect to Section 3.4 hereof and Section 3.01 of the Receivables Financing Agreement, the amount of the increase or decrease in such Originator's Subordinated Note, and in the case of NCR, the portion of such Purchase Price allocable to a capital contribution, and the Buyer shall report or cause to be reported the foregoing determinations to the Administrative Agent.

Interest and principal on each Subordinated Note shall be paid by the Buyer in accordance with the priorities set forth in Section 3.01(a) of the Receivables Financing Agreement. Each Originator is authorized by the Buyer to make appropriate notations on its Subordinated Note to reflect the date and amount of each advance thereunder and the date and amount of each payment with respect thereto, provided that the failure to make such notations shall not affect any obligation of the Buyer thereunder. Each holder of a Subordinated Note

agrees to mark the Subordinated Note "CANCELED" and return such Subordinated Note to the Buyer upon the final payment thereof after the occurrence of the Purchase and Sale Termination Date of the related Originator to whom such Subordinated Note was originally issued.

### SECTION 3.3 Settlement as to Specific Receivables and Dilution.

(a) If, on the day of purchase or contribution of any Receivable from an Originator hereunder, any of the representations or warranties set forth in Sections 5.1(k), (l), (m), (x), (z) or (bb) are not true with respect to such Receivable, then the Purchase Price for such Receivable shall be reduced by an amount equal to such Purchase Price minus the amount of Collections received by the Buyer thereon, and shall be accounted to such Originator as provided in clause (c) below; provided, that if the Buyer thereafter receives payment on account of any such Receivable, the Buyer promptly shall deliver such funds to such Originator. Upon payment by the Originator or other application of such credit in accordance with clause (c) below, all of Buyer's right, title and interest in and to such Receivable and any Related Rights (including any related returned goods) shall be reconveyed to the applicable Originator, and any related interest of Buyer in such Receivable and such Related Rights shall be deemed released and relinquished, in each case without further action by any Person.

(b) If, on any day, the Outstanding Balance of any Receivable sold or contributed by an Originator hereunder is reduced or adjusted as a result of (i) defective, rejected or returned goods or services, (ii) any revision, cancellation, allowance, rebate, credit memo, discount, warranty payment or other voluntary reduction in the amounts actually owed by the applicable Pool Obligor made by such Originator or any of its Affiliates (other than as a result of the receipt of Collections), (iii) any setoff, counterclaim or dispute between any Pool Obligor and such Originator or any of its Affiliates (whether arising from the transaction giving rise to a Pool Receivable or any unrelated transaction) or (iv) any correction to the reported Outstanding Balance of any Pool Receivable as of the date of its sale or contribution hereunder due to such reported Outstanding Balance being in excess of its actual Outstanding Balance as of such date, then, in any such case, to the extent it would not constitute reimbursement for any Credit Risk Losses and except as provided in the following paragraph, the Purchase Price with respect to such Receivable shall be reduced by the amount of such net reduction or adjustment and shall be accounted to such Originator as provided in clause (c) below. Upon payment by the Originator or other application of such credit in accordance with clause (c) below, all of Buyer's right, title and interest in and to any returned goods or any other Related Rights specific to the portion of the Outstanding Balance of the Receivable that was so reduced shall be reconveyed by the Buyer to the applicable Originator, and any related interest of Buyer in such returned goods or other Related Rights shall be deemed released and relinquished, in each case without further action by any Person.

If (x) a Pool Receivable (or any portion thereof) is cancelled and the related Outstanding Balance of such Receivable (or portion thereof) is reduced to zero by an Originator in accordance with its customary credit and rebilling practices, (y) such Originator simultaneously generates a new Receivable (or portion thereof) payable by the same Obligor for the sale of goods, performance of services or license of software giving rise to the cancelled or reduced Pool Receivable in accordance with such Originator's customary credit and rebilling practices, and such Originator sells or contributes such new Receivable (or portion thereof) to the

Buyer hereunder and (z) the Purchase and Sale Termination Date has not occurred with respect to such Originator, then the Buyer shall receive a credit against the Purchase Price otherwise payable by it for such new Receivable (or portion thereof) in an amount equal to the Purchase Price paid by the Buyer hereunder for the cancelled portion of such Receivable, and the amount of the related net reduction or adjustment to be accounted for as provided in clause (c) below shall be equal to the amount, if any, by which such new Receivable's Outstanding Balance (or portion thereof) related to the sale of such goods, performance of such services or license of such software is less than the Outstanding Balance of such cancelled Pool Receivable (or portion thereof).

(c) For so long as: (A) the Purchase and Sale Termination Date has not occurred with respect to such Originator, (B) no Termination Event has occurred and is continuing under the Receivables Financing Agreement, (C) no Borrowing Base Deficit exists and (D) the Buyer's Net Worth is at least equal to the Required Capital Amount, any reduction in the Purchase Price of any Receivable pursuant to clause (a) or (b) above shall, at the option of the related Originator:

(i) be applied as a credit for the account of the Buyer against the Purchase Price of Receivables acquired by the Buyer from such Originator hereunder during the Fiscal Month in which such reduction of the Purchase Price occurred;

(ii) be applied as a repayment of principal to the outstanding principal balance under the Subordinated Note payable to such Originator;

(iii) be paid in cash to the Buyer by deposit of immediately available funds into a Lock-Box Account as if Collections of the applicable Receivable in such amount had actually been received on such date; or

(iv) any combination of the foregoing.

In all other cases (including if (A) the Purchase and Sale Termination Date has occurred with respect to the applicable Originator, (B) a Termination Event has occurred and is continuing under the Receivables Financing Agreement, (C) a Borrowing Base Deficit exists or (D) the Buyer's Net Worth less than the Required Capital Amount), any such reduction in the Purchase Price of any Receivable shall be paid solely in cash by the applicable Originator in accordance with clause (iii) above.

SECTION 3.4 Return of Certain Payments. If any Originator receives any cash payments or cash distributions from the Buyer or from Collections during any Fiscal Month (including in respect of the purchase price for Receivables, payments of principal or interest on any Subordinated Note or dividends) at any time during which a Borrowing Base Deficit existed or resulted from such payments or distributions, such Originator shall return the amount of all such payments and distributions to the Buyer on the first Monthly Settlement Date following such Fiscal Month to be treated as Collections and applied in accordance with the priorities set forth in Section 3.01(a) of the Receivables Financing Agreement; provided, however, that each Originator may net from the amount it is required to return to the Buyer, the amount (if any) that

would otherwise be paid by the Buyer to such Originator on such Monthly Settlement Date in accordance with Section 3.01(a) of the Receivables Financing Agreement from available Collections (including Collections returned to the Buyer by Originators pursuant to this paragraph and by the Servicer pursuant to the last paragraph of Section 3.01(a) of the Receivables Financing Agreement). If any delay by an Originator to pay over such amounts causes the Buyer to incur the obligation to pay additional interest or fees in respect of such amounts under the Receivables Financing Agreement, such Originator shall additionally pay over to the Buyer, to be treated as Collections and applied in accordance with the priorities set forth in Section 3.01(a) of the Receivables Financing Agreement, an amount sufficient to compensate the Buyer for the amount of such interest and fees.

#### ARTICLE IV

##### CONDITIONS OF PURCHASES; ADDITIONAL ORIGINATORS

SECTION 4.1 Conditions Precedent to Initial Sale and Contribution. The initial sale and contribution hereunder is subject to the condition precedent that the Buyer, the Administrative Agent (as the Buyer's assignee) and each Group Agent shall have received, on or before the Closing Date, the following, each (unless otherwise indicated) dated the Closing Date, and each in form and substance satisfactory to the Buyer and the Administrative Agent (as the Buyer's assignee) and each Group Agent:

(a) a copy of the resolutions or unanimous written consent of the board of directors or other governing body of each Originator approving this Agreement and the other Transaction Documents to be executed and delivered by it and the transactions contemplated hereby and thereby, certified by the Secretary or Assistant Secretary of such Originator;

(b) good standing certificates for each Originator issued as of a recent date acceptable to the Buyer and the Administrative Agent (as the Buyer's assignee) by the Secretary of State (or similar official) of the jurisdiction of such Originator's organization or formation and each other jurisdiction where such Originator is required to be qualified to transact business, except where the failure to be so qualified would not reasonably be expected to have a Material Adverse Effect;

(c) a certificate of the Secretary or Assistant Secretary of each Originator certifying the names and true signatures of the officers authorized on such Person's behalf to sign this Agreement and the other Transaction Documents to be executed and delivered by it (on which certificate the Buyer, the Administrative Agent (as the Buyer's assignee) and each Group Agent may conclusively rely until such time as the Buyer, the Administrative Agent (as the Buyer's assignee) and each Group Agent shall receive from such Person a revised certificate meeting the requirements of this clause (c));

(d) the certificate or articles of incorporation or other organizational document of each Originator (including all amendments and modifications thereto) duly certified by the Secretary of State of the jurisdiction of such Originator's organization as of a recent date, together with a copy of the by-laws or other governing documents of such Originator (including all amendments and modifications thereto), as applicable, each duly certified by the Secretary or an Assistant Secretary of such Originator;

proper financing statements (Form UCC-1) that have been duly authorized and name each Originator as the debtor/seller and the Buyer as the buyer/assignor (and the Administrative Agent, for the benefit of the Lenders, as secured party/assignee) of the Receivables generated by such Originator in each jurisdiction as the Buyer or the Administrative Agent deems necessary or appropriate to perfect the Buyer's ownership or security interest in such Receivables and the Related Rights in which an ownership or security interest has been assigned to it hereunder (it being understood that proper financing statements with an indication of collateral substantially as described in Exhibit D shall be deemed appropriate for purposes of this paragraph);

(e) a written search report from a Person satisfactory to the Buyer and the Administrative Agent (as the Buyer's assignee) listing all effective financing statements that name the Originators as debtors or sellers and that are filed in all jurisdictions in which filings may be made against such Person pursuant to the applicable UCC, together with copies of such financing statements (none of which, except for those described in the foregoing clause (e) (and/or released or terminated, as the case may be, prior to the date hereof), shall cover any Receivable or any Related Rights which are to be sold to the Buyer hereunder), and tax lien search reports (including, without limitation, liens of the PBGC) from a Person satisfactory to the Buyer and the Administrative Agent (as the Buyer's assignee) showing no evidence of such liens filed against any Originator;

(f) favorable opinions of counsel to the Originators, in form and substance satisfactory to the Buyer, the Administrative Agent and each Group Agent and addressing the matters described in the closing memorandum attached as Exhibit G to the Receivables Financing Agreement;

(g) a copy of a Subordinated Note in favor of each Originator, duly executed by the Buyer; and

(h) evidence of the execution and delivery by each of the parties thereto of each of the other Transaction Documents to be executed and delivered by it in connection herewith.

SECTION 4.2 Certification as to Representations and Warranties. Each Originator, by accepting the Purchase Price related to each purchase or contribution of Receivables generated by such Originator, shall be deemed to have certified that the representations and warranties of such Originator contained in Article V, as from time to time amended in accordance with the terms hereof, are true and correct in all material respects (unless such representation or warranty contains a materiality qualification and, in such case, such representation and warranty shall be true and correct as made) on and as of such day, with the same effect as though made on and as of such day (except for representations and warranties which apply to an earlier date, in which case such representations and warranties shall be true and correct in all material respects (unless such representation or warranty contains a materiality qualification and, in such case, such representation and warranty shall be true and correct as made) as of such earlier date).

SECTION 4.3 Additional Originators. Additional Persons may be added as Originators hereunder, with the prior written consent of the Buyer, the Administrative Agent and each Group Agent (which consents may be granted or withheld in their sole discretion); provided that the



following conditions are satisfied or waived in writing by the Administrative Agent and each Group Agent on or before the date of such addition:

(a) the Buyer, the Administrative Agent and each Group Agent shall have received at least thirty days' prior written notice of such proposed addition and the identity of the proposed additional Originator and shall have received such other information with respect to such proposed additional Originator as the Buyer, the Administrative Agent or any Group Agent may reasonably request;

(b) such proposed additional Originator shall have executed and delivered to the Buyer, the Administrative Agent and each Group Agent an agreement substantially in the form attached hereto as Exhibit C (a "Joinder Agreement");

(c) such proposed additional Originator shall have delivered to the Buyer, the Administrative Agent (as the Buyer's assignee) and each Group Agent each of the documents with respect to such Originator described in Section 4.1, in each case in form and substance satisfactory to the Buyer, the Administrative Agent (as the Buyer's assignee) and each Group Agent;

(d) NCR shall have executed and delivered to the Administrative Agent (for the benefit of the Credit Parties) a performance guaranty in form and substance acceptable to the Administrative Agent guarantying the payment and performance by such additional Originator of all of its obligations hereunder and under the Transaction Documents to which it is a party;

(e) no Purchase and Sale Termination Event or Unmatured Purchase and Sale Termination Event shall have occurred and be continuing; and

(f) no Termination Event or Unmatured Termination Event shall have occurred and be continuing.

## ARTICLE V

### REPRESENTATIONS AND WARRANTIES OF THE ORIGINATORS

SECTION 5.1 Representations and Warranties. Each Originator (and solely with respect to Section 5.1(y), the Buyer) hereby represents and warrants on each date that a Receivable is conveyed to Buyer hereunder, with respect to itself and the Receivables conveyed by it on such date, that:

(a) Organization and Good Standing. Such Originator is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization or formation, with the power and authority under its organizational documents and under the laws of the jurisdiction of its organization or formation to own its properties and to conduct its business as such properties are currently owned and such business is presently conducted.

(b) Due Qualification. Such Originator is duly qualified to do business, is in good standing as a foreign entity and has obtained all necessary licenses and approvals in all jurisdictions in which the conduct of its business requires such qualification, licenses or

approvals, except where the failure to do so could not reasonably be expected to have a Material Adverse Effect.

(c) Power and Authority; Due Authorization. Such Originator has all necessary power and authority to (i) execute and deliver this Agreement and the other Transaction Documents to which it is a party, (ii) perform its obligations under this Agreement and the other Transaction Documents to which it is a party and (iii) convey its Receivables and the Related Rights to the Buyer on the terms and subject to the conditions herein provided, and such Originator has duly authorized by all necessary action such grant and such Originator's execution, delivery and performance and consummation of the transactions to be performed and consummated by it in this Agreement and the other Transaction Documents to which it is a party.

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

(e) No Conflict or Violation. The execution and delivery of this Agreement and each other Transaction Document to which such Originator is a party, the performance of the transactions contemplated to be taken by such Originator by this Agreement and the other Transaction Documents to which such Originator is a party and the fulfillment by such Originator of the terms of this Agreement and the other Transaction Documents to which it is a party applicable to it will not (i) violate any of the terms or provisions of, or constitute (with or without notice or lapse of time or both) a default under, the organizational documents of such Originator or any material agreement or instrument to which such Originator is a party or by which it or any of its property is bound, (ii) result in the creation or imposition of any Adverse Claim upon any of its properties pursuant to the terms of any such agreement to which such Originator is a party or by which it or any of its properties is bound or (iii) conflict with or violate any Applicable Law, except to the extent that any such default, Adverse Claim or violation would not reasonably be expected to have a Material Adverse Effect.

(f) Litigation and Other Proceedings. There is no action, suit, proceeding or investigation pending, or to its knowledge based on written notice received by it, threatened, against such Originator before any Governmental Authority: (i) asserting the invalidity of this Agreement or any of the other Transaction Documents; (ii) seeking to prevent the consummation of any of the transactions contemplated by this Agreement or any other Transaction Document; or (iii) seeking any determination or ruling that would reasonably be expected to materially and adversely affect the performance by it of its obligations under, or the validity or enforceability of, this Agreement or any of the other Transaction Documents.

(g) No Consents. Such Originator is not required to obtain the consent of any other party or any consent, license, approval, registration, authorization or declaration of or with any Governmental Authority in connection with the execution, delivery, or performance of this Agreement or any other Transaction Document to which it is a party that has not already been

obtained or the failure of which to obtain would not reasonably be expected to have a Material Adverse Effect.

(h) Compliance with Applicable Law. Such Originator has maintained in effect all qualifications required under Applicable Law as are necessary to originate the Pool Receivables and transfer such Pool Receivables pursuant to this Agreement and (ii) has complied in all material respects with Applicable Law in connection with originating the Pool Receivables and transferring such Pool Receivables pursuant to this Agreement.

(i) Accuracy of Information. All certificates, reports, statements, documents and other information furnished to the Buyer, the Administrative Agent or any other Credit Party by it pursuant to any provision of this Agreement or any other Transaction Document, or in connection with or pursuant to any amendment or modification of, or waiver under, this Agreement or any other Transaction Document, is, at the time the same are so furnished, true and correct in all material respects on the date the same are furnished to the Buyer, the Administrative Agent or such other Credit Party (other than forward-looking or projected information, with respect to which no representation or warranty is made, and otherwise as subsequently corrected as the Administrative Agent or such other Credit Party, as applicable, have deemed acceptable), and when taken as a whole, and in light of the circumstances in which and the purposes for which they were furnished, do not contain any material misstatement of fact or omit to state a material fact or any fact necessary to make the statements contained therein not misleading.

(j) Names and Location. Except as described in Schedule III, such Originator has not used any corporate names, trade names or assumed names since the date occurring five calendar years prior to the Closing Date other than its name set forth on the signature pages hereto. Such Originator is "located" (as such term is defined in the applicable UCC) in the jurisdiction specified in Schedule I and since the date occurring five calendar years prior to the Closing Date, has not been "located" (as such term is defined in the applicable UCC) in any other jurisdiction (except as specified in Schedule I). The office(s) where such Originator keeps its records concerning the Receivables is at the address(es) set forth on Schedule II.

(k) Credit and Collection Policy. Such Originator has complied in all material respects with the Credit and Collection Policy with regard to each Pool Receivable sold or contributed by it hereunder.

(l) Eligible Receivables. Each Receivable sold, transferred, assigned or contributed hereunder by such Originator and identified as an Eligible Receivable at the time of such sale, transfer or contribution is an Eligible Receivable as of the date of such sale, transfer, assignment or contribution.

(m) Valid Sale. Each sale or contribution, as the case may be, of Receivables and the Related Rights made by such Originator pursuant to this Agreement shall constitute a valid sale or contribution, as the case may be, of Receivables and Related Rights to the Buyer, enforceable against creditors of such Originator, except (i) as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally and (ii) as such enforceability may be limited by

general principles of equity, regardless of whether such enforceability is considered in a proceeding in equity or at law.

(n) Margin Stock. Such Originator is not engaged, principally or as one of its important activities, in the business of extending credit for the purpose of purchasing or carrying margin stock (within the meanings of Regulations T, U and X of the Board of Governors of the Federal Reserve System), and no Purchase Price payments or proceeds under this Agreement will be used to purchase or carry any margin stock or to extend credit to others for the purpose of purchasing or carrying any margin stock.

(o) No Material Adverse Effect. Since the date of NCR's most recent annual report on form 10-K filed under the Exchange Act, there has been no Material Adverse Effect on such Originator.

(p) Investment Company Act. Such Originator is not an "investment company," or a company "controlled" by an "investment company," within the meaning of the Investment Company Act.

(q) No Sanctions.

(A) Such Originator (i) is not a person whose property or interest in property is blocked or subject to blocking pursuant to Section 1 of Executive Order 13224 of September 23, 2001 Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism (66 Fed. Reg. 49079 (2001)), (ii) does not engage in any dealings or transactions prohibited by Section 2 of such executive order, or is otherwise associated with any such person in any manner violative in any material respect of Section 2, and (iii) is not a Sanctioned Person.

(B) Such Originator is in compliance, in all material respects, with (i) the Trading with the Enemy Act, as amended, and each of the foreign assets control regulations of the United States Treasury Department (31 CFR, Subtitle B, Chapter V, as amended) and any other enabling legislation or executive order relating thereto, and (ii) the Uniting And Strengthening America By Providing Appropriate Tools Required To Intercept And Obstruct Terrorism (USA PATRIOT Act of 2001). No part of the proceeds of any transfer of Receivables by such Originator hereunder will be used for the purpose of financing the activities of any Sanctioned Person or for any purpose in violation of the United States Foreign Corrupt Practices Act of 1977, as amended, the UK Bribery Act of 2010 or any other applicable bribery or corruption law, and such Originator and its Subsidiaries are in compliance with such acts and laws, except where the failure to comply with any such acts or laws, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

(r) Transaction Information. Neither such Originator nor any Affiliate of such Originator acting on its behalf has delivered any Transaction Information to any Rating Agency without providing such Transaction Information to the applicable Group Agent prior to delivery to such Rating Agency. Neither such Originator nor any Affiliate of such Originator acting on its behalf has participated in any oral communications any Rating Agency in which

such Originator or such Affiliate has provided any Transaction Information without the participation of the applicable Group Agent.

(s) Financial Condition. The consolidated balance sheets of such Originator and its consolidated Affiliates as of September 30, 2014 and the related statements of income and shareholders' equity of such Originator and its consolidated Affiliates for the fiscal quarter then ended, copies of which have been furnished to the Administrative Agent and the Group Agents, present fairly in all material respects the consolidated financial position of such Originator and its consolidated Affiliates for the period ended on such date, all in accordance with GAAP.

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

(u) Taxes. Such Originator has filed all material Tax returns required by Applicable Law to have been filed by it and has paid, or caused to be paid all material Taxes required by Applicable Law to be paid by it, other than any such Taxes that are being contested in good faith by appropriate proceedings and for which adequate reserves in accordance with GAAP have been established.

(v) Opinions. The factual statements contained in the opinions delivered by Skadden, Arps, Slate Meagher & Flom LLP on the Closing Date (or at any date thereafter on which such an opinion is delivered to the Administrative Agent and the Group Agents) with respect to "true sale" and "substantive consolidation" matters are, in each case, true and correct in all material respects with respect to such Originator, including that, no transfer is being made hereunder (A) with the intent to hinder, delay or defraud any Person, (B) when the related Originator is insolvent or expects to become insolvent as a result of the transfers of its Receivables to Buyer, (C) when the related Originator is engaged or expected to engage in a business for which its remaining property represents an unreasonably small capitalization or (D) when the related Originator intends to incur or believes that it will incur indebtedness that it will not be able to repay at maturity.

(w) ERISA.

(i) Such Originator and its ERISA Affiliates are in compliance with the applicable provisions of ERISA and the provisions of the Code relating to Pension Plans and the regulations and published interpretations thereunder and any similar applicable non-U.S. law, except for such noncompliance that would not reasonably be expected to have a Material Adverse Effect. No Reportable Event has occurred during the past five years other than a Reportable Event that would not reasonably be expected to have a Material Adverse Effect. The excess of the present value of all benefit liabilities under each Pension Plan (based on the assumptions used to determine required minimum contributions under Section 412 of the Code with respect to such Pension Plan), over the value of the assets of such Pension Plan, determined as of the most recent annual valuation date applicable thereto for which a valuation has been completed, would not reasonably be expected to have a Material Adverse Effect, and the excess of the present value of all benefit liabilities of all

underfunded Pension Plans (based on the assumptions used to determine required minimum contributions under Section 412 of the Code with respect to each such Pension Plan), over the value of the assets of all such underfunded Pension Plans, determined as of the most recent annual valuation dates applicable thereto for which valuations have been completed, would not reasonably be expected to have a Material Adverse Effect. Neither such Originator nor any of its ERISA Affiliates has received any written notification that any Multiemployer Plan is in reorganization or has been terminated within the meaning of Title IV of ERISA, or has knowledge that any Multiemployer Plan is reasonably expected to be in reorganization or to be terminated, where such reorganization or termination has had or would reasonably be expected to have, through increases in the contributions required to be made to such Pension Plan or otherwise, a Material Adverse Effect.

(ii) Such Originator and its ERISA Affiliates are in compliance (i) with all applicable provisions of law and all applicable regulations and published interpretations thereunder with respect to any employee pension benefit plan governed by the laws of a jurisdiction other than the United States and (ii) with the terms of any such plan, except, in each case, for such noncompliance that would not reasonably be expected to have a Material Adverse Effect.

(x) No Fraudulent Conveyance. With respect to each Receivable transferred to Buyer by such Originator hereunder, the applicable Purchase Price received by such Originator constitutes reasonably equivalent value in consideration therefor and such transfer was not made for or on account of an antecedent debt. No transfer by such Originator of any Receivable hereunder is or may be voidable under any section of the Bankruptcy Code in the event of an Insolvency Proceeding with respect to such Originator. No transfer of any Receivable by such Originator hereunder: (i) is made with any intent on the part of such Originator to hinder, delay or defraud any entity to which such Originator is or will become indebted on or after the date of transfer, (ii) is made at a time such Originator is not Solvent, (iii) would render the Originator not Solvent as a result of such transfer, (iv) would cause such Originator to have an unreasonably small amount of capital, (v) would cause such Originator to be unable to pay its debts as they become due or (vi) is made with any intent on the part of such Originator to evade any applicable laws or public policy.

(y) Ordinary Course of Business. Each of the Originators and the Buyer represents and warrants as to itself that each remittance of Collections by or on behalf of such Originator to the Buyer under this Agreement will have been (i) in payment of a debt incurred by such Originator in the ordinary course of business or financial affairs of such Originator and the Buyer and (ii) made in the ordinary course of business or financial affairs of such Originator and the Buyer.

(z) Good Title. Immediately preceding its sale or contribution of each Receivable hereunder, such Originator was the owner of such Receivable sold or contributed or purported to be sold or contributed, as the case may be, free and clear of any Adverse Claims, and each such sale or contribution hereunder constitutes a valid sale, transfer and assignment of

all of such Originator's right, title and interest in, to and under the Receivables sold or contributed by it, free and clear of any Adverse Claims.

(aa) Perfection. On or before the date hereof and before the generation by such Originator of any new Receivable to be sold, contributed or otherwise conveyed hereunder, all financing statements and other documents, if any, required to be recorded or filed in order to perfect and protect the Buyer's ownership interest in such Receivable have been duly filed in each filing office necessary for such purpose (or solely with respect to Receivables sold or contributed on the Closing Date and the initial sales and contributions hereunder, will be recorded or filed on or prior to the fifth Business Day following the Closing Date). Upon the creation of each new Receivable sold, contributed or otherwise conveyed or purported to be conveyed hereunder and on the Closing Date for then existing Receivables, the Buyer shall have a valid and perfected first priority ownership or security interest in each Receivable sold to it hereunder, free and clear of any Adverse Claim.

(bb) Enforceability of Contracts. Each Receivable sold or contributed by such Originator hereunder arises under a Contract that is effective to create, and has created, a legal, valid and binding obligation of the related Obligor to pay the outstanding balance of such Receivable, enforceable against such Obligor in accordance with its terms, except (i) as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally and (ii) as such enforceability may be limited by general principles of equity, regardless of whether such enforceability is considered in a proceeding in equity or at law.

## ARTICLE VI

### COVENANTS OF THE ORIGINATORS

SECTION 6.1 Covenants. From the date hereof until the Final Payout Date, each Originator will, unless the Administrative Agent and the Buyer shall otherwise consent in writing, perform the following covenants:

(a) Financial Reporting. Each Originator will maintain a system of accounting established and administered in accordance with GAAP, and each Originator shall furnish to the Buyer, the Administrative Agent and each Group Agent such information as the Buyer, the Administrative Agent or any Group Agent may from time to time reasonably request relating to such system of accounting.

(b) Notice of Events of Default, Unmatured Events of Default, Purchase and Sale Termination Events and Unmatured Purchase and Sale Termination Events. Each Originator will notify the Buyer, the Administrative Agent and each Group Agent in writing promptly upon (but in no event later than two (2) Business Days after) a Financial Officer learning of the occurrence of a Termination Event, Unmatured Termination Event, Purchase and Sale Termination Event or Unmatured Purchase and Sale Termination Event. Such notice shall describe such Termination Event, Unmatured Termination Event, Purchase and Sale Termination Event or Unmatured Purchase and Sale Termination Event, and if applicable, the steps being taken by the Person(s) affected with respect thereto.

(c) Preservation of Existence. Each Originator will do all things necessary to preserve and keep in full force and effect its existence and, except where the failure to do so would not reasonably be expected to have a Material Adverse Effect, its franchises, authority to do business in each jurisdiction in which its business is conducted, licenses, patents, trademarks, copyrights and other proprietary rights. Without the consent of the Buyer, the Administrative Agent and each Group Agent, no Originator shall make any change to the conduct of its business if such change would reasonably be expected to have a Material Adverse Effect; provided however, that nothing in this paragraph (c) shall prevent any transaction permitted by paragraph (p) below or not otherwise prohibited by this Agreement or any other Transaction Document.

(d) Compliance with Laws. Each Originator will comply with the requirements of all laws, rules and regulations applicable to its property or business operations, except in such instance where (i) any failure to comply therewith, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect or (ii) the requirement to comply therewith is being contested in good faith.

(e) Furnishing of Information and Cooperation with Inspections. Each Originator will furnish or cause to be furnished to the Buyer, the Administrative Agent and each Group Agent from time to time such information with respect to the Pool Receivables as the Buyer, the Administrative Agent or any Group Agent may reasonably request for purposes of protecting its interest in the Pool Receivables or its rights and remedies under the Transaction Documents. Each Originator will cooperate in connection with any Inspection duly conducted pursuant to Section 7.01(g) of the Receivables Financing Agreement, including to permit the Administrative Agent and each Group Agent or their respective agents or representatives and/or certified public accountants or other auditors, during regular business hours and with reasonable prior written notice, to (i) examine and make copies of and abstracts from all books and records relating to the Pool Receivables or other Collateral, (ii) visit the offices and properties of such Originator for the purpose of examining such books and records and (iii) discuss matters relating to the Pool Receivables, the other Collateral or such Originator's performance hereunder or under the other Transaction Documents to which it is a party with any of the officers, directors, employees or independent public accountants of such Originator, to the extent reasonably available, having knowledge of such matters; and (iv) conduct a review of its books and records with respect to such Pool Receivables and other Collateral.

(f) Payments on Receivables, Lock-Box Accounts. Each Originator will (or will cause the Servicer to) instruct all Pool Obligors to deliver all payments on the Pool Receivables to a Lock-Box Account or a Lock-Box. Each Originator will, and will cause the Servicer to, maintain such books and records necessary to identify Collections received from time to time on Pool Receivables and necessary to segregate such Collections received from other property of the Servicer and the Originators. If any Collections are received by an Originator other than in a Lock-Box Account, it shall hold such payments in trust for the benefit of the Administrative Agent (for the benefit of the Secured Parties) and promptly (but in any event within two (2) Business Days after receipt) remit such funds into a Lock-Box Account. If any funds other than Collections (or other proceeds of the Collateral) are deposited into any Lock-Box Account, each Originator will cause the Servicer to, within two (2) Business Days, identify and transfer such funds to the appropriate Person entitled to such funds. Each Originator



acknowledges and agrees that no Lock-Box, Lock-Box Account or Lock-Box Agreement may be modified or terminated except in accordance with the Receivables Financing Agreement.

(g) Sales, Liens, etc. Except as otherwise provided herein, no Originator will sell, assign (by operation of law or otherwise) or otherwise dispose of, or create or suffer to exist any Adverse Claim upon or with respect to, any Pool Receivable or other Related Rights.

(h) Extension or Amendment of Pool Receivables. Except as otherwise permitted by the Receivables Financing Agreement, no Originator will, or will permit the Servicer to, alter the delinquency status or adjust the Outstanding Balance or otherwise modify the terms of any Pool Receivable in any material respect, or amend, modify or waive, in any material respect, any term or condition of any related Contract. Each Originator shall comply in all material respects with all provisions required to be observed by it under the Credit and Collection Policy and the related Contract that are applicable with respect to each Pool Receivable conveyed by it hereunder.

(i) Fundamental Changes. Each Originator shall provide the Buyer and the Administrative Agent at least 30 days' (or such shorter period agreed to by the Administrative Agent in writing) prior written notice before making any change in such Originator's name, location or making any other change in such Originator's identity or corporate structure that could impair or otherwise render any UCC financing statement filed in connection with this Agreement or the Receivables Financing Agreement "seriously misleading" as such term (or similar term) is used in the applicable UCC; each notice to the Buyer and the Administrative Agent pursuant to this sentence shall set forth the applicable change and the proposed effective date thereof.

(j) Change in Credit and Collection Policy. Except to the extent required by Applicable Law (in which case the applicable Originator shall give prompt written notice thereof to the Buyer and the Administrative Agent), no Originator will make any change in the Credit and Collection Policy that would reasonably be expected to have a Material Adverse Effect without the prior written consent of the Buyer, the Administrative Agent and the Majority Group Agents. Promptly following any material change in the Credit and Collection Policy, such Originator will (or will cause the Servicer to) deliver a copy of the updated Credit and Collection Policy identifying such material change to the Buyer, the Administrative Agent and each Group Agent.

(k) Books and Records. Each Originator will maintain and implement (or cause the Servicer to maintain and implement) administrative and operating procedures (including an ability to recreate records evidencing Pool Receivables and related Contracts in the event of the destruction of the originals thereof), and keep and maintain (or cause the Servicer to keep and maintain) all documents, books, records, computer tapes and disks and other information reasonably necessary for the servicing of the Pool Receivables conveyed by it hereunder (including records adequate to permit the daily identification of each such Pool Receivable and all Collections of and adjustments to each such existing Pool Receivable).

(l) Change in Payment Instructions to Pool Obligors. No Originator shall (or shall permit the Servicer to) make any change in its (or their) instructions to the Pool Obligors

regarding payments to be made to the Lock-Box Accounts (or any related Lock-Box), other than any instruction to remit payments to a different Lock-Box Account (or any related Lock-Box), unless the Administrative Agent shall have directed such change or consented to such change in writing.

(m) Ownership Interest, Etc. Each Originator shall (and shall cause the Servicer to), at its expense, take all action necessary to establish and maintain a valid and enforceable ownership or security interest in the Pool Receivables, the Related Rights and Collections with respect thereto, and a first priority perfected ownership or security interest in the Collateral, in each case free and clear of any Adverse Claim, in favor of the Buyer and the Administrative Agent (for the benefit of the Secured Parties), as applicable, including taking such action to perfect, protect or more fully evidence the interest of the Buyer and the Administrative Agent (for the benefit of the Secured Parties) as the Buyer, the Administrative Agent or any Group Agent may reasonably request. In furtherance of the foregoing, each Originator hereby authorizes the Buyer and the Administrative Agent (for the benefit of the Secured Parties) to file such continuations of the financing statements filed hereunder as it deems necessary and appropriate to maintain such perfected security interest. Each Originator shall (or shall cause the Servicer to), from time to time and within the time limits established by law, prepare and present to the Administrative Agent for the Administrative Agent's authorization and approval, all financing statements, amendments, continuations or initial financing statements in lieu of a continuation statement, or other filings necessary to continue, maintain and perfect the Administrative Agent's security interest as a first-priority interest. The Administrative Agent's approval of such filings shall authorize the Originator to file such financing statements under the UCC. Notwithstanding anything else in the Transaction Documents to the contrary, no Originator shall have any authority to file a termination, partial termination, release, partial release, or any amendment that deletes the name of a debtor or excludes collateral of any such financing statements filed in connection with the Transaction Documents, without the prior written consent of the Administrative Agent.

(n) Further Assurances. Each Originator hereby authorizes and hereby agrees from time to time, at its own expense, promptly to execute and deliver all further instruments and documents, and to take all further actions, that the Buyer or the Administrative Agent may reasonably request for the purpose of exercising and enforcing the rights and remedies of the Buyer and the Secured Parties under this Agreement or any other Transaction Document.

(o) Transaction Information. No Originator shall deliver any Transaction Information to any Rating Agency without providing such Transaction Information to the applicable Group Agent prior to such delivery, nor shall any Originator permit any of its Affiliate to do so on its behalf. No Originator shall provide any Transaction Information in any oral communications with any Rating Agency without the participation of the applicable Group Agent, nor shall any Originator permit any of its Affiliates to do so on its behalf.

(p) Mergers, Acquisitions, Sales, etc. Without the prior written consent of the Buyer, the Administrative Agent and each Group Agent (which consent shall not be unreasonably withheld, conditioned or delayed, so long as no Termination Event or Unmatured Termination has occurred and remains continuing), no Originator shall (i) consummate any merger, consolidation or other restructuring or (ii) except as contemplated by the Transaction

Documents, directly or indirectly sell, transfer, assign, convey or lease, whether in one or a series of transactions, all or substantially all of its assets; provided, that an Originator shall be permitted to merge with any of its Affiliates if such Originator is the surviving entity and no Change in Control would result therefrom.

(q) Chattel Paper. Each Originator shall cause all chattel paper evidencing such Originator's Pool Receivables held by the Servicer in its possession or control to be held by the Servicer as bailee for the Secured Parties and the Buyer at the locations identified in Schedule II, in the Electronic Invoice System or in other electronic document management systems (which may include document storage systems provided by third party vendors used in the ordinary course of the Servicer's business); provided, however, that following the occurrence and during the continuance of a Termination Event, the Originator shall cause the Servicer to as promptly as practicable following receipt of written request therefor from the Administrative Agent, (a) provide the Administrative Agent with such access to the Electronic Invoice System, and, to the extent reasonably practicable, such other electronic document management systems, as is necessary to permit the Administrative Agent to identify, monitor and track the chattel paper stored therein, (b) implement such restrictions on the access of the officers, directors, agents and employees of the Servicer to the Electronic Invoice System as are reasonably necessary to ensure that possession or control of the chattel paper stored therein is not transferred to any third party, and/or (c) use its commercially reasonable efforts to deliver or cause to be delivered all tangible chattel paper to the Administrative Agent; provided, that the foregoing shall be conducted in a manner reasonably calculated to comply with any applicable confidentiality or restrictions on disclosure to which the Servicer or any Originator is subject (including with respect to Obligor information); and provided, further, that compliance with any such request by the Servicer will not materially impede or adversely affect Collections on, or the collectibility of, the Pool Receivables.

SECTION 6.2 Separateness Covenants. Each Originator hereby acknowledges that this Agreement and the other Transaction Documents are being entered into in reliance upon the Buyer's identity as a legal entity separate from such Originator and its Affiliates. Therefore, from and after the date hereof, each Originator shall take all reasonable steps necessary to make it apparent to third Persons that the Buyer is an entity with assets and liabilities distinct from those of such Originator and any other Person, and is not a division of such Originator, its Affiliates or any other Person. Without limiting the generality of the foregoing and in addition to and consistent with the other covenants set forth herein and in the other Transaction Documents, each Originator shall: (i) comply with all applicable provisions set forth in Section 9(j) of the Buyer's Limited Liability Company Agreement; and (ii) not take any action inconsistent with the foregoing or contrary to the related matters set forth or assumed in the opinions of counsel relating to true sale and substantive non-consolidation matters.

## ARTICLE VII

### ADDITIONAL RIGHTS AND OBLIGATIONS IN RESPECT OF RECEIVABLES

SECTION 7.1 Rights of the Buyer. If any Originator fails to perform any of its obligations hereunder, the Buyer (or its assigns) may, but shall not be required to, perform or cause the performance of such obligation, and the applicable Originator shall be obligated to

reimburse the reasonable and documented costs and expenses incurred by the Buyer (or its assigns) in connection therewith.

SECTION 7.2 Responsibilities of the Originators. Anything herein to the contrary notwithstanding:

(a) Each Originator shall perform its obligations hereunder, and the exercise by the Buyer or its designee of its rights hereunder shall not relieve such Originator from such obligations.

(b) None of the Buyer, the Servicer (other than in its capacity as an Originator), the Lenders, the Group Agents or the Administrative Agent shall have any obligation or liability to any Obligor or any other third Person with respect to any Receivables, Contracts related thereto or any other related agreements, nor shall the Buyer, the Servicer (other than in its capacity as an Originator), the Lenders, the Group Agents or the Administrative Agent be obligated to perform any of the obligations of such Originator thereunder.

SECTION 7.3 Further Action Evidencing Purchases. On or prior to the Closing Date, each Originator shall mark its master data processing records evidencing its Pool Receivables and Contracts with a legend, acceptable to the Buyer and the Administrative Agent, evidencing that such Pool Receivables have been transferred in accordance with this Agreement and none of the Originators shall change or remove such notation without the consent of the Buyer and the Administrative Agent. Each Originator agrees that from time to time, at its expense, it will promptly execute and deliver all further instruments and documents, and take all further action that the Buyer, the Servicer, the Administrative Agent or any Group Agent may reasonably request in order to perfect, protect or more fully evidence the Receivables and Related Rights purchased by or contributed to the Buyer hereunder, or to enable the Buyer to exercise or enforce any of its rights hereunder or under any other Transaction Document; provided, that in no event shall any Originator be obligated to include any notation or legend on, or otherwise mark, any tangible chattel paper evidencing the Pool Receivables.

SECTION 7.4 Application of Collections. Any payment by an Obligor in respect of any Pool Receivable owed by it to any Originator shall, except as otherwise specified by such Obligor or required by Applicable Law and unless otherwise instructed by the Servicer (with the prior written consent of the Administrative Agent) or the Administrative Agent, be applied as a Collection of such Pool Receivable to the extent of any amounts then due and payable thereunder.

SECTION 7.5 Performance of Obligations. Each Originator shall perform all of its obligations under the Contracts related to the Receivables generated by such Originator to the same extent as if interests in such Receivables had not been transferred hereunder, and the exercise by the Buyer or the Administrative Agent of its rights hereunder shall not relieve any Originator from any such obligations.

## ARTICLE VIII PURCHASE AND SALE TERMINATION EVENTS

SECTION 8.1 Purchase and Sale Termination Events. Each of the following events or occurrences described in this Section 8.1 shall constitute a “Purchase and Sale Termination Event” (each event which with notice or the passage of time or both would become a Purchase and Sale Termination Event being referred to herein as an “Unmatured Purchase and Sale Termination Event”):

(a) the Termination Date shall have occurred under the Receivables Financing Agreement; or

(b) any Insolvency Proceeding shall be instituted against any Originator or any Originator is not Solvent; or

(c) the giving of written notice by the Credit Agreement Agent (as defined in the Intercreditor Agreement) pursuant to Section 4(b)(y) of the Intercreditor Agreement (as in effect on the date hereof).

#### SECTION 8.2 Remedies.

(a) Automatic Termination. The Purchase and Sale Termination Date shall automatically occur upon the occurrence and during the continuation of a Purchase and Sale Termination Event (i) for all Originators, in the case of a Purchase and Sale Termination Event described in clause (a) or (c) above, and (ii) for the affected Originator(s), in the case of a Purchase and Sale Termination Event described in clause (b) above; provided, that the rights and remedies of the Buyer hereunder shall survive any such Purchase and Sale Termination Date.

(b) Remedies Cumulative. Upon any termination of the Purchase Facility of any Originator pursuant to Section 8.2(a), the Buyer (and the Administrative Agent as Buyer’s assignee) shall have against such Originator, in addition to all other rights and remedies under this Agreement, all other rights and remedies provided under the UCC of each applicable jurisdiction and other Applicable Laws, which rights shall be cumulative.

### ARTICLE IX

#### INDEMNIFICATION

##### SECTION 9.1 Indemnities by the Originators.

(a) Each Originator hereby agrees to indemnify and hold harmless the Buyer and its assigns (including any Secured Party under the Receivables Financing Agreement), and their respective officers, directors, agents and employees (each, an “Originator Indemnified Party”), from and against any loss, liability, expense, damage or injury suffered or sustained by reason of (i) such Originator’s failure to duly and punctually perform its obligations pursuant to this Agreement or any other Transaction Document to which it is a party, (ii) the breach by such Originator of any of its representations, warranties or covenants hereunder, (iii) any violation of Applicable Law by such Originator or (iv) any Adverse Claim asserted by any creditor of such Originator against any of the Collateral (all of the foregoing being collectively referred to as “Originator Indemnified Amounts”); excluding, however, (A) Originator Indemnified Amounts to the extent arising out of or resulting from the gross negligence or willful misconduct of such Originator Indemnified Party or any of its Related Indemnified Parties or the breach by such

Originator Indemnified Party or any of its Related Indemnified Parties of its obligations under any Transaction Document to which it is a party, in each case, as determined in a final non-appealable judgment by a court of competent jurisdiction and (B) any Credit Risk Losses or losses arising under arrangements (synthetically or otherwise) to the extent such arrangements have the effect of replicating, in whole or in part, exposure to Credit Risk Losses.

(b) In no event shall any Originator be liable hereunder to any Originator Indemnified Party or any other Person for any special, indirect, consequential or punitive damages, including but not limited to lost profits, even if the Servicer has been advised of the likelihood of such loss or damage and regardless of the form of action.

(c) If for any reason any indemnification to which an Originator Indemnified Party would otherwise be entitled pursuant to the terms of Section 9.1(a) is unavailable to such Originator Indemnified Party or insufficient to hold it harmless, then the applicable Originator shall contribute to the amount paid or payable by such Originator Indemnified Party as a result of such loss, claim, damage or liability in such proportion as is appropriate to reflect the relative economic interests of such Originator and its Related Indemnified Parties on the one hand and such Originator Indemnified Party and its Affiliates on the other hand in the matters contemplated by this Agreement as well as the relative fault of the Originator and its Affiliates and such Originator Indemnified Party and its Related Indemnified Parties with respect to such loss, claim, damage or liability and any other relevant equitable considerations. The reimbursement, indemnity and contribution obligations of each Originator under this Section shall, to the extent not duplicative, be in addition to any liability which such Originator may otherwise have.

(d) All amounts owed by any Originator under this Section 9.1 shall be paid by such Originator by the Monthly Settlement Date following the Fiscal Month during which such Originator has received the written demand of the related Originator Indemnified Amounts from the applicable Originator Indemnified Party. Any indemnification or contribution under this Section shall survive the termination of this Agreement.

## ARTICLE X MISCELLANEOUS

### SECTION 10.1 Amendments, etc.

(a) The provisions of this Agreement may from time to time be amended, modified or waived, if such amendment, modification or waiver is in writing and executed by the Buyer and each Originator, with the prior written consent of the Administrative Agent and the Majority Group Agents.

(b) No failure or delay on the part of the Buyer, the Servicer, any Originator or any third-party beneficiary in exercising any power or right hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such power or right preclude any other or further exercise thereof or the exercise of any other power or right. No notice to or demand on the Buyer, the Servicer or any Originator in any case shall entitle it to any notice or demand in similar or other circumstances. No waiver or approval by the Buyer or the Servicer

under this Agreement shall, except as may otherwise be stated in such waiver or approval, be applicable to subsequent transactions. No waiver or approval under this Agreement shall require any similar or dissimilar waiver or approval thereafter to be granted hereunder.

(c) The Transaction Documents contain a final and complete integration of all prior expressions by the parties hereto with respect to the subject matter thereof and shall constitute the entire agreement among the parties hereto with respect to the subject matter thereof, superseding all prior oral or written understandings.

SECTION 10.2 Notices, etc. All notices and other communications provided for hereunder shall, unless otherwise stated herein, be in writing (including facsimile or electronic mail communication) and shall be delivered or sent by facsimile, electronic mail, or by overnight mail, to the intended party at the mailing or electronic mail address of such party set forth under its name on Schedule IV hereof or at such other address or facsimile number as shall be designated by such party in a written notice to the other parties hereto or in the case of the Administrative Agent, any Lender or any Group Agent, at their respective address for notices pursuant to the Receivables Financing Agreement. All such notices and communications shall be effective (i) if delivered by overnight mail, when received, and (ii) if transmitted by facsimile or electronic mail, when sent, receipt confirmed by telephone or electronic means.

SECTION 10.3 No Waiver; Cumulative Remedies. The remedies herein provided are cumulative and not exclusive of any remedies provided by law. Without limiting the foregoing, each Originator hereby authorizes the Buyer, the Administrative Agent, each Lender and each Group Agent (collectively, the "Set-off Parties"), at any time during the continuance of a Termination Event, to set off, against any obligations of such Originator to such Set-off Party arising in connection with the Transaction Documents that are then due and payable, any and all deposits (general or special, time or demand, provisional or final) then held by, and any and all indebtedness then owing by, the applicable Set-off Party to or for the credit or the account of such Originator; provided, that such Set-off Party shall promptly notify the applicable Originator following the exercise of any such set off, and the exercise of any such set off right shall be subject to Section 13.12 of the Receivables Financing Agreement, to the extent applicable.

SECTION 10.4 Binding Effect; Assignability. This Agreement shall be binding upon and inure to the benefit of the Buyer and each Originator and their respective successors and permitted assigns. No Originator may assign any of its obligations hereunder without the prior written consent of the Buyer, the Administrative Agent and each Group Agent, except as otherwise herein specifically provided. This Agreement shall create and constitute the continuing obligations of the parties hereto in accordance with its terms, and shall remain in full force and effect until such time as the parties hereto shall agree. The rights and remedies with respect to any breach of any representation and warranty made by any Originator pursuant to Article V and the indemnification and payment provisions of Article IX shall be continuing and shall survive any termination of this Agreement.

SECTION 10.5 Costs and Expenses. In addition to the rights of indemnification granted under Section 9.01 hereof, the Originators shall pay to Buyer, on the Monthly Settlement Date following the Fiscal Month during which such Originator has received written demand therefor, all reasonable and documented out-of-pocket costs and expenses incurred by the Buyer in

connection with the preparation, execution and delivery of this Agreement. In addition, the Originators shall pay to Buyer, on the Monthly Settlement Date following the Fiscal Month during which such Originator has received written demand therefor, all reasonable and documented out-of-pocket costs and expenses (including Attorney Costs) incurred by Buyer in connection with the enforcement of this Agreement, any restructuring or workout of this Agreement or the administration of this Agreement, in each case, during the occurrence and continuation of a Termination Event.

SECTION 10.6 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).

SECTION 10.7 CONSENT TO JURISDICTION. (a) EACH PARTY HERETO HEREBY IRREVOCABLY SUBMITS TO THE NON-EXCLUSIVE JURISDICTION OF ANY NEW YORK STATE OR FEDERAL COURT SITTING IN NEW YORK CITY, NEW YORK IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT, AND EACH PARTY HERETO HEREBY IRREVOCABLY AGREES THAT ALL CLAIMS IN RESPECT OF SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN SUCH NEW YORK STATE COURT OR, TO THE EXTENT PERMITTED BY LAW, IN SUCH FEDERAL COURT. THE PARTIES HERETO HEREBY IRREVOCABLY WAIVE, TO THE FULLEST EXTENT THEY MAY EFFECTIVELY DO SO, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING. THE PARTIES HERETO AGREE THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW.

(b) EACH PARTY HERETO CONSENTS TO THE SERVICE OF ANY AND ALL PROCESS IN ANY SUCH ACTION OR PROCEEDING BY THE MAILING OF COPIES OF SUCH PROCESS TO IT AT ITS ADDRESS SPECIFIED IN SCHEDULE IV. NOTHING IN THIS SECTION 10.7 SHALL AFFECT THE RIGHT OF THE PARTIES HERETO TO SERVE LEGAL PROCESS IN ANY OTHER MANNER PERMITTED BY LAW.

SECTION 10.8 WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY WAIVES, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, TRIAL BY JURY IN ANY JUDICIAL PROCEEDING INVOLVING, DIRECTLY OR INDIRECTLY, ANY MATTER (WHETHER SOUNDING IN TORT, CONTRACT OR OTHERWISE) IN ANY WAY ARISING OUT OF, RELATED TO, OR CONNECTED WITH THIS AGREEMENT OR ANY OTHER TRANSACTION DOCUMENT.

SECTION 10.9 Execution in Counterparts. This Agreement may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original and all of which when taken together shall constitute one and the same agreement. Delivery of an



executed counterpart hereof by facsimile or other electronic means shall be equally effective as delivery of an originally executed counterpart.

SECTION 10.10 Acknowledgment and Agreement; Third Party Beneficiaries. By execution below, each Originator expressly acknowledges and agrees that all of the Buyer's rights, title, and interests in, to, and under this Agreement (but not its obligations), shall be pledged by the Buyer to the Administrative Agent (for the benefit of the Secured Parties) pursuant to the Receivables Financing Agreement, and each Originator consents to such pledge. Each of the parties hereto acknowledges and agrees that the Administrative Agent, each Group Agent and each other Secured Party is an express third-party beneficiary hereunder; provided, that the rights of each such third-party beneficiary shall be subject to the compliance by such third-party beneficiary of the provisions of the Transaction Documents (including, to the extent applicable, the provisions of Section 3.3 of this Agreement) that relate to such rights.

SECTION 10.11 No Proceeding. Each Originator hereby agrees that it will not institute, or join any other Person in instituting, against the Buyer any Insolvency Proceeding for at least one year and one day following the Final Payout Date. Each Originator further agrees that notwithstanding any provisions contained in this Agreement to the contrary, the Buyer shall not, and shall not be obligated to, pay any amount in respect of any Subordinated Note or otherwise to such Originator pursuant to this Agreement unless the Buyer has received funds which may, subject to Section 3.01 of the Receivables Financing Agreement, be used to make such payment. Any amount which the Buyer does not pay pursuant to the operation of the preceding sentence shall not constitute a claim (as defined in §101 of the Bankruptcy Code) against or corporate obligation of the Buyer by such Originator for any such insufficiency unless and until the provisions of the foregoing sentence are satisfied. The agreements in this Section 10.11 shall survive any termination of this Agreement.

SECTION 10.12 Mutual Negotiations. This Agreement and the other Transaction Documents are the product of mutual negotiations by the parties thereto and their counsel, and no party shall be deemed the draftsperson of this Agreement or any other Transaction Document or any provision hereof or thereof or to have provided the same. Accordingly, in the event of any inconsistency or ambiguity of any provision of this Agreement or any other Transaction Document, such inconsistency or ambiguity shall not be interpreted against any party because of such party's involvement in the drafting thereof.

SECTION 10.13 Limited Recourse. The obligations of each of the parties under this Agreement and each of the Transaction Documents are solely the corporate or limited liability company obligations of such Person, and no recourse shall be had against, and no personal liability whatsoever shall attach to or be incurred by any incorporator, stockholder, member, partner or Related Party of any such Person or those of any of their Affiliates by the enforcement of any assessment or by any legal or equitable proceeding, by virtue of any statute or otherwise, and any and all personal liability for breaches by any such Person of such obligations, either at common law or at equity, or by statute, rule or regulation, is hereby expressly waived with respect to every such incorporator, stockholder, member, partner or Related Party as a condition of and in consideration for the execution of this Agreement. The agreements in this Section 10.13 shall survive any termination of this Agreement.

[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.

NCR RECEIVABLES LLC,  
as Buyer

By: /s/ John Boudreau  
Name: John Boudreau  
Title: President and Treasurer

NCR CORPORATION,  
as Servicer and as an Originator

By: /s/ Robert P. Fishman  
Name: Robert P. Fishman  
Title: Senior Vice President and  
Chief Financial Officer

LIST AND LOCATION OF EACH ORIGINATOR

<u>Originator</u>	<u>Location</u>
NCR Corporation	Maryland

Schedule I-1 *Purchase and Sale Agreement (NCR)*

LOCATION OF BOOKS AND RECORDS OF ORIGINATORS

<u>Originator</u>	<u>Location of Books and Records</u>
NCR Corporation	<p><u>Physical Locations</u>            3097 Satellite Boulevard            Duluth, GA 30096</p> <p>3095 Satellite Boulevard            Duluth, GA 30096</p> <p>Additional (hard copy and backup tape) backup services provided by:            Recall Corporation            One Recall Center            180 Technology Parkway            Norcross, GA 30092</p> <p><u>Electronic Storage</u>            Business Operations Center (BOC)            Electronic Order Jacket (EOJ)            Web Ordering Tool (WOT)            Invoice Engine            Maintained from offices at:            3095 Satellite Boulevard            Duluth, GA 30096</p> <p>Legal Electronic Contract Management System (ECMS)            Maintained from offices at:            3097 Satellite Boulevard            Duluth, GA 30096</p> <p>Additional electronic storage provided by:            Datamatics Global Services Limited</p>

TRADE NAMES

Names / trade names of former NCR operating subsidiaries (merged with and into NCR)

- NCR Self-Service LLC
- Estorelink.com, Inc.
- Radiant Systems, Inc.
- Research Computer Services, Inc.
- The Microcard Corporation
- Quantor Corporation
- Old River Software, Inc.
- Data Pathing Inc.
- First Level Technology LLC
- TNR Nevada LLC
- TNR Canada Holdings Inc.
- TNR Holdings LLC
- The New Release LP
- TNR Holdings Corp.

Names / trade names of businesses acquired by NCR Corporation or Radiant Systems, Inc. (merged with and into NCR as of December 31, 2013)

- Menugistics
- CCR Data Systems
- Capital Cash Register Co., Inc.
- CCR
- Supplies for POS
- CCR POS
- Capital Cash Register POS
- Aloha NH
- Aloha MA
- Aloha CT
- Aloha POS NH
- Aloha POS MA
- Aloha POS CT
- Dynamic Systems Corporation
- Dynamic Systems
- DSC
- Alohase
- Aloha SE
- Matrix Automation
- Matrix Proven POS
- Abacus Business Solutions
- Abacus Business Computers

- Abacus POS
- Retail Automation Products
- RAP-POS
- AlohaPOS4me
- Platinum Technology Systems
- Data Wave
- Professional Data Systems
- Platinum POS
- Aloha NJ
- Aloha NYC
- Aloha POS NJ
- Aloha POS NY
- Aloha POS NYC
- East Bay Cash Register Systems
- East Bay Point of Sale Solutions
- East Bay Point of Sale Systems
- East Bay Point of Sale
- East Bay POS
- South Bay Retail Systems
- East Bay Wholesale
- Electronic Retail Systems
- Aloha Sacramento
- Aloha San Francisco
- Aloha Sierra Nevada
- Forum Systems Group
- Forum Technology Group
- Forum Systems Group of Las Vegas
- Sierra Nevada Systems Group
- Transoft
- Transoft International
- uGenius Technology
- uGenius CUSO
- uGenius

Schedule III-2 *Purchase and Sale Agreement (NCR)*

NOTICE ADDRESSES

NCR Receivables LLC:  
3095 Satellite Blvd.  
Duluth, GA 30096  
USA  
Attn: President  
Telephone: 937-445-5000  
Email: john.boudreau@ncr.com

NCR Corporation:  
3097 Satellite Blvd.  
Duluth, GA 30096  
USA  
Attn: Treasurer  
Telephone: 937-445-5000  
Email: john.boudreau@ncr.com



FORM OF PURCHASE REPORT

Originator:       **[Name of Originator]**  
Purchaser:        [NCR Receivables LLC]  
Payment Date:     \_\_\_\_\_, 20\_\_

- 1.       Outstanding Balance of Receivables Purchased:
- 2.       Fair Market Value Discount:  
  
          
$$\frac{1}{1 + (\text{Prime Rate} \times \frac{\text{Days' Sales Outstanding}}{365})}$$

Where:

Prime Rate = \_\_\_\_\_  
Days' Sales Outstanding = \_\_\_\_\_

- 3.       Purchase Price (1 x 2) = \$ \_\_\_\_\_
- 4.       Reductions in the Purchase Price = \$ \_\_\_\_\_
- 5.       Net Purchase Price (3 – 4) = \$ \_\_\_\_\_

[FORM OF SUBORDINATED NOTE]New York, New York  
[\_\_\_\_], 20[\_\_]

FOR VALUE RECEIVED, the undersigned, NCR RECEIVABLES LLC, a Delaware limited liability company (the “Buyer”), promises to pay to [\_\_\_\_], a [\_\_\_\_] (the “Originator”), on the terms and subject to the conditions set forth herein and in the Purchase and Sale Agreement referred to below, the aggregate unpaid Purchase Price of all Receivables purchased by the Buyer from the Originator pursuant to such Purchase and Sale Agreement, as such unpaid Purchase Price is shown in the records of the Servicer.

1. Purchase and Sale Agreement. This Subordinated Note is one of the Subordinated Notes described in, and is subject to the terms and conditions set forth in, that certain Purchase and Sale Agreement dated as of November 21, 2014 (as the same may be amended, restated, supplemented or otherwise modified from time to time, the “Purchase and Sale Agreement”), among the Buyer and the Originators from time to time party thereto. Reference is hereby made to the Purchase and Sale Agreement for a statement of certain other rights and obligations of the Buyer and the Originator.

2. Definitions. Capitalized terms used (but not defined) herein have the meanings assigned thereto in the Purchase and Sale Agreement and in Article I of the Receivables Financing Agreement (as defined in the Purchase and Sale Agreement). In addition, as used herein, the following terms have the following meanings:

“Bankruptcy Proceedings” has the meaning set forth in clause (b) of paragraph 9 hereof.

“Final Maturity Date” means the Payment Date immediately following the date that falls one year and one day after the Termination Date.

“Prime Rate” means a per annum rate equal to the “U.S. Prime Rate” as published in the “Money Rates” section of The Wall Street Journal or if such information ceases to be published in The Wall Street Journal, such other publication as determined by the Buyer in its sole discretion.

“Senior Interest Holders” means, collectively, the Lenders, the Group Agents, the Administrative Agent, the Borrower Indemnified Parties, the Servicer Indemnified Parties and the Affected Persons.

“Senior Interests” means, collectively, (i) the Aggregate Interest, (ii) the Aggregate Capital, (iii) the fees referred to in Section 2.03 of the Receivables Financing Agreement, (iv) all amounts payable pursuant to Sections 4.01, 4.02, 4.03, 12.01 or 13.04 of the Receivables Financing Agreement and (v) all other obligations of the Buyer and

the Servicer that are due and payable, to (a) the Lenders, the Group Agents, the Administrative Agent and their respective successors, permitted transferees and assigns arising in connection with the Transaction Documents and (b) any Borrower Indemnified Party, Servicer Indemnified Party or Affected Person arising in connection with the Receivables Financing Agreement or any other Transaction Document, in each case, howsoever created, arising or evidenced, whether direct or indirect, absolute or contingent, now or hereafter existing, or due or to become due, together with any and all Interest accruing on any such amount after the commencement of any Bankruptcy Proceedings, notwithstanding any provision or rule of law that might restrict the rights of any Senior Interest Holder, as against the Buyer or anyone else, to collect such interest.

“Subordination Provisions” means, collectively, clauses (a) through (l) of paragraph 9 hereof.

3. Interest. Subject to the Subordination Provisions set forth below, the Buyer promises to pay interest on this Subordinated Note as follows: to (but excluding) the date on which the entire aggregate unpaid Purchase Price is fully paid, the aggregate unpaid Purchase Price from time to time outstanding shall bear interest at a rate per annum equal to the Prime Rate.

4. Interest Payment Dates. Subject to the Subordination Provisions set forth below, the Buyer shall pay accrued interest on this Subordinated Note on each Monthly Settlement Date, and shall pay accrued interest on the amount of each principal payment made in cash on a date other than a Monthly Settlement Date at the time of such principal payment.

5. Basis of Computation. Interest accrued hereunder shall be computed for the actual number of days elapsed on the basis of a 365- or 366-day year, as the case may be.

6. Principal Payment Dates. Subject to the Subordination Provisions set forth below, payments of the principal amount of this Subordinated Note shall be made as follows:

(a) The principal amount of this Subordinated Note shall be reduced by an amount equal to each payment deemed made pursuant to Section 3.3 of the Purchase and Sale Agreement.

(b) The entire outstanding principal amount of this Subordinated Note shall be paid on the Final Maturity Date.

(c) Subject to the Subordination Provisions set forth below, the principal amount of and accrued interest on this Subordinated Note may be prepaid by, and in the sole discretion of the Buyer, on any Business Day without premium or penalty.

7. Payment Mechanics. All payments of principal and interest hereunder are to be made in lawful money of the United States of America in the manner specified in Article III of the Purchase and Sale Agreement.

8. Enforcement Expenses. In addition to and not in limitation of the foregoing, but subject to the Subordination Provisions set forth below and to any limitation imposed by

Applicable Law, the Buyer agrees to pay all expenses, including Attorney Costs, incurred by the Originator in seeking to collect any amounts payable hereunder which are not paid when due.

9. Subordination Provisions. The Buyer covenants and agrees, and the Originator and any other holder of this Subordinated Note (collectively, the Originator and any such other holder are called the “Holder”), by its acceptance of this Subordinated Note, likewise covenants and agrees on behalf of itself and any Holder, that the payment of the principal amount of and interest on this Subordinated Note is hereby expressly subordinated in right of payment to the payment and performance of the Senior Interests to the extent and in the manner set forth in the following clauses of this paragraph 9:

(a) No payment or other distribution of the Buyer’s assets of any kind or character, whether in cash, securities, or other rights or property, shall be made on account of this Subordinated Note except to the extent such payment or other distribution is (i) permitted under Section 7.01(s) of the Receivables Financing Agreement or (ii) made pursuant to clause (a) or (b) of paragraph 6 of this Subordinated Note;

(b) In the event of any dissolution, winding up, liquidation, readjustment, reorganization or other similar event relating to the Buyer, whether voluntary or involuntary, partial or complete, and whether in bankruptcy, insolvency or receivership proceedings, or upon an assignment for the benefit of creditors, or any other marshalling of the assets and liabilities of the Buyer or any sale of all or substantially all of the assets of the Buyer other than as permitted by the Purchase and Sale Agreement (such proceedings being herein collectively called “Bankruptcy Proceedings”), the Senior Interests shall first be paid and performed in full and in cash before the Originator shall be entitled to receive and to retain any payment or distribution in respect of this Subordinated Note. In order to implement the foregoing: (i) all payments and distributions of any kind or character in respect of this Subordinated Note to which the Holder would be entitled except for this clause (b) shall be made directly to the Administrative Agent (for the benefit of the Senior Interest Holders); (ii) the Holder shall promptly file a claim or claims, in the form required in any Bankruptcy Proceedings, for the full outstanding amount of this Subordinated Note, and shall use commercially reasonable efforts to cause said claim or claims to be approved and all payments and other distributions in respect thereof to be made directly to the Administrative Agent (for the benefit of the Senior Interest Holders) until the Senior Interests shall have been paid and performed in full and in cash; and (iii) the Holder hereby irrevocably agrees that the Administrative Agent (acting on behalf of the Lenders), may in the name of the Holder or otherwise, demand, sue for, collect, receive and receipt for any and all such payments or distributions, and file, prove and vote or consent in any such Bankruptcy Proceedings with respect to any and all claims of the Holder relating to this Subordinated Note, in each case until the Senior Interests shall have been paid and performed in full and in cash;

(c) In the event that the Holder receives any payment or other distribution of any kind or character from the Buyer or from any other source whatsoever, in respect of this Subordinated Note, other than as expressly permitted by the terms of this Subordinated Note or the Transaction Documents, such payment or other distribution

shall be received in trust for the Senior Interest Holders and shall be turned over by the Holder to the Administrative Agent (for the benefit of the Senior Interest Holders) forthwith. The Holder will mark its books and records so as clearly to indicate that this Subordinated Note is subordinated in accordance with the terms hereof. All payments and distributions received by the Administrative Agent in respect of this Subordinated Note, to the extent received in or converted into cash, may be applied by the Administrative Agent (for the benefit of the Senior Interest Holders) first to the payment of any and all expenses (including Attorney Costs) paid or incurred by the Senior Interest Holders in enforcing these Subordination Provisions, or in endeavoring to collect or realize upon this Subordinated Note, and any balance thereof shall, solely as between the Originator and the Senior Interest Holders, be applied by the Administrative Agent (in the order of application set forth in Section 3.01(a) of the Receivables Financing Agreement) toward the payment of the Senior Interests; but as between the Buyer and its creditors, no such payments or distributions of any kind or character shall be deemed to be payments or distributions in respect of the Senior Interests;

(d) Notwithstanding any payments or distributions received by the Senior Interest Holders in respect of this Subordinated Note, while any Bankruptcy Proceedings are pending the Holder shall not be subrogated to the then existing rights of the Senior Interest Holders in respect of the Senior Interests until the Senior Interests have been paid and performed in full and in cash. If no Bankruptcy Proceedings are pending, the Holder shall only be entitled to exercise any subrogation rights that it may acquire (by reason of a payment or distribution to the Senior Interest Holders in respect of this Subordinated Note) to the extent that any payment arising out of the exercise of such rights would be permitted under Section 7.01(r) of the Receivables Financing Agreement;

(e) These Subordination Provisions are intended solely for the purpose of defining the relative rights of the Holder, on the one hand, and the Senior Interest Holders on the other hand. Nothing contained in these Subordination Provisions or elsewhere in this Subordinated Note is intended to or shall impair, as between the Buyer, its creditors (other than the Senior Interest Holders) and the Holder, the Buyer's obligation, which is unconditional and absolute, to pay the Holder the principal of and interest on this Subordinated Note as and when the same shall become due and payable in accordance with the terms hereof or to affect the relative rights of the Holder and creditors of the Buyer (other than the Senior Interest Holders);

(f) The Holder shall not, until the Senior Interests have been paid and performed in full and in cash, (i) cancel, waive, forgive, transfer or assign, or commence legal proceedings to enforce or collect, or subordinate to any obligation of the Buyer, howsoever created, arising or evidenced, whether direct or indirect, absolute or contingent, or now or hereafter existing, or due or to become due, other than the Senior Interests, this Subordinated Note or any rights in respect hereof or (ii) convert this Subordinated Note into an equity interest in the Buyer, unless the Holder shall, in either case, have received the prior written consent of the Administrative Agent;

(g) The Holder shall not, without the advance written consent of the Administrative Agent and each Lender, commence, or join with any other Person in

commencing, any Bankruptcy Proceedings with respect to the Buyer until at least one year and one day shall have passed since the Senior Interests shall have been paid and performed in full and in cash;

(h) If, at any time, any payment (in whole or in part) of any Senior Interest is rescinded or must be restored or returned by a Senior Interest Holder (whether in connection with Bankruptcy Proceedings or otherwise), these Subordination Provisions shall continue to be effective or shall be reinstated, as the case may be, as though such payment had not been made;

(i) Each of the Senior Interest Holders may, from time to time, at its sole discretion, without notice to the Holder, and without waiving any of its rights under these Subordination Provisions, take any or all of the following actions: (i) retain or obtain an interest in any property to secure any of the Senior Interests; (ii) extend or renew for one or more periods (whether or not longer than the original period), alter or exchange any of the Senior Interests in accordance with the Transaction Documents, or release or compromise any obligation of any nature with respect to any of the Senior Interests; (iii) amend, supplement, amend and restate, or otherwise modify any Transaction Document, subject to the terms thereof; and (iv) release its security interest in, or surrender, release or permit any substitution or exchange for all or any part of any rights or property securing any of the Senior Interests, or extend or renew for one or more periods (whether or not longer than the original period), or release or compromise any obligations of any nature of any obligor with respect to any such rights or property;

(j) The Holder hereby waives: (i) notice of acceptance of these Subordination Provisions by any of the Senior Interest Holders; (ii) notice of the existence, creation, non-payment or non-performance of all or any of the Senior Interests; and (iii) all diligence in enforcement, collection or protection of, or realization upon, the Senior Interests, or any thereof, or any security therefor;

(k) Each of the Senior Interest Holders may, from time to time, on the terms and subject to the conditions set forth in the Transaction Documents to which such Persons are party, but without notice to the Holder, assign or transfer any or all of the Senior Interests, or any interest therein; and, notwithstanding any such assignment or transfer or any subsequent assignment or transfer thereof, such Senior Interests shall be and remain Senior Interests for the purposes of these Subordination Provisions, and every immediate and successive assignee or transferee of any of the Senior Interests or of any interest of such assignee or transferee in the Senior Interests shall be entitled to the benefits of these Subordination Provisions to the same extent as if such assignee or transferee were the assignor or transferor; and

(l) These Subordination Provisions are made for the benefit of the Senior Interest Holders, and the Administrative Agent may proceed to enforce such provisions on behalf of each of such Persons.

10. General. No failure or delay on the part of the Originator in exercising any power or right hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any

such power or right preclude any other or further exercise thereof or the exercise of any other power or right. No amendment, modification or waiver of, or consent with respect to, any provision of this Subordinated Note shall in any event be effective unless (i) the same shall be in writing and signed and delivered by the Buyer and the Holder and (ii) all consents required for such actions under the Transaction Documents shall have been received by the appropriate Persons.

11. **Maximum Interest.** Notwithstanding anything in this Subordinated Note to the contrary, the Buyer shall never be required to pay unearned interest on any amount outstanding hereunder and shall never be required to pay interest on the principal amount outstanding hereunder at a rate in excess of the maximum nonusurious interest rate that may be contracted for, charged or received under applicable federal or state law (such maximum rate being herein called the "Highest Lawful Rate"). If the effective rate of interest which would otherwise be payable under this Subordinated Note would exceed the Highest Lawful Rate, or if the holder of this Subordinated Note shall receive any unearned interest or shall receive monies that are deemed to constitute interest which would increase the effective rate of interest payable by the Buyer under this Subordinated Note to a rate in excess of the Highest Lawful Rate, then (i) the amount of interest which would otherwise be payable by the Buyer under this Subordinated Note shall be reduced to the amount allowed by Applicable Law, and (ii) any unearned interest paid by the Buyer or any interest paid by the Buyer in excess of the Highest Lawful Rate shall be refunded to the Buyer. Without limitation of the foregoing, all calculations of the rate of interest contracted for, charged or received by the Originator under this Subordinated Note that are made for the purpose of determining whether such rate exceeds the Highest Lawful Rate applicable to the Originator (such Highest Lawful Rate being herein called the "Originator's Maximum Permissible Rate") shall be made, to the extent permitted by usury laws applicable to the Originator (now or hereafter enacted), by amortizing, prorating and spreading in equal parts during the actual period during which any amount has been outstanding hereunder all interest at any time contracted for, charged or received by the Originator in connection herewith. If at any time and from time to time (i) the amount of interest payable to the Originator on any date shall be computed at the Originator's Maximum Permissible Rate pursuant to the provisions of the foregoing sentence and (ii) in respect of any subsequent interest computation period the amount of interest otherwise payable to the Originator would be less than the amount of interest payable to the Originator computed at the Originator's Maximum Permissible Rate, then the amount of interest payable to the Originator in respect of such subsequent interest computation period shall continue to be computed at the Originator's Maximum Permissible Rate until the total amount of interest payable to the Originator shall equal the total amount of interest which would have been payable to the Originator if the total amount of interest had been computed without giving effect to the provisions of the foregoing sentence.

12. **No Negotiation.** This Subordinated Note is not negotiable.

13. **Governing Law.** **THIS SUBORDINATED NOTE, 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).**

14. **WAIVER OF JURY TRIAL.** EACH PERSON THAT ACQUIRES ANY INTEREST IN THIS SUBORDINATED NOTE 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 SUBORDINATED NOTE OR ANY OTHER TRANSACTION DOCUMENT.

15. Captions. Paragraph captions used in this Subordinated Note are for convenience only and shall not affect the meaning or interpretation of any provision of this Subordinated Note.

Exhibit B-7 *Purchase and Sale Agreement (NCR)*



IN WITNESS WHEREOF, the Buyer has caused this Subordinated Note to be executed as of the date first written above.

NCR RECEIVABLES LLC

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Exhibit B-8 *Purchase and Sale Agreement (NCR)*

FORM OF JOINDER AGREEMENT

THIS JOINDER AGREEMENT, dated as of \_\_\_\_\_, 20\_\_ (this “Agreement”) is executed by \_\_\_\_\_, a \_\_\_\_\_ organized under the laws of \_\_\_\_\_ (the “Additional Originator”), with its principal place of business located at \_\_\_\_\_.

BACKGROUND:

A. NCR Receivables LLC, a Delaware limited liability company (the “Buyer”) and the various entities from time to time party thereto, as Originators (collectively, the “Originators”), have entered into that certain Purchase and Sale Agreement, dated as of November 21, 2014 (as amended, restated, supplemented or otherwise modified through the date hereof, and as it may be further amended, restated, supplemented or otherwise modified from time to time, the “Purchase and Sale Agreement”).

B. The Additional Originator desires to become an Originator pursuant to Section 4.3 of the Purchase and Sale Agreement.

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Additional Originator hereby agrees as follows:

SECTION 1. Definitions. Capitalized terms used in this Agreement and not otherwise defined herein shall have the meanings assigned thereto in the Purchase and Sale Agreement or in the Receivables Financing Agreement (as defined in the Purchase and Sale Agreement).

SECTION 2. Transaction Documents. The Additional Originator hereby agrees that it shall be bound by all of the terms, conditions and provisions of, and shall be deemed to be a party to (as if it were an original signatory to), the Purchase and Sale Agreement and each of the other relevant Transaction Documents. From and after the later of the date hereof and the date that the Additional Originator has complied with all of the requirements of Section 4.3 of the Purchase and Sale Agreement, the Additional Originator shall be an Originator for all purposes of the Purchase and Sale Agreement and all other Transaction Documents. The Additional Originator hereby acknowledges that it has received copies of the Purchase and Sale Agreement and the other Transaction Documents. The Cut-off Date for the Additional Originator shall be [ ].

SECTION 3. Representations and Warranties. The Additional Originator hereby makes all of the representations and warranties set forth in Article V (to the extent applicable) of the Purchase and Sale Agreement as of the date hereof (unless such representations or warranties relate to an earlier date, in which case as of such earlier date), as if such representations and warranties were fully set forth herein. The Additional Originator hereby represents and warrants that its “location” (as defined in the applicable UCC) is [ \_\_\_\_\_ ], and the

offices where the Additional Originator keeps all of its books and records concerning the Receivables and Related Security is as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

SECTION 4. Miscellaneous. 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). This Agreement is executed by the Additional Originator for the benefit of the Buyer, and its assigns, and each of the foregoing parties may rely hereon. This Agreement shall be binding upon, and shall inure to the benefit of, the Additional Originator and its successors and permitted assigns.

[Signature Pages Follow]

Exhibit C-2 *Purchase and Sale Agreement (NCR)*

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed by its duly authorized officer as of the date and year first above written.

[NAME OF ADDITIONAL ORIGINATOR]

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Consented to:

[NCR RECEIVABLES LLC]

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Acknowledged by:

PNC BANK, NATIONAL ASSOCIATION  
as Administrative Agent

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

[GROUP AGENTS]

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

NCR CORPORATION

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Collateral Description

Collateral Description:

This financing statement covers all right, title and interest of the Seller (as defined in Exhibit A) in, to and under all Transferred Receivables and all Related Rights (each as defined in Exhibit A), whether now or hereafter owned, existing or arising.

Exhibit A Referenced above:

Debtor/Seller	[Name of Originator] (the “ <u>Seller</u> ”) [Originator’s Address]
Buyer/Assignor:	NCR Receivables LLC (the “ <u>Buyer</u> ”) 3095 Satellite Boulevard Duluth, Georgia 30096
Secured Party/Assignee:	PNC Bank, N.A., as administrative agent (the “ <u>Secured Party</u> .”) Three PNC Plaza 225 Fifth Avenue Pittsburgh, Pennsylvania 15222-2707

As used in this Exhibit A, the following terms have the following meanings:

“Collections” means, with respect to any Transferred Receivable: (a) all funds received in payment of any amounts owed in respect of such Transferred Receivable (including purchase price, finance charges, interest and all other charges), or applied to amounts owed in respect of such Transferred Receivable (including insurance payments and net proceeds of the sale or other disposition of repossessed goods or other collateral or property of the related Obligor or any other person directly or indirectly liable for the payment of such Transferred Receivable and available to be applied thereon), (b) all “deemed collections” of a Transferred Receivable constituting reimbursement by the Seller for Dilution Amounts or breaches of representations and warranties with respect to such Transferred Receivable, (c) all proceeds of all Related Rights with respect to such Transferred Receivable and (d) all other proceeds of such Transferred Receivable.

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

“Dilution Amounts” means any reduction to the outstanding balance owed in respect of any Transferred Receivable as a result of (i) defective, rejected or returned goods or services, (ii)

any revision, cancellation, allowance, rebate, credit memo, discount, warranty payment or other voluntary reduction in the amounts actually owed by the applicable Obligor made by the Seller or any of its affiliates (other than as a result of the receipt of Collections), (iii) any setoff, counterclaim or dispute between any Obligor and the Seller or any of its affiliates (whether arising from the transaction giving rise to a Transferred Receivable or any unrelated transaction) or (iv) any correction to the reported outstanding balance of any Transferred Receivable as of the date of its sale or contribution under the Purchase and Sale Agreement due to such reported outstanding balance being in excess of its actual outstanding balance as of such date

“Lock-Box Collateral” means each post office box, bank account, securities account or deposit account into which Collections and other proceeds of the collateral may be deposited from time to time.

“Obligor” means, with respect to any Transferred Receivable, each person obligated to make payments with respect to such Transferred Receivable, including any guarantor thereof.

“Purchase and Sale Agreement” means the Purchase and Sale Agreement, dated as of November 21, 2014, among the Buyer, as buyer, and the Seller and certain other affiliates of the Seller from time to time party thereto, as originators.

“Receivable” means any right to payment of a monetary obligation owed to the Seller or the Buyer (as assignee of Seller), whether constituting an account, chattel paper, payment intangible, instrument or general intangible, in each instance arising in connection with the sale of goods, for services rendered or the license of software, and includes, without limitation, the obligation to pay any finance charges, fees and other charges with respect thereto.

“Related Rights” means, with respect to any Transferred Receivable:

(a) all of the Seller’s interest in any goods (including returned goods), and documentation of title evidencing the shipment or storage of any goods (including returned goods), the sale or license of which gave rise to any Transferred Receivable;

(b) all instruments and chattel paper that may evidence any Transferred Receivable,

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

(d) solely to the extent applicable to any Transferred Receivable, all of the Seller’s rights, interests and claims under the related Contracts and all guaranties, indemnities, insurance and other agreements or arrangements constituting supporting obligations supporting payment and/or performance of any of the foregoing,

(e) all books and records of the Seller with respect to the foregoing, and all rights, remedies, powers, privileges, title and interest (but not obligations) in and to the Lock-Box Collateral, and any related investment property or financial assets (as defined in Article 8 of the UCC) acquired with any such Collections; and

(f) all Collections and all other proceeds of any of the foregoing.

“Transferred Receivables” means all Receivables sold or contributed (or purportedly sold or contributed) to the Buyer pursuant to the Purchase and Sale Agreement other than any Receivable reconveyed to the Seller unless such Receivable is subsequently re-sold or contributed to the Buyer pursuant to the Purchase and Sale Agreement.

Exhibit D-3 *Purchase and Sale Agreement (NCR)*