UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM 8-K

CURRENT REPORT
PURSUANT TO SECTION 13 OR 15(D)
OF THE SECURITIES EXCHANGE ACT OF 1934

Date of report (Date of earliest event reported): September 27, 2019

The Pennant Group, Inc.
(Exact name of registrant as specified in its charter)

Delaware	**001-38900**	**83-3349931**
(State or Other Jurisdiction of Incorporation)	**(Commission File Number)**	**(IRS Employer Identification Number)**

1675 East Riverside Drive
Suite 150
Eagle, Idaho **83616**
(Address of Principal Executive Offices) **(Zip Code)**

(208) 506-6100
(Registrant's telephone number, including area code)

None
(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))

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

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, par value $0.001 per share	**PNTG**	**NASDAQ Global Select Market**

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

Emerging growth company ☒

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

Item 1.01 Entry into a Material Definitive Agreement.

On October 1, 2019, in connection with the previously announced spin-off of the home health and hospice agencies and substantially all of senior living businesses (the "Pennant businesses") from The Ensign Group, Inc. ("Ensign") through the pro rata distribution of substantially all of the outstanding shares of common stock of The Pennant Group, Inc. ("Pennant" or the "Company") to Ensign's stockholders (the "Distribution"), Pennant entered into several agreements with Ensign that govern the relationship of the parties following the Distribution, including the following:

- Master Separation Agreement;
- Employee Matters Agreement;
- Tax Matters Agreement;
- Transition Services Agreement; and
- Master Lease Agreements.

Master Separation Agreement

The Company entered into a Master Separation Agreement with Ensign prior to the distribution of shares of the Company's common stock to Ensign stockholders. The Master Separation Agreement provides for the allocation of assets and liabilities between the Company and Ensign and establishes certain rights and obligations between the parties following the Distribution as further described below.

Transfer of Assets and Assumption of Liabilities. The Master Separation Agreement provides for certain transfers of assets and assumptions of liabilities that are necessary in connection with the Company's spin-off from Ensign so that each of Ensign and Pennant is allocated the assets necessary to operate its respective businesses and retains or assumes the liabilities allocated to it in accordance with the separation plan. The Master Separation Agreement also provides for the settlement or extinguishment of certain liabilities and other obligations among Ensign and Pennant.

Further Assurances. To the extent that any transfers of assets or assumptions of liabilities contemplated by the Master Separation Agreement have not been consummated on or prior to the date of the Distribution, the parties agreed to reasonably cooperate with each other and use commercially reasonable efforts to effect such transfers or assumptions as promptly as reasonably practicable following the Distribution Date (as defined below). In addition, each of the parties agreed to reasonably cooperate with the other and use commercially reasonable efforts to take or to cause to be taken all actions, and to do, or to cause to be done, all things reasonably necessary under applicable law or contractual obligations to consummate and make effective the transactions contemplated by the Master Separation Agreement and the ancillary agreements.

Representations and Warranties. In general, neither Pennant nor Ensign made any representations or warranties regarding any assets or liabilities transferred or assumed, any consents or approvals that may be required in connection with such transfers or assumptions, the value or freedom from any lien or other security interest of any assets transferred, the absence of any defenses relating to any claim of either party or the legal sufficiency of any conveyance documents, or any other matters.

Except as expressly set forth in the Master Separation Agreement or in any ancillary agreement, all assets were transferred on an "as is, where is" basis.

The Distribution. The Master Separation Agreement governs certain rights and obligations of the parties regarding the Distribution and certain actions that must occur prior to the Distribution, such as the election of officers and directors and the adoption of Pennant's amended and restated certificate of incorporation and amended and restated bylaws. Prior to the Distribution, Pennant delivered all the issued and outstanding shares of Pennant's common stock to the distribution agent. Following the Distribution Date, the distribution agent will electronically

deliver the shares of Pennant's common stock to Ensign stockholders based on each holder of Ensign common stock receiving one share of Pennant common stock for every two shares of Ensign common stock held by such stockholder as of September 20, 2019. Ensign will not distribute any fractional shares of Pennant common stock. Instead, the distribution agent will aggregate fractional shares into whole shares, sell the whole shares in the open market at prevailing market prices and distribute the aggregate net cash proceeds from the sales pro rata to each holder who would otherwise have been entitled to receive a fractional share in the spin-off.

Intercompany Accounts and Agreements. The Master Separation Agreement provides that, subject to certain exceptions described in provisions in the Master Separation Agreement or any ancillary agreement to the contrary, prior to the Distribution, intercompany accounts were settled and intercompany agreements were terminated, in each case as set forth in the Master Separation Agreement.

Release of Claims and Indemnification. Pennant and Ensign agreed to broad mutual general releases pursuant to which Pennant and Ensign released the other and certain related persons specified in the Master Separation Agreement from any claims against any of them that arise out of or relate to events, circumstances or actions occurring or failing to occur or alleged to occur or to have failed to occur or any conditions existing or alleged to exist at or prior to the time of the Distribution. These mutual general releases are subject to certain exceptions set forth in the Master Separation Agreement and the ancillary agreements.

The Master Separation Agreement provides for cross-indemnities that, except as otherwise provided in the Master Separation Agreement, are principally designed to place financial responsibility for the obligations and liabilities of Pennant's business with Pennant, and financial responsibility for the obligations and liabilities of Ensign's business with Ensign.

The amount of each party's indemnification obligations is subject to reduction by any insurance proceeds actually received by the party being indemnified. The Master Separation Agreement also specifies procedures with respect to claims subject to indemnification and related matters. Indemnification with respect to taxes is governed solely by the tax matters agreement.

Insurance. The Master Separation Agreement provides for the allocation among the parties of benefits under existing insurance policies for occurrences prior to the Distribution and sets forth procedures for the administration of insured claims. The Master Separation Agreement allocates among the parties the right to proceeds and the obligation to incur deductibles under certain insurance policies.

Other Matters Governed by the Master Separation Agreement. Other matters governed by the Master Separation Agreement include access to financial and other information, confidentiality, access to and provision of records and treatment of outstanding guarantees, similar credit support and procedures for resolution of any dispute that may arise thereunder.

This summary does not purport to be complete and is qualified in its entirety by reference to the full text of the Master Separation Agreement, which is attached as Exhibit 2.1 to this Current Report on Form 8-K and is incorporated herein by reference.

Other Agreements in Connection with the Spin-Off

A summary of the Employee Matters Agreement, Tax Matters Agreement, Transition Services Agreement and Master Lease Agreements can be found in the section titled "Certain Relationships and Related Party Transactions—Agreements with Ensign Related to the Spin-Off" on pages 163 through 166 of Pennant's Information Statement (the "Information Statement"), which is included as Exhibit 99.1 to the Company's Current Report on Form 8-K furnished with the Securities and Exchange Commission (the "Commission") on September 10, 2019, which pages are filed as Exhibit 99.1 hereto. This summary is incorporated by reference into this Item 1.01 as if restated in full. This summary does not purport to be complete and is qualified in its entirety by reference to the full text of the Transition Services Agreement, Tax Matters Agreement, Employee Matters Agreement and the Form of Master Lease Agreement, which are attached as Exhibits 10.1, 10.2, 10.3 and 10.4, respectively, to this Current Report on Form 8-K and are incorporated herein by reference.

New Credit Agreement

On October 1, 2019, Pennant entered into the Credit Agreement (the "Credit Agreement"), by and among Pennant, the several banks and other financial institutions and lenders from time to time party thereto and SunTrust Bank, in its capacity as administrative agent, as issuing bank and as swingline lender. The Credit Agreement provides for a revolving credit facility with a syndicate of banks with a borrowing capacity of $75.0 million (the "Revolving Credit Facility"). The interest rates applicable to loans under the Revolving Credit Facility are, at the Company's election, either LIBOR ("Adjusted LIBOR" as defined in the Credit Agreement) plus a margin ranging from 2.5% to 3.5% per annum or Base Rate plus a margin ranging from 1.5% to 2.5% per annum, in each case based on the ratio of Consolidated Total Net Debt to Consolidated EBITDA (each, as defined in the Credit Agreement). In addition, Pennant will pay a commitment fee on the undrawn portion of the commitments under the Revolving Credit Facility that is estimated to be 0.6% per annum.

The foregoing summary description of the Credit Agreement does not purport to be complete and is qualified in its entirety by reference to the full text of such agreement, a copy of which is filed as Exhibit 10.5 to this Current Report on Form 8-K and is incorporated herein by reference.

Item 2.01. Completion of Acquisition or Disposition of Assets.

At 12:01 a.m. Eastern time on October 1, 2019 (the "Distribution Date"), Ensign effected the Distribution and completed the previously announced spin-off of Pennant from Ensign. The Distribution was made to Ensign's stockholders of record as of the close of business on September 20, 2019 (the "Record Date"). On the Distribution Date, Ensign's stockholders received one share of Pennant common stock for every two shares of Ensign common stock held at the close of business on the Record Date.

As a result of the Distribution, Pennant is now an independent public company trading under the symbol "PNTG" on the NASDAQ Global Select Market.

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

The information included in Item 1.01 of this Current Report on Form 8-K related to the Credit Agreement is incorporated by reference into this Item 2.03.

Item 3.03 Material Modification to Rights of Security Holders.

The information set forth under Item 5.03 below is incorporated by reference into this Item 3.03.

Item 5.01 Changes in Control of Registrant.

The information set forth under Item 2.01 of this Current Report on Form 8-K is incorporated by reference into this Item 5.01.

Item 5.02 Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.

Appointment of Directors

The previously announced appointment of Christopher R Christensen, John G. Nackel, Stephen M. R. Covey, JoAnne Stringfield, and Roderic W. Lewis as members of the Pennant Board of Directors (the "Board") became effective upon completion of the Distribution. As of October 1, 2019 the Board consists of Daniel H Walker, Scott E. Lamb, Christopher R. Christensen, John G. Nackel, Stephen M. R. Covey, JoAnne Stringfield, and Roderic W. Lewis. In addition, as previously announced, the composition of the Audit Committee, the Compensation Committee, the Nominating and Corporate Governance Committee and the Quality Assurance and Compliance Committee of Pennant is now as follows:

Audit Committee	*Nominating and Corporate Governance Committee*
Scott E. Lamb (Chair)	Roderic W. Lewis (Chair)
JoAnne Stringfield	Scott E. Lamb
John G. Nackel	Stephen M. R. Covey

Compensation Committee	*Quality Assurance and Compliance Committee*
John G. Nackel (Chair)	JoAnne Stringfield (Chair)
Roderic W. Lewis	Christopher R. Christensen
Stephen M. R. Covey	Daniel H Walker
	John G. Nackel

The directors and officers have also entered into customary indemnification agreements with the Company effective as of October 1, 2019.

Classification of the Board of Directors

Following the completion of the spin-off, as previously announced, our board of directors is divided into three classes: Class I directors, Class II directors, and Class III directors. The directors designated as Class I directors will have terms expiring at the first annual meeting of stockholders following the completion of the spin-off, which we expect to hold in 2020. The directors designated as Class II directors will have terms expiring at the following year's annual meeting of stockholders, which we expect to hold in 2021, and the directors designated as Class III directors will have terms expiring at the following year's annual meeting of stockholders, which we expect to hold in 2022. Immediately following the consummation of the spin-off, (i) Daniel H Walker, Christopher Christensen, and John Nackel became Class I directors of Pennant, (ii) Scott E. Lamb and Roderic W. Lewis became Class II directors of Pennant, and (iii) Stephen M. R. Covey and JoAnne Stringfield became Class III directors of Pennant.

Executive Officers

Following the consummation of the spin-off, as previously announced, the officers of Pennant include the following:

Officer	*Position*
Daniel H Walker	Chief Executive Officer and President
Jennifer L. Freeman	Chief Financial Officer
John J. Gochnour	Chief Operating Officer
Derek J. Bunker	Chief Investment Officer, Executive Vice President and Secretary

Biographical information regarding each of the foregoing officers can be found in the section titled "Management" in the previously filed Information Statement.

Director Compensation

Upon the consummation of the spin-off, Pennant is authorized to pay the following annual compensation to each relevant non-employee director:

	Cash-Based	*Stock-Based*
Non-Employee Director	$ 25,000	3,000 shares
Audit Committee chair	$ 24,000	N/A
Audit Committee member	$ 12,000	N/A
Compensation Committee chair	$ 18,000	N/A
Compensation Committee member	$ 10,000	N/A
Nominating and Corporate Governance Committee chair	$ 12,000	N/A
Nominating and Corporate Governance Committee member	$ 7,500	N/A
Quality Assurance and Compliance Committee chair	$ 24,000	N/A
Quality Assurance and Compliance Committee member	$ 12,000	N/A

As a result of the spin-off, the following directors will also receive a one-time grant of option awards under The Pennant Group, Inc. 2019 Omnibus Incentive Plan (the "Omnibus Incentive Plan"), which will vest in three annual equal installments from the grant date. The directors will receive the equity awards in the amount set forth below:

Director	*Number of Option Awards*
Christopher R. Christensen	8,000
John G. Nackel	8,000
Stephen M.R. Covey	5,000
Roderic W. Lewis	5,000
JoAnne Stringfield	5,000
Scott E. Lamb	5,000

Certain Benefit Plans

On August 27, 2019, The Pennant Group, Inc. 2019 Long Term Incentive Plan (the "Pre-Spin-Off Plan) and the Omnibus Incentive Plan became effective following its approval and adoption by the Company's board of directors and sole stockholder. This summary does not purport to be complete and is qualified in its entirety by reference to the full text of the Pre-Spin-Off Plan and the Omnibus Incentive Plan, which are attached as Exhibits 10.11 and 10.12, respectively, to this Current Report on Form 8-K and are incorporated herein by reference.

Employment Agreements

The Company is not party to and will not be party to any employment agreements or offer letters with its executive officers or employees. The executive officers' employment is at will and not subject to an employment term. The named executive officers will receive an annual base salary as set forth below and be subject to an annual bonus program. The annual bonus program is established as an executive incentive program each year, pursuant to which certain executives may earn annual bonuses based upon the Company's performance under the criteria set forth in the Omnibus Incentive Plan. In or before the first quarter of the year, our compensation committee will identify the Omnibus Incentive Plan participants for the year and establish an objective formula by which the amount, if any, of the Omnibus Incentive Plan bonus pool will be determined. The committee also has the discretion to allocate the bonus pool among the individual executives prior to the end of the year and any such early allocation will remain subject to further adjustments upon the final determination of the bonus pool calculations during the first quarter of each year. The bonus pool is also adjusted to include certain clinical and governance performance that can increase or decrease the bonus pool based on the achievement of a pre-established targets. Our compensation committee has not yet established the formula for the executive bonus pool.

Officer	*Annual Base Salary*
Daniel H Walker	$ 325,000
Jennifer L. Freeman	$ 250,000
John J. Gochnour	$ 255,000

The Company is additionally providing certain of the named executive officers with option awards under the Omnibus Incentive Plan pursuant to the following vesting terms, 20% annually, with the first block vesting on the first anniversary of the grant date. The following named executive officers will receive equity awards in the amount set forth below:

Officer	*Number of Option Awards*
Jennifer L. Freeman	12,000
John J. Gochnour	77,000

Daniel Walker also received a grant of 1,192,842 restricted stock units (the "Walker RSU Award") subject to the Plan which will vest on the first to occur of (i) the third anniversary of the consummation of the Distribution if the participant is then employed by the Company, (ii) a Change in Control if then employed by the Company, or (iii) the termination of the participant's employment by the Company due to death, Disability (as defined in the Plan), or by the Company for any reason other than Cause (as defined in the agreement).

Item 5.03 Amendments to Articles of Incorporation or By-Laws; Change in Fiscal Year.

On September 27, 2019, the Amended and Restated Certificate of Incorporation became effective following its approval and adoption by the Company's board of directors and sole stockholder, and the Amended and Restated By-laws became effective following their approval and adoption by the Company's board of directors. Pursuant to the Amended and Restated Certificate of Incorporation, the Company's authorized capital stock consists

of 101 million shares of common stock of the Company, par value $0.001 per share, and 1 million shares of preferred stock of the Company, par value $0.001 per share. A description of the other material terms of each of the Amended and Restated Certificate of Incorporation and Amended and Restated By-laws is included in the Information Statement under the section titled "Description of Capital Stock" on pages 173 through 177 of the Information Statement, which is included as Exhibit 99.1 to the Company's Current Report on Form 8-K filed with the Commission on September 10, 2019, which pages are filed as Exhibit 99.2 hereto and which are incorporated by reference into this Item 5.03.

The foregoing summaries and incorporated descriptions do not purport to be complete and are qualified in their entirety by reference to the full text of each of the Amended and Restated Certificate of Incorporation and the Amended and Restated By-laws, which are filed herewith as Exhibit 3.1 and Exhibit 3.2, respectively, and are incorporated by reference into this Item 5.03.

Item 8.01 Other Events

Press Release

On October 1, 2019, Pennant issued a press release announcing the completion of the spin-off. A copy of the press release is attached hereto as Exhibit 99.3.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits.

Exhibit No.	Description
2.1	Master Separation Agreement, dated as of October 1, 2019, by and between The Ensign Group, Inc. and The Pennant Group, Inc.*
3.1	Amended and Restated Certificate of Incorporation of The Pennant Group, Inc., effective as of September 27, 2019.
3.2	Amended and Restated By-laws of The Pennant Group, Inc., effective as of September 27, 2019.
10.1	Transition Services Agreement, dated as of October 1, 2019, by and between The Ensign Group, Inc. and The Pennant Group, Inc.
10.2	Tax Matters Agreement, dated as of October 1, 2019, by and between The Pennant Group, Inc. and The Ensign Group, Inc.
10.3	Employee Matters Agreement, dated as of October 1, 2019, by and between The Ensign Group, Inc. and The Pennant Group, Inc.
10.4	Form of Lease Agreement, by and among subsidiaries of The Ensign Group, Inc. and subsidiaries of The Pennant Group, Inc. (incorporated by reference to Exhibit 10.4 to The Pennant Group, Inc.'s Amendment No. 2 to the Registration Statement on Form 10 on Form 8-K filed with the Securities and Exchange Commission on August 19, 2019).
10.5	Credit Agreement, dated as of October 1, 2019, by and among The Pennant Group, Inc., as borrower, SunTrust Bank, as administrative agent, and the lenders from time to time party thereto.
10.11	The Pennant Group, Inc. 2019 Long Term Incentive Plan.
10.12	The Pennant Group, Inc. 2019 Omnibus Incentive Plan.
99.1	The section titled "Certain Relationships and Related Party Transactions—Agreements with Ensign Related to the Spin-Off" of The Pennant Group, Inc.'s Information Statement (incorporated by reference to pages 163 through 166 of Exhibit 99.1 to The Pennant Group, Inc.'s Current Report on Form 8-K, filed with the Securities and Exchange Commission on September 10, 2019).
99.2	The section titled "Description of Capital Stock" of The Pennant Group, Inc.'s Information Statement (incorporated by reference to pages 173 through 177 of Exhibit 99.1 to The Pennant Group, Inc.'s Current Report on Form 8-K, filed with the Securities and Exchange Commission on September 10, 2019).
99.3	Press Release dated October 1, 2019.

* Schedules omitted pursuant to Item 601(b)(2) of Regulation S-K. Pennant agrees to furnish a supplemental copy of any omitted schedule to the Commission upon request.

SIGNATURE

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

The Pennant Group, Inc.

By: /s/ Daniel H Walker
Daniel H Walker
Chairman, Chief Executive Officer and President

Date: October 3, 2019

Exhibit 2.1

MASTER SEPARATION AGREEMENT

by and between

THE ENSIGN GROUP, INC.

and

THE PENNANT GROUP, INC.

dated as of

October 1, 2019

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Exhibit A – Pennant Subsidiaries

Schedules

Schedule 2.2(a)	Certain Pennant Assets
Schedule 2.3(a)	Certain Pennant Liabilities

MASTER SEPARATION AGREEMENT

This MASTER SEPARATION AGREEMENT (this "Agreement") is entered into as of October 1, 2019, by and between THE ENSIGN GROUP, INC., a Delaware corporation ("Ensign") and THE PENNANT GROUP, INC., a Delaware corporation and a direct, wholly-owned subsidiary of Ensign ("Pennant"). Ensign and Pennant are sometimes referred to herein individually as a "Party," and collectively as the "Parties." Capitalized terms used but not otherwise defined herein shall have the respective meanings set forth in Section 1.1.

RECITALS

WHEREAS, the board of directors of Ensign has determined that it is advisable and in the best interests of Ensign and its stockholders to reorganize the assets and liabilities of Ensign into two companies: (i) Ensign which, following consummation of the transactions contemplated herein, will own and conduct the Ensign Business; and (ii) Pennant which, following consummation of the transactions contemplated herein, will own and conduct the Pennant Business;

WHEREAS, in furtherance thereof, the board of directors of Ensign and the board of directors of Pennant have approved the transfer by Ensign and its Subsidiaries of the Pennant Assets to Pennant and its Subsidiaries in actual or constructive exchange for (i) the assumption or incurrence, as applicable, by Pennant and certain of its Subsidiaries of the Pennant Liabilities, (ii) the issuance by Pennant to Ensign of shares of Pennant Common Stock and (iii) the transfer by Pennant, directly or indirectly, to Ensign of the Pennant Cash Payment, all as more fully described in this Agreement and the Ancillary Agreements (the "Reorganization");

WHEREAS, the board of directors of Ensign has also determined that it is advisable and in the best interests of Ensign and its stockholders to effect a distribution (the "Distribution") to the holders of the outstanding shares of Ensign Common Stock, on a pro rata basis, of all of the outstanding shares of Pennant Common Stock held by Ensign so that, following the Distribution, Ensign and Pennant will be two independent, publicly traded companies;

WHEREAS, the Reorganization and the Distribution will, among other items, (i) amplify the results of Ensign's unique operating model in the home health, hospice and senior living industries; (ii) create additional opportunities for key leaders within Pennant and Ensign; (iii) create an enhanced ability to continue both Pennant's and Ensign's growth strategy; (iv) create an increased ability to raise funds through capital market offerings; (v) improve opportunities for partnership outside of Ensign; (vi) highlight Pennant's uniquely diversified payor mix; (vii) provide for equity compensation awards more closely tied to value created by Pennant's leaders and employees; and (viii) improved investor understanding about the Pennant Business and Ensign Business;

WHEREAS, Pennant has been incorporated for these purposes and has not engaged in activities except in preparation for the Reorganization and the Distribution;

WHEREAS, this Agreement is intended to be, and is hereby adopted as, a "plan of reorganization" within the meaning of Treas. Reg. 1.368-2(g); and

WHEREAS, it is appropriate and desirable to set forth the principal corporate transactions required to effect the Reorganization and the Distribution and to set forth certain other agreements that will, following the Distribution, govern certain matters relating to the Reorganization and the Distribution and the relationship between Ensign and/or its Subsidiaries, on the one hand, and, Pennant and/or its Subsidiaries, on the other hand.

NOW, THEREFORE, in consideration of the foregoing and the covenants and agreements set forth below and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound hereby, the Parties hereby agree as follows:

ARTICLE I
DEFINITIONS

Section 1.1 Definitions. As used in this Agreement, the following terms shall have the meanings set forth in this Section 1.1:

"AAA" and "AAA Rules" have the respective meanings set forth in Section 10.2(b).

"Action" means any demand, claim, action, suit, countersuit, arbitration, litigation, inquiry, proceeding or investigation by or before any Governmental Authority or any arbitration or mediation tribunal or authority.

"Affiliate" means, with respect to any specified Person, any other Person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, the specified Person. For this purpose, "control" of a Person means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through ownership of voting securities, by contract or otherwise.

"Agreement" has the meaning set forth in the preamble to this Agreement and includes all Exhibits and Schedules attached hereto or delivered pursuant hereto.

"Ancillary Agreements" has the meaning set forth in Section 3.5.

"Appointed Representative" has the meaning set forth in Section 10.1.

"Appropriate Member of the Ensign Group" has the meaning set forth in Section 9.3.

"Appropriate Member of the Pennant Group" has the meaning set forth in Section 9.2.

"Asset" means all rights, properties or other assets, whether real, personal or mixed, tangible or intangible, of any kind, nature and description, whether accrued, contingent or otherwise, and wherever situated and whether or not carried or reflected, or required to be carried or reflected, on the books of any Person.

"Business Day" means a day other than a Saturday, a Sunday or a day on which banking institutions located in the State of California are authorized or obligated by applicable Law or executive order to close.

"California Courts" has the meaning set forth in Section 10.2(b)(iv).

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

"Confidential Information" means any and all information:

(a) that is required to be maintained in confidence by any Law or under any Contract;

(b) concerning market studies, business plans, computer hardware, computer software (including all versions, source and object codes and all related files and data), software and database technologies, systems, structures and architectures, and other similar technical or business information;

(c) concerning any business and its affairs, which includes earnings reports and forecasts, macro-economic reports and forecasts, business and strategic plans, general market evaluations and surveys, litigation presentations and risk assessments, financing and credit-related information, financial projections, tax returns and accountants' materials, business plans, strategic plans, Contracts, however documented, and other similar financial or business information;

(d) constituting communications by or to attorneys (including attorney-client privileged communications), memos and other materials prepared by attorneys or under their direction (including attorney work product), communications and materials otherwise related to or made or prepared in connection with or in preparation for any dispute or legal proceeding; or

(e) constituting notes, analyses, compilations, studies, summaries and other material that contain or are based, in whole or in part, upon any information included in the foregoing clauses (a) through (d).

"Consent" means any consent, waiver or approval from, or notification requirement to, any Person other than a member of either Group.

"Contract" means any written, oral, implied or other contract, agreement, covenant, lease, license, guaranty, indemnity, representation, warranty, assignment, sales order, purchase order, power of attorney, instrument or other commitment, assurance, undertaking or arrangement that is binding on any Person or entity or any part of its property under applicable Law.

"Contribution Agreements" means the (i) Distribution and Contribution Agreement to be entered into by Bridgestone Living LLC, Pinnacle Senior Living LLC and Ensign and (ii) the Contribution and Exchange Agreement to be entered into by Ensign and Pennant prior to the Effective Time.

"Deferred Asset," "Deferred Liability" and "Deferred Asset or Liability" have the respective meanings set forth in Section 2.1(b)(ii).

"Dispute" has the meaning set forth in Section 10.2.

"Dispute Notice" has the meaning set forth in Section 10.2(a).

"Distribution" has the meaning set forth in the recitals to this Agreement.

"Distribution Agent" means Broadridge Corporate Issuer Solutions, Inc.

"Distribution Date" means the date on which the Distribution occurs, such date to be determined by, or under the authority of, the board of directors of Ensign, in its sole and absolute discretion.

"Effective Time" means 12:01 a.m. (Eastern time) on October 1, 2019, or such other time agreed to by the Parties from time to time.

"Employee Matters Agreement" means the Employee Matters Agreement, substantially in the form of Exhibit 10.3 to the Registration Statement, to be entered into by Ensign and Pennant prior to the Effective Time.

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

"Ensign Assets" has the meaning set forth in Section 2.2(b).

"Ensign Business" means any business now or formerly conducted by Ensign and its present and former Affiliates, other than the Pennant Business, including the skilled nursing, senior living and other ancillary operations of the post-acute businesses conducted by the Ensign Group.

"Ensign Common Stock" means the common stock, par value $0.001 per share, of Ensign.

"Ensign D&O Policies" has the meaning set forth in Section 7.1.

"Ensign Group" means collectively, Ensign and the Subsidiaries of Ensign other than Pennant and the Pennant Subsidiaries.

"Ensign Guarantee" means any Guarantee issued, entered into or otherwise put in place by any member of the Ensign Group to support or facilitate, or otherwise in respect of, (a) the obligations of any member of the Pennant Group or any of the Pennant Business or (b) Contracts, commitments, Liabilities or permits of any member of the Pennant Group or any of the Pennant Business.

"Ensign Indemnitees" means each member of the Ensign Group and its Affiliates (other than Pennant and the Pennant Subsidiaries) and each of their respective current or former stockholders, directors, officers, agents and employees (in each case, in such Person's respective capacity as such) and their respective heirs, executors, administrators, successors and assigns.

"Ensign Leases" means the lease or sublease agreements, as applicable, each in substantially the form of Exhibit 10.4 of the Registration Statement, to be entered into prior to the Effective Time, by and between a member of the Pennant Group and a member of the Ensign Group to amend and restate the individual "triple-net" lease agreements of 28 senior living properties.

"Ensign Liabilities" has the meaning set forth in Section 2.3(b).

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

"Governmental Approval" means any notice, report or other filing to be given to or made with, or any release, consent, substitution, approval, amendment, registration, permit or authorization from, any Governmental Authority.

"Governmental Authority" means any U.S. federal, state, local or non-U.S. court, government, department, commission, board, bureau, agency, official or other regulatory, administrative or governmental authority.

"Group" means the Ensign Group and/or the Pennant Group, as the context requires.

"Guarantee" means any guarantee (including guarantees of performance or payment under Contracts, commitments, Liabilities and permits), letter of credit or other credit or credit support arrangement or similar assurance, including surety bonds, bid bonds, advance payment bonds, performance bonds, payment bonds, retention and/or warranty bonds or other bonds or similar instruments.

"Indebtedness" of any specified Person means (a) all obligations of such specified Person for borrowed money or arising out of any extension of credit to or for the account of such specified Person (including reimbursement or payment obligations with respect to surety bonds, letters of credit, bankers' acceptances and similar instruments), (b) all obligations of such specified Person evidenced by bonds, debentures, notes or similar instruments, (c) all obligations of such specified Person upon which interest charges are customarily paid, (d) all obligations of such specified Person under conditional sale or other title retention agreements relating to Assets purchased by such specified Person, (e) all obligations of such specified Person issued or assumed as the deferred purchase price of property or services including all earn-out obligations, (f) all Liabilities secured by (or for which any Person to which any such Liability is owed has an existing right, contingent or otherwise, to be secured by) any mortgage, lien, pledge or other encumbrance on property owned or acquired by such specified Person (or upon any revenues, income or profits of such specified Person therefrom), whether or not the obligations secured thereby have been assumed by the specified Person or otherwise become Liabilities of the specified Person, (g) all obligations of such specified Person that are or are required by GAAP to be treated as a capital lease, (h) all securities or other similar instruments convertible or exchangeable into any of the foregoing, (i) any Liability of others of a type described in any of the preceding clauses (a) through (h) in respect of which the specified Person has incurred, assumed or acquired a Liability by means of a Guarantee, and (j) any prepayment penalties, premiums, consent or other fees or breakage costs that would be payable in order to fully discharge and terminate all obligations under clauses (a) through (i) above.

"Indemnifiable Loss" has the meaning set forth in Section 9.5.

"Indemnifying Party" has the meaning set forth in Section 9.4(a).

"Indemnitee" means any Ensign Indemnitee or any Pennant Indemnitee.

"Indemnity Payment" has the meaning set forth in Section 9.5.

"Information Statement" means the information statement, a preliminary version of which is filed as Exhibit 99.1 to the Registration Statement, and any related documentation to be provided to holders of Ensign Common Stock in connection with the Distribution, including any amendments or supplements thereto.

"Insurance Policy" means any insurance policies and insurance Contracts, including, without limitation, general liability, property and casualty, workers' compensation, automobile, directors and officers liability, errors and omissions, employee dishonesty and fiduciary liability policies, whether, in each case, in the nature of primary, excess, umbrella or self-insurance coverage, together with all rights, benefits and privileges thereunder.

"Insurance Proceeds" means those monies (in each case, net of any out-of-pocket costs or expenses incurred in the collection thereof):

(a) received by an insured Person from any insurer, insurance underwriter, mutual protection and indemnity club or other risk collective, excluding any proceeds received directly or indirectly (such as through reinsurance arrangements) from any captive insurance Subsidiary of the insured Person; or

(b) paid on behalf of an insured Person by any insurer, insurance underwriter, mutual protection and indemnity club or other risk collective, excluding any such payment made directly or indirectly (such as through reinsurance arrangements) from any captive insurance Subsidiary of the insured Person, on behalf of the insured.

"Intercompany Account" means any receivable, payable or loan between any member of the Ensign Group, on the one hand, and any member of the Pennant Group, on the other hand, that exists prior to the Effective Time and is reflected in the records of the relevant members of the Ensign Group and the Pennant Group, except for any such receivable, payable or loan that arises pursuant to this Agreement or any Ancillary Agreement.

"Intercompany Agreement" means any Contract between or among any member of the Ensign Group, on the one hand, and any member of the Pennant Group, on the other hand, entered into prior to the Effective Time, but excluding any Contract to which a Person other than any member of the Ensign Group or the Pennant Group is also a party.

"IRS" means the United States Internal Revenue Service.

"IRS Ruling" has the meaning set forth in the recitals to this Agreement.

"Law" means any law, statute, ordinance, code, rule, regulation, order, writ, proclamation, judgment, injunction or decree of any Governmental Authority.

"Liabilities" means any and all Indebtedness, liabilities and obligations, whether accrued, fixed or contingent, mature or inchoate, known or unknown, whether or not reflected on a balance sheet, including those arising under any Law, Action or any judgment of any Governmental Authority or any award of any arbitrator of any kind, and those arising under any Contract.

"Losses" means any and all damages, losses, deficiencies, Liabilities, obligations, penalties, judgments, settlements, claims, payments, interest costs, Taxes, fines and expenses (including the costs and expenses of any and all Actions and demands, assessments, judgments, settlements and compromises relating thereto and attorneys', accountants', consultants' and other professionals' fees and expenses incurred in the investigation or defense thereof or the enforcement of rights hereunder).

"Merger Agreement" means the Agreement and Plan of Merger to be entered into by Pennant, Cornerstone Merger Sub Inc. and Cornerstone Healthcare, Inc. prior to the Effective Time.

"NASDAQ" means the The NASDAQ Global Select Market.

"NASDAQ Listing Application" has the meaning set forth in Section 3.2(a).

"Party" or "Parties" has the meaning set forth in the preamble to this Agreement.

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

"Pennant Assets" has the meaning set forth in Section 2.2(a).

"Pennant Business" means all business and operations conducted by any member of the Pennant Group, as described in the Information Statement, including (i) the home health and hospice agencies business conducted by the Pennant Group, (ii) the senior living service businesses conducted by the Pennant Group, and (iii) any other business directly conducted by any member of the Pennant Group as of or prior to the date of this Agreement.

"Pennant Cash Payment" has the meaning set forth in Section 2.1(a)(iii).

"Pennant Common Stock" means the common stock, par value $0.01 per share, of Pennant.

"Pennant Contracts" means any contract, agreement, arrangement, commitment or understanding listed or described in Schedule 2.2(a) (or any applicable licenses, leases, addenda and similar arrangements thereunder as described in Schedule 2.2(a)) and any other contract, agreement, arrangement, commitment or understanding, whether or not in writing, that relates primarily to the Pennant Business.

"Pennant Credit Facility" means the revolving credit facility to be entered into by Pennant prior to the Effective Time.

"Pennant Group" means collectively, Pennant and the Pennant Subsidiaries.

"Pennant Indemnitees" means each member of the Pennant Group and their Affiliates and each of their respective current or former stockholders, directors, officers, agents and employees (in each case, in such Person's respective capacity as such) and their respective heirs, executors, administrators, successors and assigns.

"Pennant Liabilities" has the meaning set forth in Section 2.3(a).

"Pennant Subsidiaries" means the Subsidiaries of Pennant as of the date of this Agreement, the entities listed on Exhibit A hereto, any Subsidiary of any such entities and any direct or indirect Subsidiary of Pennant formed after the date of this Agreement and prior to the Distribution Date.

"Person" means an individual, a partnership, a corporation, a limited liability company, an association, a joint stock company, a trust, a joint venture, a union, an unincorporated organization or a governmental entity or any department, agency or political subdivision thereof.

"Record Date" means the close of business on the date determined by the board of directors of Ensign as the record date for determining holders of Ensign Common Stock entitled to receive shares of Pennant Common Stock in the Distribution.

"Record Holders" has the meaning set forth in Section 4.1(a)(i).

"Registration Statement" means the registration statement on Form 10 of Pennant with respect to the registration under the Exchange Act of the Pennant Common Stock to be distributed in the Distribution, including any amendments or supplements thereto.

"Reorganization" has the meaning set forth in the recitals to this Agreement.

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

"Security Interest" means any mortgage, security interest, pledge, lien, charge, claim, option, indenture, right to acquire, right of first refusal, deed of trust, licenses to third parties, leases to third parties, security agreements, voting or other restriction, covenant, condition, encroachment, restriction on transfer, restriction or limitation on use of real or personal property or any other encumbrance of any nature whatsoever, imperfections in or failure of title or defect of title.

"Subsidiary" means, with respect to any specified Person, any corporation, partnership, limited liability company, joint venture or other organization, whether incorporated or unincorporated, of which at least a majority of the securities or interests having by the terms thereof ordinary voting power to elect at least a majority of the board of directors or others performing similar functions with respect to such corporation or other organization is directly or indirectly owned or controlled by such specified Person or by any one or more of its subsidiaries, or by such specified Person and one or more of its Subsidiaries.

"Tax Matters Agreement" means the Tax Matters Agreement, substantially in the form of Exhibit 10.2 to the Registration Statement, to be entered into by Ensign and Pennant prior to the Effective Time.

"Taxes" means all taxes, charges, fees, duties, levies, imposts or other assessments imposed by any federal, state, local or foreign Taxing Authority, including, but not limited to, income, gross receipts, excise, property, sales, use, license, capital stock, transfer, franchise, payroll, withholding, social security, value added and other taxes, and any interest, penalties or additions attributable thereto.

"Taxing Authority" means any Governmental Authority or any subdivision, agency, commission or authority thereof or any quasi-governmental or private body having jurisdiction over the assessment, determination, collection or imposition of any Tax (including the IRS).

"Third-Party Claim" has the meaning set forth in Section 9.4(b).

"Transactions" means the Reorganization, the Distribution and any other transactions contemplated by this Agreement or any Ancillary Agreement.

"Transition Services Agreement" means the Transition Services Agreement, substantially in the form of Exhibit 10.1 to the Registration Statement, to be entered into by Ensign and Pennant prior to the Effective Time.

Section 1.2 Interpretation. In this Agreement and the Ancillary Agreements, unless the context clearly indicates otherwise:

(a) words used in the singular include the plural and words used in the plural include the singular;

(b) the words "include," "includes" and "including" shall be deemed to be followed by the words "without limitation";

(c) the word "or" shall have the inclusive meaning represented by the phrase "and/or";

(d) relative to the determination of any period of time, "from" means "from and including," "to" means "to but excluding" and "through" means "through and including";

(e) accounting terms used herein shall have the meanings historically ascribed to them by Ensign and its Subsidiaries in their internal accounting and financial policies and procedures in effect immediately prior to the date of this Agreement;

(f) reference to any agreement, instrument or other document means such agreement, instrument or other document as amended, supplemented and modified from time to time to the extent permitted by the provisions thereof and by this Agreement;

(g) reference to any Law means such Law (including any and all rules and regulations promulgated thereunder) as amended, modified, codified or reenacted, in whole or in part, and in effect at the time of determining compliance or applicability;

(h) references to any Person include such Person's successors and assigns but, if applicable, only if such successors and assigns are permitted by this Agreement; a reference to such Person's "Affiliates" shall be deemed to mean such Person's Affiliates following the Distribution and any reference to a third party shall be deemed to mean a Person who is not a Party or an Affiliate of a Party;

(i) if there is any conflict between the provisions of the main body of this Agreement or an Ancillary Agreement and the Exhibits and Schedules hereto or thereto, the provisions of the main body of this Agreement or the Ancillary Agreement, as applicable, shall control unless explicitly stated otherwise in such Exhibit or Schedule;

(j) if there is any conflict between the provisions of this Agreement and any Ancillary Agreement, the provisions of such Ancillary Agreement shall control (but only with respect to the subject matter thereof) unless explicitly stated otherwise therein; and

(k) any portion of this Agreement or any Ancillary Agreement obligating a Party to take any action or refrain from taking any action, as the case may be, shall mean that such Party shall also be obligated to cause its relevant Subsidiaries to take such action or refrain from taking such action, as the case may be.

ARTICLE II
THE REORGANIZATION

Section 2.1 Transfers of Assets and Assumptions of Liabilities.

(a) Transfers Prior to Effective Time. Subject to Section 2.1(b), Ensign and Pennant agree to take all actions necessary so that, immediately prior to the Effective Time:

(i) Ensign shall, and shall cause its applicable Subsidiaries to, assign, transfer, convey and deliver to Pennant or certain Persons designated by Pennant who are or will become members of the Pennant Group, and Pennant or such Persons shall accept from Ensign and its applicable Subsidiaries, to the extent not already owned by the Pennant Group, all of Ensign's and such Subsidiaries' respective direct or indirect right, title and interest in and to all Pennant Assets;

(ii) Pennant and certain Persons designated by Pennant who are or will become members of the Pennant Group shall accept and assume, to the extent the Pennant Group is not already liable therefor, all the Pennant Liabilities in accordance with their respective terms, regardless of when or where such Pennant Liabilities arose or arise, or whether the facts on which they are based occurred prior to or subsequent to the Effective Time, regardless of where or against whom such Pennant Liabilities are asserted or determined (including any Pennant Liabilities arising out of claims made by Ensign's or Pennant's respective directors, officers, employees, agents, Subsidiaries or Affiliates against any member of the Ensign Group or the Pennant Group) or whether asserted or determined prior to the date hereof, and regardless of whether arising from or alleged to arise from negligence, recklessness, violation of Law, fraud or misrepresentation by any member of the Ensign Group or the Pennant Group, or any of their respective directors, officers, employees, agents, Subsidiaries or Affiliates;

(iii) Pennant shall transfer directly or indirectly, to the applicable member of the Ensign Group, a portion of the loan proceeds from the Pennant Credit Facility in an amount anticipated to equal approximately $11,000,000 (the "Pennant Cash Payment"); and

(iv) Pennant shall issue to Ensign shares of Pennant Common Stock, which shares shall be fully paid and non-assessable under the Laws of the State of Delaware, of a sufficient number to effectuate the Distribution.

(b) Deferred Transfers and Assumptions.

(i) Nothing in this Agreement or in any Ancillary Agreement will be deemed to require the transfer of any Assets or the assumption of any Liabilities that by their terms or by operation of Law cannot be transferred or assumed.

(ii) To the extent that any transfer of Assets or assumption of Liabilities contemplated by this Agreement or any Ancillary Agreement is not consummated prior to the Effective Time as a result of an absence or non-satisfaction of any required Consent, Governmental Approval and/or other condition (such Assets or Liabilities, a "Deferred Asset" or a "Deferred Liability," as applicable, and, collectively, a "Deferred Asset or Liability"), the Parties will use commercially reasonable efforts to effect such transfers or assumptions as promptly following the Effective Time as practicable. If and when the Consents, Governmental Approvals and/or other conditions, the absence or non-satisfaction of which gave rise to a Deferred Asset or Liability, are obtained or satisfied, the transfer or assumption of such Deferred Asset or Liability will be effected in accordance with and subject to the terms of this Agreement or the applicable Ancillary Agreement.

(iii) From and after the Effective Time until such time as a Deferred Asset or Liability is transferred or assumed, as applicable, (A) the Party retaining such Deferred Asset will thereafter hold such Deferred Asset for the use and benefit of the Party entitled thereto (at the sole expense of the Party entitled thereto) and (B) the Party intended to assume such Deferred Liability will pay or reimburse the Party retaining such Deferred Liability for all amounts paid or incurred in connection with the retention of such Deferred Liability; it being agreed that the Party retaining such Deferred Asset or Liability will not be obligated, in connection with the foregoing clause (A) and clause (B), to expend any money unless the necessary funds are advanced or agreed in writing to be reimbursed by the Party entitled to such Deferred Asset or intended to assume such Deferred Liability. The Party retaining such Deferred Asset or Liability will use its commercially reasonable efforts to notify in writing the Party entitled to or intended to assume, as applicable, such Deferred Asset or Liability of the need for such expenditure and provide additional supporting details on such expenditure as reasonably requested by the Party entitled to or intended to assume, as applicable, such Deferred Asset or Liability. In addition, the Party retaining such Deferred Asset or Liability will, insofar as reasonably practicable and to the extent permitted by applicable Law, (A) treat such Deferred Asset or Liability in the ordinary course of business consistent with past practice, (B) promptly take such other actions as may be requested by the Party entitled to such Deferred Asset or by the Party intended to assume such Deferred Liability in order to place such Party in the same position as if the Deferred Asset or Liability had been transferred or assumed, as applicable, as contemplated hereby, and so that all the benefits and burdens relating to such Deferred Asset or Liability, including possession, use, risk of loss, potential for gain, and control over such Deferred Asset or Liability, are to inure from and after the Effective Time to such Party entitled to such Deferred Asset or intended to assume such Deferred Liability, and (C) hold itself out to third parties as agent or nominee on behalf of the Party entitled to such Deferred Asset or intended to assume such Deferred Liability.

(iv) In furtherance of the foregoing, the Parties agree that, as of the Effective Time, each Party will be deemed to have acquired beneficial ownership of all of the Assets, together with all rights and privileges incident thereto, and will be deemed to have assumed all of the Liabilities, and all duties, obligations and responsibilities incident thereto, that such Party is entitled to acquire or intended to assume pursuant to the terms of this Agreement or the applicable Ancillary Agreement.

(v) The Parties agree to treat, for all tax purposes, any Asset or Liability that is not transferred or assumed prior to the Effective Time and which is subject to the provisions of this Section 2.1(b), as (A) owned by the Party to which such Asset was intended to be transferred or by the Party which was intended to assume such Liability, as the case may be, from and after the Effective Time, (B) having not been owned by the Party retaining such Asset or Liability, as the case may be, at any time from and after the Effective Time, and (C) having been held by the Party retaining such Asset or Liability, as the case may be, only as agent or nominee on behalf of the other Party from and after the Effective Time until the date such Asset or Liability, as the case may be, is transferred to or assumed by such other Party. The Parties will not take any position inconsistent with the foregoing unless otherwise required by applicable Law (in which case, the Parties will provide indemnification for any Taxes attributable to the Asset or Liability during the period beginning at the Effective Time and ending on the date of the actual transfer).

(c) Misallocated Assets and Liabilities.

(i) In the event that, at any time from and after the Effective Time, either Party discovers that it or another member of its Group is the owner of, receives or otherwise comes to possess or benefit from any Asset (including the receipt of payments made pursuant to Contracts and proceeds from accounts receivable with respect to such Asset) that should have been allocated to a member of the other Group pursuant to this Agreement or any Ancillary Agreement (except in the case of any deliberate acquisition of Assets from a member of the other Group for value subsequent to the Effective Time), such Party shall promptly transfer, or cause to be transferred, such Asset to such member of the other Group, and such member of the other Group shall accept such Asset for no further consideration other than that set forth in this Agreement or such Ancillary Agreement, as applicable. Prior to any such transfer, such Asset shall be held in accordance with Section 2.1(b).

(ii) In the event that, at any time from and after the Effective Time, either Party discovers that it or another member of its Group is liable for any Liability that should have been allocated to a member of the other Group pursuant to this Agreement or any Ancillary Agreement (except in the case of any deliberate assumption of Liabilities from a member of the other Group for value subsequent to the Effective Time), such Party shall promptly transfer, or cause to be transferred, such Liability to such member of the other Group and such member of the other Group shall assume such Liability for no further consideration other than that set forth in this Agreement or such Ancillary Agreement, as applicable. Prior to any such assumption, such Liabilities shall be held in accordance with Section 2.1(b).

(d) Instruments of Transfer and Assumption. The Parties agree that (i) transfers of Assets that may be required by this Agreement or any Ancillary Agreement shall be effected by delivery by the transferor to the transferee of (A) with respect to those Assets that constitute stock or other equity interests that are certificated, certificates endorsed in blank or evidenced and/or accompanied by stock powers or other instruments of transfer endorsed in blank, against receipt and (B) with respect to all other Assets, such good and sufficient instruments of contribution, conveyance, assignment and transfer, in form and substance reasonably satisfactory to the Parties, as shall be necessary, in each case, to vest in the designated transferee all of the title and ownership interest of the transferor in and to any such Asset, and (ii) the assumptions of Liabilities required by this Agreement or any Ancillary Agreement shall be effected by delivery by the transferee to the transferor of such good and sufficient instruments of assumption, in form and substance reasonably satisfactory to the Parties, as shall be necessary, in each case, for the assumption by the transferee of such Liabilities.

(e) Plan of Reorganization. The Parties agree that this Agreement constitutes a "plan of reorganization" within the meaning of Treasury Regulation Section 1.368-2(g).

Section 2.2 Pennant Assets and Ensign Assets.

(a) For purposes of this Agreement, "Pennant Assets" shall mean, except as otherwise expressly provided in this Agreement or any Ancillary Agreement (including the Tax Matters Agreement):

(i) all of the equity interests in the Pennant Subsidiaries;

(ii) all Assets of the Pennant Subsidiaries;

(iii) all Pennant Contracts;

(iv) the Assets listed or described in Schedule 2.2(a); and

(v) any and all Assets owned or held immediately prior to the Effective Time by Ensign or any of its Subsidiaries that are used primarily in, or that primarily relate to, the Pennant Business other than any such Assets that are subject to a lease agreement between Ensign or any of its Subsidiaries and Pennant.

For the avoidance of doubt, the Pennant Assets shall include, but not be limited to, all Assets recorded on the consolidated balance sheet of Pennant as of the date of this Agreement, excluding capitalized leases.

(b) For the purposes of this Agreement, "Ensign Assets" shall mean (without duplication), (i) any and all Assets owned, directly or indirectly, by Ensign or any of its Subsidiaries as of the Effective Time, other than the Pennant Assets.

Section 2.3 Pennant Liabilities and Ensign Liabilities.

(a) For the purposes of this Agreement, "Pennant Liabilities" shall mean, except as otherwise expressly provided in this Agreement or any Ancillary Agreement (including the Tax Matters Agreement):

(i) all Liabilities to the extent relating to, arising out of or resulting from the Pennant Assets or the Pennant Business, whether arising before, at or after the Effective Time, including without limitation those expressly or implicitly assumed by Pennant Group under the Pennant Contracts;

(ii) all Liabilities to be assumed by Pennant pursuant to this Agreement or any Ancillary Agreement;

(iii) all Liabilities related to the Pennant Credit Facility; and

(iv) those Liabilities set forth in Section 2.3(a) of the Schedules.

(b) For the purposes of this Agreement, "Ensign Liabilities" shall mean (without duplication) any and all Liabilities of Ensign and its Subsidiaries as of the Effective Time other than Pennant Liabilities.

Section 2.4 Termination of Intercompany Agreements.

(a) Except as set forth in Section 2.4(b), Ensign, on behalf of itself and each of the other members of the Ensign Group, and Pennant, on behalf of itself and each of the other members of the Pennant Group, hereby terminate, effective as of the Effective Time, any and all Intercompany Agreements. No such terminated Intercompany Agreement will be of any further force or effect from and after the Effective Time and all Parties shall be released from all Liabilities thereunder other than the Liability to settle any Intercompany Accounts as provided in Section 2.5. Each Party shall take, or cause to be taken, any and all actions as may be reasonably necessary to effect the foregoing.

(b) The provisions of Section 2.4 shall not apply to any of the following agreements (which agreements shall continue to be outstanding after the Effective Time and thereafter shall be deemed to be, for each relevant Party (or the member of such Party's Group), an obligation to a third party and shall no longer be an Intercompany Agreement):

(i) this Agreement and the Ancillary Agreements (and each other agreement or instrument expressly contemplated by this Agreement or any Ancillary Agreement);

(ii) any agreements entered into by Ensign or an Affiliate thereof and Pennant or an Affiliate thereof in the ordinary course of business related to business operations of Subsidiaries thereof; and

(iii) any confidentiality or non-disclosure agreements among any members of either Group.

Section 2.5 Settlement of Intercompany Accounts. Each Intercompany Account outstanding immediately prior to the Effective Time, will be satisfied and/or settled in full in cash or otherwise cancelled and terminated or extinguished by the relevant members of the Ensign Group and the Pennant Group prior to the Effective Time, in each case, in the manner agreed to by the Parties.

Section 2.6 Replacement of Guarantees.

(a) The Parties shall cooperate and use their reasonable best efforts to arrange, effective at or prior to the Effective Time, at Pennant's cost and expense, the replacement of all Ensign Guarantees with alternate arrangements that do not require any credit support from any member of the Ensign Group, and shall use their reasonable best efforts to obtain from the beneficiaries of such Ensign Guarantees written releases indicating that each applicable member of the Ensign Group will, effective as of the Effective Time, have no further Liability with respect to such Ensign Guarantees. Pennant shall indemnify, defend and hold harmless each member of the Ensign Group against, and reimburse each member of the Ensign Group for, any Losses incurred following the Distribution with respect to such Ensign Guarantee, including without limitation auditor fees associated with such Ensign Guarantees and the cost of procuring any applicable third party valuations.

(b) If, following the Effective Time, the Parties are unable to replace any Ensign Guarantee, (i) the Parties shall cooperate and continue to use their reasonable best efforts to replace such Ensign Guarantee with alternate arrangements that do not require any credit support from any member of the Ensign Group and (ii) Pennant shall indemnify, defend and hold harmless each member of the Ensign Group against, and reimburse each member of the Ensign Group for, any Losses incurred following the Distribution with respect to such Ensign Guarantee, including without limitation auditor fees associated with such Ensign Guarantees and the cost of procuring any applicable third party valuations.

ARTICLE III
CERTAIN ACTIONS PRIOR TO THE DISTRIBUTION

Section 3.1 SEC and Other Securities Filings.

(a) Prior to the date of this Agreement, the Parties caused the Registration Statement to be prepared and filed with the SEC.

(b) The Parties caused the Registration Statement to become effective on September 9, 2019.

(c) As soon as practicable after the date hereof, Ensign shall cause the Information Statement to be mailed to the Record Holders (or notice of internet availability thereof).

(d) The Parties shall cooperate in preparing, filing with the SEC and causing to become effective any other registration statements or amendments or supplements thereto that are necessary or appropriate in order to effect the Transactions, or to reflect the establishment of, or amendments to, any employee benefit plans contemplated hereby.

(e) The Parties shall take all such action as may be necessary or appropriate under state and foreign securities or "blue sky" Laws in connection with the Transactions.

Section 3.2 NASDAQ Listing Application.

(a) Prior to the date of this Agreement, the Parties caused an application for the listing on NASDAQ of Pennant Common Stock to be issued to the Record Holders in the Distribution (the "NASDAQ Listing Application") to be prepared and filed.

(b) Prior to the date of this Agreement, the Parties have caused the NASDAQ Listing Application to be approved, subject to official notice of distribution.

(c) Ensign has given NASDAQ notice of the Record Date in compliance with Rule 10b-17 under the Exchange Act.

Section 3.3 Distribution Agent. At or prior to the Effective Time, Ensign shall, if requested by the Distribution Agent, enter into a distribution agent agreement and/or a paying agent agreement with the Distribution Agent.

Section 3.4 Governmental Approvals and Consents. To the extent that any of the Transactions require any Governmental Approval or Consent which has not been obtained prior to the date of this Agreement, the Parties will use commercially reasonable efforts to obtain, or cause to be obtained, such Governmental Approval or Consent prior to the Effective Time.

Section 3.5 Ancillary Agreements. Prior to the Effective Time, each Party shall execute and deliver, and shall cause each applicable member of its Group to execute and deliver, as applicable, the following agreements (collectively, the "Ancillary Agreements"):

(a) the Tax Matters Agreement, (b) the Transition Services Agreement, (c) the Employee Matters Agreement, (d) the Contribution Agreements, (e) the Merger Agreement, (f) the Ensign Leases and (f) such other written agreements, documents or instruments as the Parties may agree are reasonably necessary or desirable and which specifically state that they are Ancillary Agreements within the meaning of this Agreement.

Section 3.6 Governance Matters.

(a) Certificate of Incorporation and Bylaws. Pennant has adopted the amended and restated certificate of incorporation and the amended and restated bylaws of Pennant, each substantially in the form filed by Pennant with the SEC as an exhibit to the Registration Statement, and Pennant shall not take any action to modify its charter or bylaws prior to the Effective Time.

(b) Officers and Directors. On or prior to the Distribution Date, the Parties shall take all necessary action so that, as of the Distribution Date, the officers and directors of Pennant will be as set forth in the Information Statement.

ARTICLE IV
THE DISTRIBUTION

Section 4.1 Distribution.

(a) Subject to the terms and conditions set forth in this Agreement, including Section 4.1(b):

(i) on or prior to the Distribution Date, Ensign shall deliver or otherwise make available to the Distribution Agent, for the benefit of holders of record of Ensign Common Stock at the close of business on the Record Date (the "Record Holders"), such number of issued and outstanding shares of Pennant Common Stock as is necessary to effect the Distribution; and

(ii) on the Distribution Date, Ensign will direct the Distribution Agent to distribute, effective as of the Effective Time, to each Record Holder, (A) one share of Pennant Common Stock for every two (2) shares of Ensign Common Stock held by such Record Holder on the Record Date and (B) cash, if applicable, in lieu of fractional shares, in an amount determined in accordance with Section 4.1(c) hereof. All such shares of Pennant Common Stock to be so distributed shall be distributed as uncertificated shares registered in book-entry form through the direct registration system. No certificates therefor shall be distributed. Following the Distribution, Ensign shall cause the Distribution Agent to deliver an account statement to each holder of Pennant Common Stock reflecting such holder's ownership thereof. All of the shares of Pennant Common Stock distributed in the Distribution will be validly issued, fully paid and non-assessable.

(b) Notwithstanding any other provision of this Agreement, Ensign, the Distribution Agent, or any Person that is a withholding agent under applicable Law shall be entitled to deduct and withhold from any consideration distributable or payable hereunder the amounts required to be deducted and withheld under the Code, or any provision of any U.S. federal, state, local or foreign Tax Law, and any such withholding agent is hereby authorized to sell any portion of the consideration otherwise distributable or payable in kind as is necessary to provide sufficient funds to enable the withholding agent to comply with such deduction and withholding requirements. Any amounts so withheld shall be paid over to the appropriate Taxing Authority in the manner prescribed by Law. To the extent that amounts are so deducted and withheld, such deducted and withheld amounts shall be treated for all purposes of this Agreement as having been paid to the Persons in respect of which such deduction and withholding was made.

(c) Notwithstanding anything herein to the contrary, no fractional shares of Pennant Common Stock shall be issued in connection with the Distribution, and any such fractional share interests to which a Record Holder would otherwise be entitled shall not entitle such Record Holder to vote or to any other rights as a stockholder of Pennant. In lieu of any such fractional shares, each Record Holder who, but for the provisions of this section, would be entitled to receive a fractional share interest of Pennant Common Stock pursuant to the Distribution, shall be paid cash, without any interest thereon, as hereinafter provided. Ensign will direct the Distribution Agent to determine the number of whole shares and fractional shares of Pennant Common Stock allocable to each Record Holder, to aggregate all such fractional shares into whole shares, to sell the whole shares obtained thereby in the open market at the then-prevailing prices on behalf of each Record Holder who otherwise would be entitled to receive fractional share interests and to distribute to each such Record Holder his, her or its ratable share of the total proceeds of such sale, after making appropriate deductions of the amounts required for U.S. federal income tax withholding purposes and after deducting any applicable transfer Taxes and the costs and expenses of such sale and

distribution, including brokers fees and commissions. The sales of fractional shares shall occur as soon after the Effective Time as practicable and as determined by the Distribution Agent, but in no case more than three (3) business days after the Effective Time. None of Ensign, Pennant or the Distribution Agent shall guarantee any minimum sale price for the fractional shares of Ensign Common Stock. Neither Ensign nor Pennant shall pay any interest on the proceeds from the sale of fractional shares. The Distribution Agent shall have the sole discretion to select the broker-dealers through which to sell the aggregated fractional shares and to determine when, how and at what price to sell such shares. Neither the Distribution Agent nor the broker-dealers through which the aggregated fractional shares are sold shall be Affiliates of Ensign or Pennant.

ARTICLE V
CONDITIONS

Section 5.1 Conditions Precedent to Consummation of the Distribution. The Distribution shall not be effected unless and until the following conditions have been satisfied or waived by Ensign, in its sole and absolute discretion, at or before the Effective Time:

(a) the board of directors of Ensign shall have declared the Distribution, which declaration may be made or withheld in its absolute and sole discretion;

(b) the Registration Statement shall have been declared effective by the SEC, with no stop order in effect with respect thereto, and no proceedings for such purpose shall be pending before, or threatened by, the SEC and a notice of internet availability of the Information Statement shall have been mailed to Ensign stockholders;

(c) Ensign shall have mailed the Information Statement (or notice of internet availability thereof) to the Record Holders;

(d) Ensign shall have obtained an opinion from Kirkland & Ellis LLP, in form and substance satisfactory to Ensign, to the effect that, subject to the assumptions and limitations described therein, the distribution of Pennant Common Stock and certain related transactions will qualify as a reorganization under Sections 368(a)(1)(D) and 355 of the Code, in which no gain or loss is recognized by Ensign or its stockholders, except in the case of the Ensign stockholders, for cash received in lieu of fractional shares;

(e) the NASDAQ Listing Application shall have been approved, subject to official notice of distribution;

(f) no order, injunction or decree issued by any Governmental Authority of competent jurisdiction or other legal restraint or prohibition preventing the consummation of all or any portion of the Distribution shall be in effect, and no other event shall have occurred or failed to occur that prevents the consummation of all or any portion of the Distribution;

(g) the Reorganization shall have been completed, except for such steps as Ensign in its sole discretion shall have determined may be completed after the Distribution Date;

(h) Pennant shall have completed the financing transactions described in the Information Statement and contemplated to occur on or prior to the Distribution Date, including the entry into the Pennant Credit Facility;

(i) Ensign shall have completed its own financing transactions contemplated to occur on or prior to the Distribution Date, including amending and restating its existing credit facility;

(j) no events or developments shall have occurred prior to the Distribution that, in the judgment of the Ensign board of directors, would result in the Distribution having a material adverse effect on Ensign or its stockholders;

(k) Pennant shall have adopted the amended and restated certificate of incorporation and amended and restated bylaws, as provided in Section 3.6(a);

(l) each of the Ancillary Agreements shall have been executed and delivered by each party thereto and be in full force and effect; and

(m) any required material Governmental Approvals and other Consents necessary to consummate the Distribution or any portion thereof shall have been obtained and be in full force and effect.

Section 5.2 Right Not to Close. Each of the conditions set forth in Section 5.1 is for the benefit of Ensign, and the board of directors of Ensign may, in its sole and absolute discretion, determine whether to waive any condition, in whole or in part. Any determination made by the board of directors of Ensign concerning the satisfaction or waiver of any or all of the conditions set forth in Section 5.1 will be conclusive and binding on the Parties. The satisfaction of the conditions set forth in Section 5.1 will not create any obligation on the part of Ensign to any other Person to effect any of the Transactions or in any way limit Ensign's right to terminate this Agreement and the Ancillary Agreements as set forth in Section 11.1 or alter the consequences of any termination from those specified in Section 11.2.

ARTICLE VI
NO REPRESENTATIONS OR WARRANTIES

Section 6.1 Disclaimer of Representations and Warranties. EACH PARTY (ON BEHALF OF ITSELF AND EACH OTHER MEMBER OF ITS GROUP) UNDERSTANDS AND AGREES THAT, EXCEPT AS EXPRESSLY SET FORTH HEREIN, IN ANY ANCILLARY AGREEMENT OR IN ANY OTHER AGREEMENT OR DOCUMENT CONTEMPLATED BY THIS AGREEMENT OR ANY ANCILLARY AGREEMENT, NO PARTY IS REPRESENTING OR WARRANTING IN ANY WAY AS TO (A) THE ASSETS, BUSINESSES OR LIABILITIES CONTRIBUTED, TRANSFERRED, DISTRIBUTED OR ASSUMED AS CONTEMPLATED HEREBY OR THEREBY, (B) ANY CONSENTS OR GOVERNMENTAL APPROVALS REQUIRED IN CONNECTION HEREWITH OR THEREWITH, (C) THE VALUE OR FREEDOM FROM ANY SECURITY INTERESTS OF, OR ANY OTHER MATTER CONCERNING, ANY ASSETS OF ANY PARTY, (D) THE ABSENCE OF ANY DEFENSES OR RIGHT OF SETOFF OR FREEDOM FROM COUNTERCLAIM WITH RESPECT TO ANY ACTION OR OTHER ASSET, INCLUDING ACCOUNTS RECEIVABLE, OF ANY PARTY, OR (E) THE LEGAL SUFFICIENCY OF ANY CONTRIBUTION, DISTRIBUTION, ASSIGNMENT, DOCUMENT, CERTIFICATE OR INSTRUMENT DELIVERED HEREUNDER OR THEREUNDER TO CONVEY TITLE TO ANY ASSET UPON THE EXECUTION, DELIVERY AND FILING HEREOF OR THEREOF.

Section 6.2 As Is, Where Is. EACH PARTY (ON BEHALF OF ITSELF AND EACH OTHER MEMBER OF ITS GROUP) UNDERSTANDS AND AGREES THAT, EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT AND ANY ANCILLARY AGREEMENT, ALL ASSETS TRANSFERRED PURSUANT TO THIS AGREEMENT OR ANY ANCILLARY AGREEMENT ARE BEING TRANSFERRED "AS IS, WHERE IS."

ARTICLE VII
CERTAIN COVENANTS AND ADDITIONAL AGREEMENTS

Section 7.1 Insurance Matters. Following the Effective Time, Ensign shall maintain its currently existing Insurance Policies related to director and officer liability (the "Ensign D&O Policies"). Prior to the Effective Time, Ensign and Pennant shall use commercially reasonable efforts to obtain separate Insurance Policies for Pennant on substantially similar terms as the Ensign D&O Policies (it being understood that Pennant shall be responsible for all premiums, costs and fees associated with any new insurance policies placed for the benefit of Pennant pursuant to this Section 7.1, which, for the avoidance of doubt, shall exclude any premiums, costs and fees associated with any run-off Insurance Policy obtained by Ensign in connection with the Distribution).

ARTICLE VIII
ACCESS TO INFORMATION; CONFIDENTIALITY; PRIVILEGE

Section 8.1 Agreement for Exchange of Information.

(a) Subject to Section 8.1(b) and Section 8.8(f), and except as set forth in any Ancillary Agreement, for a period of three (3) years following the Distribution Date (the "Access Period"), as soon as reasonably practicable after written request: (i) Ensign shall afford to any member of the Pennant Group and their authorized accountants, counsel and other designated representatives reasonable access during normal business hours to, or, at the Pennant Group's expense, provide copies of, all books, records, Contracts, instruments, data, documents and other information in the possession or under the control of any member of the Ensign Group immediately following the Distribution Date that relates to any member of the Pennant Group or the Pennant Business, and (ii) Pennant shall afford to any member of the Ensign Group and their authorized accountants, counsel and other designated representatives reasonable access during normal business hours to, or, at the Ensign Group's expense, provide copies of, all books, records, Contracts, instruments, data, documents and other information in the possession or under the control of any member of the Pennant Group immediately following the Distribution Date that relates to any member of the Ensign Group or the Ensign Business; provided, however, that in the event that Pennant or Ensign, as applicable, determine that any such provision of or access to any information in response to a request under this Section 8.1(a) would be commercially detrimental in any material respect, violate any Law or agreement or waive any attorney-client privilege, the work product doctrine or other applicable privilege, the Parties shall take all reasonable measures to permit compliance with such request in a manner that avoids any such harm or consequence; provided, further, that to the

extent specific information-sharing or knowledge-sharing provisions are contained in any of the Ancillary Agreements, such other provisions (and not this Section 8.1(a)) shall govern; provided, further, that the Access Period shall be extended with respect to requests related to any tax audit or proceeding or other third-party litigation or other dispute filed prior to the end of the Access Period until such litigation or dispute is finally resolved.

(b) A request for information under Section 8.1(a) may be made: (i) to comply with reporting, disclosure, filing or other requirements imposed on the requesting party (including under applicable securities Laws) by a Governmental Authority having jurisdiction over such requesting party, (ii) for use in any other judicial, regulatory, administrative or other proceeding or in order to satisfy audit, accounting, claims defense, regulatory filings, litigation or other similar requirements (other than in connection with any action, suit or proceeding in which any member of a Group is adverse to any member of the other Group), (iii) for use in compensation, benefit or welfare plan administration or other bona fide business purposes, or (iv) to comply with any obligations under this Agreement or any Ancillary Agreement.

(c) Without limiting the generality of Section 8.1(a), until the end of the first full fiscal year following the Distribution Date (and for a reasonable period of time thereafter as required for any party to prepare consolidated financial statements or complete a financial statement audit for the fiscal year during which the Distribution Date occurs), Pennant shall use its commercially reasonable efforts to cooperate with any requests from any member of the Ensign Group pursuant to Section 8.1(a) and Ensign shall use its commercially reasonable efforts to cooperate with any requests from any member of the Pennant Group pursuant to Section 8.1(a), in each case, to enable the requesting party to meet its timetable for dissemination of its earnings releases and financial statements and to enable such requesting party's auditors to timely complete their audit of the annual financial statements and review of the quarterly financial statements.

Section 8.2 Ownership of Information. Any information owned by any Person that is provided pursuant to Section 8.1(a) shall be deemed to remain the property of the providing Person. Unless specifically set forth herein, nothing contained in this Agreement shall be construed to grant or confer rights of license or otherwise to the requesting Person with respect to any such information.

Section 8.3 Compensation for Providing Information. A Person requesting information pursuant to Section 8.1(a) agrees to reimburse the providing Person for the reasonable and documented expenses out-of-pocket, if any, of gathering and copying such information, to the extent that such expenses are incurred for the benefit of the requesting Person.

Section 8.4 Retention of Records. To facilitate the exchange of information pursuant to this Article VIII after the Distribution Date, for a period of three (3) years following the Distribution Date, except as otherwise required or agreed in writing, the Parties agree to use commercially reasonable efforts to retain, or cause to be retained, all information in the possession or control of them or any member of their Group on the Distribution Date in accordance with the policies and procedures of Ensign as in effect on the Distribution Date.

Section 8.5 Limitation of Liability. No Person required to provide information under this Article VIII shall have any Liability (a) if any historical information provided pursuant to this Article VIII is found to be inaccurate, in the absence of gross negligence or willful misconduct by such Person, or (b) if any information is lost or destroyed despite using commercially reasonable efforts to comply with the provisions of Section 8.4.

Section 8.6 Production of Witnesses. At all times from and after the Distribution Date, upon reasonable request:

(a) Pennant shall use commercially reasonable efforts to make available, or cause to be made available, to any member of the Ensign Group, the directors, officers, employees and agents of any member of the Pennant Group as witnesses to the extent that the same may reasonably be required by the requesting party (giving consideration to business demands of such directors, officers, employees and agents) in connection with any legal, administrative or other proceeding in which the requesting party may from time to time be involved, except in the case of any Action, suit or proceeding in which any member of the Pennant Group is or may become adverse to any member of the Ensign Group; and

(b) Ensign shall use commercially reasonable efforts to make available, or cause to be made available, to any member of the Pennant Group, the directors, officers, employees and agents of any member of the Ensign Group as witnesses to the extent that the same may reasonably be required by the requesting party (giving consideration to business demands of such directors, officers, employees and agents) in connection with any legal, administrative or other proceeding in which the requesting party may from time to time be involved, except in the case of any Action, suit or proceeding in which any member of the Ensign Group is or may become adverse to any member of the Pennant Group.

Section 8.7 Confidentiality.

(a) Pennant (on behalf of itself and each other member of its Group) and Ensign (on behalf of itself and each other member of its Group) shall hold, and shall cause each of their respective Affiliates to hold, and each of the foregoing shall cause their respective directors, officers, employees, agents, consultants and advisors to hold, in strict confidence, and not disclose or release or use, without the prior written consent of such member of the other Group, for any purpose other than as expressly permitted pursuant to this Agreement or the Ancillary Agreements, any and all Confidential Information concerning any member of the other Group; provided, that each Party and the members of its Group may disclose, or may permit disclosure of, such Confidential Information (i) to other members of their Group and their respective auditors, attorneys, financial advisors, bankers and other appropriate consultants and advisors who have a need to know such information for purposes of performing services for a member of such Group and who are informed of their obligation to hold such information confidential to the same extent as is applicable to the Parties and in respect of whose failure to comply with such obligations, such Party will be responsible, (ii) if it or any of its Affiliates are required or compelled to disclose any such Confidential Information by judicial or administrative process or by other requirements of Law or stock exchange rule, or (iii) as necessary in order to permit such Party to prepare and disclose its financial statements, or other disclosures required by Law or such applicable stock exchange. Notwithstanding the foregoing, in the event that any demand or request for disclosure of Confidential Information is made pursuant to the foregoing clause (ii) above, the Party requested to disclose Confidential Information concerning a member of the other Group, shall, to the extent

reasonably practicable and not prohibited by law, promptly notify such member of the other Group of the existence of such request or demand and, to the extent commercially practicable, shall provide such member of the other Group thirty (30) days (or such lesser period as is commercially practicable) to, at such member of the other Group's own expense, seek an appropriate protective order or other remedy, which the Parties will reasonably cooperate in obtaining. In the event that such appropriate protective order or other remedy is not obtained within a reasonable period of time, the Party that is required to disclose Confidential Information about a member of the other Group shall furnish, or cause to be furnished, only that portion of the Confidential Information that is legally required to be disclosed and shall use commercially reasonable efforts to ensure that confidential treatment is accorded such information.

(b) Notwithstanding anything to the contrary set forth herein, the Parties shall be deemed to have satisfied their obligations hereunder with respect to Confidential Information of any member of the other Group if they exercise the same degree of care (but no less than a reasonable degree of care) as they exercise to preserve confidentiality for their own similar Confidential Information.

(c) Upon the written request of a Party or a member of its Group, the other Party shall take, and shall cause the applicable members of such other Party's Group to take, reasonable steps to promptly (i) deliver to the requesting Person all original copies of Confidential Information (whether written or electronic) concerning the requesting Person or any member of such requesting Person's Group that is in the possession of such other Party or any member of such other Party's Group and (ii) if specifically requested by the requesting Person, destroy any copies of such Confidential Information (including any extracts therefrom), unless (A) such delivery or destruction would violate any Law or regulatory requirement, (B) such Confidential Information constitutes attorney work product created for such Party, or (C) such Confidential Information, including emails, are contained in an archived computer system backup in accordance with bonafide document retention policies or security and disaster recovery procedures; provided, that the other Party shall not be obligated to destroy Confidential Information that is required by or relates to such other Party's business or the business of any member of such other Party's Group. Upon the written request of the requesting Person, the other Party shall, or shall cause another member of its Group to cause, its duly authorized officers to certify in writing to the requesting party that the requirements of the preceding sentence have been satisfied in full.

Section 8.8 Privileged Matters.

(a) Pre-Distribution Services. The Parties recognize that legal and other professional services that have been and will be provided prior to the Effective Time have been and will be rendered for the collective benefit of the Parties and their Affiliates, and that each of the Parties should be deemed to be the client with respect to such pre-Distribution services for the purposes of asserting all privileges that may be asserted under applicable Law.

(b) Post-Distribution Services. The Parties recognize that legal and other professional services will be provided following the Effective Time that will be rendered solely for the benefit of Pennant and its Affiliates or Ensign and its Affiliates, as the case may be. With respect to such post-Distribution services, the Parties agree as follows:

(i) Ensign shall be entitled, in perpetuity, to control the assertion or waiver of all privileges in connection with privileged information that relates solely to the Ensign Business, whether or not the privileged information is in the possession of or under the control of Ensign or Pennant. Ensign shall also be entitled, in perpetuity, to control the assertion or waiver of all privileges in connection with privileged information that relates solely to the subject matter of any claims constituting Ensign Liabilities, now pending or which may be asserted in the future, in any lawsuits or other proceedings initiated by or against any member of the Ensign Group, whether or not the privileged information is in the possession of or under the control of Ensign or Pennant; and

(ii) Pennant shall be entitled, in perpetuity, to control the assertion or waiver of all privileges in connection with privileged information that relates solely to the Pennant Business, whether or not the privileged information is in the possession of or under the control of Ensign or Pennant. Pennant shall also be entitled, in perpetuity, to control the assertion or waiver of all privileges in connection with privileged information that relates solely to the subject matter of any claims constituting Pennant Liabilities, now pending or which may be asserted in the future, in any lawsuits or other proceedings initiated by or against any member of the Pennant Group, whether or not the privileged information is in the possession of or under the control of Ensign or Pennant.

(c) The Parties agree that they shall have a shared privilege, with equal right to assert or waive, subject to the restrictions in this Section 8.8, with respect to all privileges not allocated pursuant to the terms of Section 8.8(b). Except as provided in Section 8.8(d), Pennant may not waive, and shall cause each other member of the Pennant Group not to waive, any privilege that could be asserted by a member of the Ensign Group under any applicable Law, and in which a member of the Ensign Group has a shared privilege, without the written consent of Ensign, which consent shall not be unreasonably withheld, conditioned or delayed. Except as provided in Section 8.8(d), Ensign may not waive, and shall cause each other member of the Ensign Group not to waive, any privilege that could be asserted by a member of the Pennant Group under any applicable Law, and in which a member of the Pennant Group has a shared privilege, without the written consent of Pennant, which consent shall not be unreasonably withheld, conditioned or delayed. If a dispute arises between or among Pennant and Ensign, or any members of their respective Groups, regarding whether a privilege should be waived to protect or advance the interest of a Party, each Party agrees that it shall endeavor to minimize any prejudice to the rights of such other Party and shall not unreasonably withhold consent to any request for waiver by such Party. Each Party agrees that it will not withhold consent to waiver for any purpose except to protect its own legitimate interests or the legitimate interests of any other member of its Group.

(d) Notwithstanding any of the other provisions of this Section 8.8, to the fullest extent permitted by Law, in the event of any litigation or dispute between or among the Parties and/or any members of their respective Groups, any Party or any members of the Party's respective Group may waive a privilege which it shares with another Party or any member of the other Group, without obtaining the written consent from the other Party or the other member(s) of a Party's Group which shares the privilege; provided, that such waiver of a shared privilege shall be effective only as to the use of information by the relevant Parties and/or the applicable members of their respective Groups in such litigation or dispute, and shall not operate as a waiver of the shared privilege with respect to any proceedings, disputes, or other matters involving third parties or with

respect to any other Actions. In the event of any such waiver, the Parties and the members of their respective Groups shall take all reasonable measures to ensure the confidentiality of the privileged information that is the subject of such waiver, including, as necessary, making any applications to an arbitral tribunal or court of law, as applicable, to preserve the confidentiality of such information; and any such privileged information shall otherwise be held confidential by the Parties and the members of their respective Groups and shall not be publicly disclosed. For the avoidance of doubt, this Section 8.8(d) provides the only circumstances, and the only conditions, under which a Party or a member of its respective Group may unilaterally waive any shared applicable legal privilege.

(e) Upon receipt by either Party, or by any member of its Group, of any subpoena, discovery or other request which requires the production or disclosure of information which such Party knows is subject to a shared privilege or as to which a member of the other Group has the sole right hereunder to assert or waive a privilege, or if either Party obtains knowledge that any of its or any other member of its Group's current or former directors, officers, agents or employees have received any subpoena, discovery or other requests which requires the production or disclosure of such privileged information, such Party shall promptly notify the other Party in writing of the existence of the request and shall provide the other Party a reasonable opportunity to review the information and to assert any rights it or they may have under this Section 8.8 or otherwise to prevent the production or disclosure of such privileged information.

(f) The access to information being granted pursuant to Section 8.1, the agreement to provide witnesses and individuals pursuant to Section 8.6 hereof, and the transfer of privileged information between and among the Parties and the members of their respective Groups pursuant to this Agreement shall not be deemed a waiver of any privilege that has been or may be asserted under this Agreement, any of the Ancillary Agreements or otherwise.

Section 8.9 Financial Information Certifications. The Parties agree to cooperate with each other in such manner as is reasonably necessary to enable the principal executive officer or officers, principal financial officer or officers and controller or controllers of each of the Parties to make the certifications required of them under Sections 302, 404 and 906 of the Sarbanes-Oxley Act of 2002.

ARTICLE IX
MUTUAL RELEASES; INDEMNIFICATION

Section 9.1 Release of Pre-Distribution Claims.

(a) Except as provided in Section 9.1(d), effective as of the Effective Time, Pennant does hereby, for itself and each other member of the Pennant Group, release and forever discharge each Ensign Indemnitee, from any and all Liabilities whatsoever to any member of the Pennant Group, whether at law or in equity (including any right of contribution), whether arising under any Contract, by operation of Law or otherwise, existing or arising from any acts or events occurring or failing to occur or alleged to have occurred or to have failed to occur or any conditions existing or alleged to have existed at or before the Effective Time, including in connection with the Transactions.

(b) Except as provided in Section 9.1(d), effective as of the Effective Time, Ensign does hereby, for itself and each other member of the Ensign Group, release and forever discharge each Pennant Indemnitee from any and all Liabilities whatsoever to any member of the Ensign Group, whether at law or in equity (including any right of contribution), whether arising under any Contract, by operation of Law or otherwise, existing or arising from any acts or events occurring or failing to occur or alleged to have occurred or to have failed to occur or any conditions existing or alleged to have existed at or before the Effective Time, including in connection with the Transactions.

(c) The Parties expressly understand and acknowledge that it is possible that unknown Losses or Claims exist or might come to exist or that present Losses may have been underestimated in amount, severity, or both. Accordingly, the Parties are deemed expressly to understand provisions and principles of law such as Section 1542 of the Civil Code of the State of California (as well as any and all provisions, rights and benefits conferred by any Law of any state or territory of the United States, or principle of common law, which is similar or comparable to Section 1542), which Section provides: **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY**. The Parties are hereby deemed to agree that the provisions of Section 1542 and all similar federal or state Laws, rights, rules or legal principles of California or any other jurisdiction that may be applicable herein, are hereby knowingly and voluntarily waived and relinquished with respect to the releases in Section 9.1(a) and Section 9.1(b).

(d) Nothing contained in Section 9.1(a) or Section 9.1(b) shall impair any right of any Person to enforce this Agreement, any Ancillary Agreement or any agreements, arrangements, commitments or understandings that are specified in, or contemplated to continue pursuant to, this Agreement or any Ancillary Agreement. Without limiting the foregoing, nothing contained in Section 9.1(a) or Section 9.1(b) shall release any Person from:

(i) any Liability, contingent or otherwise, assumed by, or allocated to, such Person in accordance with this Agreement or any Ancillary Agreement;

(ii) any Liability that such Person may have with respect to indemnification or contribution pursuant to this Agreement or any Ancillary Agreement for claims brought by third Persons, which Liability shall be governed by the provisions of this Article IX and, if applicable, the appropriate provisions of the Ancillary Agreements;

(iii) any unpaid accounts payable or receivable arising from or relating to the sale, provision, or receipt of goods, payment for goods, property or services purchased, obtained or used in the ordinary course of business by any member of the Ensign Group from any member of the Pennant Group, or by any member of the Pennant Group from any member of the Ensign Group from and after the Effective Time; or

(iv) any Liability the release of which would result in the release of any Person other than an Indemnitee; provided, that the Parties agree not to bring suit, or permit any other member of their respective Group to bring suit, against any Indemnitee with respect to such Liability.

(e) Pennant shall not make, and shall not permit any other member of the Pennant Group to make, any claim or demand, or commence any Action asserting any claim or demand, including any claim of contribution or indemnification, against any Ensign Indemnitee with respect to any Liabilities released pursuant to Section 9.1(a). Ensign shall not make, and shall not permit any member of the Ensign Group to make, any claim or demand, or commence any Action asserting any claim or demand, including any claim of contribution or any indemnification, against any Pennant Indemnitee with respect to any Liabilities released pursuant to Section 9.1(b).

Section 9.2 Indemnification by Pennant. Except as provided in Section 9.4 and Section 9.5, Pennant shall, and, in the case of Section 9.2(a) or Section 9.2(b), shall in addition cause each Appropriate Member of the Pennant Group to, indemnify, defend and hold harmless, the Ensign Indemnitees from and against any and all Losses of the Ensign Indemnitees relating to, arising out of or resulting from any of the following (without duplication):

(a) any Pennant Liability, including the failure of any member of the Pennant Group or any other Person to pay, perform or otherwise promptly discharge any Pennant Liabilities in accordance with their respective terms, whether prior to, at or after the Effective Time;

(b) any breach by any member of the Pennant Group of any provision of this Agreement or of any of the Ancillary Agreements, subject to any limitations of liability provisions and other provisions applicable to any such breach set forth therein; and

(c) any untrue statement or alleged untrue statement of a material fact or omission or alleged omission to state a material fact required to be stated therein or necessary to make the statements therein not misleading, with respect to all information contained or incorporated by reference in the Registration Statement or the Information Statement other than information that relates solely to the Pennant Business;

in each case, without regard to when or where the Loss, claim, accident, occurrence, event or happening giving rise to the Loss took place, or whether any such Loss, claim, accident, occurrence, event or happening is known or unknown, or reported or unreported and regardless of whether such Loss, claim, accident, occurrence, event or happening giving rise to the Loss existed prior to, on or after the Effective Time or relates to, arises out of or results from actions, inactions, events, omissions, conditions, facts or circumstances occurring or existing prior to, on or after the Effective Time. As used in this Section 9.2, "Appropriate Member of the Pennant Group" means the member or members of the Pennant Group, if any, whose acts, conduct or omissions or failures to act caused, gave rise to or resulted in the Loss from and against which indemnity is provided.

Section 9.3 Indemnification by Ensign. Except as provided in Section 9.4 and Section 9.5, Ensign shall, and, in the case of Section 9.3(a) or Section 9.3(b), shall in addition cause each Appropriate Member of the Ensign Group to, indemnify, defend and hold harmless the Pennant Indemnitees from and against any and all Losses of the Pennant Indemnitees relating to, arising out of or resulting from any of the following (without duplication):

(a) any Ensign Liability, including the failure of any member of the Ensign Group or any other Person to pay, perform or otherwise promptly discharge any Ensign Liabilities in accordance with their respective terms, whether prior to, at or after the Effective Time;

(b) any breach by any member of the Ensign Group of any provision of this Agreement or of any of the Ancillary Agreements, subject to any limitations of liability provisions and other provisions applicable to any such breach set forth therein; and

(c) any untrue statement or alleged untrue statement of a material fact or omission or alleged omission to state a material fact required to be stated therein or necessary to make the statements therein not misleading, with respect to information contained or incorporated by reference in the Registration Statement or the Information Statement that relates solely to the Ensign Business;

in each case, without regard to when or where the Loss, claim, accident, occurrence, event or happening giving rise to the Loss took place, or whether any such Loss, claim, accident, occurrence, event or happening is known or unknown, or reported or unreported and regardless of whether such Loss, claim, accident, occurrence, event or happening giving rise to the Loss existed prior to, on or after the Effective Time or relates to, arises out of or results from actions, inactions, events, omissions, conditions, facts or circumstances occurring or existing prior to, on or after the Effective Time. As used in this Section 9.3, "Appropriate Member of the Ensign Group" means the member or members of the Ensign Group, if any, whose acts, conduct or omissions or failures to act caused, gave rise to or resulted in the Loss from and against which indemnity is provided.

Section 9.4 Procedures for Indemnification.

(a) An Indemnitee shall give written notice of any matter that such Indemnitee has determined has given or would reasonably be expected to give rise to a right of indemnification under this Agreement or any Ancillary Agreement (other than a Third-Party Claim which shall be governed by Section 9.4(b)) to any Party that is or may be required pursuant to this Agreement or any Ancillary Agreement to make such indemnification (the "Indemnifying Party") promptly (and in any event within fifteen (15) days) after making such a determination. Such notice shall state the amount of the Loss claimed, if known, and method of computation thereof, and containing a reference to the provisions of this Agreement or the applicable Ancillary Agreement in respect of which such right of indemnification is claimed by such Indemnitee; provided, however, that the failure to provide such notice shall not release the Indemnifying Party from any of its obligations except and solely to the extent the Indemnifying Party shall have been materially prejudiced as a result of such failure.

(b) If a claim or demand is made against an Indemnitee by any Person who is not a Party to this Agreement or an Affiliate of a Party (a "Third-Party Claim") as to which such Indemnitee is or reasonably expects to be entitled to indemnification pursuant to this Agreement, such Indemnitee shall notify the Indemnifying Party in writing, and in reasonable detail, of the Third-Party Claim promptly (and in any event within thirty (30) days) after receipt by such Indemnitee of written notice of the Third-Party Claim; provided, however, that the failure to provide notice of any such Third-Party Claim pursuant to this sentence shall not release the Indemnifying Party from any of its obligations except and solely to the extent the Indemnifying

Party shall have been materially prejudiced as a result of such failure (except that the Indemnifying Party or Parties shall not be liable for any expenses incurred by the Indemnitee in defending such Third-Party Claim during the period in which the Indemnitee failed to give such notice). Thereafter, the Indemnitee shall deliver to the Indemnifying Party, promptly (and in any event within ten (10) days) after the Indemnitee's receipt thereof, copies of all notices and documents (including court papers) received by the Indemnitee relating to the Third-Party Claim.

(c) An Indemnifying Party shall be entitled (but shall not be required) to assume, control the defense of, and settle any Third-Party Claim, at such Indemnifying Party's own cost and expense and by such Indemnifying Party's own counsel, which counsel must be reasonably acceptable to the Indemnitee, if it gives written notice of its intention to do so (including a statement that the Indemnitee is entitled to indemnification under this Article IX) to the applicable Indemnitees within thirty (30) days of the receipt of notice from such Indemnitees of the Third-Party Claim (failure of the Indemnifying Party to respond within such thirty (30) day period shall be deemed to be an election by the Indemnifying Party not to assume the defense for such Third-Party Claim). After a notice from an Indemnifying Party to an Indemnitee of its election to assume the defense of a Third-Party Claim, such Indemnitee shall have the right to employ separate counsel and to participate in (but not control) the defense, compromise or settlement thereof, at its own expense and, in any event, shall reasonably cooperate with the Indemnifying Party in such defense and make available to the Indemnifying Party all witnesses and information in such Indemnitee's possession or under such Indemnitee's control relating thereto as are reasonably required by the Indemnifying Party; provided, however, that such access shall not require the Indemnitee to disclose any information the disclosure of which would, in the good faith judgment of the Indemnitee, result in the loss of any existing privilege with respect to such information or violate any applicable Law or to take any actions that would unreasonably interfere with the operation of the Indemnitee's business.

(d) Notwithstanding anything to the contrary in this Section 9.4, in the event that (i) an Indemnifying Party elects not to assume the defense of a Third-Party Claim, (ii) there exists a conflict of interest or potential conflict of interest between the Indemnifying Party and the Indemnitee, (iii) any Third-Party Claim seeks an order, injunction or other equitable relief or relief for other than money damages against the Indemnitee, (iv) the Indemnitee's exposure to Liability in connection with such Third-Party Claim is reasonably expected to exceed the Indemnifying Party's exposure in respect of such Third-Party Claim taking into account the indemnification obligations hereunder, or (v) the Person making such Third-Party Claim is a Governmental Authority with regulatory authority over the Indemnitee or any of its material Assets, such Indemnitee shall be entitled to control the defense of such Third-Party Claim, at the Indemnifying Party's expense, with counsel of such Indemnitee's choosing (such counsel to be reasonably acceptable to the Indemnifying Party). If the Indemnitee is conducting the defense against any such Third-Party Claim, the Indemnifying Party shall reasonably cooperate with the Indemnitee in such defense and make available to the Indemnitee all witnesses and information in such Indemnifying Party's possession or under such Indemnifying Party's control relating thereto as are reasonably required by the Indemnitee; provided, however, that such access shall not require the Indemnifying Party to disclose any information the disclosure of which would, in the good faith judgment of the Indemnifying Party, result in the loss of any existing privilege with respect to such information or violate any applicable Law or to take any actions that would unreasonably interfere with the operation of the Indemnitee's business.

(e) Unless the Indemnifying Party has failed to assume the defense of the Third-Party Claim in accordance with the terms of this Agreement, no Indemnitee may settle or compromise any Third-Party Claim without the prior written consent of the Indemnifying Party (not to be unreasonably withheld, conditioned or delayed). If an Indemnifying Party has failed to assume the defense of the Third-Party Claim, it shall not be a defense to any obligation to pay any amount in respect of such Third-Party Claim that the Indemnifying Party was not consulted in the defense thereof, that such Indemnifying Party's views or opinions as to the conduct of such defense were not accepted or adopted, that such Indemnifying Party does not approve of the quality or manner of the defense thereof or that such Third-Party Claim was incurred by reason of a settlement rather than by a judgment or other determination of liability.

(f) In the case of a Third-Party Claim, no Indemnifying Party shall consent to entry of any judgment or enter into any settlement of the Third-Party Claim without the prior written consent (not to be unreasonably withheld, conditioned or delayed) of the Indemnitee if the effect thereof is to permit any injunction, declaratory judgment, other order or other non-monetary relief to be entered, directly or indirectly, against any Indemnitee, does not release the Indemnitee from all liabilities and obligations with respect to such Third-Party Claim or includes an admission of guilt or liability on behalf of the Indemnitee.

(g) Absent fraud or intentional misconduct by an Indemnifying Party, the indemnification provisions of this Article IX shall be the sole and exclusive remedy of an Indemnitee for any monetary or compensatory damages or Losses resulting from any breach of this Agreement or any Ancillary Agreement, and each Indemnitee expressly waives and relinquishes any and all rights, claims or remedies such Person may have with respect to the foregoing other than under this Article IX against any Indemnifying Party.

Section 9.5 Indemnification Obligations Net of Insurance Proceeds. The Parties intend that any Loss subject to indemnification or reimbursement pursuant to this Article IX (an "Indemnifiable Loss") will be net of Insurance Proceeds actually received that actually reduce the amount of the Loss. Accordingly, the amount which an Indemnifying Party is required to pay to any Indemnitee will be reduced by any Insurance Proceeds actually recovered by or on behalf of the Indemnitee in reduction of the related Loss. If an Indemnitee receives a payment (an "Indemnity Payment") required by this Agreement from an Indemnifying Party in respect of any Loss and subsequently receives Insurance Proceeds, the Indemnitee will promptly pay to the Indemnifying Party an amount equal to the excess of the Indemnity Payments received over the amount of the Indemnity Payments that would have been due if the Insurance Proceeds recovery had been received, realized or recovered before the Indemnity Payments were made. The Indemnitee shall use and cause its Affiliates to use commercially reasonable efforts to recover any Insurance Proceeds to which the Indemnitee is entitled with respect to any Indemnifiable Loss. The existence of a claim by an Indemnitee for insurance or against a third party in respect of any Indemnifiable Loss shall not, however, delay any payment pursuant to the indemnification provisions contained in this Article IX and otherwise determined to be due and owing by an Indemnifying Party; rather, the Indemnifying Party shall make payment in full of such amount so determined to be due and owing by it against a concurrent written assignment by the Indemnitee to the Indemnifying Party of the portion of the claim of the Indemnitee for such insurance or against such third party equal to the amount of such payment. The Indemnitee shall use and cause its Affiliates to use commercially reasonable efforts to assist the Indemnifying Party in recovering

or to recover on behalf of the Indemnifying Party, any Insurance Proceeds to which the Indemnifying Party is entitled with respect to any Indemnifiable Loss as a result of such assignment. The Indemnitee shall make available to the Indemnifying Party and its counsel all employees, books and records, communications, documents, items or matters within its knowledge, possession or control that are necessary, appropriate or reasonably deemed relevant by the Indemnifying Party with respect to the recovery of such Insurance Proceeds; provided, however, that nothing in this sentence shall be deemed to require a Party to make available books and records, communications, documents or items which (i) in such Party's good faith judgment could result in a waiver of any privilege even if the Parties cooperated to protect such privilege as contemplated by this Agreement or (ii) such Party is not permitted to make available because of any Law or any confidentiality obligation to a third party, in which case such Party shall use commercially reasonable efforts to seek a waiver of or other relief from such confidentiality restriction. Unless the Indemnifying Party has made payment in full of any Indemnifiable Loss, such Indemnifying Party shall use and cause its Affiliates to use commercially reasonable efforts to recover any Insurance Proceeds to which it or such Affiliate is entitled with respect to any Indemnifiable Loss.

Section 9.6 Indemnification Obligations Net of Taxes. The Parties intend that any Indemnifiable Loss will be net of Taxes. Accordingly, the amount which an Indemnifying Party is required to pay to an Indemnitee will be adjusted to reflect any Tax benefit to the Indemnitee from the underlying Loss and to reflect any Taxes imposed upon the Indemnitee as a result of the receipt of such payment. Such an adjustment will first be made at the time that the Indemnity Payment is made and will further be made, as appropriate, to take into account any change in the liability of the Indemnitee for Taxes that occurs in connection with the final resolution of an audit by a Taxing Authority. For purposes of this Section 9.6, the value of any Tax benefit to the Indemnitee from the underlying Loss shall be an amount equal to the product of (a) the amount of any present or future deduction allowed or allowable to the Indemnitee by the Code, or other applicable Law, as a result of such Loss and (b) the highest statutory rate applicable under Section 11 of the Code, or other applicable Law. For all Tax purposes other than for purposes of Section 355(g) of the Code, Ensign and Pennant agree to treat (i) any payment required by this Agreement (other than payments with respect to interest accruing after the Effective Time) as either a contribution by Ensign to Pennant or a distribution by Pennant to Ensign, as the case may be, occurring immediately prior to the Effective Time or as a payment of an assumed or retained Liability, and (ii) any payment of interest as taxable or deductible, as the case may be, to the party entitled under this Agreement to retain such payment or required under this Agreement to make such payment, in either case except as otherwise required by applicable Law.

Section 9.7 Contribution. If the indemnification provided for in this Article IX is unavailable to an Indemnitee in respect of any Indemnifiable Loss, then the Indemnifying Party, in lieu of indemnifying such Indemnitee, shall contribute to the Losses paid or payable by such Indemnitee as a result of such Indemnifiable Loss in such proportion as is appropriate to reflect the relative fault of Pennant and each other member of the Pennant Group, on the one hand, and Ensign and each other member of the Ensign Group, on the other hand, in connection with the circumstances which resulted in such Indemnifiable Loss.

Section 9.8 Remedies Cumulative. The remedies provided in this Article IX shall be cumulative and, subject to the provisions of Article X, shall not preclude assertion by any Indemnitee of any other rights or the seeking of any and all other remedies against any Indemnifying Party.

Section 9.9 Survival of Indemnities. The rights and obligations of each of the Parties and their respective Indemnitees under this Article IX shall survive the Effective Time for a period of twenty (20) years thereafter and shall survive the sale or other transfer by any Party or any of its Subsidiaries of any Assets or businesses or the assignment by it of any Liabilities.

Section 9.10 Limitation of Liability. EXCEPT TO THE EXTENT SPECIFICALLY PROVIDED IN THIS AGREEMENT AND ANY ANCILLARY AGREEMENT, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY, WHETHER IN CONTRACT, IN TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY) OR OTHERWISE, FOR ANY EXEMPLARY, PUNITIVE, INDIRECT, REMOTE OR SPECULATIVE DAMAGES AS A RESULT OF ANY BREACH, PERFORMANCE OR NON-PERFORMANCE BY SUCH PARTY UNDER THIS AGREEMENT OR SUCH ANCILLARY AGREEMENT, WHETHER OR NOT SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

ARTICLE X
DISPUTE RESOLUTION

Section 10.1 Appointed Representative. Each Party shall appoint a representative who shall be responsible for administering the dispute resolution provisions in Section 10.2 (each, an "Appointed Representative"). Each Appointed Representative shall have the authority to resolve any Disputes on behalf of the Party appointing such representative.

Section 10.2 Negotiation and Dispute Resolution.

(a) Any dispute, controversy or claim arising out of, in connection with, or in relation to the interpretation, performance, nonperformance, enforceability, validity, termination or breach of this Agreement or any Ancillary Agreement or any of the transactions contemplated hereby or thereby between or among the Parties or any members of their respective Groups (each, a "Dispute" and, collectively, "Disputes") shall first be referred by either Party or any of the members of their respective Groups for amicable negotiations by the Appointed Representatives by providing written notice of such Dispute in the manner provided by Section 12.7 below ("Dispute Notice"). All documents, communications and information disclosed in the course of such negotiations that are not otherwise independently discoverable shall not be offered or received as evidence or used for impeachment or for any other purpose, but shall be considered as to have been disclosed for settlement purposes.

(b) If, for any reason, a satisfactory resolution of any Dispute is not achieved by the Appointed Representatives within thirty (30) days of the date of delivery of the Dispute Notice, such Dispute shall be referred for final and binding resolution by arbitration administered by the American Arbitration Association ("AAA") under its Commercial Arbitration Rules then in effect (the "AAA Rules"), except as modified herein:

(i) The arbitration shall be held in Orange County, California. There shall be three arbitrators. Each Party shall appoint one arbitrator in the manner provided by the AAA Rules. The two Party-appointed arbitrators shall jointly appoint the third arbitrator, who shall chair the arbitral tribunal. Upon the written request of any party to the Dispute, any arbitrator not timely shall be appointed by the AAA in the manner provided in the AAA Rules.

(ii) By electing to proceed under the AAA Rules, the parties to the Dispute confirm that any dispute, Claim or controversy concerning the arbitrability of a Dispute, including whether arbitration has been waived, whether an assignee of this Agreement is bound to arbitrate, or as to the interpretation or enforceability of this Section 10.2, shall be determined by the arbitrators.

(iii) The parties to the Dispute intend that the arbitrators shall apply the substantive Laws of the State of Delaware to any Dispute hereunder, without regard to any choice of law principles thereof that would mandate the application of the Laws of another jurisdiction. The parties further intend that this agreement to arbitrate shall be valid, enforceable and irrevocable, and any award rendered by the arbitrators shall be final and binding on all the parties to the Dispute. The parties to the Dispute agree to comply with any award made in any such arbitration proceedings and agree to enforcement of or entry of judgment upon such award, in any California state or federal court, or in any other court of competent jurisdiction.

(iv) By agreeing to arbitration, the parties to the Dispute do not intend to deprive any court of its jurisdiction to issue a pre-arbitral injunction, pre-arbitral attachment, or other order in aid of arbitration proceedings and the enforcement of any award. Without prejudice to such provisional remedies as may be available under the jurisdiction of a court, the arbitral tribunal shall have full authority to grant provisional remedies and to direct the parties to request that any court modify or vacate any temporary or preliminary relief issued by such court, and to award damages for the failure of any party to respect the arbitral tribunal's orders to that effect. In any such action each of the parties to the Dispute irrevocably and unconditionally (i) consents and submits to the jurisdiction and venue of the Courts of the State of California and the Federal Courts of the United States of America located within the State of California (the "California Courts"); (ii) waives, to the fullest extent it may effectively do so, any objection, including any objection to the laying of venue or based on the grounds of forum non conveniens or any right of objection to jurisdiction on account of its place of incorporation or domicile, which it may now or hereafter have to the bringing of any such action or proceeding in any California Court; (iii) consents to service of process in the manner provided by Section 12.8 below or in any other manner permitted by law; and (iv) **WAIVES ANY RIGHT TO TRIAL BY JURY**.

(v) This arbitration, and all prior, subsequent or concurrent judicial proceedings related thereto and permitted herein, shall be conducted pursuant to the Federal Arbitration Act, found at Title 9 of the U.S. Code.

(vi) In order to facilitate the comprehensive resolution of related disputes, all claims between any of the parties to the Dispute that arise under or in connection with this Agreement and the Ancillary Agreements may be brought in a single arbitration. Upon the request of any party to an arbitration proceeding constituted under this Agreement or the

Ancillary Agreement(s), the arbitral tribunal shall consolidate such arbitration proceeding with any other arbitration proceeding relating to this Agreement and/or the Ancillary Agreement(s), if the arbitral tribunal determines that (i) there are issues of fact or law common to the proceedings so that a consolidated proceeding would be more efficient than separate proceedings, and (ii) no party to the Dispute would be unduly prejudiced as a result of such consolidation through undue delay or otherwise. In the event of different rulings on this question by the arbitral tribunal constituted hereunder and another arbitral tribunal constituted under this Agreement or the Ancillary Agreement(s), the ruling of the arbitral tribunal constituted first in time shall control, and such arbitral tribunal shall serve as the tribunal for any consolidated arbitration.

(vii) In the event of a Dispute, each party to the Dispute shall continue to perform its obligations under this Agreement or any Ancillary Agreement in good faith during the resolution of such Dispute as if such Dispute had not arisen, unless and until this Agreement or such Ancillary Agreement is terminated in accordance with the provisions hereof.

(c) The Parties agree that the provisions of this Section 10.2 bind themselves and any of the members of their respective Groups, and further agree to take all measures to lawfully cause the members of their respective Groups to abide and be bound by the terms of this Section 10.2.

ARTICLE XI
TERMINATION

Section 11.1 Termination. Upon written notice, this Agreement and each of the Ancillary Agreements may be terminated at any time prior to the Effective Time by and in the sole discretion of Ensign without the approval of Pennant or any other party thereto.

Section 11.2 Effect of Termination. In the event of termination pursuant to Section 11.1, neither Party shall have any Liability of any kind to the other Party as a result of such termination.

ARTICLE XII
MISCELLANEOUS

Section 12.1 Further Assurances. Subject to the limitations or other provisions of this Agreement, (a) each Party shall, and shall cause the other members of its Group to, use commercially reasonable efforts (subject to, and in accordance with applicable Law) to take promptly, or cause to be taken promptly, all actions, and to do promptly, or cause to be done promptly, and to assist and cooperate with the other Party in doing, all things reasonably necessary, proper or advisable to consummate and make effective the Transactions and to carry out the intent and purposes of this Agreement, including using commercially reasonable efforts to obtain satisfaction of the conditions precedent in Article V within its reasonable control and to perform all covenants and agreements herein applicable to such Party or any member of its Group and (b) neither Party will, nor will either Party allow any other member of its Group to, without the prior written consent of the other Party, take any action which would reasonably be expected to prevent or materially impede, interfere with or delay any of the Transactions. Without limiting the generality of the foregoing, where the cooperation of third parties, such as insurers or trustees, would be necessary in order for a Party to completely fulfill its obligations under this Agreement, such Party shall use commercially reasonable efforts to cause such third parties to provide such cooperation.

Section 12.2 Payment of Expenses. All costs and expenses incurred and directly related to the Transactions shall be paid by the Party to which such cost or expense is properly allocable.

Section 12.3 Amendments and Waivers.

(a) Subject to Section 11.1, this Agreement may not be amended except by an agreement in writing signed by both Parties.

(b) Any term or provision of this Agreement may be waived, or the time for its performance may be extended, by the Party entitled to the benefit thereof and any such waiver shall be validly and sufficiently given for the purposes of this Agreement if it is in writing signed by an authorized representative of such Party. No delay or failure in exercising any right, power or remedy hereunder shall affect or operate as a waiver thereof; nor shall any single or partial exercise thereof or any abandonment or discontinuance of steps to enforce such a right, power or remedy preclude any further exercise thereof or of any other right, power or remedy. The rights and remedies hereunder are cumulative and not exclusive of any rights or remedies that either Party would otherwise have.

Section 12.4 Entire Agreement. This Agreement, the Ancillary Agreements and the Exhibits and Schedules referenced herein and therein and attached hereto or thereto, constitute the entire agreement and understanding between the Parties with respect to the subject matter hereof and supersede all prior negotiations, agreements, commitments, writings, courses of dealing and understandings with respect to the subject matter hereof.

Section 12.5 Survival of Agreements. Except as otherwise expressly contemplated by this Agreement, all covenants and agreements of the Parties contained in this Agreement shall survive the Effective Time and remain in full force and effect in accordance with their applicable terms.

Section 12.6 Third-Party Beneficiaries. Except (a) as provided in Article IX relating to Indemnitees and for the release of any Person provided under Section 9.1, (b) as provided in Section 7.1 relating to insured persons and (c) as provided in Section 8.1(a), this Agreement is solely for the benefit of the Parties and should not be deemed to confer upon third parties any remedy, claim, liability, reimbursement, cause of action or other right in excess of those existing without reference to this Agreement.

Section 12.7 Coordination with Tax Matters Agreement. Except as specifically provided herein, this Agreement shall not apply to Taxes (which are covered by the Tax Matters Agreement). In the case of any conflict between this Agreement and the Tax Matters Agreement in relation to any matter addressed in the Tax Matters Agreement, the Tax Matters Agreement shall prevail.

Section 12.8 Notices. All notices, requests, permissions, waivers and other communications hereunder shall be in writing and shall be deemed to have been duly given (a) five (5) Business Days following sending by registered or certified mail, postage prepaid, (b) when sent, if sent by facsimile or e-mail of a PDF document (with confirmation of transmission) if sent during normal business hours of the recipient, and on the next Business Day if sent after normal business hours of the recipient, (c) when delivered, if delivered personally to the intended recipient, and (d) one (1) Business Day following sending by overnight delivery via a national courier service and, in each case, addressed to a Party at the following address for such Party (as updated from time to time by notice in writing to the other Party):

(a) If to Ensign:

The Ensign Group, Inc.
29222 Rancho Viejo Rd., Suite 127
San Juan Capistrano, CA 92675
Attention: General Counsel
Email: legal@ensignservices.net

(b) If to Pennant:

The Pennant Group, Inc.
1675 E. Riverside Dr., Ste. 150
Eagle, ID 83616
Attention: General Counsel
Email: legal@pennantservices.com

Section 12.9 Counterparts; Electronic Delivery. This Agreement may be executed in multiple counterparts, each of which when executed shall be deemed to be an original, but all of which together shall constitute one and the same agreement. Execution and delivery of this Agreement or any other documents pursuant to this Agreement by facsimile or other electronic means shall be deemed to be, and shall have the same legal effect as, execution by an original signature and delivery in person.

Section 12.10 Severability. If any term or other provision of this Agreement or the Exhibits and Schedules attached hereto is determined by a nonappealable decision by a court, administrative agency or arbitrator to be invalid, illegal or incapable of being enforced by any rule of law or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the Transactions is not affected in any manner materially adverse to either Party. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the court, administrative agency or arbitrator shall interpret this Agreement so as to affect the original intent of the Parties as closely as possible in an acceptable manner to the end that the Transactions are fulfilled to the fullest extent possible. If any sentence in this Agreement is so broad as to be unenforceable, the provision shall be interpreted to be only as broad as is enforceable.

Section 12.11 Assignability; Binding Effect. This Agreement shall be binding upon and inure to the benefit of the Parties and their successors and permitted assigns; provided, however, that the rights and obligations of each Party under this Agreement shall not be assignable, in whole or in part, directly or indirectly, whether by operation of law or otherwise, by such Party without

the prior written consent of the other Party (such consent not to be unreasonably withheld, conditioned or delayed) and any attempt to assign any rights or obligations under this Agreement without such consent shall be null and void. Notwithstanding the foregoing, either Party may assign its rights and obligations under this Agreement to any of their respective Affiliates provided that no such assignment shall release such assigning Party from any liability or obligation under this Agreement.

Section 12.12 Governing Law. This Agreement shall be governed by, and construed and enforced in accordance with, the substantive Laws of the State of Delaware, without regard to any conflicts of law provisions thereof that would result in the application of the Laws of any other jurisdiction.

Section 12.13 Construction. This Agreement shall be construed as if jointly drafted by the Parties and no rule of construction or strict interpretation shall be applied against either Party. The Parties represent that this Agreement is entered into with full consideration of any and all rights which the Parties may have. The Parties have relied upon their own knowledge and judgment. The Parties have had access to independent legal advice, have conducted such investigations they thought appropriate, and have consulted with such other independent advisors as they deemed appropriate regarding this Agreement and their rights and asserted rights in connection therewith. The Parties are not relying upon any representations or statements made by the other Party, or such other Party's employees, agents, representatives or attorneys, regarding this Agreement, except to the extent such representations are expressly set forth or incorporated in this Agreement. The Parties are not relying upon a legal duty, if one exists, on the part of the other Party (or such other Party's employees, agents, representatives or attorneys) to disclose any information in connection with the execution of this Agreement or their preparation, it being expressly understood that neither Party shall ever assert any failure to disclose information on the part of the other Party as a ground for challenging this Agreement.

Section 12.14 Performance. Each Party shall cause to be performed, and hereby guarantees the performance of, all actions, agreements and obligations set forth herein to be performed by any Subsidiary or Affiliate of such Party.

Section 12.15 Title and Headings. Titles and headings to Sections and Articles are inserted for the convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of this Agreement.

Section 12.16 Exhibits and Schedules. The Exhibits and Schedules attached hereto are incorporated herein by reference and shall be construed with and as an integral part of this Agreement to the same extent as if the same had been set forth verbatim herein.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their respective officers as of the date first set forth above.

THE ENSIGN GROUP, INC.

By: /s/ Chad Keetch
Name: Chad Keetch
Title: Executive Vice President and Secretary

THE PENNANT GROUP, INC.

By: /s/ Derek Bunker
Name: Derek Bunker
Title: Executive Vice President

Exhibit A

Pennant Subsidiaries

1. Cornerstone Healthcare, Inc.
2. Pinnacle Senior Living LLC
3. Eagle Pass Senior Living LLC
4. Mission Inn Senior Living LLC
5. Brookhollow Senior Living LLC
6. Beach City Senior Living LLC
7. Mesa Springs Senior Living LLC

Certain Pennant Assets

None.

Certain Pennant Liabilities

None.

AMENDED AND RESTATED CERTIFICATE OF INCORPORATION OF THE PENNANT GROUP, INC.

The Pennant Group, Inc. (the "Corporation"), a corporation organized and existing under the General Corporation Law of the State of Delaware (the "DGCL"), hereby certifies that:

FIRST: The Certificate of Incorporation of the Corporation (the "Original Certificate of Incorporation") was originally filed in the Office of the Secretary of the State of Delaware on January 24, 2019.

SECOND: This Amended and Restated Certificate of Incorporation of the Corporation (this "Amended and Restated Certificate of Incorporation") has been duly approved by the board of directors of the Corporation in accordance with the provisions of Sections 242 and 245 of the DGCL, and was approved by the written consent of the sole stockholder of the Corporation in accordance with the provisions of Section 228 of the DGCL.

THIRD: This Amended and Restated Certificate of Incorporation amends, restates and integrates the Original Certificate of Incorporation.

FOURTH: The Original Certificate of Incorporation is hereby amended and restated to read in its entirety as follows:

ARTICLE I

The name of the Corporation is The Pennant Group, Inc.

ARTICLE II

The address of the Corporation's registered office in the State of Delaware is 1209 Orange Street, City of Wilmington, New Castle County, Delaware 19801. The name of the Corporation's registered agent at that address is The Corporation Trust Company.

ARTICLE III

The purpose of the Corporation is to engage in any lawful act or activity for which corporations may now or hereafter be organized under the DGCL, as amended from time to time.

ARTICLE IV

The total number of shares of capital stock the Corporation is authorized to issue is One Hundred and One Million (101,000,000) shares, consisting of One Hundred Million (100,000,000) shares of common stock, par value $0.001 per share (the "Common Stock"), and One Million (1,000,000) shares of preferred stock, par value $0.001 per share ("Preferred Stock").

A. The holders of shares of the Common Stock shall be entitled to vote on all matters to be voted on by the stockholders of the Corporation and shall be entitled to one vote for each share thereof held of record.

B. The Preferred Stock may be issued from time to time by the board of directors as shares of one or more classes or series, without further stockholder approval. Subject to the provisions hereof and the limitations prescribed by law, the board of directors is expressly authorized, by adopting resolutions providing for the issuance of shares of any particular class or series and, if and to the extent from time to time required by law, by filing with the Delaware Secretary of State a certificate setting forth the resolutions so adopted pursuant to the DGCL, to establish the number of shares to be included in each such class or series and to fix the designation and relative powers, including voting powers (which may be full, limited or non-voting powers), preferences, rights, qualifications and limitations and restrictions thereof, relating to the shares of each such class or series. The rights, privileges, preferences and restrictions of any such additional class or series may be subordinated to, pari passu with (including, without limitation, inclusion in provisions with respect to liquidation and acquisition preferences, redemption and/or approval of matters by vote), or senior to any of those of any present or future class or series of Preferred Stock or Common Stock. The board of directors is also authorized to increase or decrease the number of authorized shares of any class or series of Preferred Stock prior or subsequent to the issue of that class or series, but not below the number of shares of such class or series then outstanding. In case the number of shares of any class or series shall be so decreased, the shares constituting such decrease shall resume the status which they had prior to the adoption of the resolution originally fixing the number of shares of such class or series.

The authority of the board of directors with respect to each class or series shall include, but not be limited to, determination of the following:

(i) the distinctive class or serial designation of such class or series and the number of shares constituting such class or series;

(ii) the annual dividend rate on shares of such class or series, if any, whether dividends shall be cumulative and, if so, from which date or dates;

(iii) whether the shares of such class or series shall be redeemable and, if so, the terms and conditions of such redemption, including the date or dates upon and after which such shares shall be redeemable, and the amount per share payable in case of redemption, which amount may vary under different conditions and at different redemption dates;

(iv) the obligation, if any, of the Corporation to retire shares of such class or series pursuant to a sinking fund;

(v) whether shares of such class or series shall be convertible into, or exchangeable for, shares of stock of any other class or classes and, if so, the terms and conditions of such conversion or exchange, including the price or prices or the rate or rates of conversion or exchange and the terms of adjustment, if any;

(vi) whether the shares of such class or series shall have voting rights, in addition to any voting rights provided by law, and, if so, the terms of such voting rights;

(vii) the rights of the shares of such class or series in the event of voluntary or involuntary liquidation, dissolution or winding-up of the Corporation; and

(viii) any other relative rights, powers, preferences, qualifications, limitations or restrictions thereof relating to such class or series.

ARTICLE V

The number of directors to constitute the whole board of directors shall be such number (not less than four nor more than eleven) as shall be fixed from time to time by resolution of the board of directors adopted by such vote as may be required in the bylaws. The board of directors shall be divided into three classes as nearly equal in number as may be feasible, hereby designated as Class I, Class II and Class III, with the term of office of one class expiring each year. For the purposes hereof, the initial Class I, Class II and Class III directors shall be so designated by a resolution of the board of directors. Each director shall serve for a term ending on the third annual meeting of stockholders following the annual meeting of stockholders at which such director was elected, or until his or her earlier death, resignation or removal; provided, however, that the directors first elected to Class I shall serve for a term ending on the Corporation's first annual meeting of stockholders following the effectiveness of this Amended and Restated Certificate of Incorporation, the directors first elected to Class II shall serve for a term ending on the Corporation's second annual meeting of stockholders following the effectiveness of this Amended and Restated Certificate of Incorporation, and the directors first elected to Class III shall serve for a term ending on the Corporation's third annual meeting of stockholders following the effectiveness of this Amended and Restated Certificate of Incorporation. Subject to the rights, if any, of the holders of any Preferred Stock then outstanding, any vacancy in the board of directors, whether because of death, resignation, disqualification, an increase in the authorized number of directors, removal, or any other cause, may be filled by a vote of the majority of the remaining directors, although less than a quorum, or by a sole remaining director. When the board of directors fills a vacancy, the director chosen to fill that vacancy shall complete the term of the director he or she succeeds (or shall complete the term of the class of directors in which the new directorship was created) and shall hold office until such director's successor shall have been elected and qualified or until such director's earlier death, resignation or removal. No reduction of the authorized number of directors shall have the effect of removing any director prior to the expiration of such director's term of office. Directors shall continue in office until others are elected and qualified in their stead, or until their earlier death, resignation or removal. When the number of directors is changed, each director then serving as such shall nevertheless continue as a director of the class of which he or she is a member until the expiration of his or her current term, and any newly created directorships or any decrease in directorships shall be so assigned among the classes by a majority of the directors then in office, though less than a quorum, as to make all classes as nearly equal in number as may be feasible. Subject to the rights of the holders of any series of Preferred Stock then outstanding and notwithstanding any other provision of this Amended and Restated Certificate of Incorporation, directors may be removed only for cause and only upon the affirmative vote of stockholders representing at least sixty-six and two-thirds percent (66$^{2}/_{3}$%) of the voting power of all of the shares of the Common Stock outstanding entitled to vote thereon, at a meeting of the Corporation's stockholders called for that purpose. Any director may resign at any time upon written notice to the Corporation.

Advance notice of stockholder nominations for the election of members of the board of directors and of business to be brought by stockholders before any meeting of the stockholders of the Corporation shall be given in the manner provided in the bylaws of the Corporation. Elections of directors need not be by written ballot unless the bylaws of the Corporation shall so provide.

ARTICLE VI

To the extent permitted by law, any action required to be taken at any annual or special meeting of stockholders of the corporation, or any action which may be taken at any annual or special meeting of such stockholders, may be taken without a meeting, without prior notice and without a vote, if: (i) a consent in writing, setting forth the action so taken shall be signed by the holders of outstanding stock having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present, and (ii) such action has been earlier approved by the board of directors. Prompt notice of the taking of the corporate action without a meeting by less than unanimous written consent shall be given to those stockholders who have not consented in writing. Special meetings of stockholders may be called only by the Chairman of the Board or the Chief Executive Officer or by the board of directors acting pursuant to a resolution adopted by a majority of the board of directors.

ARTICLE VII

In furtherance and not in limitation of the power conferred upon the board of directors by law, the board of directors shall have power to adopt, amend, alter and repeal from time to time the bylaws of the Corporation by majority vote of all directors except that any provision of the bylaws requiring, for board action, a vote of greater than a majority of the board shall not be amended, altered or repealed except by such supermajority vote. The stockholders of the Corporation may only adopt, amend or repeal bylaws with the affirmative vote of the holders of at least a majority of the voting power of all of the shares of the Common Stock outstanding and entitled to vote thereon.

ARTICLE VIII

The Corporation reserves the right to amend this Amended and Restated Certificate of Incorporation in any manner provided herein or permitted by the DGCL, and all rights and powers, if any, conferred herein on stockholders, directors and officers are subject to the reserved power. Notwithstanding the foregoing, without the affirmative vote of the holders of record of a majority of the voting power of all of the shares of the Common Stock outstanding entitled to vote thereon, the Corporation shall not alter, amend or repeal Article V, Article VI or Article VIII, of this Amended and Restated Certificate of Incorporation or the provisions of Article IV providing for undesignated Preferred Stock.

ARTICLE IX

A. To the fullest extent permitted by the DGCL, as the same exists or as may hereafter be amended, a director of the Corporation shall not be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director.

B. The Corporation shall indemnify to the fullest extent permitted by law any person made or threatened to be made a party to an action or proceeding, whether criminal, civil, administrative or investigative, by reason of the fact that he or she, his or her testator or intestate is or was a director or officer of the Corporation or any predecessor of the Corporation, or serves or served at any other enterprise as a director or officer at the request of the Corporation, or any predecessor to the Corporation.

C. Neither any amendment nor repeal of this Article IX, nor the adoption of any provision of this Amended and Restated Certificate of Incorporation inconsistent with this Article IX, shall eliminate or reduce the effect of this Article IX in respect of any matter occurring, or any action or proceeding accruing or arising or that, but for this Article IX, would accrue or arise, prior to such amendment, repeal or adoption of an inconsistent provision.

ARTICLE X

A. Unless the Corporation consents in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware shall, to the fullest extent permitted by law, be the sole and exclusive forum for any (1) derivative action or proceeding brought on behalf of the Corporation, (2) action asserting a claim of breach of a fiduciary duty owed by any director, officer, employee or agent of the Corporation to the Corporation or its stockholders, or any claim for aiding and abetting any such alleged breach, (3) action asserting a claim against the Corporation or any director or officer of the Corporation arising pursuant to any provision of the DGCL or this Amended and Restated Certificate of Incorporation or the bylaws of the Corporation, or (4) action asserting a claim against the Corporation or any director or officer of the Corporation governed by the internal affairs doctrine except for, as to each of (1) through (4) above, any claim (a) as to which the Court of Chancery determines that there is an indispensable party not subject to the jurisdiction of the Court of Chancery (and the indispensable party does not consent to the personal jurisdiction of the Court of Chancery within ten days following such determination), (b) which is vested in the exclusive jurisdiction of a court or forum other than the Court of Chancery, or (c) arising under the federal securities laws, including the Securities Act of 1933, as amended, as to which the Court of Chancery and the federal district court for the District of Delaware shall concurrently be the sole and exclusive forums. Notwithstanding the foregoing, the provisions of this paragraph A of this Article X will not apply to suits brought to enforce any liability or duty created by the Exchange Act of 1934, as amended, or any other claim for which the federal district courts of the United States of America shall be the sole and exclusive forum.

B. If any action the subject matter of which is within the scope of this Article X is filed in a court other than a court located within the State of Delaware (a “foreign action”) in the name of any stockholder, such stockholder shall be deemed to have consented to: (x) the personal jurisdiction of the state and federal courts located within the State of Delaware in connection with any action brought in any such court to enforce this Article X above (an “enforcement action”), and (y) having service of process made upon such stockholder in any such enforcement action by service upon such stockholder’s counsel in the foreign action as agent for such stockholder.

C. If any provision or provisions of this Article X shall be held to be invalid, illegal or unenforceable as applied to any person or entity or circumstance for any reason whatsoever, then, to the fullest extent permitted by law, the validity, legality and enforceability of such provisions in any other circumstance and of the remaining provisions of this Article X (including, without limitation, each portion of any sentence of this Article X containing any such provision held to be

invalid, illegal or unenforceable that is not itself held to be invalid, illegal or unenforceable) and the application of such provision to other persons or entities and circumstances shall not in any way be affected or impaired thereby. Any person or entity purchasing or otherwise acquiring any interest in shares of capital stock of the Corporation shall be deemed to have notice of and consented to the provisions of this Article X.

* * *

IN WITNESS WHEREOF, the Corporation has caused this Amended and Restated Certificate of Incorporation to be executed on its behalf by its duly authorized officer on this 27th day of September, 2019.

THE PENNANT GROUP, INC.

By: /s/ Daniel H Walker
Name: Daniel H Walker
Title: Chairman, Chief Executive Officer
and President

[*Signature Page to the Amended and Restated Certificate of Incorporation of The Pennant Group, Inc.*]

AMENDED AND RESTATED BYLAWS
OF
THE PENNANT GROUP, INC.
(Effective as of September 27, 2019)

ARTICLE I
OFFICES

Section 1.01 *Registered Office.* The registered office of The Pennant Group, Inc. (the "corporation") in the State of Delaware shall be at 1209 Orange Street, in the City of Wilmington, County of New Castle, Delaware 19801. The name of the corporation's registered agent at that address shall be The Corporation Trust Company.

Section 1.02 *Other Offices.* The corporation also may have an office or offices at such other place or places either within or without the State of Delaware as the board of directors of the corporation (the "board" or the "board of directors") may from time to time determine or the business of the corporation may from time to time require.

Section 1.03 *Books and Records.* The books and records of the corporation may be kept at the corporation's headquarters in Eagle, Idaho or at such other locations within or without the State of Delaware as may from time to time be designated by the board of directors.

ARTICLE II
MEETINGS OF STOCKHOLDERS

Section 2.01 *Place of Meetings.* Each meeting of the stockholders of the corporation shall be held at such place either within or without the State of Delaware as shall be fixed by resolution of the board of directors and specified in the notice of said meeting. If no designation is made by the board of directors, the place of meeting shall be the principal office of the corporation.

Section 2.02 *Annual Meetings.* The annual meeting of the stockholders for the transaction of such business as may properly come before the meeting shall be held at such place, date and time as shall be determined by the board of directors.

Section 2.03 *Special Meetings.* A special meeting of the stockholders for any purpose or purposes may be called at any time only by the chairman of the board, the chief executive officer or by a majority of the board of directors.

Section 2.04 *Notice of Annual and Special Meetings.* Except as otherwise required by law, written, printed or electronic notice stating the place, date and hour of each meeting of stockholders, whether annual or special, and the purposes for which the meeting is called shall be given not less than ten (10) days nor more than sixty (60) days before the date of the meeting, either personally, by mail or, to the extent permitted by law, by a form of electronic transmission (as such term is defined in the Delaware General Corporation Law), to each stockholder of record entitled to vote at such meeting. If mailed, such notice shall be deemed to be delivered when deposited in the U.S. mail with postage thereon prepaid, addressed to the stockholder at his address as it appears on the stock transfer books of the corporation. Notice given by a form of electronic transmission that satisfies the requirements of the Delaware General Corporation Law

and has been consented to by the stockholder to whom notice is given shall be deemed given at the times specified with respect to the giving of notice by electronic transmission in the Delaware General Corporation Law. An affidavit of the corporation's secretary, an assistant secretary or an agent of the corporation that notice has been given shall, in the absence of fraud, be prima facie evidence of the facts stated in the affidavit. Any previously scheduled meeting of stockholders (whether an annual meeting or a special meeting) may be cancelled, rescheduled or postponed by resolution of the board of directors upon public notice given prior to the time previously scheduled for such meeting of stockholders.

Section 2.05 *Business at Annual and Special Meetings*. The business, including the nomination of directors, to be transacted at any annual or special meeting of stockholders shall be limited to business that is properly brought before the meeting. For the purposes of these bylaws, "properly brought before the meeting" shall mean the business that is (i) specified in the notice of the meeting (or any supplement thereto) given by or at the direction of the board of directors, (ii) otherwise brought before an annual meeting by or at the direction of the board of directors, or (iii) a proper matter for stockholder action under the Delaware General Corporation Law that has been otherwise properly brought before an annual meeting by a stockholder who is a stockholder of record on the date of the giving of the notice provided for in this Section 2.05 and on the record date for the determination of stockholders entitled to notice of and to vote at such annual meeting, who is entitled to vote at such annual meeting and who complies with the notice procedures set forth in this Section 2.05. In order for business to be properly brought before an annual meeting by a stockholder, the stockholder must, in addition to any other applicable requirements, give written notice in proper form of such stockholder's intent to bring a matter before the annual meeting, which notice must be received by the secretary of the corporation at the corporation's principal executive offices no later than the close of business on the sixtieth (60th) day, nor earlier than the close of business on the ninetieth (90th) day, prior to the anniversary date of the immediately preceding annual meeting; provided, however, that in the event that no annual meeting was held in the previous year or the annual meeting is called for a date that is not within thirty (30) days before or after such anniversary date, notice by the stockholder to be timely must be so received not earlier than the close of business on the ninetieth (90th) day prior to such annual meeting and not later than the close of business on the later of the sixtieth (60th) day prior to such annual meeting, or not later than the close of business on the 10th day following the day on which public disclosure of the date of the meeting was made by the corporation, whichever occurs first; provided, further, that for the purpose of calculating the timeliness of stockholder notices for the first annual meeting of stockholders following the effectiveness of these bylaws, the date of the immediately preceding annual meeting shall be deemed to be June 1, 2019. In no event shall the public announcement of a postponement or adjournment of an annual meeting to a later date or time commence a new time period for the giving of a stockholder's notice as described above. Except with respect to nominations for the election of directors, which shall be governed by Section 3.02 hereof, to be in proper form, each such notice shall set forth: (a) the name and address of the stockholder who intends to bring such matter before a meeting; (b) the class or series and number of shares of capital stock of the corporation entitled to vote at such meeting which are owned beneficially or of record by such stockholder; (c) a representation that the stockholder is a holder of record of stock of the corporation entitled to vote at such meeting and intends to appear in person or by proxy at the meeting to bring such matter before the meeting; (d) a description of the business desired to be brought before the meeting and the reasons therefor; (e) such other information

regarding the stockholder and the business proposed by such stockholder as would be required to be included in the proxy statement pursuant to the rules and regulations of the Securities and Exchange Commission (the "SEC"); and (f) a representation as to the stockholder's material interest in the business being proposed. In addition, the stockholder making such proposal shall promptly provide any other information reasonably requested by the corporation. Notwithstanding the foregoing, in order to include information with respect to a stockholder proposal in the proxy statement and form of proxy for a stockholder's meeting, stockholders must provide notice as required by, and otherwise comply with the requirements of, the Securities Exchange Act of 1934 (the "Exchange Act"), as amended, and the regulations promulgated thereunder. The presiding officer of the meeting shall refuse to acknowledge any business proposed to be brought before an annual or special meeting not made in compliance with the foregoing procedures.

Section 2.06 *Quorum and Adjourned Meetings*. The holders of a majority of the voting power of the stock entitled to vote at a meeting of the stockholders, present in person or represented by proxy, shall constitute a quorum at all meetings of the stockholders for the transaction of business, except as otherwise provided by statute or by the certificate of incorporation. Where a separate vote by a class or series or classes or series of stock is required at a meeting, the presence, in person or by proxy, of the holders of a majority of the voting power of each such class or series shall also be required to constitute a quorum. If, however, such quorum shall not be present or represented at any meeting of the stockholders, either the chairperson of the meeting or the holders of a majority of the voting power of the stock entitled to vote thereat, present in person or represented by proxy, shall have the power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present or represented. At such adjourned meeting, at which the quorum shall be present or represented, any business may be transacted which might have been transacted at the meeting as originally noticed. Notice of an adjourned meeting need not be given if the time and place, if any, are announced at the meeting so adjourned, except that if the adjournment is for more than thirty (30) days, or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting. A quorum, once established at a meeting, shall not be broken by the withdrawal of the holders of enough voting power to leave less than a quorum. If a quorum is present at an original meeting, a quorum need not be present at an adjourned session of that meeting.

Section 2.07 *Required Vote*. When a quorum is present at any meeting, the vote of the holders of a majority of the voting power of the stock entitled to vote thereat, present in person or represented by proxy, shall decide any question brought before such meeting, unless the question is one upon which, by express provision of statute or by the certificate of incorporation or these bylaws, a different level of vote is required, in which case such express provisions shall govern and control the decision of such question. Notwithstanding the preceding sentence, elections of directors at all meetings of the stockholders at which directors are to be elected shall be by written ballot, and, except with respect to the right, if any, of the holders of any series of preferred stock or any other series or class of stock to elect additional directors under specified circumstances, a plurality of the voting power of the stock, present in person or represented by proxy, at the meeting and entitled to vote on the matter shall elect directors.

Section 2.08 *Conduct of Meetings of Stockholders.* The chairman of the board of directors, or if there shall be none or in his or her absence, the chief executive officer or if there shall be none or in his or her absence, the president, who is present at the meeting, or in all of their absences an individual designated by the board of directors, shall call to order and act as the chair of any meeting of the stockholders of the corporation. The stockholders shall not have the right to elect a different person as chairman of the meeting. The secretary of the corporation shall serve as the secretary of the meeting or, if there shall be none or in his or her absence, the secretary of the meeting shall be such person as the chair of the meeting appoints. The board of directors may, to the extent not prohibited by law, adopt by resolution such rules, regulations and procedures for the conduct of the meeting of stockholders as it shall deem appropriate. Except to the extent inconsistent with such rules, regulations and procedures as adopted by the board of directors, the chair of the meeting shall have the right and authority to convene and adjourn or recess (for any or no reason) the meeting (whether or not a quorum is present), prescribe such rules, regulations and procedures and to take or refrain from taking such actions as, in the sole judgment of the chair of the meeting, are necessary, appropriate or convenient for the conduct of the meeting, including, without limitation, establishing an agenda or order of business for the meeting, rules, regulations and procedures for maintaining order at the meeting and the safety of those present, limitations on participation in the meeting to stockholders of record of the corporation, their duly authorized proxies and such other persons as the chair of the meeting shall permit, restrictions on the use of audio and/or visual recording devices, restrictions on entry to the meeting after the time fixed for commencement thereof, limitations on the time allotted to questions or comments by participants and regulation of the opening and closing of the polls for balloting and matters which are to be voted on by ballot. Unless and to the extent otherwise determined by the board of directors or the chair of the meeting, it shall not be necessary to follow Roberts' Rules of Order or any other rules of parliamentary procedure at the meeting of stockholders. Following completion of the business of the meeting as determined by the chair of the meeting, the chair of the meeting shall have the exclusive authority to adjourn the meeting.

Section 2.09 *Conduct of Business.* No business shall be conducted at an annual or special meeting of stockholders of the corporation except business brought before the meeting in accordance with the procedures set forth in these bylaws. If the introduction of any business at an annual or special meeting of stockholders does not comply with the procedures specified in this Article, the chair of the meeting shall declare that such business is not properly before the meeting and shall not be considered at the meeting.

Section 2.10 *Stockholder List.* The secretary of the corporation shall prepare and make available, at least ten (10) days before every meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting, arranged in alphabetical order, and showing the address of each stockholder and the number of shares registered in the name of each stockholder. Such list shall be open to the examination of any stockholder, for any purpose germane to the meeting, during ordinary business hours, for a period of at least ten (10) days prior to the meeting, at the corporation's principal place of business. The list shall also be produced and kept at the time and place of the meeting during the whole time thereof, and may be inspected by any stockholder who is present.

Section 2.11 *Inspectors of Elections*. The board of directors by resolution shall appoint one or more inspectors of election, which inspector or inspectors may include individuals who serve the corporation in other capacities, including, without limitation, as officers, employees, agents or representatives of the corporation, to act at the meeting (or any adjournment thereof) and make a written report thereof. Such inspector shall decide upon the qualification of the voters and shall certify and report the number of shares represented at the meeting and entitled to vote on any question, determine the number of votes entitled to be cast by each share, shall conduct the vote and, when the voting is completed, accept the votes and ascertain and report the number of shares voted respectively for and against each question, and determine, and retain for a reasonable period a record of the disposition of, any challenge made to any determination made by such inspector. One or more persons may be designated as alternate inspectors to replace any inspector who fails to act. If no inspector or alternate has been appointed to act, or if all inspectors or alternates who have been appointed are unable to act, at a meeting of stockholders, the chairman of the meeting shall appoint one or more inspectors to act at the meeting. Each inspector, before discharging his or her duties, shall take and sign an oath faithfully to execute the duties of inspector with strict impartiality and according to the best of his or her ability. The inspectors shall have the duties prescribed by the General Corporation Law of the State of Delaware.

Section 2.12 *Fixing Record Date*. If the corporation proposes to take any action for which the Delaware General Corporation Law would permit it to fix a record date, the board of directors may fix such a record date as provided under the Delaware General Corporation Law.

Section 2.13 *Action Without a Meeting*. To the extent permitted by law, any action required to be taken at any annual or special meeting of stockholders of the corporation, or any action which may be taken at any annual or special meeting of such stockholders, may be taken only with regards to an action that has been earlier approved by the board, without a meeting, without prior notice and without a vote, if a consent in writing, setting forth the action so taken and earlier approved by the board, shall be signed by the holders of outstanding stock having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted. Prompt notice of the taking of the corporate action without a meeting by less than unanimous written consent shall be given to those stockholders who have not consented in writing.

ARTICLE III
BOARD OF DIRECTORS

Section 3.01 *General Powers*. The business, property and affairs of the corporation shall be managed under the direction of the board of directors.

Section 3.02 *Nomination of Directors*. Only persons who are nominated in accordance with the following procedures shall be eligible for election as directors, except as may be otherwise provided in the certificate of incorporation with respect to the right, if any, of holders of a class of preferred stock of the corporation to nominate and elect a specified number of directors. To be properly brought before an annual meeting of the stockholders, or any special meeting of the stockholders called for the purpose of electing directors, nominations for the election of a director must be (i) made by or at the direction of the board of directors (or any duly authorized committee thereof) and specified in the notice of meeting (or any supplement thereto) given by or at the direction of the board of directors, (ii) made by or at the direction of the board

of directors (or any duly authorized committee thereof) to be brought before an annual meeting, or (iii) made by any stockholder of the corporation who is a stockholder of record on the date of the giving of the notice provided for in this Section 3.02 and on the record date for the determination of stockholders entitled to notice of and to vote at such meeting, who is entitled to vote at such meeting and who complies with the notice procedures set forth in this Section 3.02. In addition to any other applicable requirements, for a nomination to be made by a stockholder, such stockholder must have given timely notice thereof in proper written form to the secretary of the corporation. To be timely, such stockholder's notice must be received by the secretary of the corporation at the corporation's principal executive offices, (i) in the case of an annual meeting, in accordance with the time provisions set forth in Section 2.05, and, (ii) in the case of a special meeting of the stockholders called for the purpose of electing directors, not later than the close of business on the tenth (10th) day following the day on which notice of the date of the special meeting was mailed or public disclosure of the date of the special meeting was made by the corporation, whichever first occurs. To be in proper written form, each such stockholder's notice shall set forth: (a) the name, age, business address, residence address and principal occupation or employment of each nominee (present and for the past five years), and the name and address of the stockholder making the nomination, (b) the class or series and number of shares of capital stock of the corporation entitled to vote at such meeting which are owned beneficially or of record by each nominee and by the stockholder making the nomination, (c) a representation that the nominating stockholder is a stockholder of record of the corporation's stock entitled to vote at the meeting and intends to appear in person or by proxy at such meeting to nominate the person specified in the notice, (d) each nominee's qualifications for membership on the board of directors, (e) a description of all direct and indirect compensation and other monetary agreements, arrangements and understandings during the past three years, and any other material relationships, between the nominating stockholder, on the one hand, and each proposed nominee, and his or her respective affiliates and associates, or others acting in concert therewith, on the other hand, including, without limitation, all information that would be required to be disclosed pursuant to Rule 404 promulgated under Regulation S-K if the nominating stockholder were the "registrant" for purposes of such rule and the nominee were a director or executive officer of such registrant, (f) all information relating to the person that would be required by this Section 3.02 to be set forth in a stockholder's notice with respect to a director nomination if such nominee were a stockholder providing notice of a director nomination to be made at the meeting, (g) a notarized letter stating the person's written consent to being named in any proxy statement as a nominee and to serve as a director if elected, (h) all of the information relating to each nominee and the stockholder making the nomination that would be required in a proxy statement soliciting proxies for the election of the nominee as a director, or would otherwise be required, in each case pursuant to the rules and regulations of the SEC, (i) a complete and accurate description of all direct or indirect arrangements or understandings between the nominating stockholder and each nominee, any other person or persons (naming such person or persons) pursuant to whose request the nomination is being made by the stockholder, any person controlling, directly or indirectly, or acting in concert with, such nominating stockholder or such beneficial owner and any person controlling, controlled by or under common control with such nominating stockholder or such beneficial owner in connection with the nomination of any nominee to serve as a member of the board of directors or the proposal of any other business at any meeting of the stockholders of the corporation, (j) all other companies to which each nominee is being recommended as a nominee for director, (k) a signed

written consent of the nominee to cooperate with reasonable background checks and personal interviews, to be named in the proxy statement and to serve as a director of the corporation, if elected, (l) a completed and signed (A) questionnaire (as defined below) and (B) representation and agreement (as defined below), and (m) such additional information as the board of directors or a nomination or similar committee appointed by the board of directors may require pursuant to resolutions of the board of directors or such committee's charter. In addition, the stockholder making such nomination shall promptly provide any other information reasonably requested by the corporation, including, without limitation, such other information as may be reasonably required to determine (x) the eligibility of a nominee to serve as a director of the corporation, and (y) whether such nominee qualifies as an "independent director" or "audit committee financial expert" under applicable law, securities exchange rule or regulation or any publicly disclosed corporate governance guideline or committee charter of the corporation. Notwithstanding the foregoing, in order to include information with respect to a stockholder nomination in the proxy statement and form of proxy for a stockholder's meeting, stockholders must provide notice as required by, and otherwise comply with the requirements of, the Securities Exchange Act of 1934, as amended, and the regulations promulgated thereunder. The presiding officer of the meeting shall refuse to acknowledge the nomination of any person not made in compliance with the foregoing procedure.

To be eligible to be a nominee for election or reelection as a director of the corporation, a nominee must deliver (in the case of nominee nominated by a stockholder pursuant to this Section 3.02, in accordance with the time periods prescribed for delivery of notice under these bylaws and applicable law) to the secretary of the corporation at the principal executive offices of the corporation (i) a written questionnaire with respect to the background and qualification of such person and the background of any other person or entity on whose behalf the nomination is being made (in the form provided by the secretary of the corporation upon written request) (a "questionnaire") and (ii) a written representation and agreement (in the form provided by the secretary of the corporation upon written request) that such person (A) is not and will not become a party to (1) any agreement, arrangement or understanding (whether written or oral) with, and has not given any commitment or assurance to, any person or entity as to how such person, if elected as a director of the corporation, will act or vote in such capacity on any issue or question (a "voting commitment") that has not been disclosed to the corporation or (2) any voting commitment that could limit or interfere with such person's ability to comply, if elected as a director of the corporation, with such person's fiduciary duties under applicable law; (B) is not and will not become a party to any agreement, arrangement or understanding (whether written or oral) with any person or entity other than the corporation with respect to any direct or indirect compensation, reimbursement or indemnification in connection with service or action as a director of the corporation that has not been disclosed to the corporation and (C) in such person's individual capacity and on behalf of any person or entity on whose behalf the nomination is being made, would be in compliance, if elected as a director of the corporation, and will comply with all applicable law and all applicable rules of the U.S. stock exchanges upon which shares of capital stock of the corporation are listed and all applicable publicly disclosed corporate governance, conflict of interest, confidentiality and stock ownership and trading policies and other guidelines of the corporation duly adopted by the board of directors (a "representation and agreement").

A stockholder providing notice of any nomination or other business proposed to be brought before a meeting shall further update and supplement such notice, if necessary, so that the information provided or required to be provided in such notice pursuant to this Section 3.02 shall be true and correct (i) as of the record date for the meeting and (ii) as of the date that is ten (10) business days prior to the meeting or any adjournment, recess, rescheduling or postponement thereof, and such update and supplement shall be delivered to, or mailed and received by, the secretary of the corporation at the principal executive offices of the corporation not later than five (5) business days after the record date for the meeting (in the case of the update and supplement required to be made as of the record date) and not later than seven (7) business days prior to the meeting or, if practicable, any adjournment, recess, rescheduling or postponement thereof (and, if not practicable, on the first practicable date prior to the date to which the meeting has been adjourned, recessed, rescheduled or postponed) (in the case of the update and supplement required to be made as of ten (10) business days prior to the meeting or any adjournment, recess, rescheduling or postponement thereof).

Notwithstanding anything in these bylaws to the contrary, unless otherwise required by law, if a stockholder (or a qualified representative of the stockholder) does not appear at the annual or special meeting of stockholders of the corporation and present his or her proposed business or nomination, such proposed business will not be transacted and the nomination will be disregarded, notwithstanding that proxies in respect of such vote may have been received by the corporation. For purposes of this Section 3.02, to be considered a qualified representative of a stockholder, a person must be a duly authorized officer, manager or partner of such stockholder or must be authorized by a writing executed by such stockholder (or a reliable reproduction or electronic transmission of the writing) stating that such person is authorized to act for such stockholder as a proxy at the meeting of stockholders, and such person must produce proof that he or she is a duly authorized officer, manager or partner of such stockholder or such writing or electronic transmission, or a reliable reproduction of the writing or electronic transmission, as well as valid government-issued photo identification, at the meeting of stockholders.

Section 3.03 *Number of Directors*. The number of directors to constitute the whole board of directors shall be such number (not less than four nor more than eleven) as shall be fixed from time to time by resolution adopted by a majority of the entire board of directors. Directors need not be stockholders.

Section 3.04 *Quorum and Manner of Acting.* A majority of the number of the directors in office at the time shall constitute a quorum for the transaction of business at any meeting. Thereafter, a quorum shall be deemed present for purposes of conducting business and determining the vote required to take action for so long as at least a third of the total number of directors is present. Except as otherwise required by the certificate of incorporation or these bylaws, the affirmative vote of a majority of the directors present at any meeting at which a quorum is present shall be required for the taking of any action by the board of directors. In the absence of a quorum at any meeting of the board, such meeting need not be held, or a majority of the directors present thereat or, if no director is present, the secretary, may adjourn such meeting from time to time until a quorum shall be present. Notice of any adjourned meeting need not be given.

Section 3.05 *Offices; Place of Meetings.* The board of directors may hold meetings and have an office or offices at such place or places within or without the State of Delaware, as the board of directors may from time to time determine.

Section 3.06 *Annual Meeting.* A regular meeting of the board of directors shall be held without notice immediately after and at the same place as the annual meeting of the stockholders.

Section 3.07 *Regular Meeting.* Regular meetings of the board of directors shall be held at such places and at such times as the board of directors shall from time to time determine. Notice of regular meetings of the board of directors need not be given.

Section 3.08 *Special Meetings and Notice.* Special meetings of the board of directors shall be held whenever called by the chairman of the board, the chief executive officer or any two of the directors. Except as otherwise provided by law or by these bylaws, notice of each such special meeting shall be given by the secretary (i) in person or by telephone to the director at least 24 hours in advance of the meeting, (ii) by personally delivering written notice to the director's last known business or home address at least 48 hours in advance of the meeting, (iii) by delivering an electronic transmission (including, without limitation, via telefacsimile or electronic mail) to the director's last known number or address for receiving electronic transmissions of that type at least 48 hours in advance of the meeting, (iv) by depositing written notice with a reputable delivery service or overnight carrier addressed to the director's last known business or home address for delivery to that address no later than the business day preceding the date of the meeting or (v) by depositing written notice in the U.S. mail, postage prepaid, addressed to the director's last known business or home address no later than the third business day preceding the date of the meeting. Each such notice shall state the time and place of the meeting but need not state the purposes thereof except as otherwise herein expressly provided. Notice of any such meeting need not be given to any director, however, if waived by him or her in writing or by facsimile, electronic transmission or similar means, or by mail, whether before or after such meeting shall be held, or if he or she shall be present at such meeting; and any meeting of the board shall be a legal meeting without any notice thereof having been given if all of the directors shall be present thereat.

Section 3.09 *Organization.* At each meeting of the board of directors, the chairman of the board, or in the absence of the chairman of the board, if they be directors, the chief executive officer, or in the absence of the chief executive officer, the president, or in the absence of the president, any director chosen by a majority of the directors present thereat, shall preside. The secretary, or in his or her absence an assistant secretary of the corporation, or in the absence of the secretary and all assistant secretaries, a person whom the chairman of such meeting shall appoint, shall act as secretary of such meeting and keep the minutes thereof.

Section 3.10 *Order of Business.* At all meetings of the board of directors, business shall be transacted in the order determined by the board of directors.

Section 3.11 *Action by Unanimous Consent.* Any action required or permitted to be taken at any meeting of the board of directors or of any committee thereof may be taken without a meeting if all members of the board or of such committee, as the case may be, consent to the action in writing or by electronic transmission. The writing or writings or electronic transmission or transmissions shall be filed with the minutes of the proceedings of the board of directors or of the relevant committee.

Section 3.12 *Telephone, etc. Meetings.* Members of the board of directors, or any committee designated by the board of directors, may participate in a meeting of the board of directors, or committee, by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and such participation shall constitute the presence of such person at such meeting.

Section 3.13 *Resignation.* Any director of the corporation may resign, as a director or as a committee member or both, at any time by giving notice in writing or by electronic transmission of his or her resignation to the chairman of the board, the chief executive officer or the secretary of the corporation. Such resignation shall take effect at the time specified therein (if the remaining directors agree to such time), or, if the time when it shall become effective shall not be specified therein, then it shall take effect when received. Except as aforesaid, the acceptance of such resignation shall not be necessary to make it effective.

Section 3.14 *Compensation.* Each director, in consideration of his or her serving as such, shall be entitled to receive from the corporation such amount per annum, or such fees for attendance at board and committee meetings, or both, or such other compensation, including options to acquire capital stock of the corporation, as the board of directors shall from time to time determine by resolution. The board of directors likewise may provide by resolution that the corporation shall reimburse each director or member of a committee for any expenses incurred by him or her on account of his or her attendance at any such meeting. Nothing herein contained shall be construed to preclude any director from serving the corporation in any other capacity and receiving proper compensation therefor.

Section 3.15 *Removal.* Unless otherwise specified by law or the certificate of incorporation, any director or the entire board of directors may be removed at any time by the affirmative vote of the holders of at least sixty-six and two-thirds percent (66 2/3%) of the shares then entitled to vote at an election of directors, but only for cause.

Section 3.16 *Vacancies.* Except as otherwise provided in the certificate of incorporation and subject to the rights, if any, of the holders of any preferred stock then outstanding, any vacancy in the board, whether because of death, resignation, disqualification, an increase in the authorized number of directors, removal, or any other cause, may be filled by a vote of the majority of the remaining directors, although less than a quorum, or by a sole remaining director. When the board fills a vacancy, the director chosen to fill that vacancy shall complete the term of the director he or she succeeds (or shall complete the term of the class of directors in which the new directorship was created) and shall hold office until such director's successor shall have been elected and qualified or until such director's earlier death, resignation or removal. No reduction of the authorized number of directors shall have the effect of removing any director prior to the expiration of such director's term of office.

Section 3.17 *Chairman and Vice-Chairman of the Board.* The board of directors may elect from its members a chairman of the board and a vice chairman. If a chairman has been elected and is present, the chairman shall preside at all meetings of the board of directors and the stockholders. The chairman shall have such other powers and perform such other duties as the board of directors may designate. If the board of directors elects a vice chairman, the vice chairman shall, in the absence or disability of the chairman, perform the duties and exercise the powers of the chairman and have such other powers and perform such other duties as the board of directors may designate.

ARTICLE IV
COMMITTEES

The board of directors may, by resolution or resolutions passed by a majority of the full board of directors, designate one or more committees, each such committee to consist of one or more directors of the corporation, which, to the extent provided in said resolution or resolutions and the committee's charter and subject to the limitations contained in the Delaware General Corporation Law, shall have and may exercise all the powers of the board of directors in the management of the business and affairs of the corporation. Such committee or committees shall have such name or names as may be determined from time to time by resolution adopted by the board of directors. The board of directors may make, alter and repeal a committee's charter or other rules for the conduct of such committee's business. Any such committee shall keep written minutes of its meetings and report the same to the board at the next regular meeting of the board. Unless the board or these bylaws shall otherwise prescribe the manner of proceedings of any such committee, meetings of such committee may be regularly scheduled in advance and may be called at any time by the chairman of the committee or by any two (2) members thereof; otherwise, the provisions of these bylaws with respect to notice and conduct of meetings of the board shall govern. The board of directors shall have power to change the members of any such committee at any time, to fill vacancies and to discharge any such committee, either with or without cause, at any time, unless otherwise provided in such committee's charter, or other rules for the conduct of its business, adopted by the board of directors.

ARTICLE V
OFFICERS

Section 5.01 *Number.* The principal officers of the corporation shall be chosen by the board of directors and shall be a chief executive officer, a chief financial officer, a president, one or more vice presidents as the board of directors from time to time may appoint (the number thereof and their respective titles to be determined by the board of directors and one or more of whom may be designated as executive or senior vice presidents), a secretary and a treasurer. In addition, there may be such subordinate officers, agents and employees as may be appointed in accordance with the provisions of Section 5.03. Any two or more offices may be held by the same person. Any officer may be, but need not be, a director or stockholder. The offices of the corporation for which officers may be elected shall be set forth from time to time by resolution of the board of directors.

Section 5.02 *Election, Qualification and Term of Office.* Each officer of the corporation shall be elected by the board of directors from time to time and shall hold office until his or her successor shall have been duly elected and qualified, unless a different term is specified in the resolution electing the officer, or until his or her death, or until he or she shall have resigned or shall have been removed in the manner herein provided.

Section 5.03 *Other Officers.* The corporation may have such other subordinate officers, agents and employees as the board of directors may deem necessary, including one or more assistant secretaries, one or more assistant treasurers, a controller and one or more assistant controllers, each of whom shall have such authority and perform such duties as the board of directors may from time to time determine.

Section 5.04 *Removal.* Any officer may be removed, either with or without cause, by resolution of the board of directors. Such removal from office shall not affect any rights that such removed officer may have under any employment or stockholder agreement.

Section 5.05 *Resignation.* Any officer may resign at any time by giving notice in writing or by electronic transmission to the board of directors, the chairman of the board or the chief executive officer. Any such resignation shall take effect at the time specified therein (if the board agrees to such time) or, if the time when it shall become effective shall not be specified therein, then it shall take effect when accepted by action of the board of directors. Except as aforesaid, the acceptance of such resignation shall not be necessary to make it effective.

Section 5.06 *Vacancies.* A vacancy in any office because of death, resignation, removal, disqualification or any other cause shall be filled for the unexpired portion of the term in the manner prescribed in these bylaws for regular election or appointment to such office.

Section 5.07 *Powers.* Unless otherwise specified by the board of directors, each officer shall have those powers and shall perform those duties that are (i) set forth in these bylaws (if any are so set forth), (ii) set forth in the resolution of the board of directors electing that officer or any subsequent resolution of the board of directors with respect to that officer's duties or (iii) commonly incident to the office held.

Section 5.08 *Chief Executive Officer.* The chief executive officer shall have general supervisory management over the business, affairs and policies of the corporation and over its officers, shall report to the board of directors and shall see that all orders and resolutions of the board of directors are carried into effect, all subject to the general direction and control of the board of directors. The chief executive officer shall have the authority to sign all certificates, contracts and other instruments on behalf of the corporation and take such actions required in connection therewith. In the absence of the chairman of the board for any reason, including the failure of the board of directors to elect the chairman of the board, or in the event of the chairman's inability or refusal to act, the chief executive officer shall have all the powers of, and be subject to all the restrictions upon, the chairman of the board.

Section 5.09 *President.* The president shall be subject to the direction and control of the chief executive officer and the board of directors and shall be responsible for the general active management of the business, affairs and policies of the corporation, shall perform such other duties as may be prescribed by the board of directors or the chief executive officer and shall have authority to sign all certificates, contracts and other instruments on behalf of the corporation and take such actions required in connection therewith. In the absence of the chief executive officer for any reason, including the failure of the board of directors to elect a chief executive officer, or in the event of the chief executive officer's inability or refusal to act, the president shall have all the powers of, and be subject to all the restrictions upon, the chief executive officer.

Section 5.10 *Chief Financial Officer*. The chief financial officer shall be subject to the direction and control of the board of directors and the chief executive officer, shall have primary responsibility for the financial affairs of the corporation and shall (i) keep accurate financial records for the corporation; (ii) deposit all moneys, drafts and checks in the name of, and to the credit of, the corporation in such banks and depositories as the board of directors shall, from time to time, designate or otherwise authorize; (iii) have the power to endorse, for deposit, all notes, checks and drafts received by the corporation; (iv) disburse the funds of the corporation in accordance with the corporation's policies and procedures as adopted by resolution of the board of directors, making or causing to be made proper vouchers therefor; (v) render to the chief executive officer and the board of directors, whenever requested, an account of all of his or her transactions as chief financial officer and of the financial condition of the corporation, and (vi) perform such other duties as may, from time to time, be prescribed by the board of directors or by the chief executive officer. The powers and duties specified herein may be modified or limited at any time by the board of directors.

Section 5.11 *Vice President*. The vice president or, if there be more than one, the vice presidents, in the order determined by the board of directors (or if there is no such determination, then in the order of their election), shall be subject to the direction and control of the board of directors and the chief executive officer, shall have such powers and duties as the board of directors or the chief executive officer may assign to them, and shall, in the absence of the president for any reason, including the failure of the board of directors to elect a president or in the event of the president's inability or refusal to act, perform the duties of the president, and, when so acting, have all the powers of, and be subject to all of the restrictions upon, the president. If the board of directors elects more than one vice president, then it shall determine their respective titles, seniority and duties. The vice president or vice presidents shall perform such other duties and have such other powers as the board of directors or the chief executive officer may from time to time prescribe.

Section 5.12 *Secretary*. The secretary shall, to the extent practicable, attend all meetings of the stockholders and the board of directors. The secretary shall record or cause to be recorded in books kept for such purpose the minutes of the meetings (and the actions by written consent) of the stockholders, the board of directors and all committees of which a secretary shall not have been appointed; shall see that all notices are duly given in accordance with the provisions of these bylaws and as required by law; shall be custodian of all corporate records (other than financial); shall see that the books, reports, statements, certificates and all other documents and records required by law are properly kept and filed; and, in general, shall perform all duties as may from time to time be assigned to him or her by the board of directors or the chief executive officer.

Section 5.13 *Assistant Secretary*. The assistant secretary, or if there be more than one, the assistant secretaries, in the order determined by the board of directors (or if there be no such determination, then in the order of their election), shall have such powers and duties as the board of directors or the chief executive officer may assign to them and shall, in the absence of the secretary for any reason, including the failure of the board of directors to elect a secretary or in the event of the secretary's inability or refusal to act, perform the duties and exercise the powers of the secretary and perform such other duties and have such other powers as the board of directors or chief executive officer may from time to time prescribe. Any assistant secretary shall have authority to attest by his or her signature to the same extent as the secretary.

Section 5.14 *Treasurer*. The treasurer shall have charge and custody of, and be responsible for, all funds and securities of the corporation, and shall deposit all such funds to the credit of the corporation in such banks, trust companies or other depositories as shall be selected by the board of directors or any officer or officers authorized by board of directors to make such determinations; shall disburse the funds of the corporation as may be ordered by the board of directors or any officer or officers authorized by the board of directors to make such determinations, making proper vouchers for such disbursements; shall keep full and accurate accounts of all funds received and paid on account of the corporation and shall render to the board of directors or the chief executive officer, whenever the board or the chief executive officer may require him or her so to do, a statement of all his or her transactions as treasurer; and, in general, shall perform all the duties incident to the office of treasurer and such other duties as from time to time may be assigned to him or her by the board of directors or the chief executive officer. In the absence of the chief financial officer for any reason, including the failure of the board of directors to elect a chief financial officer or in the event of the chief financial officer's inability or refusal to act, the treasurer shall perform the duties of the chief financial officer, and, when so acting, have all the powers of, and be subject to all of the restrictions upon, the chief financial officer.

Section 5.15 *Assistant Treasurer*. The assistant treasurer, or if there be more than one, the assistant treasurers, in the order determined by the board of directors (or if there be no such determination, then in the order of their election), shall, in the absence of the treasurer, for any reason, including the failure of the board of directors to elect a treasurer, or the treasurer's inability or refusal to act, perform the duties and exercise the powers of the treasurer, and perform such other duties and have such other powers as the board of directors and chief executive officer may from time to time prescribe.

Section 5.16 *Compensation*. The compensation of the officers shall be fixed from time to time by or in the manner prescribed by the board of directors, and none of such officers shall be prevented from receiving compensation by reason of the fact that he or she is also a director of the corporation. The application of this Section 5.16 shall not affect the right any officer may have regarding compensation under an employment agreement.

ARTICLE VI
STOCK CERTIFICATES AND TRANSFERS

Section 6.01 *Stock Certificates*. The shares of stock of the corporation shall be uncertificated, provided that the board of directors of the corporation may provide by resolution or resolutions that some or all of any or all classes or series of its stock shall be represented by certificates. Any such resolution shall not apply to shares represented by a certificate until such certificate is surrendered to the corporation. Every holder of stock represented by certificates shall be entitled to have a certificate signed by, or in the name of the corporation by, (i) the chairman of the board, or the president or vice president and (ii) the treasurer or an assistant treasurer, or the secretary or an assistant secretary. Any or all signatures on any such certificate may be a facsimile. In case any officer, transfer agent or registrar who has signed, whose

facsimile signature has been used on or who has duly affixed a facsimile signature or signatures to any such certificate or certificates shall cease to be such officer, transfer agent or registrar of the corporation whether because of death, resignation or otherwise before such certificate or certificates have been issued by the corporation, such certificate or certificates may nevertheless be issued as though the person or persons who signed such certificate or certificates, whose facsimile signature or signatures have been used thereon or who duly affixed a facsimile signature or signatures thereon had not ceased to be such officer, transfer agent or registrar of the corporation.

Section 6.02 *Lost, Stolen or Destroyed Certificates.* The board of directors may direct a new certificate or certificates or uncertificated shares to be issued in place of any certificate or certificates theretofore issued by the corporation alleged to have been lost, stolen or destroyed, upon the making of an affidavit of that fact by the person claiming the certificate of stock to be lost, stolen or destroyed. When authorizing such issue of a new certificate or certificates or uncertificated shares, the board of directors may, in its discretion and as a condition precedent to the issuance thereof, require the owner of such lost, stolen or destroyed certificate or certificates, or his/her legal representative, to advertise the same in such manner as it shall require and/or to give the corporation a bond in such sum as it may direct as indemnity against any claim that may be made against the corporation with respect to the certificate alleged to have been lost, stolen or destroyed or the issuance of such new certificate or certificates or uncertificated shares.

Section 6.03 *Stock Transfers.* The shares of the stock of the corporation shall be transferred on the books of the corporation by the holder thereof in person or by his attorney, (i) with regard to certificated shares, upon surrender for cancellation of certificates for the same number of shares, with an assignment and power of transfer endorsed thereon or attached thereto, duly executed, and with such proof of the authenticity of the signature as the corporation or its agents may reasonably require, and (ii) with regard to uncertificated shares, upon delivery of an instruction duly executed, and with such proof of the authenticity of the signature as the corporation or its agents may reasonably require. Whenever any transfer of shares shall be made for collateral security, and not absolutely, it shall be so expressed in the entry of transfer if, when the certificates are presented to the corporation for transfer or uncertificated shares are requested to be transferred, both the transferor and transferee request the corporation to do so.

Section 6.04 *Registered Stockholders*. The corporation shall be entitled to recognize the exclusive right of a person registered on its records as the owner of shares of stock of the corporation to receive dividends, to vote, to receive notifications and otherwise to exercise all the rights and powers of an owner of such shares. The corporation shall not be bound to recognize any equitable or other claim to or interest in any such shares of stock on the part of any other person, whether or not it shall have express or other notice thereof, except as otherwise provided by the laws of the State of Delaware.

ARTICLE VII
GENERAL PROVISIONS

Section 7.01 *Dividends*. Dividends upon the capital stock of the corporation, subject to the provisions of the certificate of incorporation, if any, may be declared by the board of directors at any regular or special meeting, pursuant to law. Dividends may be paid in cash, in property, or in shares of the capital stock, subject to the provisions of the certificate of incorporation. Before payment of any dividend, there may be set aside out of any funds of the corporation available for dividends such sum or sums as the directors from time to time, in their absolute discretion, think proper as a reserve or reserves to meet contingencies, or for equalizing dividends, or for repairing or maintaining any property of the corporation, or for such other purposes as the directors shall think conducive to the interest of the corporation, and the directors may modify or abolish any such reserve in the manner in which it was created.

Section 7.02 *Contracts and Checks*. Except as otherwise required by law or the certificate of incorporation, any bonds, contracts, deeds, leases, checks, drafts or other orders for payment of money, demands for money, notes or other evidence of indebtedness, or other instruments may be executed and delivered in the name and on the behalf of the corporation by such officer or officers of the corporation as provided in these bylaws or as the board of directors may from time to time direct. Such authority may be general or confined to specific instances as the board of directors may determine, and unless so authorized by the board or by these bylaws, no officer, agent, or employee shall have any power or authority to bind the corporation by any contract or engagement or to pledge its credit or to render it liable for any purpose or in any amount. The chairman of the board, the chief executive officer, the chief financial officer, the president or any vice president may execute bonds, contracts, deeds, leases, checks, drafts or other orders for payment of money, demands for money, notes or other evidence of indebtedness, and other instruments to be made or executed for or on behalf of the corporation. Subject to any restrictions imposed by the board of directors or the chairman of the board, the chief executive officer, the chief financial officer or the president of the corporation may delegate contractual powers to others under his jurisdiction, it being understood, however, that any such delegation of power shall not relieve such officer of responsibility with respect to the exercise of such delegated power.

Section 7.03 *Fiscal Year and Audits*. The fiscal year of the corporation shall begin on the first day of January and end on the thirty-first day of December of each year, unless otherwise fixed by resolution of the board of directors. The accounts, books and records of the corporation shall be audited upon the conclusion of each fiscal year by an independent certified public accountant selected by the board of directors, and it shall be the duty of the board of directors to cause such audit to be made annually.

Section 7.04 *Seal*. The Board of Directors may adopt a corporate seal having inscribed thereon the name of the corporation, the year of its organization and the words “Corporate Seal, Delaware.” The seal may be used by causing it or a facsimile thereof to be impressed or affixed or reproduced or otherwise.

Section 7.05 *Waiver of Notices*. Whenever notice is required to be given by these bylaws or the certificate of incorporation or by law, the person entitled to said notice may waive such notice in writing, either before or after the time stated therein, and such waiver shall be deemed equivalent to notice.

Section 7.06 *Electronic Transmission.* For purposes of these bylaws, "electronic transmission" shall mean a form of communication not directly involving the physical transmission of paper that satisfies the requirements with respect to such communications contained in the Delaware General Corporation Law.

Section 7.07 *Voting Stock of Other Organizations.* Except as the board of directors may otherwise designate, each of the chief executive officer and the chief financial officer may waive notice of, and act as, or appoint any person or persons to act as, proxy or attorney-in-fact for the corporation (with power of substitution) at any meeting of the stockholders, members or other owners of any other corporation or organization the securities or ownership interests of which are owned by the corporation.

ARTICLE VIII
INDEMNIFICATION

Section 8.01 *Indemnification.* The corporation shall, to the fullest extent permitted by law, indemnify every person who is or was a party or is or was threatened to be made a party to any action, suit or proceeding, whether civil, criminal, administrative or investigative (an "Action"), by reason of the fact that such person is or was a director or officer of the corporation or is or was serving at the request of the corporation as a director, officer, trustee, plan administrator or plan fiduciary of another corporation, partnership, limited liability company, trust, employee benefit plan or other enterprise (an "Indemnified Person"), against all expenses (including attorneys' fees), judgments, fines and amounts paid in settlement or other disposition that the Indemnified Person actually and reasonably incurs in connection with the Action and shall reimburse each such person for all legal fees and expenses reasonably incurred by such person in seeking to enforce its rights to indemnification under this Article (by means of legal action or otherwise).

Section 8.02 *Advancement of Expenses.* Upon written request from an Indemnified Person, the corporation shall pay the expenses (including attorneys' fees) incurred by such Indemnified Person in connection with any Action in advance of the final disposition of such Action. The corporation's obligation to pay expenses pursuant to this Section shall be contingent upon the Indemnified Person providing the undertaking required by the Delaware General Corporation Law.

Section 8.03 *Non-Exclusivity.* The rights of indemnification and advancement of expenses contained in this Article shall not be exclusive of any other rights to indemnification or similar protection to which any Indemnified Person may be entitled under any agreement, vote of stockholders or disinterested directors, insurance policy or otherwise.

Section 8.04 *Heirs and Beneficiaries.* The rights created by this Article shall inure to the benefit of each Indemnified Person and each heir, executor and administrator of such Indemnified Person.

Section 8.05 *Effect of Amendment.* Neither the amendment, modification or repeal of this Article nor the adoption of any provision in these bylaws inconsistent with this Article shall adversely affect any right or protection of an Indemnified Person with respect to any act or omission that occurred prior to the time of such amendment, modification, repeal or adoption.

ARTICLE IX
AMENDMENTS

Except as otherwise set forth in these bylaws, the certificate of incorporation or the Delaware General Corporation Law, these bylaws may be altered, amended or repealed, or new bylaws may be adopted, by the board of directors or a majority of the voting power of all of the shares of common stock outstanding and entitled to vote thereon. If the power to adopt, amend or repeal bylaws is conferred upon the board of directors by the certificate of incorporation, it shall not divest or limit the power of the stockholders to adopt, amend or repeal bylaws.

CERTIFICATE OF SECRETARY
OF THE PENNANT GROUP, INC.

The undersigned, Derek J. Bunker, hereby certifies that he is the duly elected and acting Secretary of The Pennant Group, Inc., a Delaware corporation, and that the bylaws attached hereto constitute the bylaws of said corporation as duly adopted by the board of directors on September 25, 2019 to be effective as of September 27, 2019.

IN WITNESS WHEREOF, the undersigned has hereunto subscribed his name this 25th day of September, 2019.

By: /s/ Derek Bunker
Name: Derek Bunker
Title: Secretary

TRANSITION SERVICES AGREEMENT

by and between

THE ENSIGN GROUP, INC.

and

THE PENNANT GROUP, INC.

dated as of

October 1, 2019

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TRANSITION SERVICES AGREEMENT

THIS TRANSITION SERVICES AGREEMENT (as the same may be amended or supplemented from time to time, this "Agreement") is entered into as of October 1, 2019, by and between The Ensign Group, Inc., a Delaware corporation ("Ensign"), and The Pennant Group, Inc., a Delaware corporation ("Pennant"). Ensign and Pennant are sometimes referred to herein individually as a "Party," and collectively as the "Parties." Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Separation Agreement.

RECITALS

WHEREAS, Ensign, through its direct and indirect Subsidiaries, owns the Ensign Business and the Pennant Business;

WHEREAS, Ensign and Pennant have entered into a Master Separation Agreement, dated as of the date hereof (the "Separation Agreement"), pursuant to which Ensign will be separated into two independent publicly-traded companies: (a) Pennant, which, following consummation of the transactions contemplated by the Separation Agreement, will own and conduct the Pennant Business, and (b) Ensign, which, following the consummation of the transactions contemplated by the Separation Agreement, will own and conduct the Ensign Business;

WHEREAS, in connection with the transactions contemplated by the Separation Agreement, (a) Pennant desires to procure certain services from Ensign, and Ensign is willing to provide such services to Pennant and (b) Ensign desires to procure certain services from Pennant, and Pennant is willing to provide such services to Ensign, in each case during a transition period and on the terms and subject to the conditions set forth in this Agreement;

WHEREAS, each Party desires to set forth in this Agreement the principal terms and conditions pursuant to which it will, as applicable, provide or receive such services; and

WHEREAS, the execution of this Agreement by the Parties is a condition precedent to the consummation of the transactions contemplated by the Separation Agreement.

NOW, THEREFORE, in consideration of the foregoing premises and the mutual agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

ARTICLE I
DEFINITIONS

Section 1.1 Certain Definitions. As used in this Agreement (including in Exhibit A), the following capitalized terms shall have the following meanings, applicable both to the singular and the plural forms of the terms described:

"Additional Interest" has the meaning set forth in Section 3.3(b).

"Additional Services" has the meaning set forth in Section 2.2.

"Additional Ensign Third-Party Providers" has the meaning set forth in Section 2.4(b).

"Additional Pennant Third-Party Providers" has the meaning set forth in Section 2.4(c).

"Additional Third-Party Providers" means the Additional Ensign Third-Party Providers and the Additional Pennant Third-Party Providers collectively.

"Adjusted Hourly Rate" for an employee means such employee's hourly rate as set forth on Exhibit C.

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

"Bankruptcy Code" means 11 U.S.C. §§ 101 et seq., as amended.

"Effective Time" means 12:01 a.m. (Eastern time) on October 1, 2019.

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

"Ensign Known Third-Party Providers" has the meaning set forth in Section 2.4(b).

"Ensign Service Costs" means the amounts to be paid by Pennant to Ensign for the Ensign Services provided pursuant to this Agreement.

"Ensign Services" means the services identified in Exhibit A to be provided by Ensign.

"Known Third-Party Providers" means the Ensign Known Third-Party Providers and the Pennant Known Third-Party Providers collectively.

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

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

"Payment Date" has the meaning set forth in Section 3.3(b).

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

"Pennant Known Third-Party Providers" has the meaning set forth in Section 2.4(c).

"Pennant Service Costs" means the amounts to be paid by Ensign to Pennant for Pennant Services provided pursuant to this Agreement.

"Pennant Services" means the services identified in Exhibit A to be provided by Pennant.

"Sales Taxes" has the meaning set forth in Section 3.2.

"Security Regulations" has the meaning set forth in Section 8.2(a).

"Separation Agreement" has the meaning set forth in the Recitals to this Agreement.

"Service Coordinator" has the meaning set forth in Section 2.8.

"Service-Providing Party" means either Ensign or Pennant, as applicable, providing the applicable Services to the Service-Receiving Party.

"Service-Providing Party Group" means the Service-Providing Party and the Subsidiaries of the Service-Providing Party, other than the other Party and the other Party's Subsidiaries.

"Service-Receiving Party" means either Ensign or Pennant, as applicable, receiving the applicable Services from the Service-Providing Party.

"Service-Receiving Party Group" means the Service-Receiving Party and the Subsidiaries of the Service-Receiving Party, other than the other Party and the other Party's Subsidiaries.

"Service-Receiving Party's Indemnitee" means if the Service-Receiving Party is Ensign, the Ensign Indemnitee or if the Service-Receiving Party is Pennant, the Pennant Indemnitee.

"Services" means the Ensign Services and Pennant Services collectively.

"Systems" has the meaning set forth in Section 8.2(a).

"Term" means the period from the Effective Time to the date of termination of Services under this Agreement pursuant to Section 7.1(b) or (c).

"Third-Party Products and Services" has the meaning set forth in Section 2.4(a).

"Third-Party Providers" has the meaning set forth in Section 2.4(a).

Section 1.2 Interpretation. In this Agreement, unless the context clearly indicates otherwise:

(a) words used in the singular include the plural and words used in the plural include the singular;

(b) the words "include," "includes" and "including" shall be deemed to be followed by the words "without limitation";

(c) the word "or" shall have the inclusive meaning represented by the phrase "and/or";

(d) relative to the determination of any period of time, "from" means "from and including," "to" means "to but excluding" and "through" means "through and including";

(e) accounting terms used herein shall have the meanings historically ascribed to them by Ensign and its Subsidiaries in its and their internal accounting and financial policies and procedures in effect immediately prior to the date of this Agreement;

(f) reference to any agreement, instrument or other document means such agreement, instrument or other document as amended, supplemented and modified from time to time to the extent permitted by the provisions thereof and by this Agreement;

(g) reference to any Law means such Law (including any and all rules and regulations promulgated thereunder) as amended, modified, codified or reenacted, in whole or in part, and in effect at the time of determining compliance or applicability;

(h) references to any Person include such Person's successors and assigns but, if applicable, only if such successors and assigns are permitted by this Agreement; a reference to such Person's "Affiliates" shall be deemed to mean such Person's Affiliates following the Distribution under the Separation Agreement and any reference to a third party shall be deemed to mean a Person who is not a Party or an Affiliate of a Party;

(i) if there is any conflict between the provisions of the main body of this Agreement and Exhibit A or Exhibit B, as applicable, the provisions of the main body of this Agreement shall control unless explicitly stated otherwise in Exhibit A or Exhibit B, as applicable;

(j) if there is any conflict between the provisions of this Agreement and the Separation Agreement, the provisions of this Agreement shall control (but only with respect to the subject matter hereof) unless explicitly stated otherwise herein; and

(k) any portion of this Agreement obligating a Party to take any action or to refrain from taking any action, as the case may be, shall mean that such Party shall also be obligated to cause its relevant Subsidiaries to take such action or to refrain from taking such action, as the case may be.

ARTICLE II
SERVICES

Section 2.1 Services.

(a) Ensign Services

(i) Except as set forth in Exhibit A, Ensign shall use commercially reasonable efforts to provide (or to cause another applicable member of the Ensign Group to provide) to Pennant (or another applicable member of the Pennant Group) the Ensign Services in a manner, scope, nature, timeliness and quality consistent with the manner, scope, nature, timeliness and quality in which such Ensign Services (i) were provided to Pennant (or such other applicable member of the Pennant Group) prior to the Effective Time by Ensign (or such other applicable member of the Ensign Group) and (ii) are provided after the Effective Time by Ensign (or such other applicable member of the Ensign Group) for its own business.

(ii) For those Ensign Services provided to Pennant prior to the Effective Time, Pennant shall use the Ensign Services for substantially the same purposes and in substantially the same manner (including as to volume, amount, level or frequency, as applicable) as such Ensign Services have been used immediately prior to the Effective Time; provided that Exhibit A shall control the scope of and any limitation on the Ensign Services to be provided (to the extent set forth therein) including any Ensign Services that were not previously provided to Pennant prior to the Effective Time, unless otherwise agreed in writing.

(b) Pennant Services

(i) Except as set forth in Exhibit B, Pennant shall use commercially reasonable efforts to provide (or to cause another applicable member of the Pennant Group to provide) to Ensign (or another applicable member of the Ensign Group) the Pennant Services in a manner, scope, nature, timeliness and quality consistent with the manner, scope, nature, timeliness and quality in which such Pennant Services (i) were provided to Ensign (or such other applicable member of the Ensign Group) prior to the Effective Time by Pennant (or such other applicable member of the Pennant Group) and (ii) are provided after the Effective Time by Pennant (or such other applicable member of the Pennant Group) for its own business.

(ii) For those Pennant Services provided to Ensign prior to the Effective Time, Ensign shall use the Pennant Services for substantially the same purposes and in substantially the same manner (including as to volume, amount, level or frequency, as applicable) as such Pennant Services have been used immediately prior to the Effective Time; provided that Exhibit B shall control the scope of and any limitation on the Pennant Services to be provided (to the extent set forth therein) including any Pennant Services that were not previously provided to Ensign prior to the Effective Time, unless otherwise agreed in writing.

(c) The Parties acknowledge the transitional nature of the Services and agree to cooperate in good faith and to use commercially reasonable efforts to effectuate a smooth transition of the Services from the Service-Providing Party to the Service-Receiving Party (or its designee). In addition, the Service-Providing Party shall consider requests for service in good faith and shall use commercially reasonable efforts to provide any such service under this Section 2.1; provided that no member of the Service-Providing Party Group shall be obligated to perform any services if such member, in its reasonable judgment, does not have adequate resources to perform such services or if the provision of such services would interfere with the operation of the Ensign Business or Pennant Business, as applicable.

Section 2.2 Additional Services. If the Service-Receiving Party reasonably determines that additional transition services not listed in Exhibit A or Exhibit B, as applicable, are necessary after the Effective Time, the Service-Receiving Party shall provide written notice to the Service-Providing Party requesting the Service-Providing Party (i) to provide additional (including as to volume, amount, level or frequency, as applicable) or different services that the Service-Providing Party is not expressly obligated to provide under this Agreement, if such services are of the type and scope provided by any member of the Service-Providing Party Group (including any employee of any member of the Service-Providing Party Group) for the Service-Receiving Party prior to the Effective Time, or (ii) expand the scope of any applicable Service (such additional, different or expanded services, the "Additional Services"). The Service-Providing Party shall consider such request in good faith and shall use commercially reasonable efforts to provide any such Additional Service; provided that no member of the Service-Providing Party Group shall be obligated to perform any Additional Services if such member, in its reasonable judgment, does not have adequate resources to perform such Additional Services or if the provision of such Additional Services would interfere with the operation of the Ensign Business or Pennant Business, as

applicable. The Service-Providing Party shall notify the Service-Receiving Party within ten (10) calendar days of receipt of such request as to whether it will or will not provide the Additional Services. If the Service-Providing Party agrees to provide Additional Services pursuant to this Section 2.2, then the Parties shall in good faith negotiate the terms of a supplement to Exhibit A or Exhibit B, as applicable, which will describe in reasonable detail the Additional Services, project scope, term, price and payment terms to be charged for such Additional Services. Once agreed to in writing, the supplement to Exhibit A or Exhibit B, as applicable, shall be deemed part of this Agreement as of such date, and the Additional Services shall be deemed the applicable "Services" provided hereunder, in each case, subject to the terms and conditions of this Agreement.

Section 2.3 No Violations. Notwithstanding anything to the contrary in this Agreement, no Service-Providing Party (nor any member of its respective Group) shall be required to perform the applicable Services hereunder or to take any actions relating thereto that conflict with or violate any applicable Law or any material Contract, sublicense, authorization, certification or permit.

Section 2.4 Third-Party Providers.

(a) The Service-Providing Party shall use commercially reasonable efforts to obtain any required consents, licenses or approvals of the providers ("Third-Party Providers") of any products or services required to be used in providing any applicable Services pursuant to this Agreement ("Third-Party Products and Services"). The Parties understand and agree that provision of any applicable Services requiring the use of any Third-Party Products and Services shall be subject to receipt of any required consents, licenses or approvals of the applicable Third-Party Providers; provided that if any third-party consents, licenses or approvals are not obtained pursuant to the foregoing, the Service-Providing Party will, to the extent reasonably practicable, continue to use commercially reasonable efforts to provide (or to cause another applicable member of the Ensign Group or Pennant Group, as applicable, to provide) services that are substantially similar to the applicable Services for which such consent, license or approval was sought but not obtained; provided, however, that nothing in this Section 2.4(a) shall obligate any Service-Providing Party (or another applicable member of the Ensign Group or Pennant Group, as applicable) to violate any applicable Law or breach any of its contractual obligations to third parties in order to provide the applicable Services hereunder.

(b) With respect to the Ensign Services, (i) Pennant hereby consents to Ensign's use of any Third-Party Provider(s) named in Exhibit A with respect to such Ensign Services ("Ensign Known Third-Party Providers") and (ii) if, after the date of this Agreement, Ensign reasonably determines that it requires the use of Third-Party Providers in addition to the Ensign Known Third-Party Providers ("Additional Ensign Third-Party Providers") in providing such Ensign Services, the use of such Additional Ensign Third-Party Providers shall require the written consent of Pennant's Service Coordinator and, subject to Section 2.4(d), such consent will not be unreasonably withheld, conditioned or delayed.

(c) With respect to the Pennant Services, (i) Ensign hereby consents to Pennant's use of any Third-Party Provider(s) named in Exhibit B with respect to such Pennant Services ("Pennant Known Third-Party Providers") and (ii) if, after the date of this Agreement, Pennant reasonably determines that it requires the use of Third-Party Providers in addition to the Pennant Known Third-Party Providers ("Additional Pennant Third-Party Providers") in providing such Pennant Services, the use of such Additional Pennant Third-Party Providers shall require the written consent of Ensign's Service Coordinator and, subject to Section 2.4(d), such consent will not be unreasonably withheld, conditioned or delayed.

(d) Notwithstanding the foregoing, in those instances in which the use of Third-Party Products and Services will require payment of additional consideration by a Service-Receiving Party and the payment of such additional consideration is not contemplated by this Agreement (including Exhibit A or Exhibit B, as applicable) or has not been previously agreed by the Parties, then (i) the Service-Providing Party will provide the Service-Receiving Party with thirty (30) calendar days' prior written notice detailing the amount of such additional consideration and (ii) the Service-Receiving Party will then have the option to (A) procure its own Third-Party Products and Services at its own expense or (B) authorize the Service-Providing Party to incur the required additional consideration on its behalf and at the Service-Receiving Party's expense and such additional consideration will be deemed an applicable Service Cost under this Agreement.

Section 2.5 Independent Contractor. Each Service-Providing Party hereto (and each applicable member of the Service-Providing Party Group) shall act under this Agreement solely as an independent contractor, and not as an agent, of the other Party (and each applicable member of the Service-Providing Party Group).

Section 2.6 Employees and Representatives. Unless otherwise agreed in writing, each employee and representative of the Service-Providing Party (or a member of the Service-Providing Party Group) that provides Services to the Service-Receiving Party (or a member of the Service-Receiving Group) pursuant to this Agreement (a) shall be deemed for all purposes to be an employee or representative of Service-Providing Party (or a member of the Service-Providing Party Group) and not an employee or representative of Service-Receiving Party (or a member of the Service-Receiving Group) and (b) shall be under the direction, control and supervision of the Service-Providing Party (or such member of the Service-Providing Party Group), and Service-Providing Party (or a member of the Service-Providing Party Group) shall have the sole right to exercise all authority with respect to the employment (including termination of employment) and assignment of such employee or representative and shall have the sole responsibility to pay for all personnel and other related expenses, including salary or wages, of such employee or representative.

Section 2.7 Access. The Service-Receiving Party shall provide (or cause any applicable member of the Service-Providing Party to provide) the Service Providing Party (or any applicable member of the Service-Providing Party Group) such reasonable access to the employees, representatives, facilities and books and records of the Service-Receiving Party (or such member of the Service-Receiving Party Group) as the Service-Providing Party (or such member of the Service-Providing Party Group) shall reasonably request in order to enable the Service-Providing Party (or such member of the Service-Receiving Party Group) to provide any applicable Services required under this Agreement. Any member of the Service-Providing Party Group, receiving access pursuant to this Section 2.7 must conform with and abide by the confidentiality and security provisions in Article VIII, as applicable.

Section 2.8 Service Coordinators; Disputes. Each Party shall appoint a representative to act as the primary contact with respect to the provision of the Services (each such person, a "Service Coordinator"). The initial Service Coordinator for Pennant shall be Derek Bunker, and the initial Service Coordinator for Ensign shall be Pat Ikerd. The Service Coordinators shall meet as expeditiously as possible to resolve any dispute under this Agreement (including, but not limited to, any disputes relating to payments under Article III), and any dispute that is not resolved by the Service Coordinators within thirty (30) calendar days shall be deemed a Dispute under the Separation Agreement and shall be resolved in accordance with the dispute resolution procedures set forth in Article X of the Separation Agreement. When a disputed amount has been resolved, either by mutual agreement of the Parties or by a final decision by a court of competent jurisdiction, the Party owing any amount to another Party shall pay such amount owed to such other Party within five (5) Business Days following such resolution. Each Party may treat an act of the other Party's Service Coordinator as being authorized by such other Party without inquiring whether such Service Coordinator had authority to so act; provided that no Service Coordinator shall have authority to amend this Agreement. Each Party shall advise the other Party promptly in writing of any change in its respective Service Coordinator, setting forth the name of the replacement Service Coordinator, and stating that the replacement Service Coordinator is authorized to act for such Party in accordance with this Section 2.8.

ARTICLE III
PAYMENT

Section 3.1 Pricing.

(a) All Ensign Services provided by Ensign (or another applicable member of the Ensign Group) shall be charged to Pennant at the fees for such Ensign Services determined in accordance with Exhibit A, and the Ensign Service Costs shall be payable by Pennant in the manner set forth in Section 3.3.

(b) All Pennant Services provided by Ensign (or another applicable member of the Ensign Group) shall be charged to Ensign at the fees for such Pennant Services determined in accordance with Exhibit B, and the Pennant Service Costs shall be payable by Ensign in the manner set forth in Section 3.3.

Section 3.2 Taxes. The Parties acknowledge that fees charged for Services may be subject to goods and service taxes, value added taxes, sales taxes or similar taxes (collectively, "Sales Taxes"). With respect to all Services provided under this Agreement, (a) the Service-Providing Party shall be liable for reporting and paying the Sales Taxes or any other applicable taxes imposed on fees received for providing such Services and shall provide the Service-Receiving Party evidence of any such payment for taxes paid on fees received for providing such Services reasonably promptly following payment thereof and (b) the Service-Receiving Party shall reasonably promptly reimburse the Service-Providing Party for the amount of such taxes paid on fees received for providing such Services. The Service-Receiving Party shall be liable for any applicable use taxes imposed on the applicable Services received.

Section 3.3 Billing and Payment.

(a) With respect to Pennant as the Service-Providing Party, within twenty (20) calendar days and with respect to Ensign as the Service-Providing Party, within twenty-five (25) calendar days after the end of each month, the Service-Providing Party will invoice the Service-Receiving Party for the applicable Service Costs on a monthly basis, in arrears, for the prior month just ended. The invoice shall set forth in reasonable detail for the period covered by such invoice (i) the Services rendered, (ii) the Service Costs for each type of Service provided, (iii) the amount of such Service Costs that have been offset by Service Costs due to the other Party pursuant to Section 3.3(d) and (iv) such additional information as may be reasonably requested by the Service-Receiving Party.

(b) The Service-Receiving Party agrees to pay all of the applicable Service Costs that are not settled pursuant to an offset again amounts owed pursuant to Section 3.3(d) on or before thirty (30) calendar days after the date on which an invoice for Service Costs is delivered to the Service-Receiving Party (the "Payment Date") by check or wire transfer of immediately available funds to an account designated in writing from time to time by the Service-Providing Party. If the Service-Receiving Party fails to pay any monthly payment on or before the Payment Date, the Service-Providing Party shall provide written notice to the Service-Receiving Party of such failure promptly following the Payment Date and if the Service-Receiving Party fails to pay any monthly payment within fifteen (15) calendar days of delivery of such written notice, the Service-Receiving Party shall be obligated to pay, in addition to the amount due pursuant to such invoice, interest on such amount at a rate per annum equal to 5% calculated from the Payment Date ("Additional Interest"). Unless otherwise agreed in writing between the Parties, all payments made pursuant to this Agreement shall be made in U.S. dollars.

(c) Notwithstanding the foregoing, if the Service-Receiving Party in good faith disputes any invoiced charge, payment of such disputed charge shall be made only after mutual resolution of such dispute pursuant to Section 2.8. The Service-Receiving Party agrees to notify the Service-Providing Party promptly, and in no event later than the relevant Payment Date, of any disputed charge. Additional Interest shall not accrue on any amount in dispute, and no default shall be alleged until after the relevant Payment Date.

(d) Prior to the Service-Receiving Party making a payment of any amounts due pursuant to this Section 3.3, the Service-Receiving Party may offset against such payment any amounts owed by the Service-Providing Party to the Service-Receiving Party that has not been disputed pursuant to Section 3.3(c) pursuant to this Section 3.3.

(e) In addition to the offset right provided in Section 3.3(d) for amounts owed to each other, the Service-Receiving Party may offset against any amount owed to the Service-Providing Party as a result of amounts paid to third parties for goods or services that the Service-Receiving Party determines in its reasonable discretion were provided to the Service-Providing Party. Prior to any such payment to third parties, the Service-Receiving Party intending to make such payment shall notify the Service-Providing Party promptly and with sufficient detail to ascertain the appropriate party responsible for such payment. If the Service-Receiving Party does not provide such notice, it shall be liable for any losses incurred as a result of any incorrect payment made to third parties.

(f) During the term of this Agreement, each Party shall keep such books, records and accounts as are reasonably necessary to verify the calculation of the fees and related expense for Services provided hereunder. The Service-Providing Party shall provide documentation supporting any amounts invoiced pursuant to this Section 3.3 as the Service-Receiving Party may from time to time reasonably request. The Service-Receiving Party shall have the right to review such books, records and accounts at any time during normal business hours upon reasonable written notice, and the Service-Receiving Party agrees to conduct any such review in a manner so as not to unreasonably interfere with the Service-Providing Party's normal business operations.

Section 3.4 Budgeting and Accounting. Upon reasonable request, each Party will cooperate with the other Party with respect to budgeting and accounting matters relating to the Services.

ARTICLE IV
DISCLAIMER OF REPRESENTATIONS AND WARRANTIES

Section 4.1 Disclaimer.

(a) EXCEPT AS EXPRESSLY PROVIDED IN SECTION 2.1, PENNANT ACKNOWLEDGES AND AGREES THAT ENSIGN (AND EACH MEMBER OF THE ENSIGN GROUP) MAKES NO REPRESENTATIONS OR WARRANTIES (INCLUDING WARRANTIES OF MERCHANTABILITY, ADEQUACY OR FITNESS FOR A PARTICULAR PURPOSE) OR GUARANTIES OF ANY KIND, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, WITH RESPECT TO ANY SERVICES PROVIDED HEREUNDER.

(b) EXCEPT AS EXPRESSLY PROVIDED IN SECTION 2.1, ENSIGN ACKNOWLEDGES AND AGREES THAT PENNANT (AND EACH MEMBER OF THE PENNANT GROUP) MAKES NO REPRESENTATIONS OR WARRANTIES (INCLUDING WARRANTIES OF MERCHANTABILITY, ADEQUACY OR FITNESS FOR A PARTICULAR PURPOSE) OR GUARANTIES OF ANY KIND, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, WITH RESPECT TO ANY SERVICES PROVIDED HEREUNDER.

Section 4.2 As Is; Where Is. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, THE SERVICES (AND ANY RELATED PRODUCTS) TO BE PROVIDED UNDER THIS AGREEMENT ARE FURNISHED AS IS, WHERE IS, WITH ALL FAULTS.

ARTICLE V
INDEMNIFICATION; LIMITATION OF LIABILITY

Section 5.1 Indemnification by the Service-Providing Party. The Service-Providing Party hereby agrees to indemnify, defend and hold harmless the Service-Receiving Party Indemnitees from and against any and all Losses relating to, arising out of or resulting from the Service-Providing Party's gross negligence or willful misconduct in the performance of its obligations hereunder, or material breach of this Agreement, other than to the extent such Losses are attributable to the gross negligence, willful misconduct or material breach of this Agreement by any member of the Service-Receiving Party's Group.

Section 5.2 Limitation of Liability.

(a) IN NO EVENT SHALL ANY MEMBER OF THE SERVICE PROVIDING PARTY'S GROUP, NOR ANY DIRECTOR, OFFICER, MANAGER, EMPLOYEE OR AGENT THEREOF, BE LIABLE, WHETHER IN CONTRACT, IN TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY) OR OTHERWISE TO THE SERVICE-RECEIVING PARTY (OR ANY SERVICE-RECEIVING PARTY'S INDEMNITEES) FOR ANY EXEMPLARY, PUNITIVE, INDIRECT, REMOTE OR SPECULATIVE DAMAGES AS A RESULT OF ANY BREACH, PERFORMANCE OR NON-PERFORMANCE BY SUCH PERSON UNDER THIS AGREEMENT, WHETHER OR NOT SUCH PERSON HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, EXCEPT TO THE EXTENT ANY SUCH AMOUNT IS PAID TO A THIRD PARTY BY THE SERVICE-RECEIVING PARTY OR ANY OF ITS AFFILIATES.

(b) THE SERVICE-PROVIDING PARTY'S TOTAL LIABILITY TO THE SERVICE-RECEIVING PARTY UNDER THIS AGREEMENT FOR ANY CLAIM SHALL NOT EXCEED, IN THE AGGREGATE, AN AMOUNT EQUAL TO THE TOTAL AMOUNT PAID BY THE SERVICE-RECEIVING PARTY FOR THE APPLICABLE SERVICES UNDER THIS AGREEMENT.

Section 5.3 Indemnification Procedure; Other Rights. All claims for indemnification pursuant to Section 5.1 shall be made in accordance with the procedures set forth in Section 9.4 of the Separation Agreement and shall be subject to Sections 9.2 through 9.10 of the Separation Agreement.

ARTICLE VI
FORCE MAJEURE

Section 6.1 General. If the Service-Providing Party (or any member of the Service-Providing Party Group) is prevented from or delayed in complying, in whole or in part, with any of the terms or provisions of this Agreement by reason of fire, flood, storm, earthquake, strike, walkout, lockout or other labor trouble or shortage, delays by unaffiliated suppliers or carriers, shortages of fuel or energy sources, power, raw materials or components, equipment failure, any law, order, proclamation, regulation, ordinance, demand, seizure or requirement of any Governmental Authority, riot, civil commotion, acts of war (declared or undeclared), rebellion, act of terrorism, nuclear or other accident, explosion, casualty, pandemic, act of God, or act, omission or delay in acting by any Governmental Authority or by the Service-Receiving Party (or any member of the Service-Receiving Party Group) or any other cause, whether or not of a class or kind listed in this sentence, which is beyond the reasonable control of Service-Providing Party (or any other applicable member of the Service-Providing Party Group), then upon notice to Service-Receiving Party pursuant to Section 6.2, the affected provisions and/or other requirements of this Agreement shall be suspended during the period of such disability and, unless otherwise set forth herein to the contrary, Service-Providing Party (and any applicable member of the Service-Providing Party Group) shall have no liability to Pennant (or any member of the Service-Receiving Party Group) in connection therewith. The Service-Receiving Party shall not be required to pay any fees applicable to any period during which the Service-Providing Party's performance is excused pursuant to this Section 6.1 and the applicable Services contemplated to be provided hereunder are not actually performed.

Section 6.2 Notice. Upon becoming aware of a disability causing a delay in the performance or preventing performance of any Services to be provided by Service-Providing Party (or another member of the Service-Providing Party Group) under this Agreement, Service-Providing Party shall promptly notify Service-Receiving Party in writing of the existence of such disability and the anticipated duration of the disability, if then known.

Section 6.3 Subcontractors; Fees. The Service-Receiving Party shall have the right, but not the obligation, to hire or engage one or more subcontractors to perform the applicable Services affected by the disability for the duration of the period during which such disability delays or prevents the performance of such Services by the Service-Providing Party, it being agreed that the fees paid or payable under this Agreement with respect to the applicable Services affected by the disability shall be reduced (or refunded, if applicable) on a dollar-for-dollar basis for all amounts paid by the Service-Receiving Party to such subcontractors; provided that the Service-Providing Party shall not be responsible for the amount of fees charged by any such subcontractors to perform such Services to the extent they exceed the fees payable under this Agreement for such Services.

Section 6.4 Limitations. Each Party shall use its commercially reasonable efforts to promptly remove any disability under Section 6.1 as soon as possible; provided that nothing in this Article VI will be construed to require the settlement of any lawsuit or other legal proceeding, strike, walkout, lockout or other labor dispute on terms which, in the reasonable judgment of the affected Party, are contrary to its interest. It is understood that the settlement of a lawsuit or other legal proceeding, strike, walkout, lockout or other labor dispute will be entirely within the discretion of the affected Party.

ARTICLE VII
TERM AND TERMINATION

Section 7.1 Term and Termination of Services.

(a) Subject to Section 7.1(c), Section 6.1 and except as otherwise set forth in Exhibit A or Exhibit B, as applicable, each of the Services shall be provided for the term specified in Section 7.1(b); provided that the Service-Receiving Party shall have the right to terminate one or more of the applicable Services that it receives under this Agreement at the end of a designated month by giving the Service-Providing Party the longer of (a) at least thirty (30) calendar days' prior written notice of such termination or (b) in the case of any Service that the Service-Providing Party incurs an expense from an unrelated third-party, the period of time required to terminate such third-party expense, but in no event longer than ninety (90) days unless the Service-Providing Party, in its reasonable judgment, determines that a longer period of time is commercially reasonable. The Parties shall cooperate with each other in good faith in their efforts to reasonably effect early termination of such Services, including, where applicable, partial termination, and to agree in good faith upon appropriate reduction of the charges hereunder in connection with such early termination.

(b) Except as set otherwise forth in Exhibit A or Exhibit B, as applicable, the provision of Services under this Agreement shall terminate upon the earlier of (a) the cessation of all Services pursuant to Section 7.1(a), or (b) the 24 month anniversary of the Effective Time, plus the total period of any extensions made by the Service-Providing Party pursuant to the following proviso;

provided that the Service-Receiving Party may, at its option, extend the period for any Service (i) for up to an additional two (2) months, on the same terms and conditions (including with respect to fees) as such Service was provided during the initial term for such Service, and (ii) thereafter, for up to an additional three (3) months, on the same terms and conditions as previously provided, except the Fees for such Service provided during such extension period shall be increased by twenty percent (20%). Thereafter, any extension to term of Service for any Service shall be at the Service-Providing Party's sole discretion. This Agreement, except for Section 2.1 and Section 2.2, shall survive the termination of Services, and any such termination shall not affect any payment obligation for Services rendered prior to termination.

(c) Notwithstanding the foregoing: (i) the Parties may terminate the provision of the applicable Services under this Agreement by mutual written consent and (ii) the Parties each reserve the right to immediately terminate the provision of the applicable Services under this Agreement by written notice to the other Party in the event that such other Party shall have (A) applied for or consented to the appointment of a receiver, trustee or liquidator; (B) admitted in writing an inability to pay debts as they mature; (C) made a general assignment for the benefit of creditors; or (D) filed a voluntary petition, or have filed against it a petition, for an order of relief under the Bankruptcy Code.

Section 7.2 Effect of Termination.

(a) Termination or expiration of the applicable Services under this Agreement shall not release a Party from any liability or obligation which already has accrued as of the effective date of such termination or expiration, and shall not constitute a waiver or release of, or otherwise be deemed to adversely affect, any rights, remedies or claims, which a Party may have hereunder at law, equity or otherwise or which may arise out of or in connection with such termination or expiration.

(b) As promptly as practicable following termination of any Service, and the payment by the Service-Receiving Party of all amounts owing hereunder, the Service-Providing Party shall return all reasonably available material, inventory and other property of the Service-Receiving Party Group held by the Service-Providing Party Group and shall deliver copies of all of the Service-Receiving Party Group's records maintained by the Service-Providing Party Group with regard to such Service in the Service-Providing Party's standard format and media. The Service-Providing Party shall deliver such property and records to such location or locations as reasonably requested by the Service-Receiving Party. Arrangements for shipping, including the cost of freight and insurance, and the reasonable cost of packing incurred by the Service-Providing Party shall be borne by the Service-Receiving Party.

ARTICLE VIII
CONFIDENTIALITY

Section 8.1 Confidentiality. Each Party agrees that the specific terms and conditions of this Agreement and any information conveyed or otherwise received by or on behalf of a Party in conjunction herewith shall be Confidential Information subject to the confidentiality provisions (and exceptions thereto) set forth in Section 8.7 of the Separation Agreement.

Section 8.2 System Security.

(a) If the Service-Providing Party (or a member of the Service-Providing Party Group) is given access to the computer systems or software (collectively, "Systems") of the Service-Receiving Party (or a member of the Service-Receiving Party Group) in connection with the provision of any Services, The Service-Providing Party shall comply (or cause such member of the Service-Providing Party Group to comply) with all of the system security policies, procedures and requirements (collectively, "Security Regulations") of the Service-Receiving Party (or such member of the Service-Receiving Party Group), and shall not (or shall cause such member the Service-Providing Party Group not to) tamper with, compromise or circumvent any security or audit measures employed by the Service-Receiving Party (or such member of the Service-Receiving Party Group). The Service-Providing Party shall (or shall cause such member of the Service-Providing Party Group to) access and use only those Systems of the Service-Receiving Party (or such member of the Service-Receiving Party Group) for which it has been granted the right to access and use.

(b) The Service-Providing Party shall use commercially reasonable efforts to ensure that only those of its personnel (or the personnel of such member of the Service-Providing Party Group) who are specifically authorized to have access to the Systems of the Service-Receiving Party (or such member of the Service-Receiving Party Group) gain such access, and use commercially reasonable efforts to prevent unauthorized access, use, destruction, alteration or loss of information contained therein, including notifying its personnel (or the personnel of such member of its Group) of the restrictions set forth in this Agreement and of the Security Regulations.

(c) The Parties acknowledge that the Service-Providing Party may receive or otherwise have access to information of the Service-Receiving Party that is considered "protected health information" under the Health Insurance Portability and Accountability Act of 1996, as amended and implemented through regulation ("HIPAA"). The Parties further acknowledge and agree that this may cause the Service-Providing Party to satisfy the definition of a "business associate" under HIPAA. To address the requirements of HIPAA, the Parties agree to comply with the Business Associate Addendum attached hereto as Exhibit D and incorporated herein by reference.

ARTICLE IX
MISCELLANEOUS

Section 9.1 Further Assurances. Subject to the limitations or other provisions of this Agreement, (a) each Party shall, and shall cause the other members of its Group to, use commercially reasonable efforts (subject to, and in accordance with applicable Law) to take promptly, or cause to be taken promptly, all actions, and to do promptly, or cause to be done promptly, and to assist and cooperate with the other Party in doing, all things reasonably necessary, proper or advisable to carry out the intent and purposes of this Agreement, including using commercially reasonable efforts to perform all covenants and agreements herein applicable to such Party or any member of its Group and (b) neither Party will, nor will either Party allow any other member of its Group to, without the prior written consent of the other Party, take any action which would reasonably be expected to prevent or materially impede, interfere with or delay the provision of any Services hereunder during the Term. Without limiting the generality of the foregoing, where the cooperation of third parties would be necessary in order for a Party to completely fulfill its obligations under this Agreement, such Party shall use commercially reasonable efforts to cause such third parties to provide such cooperation.

Section 9.2 Amendments and Waivers.

(a) Subject to Section 11.1 of the Separation Agreement and Section 2.2 of this Agreement, this Agreement may not be amended except by an agreement in writing signed by both Parties.

(b) Any term or provision of this Agreement may be waived, or the time for its performance may be extended, by the Party entitled to the benefit thereof and any such waiver shall be validly and sufficiently given for the purposes of this Agreement if it is in writing signed by an authorized representative of such Party. No delay or failure in exercising any right, power or remedy hereunder shall affect or operate as a waiver thereof; nor shall any single or partial exercise thereof or any abandonment or discontinuance of steps to enforce such a right, power or remedy preclude any further exercise thereof or of any other right, power or remedy. The rights and remedies hereunder are cumulative and not exclusive of any rights or remedies that either Party would otherwise have.

Section 9.3 Entire Agreement. This Agreement, the Separation Agreement, the other Ancillary Agreements, and the Exhibits and Schedules referenced herein and therein and attached hereto or thereto, constitute the entire agreement and understanding between the Parties with respect to the subject matter hereof and supersede all prior negotiations, agreements, commitments, writings, courses of dealing and understandings with respect to the subject matter hereof.

Section 9.4 Third-Party Beneficiaries. Except as provided in Article V relating to Pennant Indemnitees, this Agreement is solely for the benefit of the Parties and shall not be deemed to confer upon third parties any remedy, claim, liability, reimbursement, cause of action or other right in excess of those existing without reference to this Agreement.

Section 9.5 Notices. All notices, requests, permissions, waivers and other communications hereunder shall be provided in accordance with the provisions of Section 12.8 of the Separation Agreement.

Section 9.6 Counterparts; Electronic Delivery. This Agreement may be executed in multiple counterparts, each of which when executed shall be deemed to be an original, but all of which together shall constitute one and the same agreement. Execution and delivery of this Agreement or any other documents pursuant to this Agreement by facsimile or other electronic means shall be deemed to be, and shall have the same legal effect as, execution by an original signature and delivery in person.

Section 9.7 Severability. If any term or other provision of this Agreement or the Exhibits attached hereto is determined by a nonappealable decision by a court, administrative agency or arbitrator to be invalid, illegal or incapable of being enforced by any rule of law or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to either Party. Upon such determination

that any term or other provision is invalid, illegal or incapable of being enforced, the court, administrative agency or arbitrator shall interpret this Agreement so as to effect the original intent of the Parties as closely as possible in an acceptable manner to the end that transactions contemplated hereby are fulfilled to the fullest extent possible. If any sentence in this Agreement is so broad as to be unenforceable, the provision shall be interpreted to be only so broad as is enforceable.

Section 9.8 Assignability; Binding Effect. The rights and obligations of each Party under this Agreement shall not be assignable, in whole or in part, directly or indirectly, whether by operation of law or otherwise, by such Party without the prior written consent of the other Party (such consent not to be unreasonably withheld, conditioned or delayed) and any attempt to assign any rights or obligations under this Agreement without such consent shall be null and void. Notwithstanding the foregoing, either Party may assign its rights and obligations under this Agreement to any of their respective Affiliates provided that no such assignment shall release such assigning Party from any liability or obligation under this Agreement. This Agreement shall be binding upon and inure to the benefit of the Parties and their successors and permitted assigns.

Section 9.9 Governing Law. This Agreement shall be governed by, and construed and enforced in accordance with, the substantive laws of the State of Delaware, without regard to any conflicts of law provisions thereof that would result in the application of the laws of any other jurisdiction.

Section 9.10 Construction. This Agreement shall be construed as if jointly drafted by the Parties and no rule of construction or strict interpretation shall be applied against either Party. The Parties represent that this Agreement is entered into with full consideration of any and all rights which the Parties may have. The Parties have relied upon their own knowledge and judgment. The Parties have had access to independent legal advice, have conducted such investigations they thought appropriate, and have consulted with such other independent advisors as they deemed appropriate regarding this Agreement and their rights and asserted rights in connection therewith. The Parties are not relying upon any representations or statements made by the other Party, or such other Party's employees, agents, representatives or attorneys, regarding this Agreement, except to the extent such representations are expressly set forth or incorporated in this Agreement. The Parties are not relying upon a legal duty, if one exists, on the part of the other Party (or such other Party's employees, agents, representatives or attorneys) to disclose any information in connection with the execution of this Agreement or its preparation, it being expressly understood that neither Party shall ever assert any failure to disclose information on the part of the other Party as a ground for challenging this Agreement.

Section 9.11 Performance. Each Party shall cause to be performed, and hereby guarantees the performance of, all actions, agreements and obligations set forth herein to be performed by any Subsidiary or Affiliate of such Party.

Section 9.12 Title and Headings. Titles and headings to Sections and Articles are inserted for the convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of this Agreement.

Section 9.13 Exhibits. Exhibit A attached hereto is incorporated herein by reference and shall be construed with and as an integral part of this Agreement to the same extent as if the same had been set forth verbatim herein.

Section 9.14 Effective Time. This Agreement shall be effective as of the Effective Time.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their respective officers as of the date first set forth above.

THE ENSIGN GROUP, INC.

By: /s/ Chad Keetch
Name: Chad Keetch
Title: Executive Vice President and Secretary

THE PENNANT GROUP, INC.

By: /s/ Derek Bunker
Name: Derek Bunker
Title: Executive Vice President

TAX MATTERS AGREEMENT

THIS TAX MATTERS AGREEMENT is dated as of October 1, 2019, by and among The Ensign Group, Inc. ("Ensign"), a Delaware corporation, by and on behalf of itself and each Affiliate of Ensign (as determined after the Distribution), and The Pennant Group, Inc., a Delaware corporation, and currently a direct, subsidiary of Ensign ("SpinCo"), by and on behalf of itself and each Affiliate of SpinCo (as determined after the Distribution). Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to such terms in the Master Separation Agreement, dated as of October 1, 2019 (the "Separation Agreement").

RECITALS

WHEREAS, Ensign is the common parent of an affiliated group whose includible corporations join in the filing of a consolidated U.S. federal income Tax Return (the "Ensign Consolidated Group");

WHEREAS, as of the date of this Agreement, SpinCo is a subsidiary of Ensign and a member of the Ensign Consolidated Group;

WHEREAS, the board of directors of Ensign has determined that it is advisable and in the best interests of Ensign and its stockholders to reorganize the assets and liabilities of Ensign into two separate, publicly traded companies: (i) Ensign which, following consummation of the transactions contemplated herein and in the Separation Agreement, will own and conduct, directly or indirectly, post-acute services businesses, including skilled nursing, senior living, and other ancillary operations (the "Distributing Business"); and (ii) SpinCo which, following consummation of the transactions contemplated herein and in the Separation Agreement, will own and conduct, directly or indirectly, the home health and hospice agencies business, the senior living business and any other business directly conducted by any member of the Pennant Group (as defined in the Separation Agreement) as of or prior to the date of the Separation Agreement (the "Controlled Business");

WHEREAS, on the Distribution Date and immediately prior to the Distribution, SpinCo will distribute the Pennant Cash Payment to Ensign pursuant to Section 2.1(a)(iii) of the Separation Agreement;

WHEREAS, on the Distribution Date, Ensign will distribute all of its outstanding shares of SpinCo to the holders of Ensign common stock pursuant to the Distribution;

WHEREAS, it is the intention of the Parties that the Contribution and the Distribution together qualify as a reorganization within the meaning of Sections 368(a)(1)(D) and 355 of the Code, and that the Pennant Cash Payment satisfies the requirements of Section 361(b) of the Code such that no gain is recognized upon receipt of the Pennant Cash Payment by Ensign in connection with any Contribution;

WHEREAS, in contemplation of the Reorganization and the Distribution, Ensign and SpinCo desire to set forth their agreement as to the rights and obligations of Ensign, SpinCo, and their respective Affiliates with respect to the responsibility, handling and allocation of federal, state and local Taxes, and various other Tax matters.

NOW, THEREFORE, in consideration of the foregoing and the terms, conditions, covenants, and provisions of this Agreement, Ensign, SpinCo, and their respective Affiliates (as determined after the Distribution) mutually covenant and agree as follows:

ARTICLE I
DEFINITIONS

"Active Business" means each of the Distributing Business and the Controlled Business, in each case taken as a whole.

"Adjustment" means an adjustment of any item of income, gain, loss, deduction, credit or any other item affecting Taxes of a taxpayer pursuant to a Final Determination.

"Affiliate" has the meaning set forth in the Separation Agreement.

"After Tax Amount" means any additional amount necessary to reflect (through a gross-up mechanism) the hypothetical Tax consequences of the receipt or accrual of any payment required to be made under this Agreement (including payment of an additional amount or amounts hereunder and the effect of the deductions available for interest paid or accrued and for Taxes such as state and local income Taxes), determined by using the highest marginal corporate Tax rate (or rates, in the case of an item that affects more than one Tax) for the relevant taxable period (or portion thereof).

"Agreement" means this Tax Matters Agreement, including any schedules, exhibits, and appendices attached hereto.

"ASC 740-10" means Financial Accounting Standard Board Accounting Standard Codification Subtopic 740-10, Income Taxes, including any amended or successor version.

"Benefited Party" has the meaning prescribed in Section 2.05(c).

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

"Contribution" means the contribution by Ensign of the assets described in Article II of the Separation Agreement to SpinCo in exchange for (i) the assumption or incurrence, as applicable, by SpinCo and certain of its Subsidiaries of the Pennant Liabilities, and (ii) the issuance by SpinCo to Ensign of shares of SpinCo Common Stock, all as more fully described in the Separation Agreement and the Ancillary Agreements.

"Controlled Business" has the meaning set forth in the recitals.

"Deferred Tax Assets" means, as of a given date, the amount of deferred Tax benefits that would be recognized as assets on a business enterprise's balance sheet computed in accordance with GAAP.

"Deferred Tax Liabilities" means, as of a given date, the amount of deferred Tax liabilities that would be recognized as liabilities on a business enterprise's balance sheet computed in accordance with GAAP.

"Deferred Taxes" means, as of a given date, the amount of Deferred Tax Assets, less the amount of Deferred Tax Liabilities.

"Distributing Business" has the meaning set forth in the recitals.

"Distribution" has the meaning set forth in the Separation Agreement.

"Employee Matters Agreement" means that certain Employee Matters Agreement between the Parties, entered into as of the date hereof.

"Ensign Consolidated Group" has the meaning set forth in the recitals.

"Ensign Employee SpinCo Award" has the meaning set forth in Section 2.04(a).

"Ensign Group" means all entities that are Affiliates of Ensign immediately after the Distribution, and entities that become Affiliates thereafter.

"Ensign Representation Letter" means an officer's certificate in which certain representations, warranties and covenants are made on behalf of Ensign and its Affiliates in connection with the issuance of the Tax Opinion.

"Equity Award" means employee restricted stock, employee stock options, or deferred compensation granted, awarded or otherwise paid to a service provider by Ensign or a member of the SpinCo Group, as the case may be.

"Final Determination" shall mean the final resolution of liability for any Tax for a taxable period, including any related interest, penalties or other additions to tax, (i) by a decision, judgment, decree, or other order by a court of competent jurisdiction, which has become final and unappealable; (ii) by a final settlement with the IRS, closing agreement or accepted offer in compromise under Section 7121 or Section 7122 of the Code, or comparable agreement under the Law of other jurisdictions; (iii) by any allowance of a Refund in respect of an overpayment of Tax, but only after the expiration of all periods during which such Refund may be recovered (including by way of offset) by the jurisdiction imposing such Tax; or (iv) by any other final resolution, including by reason of the expiration of the applicable statute of limitations or the execution of a pre-filing agreement with the IRS or other Taxing Authority.

"GAAP" means United States generally accepted accounting principles as in effect on the Distribution Date.

"Income Taxes" means any Taxes based upon, measured by, or calculated with respect to: (i) net income or profits or net receipts (including, but not limited to, any capital gains, minimum Tax or any Tax on items of Tax preference, but not including sales, use, real or personal property, or transfer or similar Taxes) or (ii) multiple bases (including corporate or franchise, doing business and occupation taxes) if one or more bases upon which such Tax may be based, measured by, or calculated with respect to, is described in clause (i).

"Indemnified Party" has the meaning prescribed in Section 6.02.

"Indemnifying Party" has the meaning prescribed in Section 6.02.

"IRS" means the United States Internal Revenue Service.

"Liability Issue" has the meaning prescribed in Section 5.03(b).

"Non-Income Taxes" means any Taxes other than Income Taxes.

"Notified Action" has the meaning prescribed in Section 4.03(a).

"Party" means each of Ensign and SpinCo.

"Person" has the meaning set forth in the Separation Agreement.

"Post-Distribution Period" means any tax year or other taxable period beginning after the Distribution Date and, in the case of any Straddle Period, that part of the tax year or other taxable period that begins at the beginning of the day after the Distribution Date.

"Pre-Distribution Period" means any tax year or other taxable period that ends on or before the Distribution Date and, in the case of any Straddle Period, that part of the tax year or other taxable period through the end of the day on the Distribution Date.

"Pre-Distribution Period Adjustment" means any Adjustment after the Distribution Date with respect to a Pre-Distribution Period (a "Pre-Distribution Period Adjustment").

"Proposed Acquisition Transaction" means a transaction or series of transactions (i) as a result of which any of the Parties would merge or consolidate with any other Person, or (ii) as a result of which any Person or any group of Persons would (directly or indirectly) acquire, or have the right to acquire (through an option or otherwise), from any of the Parties or any of their Affiliates and/or one or more holders of their stock, respectively, any amount of stock of any of the Parties that would, when combined with any other changes in ownership of the stock of such Party, result in a shift of more than 35% of (a) the value of all outstanding shares of stock of such Party as of the Distribution Date, or (b) the total combined voting power of all outstanding shares of voting stock of such Party as of the Distribution Date. Notwithstanding the foregoing, a Proposed Acquisition Transaction shall not include (i) the adoption by a Party of, or the issuance of stock pursuant to, a stockholder rights plan or (ii) transactions that satisfy Safe Harbor VIII (relating to acquisitions in connection with a person's performance of services, which shall include, for the avoidance of doubt, Equity Awards granted to employees of members of the Ensign Group and the SpinCo Group) or Safe Harbor IX (relating to acquisitions by a retirement plan of an employer) of Treasury Regulations Section 1.355-7(d). For purposes of determining whether and to what extent a transaction constitutes an indirect acquisition for purposes of the first sentence of this definition, any recapitalization or other action resulting in a shift of voting power or any redemption or repurchase of shares of stock shall be treated as an indirect acquisition of shares of stock by the benefitted or non-exchanging stockholders. Notwithstanding the previous sentence, the effect of any such recapitalization, other action, or redemption or repurchase (directly or indirectly) of shares shall take into account any applicable IRS private letter ruling received by one or more of the Parties with respect thereto. This definition and the application thereof is intended to monitor compliance with Section 355(e) of the Code and the Treasury Regulations promulgated thereunder and shall be interpreted accordingly by the Parties in good faith.

"Refunds" has the meaning prescribed in Section 2.05(a).

"Representation Letters" means the Ensign Representation Letter (or Letters) and the SpinCo Representation Letter (or Letters).

"Restricted Period" means the period beginning at the Effective Time and ending on the two-year anniversary of the day after the Distribution Date.

"Separation Agreement" has the meaning set forth in the recitals.

"Separation Taxes" means any federal, state, and local Income Tax imposed on or assessed against Ensign or the Ensign Consolidated Group in connection with the Contribution and Distribution that would not have occurred had the Contribution and Distribution not occurred.

"SpinCo Consolidated Group" an affiliated group whose common parent is SpinCo, the includible corporations of which join with SpinCo in the filing of a consolidated U.S. federal income Tax Return.

"SpinCo Group" means SpinCo and Affiliates of SpinCo immediately after the Distribution, and entities that become Affiliates thereafter.

"SpinCo Representation Letter" means an officer's certificate in which certain representations, warranties, and covenants are made on behalf of SpinCo and its Affiliates in connection with the issuance of the Tax Opinion.

"SpinCo Separate Tax Return" means any Tax Return that is (i) required under applicable Law to be filed by any member of the SpinCo Group, and that does not include any member of the Ensign Group, for a Pre-Distribution Period or a Straddle Period or (ii) identified on Schedule A, in each case, whether or not such Tax Return is timely filed.

"Straddle Period" means any taxable period beginning on or before the Distribution Date and ending after the Distribution Date.

"Tax" and "Taxes" means any income, gross income, gross receipts, profits, capital stock, franchise, withholding, payroll, social security, workers' compensation, unemployment, disability, property, ad valorem, value added, stamp, excise, severance, occupation, service, sales, use, license, lease, transfer, import, export, alternative minimum, estimated or other tax (including any fee, assessment, or other charge in the nature of or in lieu of any tax), imposed by any governmental entity or political subdivision thereof, and any interest, penalty, additions to tax, or additional amounts in respect of the foregoing.

"Tax Attributes" means net operating losses, capital losses, investment tax credit carryovers, earnings and profits, foreign tax credit carryovers, overall foreign losses, previously taxed income, separate limitation losses, deductions, credits or other comparable items, and assets basis, that could affect a Tax liability for a past or future taxable period.

"Taxing Authority" means any national, municipal, governmental, state, federal or other body, or any quasi-governmental or private body, having jurisdiction over the assessment, determination, collection or imposition of any Tax (including the IRS).

"Tax Controversy" has the meaning prescribed in Section 5.01(a).

"Tax Detriment" means, without double counting, the sum of (i) the amount of the increase in the Tax liability of an entity (or of the consolidated or combined group of which it is a member), whether temporary or permanent, for any taxable period that arises, or may arise in the future, as a result of any adjustment to, or addition or deletion of, a Tax Item in the computation of the Tax liability of the entity (or the consolidated or combined group of which it is a member), and (ii) the amount by which the entity's (or consolidated or combined group of which it is a member) Deferred Taxes are increased as a result of such adjustment, addition, or deletion.

"Tax-Free Status of the Transactions" means the tax-free treatment accorded to certain of the Transactions as set forth in the Tax Opinion.

"Tax Item" means any item of income, gain, loss, deduction, credit, recapture of credit, or any other item (including the basis or adjusted basis of property) which increases or decreases Income Taxes paid or payable in any taxable period.

"Tax Opinion" means the opinion rendered by Kirkland & Ellis LLP, with respect to certain Tax aspects of the Contribution and Distribution.

"Tax Proceeding" means any audit, assessment of Taxes, pre-filing agreement, other examination by any Taxing Authority, proceeding, appeal of a proceeding or litigation relating to Taxes, whether administrative or judicial, including proceedings relating to competent authority determinations.

"Tax Return" means any return, report, certificate, form, filing, questionnaire or other document required to be filed, including requests for extensions of time, filings made with estimated Tax payments, claims for Refund or amended returns, any related or supporting information or schedule attached thereto that may be filed for any taxable period with any Taxing Authority in connection with any Tax or Taxes (whether or not a payment is required to be made with respect to such filing).

"Treasury Regulations" means the final and temporary (but not proposed) income tax regulations promulgated under the Code, as such regulations may be amended from time to time (including corresponding provisions of succeeding regulations).

"Unqualified Tax Opinion" means a "will" opinion, without substantive qualifications, of a nationally recognized law or accounting firm, which firm is reasonably acceptable to Ensign, to the effect that a transaction will not affect the Tax-Free Status of the Transactions.

ARTICLE II
RESPONSIBILITY FOR TAXES

2.01 Responsibility and Indemnification for Taxes.

(a) From and after the Distribution Date, without duplication, each of Ensign and SpinCo shall be responsible for, and shall pay its respective share of the liability for Taxes of Ensign, SpinCo, and their respective Affiliates, as provided in this Agreement. Ensign and its Affiliates shall indemnify and hold harmless SpinCo and its Affiliates from and against any Taxes for which Ensign is responsible pursuant to this Agreement, and SpinCo and its Affiliates shall indemnify and hold harmless Ensign and its Affiliates from and against any Taxes for which SpinCo is responsible pursuant to this Agreement.

(b) For the avoidance of doubt, all references to Taxes or Tax liabilities in this Agreement refer to the actual amounts of Taxes paid or due and do not apply to (i) the utilization, elimination, or adjustment of any Tax Attribute, or (ii) items or adjustments to items shown solely on a Party's balance sheet or other financial statement. There shall be no adjustments, payments, or obligations among the Parties made pursuant to this agreement for any gains or losses with respect to amounts shown on a Party's balance sheet or other financial statements and not specifically allocated herein, including but not limited to ASC 740-10 reserves, Deferred Tax Assets, Deferred Tax Liabilities, and other Tax accounting entries.

(c) Payments to Taxing Authorities and between the Parties, as the case may be, shall be made in accordance with the provisions of this Agreement.

2.02 Responsibility for Taxes.

(a) Generally

(i) Ensign.

Except as set forth in Sections 2.02(a)(ii) and 2.02(b), Ensign shall be responsible for:

(A) all Tax liability imposed on members of the Ensign Group or the SpinCo Group for all Pre-Distribution Periods;

(B) all Tax liability imposed on members of the Ensign Group for all Post-Distribution Periods; and

(C) 85% of any Pre-Distribution Period Adjustment.

(ii) SpinCo.

Except as set forth in Section 2.02(b), SpinCo shall be responsible for:

(A) all Tax liability imposed with respect to any SpinCo Separate Tax Return;

(B) all Tax liability imposed on members of the SpinCo Group for all Post-Distribution Periods; and

(C) 15% of any Pre-Distribution Period Adjustment.

(iii) Straddle Period Taxes.

Subject to Section 2.03, the responsibility for any Tax incurred in a Straddle Period shall be allocated between the Pre-Distribution Period and the Post-Distribution Period as if the relevant Person or Persons closed its financial accounting records as of the Distribution Date and determined the Tax attributable to the Pre-Distribution Period by applying the method of tax accounting that has historically been used for the business of such Person or Persons.

(b) Separation Taxes

(i) Ensign.

Ensign shall be responsible for:

(A) 50% of all Separation Taxes not due to any act, failure to act, or omission identified in this subsection (b) on the part of any member of the SpinCo Group or the Ensign Group, or any Separation Tax liability arising out of or in connection with the accuracy of any description of events, facts, or circumstances on or prior to the Distribution Date as contained in or made in connection with the Tax Opinion or other Ancillary Agreements, including any misrepresentation or omission by Ensign or SpinCo contained in any such document with respect to any period prior to the Distribution, but excluding in each case for this purpose any statement concerning a Party's plan or intention with respect to actions or operations after the Distribution Date,

(B) 100% of all Separation Taxes arising out of, based upon, or relating or attributable to any breach by Ensign of any representation, warranty, covenant, or obligation contained in this Agreement, any other Ancillary Agreement, the Tax Opinion, any Ensign Representation Letter, or otherwise made by Ensign in connection with the Distribution, but excluding for this purpose the breach of any representations (including those described in Section 4.01(b)(i)) not concerning a Party's plan or intention with respect to actions or operations after the Distribution Date, and

(C) 100% of all Separation Taxes arising from any event following the Distribution involving the stock or assets of Ensign or any of its Affiliates which causes the Distribution to be a Taxable event to Ensign as a result of the application of Section 355(e) of the Code or a similar provision of state or local Tax Law.

(ii) SpinCo.

SpinCo shall be responsible for:

(A) 50% of any Separation Taxes that are not due to any act, failure to act, or omission identified in this subsection (b) on the part of any member of the SpinCo Group or the Ensign Group, or any Separation Tax liability arising out of or in connection with the accuracy of any description of events, facts, or circumstances on or prior to the Distribution Date as contained in or made in connection with the Tax Opinion or other Ancillary Agreements, including any misrepresentation or omission by Ensign or SpinCo contained in any such document with respect to any period prior to the Distribution, but excluding in each case for this purpose any statement concerning a Party's plan or intention with respect to actions or operations after the Distribution Date,

(B) 100% of all Separation Taxes arising out of, based upon, or relating or attributable to any breach by SpinCo of any representation, warranty, covenant, or obligation contained in this Agreement, any other Ancillary Agreement, the Tax Opinions, any SpinCo Representation Letter, or otherwise made by SpinCo in connection with the Distribution, but excluding for this purpose the breach of any representations (including those described in Section 4.01(a)(i)) not concerning a Party's plan or intention with respect to actions or operations after the Distribution Date, and

(C) 100% of all Separation Taxes arising from any event post-Distribution involving the stock or assets of SpinCo or any of its Affiliates which causes the Distribution to be a Taxable event to Ensign as a result of the application of Section 355(e) of the Code or a similar provision of state or local Tax Law.

(c) Transfer Taxes. Notwithstanding anything to the contrary herein, all transfer, documentary, sales, use, stamp, registration and other such similar Taxes, and all conveyance fees, recording charges and other fees and charges (including any penalties and interest) incurred in connection with consummation of the transactions contemplated by this Agreement, the Separation Agreement or the Ancillary Agreements ("Transfer Taxes") shall be paid by SpinCo, and the Party required under applicable Law to file Tax Returns with respect to Transfer Taxes will file all necessary Tax Returns, and, if required by applicable Law, the non-preparing Party will, and will cause its Affiliates to, join in the execution of any such Tax Returns and other documentation; provided, however, that if the non-preparing Party fails to join in the execution of any such Tax Returns and other documentation then the Party obligated to file such Tax Returns shall be authorized to execute such Tax Returns and other documentation on behalf of the non-preparing Party.

2.03 Allocation of Certain Income Taxes and Income Tax Items.

(a) If Ensign, SpinCo, or any of their respective Affiliates is permitted but not required under applicable federal, state, or local Tax Laws to treat the Distribution Date as the last day of a taxable period, then, in accordance with Section 2.02(a)(iii), the parties shall treat such day as the last day of a taxable period under such applicable Tax Law, and shall file any elections necessary or appropriate to such treatment; provided that this Section 2.03(a) shall not be construed to require Ensign or SpinCo to change its taxable year.

(b) If applicable Law does not require or permit Ensign, SpinCo, or any of their respective Affiliates, as the case may be, to close its taxable year on the Distribution Date, then the allocation of income or deductions required to determine any Taxes or other amounts attributable to the portion of the Straddle Period ending on, or beginning after, the Distribution Date shall be made by means of a closing of the books and records of the SpinCo Group as of the close of the Distribution Date; provided that (i) exemptions, allowances, or deductions that are calculated on an annual or periodic basis shall be allocated between such portions in proportion to the number of days in each such portion, and (ii) property Taxes or other Non-Income Taxes that are calculated on an annual or periodic basis and not assessed with respect to a transaction or series of transactions shall be allocated to the portion of the Straddle Period ending on the Distribution Date and the portion of the Straddle Period beginning after the Distribution Date in proportion to the number of days in each such portion; provided, however, notwithstanding anything herein to the contrary, each Party and its Affiliates will remain solely responsible for any and all Taxes for which they are responsible under any lease of property from the other Party or any of its Affiliates.

(c) Tax Attributes arising in a Pre-Distribution Period shall be allocated to the Ensign Group and SpinCo Group in accordance with the Code and Treasury Regulations (and any applicable state, local, and non-U.S. Laws). Ensign and SpinCo shall jointly determine the allocation of such Tax Attributes arising in Pre-Distribution Periods as soon as reasonably practicable following the Distribution Date, and hereby agree to compute all Taxes for Post-Distribution Periods consistently with that determination unless otherwise required by a Final Determination.

(d) The Parties agree that, in connection with the Distribution, Ensign's current and accumulated earnings and profits will be allocated between Ensign and SpinCo based on their relative fair market values at the time of the Distribution in accordance with Treasury Regulation § 1.312-10.

2.04 Treatment of Equity Awards.

(a) To the extent permitted by law (and subject to Section 2.04(g)), Ensign (or the appropriate Ensign Affiliate) shall be entitled to and shall claim all federal income Tax deductions or other Tax benefits resulting from the grant of any Equity Awards prior to the Distribution to an employee of Ensign (or the appropriate Ensign Affiliate), including with respect to any SpinCo Restricted Stock (as defined in the Employee Matters Agreement) issued to employees of Ensign pursuant to the SpinCo Equity and Incentive Plan (as defined in the Employee Matters Agreement) (such Equity Awards, the "Ensign Employee SpinCo Awards").

(b) To the extent permitted by law (and subject to Section 2.04(g)), SpinCo (or the appropriate SpinCo Affiliate) shall be entitled to and shall claim all federal income Tax deductions or other Tax benefits resulting from the grant of any Equity Awards prior to the Distribution to an employee of SpinCo (or the appropriate SpinCo Affiliate).

(c) To the extent permitted by law, with respect to Equity Awards granted after the Distribution Date, the Party that grants the award shall be entitled to claim any Tax deduction or other benefit resulting from the grant and/or vesting of the award (including any dividends accrued or paid with respect to such award).

(d) If, pursuant to a Final Determination, all or any part of a Tax deduction claimed by Ensign pursuant to Section 2.04(a) is disallowed, then, to the extent permitted by law, SpinCo (or the appropriate SpinCo Affiliate) shall claim such Tax deduction. If SpinCo (or its Affiliate) realizes a Tax benefit from the claiming of such Tax deduction, SpinCo shall pay the amount of such Tax benefit to Ensign net of any Tax Detriment suffered by SpinCo or its Affiliate in connection therewith. If, pursuant to a Final Determination, all or any part of a Tax deduction claimed by SpinCo pursuant to Section 2.04(b) is disallowed, then, to the extent permitted by law, Ensign (or the appropriate Ensign Affiliate) shall claim such Tax deduction. Except in the case of an Ensign Employee SpinCo Award, if Ensign (or its Affiliate) realizes a Tax benefit from the claiming of such Tax deduction, Ensign shall pay the amount of such Tax benefit to SpinCo net of any Tax Detriment suffered by Ensign or its Affiliate in connection therewith.

(e) Upon the vesting and settlement of an Ensign Equity Award settled in Ensign common stock or paid by Ensign (including any dividends accrued or paid with respect thereto) the holder of which is an employee of SpinCo or a member of the SpinCo Group, Ensign shall timely transfer such Ensign common stock or such amounts to the employing entity of such holder; and the employing entity shall be solely responsible for ensuring (i) the settlement of such Ensign Equity Awards (including the payment of any dividends accrued or paid or other amounts with respect thereto, as applicable), and (ii) the withholding of all applicable Taxes and the prompt remittance of such withheld amounts, along with the employer's portion of any applicable payroll Taxes due with respect to the exercise or vesting and settlement of such Equity Award (including any dividends accrued or paid with respect thereto), to the appropriate Taxing Authority.

(f) Upon the vesting and settlement of a SpinCo Equity Award settled in SpinCo common stock or paid by SpinCo (including any dividends accrued or paid with respect thereto) the holder of which is an employee of Ensign or a member of the Ensign Group (including, for the avoidance of doubt, any Ensign Employee SpinCo Awards), SpinCo shall timely transfer such Spinco common stock or such amounts to the employing entity of such holder; and the employing entity shall be solely responsible for ensuring (i) the settlement of such Spinco Equity Awards (including the payment of any dividends accrued or paid or other amounts with respect thereto, as applicable), and (ii) the withholding of all applicable Taxes and prompt remittance of such withheld amounts, along with the employer's portion of any applicable payroll Taxes due with respect to the exercise or vesting and settlement of such Equity Award (including any dividends accrued or paid with respect thereto), to the appropriate Taxing Authority.

(g) The Parties hereto acknowledge and agree that, except to the extent otherwise required by applicable Law and subject to Section 83 of the Code, (A) SpinCo shall be treated for U.S. federal (and applicable state and local) income Tax purposes as issuing the Ensign Employee SpinCo Awards to Ensign (or its applicable Affiliate) in respect of services provided by Ensign (or such Affiliate), and (B) Ensign (or such Affiliate) shall in turn be treated for U.S. federal (and applicable state and local) income Tax purposes as delivering such Ensign Employee SpinCo Awards to such employee as compensation in respect of services provided to Ensign. Notwithstanding the foregoing or anything herein to the contrary, to the extent SpinCo (or its Affiliate) realizes a Tax benefit from the claiming of a Tax deduction with respect to an Ensign Employee SpinCo Award, SpinCo shall pay the amount of such Tax benefit to Ensign net of any Tax Detriment suffered by SpinCo or its Affiliate in connection therewith.

2.05 Tax Refunds.

(a) Except as otherwise provided herein, the benefit of any Tax credits, Tax Attributes, and any refund or credit of any overpayment of Taxes or estimated Tax liabilities ("Refunds"), including any corresponding benefit arising out of or related to any Tax liability that is the subject of this Agreement, will remain with the party entitled to the benefit under applicable Tax Law, as modified by any applicable audit agreements or past practice of Ensign and its Affiliates. No payments shall be made between the Parties to account for such adjustment.

(b) Except as provided in Section 2.06, Ensign shall be entitled to all Refunds for Taxes for which Ensign is responsible pursuant to Article II, and SpinCo shall be entitled to all Refunds for Taxes for which SpinCo is responsible pursuant to Article II (including, for the avoidance of doubt, Ensign and SpinCo's respective share of any Refund with respect to a Pre-Distribution Period Adjustment). A Party receiving a Refund to which the other Party is entitled pursuant to this Agreement shall pay the amount to which such other Party is entitled within ten twenty (20) days after the receipt of the Refund.

(c) In the event of an Adjustment relating to Taxes for which one Party is responsible pursuant to Article II which would have given rise to a Refund but for an offset against the Taxes for which the other Party is or may be responsible pursuant to Article II (the "Benefited Party"), then the Benefited Party shall pay to the other Party, within twenty (20) days of the Final Determination of such Adjustment an amount equal to the lesser of (i) the amount of such hypothetical Refund or (ii) the amount of such reduction in the Taxes of the Benefited Party, in each case, plus interest at the rate set forth in Section 6621(a)(1) of the Code on such amount for the period from the filing date of the Tax Return that would have given rise to such Refund to the payment date.

(d) Notwithstanding Section 2.05(a), to the extent that a Party applies or causes to be applied an overpayment of Taxes as a credit toward or a reduction in Taxes otherwise payable (or a Taxing Authority requires such application in lieu of a Refund) and such overpayment of Taxes, if received as a Refund, would have been payable by such Party to the other Party pursuant to this Section 2.05, such Party shall pay such amount to the other Party no later than the due date of the Tax Return for which such overpayment is applied to reduce Taxes otherwise payable.

(e) To the extent that the amount of any Refund under this Section 2.05 or Section 2.06(b), as applicable, is later reduced by a Taxing Authority or in a Tax Proceeding, such reduction shall be allocated to the Party to which such Refund was allocated pursuant to this Section 2.05 or Section 2.06(b), as applicable, and an appropriate adjusting payment shall be made.

2.06 Carrybacks.

(a) The carryback of any loss, credit, or other Tax Attribute from any Post-Distribution Period shall be in accordance with the provisions of the Code and Treasury Regulations (and any applicable state, local, or non-U.S. Law).

(b) (i) Subject to Section 2.06(c) and (d), in the event that any member of the SpinCo Group realizes any loss, credit, or other Tax Attribute in a Post-Distribution Period of such member, such member may elect to carry back such loss, credit, or other Tax Attribute to a Pre-Distribution Period or Straddle Period of Ensign. Ensign shall cooperate with SpinCo and such member in seeking from the appropriate Taxing Authority any Refund that reasonably would result from such carryback (including by filing an amended Tax Return) at SpinCo's cost and expense; provided, that Ensign shall not be required to seek such Refund, and SpinCo and such member shall not be permitted to seek such Refund, in each case to the extent that such Refund would reasonably be expected to materially adversely impact Ensign (including through an increase in Taxes or a loss or reduction of a Tax Attribute regardless of whether or when such Tax Attribute otherwise would have been used), in each case without the prior written consent of Ensign, which consent shall not be unreasonably withheld or delayed. SpinCo (or such member) shall be entitled to any Refund realized by any member of the Ensign Group or the SpinCo Group resulting from such carryback.

(ii) Subject to Section 2.06(c) and (d), in the event that any member of the Ensign Group realizes any loss, credit or other Tax Attribute in a Post-Distribution Period of such member, such member may elect to carry back such loss, credit or other Tax Attribute to a Pre-Distribution Period or Straddle Period of such member. SpinCo shall cooperate with Ensign and such member in seeking from the appropriate Taxing Authority any Refund that reasonably would result from such carryback (including by filing an amended Tax Return) at Ensign's cost and expense; provided, that SpinCo shall not be required to seek such Refund and Ensign and such member shall not be permitted to seek such Refund, in each case to the extent that such Refund would reasonably be expected to materially adversely impact SpinCo (including through an increase in Taxes or a loss or reduction of a Tax Attribute regardless of whether or when such Tax Attribute otherwise would have been used), in each case without the prior written consent of SpinCo, which consent shall not be unreasonably withheld or delayed. Ensign (or such member) shall be entitled to any Refund realized by any member of the SpinCo Group or the Ensign Group resulting from such carryback.

(c) Except as otherwise provided by applicable Law, if any loss, credit or other Tax Attribute of the Ensign Business and the SpinCo Business both would be eligible to be carried back or carried forward to the same Pre-Distribution Period (had such carryback been the only carryback to such taxable period), any Refund resulting therefrom shall be allocated between Ensign and SpinCo proportionately based on the relative amounts of the Refunds to which the Ensign Business and the SpinCo Business, respectively, would have been entitled had such carryback been the only carryback to such taxable period.

(d) To the extent the amount of any Refund under this Section 2.06 is later reduced by a Taxing Authority or a Tax Proceeding, such reduction shall be allocated to the Party to which such Refund was allocated pursuant to this Section 2.06.

2.07 Protective Section 336(e) Elections.

(a) Ensign and SpinCo shall make a protective election with respect to SpinCo under Section 336(e) of the Code (and any similar election under state or local Law) with respect to the Distribution in accordance with Treasury Regulations Section 1.336-2(h) and (j) (and any applicable provisions under state and local Law) and shall fully cooperate in the timely completion

and/or filings of such elections and any related filings or procedures (including filing or amending any Tax Returns to implement an election that becomes effective). This Section 2.07(a) is intended to constitute a binding, written agreement to make an election under Section 336(e) of the Code with respect to the Distribution.

(b) Notwithstanding anything to the contrary herein, in the event that the election contemplated in Section 2.07(a) is made and becomes effective, then the Parties shall share in any Tax benefit derived as a result of such election in accordance with the Parties' relative responsibility for such Taxes under this Article II, and payments shall be made between the Parties, if necessary.

(c) Ensign and SpinCo shall cooperate in good faith in order to determine whether to make a protective election under Section 336(e) of the Code (and any similar election under state or local Law) with respect to any subsidiary of SpinCo in accordance with Treasury Regulations Section 1.336-2(h) and (j) (and any applicable provisions under state and local Law).

ARTICLE III
TAX RETURNS AND INFORMATION EXCHANGE

3.01 Tax Return Preparation Responsibility; Payment of Taxes Shown Thereon.

(a) Except as provided in Section 3.01(c), Ensign shall prepare and timely file all Tax Returns for Pre-Distribution Periods for Ensign and its Affiliates, including SpinCo and its Affiliates, and all Tax Returns for Straddle Periods for all members of the Ensign Group. In connection with each federal, state, and local Tax Return that is required under this Agreement to be filed by Ensign for Pre-Distribution Periods or Straddle Periods, SpinCo shall timely furnish to Ensign such Tax information and documents as Ensign may reasonably request.

(b) To the extent that there are separate state or local Tax Returns attributable to a member of the Ensign Group required to be filed by members of the SpinCo Group with respect to Pre-Distribution Periods, SpinCo and Ensign shall cooperate in good faith to ensure that such returns are correctly filed by the party required to file such Tax Returns under applicable Law.

(c) SpinCo and its Affiliates shall prepare and timely file all Tax Returns for Straddle Periods for all members of the SpinCo Group, including any such Tax Return with respect to a Post-Distribution Period. If Ensign or any of its Affiliates is responsible under Section 2.02(a) for a portion of any Tax reported on a Straddle Period Tax Return for any member of the SpinCo Group, SpinCo shall provide Ensign with a copy of such Tax Return at least thirty (30) days prior to its due date. Ensign shall notify SpinCo of any disagreement within 20 days of Ensign's receipt of such Tax Return. Any dispute shall be resolved pursuant to the procedures provided by this Agreement.

(d) Except at the written direction of Ensign or to the extent permitted pursuant to Section 2.06, after the date of the Distribution, SpinCo shall not file (or allow any SpinCo Affiliate to file) any amended Tax Return or refund claim for any Pre-Distribution Periods.

(e) Ensign (and its Affiliates) shall be responsible for remitting payment of any Taxes shown on a Tax Return which Ensign (or any of its Affiliates) is responsible for filing. SpinCo (and its Affiliates) shall be responsible for remitting payment of any Taxes shown on a Tax Return which SpinCo (or any of its Affiliates) is responsible for filing.

(f) If Ensign (or any of its Affiliates) remits a Tax payment, but SpinCo (or any of its Affiliates) is responsible pursuant to Article II for all or a portion of the Tax shown on the applicable Tax Return, then SpinCo shall timely pay to Ensign that portion of the Tax for which SpinCo (or any of its Affiliates) is responsible. If SpinCo (or any of its Affiliates) remits a Tax payment, but Ensign (or any of its Affiliates) is responsible pursuant to Article II for all or a portion of the Tax shown on the applicable Tax Return, then Ensign shall timely pay to SpinCo that portion of the Tax for which Ensign (or any of its Affiliates) is responsible. Such payments shall be requested and made in accordance with the notice and payment provisions contained in Article VI. Nothing in this Section 3.01 shall affect the allocation of responsibility for Taxes as set forth in Article II.

3.02 Certain Items Related to Tax Return Preparation.

(a) All Tax Returns relating to a Pre-Distribution Tax Period shall be prepared and filed by the specified party in a manner consistent with past Tax reporting practices of the Ensign Group or the SpinCo Group, as applicable.

(b) Unless otherwise required by a Taxing Authority, the Parties hereby agree to prepare and file all Tax Returns, and to take all other actions, in a manner consistent with this Agreement, the Separation Agreement, the Ancillary Agreements, applicable Law, the Tax Opinion, and any Representation Letter. All Tax Returns shall be filed on a timely basis (taking into account applicable extensions) by the party responsible for filing such Tax Returns under this Agreement; provided, that if a Tax Return is to be signed by an officer of an entity different from the party responsible for filing such Tax Return, the appropriate Party shall have (or cause its Affiliate to have) the appropriate officer sign such Tax Return promptly after presentation thereof for signature.

(c) Except as otherwise specifically provided for in this Agreement, each Party shall have the exclusive right, in its reasonable discretion, with respect to any Tax Return for which it is responsible for the filing thereof pursuant to this Agreement, to determine (i) the manner in which such Tax Return shall be prepared and filed, including the accounting methods, positions, conventions and principles of taxation to be used and the manner in which any Tax Item shall be reported; (ii) whether any extensions may be requested; (iii) the election(s) that will be made by Ensign, SpinCo, or any of their Affiliates on such Tax Return; (iv) whether any amended Tax Return shall be filed; (v) whether any claim for Refund shall be made; (vi) whether any Refund shall be paid by way of refund or credited against any liability for the related Tax; and (vii) whether to retain outside firms to prepare or review such Tax Returns; provided, that Ensign shall prepare all Tax Returns for which it has filing responsibility, to the extent such Tax Returns reflect activities of the SpinCo Group, in a manner consistent with past Tax reporting practices with respect to such activities of the SpinCo Group, except as required by Law or regulation.

(d) As soon as reasonably practicable following the Distribution Date, and in any event within 90 calendar days after filing the federal income Tax Return for the Ensign Consolidated Group for the tax year that includes the Distribution Date, Ensign shall notify SpinCo of the Tax Attributes associated with SpinCo and each of its Affiliates, and the Tax bases of the assets and liabilities transferred to SpinCo in connection with the Distribution. Ensign shall advise SpinCo with respect to any Final Determination of Tax Adjustments relating to the Ensign Consolidated Group if such Final Determination of Tax Adjustments may affect any Tax Attribute of any member of the SpinCo Group after the Distribution Date within 90 calendar days after such change is made or there is a Final Determination of such change.

(e) Nothing in this Agreement shall be construed as a guarantee or representation of the existence or amount of any loss, credit, carryforward, basis, or other Tax Item or Tax Attribute, whether past, present, or future, of Ensign, SpinCo, or their respective Affiliates.

ARTICLE IV
TAX TREATMENT OF THE DISTRIBUTION

4.01 Representations.

(a) SpinCo.

(i) Tax-Free Status. SpinCo hereby represents and warrants that it has no plan or intention of taking any action, or failing or omitting to take any action, or knows of any circumstance, that could reasonably be expected to (i) cause the Contribution and the Distribution to fail to qualify as a reorganization within the meaning of Sections 368(a)(1)(D) and 355 of the Code or (ii) cause any representation or factual statement made in this Agreement, the Separation Agreement, the Ancillary Agreements, the Tax Opinion, or any SpinCo Representation Letter, as applicable, to be untrue in a manner that would have an adverse effect on the qualification of the Contribution and the Distribution as a reorganization within the meaning of Sections 368(a)(1)(D) and 355 of the Code or the tax treatment described in the Tax Opinion of certain aspects of the Reorganization and the Distribution.

(ii) Plan or Series of Related Transactions.

(A) SpinCo hereby represents and warrants that, to the knowledge of SpinCo and the management of SpinCo, neither the Distribution nor any related transactions are part of a plan (or series of related transactions) pursuant to which a Person will acquire directly or indirectly stock representing a fifty-percent or greater interest (within the meaning of Sections 355(d) and (e) of the Code) in SpinCo or any successor to SpinCo.

(B) SpinCo has no plan or intention to participate in, facilitate, undertake, or otherwise permit any acquisition of SpinCo after the Distribution pursuant to which a direct or indirect acquisition of stock of SpinCo would occur, which would result in a direct or indirect acquisition of stock representing a 50 percent or greater interest (within the meaning of Sections 355(d) and 355(e) of the Code) in SpinCo or any successor to SpinCo.

(C) SpinCo and its Affiliates have no plan or intention to redeem, purchase, or otherwise reacquire more than 20% of the capital stock of SpinCo in one or more transactions following the Distribution Date.

(D) SpinCo and its Affiliates have no plan or intention to (i) sell, exchange, distribute, or otherwise dispose of, directly or indirectly, other than in the ordinary course of business, all or a substantial part of the assets of any of the trades or businesses relied upon, including in the Tax Opinion, to satisfy Section 355(b) of the Code; (ii) discontinue or cause to be discontinued the active conduct of any of the trades or businesses relied upon, including in the Tax Opinion, to satisfy Section 355(b) of the Code; or (iii) cause the occurrence of any restructuring pursuant to which SpinCo ceases to be treated as conducting the trade or businesses relied upon, including in the Tax Opinion, to satisfy Section 355(b) of the Code.

(b) Ensign.

(i) Tax-Free Status. Ensign hereby represents and warrants that it has no plan or intention of taking any action, or failing or omitting to take any action, or knows of any circumstance, that could reasonably be expected to (i) cause the Contribution and the Distribution to fail to qualify as a reorganization within the meaning of Sections 368(a)(1)(D) and 355 of the Code, or (ii) cause any representation or factual statement made in the Separation Agreement, this Agreement, the other Ancillary Agreements, the Tax Opinion, or any Ensign Representation Letter, as applicable, to be untrue in a manner that would have an adverse effect on the qualification of the Contribution and the Distribution as a reorganization within the meaning of Sections 368(a) (1)(D) and 355 of the Code or the tax treatment described in the Tax Opinion of certain aspects of the Reorganization and the Distribution.

(ii) Plan or Series of Related Transactions.

(A) Ensign hereby represents and warrants that, to the knowledge of Ensign and the management of Ensign, neither the Distribution nor any related transactions are part of a plan (or series of related transactions) pursuant to which a Person will acquire directly or indirectly stock representing a fifty-percent or greater interest (within the meaning of Sections 355(d) and (e) of the Code) in Ensign or any successor to Ensign.

(B) Ensign has no plan or intention to participate in, facilitate, undertake or otherwise permit any acquisition of Ensign after the Distribution pursuant to which a direct or indirect acquisition of stock of Ensign would occur, which would result in a direct or indirect acquisition of stock representing a 50 percent or greater interest (within the meaning of Sections 355(d) and 355(e) of the Code) in Ensign or any successor to Ensign.

(C) Ensign and its Affiliates have no plan or intention to redeem, purchase or otherwise acquire more than 20% of Ensign’s capital stock in one or more transactions following the Distribution Date.

(D) Ensign and its Affiliates have no plan or intention to (i) sell, exchange, distribute or otherwise dispose of, directly or indirectly, other than in the ordinary course of business, all or a substantial part of the assets of any of the trades or businesses relied upon, including in the Tax Opinion, to satisfy Section 355(b) of the Code; (ii) discontinue or cause to be discontinued the active conduct of any of the trades or businesses relied upon, including in the Tax Opinion, to satisfy Section 355(b) of the Code, or (iii) cause the occurrence of any restructuring pursuant to which Ensign ceases to be treated as conducting the trade or businesses relied upon, including in the Tax Opinion, to satisfy Section 355(b) of the Code.

4.02 Covenants.

(a) The Parties shall not, and shall cause their Affiliates not to, take any action or fail to take any action, where such action or failure would be inconsistent with or have an adverse effect on the qualification of the Contribution and the Distribution as a reorganization within the meaning of Sections 368(a)(1)(D) and 355 of the Code or the tax treatment described in the Tax Opinion of certain aspects of the Distribution.

(b) Unless otherwise required by a Taxing Authority or applicable Law, the Parties hereby agree to prepare and file all Tax Returns, and to take all other actions, in a manner consistent with past practice.

(c) Unless otherwise required by a Taxing Authority or applicable Law, the Parties hereby agree to prepare and file all Tax Returns, and to take all other actions, in a manner consistent with the characterization of the Reorganization and the Distribution as described in the Tax Opinion and the Ancillary Agreements.

(d) Actions Consistent with Representations and Covenants.

(i) SpinCo shall not, and shall not permit any of its Affiliates to, take any action or fail to take any action, where such action or failure to act would be inconsistent with or cause to be materially untrue any material, information, covenant, or representation in the Separation Agreement, this Agreement, the other Ancillary Agreements, the Tax Opinion, or any SpinCo Representation Letter.

(ii) Ensign shall not, and shall not permit any of its Affiliates to, take any action or fail to take any action, where such action or failure to act would be inconsistent with or cause to be materially untrue any material, information, covenant, or representation in the Separation Agreement, this Agreement, the other Ancillary Agreements, the Tax Opinion, or any Ensign Representation Letter.

(e) Notwithstanding anything herein to the contrary, during the Restricted Period, SpinCo shall not (and shall not allow any of its subsidiaries or Affiliates to):

(i) allow any Proposed Acquisition Transaction to occur;

(ii) merge or consolidate with any other Person or dissolve, liquidate or partially liquidate (other than a wholly owned subsidiary of SpinCo merging or consolidating with SpinCo or another wholly owned subsidiary of SpinCo);

(iii) approve or allow the discontinuance, cessation, or sale or other transfer (to an Affiliate or otherwise) of any Active Business by SpinCo or its Affiliates, as applicable, for purposes of Section 355 of the Code;

(iv) sell or otherwise dispose of more than 35% of its consolidated gross or net assets or allow the sale or other disposition (to an Affiliate or otherwise) of more than 35% of the consolidated gross or net assets of SpinCo (in each case, excluding sales in the ordinary course of business, sales the net cash proceeds (taking into account any Taxes payable) of which are reinvested in other assets (including pursuant to an exchange under Section 1031 of the Code) and sales the net cash proceeds (taking into account any Taxes payable) of which are used to repay indebtedness, and measured based on fair market values as of the date of the Distribution or other transaction);

(v) amend its certificate of incorporation or take any similar action that affects the rights of stockholders under the certificate of incorporation;

(vi) purchase, directly or through any Affiliate, any of its outstanding stock after the Distribution, other than through stock purchases meeting the requirements of Section 4.05(1)(b) of Revenue Procedure 96-30 (as in effect prior to the amendment of such Revenue Procedure by Revenue Procedure 2003-48);

(vii) take any action or fail to take any action, or permit any of its Affiliates to take any action or fail to take any action, that is inconsistent with the representations and covenants made in the Representation Letters, or that is inconsistent with the Tax Opinion; nor

(f) enter into an arrangement or agreement to do any of the foregoing.

4.03 Procedures Regarding Opinions.

(a) If SpinCo notifies Ensign that it desires to take one of the actions described in Section 4.02 (a "Notified Action"), Ensign shall cooperate with SpinCo and use its reasonable best efforts to seek to obtain, as expeditiously as possible, a ruling from the IRS or an Unqualified Tax Opinion for the purpose of permitting SpinCo to take the Notified Action unless Ensign shall have waived the requirement to obtain such opinion. If such a ruling is to be sought, Ensign shall apply for such ruling and Ensign and SpinCo shall jointly control the process of obtaining such ruling. In no event shall Ensign be required to file any ruling request under this Section 4.03(a) unless SpinCo represents that (i) it has read such ruling request, and (ii) all information and representations, if any, relating to any member of the SpinCo Group, contained in such ruling request documents are (subject to any qualifications therein) true, correct, and complete. SpinCo shall reimburse Ensign for all reasonable costs and expenses incurred by the Ensign Group in obtaining a ruling or an Unqualified Tax Opinion requested by SpinCo within twenty (20) days after receiving an invoice from Ensign therefor.

(b) If Ensign requests a ruling or other guidance pursuant to Section 4.03(a): (A) Ensign shall keep SpinCo informed in a timely manner of all material actions taken or proposed to be taken by Ensign in connection therewith; (B) Ensign shall (i) reasonably in advance of the submission of any documents relating to the ruling provide SpinCo with a draft thereof, (ii) reasonably consider SpinCo's comments to such draft, (iii) provide SpinCo with a final copy of any documents relating to the ruling, (iv) provide SpinCo with notice reasonably in advance of, and SpinCo shall have the right to attend, any meetings with the Taxing Authority (subject to the approval of the Taxing Authority) that relate to such ruling, and (v) provide SpinCo with a copy of such ruling.

4.04 Enforcement. The Parties acknowledge that irreparable harm would occur in the event that any of the provisions of this Article IV were not performed in accordance with their specific terms or were otherwise breached. The Parties agree that, in order to preserve the qualification of the Contribution and the Distribution as a reorganization within the meaning of Sections 368(a)(1)(D) and 355 of the Code, injunctive relief is appropriate to prevent any violation of the foregoing covenants; provided, however, that injunctive relief shall not be the exclusive legal or equitable remedy for any such violation.

ARTICLE V
COOPERATION AND EXCHANGE OF INFORMATION

5.01 Cooperation.

(a) Notwithstanding anything to the contrary in the Separation Agreement or the Ancillary Agreements, Ensign and SpinCo shall cooperate (and shall cause each of their respective Affiliates to cooperate) fully at such time and to the extent reasonably requested by the other Party in connection with the preparation and filing of any Tax Return or the conduct of any Tax controversy, including any audit, protest, or claim for refund, competent authority proceeding, or litigation in Tax court or any other court of competent jurisdiction (a "Tax Controversy") (including providing a power of attorney) concerning any issues or any other matter contemplated under this Agreement or otherwise as reasonably requested by the other Party. Each Party shall make its employees and facilities available on a mutually convenient basis to facilitate such cooperation.

(b) Notwithstanding anything to the contrary in this Agreement, if a Party materially fails to comply with any of its obligations set forth in this Section 5.01, upon reasonable request and notice by the other Party, the non-performing Party shall (i) reimburse the other Party for any internal or incremental costs incurred by such other Party in having its employees or agents view or obtain such material, and (ii) to the extent such failure results in the imposition of additional Taxes, be liable in full for such additional Taxes.

5.02 Retention of Records.

(a) The Parties and their Affiliates shall retain and provide to one another on demand books, records, documentation, information, or other materials (including computer data) relating to any Tax Return, or any supplemental information necessary or reasonably helpful to support any position taken therein until the later of (x) the expiration of the applicable statute of limitations (giving effect to any extension, waiver, or mitigation thereof) or (y) in the event any claim has been made under this Agreement for which such information is relevant, the occurrence of a Final Determination with respect to such claim.

(b) The Parties shall retain and make available to one another and to Tax Authorities, records and documentation that specifically include information regarding the amount, basis, and fair market value of all assets exchanged in the Contribution, and relevant facts regarding any liabilities assumed or extinguished as part of Contribution, pursuant to Treasury Regulation Section 1.355-5(d).

(c) If at any time after the Distribution Date a Party proposes to destroy materials or information required to be retained pursuant to Section 5.02(a), it shall first notify the other Party in writing and such other Party shall be entitled to receive such materials or information proposed to be destroyed if such materials or information relate to the other Party or any of its Affiliates or any assets held by the other Party's or any of its Affiliates.

5.03 Contest Provisions.

(a) The Party responsible for Taxes under Article II (the "Responsible Party") shall, with respect to a Tax Return, have the exclusive right at its own cost, to control, contest and represent the interests of Ensign, SpinCo, and their respective Affiliates in any Tax Controversy related to such Tax Return; provided, for the avoidance of doubt that Ensign shall be the Responsible Party with respect to any Tax Return reflecting a Tax described in Section 2.02(a)(i)(A). Such right to control shall include the right, in the Responsible Party's reasonable discretion, to resolve, settle or agree to any deficiency, claim or adjustment proposed, asserted or assessed in connection with or as a result of any such Tax Controversy; provided, however, that at the request of Ensign or at SpinCo's option, SpinCo shall reasonably participate as described in Section 5.04 in the contest of a Tax Controversy of the Ensign Consolidated Group for any Pre-Distribution Periods.

(b) Ensign shall use reasonable efforts to keep SpinCo advised as to the status of Tax Controversies involving any issue that relates to a Tax of SpinCo or any SpinCo Affiliate or that could reasonably be expected to give rise to a liability of SpinCo or any of its Affiliates under this Agreement (in each case, a "Liability Issue"). Ensign shall promptly furnish to SpinCo copies of any inquiries or requests for information from any Taxing Authority or any other administrative, judicial, or other governmental authority concerning any Liability Issue pertaining to SpinCo.

5.04 Reasonable Participation.

(a) In the event that SpinCo elects or is required to participate in the defense of a Tax Controversy pursuant to Section 5.03(a), Ensign shall (i) provide SpinCo with notice reasonably in advance of any proceeding relating to such Tax Controversy, and (ii) consult in good faith with SpinCo on the resolution of the Tax Controversy and on any written submissions in connection with such Tax Controversy, including providing SpinCo with an opportunity to review and provide comments on any written submission.

(b) SpinCo shall have the right, at its expense, to be present at, and participate in, any proceeding relating to such Tax Controversy to the extent allowed by Law.

(c) Ensign shall not settle, either administratively or after the commencement of litigation, such Tax Controversy without the prior written consent of SpinCo, which shall not be unreasonably withheld, conditioned, or delayed. If SpinCo withholds, conditions, or delays consent in a manner deemed "unreasonable" by Ensign, Article VII shall govern the determination of unreasonable.

5.05 Information for Shareholders.

(a) Ensign shall provide each shareholder that receives SpinCo stock pursuant to the Distribution with the information necessary for such shareholder to comply with the requirements of Section 355 of the Code and the Treasury Regulations thereunder with respect to statements that such shareholders must file with their federal income Tax Returns demonstrating the applicability of Section 355 of the Code to the Distribution.

(b) Ensign shall make available on its website the information required by Section 6045B of the Code with respect to the effect of the Distribution on the basis of Ensign and SpinCo stock in the hands of a U.S. taxpayer.

ARTICLE VI
INDEMNITY OBLIGATIONS AND PAYMENTS

6.01 Indemnity Obligations. In addition to the obligations set forth in Article II,

(a) The Ensign Group shall indemnify and hold harmless SpinCo and any member of the SpinCo Group from and against any liability, cost, or expense, including, without limitation, any fine, penalty, interest, charge, or accountant's fee, arising out of fraudulent or negligent preparation of any Tax Return or claim for Refund filed by Ensign or an Ensign Affiliate for any period during which SpinCo or any member of the SpinCo Group was or has been a member of the Ensign Consolidated Group, or arising out of the untimely provision of information required to be provided under this Agreement.

(b) The SpinCo Group shall indemnify and hold harmless Ensign and any member of the Ensign Group from and against any liability, cost, or expenses, including, without limitation, any fine, penalty, interest, charge, or accountant's fee, arising out of fraudulent or negligent information, workpapers, documents, and other items prepared by SpinCo or any SpinCo Affiliate used in the preparation of any Tax Return or claim for Refund filed by Ensign or any Ensign Affiliate for any period during which SpinCo or any SpinCo Affiliate was or has been a member of the Ensign Consolidated Group, or arising out of the untimely provision of information required to be provided under this Agreement.

6.02 Notice. A Party making a claim for indemnification under this Agreement (the "Indemnified Party") shall provide the Party from whom such indemnification is sought (the "Indemnifying Party") with written notice of such claim describing such claim in reasonable detail and accompanied by reasonable documentation supporting such claim no later than twenty (20) calendar days after the Indemnified Party (i) files a Tax Return reporting Taxes due which are subject to reimbursement, or (ii) receives written notice from any Taxing Authority with respect to a Final Determination of Taxes that may be subject to indemnification under this Agreement; provided, however, that in the event that timely notice is not provided, the Indemnifying Party shall be relieved of its obligation to indemnify the Indemnified Party only to the extent that such delay results in actual increased costs or actual prejudice.

6.03 Payment. In the event that the Indemnifying Party is required to make a payment to the Indemnified Party pursuant to this Agreement, then to the extent not otherwise provided for in this Agreement or in the Separation Agreement, such payment shall be made according to this Section 6.03.

(a) All payments shall be made to the Indemnified Party or to the appropriate Taxing Authority as specified by the Indemnified Party within the time prescribed for such payment in this Agreement, or if no period is prescribed, within twenty (20) calendar days after delivery of written notice of payment owing together with a computation of the amounts due.

(b) Unless otherwise required by any Final Determination, the Parties agree that any payment made by one Party to the other Party (other than payments of interest and payment of After Tax Amounts pursuant to Section 6.03(c)) pursuant to this Agreement shall be treated for all Tax and financial accounting purposes as payments with respect to stock (dividend distributions or capital contributions, as the case may be) made immediately prior to the Distribution.

(c) If, pursuant to a Final Determination, it is determined that the receipt or accrual of any payment made under this Agreement (other than payments of interest) is subject to any Tax, the Party making such payment shall be liable for (i) the After Tax Amount with respect to such payment, and (ii) interest at the rate described in Section 6.03(d) on the amount of such Tax from the date such Tax is due through the date of payment of such After Tax Amount. The Party making a demand for payment pursuant to this Agreement and for a payment of an After Tax Amount with respect to such payment shall separately specify and compute such After Tax Amount. However, a Party may choose not to specify an After Tax Amount in a demand for payment pursuant to this Agreement without thereby being deemed to have waived its right subsequently to demand an After Tax Amount with respect to such payment.

(d) Any payment that is required to be made pursuant to this Agreement (i) by SpinCo (or a SpinCo Affiliate) to Ensign (or an Ensign Affiliate), or (ii) by Ensign (or an Ensign Affiliate) to SpinCo (or a SpinCo Affiliate), that is not made on or prior to the date that such payment is required to be made pursuant to this Agreement shall thereafter bear interest at the rate established for underpayments pursuant to Section 6621(a)(2) of the Code.

ARTICLE VII
DISPUTE RESOLUTION

7.01 All disputes, controversies, or claims arising under or in connection with this Agreement (including any dispute, controversy, or claim relating to the breach, termination, or validity thereof) between or among any of Ensign or its Affiliates and SpinCo or its Affiliates shall be governed by Article X of the Separation Agreement or the procedures set forth in Section 7.02 as determined by the Parties. If the Parties cannot agree as to which procedure will govern such dispute, such dispute shall be resolved pursuant to Article X of the Separation Agreement. Each Party agrees that the procedures set forth in Article X of the Separation Agreement or Section 7.02, as determined in Section 7.01, shall be the sole and exclusive remedy in connection with any dispute, controversy, or claim relating to any of the foregoing matters.

7.02 With respect to any dispute governed by this Section 7.02, the Parties shall appoint a nationally recognized independent public accounting firm (the "Accounting Firm") to resolve such dispute. In this regard, the Accounting Firm shall make determinations with respect to the disputed items based solely on representations made by Ensign and SpinCo and their respective representatives, and not by independent review, and shall function only as an expert and not as an arbitrator and shall be required to make a determination in favor of one Party only. The Parties shall require the Accounting Firm to attempt to resolve all disputes no later than sixty (60) days after the submission of such dispute to the Accounting Firm, but in no event later than the due date for the payment of Taxes or the filing of the applicable Tax Return, if applicable, and agree that all decisions by the Accounting Firm with respect thereto shall, absent fraud or manifest error, be final and conclusive and binding on the Parties. The Accounting Firm shall resolve all disputes in a manner consistent with this Agreement and, to the extent not inconsistent with this Agreement, in a manner consistent with the past practices of Ensign and its Affiliates, except as otherwise required by applicable Law. The Parties shall require the Accounting Firm to render all determinations in writing to each of the Parties and to set forth, in reasonable detail, the basis for such determination. The fees and expenses of the Accounting Firm shall be paid by the non-prevailing Party.

7.03 In order to facilitate the comprehensive resolution of related disputes, all claims between any of the parties to a Dispute that arises under or in connection with both this Agreement, on the one hand, and the Separation Agreement and/or the other Ancillary Agreements, on the other hand, may be brought in a single arbitration in accordance with this Section 7.03. Upon the written request of any party to an arbitration proceeding constituted under both this Agreement, on the one hand, and the Separation Agreement and/or the other Ancillary Agreements, on the other hand, the arbitral tribunal shall consolidate such arbitration proceeding with any other arbitration proceeding relating to this Agreement, on the one hand and the Separation Agreement and/or the other Ancillary Agreements, on the other hand, if the arbitral tribunal determines that (i) there are issues of fact or Law common to the proceedings so that a consolidated proceeding would be more efficient than separate proceedings, and (ii) no party to the Dispute would be unduly prejudiced as a result of such consolidation through undue delay or otherwise. In the event of different rulings on this question by the arbitral tribunal constituted hereunder and another arbitral tribunal constituted under this Agreement, on the one hand, and the Separation Agreement and/or the other Ancillary Agreements, on the other hand, the ruling of the arbitral tribunal constituted first in time shall control, and such arbitral tribunal shall serve as the tribunal for any consolidated arbitration. This Section 7.03 shall not apply to any claims brought under Section 7.02.

7.04 In the event of a Dispute, each party to the Dispute shall continue to perform its obligations under the Separation Agreement, this Agreement, and the other Ancillary Agreements in good faith during the resolution of such Dispute as if such Dispute had not arisen, unless and until the Separation Agreement, this Agreement, or the other Ancillary Agreements, as applicable, are terminated in accordance with their respective provisions.

ARTICLE VIII
MISCELLANEOUS

8.01 Incorporation by Reference. The following sections of the Separation Agreement are hereby incorporated in this Agreement by reference to the extent not inconsistent with any of the provisions set forth in this Agreement: Section 12.3 (Amendments and Waivers); Section 12.4 (Entire Agreement); Section 12.5 (Survival of Agreements); Section 12.9 (Counterparts; Electronic Delivery); Section 12.10 (Severability); Section 12.11 (Assignability; Binding Effect); Section 12.12 (Governing Law); Section 12.13 (Construction); Section 12.14 (Performance); and Section 12.15 (Title and Headings).

8.02 Third Party Beneficiaries. This Agreement shall be binding upon and inure solely to the benefit of Ensign, SpinCo, and their respective Affiliates, and nothing herein, express or implied, is intended to or shall confer upon any third parties any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of this Agreement.

8.03 Effectiveness. This Agreement shall become effective on the Distribution Date.

8.04 Changes in Law. Any reference to a provision of the Code, Treasury Regulations, or a Law of another jurisdiction shall include a reference to any applicable successor provision or Law. If, due to any change in applicable Law or regulations or their interpretation by any court of Law or other governing body having jurisdiction subsequent to the date specified in the preamble to this Agreement, performance of any provision of this Agreement or any transaction contemplated hereby shall become impracticable or impossible, the Parties shall use their commercially reasonable efforts to find and employ an alternative means to achieve the same or substantially the same result as that contemplated by such provision.

8.05 Notices. All notices, requests, permissions, waivers and other communications hereunder shall be in writing and shall be deemed to have been duly given (a) five (5) Business Days following sending by registered or certified mail, postage prepaid, (b) when sent, if sent by facsimile or e-mail of a PDF document (with confirmation of transmission) if sent during normal business hours of the recipient, and on the next Business Day if sent after normal business hours of the recipient, (c) when delivered, if delivered personally to the intended recipient, and (d) one (1) Business Day following sending by overnight delivery via a national courier service and, in each case, addressed to a Party at the following address for such Party (as updated from time to time by notice in writing to the other Party):

(a) If to Ensign, at:

The Ensign Group, Inc.
29222 Rancho Viejo Rd., Suite 127
San Juan Capistrano, CA 92675
Attention: General Counsel
Email: legal@ensignservices.net

(b) If to SpinCo, at:

The Pennant Group, Inc.
1675 E. Riverside Dr., Ste. 150
Eagle, ID 83616
Attention: General Counsel
Email: legal@pennantservices.com

8.06 Joint and Several Liability. SpinCo and each SpinCo Affiliate shall have joint and several liability for any obligation of SpinCo or a SpinCo Affiliate arising pursuant to this Agreement. Ensign and each Ensign Affiliate shall have joint and several liability for any obligation of Ensign or an Ensign Affiliate arising pursuant to this Agreement.

8.07 Tax Sharing Agreements. All Tax sharing, indemnification and similar agreements, written or unwritten, as between any member of the SpinCo Group, on the one hand, and any member of the Ensign Group, on the other hand (other than the Separation Agreement, this Agreement, or any other Ancillary Agreement), shall be or shall have been terminated as of the Effective Time and, after the Effective Time, none of such Parties (or their respective Subsidiaries) to any such Tax sharing, indemnification or similar agreement shall have any further rights or obligations under any such agreement.

8.08 Expenses. Unless otherwise expressly provided in this Agreement, each Party shall bear any and all expenses that arise from their respective obligations under this Agreement.

8.09 Confidentiality. Each Party shall hold and cause its consultants and advisors to hold in strict confidence, unless compelled to disclose by judicial or administrative process or, in the opinion of its counsel, by other requirements of Law, all information written or oral concerning the other Party hereto furnished it by such other Party or its representatives pursuant to this Agreement (except to the extent that such information can be shown to have been (i) previously known by the Party to which it was furnished, (ii) in the public domain through no fault of such Party, or (iii) later lawfully acquired from other sources by the Party to which it was furnished), and each Party shall not release or disclose such information to any other person, except its auditors, attorneys, financial advisors, bankers, and other consultants and advisors who shall be advised of the provisions of this Section 8.09. Each Party shall be deemed to have satisfied its obligation to hold confidential information concerning or supplied by the other Party if it exercises the same care as it takes to preserve confidentiality for its own similar information.

8.10 Limitation on Damages. Each Party irrevocably waives, and no Party shall be entitled to seek or receive, consequential, special, indirect or incidental damages (including without limitation damages for loss of profits) or punitive damages, regardless of how such damages were caused and regardless of the theory of liability; provided that the foregoing shall not limit each Party's indemnification obligations set forth in the Separation Agreement and the Ancillary Agreements.

8.11 Consent by Affiliates. Each of Ensign and SpinCo shall cause each of its respective Affiliates (including any entity that becomes an Affiliate after the date hereof) to consent to, and be bound by, the terms, conditions, covenants, and provisions of this Agreement.

8.12 Coordination with Other Agreements. The Parties agree that this Agreement shall take precedence over any and all agreements among the Parties with respect to Tax matters, including indemnification in respect of Tax matters; provided, however, this Agreement shall not take precedence over any Tax matter relating to the payment or reimbursement of Taxes that exists now or in the future under any lease of property between Ensign and SpinCo, or any of their respective Affiliates, as the case may be, and any such Taxes shall be governed exclusively by such leases without regard to this Agreement.

[Signature Page Follows]

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

THE ENSIGN GROUP, INC.

By: /s/ Suzanne Snapper
Name: Suzanne Snapper
Title: Chief Financial Officer

THE PENNANT GROUP, INC.

By: /s/ Jennifer L. Freeman
Name: Jennifer L. Freeman
Title: Chief Financial Officer

Exhibit 10.3

EMPLOYEE MATTERS AGREEMENT

by and between

THE PENNANT GROUP, INC.

and

THE ENSIGN GROUP, INC.

Dated as of October 1, 2019

EMPLOYEE MATTERS AGREEMENT

This EMPLOYEE MATTERS AGREEMENT (this "Agreement") is made and entered into as of October 1, 2019, by and between The Pennant Group, Inc., a Delaware corporation ("SpinCo"), and The Ensign Group, Inc., a Delaware corporation ("RemainCo" and with SpinCo each, individually, a "Party", and, collectively, the "Parties"). Capitalized terms used in this Agreement, but not defined, shall have the meanings ascribed to them in the Master Separation Agreement, dated as of October 1, 2019, by and between SpinCo and RemainCo (as amended from time to time, the "Distribution Agreement").

RECITALS

WHEREAS, pursuant to the Distribution Agreement, RemainCo shall be separated into two separate, publicly-traded companies, one for each of (i) the RemainCo Business, which shall be owned and conducted, directly or indirectly, by RemainCo, and (ii) the SpinCo Business, which shall be owned and conducted, directly or indirectly, by SpinCo; and

WHEREAS, each of RemainCo and SpinCo has determined that it is necessary and desirable to enter into this Agreement in order to allocate, assign or transfer, as applicable, to the appropriate Party, assets, responsibilities, liabilities and obligations with respect to employee compensation, benefits, labor and certain other employment matters associated with personnel of the SpinCo Business and the RemainCo Business, pursuant to the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the foregoing, the mutual agreements, provisions and covenants contained in this Agreement, and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, SpinCo and RemainCo hereby agree as follows:

ARTICLE I
DEFINITIONS

Section 1.01 **Definitions**: As used in this Agreement, the following terms shall have the meanings indicated below:

(a) "COBRA" shall mean Code Section 4980B and ERISA Sections 601 through 608 or similar state law.

(b) "Code Section 409A" shall mean Section 409A of the Code and the regulations and guidance promulgated thereunder.

(c) "Cornerstone Equity and Incentive Plan" shall mean The Cornerstone Healthcare, Inc. 2016 Omnibus Incentive Plan, as amended from time to time.

(d) "Cornerstone Options" shall mean a vested or unvested stock option right issued under the Cornerstone Equity and Incentive Plan, which is outstanding immediately prior to the Effective Time.

(e) "Cornerstone Restricted Stock" shall mean a vested or unvested share of restricted stock issued pursuant to the applicable award agreement issued under the Cornerstone Equity and Incentive Plan, which is outstanding immediately prior to the Effective Time.

(f) "Employee" shall mean any individual who is an employee of RemainCo or any of its Subsidiaries (including, for the avoidance of doubt, SpinCo and its Subsidiaries) immediately before the Effective Time, including active employees and employees on vacation and approved leave of absence (including maternity, paternity, family, sick, short-term or long-term disability leave, qualified military service under the Uniformed Services Employment and Reemployment Rights Act of 1994, leave under the Family Medical Leave Act and other approved leaves).

(g) "Employment Claim" shall mean any actual or threatened action, lawsuit, charge, complaint, audit, inquiry, investigation, grievance, arbitration, claim (including ERISA claims), or federal, state, or local judicial or administrative proceeding of whatever kind involving a demand by, on behalf of or relating to an Employee, Former Employee, or current or former independent contractor, or by or relating to any federal, state, or local Government Entity alleging Liability against a Party or against a Party's pension, welfare or other benefit plan, or such plan's administrator, trustee or fiduciary.

(h) "Equity Awards" means awards issued under the RemainCo Equity and Incentive Plans and Cornerstone Equity and Incentive Plan.

(i) "ERISA" shall mean the Employee Retirement Income Security Act of 1974, as amended, or any successor legislation.

(j) "Former Employee" shall mean any individual who was employed by RemainCo or any of its Subsidiaries (including, for the avoidance of doubt, SpinCo and its Subsidiaries) at any time prior to the Effective Time but who is not an Employee hereunder.

(k) "IRS" shall mean the Internal Revenue Service.

(l) "Plan" shall mean any plan, policy, arrangement, contract or agreement providing compensation or benefits for any group of Employees or individual Employee, or the dependents or beneficiaries of any such Employee(s), whether formal or informal or written or unwritten, and including, without limitation, any means, whether or not legally required, pursuant to which any benefit is provided by an employer to any Employee or the beneficiaries of any such Employee. The term "Plan" as used in this Agreement does not include any contract, agreement or understanding relating to settlement of actual or potential employment claims.

(m) "Pre-Spin RemainCo Stock Price" shall mean the closing share price of RemainCo Common Stock on the NASDAQ Global Select Market on the last trading day immediately preceding the Effective Time.

(n) "RemainCo 401(k) Plans" shall have the meaning set forth in Section 2.07 hereof.

(o) "RemainCo Employee" shall mean each Employee who is employed by a member of the RemainCo Group immediately following the Effective Time and any Employee who is transferred after the Effective Time pursuant to Section 2.01.

(p) "RemainCo Equity and Incentive Plans" shall mean The Ensign Group, Inc.'s (i) 2007 Omnibus Incentive Plan and (ii) 2017 Omnibus Incentive Plan, each as amended from time to time.

(q) "RemainCo Equity Awards" shall mean all of the shares of RemainCo Restricted Stock and RemainCo Options.

(r) "RemainCo Group" shall mean RemainCo and each Person that is a direct or indirect Subsidiary or affiliate of RemainCo (other than any member of the SpinCo Group).

(s) "RemainCo Group Health Plans" shall mean the RemainCo Plans providing medical, dental, vision and health care spending account benefits.

(t) "RemainCo Participant" shall mean a RemainCo Employee, any former RemainCo Employee, and any eligible dependent or beneficiary thereof who participates or is eligible to participate in a RemainCo Plan.

(u) "RemainCo Plan" shall mean each Plan that is sponsored, maintained, contributed to or required to be contributed to by any member of the RemainCo Group, but not including any SpinCo Plan.

(v) "RemainCo Options" shall mean unexercised vested or unvested stock option right issued under the RemainCo Equity and Incentive Plans, which are subject to vesting (if applicable) and forfeiture restrictions and is outstanding immediately prior to the Effective Time.

(w) "RemainCo Restricted Stock" shall mean an unvested share of restricted stock issued pursuant to the applicable award agreement issued under the RemainCo Equity and Incentive Plans, which is subject to vesting and forfeiture restrictions and is outstanding immediately prior to the Effective Time.

(x) "RemainCo Welfare Plans" shall mean the RemainCo Plans providing medical, dental, vision, health care spending accounts, disability, life and similar welfare benefits.

(y) "SpinCo 401(k) Plans" shall have the meaning set forth in Section 2.07 hereof.

(z) "SpinCo Employee" shall mean each Employee who is employed by a member of the SpinCo Group immediately following the Effective Time and any Employee who is transferred after the Effective Time pursuant to Section 2.01.

(aa) "SpinCo Equity and Incentive Plan" shall mean the The Pennant Group, Inc. 2019 Omnibus Incentive Plan, as amended from time to time.

(bb) "SpinCo Group" shall mean (a) prior to the Effective Time, SpinCo and each Person that will be a Subsidiary or affiliate of SpinCo as of immediately after the Effective Time; and (b) on and after the Effective Time, SpinCo and each Person that is a Subsidiary of SpinCo.

(cc) "SpinCo Group Health Plans" shall mean the SpinCo Plans providing medical, dental, vision and health care spending account benefits.

(dd) "SpinCo Participant" shall mean a SpinCo Employee, any former SpinCo Employee, and any eligible dependent or beneficiary thereof who participates or is eligible to participate in a SpinCo Plan.

(ee) "SpinCo Plan" shall mean each Plan that is sponsored, maintained or contributed to or required to be contributed to by any member of the SpinCo Group that does not also cover any RemainCo Employee.

(ff) "SpinCo Option" shall mean an unexercised, vested or unvested, stock option issued under the SpinCo Equity and Incentive Plan.

(gg) "SpinCo Restricted Stock" shall mean a vested or unvested stock-settled restricted stock issued under the SpinCo Equity and Incentive Plan.

(hh) "SpinCo RSU" shall mean a vested or unvested stock-settled restricted stock unit issued under the SpinCo Equity and Incentive Plan.

(ii) "SpinCo Welfare Plan" shall have the meaning set forth in Section 2.08(d) hereof.

Section 1.02 **Certain Constructions**. References to the singular in this Agreement shall refer to the plural and vice-versa, and references to the masculine shall refer to the feminine and vice-versa.

Section 1.03 **Schedules, Sections**. References to a "Schedule" are, unless otherwise specified, to one of the Schedules attached to this Agreement, and references to a "Section" are, unless otherwise specified, to one of the Sections of this Agreement.

Section 1.04 **Effective Time**. This Agreement shall be effective as of the Effective Time.

ARTICLE II
ALLOCATION OF EMPLOYEES; EMPLOYEE BENEFITS

Section 2.01 **Transfer of Employment of Certain SpinCo Employees**. RemainCo and SpinCo will cause the employment of each SpinCo Employee who is not employed by a SpinCo Group member as of the date hereof to be transferred to a SpinCo Group member prior to the Effective Time.

Section 2.02 **Re-Allocation of Employees**. If the Parties mutually agree after the Effective Time that an Employee or individual independent contractor was incorrectly allocated to the RemainCo Group or the SpinCo Group (or was incorrectly employed or engaged by a member of the RemainCo Group or the SpinCo Group as of the Effective Time), the Parties shall use their reasonable best efforts to correct such misallocation as appropriate (including by transferring the employment or engagement opportunity of such SpinCo Employee or RemainCo Employee (as applicable) or individual independent contractor to the applicable member of the applicable Group or by offering employment or an engagement opportunity to such SpinCo Employee, RemainCo Employee, or individual independent contractor), and, to the extent possible, such correction shall be effective as of the Effective Time.

Section 2.04 **Employee Liabilities Generally**.

(a) From and after the Effective Time, RemainCo or a member of the RemainCo Group hereby assumes or retains, and shall be responsible for paying, performing, fulfilling and discharging, (i) all Liabilities or obligations expressly assigned to or assumed by a member of the RemainCo Group under this Agreement; and (ii) except as otherwise expressly provided for herein or in the Distribution Agreement, all Liabilities with respect to the employment, service, termination of employment or termination of service of all RemainCo Employees, independent contractors allocated to the RemainCo Business, Former Employees whose employment duties were primarily related to the RemainCo Business at the time the action underlying the Liability occurred, and their respective dependents and beneficiaries (and any alternate payees in respect thereof), whenever incurred. All Liabilities assumed or retained by a member of the RemainCo Group under this Section 2.02(a) shall be "RemainCo Liabilities" for purposes of the Distribution Agreement.

(b) From and after the Effective Time, SpinCo or a member of the SpinCo Group hereby assumes or retains, and shall be responsible for paying, performing, fulfilling and discharging in accordance with their respective terms, (i) all Liabilities or obligations assigned to or assumed by a member of the SpinCo Group under this Agreement; and (ii) except as otherwise expressly provided for herein or in the Distribution Agreement, all Liabilities with respect to the employment, service, termination of employment or termination of service of all SpinCo Employees, independent contractors allocated to the SpinCo Business, Former Employees whose employment duties were primarily related to the SpinCo Business at the time the action underlying the Liability occurred, and their respective dependents and beneficiaries (and any alternate payees in respect thereof), whenever incurred. All Liabilities assumed or retained by a member of the SpinCo Group under this Section 2.02(b) shall be "SpinCo Liabilities" for purposes of the Distribution Agreement.

Section 2.05 **No Termination of Employment Intended as a Result of the Allocation of Employees**. It is intended that no RemainCo Employee and no SpinCo Employee will experience a termination of employment for severance purposes or otherwise solely as a result of the transactions contemplated by the Distribution Agreement (including any transfer of employment effectuated in connection with those transactions). To the extent permitted by applicable Law, no RemainCo Employees and no SpinCo Employees shall be entitled to any termination or severance payments or benefits as a result of such transactions or transfer, as applicable. RemainCo shall, and shall cause other members of the RemainCo Group (as applicable), and SpinCo shall, and shall cause other members of the SpinCo Group (as applicable), to cause any applicable Plan to be interpreted and administered consistent with such intent, to the greatest extent possible without breaching the applicable Plan.

Section 2.06 **At-Will Employment**. Nothing in this Agreement shall (a) create any obligation on the part of any member of the RemainCo Group or the SpinCo Group to continue the employment of any RemainCo Employee or SpinCo Employee following the date of this Agreement or the Effective Time (except as required by applicable Law) or (b) change the employment status of any RemainCo Employee or SpinCo Employee from "at-will," to the extent such RemainCo Employee or SpinCo Employee was an "at-will" employee under applicable Law.

Section 2.07 **Service Crediting**.

(a) From and after the Effective Time, SpinCo shall, and shall cause other members of the SpinCo Group (as applicable) to, recognize each SpinCo Employee's service prior to the Effective Time (including service with any member of the RemainCo Group prior to the Effective Time) for all purposes, including purposes of eligibility, vesting and level of paid time off or severance benefits under any SpinCo Plan, to the same extent and for the same purpose such service was recognized as of the Effective Time under the corresponding RemainCo Plan. Notwithstanding the foregoing, nothing herein shall require the SpinCo Group or any equity compensation plan or arrangement maintained by the SpinCo Group after the Effective Time to credit service prior to the Effective Time for purposes of any equity award or other equity-based benefit or equity-based compensation that may be established by the SpinCo Group at any time at or after the Effective Time, except as set forth in Section 3.01 herein.

(b) Notwithstanding anything to the contrary in this Agreement, the Distribution Agreement or any other Ancillary Agreement, no Employee shall receive service credit or benefits to the extent that receipt of such service credit or benefits would result in duplication of benefits provided by another RemainCo Plan or SpinCo Plan.

Section 2.08 **Continuity of Benefits and Coverage**. It is the intention of RemainCo and SpinCo that there be uninterrupted benefit plan participation and coverage for RemainCo Employees and SpinCo Employees, notwithstanding the transactions contemplated by the Distribution Agreement, this Agreement or any other Ancillary Agreement. Therefore, RemainCo and SpinCo shall use their reasonable best efforts to cause there to be no interruption of coverage with respect to the type of benefits or coverage being provided to such Employees immediately prior to the Effective Time.

Section 2.09 **Establishment and Spinoff of 401(k) Plans**. Prior to the Effective Time, the Ensign Services, Inc. 401(k) Retirement Savings Plan (the "RemainCo 401(k) Plan") shall be amended to become a multiple employer plan as that term is defined in the Code, whose participants may include SpinCo Employees and RemainCo Employees. From the Effective Time through December 31, 2020 (the "401(k) Continuation Period"), SpinCo Employees may continue to participate in the RemainCo 401(k) Plan. Liabilities relating to, or arising in connection with plan participants during the 401(k) Continuation Period shall be shared by RemainCo and SpinCo based on the allocation methodology in place prior to the Effective

Time. On or before January 1, 2021, SpinCo (or a designated member of the SpinCo Group) shall have adopted a defined contribution plan that contain a cash or deferred arrangement within the meaning of Section 401(k) of the Code and is intended to be qualified under Section 401(a) of the Code (the "SpinCo 401(k) Plan"). The SpinCo 401(k) Plan is intended to replace the RemainCo 401(k) Plan for the applicable SpinCo Employee. At all times, RemainCo shall retain sponsorship of the RemainCo 401(k) Plans. Upon the establishment of the SpinCo 401(k) Plan (the "401(k) Plan Effective Date"), all SpinCo Employees who, immediately prior to such time, were participants in or otherwise eligible to participate in a RemainCo 401(k) Plan shall be eligible to participate in the corresponding SpinCo 401(k) Plan with respect to compensation paid after the 401(k) Plan Effective Date. As soon as practicable after the 401(k) Plan Effective Date, the accounts of SpinCo Employees under the RemainCo 401(k) Plans and the value of assets attributable to such accounts of SpinCo Employees shall be transferred to the SpinCo 401(k) Plan in a "transfer of assets or liabilities" in accordance with Section 414(l) of the Code and Section 208 of ERISA and the respective rules and regulations promulgated thereunder. The assets so transferred shall be in the form of cash or other property, as RemainCo and SpinCo shall mutually agree prior to such transfer. Prior to such transfer, SpinCo shall provide RemainCo with such documents and other information as RemainCo shall reasonably request to assure itself that the SpinCo 401(k) Plans and the related trusts established pursuant thereto (a) are qualified and tax-exempt under Sections 401(a) and 501(a) of the Code, respectively, and (b) contain participant loan provisions and procedures necessary to effect the orderly transfer of participant loan balances associated with the transfer of assets. Prior to the transfer, RemainCo and SpinCo shall (or shall cause the applicable member(s) of their Group to) notify the IRS of the transfer by timely filing Forms 5310-A, to the extent such filings are required, and RemainCo shall provide to SpinCo copies of such personnel and other records of RemainCo pertaining to the SpinCo Employees and such records of any agent or representative of RemainCo pertaining to the SpinCo Employees, in each case, pertaining to the RemainCo 401(k) Plans and as SpinCo may reasonably request in order to administer and manage the accounts and assets transferred to the SpinCo 401(k) Plans. Upon such transfer, SpinCo and each member of the SpinCo Group and the SpinCo 401(k) Plans shall assume all liabilities and obligations with respect to all amounts transferred from the RemainCo 401(k) Plans to the SpinCo 401(k) Plans in respect of the SpinCo Employees, and RemainCo and each member of the RemainCo Group and the RemainCo 401(k) Plans shall be relieved of all such liabilities and obligations.

Section 2.10 **Group Health and Welfare Plan Continuation Coverage**.

(a) From the Effective Time through December 31, 2019 (the "Benefits Continuation Period"), RemainCo shall continue the RemainCo Welfare Plans. Liabilities relating to, or arising in connection with, any claims incurred under the RemainCo Welfare Plans by RemainCo Participants and SpinCo Participants during the Benefits Continuation Period, including claims that are self-insured and claims that are fully insured through third party insurance and including the coverage of SpinCo Participants after the Effective Time as described in subsection (b) below, shall be shared by RemainCo and SpinCo based on the allocation methodology in place prior to the Effective Time.

(b) SpinCo Participants who were participating in the RemainCo Welfare Plans immediately prior to the Effective Time shall be entitled to continue participating in the applicable RemainCo Welfare Plans until December 31, 2019, pursuant to the terms of the Transition Services Agreement and the terms and conditions of the applicable RemainCo Welfare Plan. SpinCo Employees who were employed at or before the Effective Time, but who have not completed their benefits waiting or eligibility period for the RemainCo Welfare Plans as of the Effective Time, shall be eligible to participate in the applicable RemainCo Welfare Plans, as of the date prior to January 1, 2020, in which they would have been eligible to participate had they been RemainCo Employees under such RemainCo Welfare Plans, and shall be entitled to continue participating in such RemainCo Welfare Plans until December 31, 2019 pursuant to the terms of the Transition Services Agreement and the terms and conditions of the applicable RemainCo Welfare Plan.

(c) Any SpinCo Employee covered under the RemainCo Group Health Plans who has a qualifying status change (e.g., birth/adoption of a child, marriage) shall be able to make changes to his or her enrollment based on the event in accordance with the terms of the applicable RemainCo Group Health Plan. SpinCo shall be responsible for the costs of SpinCo Participants' participation in the RemainCo Group Health Plans after the Effective Time, including pursuant to COBRA as described in Section 2.08(e)(ii) hereof, pursuant to the terms of Section 2.08(a) hereof and the Transition Services Agreement.

(d) SpinCo Group Welfare Plans. Effective no later than January 1, 2020, SpinCo or another member of the SpinCo Group shall take, or cause to be taken, all actions necessary and appropriate to establish or designate and administer group medical, dental, vision, health care spending account plans disability, life and similar welfare benefits (collectively, the "SpinCo Welfare Plans") to provide benefits thereunder for all eligible SpinCo Participants who choose to enroll in such SpinCo plans. With respect to any Liabilities relating to or arising in connection with claims incurred under a SpinCo Welfare Plan by SpinCo Participants from and after the effective date of such SpinCo Welfare Plan, including claims that are self-insured and claims that are fully insured through third party insurance, SpinCo and the applicable SpinCo Welfare Plan shall be solely responsible for such Liabilities.

(e) COBRA Continuation Coverage.

(i) From and after the Effective Time, (A) the RemainCo Group shall assume or retain and shall be solely responsible for, or cause the RemainCo Group Health Plans (and applicable insurance carriers) to be responsible for, the continuation coverage requirements imposed by COBRA as they relate to any RemainCo Participant or Former Employee, and no member of the SpinCo Group shall have any liability or obligation with respect thereto; and (B) subject to Section 2.08(e)(ii) below, the SpinCo Group shall assume or retain and shall be solely responsible for, or cause the SpinCo Group Health Plans (and applicable insurance carriers) to be responsible for, COBRA continuation coverage requirements as they relate to any SpinCo Participant, and no member of the RemainCo Group shall have any liability or obligation with respect thereto.

(ii) A SpinCo Participant who becomes entitled to COBRA continuation coverage by reason of an event that occurs during the Benefits Continuation Period shall be entitled to coverage under the applicable RemainCo Group Health Plans through December 31, 2019, and thereafter, such SpinCo Participant shall be entitled to coverage under the applicable SpinCo Group Health Plans for the remainder of his or her COBRA period after December 31, 2019.

(f) Business Associate Agreements. The Parties acknowledge that the RemainCo Group or the SpinCo Group may provide certain administrative services for the other Party's group health plans for a transitional period under the terms of the Transition Services Agreement. The Parties acknowledge and agree that providing these administrative services may cause a Party to satisfy the definition of a "business associate" under the Health Insurance Portability and Accountability Act of 1996, as amended and implanted by regulation ("HIPAA"). In such cases, the Party providing the administrative services agrees to comply with the business associate addendum that is attached to the Transition Services Agreement, as well as all other applicable health information privacy Laws.

Section 2.11 **Disability Plans**. Without limiting the generality of Section 2.08 hereof, each RemainCo Participant and SpinCo Participant who became disabled, as defined under a RemainCo Welfare Plan that provides short-or long-term disability benefits prior to January 1, 2020, shall be eligible or continue to be eligible for such benefits under the applicable RemainCo Welfare Plan in accordance with the terms and conditions of such RemainCo Welfare Plan; provided that SpinCo shall be responsible for reimbursing RemainCo for any self-insured short-term disability benefits with respect to such disabled SpinCo Employee for the period after the Effective Time until such time as those short-term disability benefits terminate in accordance with the terms of such RemainCo Welfare Plan. In the event any such disabled SpinCo Employee becomes eligible to transition directly from receiving short-term disability benefits to receiving long-term disability benefits either before, at or after the Effective Time under the applicable RemainCo Welfare Plan, RemainCo and the applicable RemainCo Welfare Plan shall provide the long-term disability benefits to which such disabled SpinCo Employee is entitled (taking into account, if applicable, the extent to which such employee has elected such coverage and has made the required contributions therefor). After the Benefits Continuation Period, the SpinCo Group shall be solely responsible for providing short- and long-term disability benefits under SpinCo Welfare Plans to eligible SpinCo Employees who become disabled after December 31, 2019, and, effective January 1, 2020, SpinCo or a member of the SpinCo Group shall take, or cause to be taken, all action necessary and appropriate to establish or designate and administer short- and long-term disability plans to provide benefits thereunder for all eligible SpinCo Employees (and their eligible dependents and beneficiaries).Insurance Contracts and Third-Party Vendor Agreements. To the extent any Plan is funded (in whole or in part) through the purchase of an insurance contract, RemainCo and SpinCo shall cooperate, and each shall use its commercially reasonable efforts to effectuate the provisions of this Agreement in relation to such contract and to obtain any necessary consents and maintain any pricing discounts or other preferential terms for both RemainCo (or the applicable member of the RemainCo Group) and SpinCo (or the applicable member of the SpinCo Group) for a reasonable term. To the extent any Plan is administered by a third-party vendor, RemainCo and SpinCo shall cooperate, and each shall use its commercially reasonable efforts to replicate any contract with such third-party vendor for RemainCo (or the applicable member of the RemainCo Group) or SpinCo (or the applicable member of the SpinCo Group), as applicable, and to maintain any pricing discounts or other preferential terms for both RemainCo (or the applicable member of the RemainCo Group) and SpinCo (or the applicable member of the SpinCo Group) for a reasonable term. Neither RemainCo nor SpinCo shall be

liable for failure to obtain consents, new insurance or administrative contracts, pricing discounts, or other preferential terms for the other Party or the applicable member of its Group. Each Party shall be responsible for any new or additional premiums, charges, or administrative fees that such Party may incur with respect to its insurance coverage or contracts pursuant to this Agreement.

Section 2.12 **Reimbursements**. The Parties acknowledge that the RemainCo Group, on the one hand, and the SpinCo Group, on the other hand, may incur costs and expenses, including, but not limited to, contributions to Plans and the payment of insurance premiums or vendor fees or expenses arising from or related to any of the Plans which are, as set forth in this Agreement, the responsibility of the other Party. Accordingly, the RemainCo Group and the SpinCo Group shall reimburse each other, as soon as practicable, but in any event within thirty (30) days of receipt from the other Party of appropriate verification, for all such costs, fees and expenses. Notwithstanding the foregoing, to the extent this Section 2.10 conflicts with the terms of the Transition Services Agreement related to the same cost or expense, the terms of the Transition Services Agreement shall control.

Section 2.13 **No Duplication of Benefits; Service and Other Credit**. RemainCo and SpinCo shall adopt, or cause to be adopted, all reasonable and necessary amendments and procedures to prevent SpinCo Participants from receiving duplicative benefits from the RemainCo Plans and the SpinCo Plans. With respect to SpinCo Employees, each SpinCo Plan shall provide that for purposes of determining eligibility to participate, vesting, and entitlement to benefits (but not for accrual of pension benefits under any defined benefit pension plan), service prior to the Effective Time with a RemainCo Group member shall be treated as service with the applicable SpinCo Group member. Such service also shall apply for purposes of satisfying any waiting periods, evidence of insurability requirements, or the application of any preexisting condition limitations under any SpinCo Plan. Each SpinCo Plan shall, to the extent practicable, waive pre-existing condition limitations with respect to SpinCo Employees. SpinCo shall honor any deductible, co-payment and out-of-pocket maximums incurred by the SpinCo Employees and their eligible dependents under the RemainCo Plans in which they participated immediately prior to the Effective Time during the portion of the calendar year prior to the Effective Time in satisfying any deductibles, co-payments or out-of-pocket maximums under the SpinCo Plans in which they are eligible to participate after the Effective Time in the same plan year in which such deductibles, co-payments or out-of-pocket maximums were incurred.

ARTICLE III
INCENTIVE COMPENSATION PLANS AND ARRANGEMENTS

Section 3.01 **Treatment of Equity Awards**.

(a) RemainCo Equity Awards. The treatment of the RemainCo Equity Awards shall be subject to Section 2.04 of the Tax Matters Agreement between the parties, dated as of the date hereof.

(i) RemainCo Options. Prior to the Effective Time, RemainCo shall take all actions necessary such that, as of the Effective Time, by virtue of the Distribution, (y) an employee of RemainCo who is a holder of a RemainCo Option shall continue to hold such RemainCo Option (with the number of shares of RemainCo Common Stock to which such RemainCo Option relates and the exercise price of the RemainCo Option following the Distribution, in both cases, adjusted accordingly as a result of the Distribution, in accordance with the equitable adjustment provisions set forth in the RemainCo Equity and Incentive Plans), and (z) an employee of SpinCo who is a holder of a RemainCo Option shall have such RemainCo Options converted to SpinCo Options subject to the same terms and conditions after the Effective Time as the terms and conditions applicable to the corresponding RemainCo Options (with both the number of shares of SpinCo Common Stock to which such SpinCo Option relates and the exercise price of the SpinCo Option following the Distribution, in both cases, adjusted accordingly as a result of the Distribution and to appropriately reflect that SpinCo is the actual employer, in accordance with the equitable adjustment provisions set forth in the RemainCo Equity and Incentive Plans) immediately prior to the Effective Time.

(ii) RemainCo Restricted Stock. Prior to the Effective Time, RemainCo shall take all actions necessary such that, as of the Effective Time, by virtue of the Distribution, each holder of a RemainCo Restricted Stock shall (A) continue to hold the same number of RemainCo Restricted Stock as of immediately prior to the Effective Time, and (B) receive shares of SpinCo Restricted Stock (with the number of shares of SpinCo Common Stock to which such SpinCo Restricted Stock relates rounded down to the nearest whole number, equal to the number of shares of SpinCo Common Stock the holder of such RemainCo Restricted Stock would have been entitled to receive in the Distribution had the shares subject to such RemainCo Restricted Stock represented outstanding vested shares of RemainCo Common Stock). Both the RemainCo Restricted Stock and the SpinCo Restricted Stock shall be subject to the same terms and conditions after the Effective Time as the terms and conditions applicable to the corresponding RemainCo Restricted Stock immediately prior to the Effective Time, and shall be adjusted in accordance with the equitable adjustment provisions set forth in the RemainCo Equity and Incentive Plans and to reflect that SpinCo is the actual employer.

(b) Cornerstone Equity Awards. The treatment of the Cornerstone Equity Awards is as set forth below.

(i) Cornerstone Options. Prior to the Effective Time, RemainCo shall take all actions necessary such that, as of the Effective Time, by virtue of the Distribution, an employee of SpinCo who is a holder of a Cornerstone Option shall have his Cornerstone Options converted to SpinCo Options subject to the same terms and conditions after the Effective Time as the terms and conditions applicable to the corresponding Cornerstone Options (with both the number of shares of SpinCo Common Stock to which such SpinCo Option relates and the exercise price of the SpinCo Option following the Distribution, in both cases, adjusted accordingly as a result of the Distribution and appropriately to reflect employment by SpinCo, in accordance with the equitable adjustment provisions set forth in the Cornerstone Equity and Incentive Plan) immediately prior to the Effective Time.

(ii) Cornerstone Restricted Stock. Prior to the Effective Time, RemainCo shall take all actions necessary such that, as of the Effective Time, by virtue of the Distribution, an employee of either RemainCo or SpinCo who is a holder of Cornerstone Restricted Stock shall have his Cornerstone Restricted Stock converted to SpinCo Restricted Stock subject to the same terms and conditions after the Effective Time as the terms and conditions applicable to the corresponding Cornerstone Restricted Stock (with the number of shares of SpinCo Common Stock to which such SpinCo Restricted Stock relates following the Distribution, adjusted accordingly as a result of the Distribution, in accordance with the equitable adjustment provisions set forth in the Cornerstone Equity and Incentive Plan and to reflect employment by SpinCo) immediately prior to the Effective Time.

(c) Equity and Incentive Plans.

(i) For purposes of the RemainCo Restricted Stock following the Effective Time, a SpinCo Employee's continued service with a member of the SpinCo Group shall be deemed continued service with a member of the RemainCo Group.

(ii) For purposes of the SpinCo Restricted Stock following the Effective Time, a RemainCo Employee's continued service with a member of the RemainCo Group shall be deemed continued service with a member of the SpinCo Group.

(iii) In connection with the Distribution, RemainCo shall cause SpinCo to adopt the SpinCo Equity and Incentive Plan, effective as of the Effective Time, and shall approve, as the sole stockholder, the adoption of the SpinCo Equity and Incentive Plan.

(d) Administration. Each of RemainCo and SpinCo shall establish an appropriate administration system in order to handle exercises and delivery of shares in an orderly manner and provide reasonable levels of service for equity award holders.

(e) Code Section 409A. Notwithstanding anything to the contrary contained herein, the provisions of this Section 3.01(e) shall be applied in a manner consistent with Code Section 409A and shall be modified, without the requirement of any further action by SpinCo, Cornerstone, or RemainCo, to the extent necessary to comply with Code Section 409A.

ARTICLE IV
LABOR AND EMPLOYMENT MATTERS

Section 4.01 **Payroll Reporting and Tax Withholding**.

(a) Form W-2 Reporting. To the extent an Employee's employing entity changes as a result of the transactions contemplated by the Distribution Agreement, RemainCo and SpinCo shall use the "standard procedure" for preparing and filing IRS Forms W-2 (Wage and Tax Statements), as described in Revenue Procedure 2004-53, for the calendar year in which such change occurs. Under this procedure, each employing entity shall provide (subject to any applicable provisions of the Transition Services Agreement) all required Forms W-2 to report the wages paid and taxes withheld by it during the year in which the Effective Time occurs. With respect to any issuances of RemainCo Common Stock or SpinCo Common Stock described above, the Employee's employing entity shall reflect such issuance and taxes withheld in connection with such issuance on the Form W-2 provided to such Employee by such employing entity during the year in which such issuance occurs. With respect to RemainCo Employees and SpinCo Employees outside of the United States, the Parties shall cooperate in good faith to obtain the same or similar results, to the extent possible, under applicable tax laws.

(b) Garnishments, Tax Levies, Child Support Orders, and Wage Assignments. With respect to any Employees with garnishments, tax levies, child support orders, or wage assignments in effect immediately prior to the Effective Time, a member of the SpinCo Group (with respect to SpinCo Employees) or a member of the RemainCo Group (with respect to RemainCo Employees) shall, to the extent permitted by applicable Law, honor such payroll deduction authorizations and shall continue to make payroll deductions and payments to the authorized payee, as specified by the court or governmental order which was filed prior to the Effective Time.

(c) Authorizations for Payroll Deductions. Unless otherwise prohibited by this Agreement, any other Ancillary Agreement, a Plan document, or applicable Law, with respect to Employees with authorizations for payroll deductions and direct deposits in effect immediately prior to the Effective Time, a member of the SpinCo Group (with respect to SpinCo Employees) or a member of the RemainCo Group (with respect to RemainCo Employees) shall honor such payroll deduction authorizations and shall not require that such Employee submit a new authorization to the extent that the type of deduction does not differ from that made prior to the Effective Time. Such deduction types include, without limitation, contributions to any Plan and direct deposit of payroll, union dues, employee relocation loans, and other types of authorized company receivables usually collectible through payroll deductions.

Section 4.02 **Employment Policies and Practices**. Subject to the provisions of the Transition Services Agreement, ERISA and other applicable Law, and unless otherwise specified in this Agreement, each member of the SpinCo Group and the RemainCo Group may, after the Effective Time, adopt, continue, modify or terminate such employment policies, compensation practices, retirement plans, welfare benefit plans, and other employee benefit plans of any kind or description, as each may determine, in its sole discretion, are necessary and appropriate, with respect to SpinCo Employees and RemainCo Employees, respectively; provided that no member of the SpinCo Group may amend or modify any RemainCo Welfare Plan during the Benefits Continuation Period.

Section 4.03 **Leave of Absence Policies**. Following the Effective Time, the applicable members of the SpinCo Group shall continue to apply the leave policies applicable to inactive SpinCo Employees who are on an approved leave of absence as of the Effective Time in accordance with the terms of such policies applicable to the SpinCo Employees as of the Effective Time. For purposes of such policies, to the extent allowed under applicable law, leaves of absence taken by SpinCo Employees prior to the Effective Time shall be deemed to have been taken as employees of the SpinCo Group.

Section 4.04 **Employee Records**. The RemainCo Group shall provide to the SpinCo Group (a) any and all original employment records and information (including, but not limited to, any personnel files, Form I-9, Form W-2, Form 1099 or other IRS forms) with respect to the SpinCo Employees that are in the possession of any member of the RemainCo Group that are reasonably required by the SpinCo Group to enable the SpinCo Group to properly employ the SpinCo Employees and to carry out its obligations under this Agreement, applicable Law and

any applicable Collective Bargaining Agreement ("Employee Record"); and (b) copies of any and all employment-related agreements, including, but not limited to, confidentiality agreements, restrictive covenants, arbitration agreements and employment-related acknowledgements to which any RemainCo Employee is a party and under which the SpinCo Group has any rights or obligations following the Effective Time.

Section 4.05 **WARN Act**. The Parties shall cooperate in good faith so that no terminations of employment in connection with the transactions contemplated or undertaken by this Agreement or the Distribution Agreement have triggered or shall trigger any rights or obligations under the federal Worker Adjustment and Retraining Notification Act, or any other federal, state, or local Law addressing employment separations (collectively, the "WARN Act").

Section 4.06 **Access to Employee Records**. Following the Effective Time and to the extent permitted by applicable Law, SpinCo shall permit RemainCo access to Employee Records of SpinCo Employees, to the extent reasonably necessary for RemainCo's legitimate business purposes or to comply with applicable Law, and RemainCo shall permit SpinCo access to Employee Records of RemainCo Employees, to the extent reasonably necessary for SpinCo's legitimate business purposes or to comply with applicable Law.

Section 4.07 **Protection of Personal Information**. The Parties shall comply with all applicable confidentiality obligations and privacy Laws that govern the personal information shared or otherwise made accessible following the Effective Time. Each Party further agrees to use commercially reasonable efforts to protect any personal information of the other Party that it acquires or accesses following the Effective Time.

ARTICLE V
MISCELLANEOUS

Section 5.01 **Relationship of Parties**. Nothing in this Agreement shall be deemed or construed by the Parties or any third party as creating the relationship of principal and agent, partnership or joint venture between the Parties, it being understood and agreed that no provision contained herein, and no act of the Parties, shall be deemed to create any relationship between the Parties other than the relationship set forth herein.

Section 5.02 **Access to Information; Cooperation**. The RemainCo Group, the SpinCo Group, and their authorized agents shall be given reasonable and timely access to and may take copies of all information relating to the subjects of this Agreement (to the extent not prohibited by applicable Law) in the custody of the other Party, including any agent, contractor, subcontractor, or any other person or entity under the contract of such Party. The Parties shall provide one another with such information within the scope of this Agreement as is reasonably necessary to administer each Party's Plans or take the actions required of such Party under this Agreement. The Parties shall cooperate with each other to minimize the disruption caused by any such access and providing of information.

Section 5.03 **Complete Agreement**. This Agreement and any related provisions of the Transition Services Agreement and the Distribution Agreement shall constitute the entire agreement between the Parties with respect to the subject matter hereof and shall supersede all previous negotiations, commitments and writings with respect to such subject matter.

Section 5.04 **Counterparts**. This Agreement may be executed in more than one counterparts, all of which shall be considered one and the same agreement, and shall become effective when one or more such counterparts have been signed by each of the Parties and delivered to the other Party.

Section 5.05 **Survival**. Except as otherwise contemplated by this Agreement or any Ancillary Agreement, all covenants and agreements of the Parties contained in this Agreement shall survive the Effective Time and remain in full force and effect in accordance with its applicable terms.

Section 5.06 **Notices**. All notices, requests, claims, demands and other communications under this Agreement shall be in writing and shall be given or made (and shall be deemed to have been duly given or made upon receipt) by delivery in person, by overnight courier service or by registered or certified mail (postage prepaid, return receipt requested) to the respective Party at the following addresses (or at such other address for a Party as shall be specified in a notice given in accordance with this Section 5.06):

To RemainCo:

The Ensign Group, Inc.
29222 Rancho Viejo Rd., Suite 127
San Juan Capistrano, CA 92675
Attn: General Counsel
Email: legal@ensignservices.net

To SpinCo:

The Pennant Group, Inc.
1675 E. Riverside Dr., Suite 150
Eagle, ID 83616
Attn: General Counsel
Email: legal@pennantservices.com

Section 5.07 **Waivers**. The failure of any Party to require strict performance by the other Party of any provision in this Agreement shall not waive or diminish that Party's right to demand strict performance thereafter of that or any other provision hereof.

Section 5.08 **Amendment**. This Agreement may not be modified or amended except by an agreement in writing signed by each of the Parties.

Section 5.09 **Assignment**. Except as otherwise provided for in this Agreement, this Agreement shall not be assignable, in whole or in part, directly or indirectly, by any Party without the prior written consent of the other Party, and any attempt to assign any rights or obligations arising under this Agreement without such consent shall be void; provided, that a

Party may assign this Agreement in connection with a merger transaction in which such Party is not the surviving entity or the sale by such Party of all or substantially all of its Assets; provided, further, that the surviving entity of such merger or the transferee of such Assets shall agree in writing, reasonably satisfactory to the other Party, to be bound by the terms of this Agreement as if named as a Party hereto.

Section 5.10 **Successors and Assigns**. The provisions of this Agreement and the obligations and rights hereunder shall be binding upon, inure to the benefit of and be enforceable by (and against) the Parties and their respective successors and permitted transferees and assigns.

Section 5.11 **No Circumvention**. The Parties agree not to directly or indirectly take any actions, act in concert with any Person who takes an action, or cause or allow any member of any such Party's Group to take any actions (including the failure to take a reasonable action) such that the resulting effect is to materially undermine the effectiveness of any of the provisions of this Agreement.

Section 5.12 **Third Party Beneficiaries**. This Agreement is solely for the benefit of the Parties and should not be deemed to confer upon third parties (including current or former employees of the Parties) any remedy, claim, liability, reimbursement, right of action or other right in excess of those existing without reference to this Agreement. Without limiting the generality of the foregoing, nothing contained in this Agreement (i) shall be construed to establish, amend, or modify any Plan or other benefit or compensation plan, program, agreement or arrangement, or (ii) create any rights or obligations in any Person not Party to this Agreement (including any RemainCo Employee or SpinCo Employee), including with respect to (x) any right to employment or continued employment or to a particular term or condition of employment and (y) the ability of the RemainCo Group and the SpinCo Group to amend, modify, or terminate any Plan or other benefit or compensation plan, program, agreement or arrangement at any time established, sponsored or maintained by any of them.

Section 5.13 **Title and Headings**. Titles and headings to sections herein are inserted for the convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of this Agreement.

Section 5.14 **Governing Law**. This Agreement shall be interpreted and construed in accordance with the laws of the State of Delaware. Any and all claims, controversies, and causes of action arising out of or relating to this Agreement, whether sounding in contract, tort, statute or otherwise, shall be governed by the laws of the State of Delaware, including its statutes of limitations, without giving effect to any conflict-of-laws or other rule that would result in the application of the laws of a different jurisdiction.

Section 5.15 **Dispute Resolution; Consent to Jurisdiction; Specific Performance; Waiver of Jury Trial; Force Majeure**. The provisions of Article X (Dispute Resolution) and Sections 10.2(b) (Consent to Arbitration), and 10.2(b)(iv) (Waiver of Jury Trial) of the Distribution Agreement are incorporated herein by reference, mutatis mutandis.

Section 5.16 **Severability**. In the event any one or more of the provisions contained in this Agreement should be held invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein and therein shall not in any way be affected or impaired thereby. The Parties shall endeavor in good-faith negotiations to replace the invalid, illegal or unenforceable provisions with valid provisions, the economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provisions.

Section 5.17 **Interpretation**. The Parties have participated jointly in the negotiation and drafting of this Agreement. This Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the Party drafting or causing any instrument to be drafted.

Section 5.18 **No Duplication; No Double Recovery**. Nothing in this Agreement is intended to confer to or impose upon any Party a duplicative right, entitlement, obligation or recovery with respect to any matter arising out of the same facts and circumstances.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed as of the day and year first above written.

THE PENNANT GROUP, INC.

By: /s/ Daniel H Walker
Name: Daniel H Walker
Title: Chief Executive Officer and President

THE ENSIGN GROUP, INC.

By: /s/ Chad Keetch
Name: Chad Keetch
Title: Chief Investment Officer, Executive Vice President and Secretary

Exhibit 10.5

Deal CUSIP: 70805FAA4
Revolver CUSIP: 70805FAB2

CREDIT AGREEMENT

dated as of October 1, 2019

among

THE PENNANT GROUP, INC.
as Borrower

THE LENDERS FROM TIME TO TIME PARTY HERETO

and

SUNTRUST BANK
as Administrative Agent

SUNTRUST ROBINSON HUMPHREY, INC.,
BOFA SECURITIES, INC.
and
REGIONS SECURITIES LLC
as Joint Lead Arrangers and Joint Book Managers

BANK OF AMERICA, N.A.
and
REGIONS BANK
as Co-Syndication Agents

and

BBVA USA,
CITIZENS BANK, N.A.,
FIFTH THIRD BANK
and
WELLS FARGO BANK, NATIONAL ASSOCIATION
as Co-Documentation Agents

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CREDIT AGREEMENT

THIS CREDIT AGREEMENT (as amended, restated, amended and restated, supplemented, or otherwise modified from time to time, this "Agreement") is made and entered into as of October 1, 2019, by and among THE PENNANT GROUP, INC., a Delaware corporation (the "Borrower"), the several banks and other financial institutions and lenders from time to time party hereto (the "Lenders") and SUNTRUST BANK, in its capacity as administrative agent for the Lenders (in such capacity, the "Administrative Agent"), as issuing bank (in such capacity, an "Issuing Bank") and as swingline lender (in such capacity, the "Swingline Lender").

W I T N E S S E T H:

WHEREAS, the Borrower has requested that the Lenders establish a $75,000,000 revolving credit facility in favor of the Borrower; and

WHEREAS, subject to the terms and conditions of this Agreement, the Lenders, the Issuing Banks and the Swingline Lender are willing to establish the requested revolving credit facility in favor of the Borrower on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein contained, the Borrower, the Lenders, the Administrative Agent, the Issuing Banks and the Swingline Lender agree as follows:

ARTICLE I

DEFINITIONS; CONSTRUCTION

Section 1.1. Definitions. In addition to the other terms defined herein, the following terms used herein shall have the meanings herein specified (to be equally applicable to both the singular and plural forms of the terms defined):

"Accounts Collateral" shall have the meaning set forth in Section 7.2(i).

"Acquisition" shall mean (a) any Investment by the Borrower or any of its Subsidiaries in any other Person organized in the United States (with all or substantially all of the assets of such Person and its Subsidiaries located in the United States), pursuant to which such Person shall become a Subsidiary of the Borrower or any of its Subsidiaries or shall be merged or otherwise consolidated or combined with the Borrower or any of its Subsidiaries or (b) any acquisition by the Borrower or any of its Subsidiaries of the assets of any Person (other than a wholly owned Subsidiary of the Borrower) that constitute all or substantially all of the assets of such Person or a division or business unit of such Person, whether through purchase, capital lease, exercise of an option to purchase, merger or other business combination or transaction (and all or substantially all of such assets, division or business unit are located in the United States). With respect to a determination of the amount of an Acquisition, such amount shall include all consideration (including any deferred payments) set forth in the applicable agreements governing such Acquisition as well as the assumption of any Indebtedness in connection therewith.

"Acquisition Consideration" shall mean purchase consideration for a Permitted Acquisition of an Excluded Subsidiary and all other payments (but excluding any related acquisition fees, costs and expenses incurred in connection with any Permitted Acquisition of an Excluded Subsidiary), directly or indirectly, by the Borrower or any of its Subsidiaries in exchange for, or as part of, or in connection with, a Permitted Acquisition of an Excluded Subsidiary, whether paid in cash or cash equivalents or by exchange of equity interests or of any property or by the assumption of debt of the

Person or business unit or asset group of any Person acquired or proposed to be acquired in any such Acquisition or otherwise and whether payable at or prior to the consummation of a Permitted Acquisition of an Excluded Subsidiary or deferred for payment at any future time (including earn-outs); provided, that any such future payment that is subject to a contingency shall be considered Acquisition Consideration only to the extent of the reserve, if any, required under GAAP at the time of such sale to be established in respect thereof by the Borrower or any of its Subsidiaries; provided, further, that Acquisition Consideration shall not include (a) any consideration or payment paid by the Borrower or any of its Subsidiaries (i) with the net cash proceeds of Capital Stock of the Borrower to its shareholders and/or (ii) in the form of Capital Stock of the Borrower and (b) cash and cash equivalents acquired by the Borrower or any of its Subsidiaries as part of the applicable Permitted Acquisition of an Excluded Subsidiary.

"Additional Lender" shall have the meaning set forth in Section 2.23.

"Adjusted LIBOR" shall mean, with respect to each Interest Period for a Eurodollar Loan, (i) the rate per annum equal to the London interbank offered rate for deposits in U.S. Dollars appearing on Reuters screen page LIBOR 01 (or on any successor or substitute page of such service or any successor to such service, or such other commercially available source providing such quotations as may be designated by the Administrative Agent from time to time) at approximately 11:00 A.M. (London time) two (2) Business Days prior to the first day of such Interest Period, with a maturity comparable to such Interest Period, divided by (ii) a percentage equal to 1.00% minus the then stated maximum rate of all reserve requirements (including any marginal, emergency, supplemental, special or other reserves and without benefit of credits for proration, exceptions or offsets that may be available from time to time) expressed as a decimal (rounded upward to the next 1/100th of 1%) applicable to any member bank of the Federal Reserve System in respect of Eurocurrency liabilities as defined in Regulation D (or any successor category of liabilities under Regulation D); provided, that if the rate referred to in clause (i) above is not available at any such time for any reason, then the rate referred to in clause (i) shall instead be the interest rate per annum, as determined by the Administrative Agent, to be the arithmetic average of the rates per annum at which deposits in U. S. Dollars in an amount equal to the amount of such Eurodollar Loan are offered by major banks in the London interbank market to the Administrative Agent at approximately 11:00 A.M. (London time), two (2) Business Days prior to the first day of such Interest Period. For the avoidance of doubt, if Adjusted LIBOR shall be less than zero, such rate shall be deemed to be zero for purposes of this Agreement.

"Administrative Agent" shall have the meaning set forth in the introductory paragraph hereof.

"Administrative Questionnaire" shall mean, with respect to each Lender, an administrative questionnaire in the form provided by the Administrative Agent and submitted to the Administrative Agent duly completed by such Lender.

"Affiliate" shall mean, as to any Person, any other Person that directly, or indirectly through one or more intermediaries, Controls, is Controlled by, or is under common Control with, such Person; provided that none of the Borrower and its Subsidiaries shall constitute an Affiliate of Ensign or any of its Subsidiaries. For the purposes of this definition, "Control" shall mean the power, directly or indirectly, either to (i) vote 10% or more of the securities having ordinary voting power for the election of directors (or persons performing similar functions) of a Person or (ii) direct or cause the direction of the management and policies of a Person, whether through the ability to exercise voting power, by control or otherwise. The terms "Controlled by" and "under common Control with" have the meanings correlative thereto.

"Agents" shall mean, collectively, the Administrative Agent, the Lead Arrangers, the Co-Documentation Agents and the Co-Syndication Agents.

"Aggregate Revolving Commitment Amount" shall mean the aggregate principal amount of the Aggregate Revolving Commitments from time to time. On the Closing Date, the Aggregate Revolving Commitment Amount is $75,000,000.

"Aggregate Revolving Commitments" shall mean, collectively, all Revolving Commitments of all Lenders at any time outstanding.

"Anti-Corruption Laws" shall have the meaning set forth in Section 4.21.

"Anti-Terrorism Order" shall mean Executive Order 13224, signed by President George W. Bush on September 23, 2001.

"Applicable Lending Office" shall mean, for each Lender and for each Type of Loan, the "Lending Office" of such Lender (or an Affiliate of such Lender) designated for such Type of Loan in the Administrative Questionnaire submitted by such Lender or such other office of such Lender (or such Affiliate of such Lender) as such Lender may from time to time specify to the Administrative Agent and the Borrower as the office by which its Loans of such Type are to be made and maintained.

"Applicable Margin" shall mean, as of any date, with respect to all Loans outstanding on such date or the letter of credit fee, as the case may be, the percentage *per annum* determined by reference to the applicable Leverage Ratio in effect on such date as set forth in the pricing grid below (the "Pricing Grid"); provided that a change in the Applicable Margin resulting from a change in the Leverage Ratio shall be effective on the second Business Day after the Borrower delivers each of the financial statements required by Section 5.1(a) and (b) and the Compliance Certificate required by Section 5.1(c); provided, further, that if at any time the Borrower shall have failed to deliver such financial statements and such Compliance Certificate when so required, the Applicable Margin shall be at Level I as set forth in the Pricing Grid until such time as such financial statements and Compliance Certificate are delivered, at which time the Applicable Margin shall be determined as provided above. Notwithstanding the foregoing, the Applicable Margin from the Closing Date until the date by which the financial statements and Compliance Certificate for the Fiscal Year ending December 31, 2019 are required to be delivered shall be at Level IV as set forth in the Pricing Grid. In the event that any financial statement or Compliance Certificate delivered hereunder is shown to be inaccurate (regardless of whether this Agreement or the Commitments are in effect or any Loans are outstanding when such inaccuracy is discovered), and such inaccuracy, if corrected, would have led to the application of a higher Applicable Margin based upon the Pricing Grid (the "Accurate Applicable Margin") for any period that such financial statement or Compliance Certificate covered, then (i) the Borrower shall promptly deliver to the Administrative Agent a correct financial statement or Compliance Certificate, as the case may be, for such period, (ii) the Applicable Margin shall be adjusted such that after giving effect to the corrected financial statement or Compliance Certificate, as the case may be, the Applicable Margin shall be reset to the Accurate Applicable Margin based upon the Pricing Grid for such period and (iii) the Borrower shall promptly pay to the Administrative Agent, for the account of the Lenders, the accrued additional interest owing as a result of such Accurate Applicable Margin for such period. The provisions of this definition shall not limit the rights of the Administrative Agent and the Lenders with respect to Section 2.13(c) or Article VIII.

Pricing Grid

Pricing Level	Leverage Ratio	Applicable Margin for Eurodollar Loans	Applicable Margin for Base Rate Loans	Applicable Margin for Letter of Credit Fees	Applicable Percentage for Commitment Fees
I	Greater than or equal to 2.50:1.00	3.50% *per annum*	2.50% *per annum*	3.50% *per annum*	0.625% *per annum*
II	Less than 2.50:1.00 but greater than or equal to 2.00:1.00	3.25% *per annum*	2.25% *per annum*	3.25% *per annum*	0.625% *per annum*
III	Less than 2.00:1.00 but greater than or equal to 1.50:1.00	3.00% *per annum*	2.00% *per annum*	3.00% *per annum*	0.625% *per annum*
IV	Less than 1.50:1.00 but greater than or equal to 1.00:1.00	2.75% *per annum*	1.75% *per annum*	2.75% *per annum*	0.625% *per annum*
V	Less than 1.00:1.00	2.50% *per annum*	1.50% *per annum*	2.50% *per annum*	0.625% *per annum*

"Applicable Percentage" shall mean, as of any date, with respect to the commitment fee as of such date, the percentage *per annum* determined by reference to the Leverage Ratio in effect on such date as set forth in the Pricing Grid; provided that a change in the Applicable Percentage resulting from a change in the Leverage Ratio shall be effective on the second Business Day after which the Borrower delivers each of the financial statements required by Section 5.1(a) and (b) and the Compliance Certificate required by Section 5.1(c); provided, further, that if at any time the Borrower shall have failed to deliver such financial statements and such Compliance Certificate when so required, the Applicable Percentage shall be at Level I as set forth in the Pricing Grid until such time as such financial statements and Compliance Certificate are delivered, at which time the Applicable Percentage shall be determined as provided above. Notwithstanding the foregoing, the Applicable Percentage for the commitment fee from the Closing Date until the date by which the financial statements and Compliance Certificate for the Fiscal Year ending December 31, 2019 are required to be delivered shall be at Level IV as set forth in the Pricing Grid. In the event that any financial statement or Compliance Certificate delivered hereunder is shown to be inaccurate (regardless of whether this Agreement or the Commitments are in effect or any Loans are outstanding when such inaccuracy is discovered), and such inaccuracy, if corrected, would have led to the application of a higher Applicable Percentage based upon the Pricing Grid (the "Accurate Applicable Percentage") for any period that such financial statement or Compliance Certificate covered, then (i) the Borrower shall promptly deliver to the Administrative Agent a correct financial statement or Compliance Certificate, as the case may be, for such period, (ii) the Applicable Percentage shall be adjusted such that after giving effect to the corrected financial statement or Compliance Certificate, as the case may be, the Applicable Percentage shall be reset to the Accurate Applicable Percentage based upon the Pricing Grid for such period and (iii) the Borrower shall promptly pay to the Administrative Agent, for the account of the Lenders, the accrued additional commitment fee owing as a result of such Accurate Applicable Percentage for such period. The provisions of this definition shall not limit the rights of the Administrative Agent and the Lenders with respect to Section 2.13(c) or Article VIII.

"Approved Fund" shall mean any Person (other than a natural Person) that is (or will be) engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of its business and that is administered or managed by (i) a Lender, (ii) an Affiliate of a Lender or (iii) an entity or an Affiliate of an entity that administers or manages a Lender.

"Assignment and Acceptance" shall mean an assignment and acceptance entered into by a Lender and an assignee (with the consent of any party whose consent is required by Section 10.4(b)) and accepted by the Administrative Agent, in the form of Exhibit A attached hereto or any other form approved by the Administrative Agent.

"Available Amount" shall mean, on any date, an amount not less than zero, equal to:

(i) 50% of the aggregate amount of Equity Issuance Proceeds received by Borrower from or in exchange for the issuance of Capital Stock (other than Disqualified Capital Stock and any issuance or distribution of Capital Stock in connection with the Pennant Transaction) after the Closing Date and on or prior to such date; *minus*

(ii) the aggregate amount of any Acquisition Consideration for all Permitted Acquisitions of Excluded Subsidiaries and other Investments in Excluded Subsidiaries, in each case, utilizing the Available Amount on or after the Closing Date and on or prior to such date.

"Availability Period" shall mean the period from the Closing Date to but excluding the applicable Revolving Commitment Termination Date.

"Bail-In Action" shall mean the exercise of any Write-Down and Conversion Powers by the applicable EEA Resolution Authority in respect of any liability of an EEA Financial Institution.

"Bail-In Legislation" shall mean, with respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union, the implementing law for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule.

"Bank Product Obligations" shall mean, collectively, all obligations and other liabilities of any Loan Party to any Bank Product Provider arising with respect to any Bank Products.

"Bank Product Provider" shall mean any Person that (i) is a Lender or an Affiliate of a Lender that provides a Bank Product to a Loan Party and (ii) except when the Bank Product Provider is either (A) Wells Fargo Bank, National Association and its Affiliates with respect to Bank Products in existence on the Closing Date or (B) SunTrust Bank and its Affiliates, has provided prior written notice to the Administrative Agent which has been acknowledged by the Borrower of (x) the existence of such Bank Product, (y) the maximum dollar amount of obligations arising thereunder (the "Bank Product Amount") and (z) the methodology to be used by such parties in determining the obligations under such Bank Product from time to time; provided, the term "Bank Product Provider" shall include any Person that is the Administrative Agent, an Affiliate of the Administrative Agent, a Lender or an Affiliate of a Lender as of the Closing Date or as of the date that such Person provides any Bank Product to any Loan Party, but subsequently ceases to be the Administrative Agent, an Affiliate of the Administrative Agent, a Lender or an Affiliate of a Lender, as the case may be. In no event shall any Bank Product Provider acting in such capacity be deemed a Lender for purposes hereof to the extent of and as to Bank Products except that each reference to the term "Lender" in Article IX and Section 10.3(b) shall be deemed to include such Bank Product Provider and in no event shall the approval of any such person in its capacity as Bank Product Provider be required in connection with the release or termination of any security interest or Lien of the Administrative Agent. The Bank Product Amount may be changed from time to time upon written notice to the Administrative Agent by the applicable Bank Product Provider. No Bank Product Amount may be established at any time that a Default or Event of Default exists.

"Bank Products" shall mean any of the following services provided to any Loan Party by any Bank Product Provider: (a) any treasury or other cash management services, including deposit accounts, automated clearing house (ACH) origination and other funds transfer, depository (including cash vault and check deposit), zero balance accounts and sweeps, return items processing, controlled disbursement accounts, positive pay, lockboxes and lockbox accounts, account reconciliation and information reporting, payables outsourcing, payroll processing, trade finance services, investment accounts and securities accounts, and (b) card services, including credit cards (including purchasing cards and commercial cards), prepaid cards, including payroll, stored value and gift cards, merchant services processing, and debit card services.

"Base Rate" shall mean the highest of (i) the rate which the Wall Street Journal reports from time to time as the prime lending rate, as in effect from time to time, (ii) the Federal Funds Rate, as in effect from time to time, plus one-half of one percent (0.50%) *per annum*, (iii) Adjusted LIBOR determined on a daily basis for an Interest Period of one (1) month, plus one percent (1.00%) *per annum* and (iv) zero percent (0.00%). Any change in the Base Rate due to a change in the prime lending rate, the Federal Funds Rate or Adjusted LIBOR shall be effective as of the opening of business on the day of such change in the prime lending rate, the Federal Funds Rate or Adjusted LIBOR, respectively.

"Beneficial Ownership Certification" shall mean a certification regarding beneficial ownership as required by the Beneficial Ownership Regulation.

"Beneficial Ownership Regulation" shall mean 31 C.F.R. § 1010.230.

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

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

"Borrower" shall have the meaning set forth in the introductory paragraph hereof.

"Borrowing" shall mean a borrowing consisting of (i) Loans of the same Class and Type, made, converted or continued on the same date and, in the case of Eurodollar Loans, as to which a single Interest Period is in effect, or (ii) a Swingline Loan.

"Business Day" shall mean any day other than (i) a Saturday, Sunday or other day on which commercial banks in Atlanta, Georgia are authorized or required by law to close and (ii) if such day relates to a Borrowing of, a payment or prepayment of principal or interest on, a conversion of or into, or an Interest Period for, a Eurodollar Loan or a notice with respect to any of the foregoing, any day on which banks are not open for dealings in Dollar deposits in the London interbank market.

"Capital Lease Obligations" of any Person shall mean all obligations of such Person to pay rent or other amounts under any lease (or other arrangement conveying the right to use) of real or personal property, or a combination thereof, which obligations are required to be classified and accounted for as capital leases on a balance sheet of such Person under GAAP, and the amount of such obligations shall be the capitalized amount thereof determined in accordance with GAAP; provided that, (i) for the avoidance of doubt, any lease of a property operated as a healthcare facility shall be accounted for as an operating lease and not as a Capital Lease Obligation, and (ii) any lease that is accounted for by any Person as an operating lease as of December 31, 2018 and any lease entered into in the future that would have been accounted for as an operating lease if such lease had been in effect on December 31, 2018 shall be accounted for as an operating lease and not as a Capital Lease Obligation.

"Capital Stock" shall mean all shares, options, warrants, general or limited partnership interests, membership interests or other equivalents (regardless of how designated) of or in a corporation, partnership, limited liability company or equivalent entity whether voting or nonvoting, including common stock, preferred stock or any other "equity security" (as such term is defined in Rule 3a11-1 of the General Rules and Regulations promulgated by the Securities and Exchange Commission under the Exchange Act).

"Cash Collateralize" shall mean, in respect of any obligations, to provide and pledge (as a first priority perfected security interest) cash collateral for such obligations in Dollars with the Administrative Agent pursuant to documentation in form and substance reasonably satisfactory to the Administrative Agent (and "Cash Collateralized" and "Cash Collateralization" have the corresponding meanings).

"CFC" shall mean any Subsidiary that is a "controlled foreign corporation" within the meaning of Section 957 of the Code.

"CHAMPVA" shall mean, collectively, the Civilian Health and Medical Program of the Department of Veterans Affairs, a program of medical benefits covering retirees and dependents of former members of the armed services administered by the United States Department of Veterans Affairs, and all laws, rules, regulations, manuals, orders or requirements pertaining to such program.

"Change in Control" shall mean the occurrence of one or more of the following events: (i) any sale, lease, exchange or other transfer (in a single transaction or a series of related transactions) of all or substantially all of the assets of the Borrower to any Person or "group" (within the meaning of the Exchange Act and the rules of the Securities and Exchange Commission thereunder in effect on the date hereof), (ii) 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 Securities and Exchange Commission thereunder as in effect on the date hereof) of 35% or more of the outstanding shares of the voting equity interests of the Borrower, or (iii) during any period (after the Closing Date) of 24 consecutive months, a majority of the members of the board of directors or other equivalent governing body of the Borrower cease to be composed of individuals who are Continuing Directors. It being understood and agreed that (x) the Pennant Transaction shall not constitute a Change in Control and (y) a Person shall not be deemed to have beneficial ownership of Capital Stock subject to a stock purchase agreement, merger agreement or similar agreement until the consummation of the transactions contemplated by such agreement so long as Payment in Full of the Obligations is a condition to the effectiveness of the acquisition contemplated by such stock purchase agreement, merger agreement or similar agreement.

"Change in Law" shall mean (i) the adoption of any applicable law, rule or regulation after the date of this Agreement, (ii) any change in any applicable law, rule or regulation, or any change in the interpretation, implementation or application thereof, by any Governmental Authority after the date of this Agreement, or (iii) compliance by any Lender (or its Applicable Lending Office) or any Issuing Bank (or, for purposes of Section 2.18(b), by the Parent Company of such Lender or such Issuing Bank, if applicable) with any request, guideline or directive (whether or not having the force of law) of any Governmental Authority made or issued after the date of this Agreement; provided that for purposes of this Agreement, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives 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 Basel III, shall in each case be deemed to be a "Change in Law", regardless of the date enacted, adopted, implemented or issued.

"Class", when used in reference to any Loan or Borrowing, refers to whether such Loan, or each of the Loans comprising such Borrowing, is a Revolving Loan, a Swingline Loan, an Incremental Term Loan, an Extended Term Loan or an Other Refinancing Term Loan and, when used in reference to any Commitment, refers to whether such Commitment is a Revolving Commitment, a Swingline Commitment, an Incremental Term Loan Commitment, an Extended Term Loan Commitment or an Other Refinancing Term Loan Commitment.

"Closing Date" shall mean the date on which the conditions precedent set forth in Section 3.1 and Section 3.2 have been satisfied or waived in accordance with Section 10.2.

"Closing Date Release" shall have the meaning set forth in Section 3.1(b)(xv).

"Co-Documentation Agents" shall have the meaning set forth in Section 9.12.

"Co-Syndication Agents" shall have the meaning set forth in Section 9.12.

"Code" shall mean the Internal Revenue Code of 1986, as amended and in effect from time to time.

"Collateral" shall mean all tangible and intangible property, real and personal, of any Loan Party that is or purports to be the subject of a Lien to the Administrative Agent to secure the whole or any part of the Obligations or any Guarantee thereof, and shall include, without limitation, all casualty insurance proceeds and condemnation awards with respect to any of the foregoing.

"Collateral Access Agreement" shall mean each landlord waiver or bailee agreement granted to, and in form and substance reasonably acceptable to, the Administrative Agent.

"Collateral Documents" shall mean, collectively, the Guaranty and Security Agreement, the Control Account Agreements, the Sweep Agreements, all Copyright Security Agreements, all Patent Security Agreements, all Trademark Security Agreements, all Collateral Access Agreements, all Real Estate Documents, all loss payee endorsements required by Section 5.8, and all other instruments and agreements now or hereafter securing or perfecting the Liens securing the whole or any part of the Obligations or any Guarantee thereof, all UCC financing statements, fixture filings and stock powers, and all other documents, instruments, agreements and certificates executed and delivered by any Loan Party to the Administrative Agent and the Lenders in connection with the foregoing.

"Commitment" shall mean a Revolving Commitment, a Swingline Commitment or a Term Loan Commitment or any combination thereof (as the context shall permit or require).

"Compliance Certificate" shall mean a certificate from the principal executive officer or the principal financial officer of the Borrower in the form of, and containing the certifications set forth in, the certificate attached hereto as Exhibit 5.1(c).

"Consolidated EBITDA" shall mean, for the Borrower and its Subsidiaries for any period, an amount equal to the sum of (i) Consolidated Net Income for such period plus (ii) to the extent deducted in determining Consolidated Net Income for such period, and without duplication, (A) Consolidated Interest Expense, amortization or write-off of debt discount and debt issuance costs and commissions and discounts, premiums and other fees, expenses and charges associated with Indebtedness

including underwriting, arrangement and commitment fees, letter of credit fees, and Bank Product fees and prepayment or related premiums, (B) income tax expense determined on a consolidated basis in accordance with GAAP, (C) depreciation and amortization determined on a consolidated basis in accordance with GAAP, (D) unusual, extraordinary or non-recurring charges or losses determined on a consolidated basis in accordance with GAAP, (E) severance, business integration, restructuring or optimization costs determined on a consolidated basis in accordance with GAAP, (F) costs and expenses in connection with equity or stock option plans or other employee benefit plans or stock subscriptions to the extent funded directly or indirectly with proceeds of an equity issuance by, or capital contribution to, the Borrower or constituting non-cash charges determined on a consolidated basis in accordance with GAAP, (G) any non-cash charges or expenses determined on a consolidated basis in accordance with GAAP; provided that to the extent any such non-cash charge or expense represents an accrual or reserve for a potential cash item in any future period, the Borrower may elect to either not add such item pursuant to this clause (G) (or to add such item in part), or to have the cash payment in respect thereof in such future period (to the extent previously added pursuant to this clause (G)) subtracted from Consolidated EBITDA to such extent in such future period in which such cash payment occurs, and excluding amortization of a prepaid cash item that was paid in a prior period, (H) expenses related to Permitted Acquisitions and other Acquisitions permitted hereunder or approved in writing by the Required Lenders (or attempted Permitted Acquisitions and attempted Acquisitions permitted hereunder or approved in writing by the Required Lenders), equity issuances (whether or not consummated) and the Related Transactions, in each case for such period, (I) costs, fees, expenses or charges related to this Agreement and the transactions related hereto, and (J) charges, costs, losses and expenses relating to any Development Facility solely during the first twelve (12) months following the opening of such Development Facility; provided that the amount added back in the determination of Consolidated EBITDA for such Test Period pursuant to this clause (J) shall not exceed 10.0% of Consolidated EBITDA (after giving effect to such addbacks) of the Borrower and its Subsidiaries for such period, minus (iii)(A) unusual, extraordinary or non-recurring gains determined on a consolidated basis in accordance with GAAP and (B) non-cash gains (excluding any non-cash gain to the extent it (x) represents the reversal of an accrual or reserve for a potential cash item that reduced Consolidated Net Income or Consolidated EBITDA in any prior period, (y) is in respect of cash received in a prior period and not included in Consolidated Net Income or Consolidated EBITDA in a prior period or (z) represents an accrual in the ordinary course); provided that if any non-cash gain represents an accrual or asset outside the ordinary course for potential cash items in any future period, the cash payment in respect thereof shall in such future period be added to Consolidated EBITDA for such period to the extent such non-cash gain was excluded from Consolidated EBITDA in any prior period; *plus* (iv) to the extent not included in the calculation of Consolidated Net Income or not added back to Consolidated Net Income pursuant to clause (ii) above, proceeds of business interruption insurance (to the extent actually received in cash); provided that for purposes of calculating compliance with the financial covenants set forth in Article VI, to the extent that during such period any Loan Party shall have consummated a Permitted Acquisition or other Acquisition permitted hereunder or approved in writing by the Required Lenders, or any sale, transfer or other disposition of any Person, business, property or assets (other than the Pennant Transaction), Consolidated EBITDA shall be calculated on a Pro Forma Basis with respect to such Person, business, property or assets so acquired or disposed of. Notwithstanding the foregoing, the total amount of Consolidated EBITDA that is attributable to Excluded Subsidiaries (and their respective Subsidiaries) shall not exceed 50% of Consolidated EBITDA (prior to inclusion of Consolidated EBITDA of any Excluded Subsidiary and its Subsidiaries) of the Borrower and its Subsidiaries in any Test Period (determined on a consolidated basis, inclusive of intercompany transactions). Notwithstanding the foregoing or anything to the contrary contained herein, (i) Consolidated EBITDA for each of the Fiscal Quarters ended September 30, 2018, December 31, 2018, March 31, 2019 and June 30, 2019 shall be deemed to be $7,128,000, $6,712,000, $6,376,000 and $6,827,000, respectively, in each case as may be subject to addbacks and adjustments (without duplication) pursuant to the second paragraph of Section 1.3 for the applicable Test Period and (ii) Consolidated EBITDA for the Fiscal Quarter ending September 30, 2019 shall be determined in accordance with the foregoing definition as if the Pennant Transaction had been consummated as of the first day of such Fiscal Quarter.

"Consolidated EBITDAR" shall mean, for the Borrower and its Subsidiaries for any Test Period, an amount equal to the sum of (i) Consolidated EBITDA for such Test Period *plus* the aggregate amount of Consolidated EBITDA attributable to Excluded Subsidiaries (and their respective Subsidiaries) for such Test Period, if any, that was excluded from the calculation of Consolidated EBITDA for such Test Period as a result of the provision in the definition of Consolidated EBITDA limiting Consolidated EBITDA attributable to Excluded Subsidiaries (and their respective Subsidiaries) for such Test Period to 50% of Consolidated EBITDA (prior to inclusion of Consolidated EBITDA of any Excluded Subsidiary and its Subsidiaries) of the Borrower and its Subsidiaries in such Test Period and (ii) Consolidated Lease Expense for such Test Period. Notwithstanding the foregoing or anything to the contrary contained herein, (i) Consolidated EBITDAR for each of the Fiscal Quarters ended September 30, 2018, December 31, 2018, March 31, 2019 and June 30, 2019 shall be deemed to be $14,949,000, $14,837,000, $14,667,000 and $15,357,000, respectively, and (ii) Consolidated EBITDAR for the Fiscal Quarter ending September 30, 2019 shall be determined in accordance with the foregoing definition as if the Pennant Transaction had been consummated as of the first day of such Fiscal Quarter.

"Consolidated Interest Expense" shall mean, for the Borrower and its Subsidiaries for any period, determined on a consolidated basis in accordance with GAAP, the sum of (i) total interest expense, including, without limitation, the interest component of any payments in respect of Capital Lease Obligations, expensed during such period (whether or not actually paid during such period) plus (ii) the net amount payable or expensed or deducted in calculating Consolidated Net Income (or minus the net amount receivable) with respect to Hedging Transactions during such period (whether or not actually paid or received during such period). Notwithstanding the foregoing or anything to the contrary contained herein, (i) Consolidated Interest Expense for each of the Fiscal Quarters ended September 30, 2018, December 31, 2018, March 31, 2019 and June 30, 2019 shall be deemed to be $0, $0, $0 and $0, respectively, and (ii) Consolidated Interest Expense for the Fiscal Quarter ending September 30, 2019 shall be determined in accordance with the foregoing definition as if the Pennant Transaction had been consummated as of the first day of such Fiscal Quarter.

"Consolidated Lease Expense" shall mean, for the Borrower and its Subsidiaries for any period, the aggregate amount of fixed and contingent rentals expensed with respect to leases of real and personal property (excluding Capital Lease Obligations) for such period (whether or not actually paid during such period) determined on a consolidated basis in accordance with GAAP. Notwithstanding the foregoing or anything to the contrary contained herein, (i) Consolidated Lease Expense for each of the Fiscal Quarters ended September 30, 2018, December 31, 2018, March 31, 2019 and June 30, 2019 shall be deemed to be $7,776,000, $8,134,000, $8,297,000 and $8,532,000, respectively, and (ii) Consolidated Lease Expense for the Fiscal Quarter ending September 30, 2019 shall be determined in accordance with the foregoing definition as if the Pennant Transaction had been consummated as of the first day of such Fiscal Quarter.

"Consolidated Net Income" shall mean, for the Borrower and its Subsidiaries for any period, the net income (or loss) of the Borrower and its Subsidiaries for such period determined on a consolidated basis in accordance with GAAP; provided that there shall be excluded from Consolidated Net Income (to the extent otherwise included therein) (i) any extraordinary gains or losses, (ii) any gains attributable to write-ups of assets or the sale of assets (other than the sale of inventory in the ordinary course of business), (iii) any equity interest of the Borrower or any Subsidiary of the Borrower in the unremitted earnings of any Person that is not a Subsidiary, and (iv) any income (or loss) of any Person accrued prior to the date it becomes a Subsidiary or is merged into or consolidated with the Borrower or any Subsidiary or the date that such Person's assets are acquired by the Borrower or any Subsidiary.

Notwithstanding the foregoing or anything to the contrary contained herein, (i) Consolidated Net Income for each of the Fiscal Quarters ended September 30, 2018, December 31, 2018, March 31, 2019 and June 30, 2019 shall be deemed to be $4,416,000, $3,951,000, $1,484,000 and $3,687,000, respectively, and (ii) Consolidated Net Income for the Fiscal Quarter ending September 30, 2019 shall be determined in accordance with the foregoing definition as if the Pennant Transaction had been consummated as of the first day of such Fiscal Quarter.

"Consolidated Total Debt" shall mean, as of any date, all Indebtedness of the Borrower and its Subsidiaries measured on a consolidated basis as of such date, but excluding Hedging Obligations.

"Consolidated Total Net Debt" shall mean, as of any date, (i) Consolidated Total Debt minus (ii) all cash and Permitted Investments held on such date by the Borrower and its Subsidiaries in (x) Controlled Accounts and/or (y) Lender Accounts; provided that the aggregate amount of cash and Permitted Investments deducted from Consolidated Total Debt at any time pursuant to this clause (ii) shall not exceed $20,000,000.

"Continuing Director" shall mean, with respect to any period, any individuals (A) who were members of the board of directors or other equivalent governing body of the Borrower on the first day of such period, (B) whose election or nomination to that board or equivalent governing body was approved by individuals referred to in clause (A) above constituting at the time of such election or nomination at least a majority of that board or equivalent governing body, or (C) whose election or nomination to that board or other equivalent governing body was approved by individuals referred to in clauses (A) and (B) above constituting at the time of such election or nomination at least a majority of that board or equivalent governing body.

"Contractual Obligation" of any Person shall mean any provision of any security issued by such Person or of any agreement, instrument or undertaking under which such Person is obligated or by which it or any of the property in which it has an interest is bound.

"Control Account Agreement" shall mean any tri-party agreement by and among a Loan Party, the Administrative Agent and a depositary bank or securities intermediary at which such Loan Party maintains a Controlled Account, in each case in form and substance satisfactory to the Administrative Agent.

"Controlled Account" shall have the meaning set forth in Section 5.11.

"Copyright" shall have the meaning assigned to such term in the Guaranty and Security Agreement.

"Copyright Security Agreement" shall mean any Copyright Security Agreement executed by a Loan Party owning registered Copyrights or applications for Copyrights in favor of the Administrative Agent for the benefit of the Secured Parties, both on the Closing Date and thereafter.

"Covered Entity" shall mean any of the following:

(i) a "covered entity" as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b);

(ii) a "covered bank" as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 47.3(b); or

(iii) a "covered FSI" as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 382.2(b).

"Covered Party" shall have the meaning set forth in Section 10.19.

"Credit Agreement Refinancing Indebtedness" shall mean any Indebtedness incurred pursuant to a Refinancing Amendment, in each case, issued, incurred or otherwise obtained (including by means of the extension or renewal of existing Indebtedness) in exchange for, or to extend, renew, replace or refinance, in whole or part, existing Loans or Commitments (including any successive Credit Agreement Refinancing Indebtedness) ("Refinanced Debt"); provided that (a) such exchanging, extending, renewing, replacing or refinancing Indebtedness (including, if such Indebtedness includes any Other Refinancing Revolving Commitments, the unused portion of such Other Refinancing Revolving Commitments) is in an original aggregate principal amount not greater than the aggregate principal amount of the Refinanced Debt (and, in the case of Refinanced Debt consisting, in whole or in part, of unused Revolving Commitments, Extended Revolving Commitments or Other Refinancing Revolving Commitments, the amount thereof) except by an amount equal to unpaid accrued interest and premium thereon plus reasonable upfront fees and original issue discount on such exchanging, extending, renewing, replacing or refinancing Indebtedness, plus other reasonable and customary fees and expenses in connection with such exchange, modification, refinancing, refunding, renewal, replacement or extension, (b) such Indebtedness has a maturity equal to or later than, and, except in the case of Other Refinancing Revolving Commitments, a Weighted Average Life to Maturity equal to or greater than, the Refinanced Debt, (c) the terms and conditions of such Indebtedness (except as otherwise provided in clause (b) above and with respect to pricing, premiums and optional prepayment or redemption terms) are substantially identical to, or (taken as a whole) are no more favorable to the lenders or holders providing such Indebtedness, than those applicable to the Loans or Commitments being refinanced (except for covenants or other provisions applicable only to periods after the latest Maturity Date at the time of incurrence of such Indebtedness) (provided that satisfaction of this clause (c) shall be evidenced by a certificate of a Responsible Officer of the Borrower delivered to the Administrative Agent at least three (3) Business Days prior to the incurrence of such Indebtedness, providing a reasonably detailed description of the material terms and conditions of such Indebtedness or drafts of the documentation relating thereto, and a certificate of a Responsible Officer of the Borrower stating that the Borrower has determined in good faith that such terms and conditions satisfy the requirement of this clause (c) which shall be conclusive evidence that such terms and conditions satisfy such requirement unless the Administrative Agent notifies the Borrower within such three (3) Business Day period that it disagrees with such determination (including a description of the basis upon which it disagrees)) and (d) such Refinanced Debt shall be repaid, or satisfied and discharged, and all accrued interest, fees and premiums (if any) in connection therewith shall be paid, on the date such Credit Agreement Refinancing Indebtedness is issued, incurred or obtained.

"CTRI" shall mean CareTrust REIT, Inc., a Maryland corporation.

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

"Default" shall mean any condition or event that, with the giving of notice or the lapse of time or both, would constitute an Event of Default.

"Default Interest" shall have the meaning set forth in Section 2.13(c).

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

"Defaulting Lender" shall mean, subject to Section 2.26(c), any Lender that (a) has failed to (i) fund all or any portion of its Loans within two (2) Business Days of the date such Loans were required to be funded hereunder unless such Lender notifies the Administrative Agent and the Borrower in writing that such failure is the result of such Lender's good-faith determination that one or more conditions precedent to funding (each of which conditions precedent, together with any applicable default, shall be specifically identified in such writing) has not been satisfied, or (ii) pay to the Administrative Agent, any Issuing Bank, any Swingline Lender or any other Lender any other amount required to be paid by it hereunder (including in respect of its participation in Letters of Credit or Swingline Loans) within two (2) Business Days of the date when due, (b) has notified the Borrower, the Administrative Agent or any Issuing Bank or Swingline Lender in writing that it does not intend to comply with its funding obligations hereunder, or has made a public statement to that effect (unless such writing or public statement relates to such Lender's obligation to fund a Loan hereunder and states that such position is based on such Lender's good-faith determination that a condition precedent to funding (which condition precedent, together with any applicable default, shall be specifically identified in such writing or public statement) cannot be satisfied), (c) has failed, within three (3) Business Days after written request by the Administrative Agent or the Borrower, to confirm in writing to the Administrative Agent and the Borrower that it will comply with its prospective funding obligations hereunder (provided that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon receipt of such written confirmation by the Administrative Agent and the Borrower), or (d) has, or has a direct or indirect parent company that has, (i) become the subject of a proceeding under any Debtor Relief Law, 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 or foreign regulatory authority acting in such a capacity; provided that a Lender shall not be a Defaulting Lender solely by virtue of the ownership or acquisition of any equity interest in that Lender 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 Lender 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 Lender (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Lender. Any determination by the Administrative Agent that a Lender is a Defaulting Lender under clauses (a) through (d) above shall be conclusive and binding absent manifest error, and such Lender shall be deemed to be a Defaulting Lender (subject to Section 2.26(b)) upon delivery of written notice of such determination to the Borrower, each Issuing Bank, each Swingline Lender and each Lender.

"Designated Non-Cash Consideration" shall mean the fair market value of non-cash consideration received by Borrower or any of its Subsidiaries in connection with a sale or other disposition of assets that is so designated as "Designated Non-Cash Consideration" pursuant to a certificate from a Responsible Officer of the Borrower setting forth the basis of such valuation, *minus* the amount of cash or Permitted Investments received in connection with a subsequent sale of or collection on such Designated Non-Cash Consideration.

"Development Facility" means any newly constructed, rehabilitated or developed healthcare facility of the Borrower or any Subsidiary.

"Disqualified Capital Stock" shall mean, with respect to any Person, any Capital Stock of such Person that, by its terms (or by the terms of any security into which it is convertible or for which it is exchangeable), or upon the happening of any event, matures (excluding any maturity as the result of an optional redemption by the issuer thereof) or is mandatorily redeemable or redeemable at the sole option

of the holder thereof (other than solely (x) for Qualified Capital Stock or upon a sale of assets, casualty event or a change of control, in each case, subject to the prior payment in full of the Obligations or (y) as a result of a redemption that by the terms of such Capital Stock is contingent upon such redemption not being prohibited by this Agreement), pursuant to a sinking fund obligation or otherwise (other than solely for Qualified Capital Stock) or exchangeable or convertible into debt securities of the issuer thereof at the sole option of the holder thereof, in whole or in part, on or prior to the date that is 181 days after the latest Maturity Date then in effect at the time of issuance thereof.

"Disqualified Institutions" shall mean those Persons who are direct competitors of the Borrower or any of its Subsidiaries and any Affiliate of such competitors that are, in each case, identified in writing to the Administrative Agent by the Borrower from time to time (the writings described herein, collectively, the "Disqualified Institutions List"); provided that any update or supplement to the Disqualified Institutions List shall not apply retroactively to disqualify any parties that have previously acquired an assignment or a participation in any Commitment or Loan.

"Disqualified Institutions List" shall have the meaning assigned to such term in the definition of Disqualified Institution.

"Dollar(s)" and the sign "$" shall mean lawful money of the United States.

"Domestic Subsidiary" shall mean each Subsidiary of the Borrower that is organized under the laws of the United States or any state or district thereof.

"Earlier LC Maturity Date" shall have the meaning set forth in Section 2.22(a).

"Earlier Swingline Maturity Date" shall have the meaning set forth in Section 2.4(f).

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

"EEA Member Country" shall mean any of the member states of the European Union, Iceland, Liechtenstein and Norway.

"EEA Resolution Authority" shall mean any public administrative authority or any Person entrusted with public administrative authority of any EEA Member Country (including any delegee) having responsibility for the resolution of any EEA Financial Institution.

"Ensign" shall mean The Ensign Group, Inc., a Delaware corporation.

"Ensign Credit Agreement" shall mean that certain Third Amended and Restated Credit Agreement, dated as of October 1, 2019, by and among Ensign, the lenders from time to time party thereto, and SunTrust Bank, as administrative agent for the lenders, as issuing bank, and as swingline lender, as amended, restated, amended and restated, supplemented or otherwise modified through the Closing Date.

"Ensign Landlord" shall mean Ensign and any Subsidiary of Ensign.

"Ensign Master Leases" shall mean the master leases entered into by the Borrower or any of its Subsidiaries with one or more Ensign Landlords, in each case, in substantially the form of such master leases delivered to the Administrative Agent on or prior to the Closing Date and any other master lease entered into by the Borrower or any of its Subsidiaries with an Ensign Landlord.

"Environmental Laws" shall mean all laws, rules, regulations, codes, ordinances, orders, decrees, judgments, injunctions, notices or binding agreements issued, promulgated or entered into by or with any Governmental Authority relating in any way to the environment, preservation or reclamation of natural resources, the management, Release or threatened Release of any Hazardous Material or to health and safety matters.

"Environmental Liability" shall mean any liability, contingent or otherwise (including any liability for damages, costs of environmental investigation and remediation, costs of administrative oversight, fines, natural resource damages, penalties or indemnities), of the Borrower or any of its Subsidiaries directly or indirectly resulting from or based upon (i) any actual or alleged violation of any Environmental Law, (ii) the generation, use, handling, transportation, storage, treatment or disposal of any Hazardous Materials, (iii) any actual or alleged exposure to any Hazardous Materials, (iv) the Release or threatened Release of any Hazardous Materials or (v) any contract, agreement or other consensual arrangement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

"Equity Issuance" shall mean (a) any issuance or sale after the Closing Date by the Borrower of any Capital Stock, or (b) the receipt by the Borrower after the Closing Date of any capital contribution (whether or not evidenced by any Capital Stock issued by the recipient of such contribution).

"Equity Issuance Proceeds" shall mean, with respect to any Equity Issuance, the aggregate amount of all cash received in respect thereof by the Person consummating such Equity Issuance net of all investment banking fees, discounts and commissions, legal fees, consulting fees, accountants' fees, underwriting discounts and commissions and other fees and expenses actually incurred in connection therewith.

"ERISA" shall mean the Employee Retirement Income Security Act of 1974, as amended and in effect from time to time, and any successor statute thereto and the regulations promulgated and rulings issued thereunder.

"ERISA Affiliate" shall mean any person that for purposes of Title I or Title IV of ERISA or Section 412 of the Code would be deemed at any relevant time to be a "single employer" or otherwise aggregated with the Borrower or any of its Subsidiaries under Section 414(b), (c), (m) or (o) of the Code or Section 4001 of ERISA.

"ERISA Event" shall mean (i) any "reportable event" as defined in Section 4043 of ERISA with respect to a Plan (other than an event as to which the PBGC has waived under subsection .22, .23, .25, .27 or .28 of PBGC Regulation Section 4043 the requirement of Section 4043(a) of ERISA that it be notified of such event); (ii) any failure to make a required contribution to any Plan that would result in the imposition of a lien or other encumbrance or the provision of security under Section 430 of the Code or Section 303 or 4068 of ERISA, or the arising of such a lien or encumbrance, there being or arising any "unpaid minimum required contribution" or "accumulated funding deficiency" (as defined or otherwise set forth in Section 4971 of the Code or Part 3 of Subtitle B of Title 1 of ERISA), whether or not waived, or any filing of any request for or receipt of a minimum funding waiver under Section 412 of the Code or Section 302 of ERISA with respect to any Plan or Multiemployer Plan, or that such filing may be made, or any determination that any Plan is, or is expected to be, in at-risk status under Title IV of ERISA; (iii) any incurrence by the Borrower, any of its Subsidiaries or any of their respective ERISA Affiliates of any liability under Title IV of ERISA with respect to any Plan or Multiemployer Plan (other

than for premiums due and not delinquent under Section 4007 of ERISA); (iv) any institution of proceedings, or the occurrence of an event or condition which would reasonably be expected to constitute grounds for the institution of proceedings by the PBGC, under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Plan; (v) any incurrence by the Borrower, any of its Subsidiaries or any of their respective ERISA Affiliates of any liability with respect to the withdrawal or partial withdrawal from any Plan or Multiemployer Plan, or the receipt by the Borrower, any of its Subsidiaries or any of their respective ERISA Affiliates of any notice that a Multiemployer Plan is in endangered or critical status under Section 305 of ERISA; (vi) any receipt by the Borrower, any of its Subsidiaries or any of their respective ERISA Affiliates of any notice, or any receipt by any Multiemployer Plan from the Borrower, any of its Subsidiaries or any of their respective 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, within the meaning of Title IV of ERISA; (vii) engaging in a non-exempt prohibited transaction within the meaning of Section 4975 of the Code or Section 406 of ERISA; or (viii) any filing of a notice of intent to terminate any Plan if such termination would require material additional contributions in order to be considered a standard termination within the meaning of Section 4041(b) of ERISA, any filing under Section 4041(c) of ERISA of a notice of intent to terminate any Plan, or the termination of any Plan under Section 4041(c) of ERISA.

"EU Bail-In Legislation Schedule" shall mean the EU Bail-In Legislation Schedule published by the Loan Market Association (or any successor Person), as in effect from time to time.

"Eurodollar", when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, bears interest at a rate determined by reference to Adjusted LIBOR.

"Event of Default" shall have the meaning set forth in Section 8.1.

"Exchange Act" shall mean the Securities Exchange Act of 1934, as amended and in effect from time to time.

"Excluded Subsidiary" shall mean (i) each Subsidiary of the Borrower that is designated by the Borrower as an "Excluded Subsidiary" on Schedule 4.14 on the Closing Date, and (ii) each other Subsidiary of the Borrower that is designated by the Borrower by written notice to the Administrative Agent as an "Excluded Subsidiary" pursuant to Section 5.18 subsequent to the Closing Date. Notwithstanding the foregoing, in no event shall (i) any tenant under any Ensign Master Lease be an Excluded Subsidiary other than to the extent such tenant is required to grant a Lien on its assets to secure Indebtedness of the applicable Ensign Landlord or (ii) any tenant under any PropCo Master Lease be an Excluded Subsidiary.

"Excluded Subsidiary Designation" shall have the meaning set forth in Section 5.18.

"Excluded Subsidiary Designation Amount" shall have the meaning set forth in Section 5.18.

"Excluded Subsidiary Revocation" shall have the meaning set forth in Section 5.18.

"Excluded Taxes" shall mean, with respect to any Recipient of any payment to be made by or on account of any obligation of the Borrower hereunder, (a) income or franchise taxes imposed on (or measured by) the Recipient's net income by the jurisdiction under the laws of which such Recipient is organized or in which its principal office is located or, in the case of any Lender, in which its Applicable Lending Office is located, (b) any branch profits taxes imposed by the United States or any similar tax imposed by any other jurisdiction in which such Recipient is located, and (c) any U.S. federal withholding

taxes that (i) are imposed on amounts payable to such Recipient pursuant to a law in effect at the time such Recipient becomes a Recipient under this Agreement or designates a new lending office, except in each case to the extent that amounts with respect to such taxes were payable either (A) to such Recipient's assignor immediately before such Recipient became a Recipient under this Agreement, or (B) to such Recipient immediately before it designated a new lending office, (ii) are attributable to such Recipient's failure to comply with Section 2.20(e), or (iii) are imposed under FATCA.

"Extended Commitments" shall mean the Extended Term Loan Commitments and the Extended Revolving Commitments.

"Extended Facility" shall mean any additional tranche established pursuant to Section 2.27 reflecting an extension of the maturity date and, if applicable, amortization schedule of any existing tranche.

"Extended Facility Agreement" shall mean an Extended Revolving Credit Facility Agreement or an Extended Term Facility Agreement, as the context may require.

"Extended Facility Closing Date" shall mean, with regard to an Extended Facility, the first date all the conditions precedent set forth in the respective Extended Facility Agreement are satisfied or waived in accordance with Section 10.2.

"Extended Facility Lender" shall mean, at any time, with regard to an Extended Facility, any Lender that holds Loans or Commitments under such Extended Facility at such time.

"Extended Revolving Commitments" shall have the meaning set forth in Section 2.27.

"Extended Revolving Credit Facility" shall mean an Extended Facility designated as an "Extended Revolving Credit Facility" by the Borrower and established pursuant to an Extended Revolving Credit Facility Agreement.

"Extended Revolving Credit Facility Agreement" shall mean an agreement setting forth the terms and conditions relating to an Extended Revolving Credit Facility.

"Extended Term Facility" shall mean an Extended Facility designated as an "Extended Term Facility" by the Borrower and established pursuant to an Extended Term Facility Agreement.

"Extended Term Facility Agreement" shall mean an agreement setting forth the terms and conditions relating to an Extended Term Facility.

"Extended Term Loan Commitment" shall have the meaning set forth in Section 2.27.

"Extended Term Loans" shall have the meaning set forth in Section 2.27.

"Extending Revolving Lender" shall have the meaning set forth in Section 2.27.

"Extending Term Loan Lender" shall have the meaning set forth in Section 2.27.

"Extension" shall have the meaning set forth in Section 2.27.

"Extension Offer" shall have the meaning set forth in Section 2.27.

"FATCA" shall mean 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) and any current or future regulations or official interpretations thereof and any agreement entered into pursuant to Section 1471(b)(1) of the Code or any intergovernmental agreements entered into in connection with the implementation of such Sections of the Code.

"Federal Funds Rate" shall mean, for any day, the rate *per annum* (rounded upwards, if necessary, to the next 1/100 of 1%) equal to the weighted average of the rates on overnight Federal funds transactions with member banks of the Federal Reserve System, as published by the Federal Reserve Bank of New York on the next succeeding Business Day or, if such rate is not so published for any Business Day, the Federal Funds Rate for such day shall be the average rate (rounded upwards, if necessary, to the next 1/100 of 1%) charged to the Administrative Agent on such day on such transactions as determined by the Administrative Agent. For the avoidance of doubt, if the Federal Funds Rate shall be less than zero, such rate shall be deemed zero for purposes of this Agreement.

"Fee Letter" shall mean that certain fee letter, dated as of May 3, 2019, executed by SunTrust Robinson Humphrey, Inc. and SunTrust Bank and accepted by the Borrower, as amended, restated, amended and restated, supplemented or otherwise modified from time to time.

"Fiscal Quarter" shall mean any fiscal quarter of the Borrower.

"Fiscal Year" shall mean any fiscal year of the Borrower.

"Flood Insurance Laws" shall mean, collectively, (i) the National Flood Insurance Reform Act of 1994 (which comprehensively revised the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973), as now or hereafter in effect or any successor statute thereto, (ii) the Flood Insurance Reform Act of 2004, as now or hereafter in effect or any successor statute thereto and (iii) the Biggert–Waters Flood Insurance Reform Act of 2012, as now or hereafter in effect or any successor statute thereto.

"Foreign Person" shall mean any Person that is not a U.S. Person.

"Foreign Subsidiary" shall mean each Subsidiary of the Borrower that is organized under the laws of a jurisdiction other than one of the fifty states of the United States or the District of Columbia.

"GAAP" shall mean generally accepted accounting principles in the United States applied on a consistent basis and subject to the terms of Section 1.3.

"Governmental Authority" shall mean the government of the United States, any other nation or 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. "Governmental Authority" shall include any agency, branch or other governmental body charged with the responsibility, or vested with the authority to administer or enforce, any Health Care Laws, including any Medicare or Medicaid contractors, intermediaries or carriers.

"Governmental Deposit Account" shall mean a deposit account of a Loan Party maintained in accordance with the requirements of Section 5.11, into which direct proceeds of Medicare and Medicaid payments made by Governmental Payors are deposited.

"Governmental Payor" shall mean Medicare, Medicaid, TRICARE, CHAMPVA, any state health plan adopted pursuant to Title XIX of the Social Security Act, any other state or federal health care program and any other Governmental Authority which presently or in the future maintains a Third Party Payor Program.

"Guarantee" of or by any Person (the "guarantor") shall mean any obligation, contingent or otherwise, of the guarantor guaranteeing or having the economic effect of guaranteeing any Indebtedness of any other Person (the "primary obligor") in any manner, whether directly or indirectly and including any obligation, direct or indirect, of the guarantor (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or to purchase (or to advance or supply funds for the purchase of) any security for the payment thereof, (ii) to purchase or lease property, securities or services for the purpose of assuring the owner of such Indebtedness of the payment thereof, (iii) to maintain working capital, equity capital or any other financial statement condition or liquidity of the primary obligor so as to enable the primary obligor to pay such Indebtedness or (iv) as an account party in respect of any letter of credit or letter of guaranty issued in support of such Indebtedness; provided that the term "Guarantee" shall not include endorsements for collection or deposit in the ordinary course of business. The amount of any Guarantee shall be deemed to be an amount equal to the stated or determinable amount of the primary obligation in respect of which such Guarantee is made or, if not so stated or determinable, the maximum reasonably anticipated liability in respect thereof (assuming such Person is required to perform thereunder) as determined by such Person in good faith. The term "Guarantee" used as a verb has a corresponding meaning.

"Guarantor" shall mean each of the Subsidiary Loan Parties.

"Guaranty and Security Agreement" shall mean the Guaranty and Security Agreement, dated as of the Closing Date and substantially in the form of Exhibit B, made by the Loan Parties in favor of the Administrative Agent for the benefit of the Secured Parties, as amended, restated, amended and restated, supplemented or otherwise modified from time to time.

"Hazardous Materials" shall mean all explosive or radioactive substances or wastes and all hazardous or toxic substances, wastes or other pollutants, including petroleum or petroleum distillates, asbestos or asbestos containing materials, polychlorinated biphenyls, radon gas, infectious or medical wastes and all other substances or wastes of any nature regulated pursuant to any Environmental Law.

"Health Care Law" shall mean any Requirement of Law relating to (a) fraud and abuse (including, without limitation, the following statutes, as amended and in effect from time to time, and any successor statutes thereto and the regulations promulgated thereunder: the federal Anti-Kickback Statute (42 U.S.C. § 1320a-7b(b)); the Stark Law (42 U.S.C. § 1395nn and §1395(q)); the civil False Claims Act (31 U.S.C. § 3729 et seq.); Sections 1320a-7 and 1320a-7a and 1320a-7b of Title 42 of the United States Code; and the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Pub. L. No. 108-173)); (b) Medicare, Medicaid, CHAMPVA, TRICARE or other Third Party Payor Programs; (c) the licensure or regulation of healthcare providers, suppliers, professionals, facilities or payors; (d) the provision of, or payment for, health care services, items or supplies; (e) patient health care; (f) quality, safety certification and accreditation standards and requirements; (g) the billing, coding or submission of claims or collection of accounts receivable or refund of overpayments; (h) HIPAA; (i) fee-splitting prohibitions; (j) health planning or rate-setting laws, including laws regarding certificates of need and certificates of exemption; (k) certificates of operations and authority; (l) laws regulating the provision of free or discounted care or services; and (m) any and all other applicable federal, state or local health care laws, rules, codes, statutes, regulations, manuals, orders, ordinances, statutes, policies, professional or ethical rules, administrative guidance and requirements, in each case as amended from time to time.

"Health Care Permits" shall mean, with respect to any Person, any permit, approval, consent, authorization, license, provisional license, registration, accreditation, certificate, certification, certificate of need, qualification, operating authority, concession, grant, franchise, variance or permission from any Governmental Authority issued or required under applicable Health Care Laws.

"Hedging Obligations" of any Person shall mean any and all obligations of such Person, whether absolute or contingent and howsoever and whensoever created, arising, evidenced or acquired under (i) any and all Hedging Transactions, (ii) any and all cancellations, buy backs, reversals, terminations or assignments of any Hedging Transactions and (iii) any and all renewals, extensions and modifications of any Hedging Transactions and any and all substitutions for any Hedging Transactions.

"Hedging Transaction" of any Person shall mean (a) any transaction (including an agreement with respect to any such transaction) now existing or hereafter entered into by such Person that is a rate swap transaction, swap option, basis swap, forward rate transaction, commodity swap, commodity option, equity or equity index swap or option, bond option, interest rate option, foreign exchange transaction, cap transaction, floor transaction, collar transaction, currency swap transaction, cross-currency rate swap transaction, currency option, spot transaction, credit protection transaction, credit swap, credit default swap, credit default option, total return swap, credit spread transaction, repurchase transaction, reverse repurchase transaction, buy/sell-back transaction, securities lending transaction, or any other similar transaction (including any option with respect to any of these transactions) or any combination thereof, whether or not any such transaction is governed by or subject to any master agreement, and (b) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement, or any other master agreement (any such master agreement, together with any related schedules, a "Master Agreement"), including any such obligations or liabilities under any Master Agreement.

"HIPAA" shall mean the (a) Health Insurance Portability and Accountability Act of 1996; (b) the Health Information Technology for Economic and Clinical Health Act (Title XIII of the American Recovery and Reinvestment Act of 2009); and (c) any state and local laws regulating the privacy and/or security of individually identifiable information, including state laws providing for notification of breach of privacy or security of individually identifiable information, in each case, with respect to the laws described in clauses (a), (b) and (c) of this definition, as amended and in effect from time to time, and any successor statutes thereto and the regulations promulgated thereunder.

"Immaterial Subsidiary" shall mean, as of any date of determination, any direct or indirect Subsidiary of the Borrower that is formed or acquired after the Closing Date that has, (a) individually, (i) assets in an amount not in excess of 2.5% of the total assets of the Borrower and its Subsidiaries (other than Excluded Subsidiaries) determined on a consolidated basis as of such date and (ii) revenues in an amount not in excess of 2.5% of the total revenues of the Borrower and its Subsidiaries (other than Excluded Subsidiaries) on a consolidated basis for the most recently ended Test Period and (b) when taken together with all other then-existing Immaterial Subsidiaries, (i) assets in an amount not in excess of 5.0% of the total assets of the Borrower and its Subsidiaries (other than Excluded Subsidiaries) determined on a consolidated basis as of such date and (ii) revenues in an amount not in excess of 5.0% of the total revenues of the Borrower and its Subsidiaries (other than Excluded Subsidiaries) on a consolidated basis for the most recently ended Test Period.

"Increasing Lender" shall have the meaning set forth in Section 2.23.

"Incremental Commitment" shall have the meaning set forth in Section 2.23.

"Incremental Commitment Joinder" shall have the meaning set forth in Section 2.23.

"Incremental Revolving Commitment" shall have the meaning set forth in Section 2.23.

"Incremental Term Loan" shall have the meaning set forth in Section 2.23.

"Incremental Term Loan Commitment" shall have the meaning set forth in Section 2.23.

"Indebtedness" of any Person shall mean, without duplication, (i) all obligations of such Person for borrowed money, (ii) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments, (iii) all obligations of such Person in respect of the deferred purchase price of property or services (other than trade payables incurred in the ordinary course of business and excluding earn-outs except to the extent required under GAAP to be reflected as a liability on the balance sheet of such Person), (iv) all obligations of such Person under any conditional sale or other title retention agreement(s) relating to property acquired by such Person, (v) all Capital Lease Obligations of such Person, (vi) all obligations, contingent or otherwise, of such Person in respect of letters of credit, acceptances or similar extensions of credit, (vii) all Guarantees of such Person of the type of Indebtedness described in clauses (i) through (vi) above, (viii) all Indebtedness of a third party secured by any Lien on property owned by such Person, whether or not such Indebtedness has been assumed by such Person (provided that if such Person has not assumed or otherwise become liable in respect of such Indebtedness, such Indebtedness shall be deemed to be in an amount equal to the lesser of (A) the amount of such Indebtedness and (B) the fair market value of the property to which such Lien relates), (ix) all obligations of such Person in respect of Disqualified Capital Stock, (x) all Off-Balance Sheet Liabilities and (xi) all Hedging Obligations. The Indebtedness of any Person shall include (1) the Indebtedness of any partnership in which such Person is a general partner, except to the extent that the terms of such Indebtedness or the terms of the partnership agreement of such partnership provide that such Person is not liable therefor and (2) the Indebtedness of any joint venture (other than to the extent covered by clause (1) above) in which such Person is joint venturer, solely to the extent that the terms of such Indebtedness or the terms of the operating agreement of such joint venture expressly provide that such Person is liable therefor, or such Person is otherwise liable therefor.

"Indemnified Taxes" shall mean Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any obligation of any Loan Party under any Loan Document.

"Interest/Rent Coverage Ratio" shall mean, as of the end of any Test Period, the ratio of (i) Consolidated EBITDAR for such Test Period to (ii) the sum of Consolidated Interest Expense and Consolidated Lease Expense for such Test Period.

"Interest Period" shall mean with respect to any Eurodollar Borrowing, a period of one, two, three or six months, or such other period that is twelve months or less than one month that is agreed to by all relevant Lenders; provided that:

(i) the initial Interest Period for such Borrowing shall commence on the date of such Borrowing (including the date of any conversion from a Borrowing of another Type), and each Interest Period occurring thereafter in respect of such Borrowing shall commence on the day on which the next preceding Interest Period expires;

(ii) if any Interest Period would otherwise end on a day other than a Business Day, such Interest Period shall be extended to the next succeeding Business Day, unless such Business Day falls in another calendar month, in which case such Interest Period would end on the next preceding Business Day;

(iii) any Interest Period which begins on the last Business Day of a calendar month or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period shall end on the last Business Day of such calendar month;

(iv) each principal installment of the Term Loans shall have an Interest Period ending on or prior to each installment payment date and the remaining principal balance (if any) of the Term Loans shall have an Interest Period determined as set forth above; and

(v) no Interest Period may extend beyond the applicable Revolving Commitment Termination Date, unless on such Revolving Commitment Termination Date the aggregate outstanding principal amount of Term Loans is equal to or greater than the aggregate principal amount of Eurodollar Loans with Interest Periods expiring after such date, and no Interest Period may extend beyond the final Maturity Date.

"Investments" shall have the meaning set forth in Section 7.4.

"Issuing Bank" shall mean (a) SunTrust Bank in its capacity as an issuer of Letters of Credit and (b) each other Lender with a Revolving Commitment selected by the Borrower and approved by the Administrative Agent that agrees to act as an issuer of Letters of Credit (it being understood that any other Lender that becomes an Issuing Bank may condition its agreement to act in such capacity on a lesser sublimit within the LC Commitment but that the Administrative Agent shall not have any responsibility for monitoring the usage of such lesser sublimit), in each case pursuant to Section 2.22.

"Joining Guarantor" shall have the meaning set forth in Section 5.12(a).

"JV Documents" shall have the meaning set forth in Section 7.4(i).

"JV Entities" shall have the meaning set forth in Section 7.4(i).

"LCA Election" shall mean the Borrower's election to treat a specified Acquisition as a Limited Condition Acquisition in accordance with Section 1.5, effective upon delivery by the Borrower of the LCA Election Certificate required by Section 1.5.

"LCA Election Certificate" shall have the meaning set forth in Section 1.5.

"LCA Test Date" shall have the meaning set forth in Section 1.5.

"LC Commitment" shall mean that portion of the Aggregate Revolving Commitments that may be used by the Borrower for the issuance of Letters of Credit in an aggregate face amount not to exceed $15,000,000.

"LC Disbursement" shall mean a payment made by an Issuing Bank pursuant to a Letter of Credit.

"LC Documents" shall mean all applications, agreements and instruments relating to the Letters of Credit but excluding the Letters of Credit.

"LC Exposure" shall mean, at any time, the sum of (i) the aggregate undrawn amount of all outstanding Letters of Credit at such time, plus (ii) the aggregate amount of all LC Disbursements that have not been reimbursed by or on behalf of the Borrower at such time. The LC Exposure of any Revolving Lender shall be its Pro Rata Share (based on such Revolving Lender's Revolving Commitment or Revolving Credit Exposure, as applicable) of the total LC Exposure at such time.

"Lead Arrangers" shall mean SunTrust Robinson Humphrey, Inc., BofA Securities, Inc. and Regions Securities LLC, each in its capacity as a joint lead arranger in connection with this Agreement.

"Lease-Adjusted Leverage Ratio" shall mean, as of any date of determination, the ratio of (i) the sum of (A) Consolidated Total Net Debt as of such date and (B) an amount equal to six (6) times the Consolidated Lease Expense for the most recently ended Test Period to (ii) Consolidated EBITDAR for the most recently ended Test Period.

"Lender Account" shall mean any deposit account or securities account of the Borrower or any of its Subsidiaries that is established at the Administrative Agent or any Lender.

"Lender-Related Hedge Provider" shall mean any Person that, at the time it enters into a Hedging Transaction with any Loan Party, (i) is a Lender or an Affiliate of a Lender and (ii) except when the Lender-Related Hedge Provider is SunTrust Bank or any of its Affiliates, has provided prior written notice to the Administrative Agent which has been acknowledged by the Borrower of (x) the existence of such Hedging Transaction and (y) the methodology to be used by such parties in determining the obligations under such Hedging Transaction from time to time. In no event shall any Lender-Related Hedge Provider acting in such capacity be deemed a Lender for purposes hereof to the extent of and as to Hedging Obligations except that each reference to the term "Lender" in Article IX and Section 10.3(b) shall be deemed to include such Lender-Related Hedge Provider. In no event shall the approval of any such Person in its capacity as Lender-Related Hedge Provider be required in connection with the release or termination of any security interest or Lien of the Administrative Agent.

"Lenders" shall have the meaning set forth in the introductory paragraph hereof and shall include, where appropriate, the Swingline Lender, each Increasing Lender, each Additional Lender that joins this Agreement pursuant to Section 2.23, each Extended Facility Lender and each Refinancing Lender.

"Letter of Credit" shall mean any stand-by letter of credit issued pursuant to Section 2.22 by an Issuing Bank for the account of the Borrower pursuant to the LC Commitment.

"Leverage Ratio" shall mean, as of any date of determination, the ratio of (i) Consolidated Total Net Debt as of such date to (ii) Consolidated EBITDA for the most recently ended Test Period.

"Licensed Personnel" shall mean any Person (including any physician) involved in the delivery of health care or medical items, services or supplies, employed or retained by the Borrower or any of its Subsidiaries.

"Lien" shall mean any mortgage, pledge, security interest, lien (statutory or otherwise), charge, encumbrance, hypothecation, assignment, or other arrangement having the practical effect of any of the foregoing or any preference, priority or other security agreement or preferential arrangement for security of any kind or nature whatsoever (including any conditional sale or other title retention agreement and any capital lease having the same economic effect as any of the foregoing).

"Limited Condition Acquisition" shall mean any Acquisition whose consummation is not conditioned on the availability of, or on obtaining, third party financing; provided that in the event the consummation of any such acquisition shall not have occurred on or prior to the date that is one hundred and fifty (150) days following the signing of the applicable Limited Condition Acquisition Agreement (or such longer period as is reasonably necessary to obtain regulatory approvals from any applicable Governmental Authority), such acquisition shall no longer constitute a Limited Condition Acquisition for any purpose hereunder.

"Limited Condition Acquisition Agreement" shall have the meaning set forth in Section 1.5.

"Liquidity" shall mean, as of any date of determination, an amount equal to (x) the Aggregate Revolving Commitment Amount minus (y) the aggregate Revolving Credit Exposure of all Lenders.

"Loan Documents" shall mean, collectively, this Agreement, the Collateral Documents, the LC Documents, the Fee Letter, all Notices of Borrowing, all Notices of Swingline Borrowing, all Notices of Conversion/Continuation, all Compliance Certificates, any promissory notes issued hereunder and each other instrument, agreement, document and writing executed in connection with any of the foregoing that is identified by its terms as a "Loan Document".

"Loan Parties" shall mean the Borrower and the Subsidiary Loan Parties.

"Loans" shall mean all Revolving Loans, Swingline Loans and Term Loans in the aggregate or any of them, as the context shall require, and shall include, where appropriate, any loan made pursuant to Section 2.23, 2.27 or 2.28.

"Master Leases" shall mean the PropCo Master Leases, the Ensign Master Leases and each other Material Master Lease.

"Material Adverse Effect" shall mean, with respect to any event, act, condition or occurrence of whatever nature, whether singularly or in conjunction with any other event or events, act or acts, condition or conditions, occurrence or occurrences whether or not related, resulting in a material adverse change in, or a material adverse effect on, (i) the business, results of operations, financial condition, assets, liabilities or properties of the Borrower and its Subsidiaries taken as a whole and after giving effect to the Related Transactions, (ii) the ability of the Loan Parties, taken as a whole, to perform their respective obligations under the Loan Documents, (iii) the rights and remedies of the Administrative Agent, each Issuing Bank, the Swingline Lender or the Lenders under any of the Loan Documents or (iv) the legality, validity or enforceability of any of the Loan Documents.

"Material Agreements" shall mean (i) all agreements, indentures or notes governing the terms of any Material Indebtedness, (ii) each Master Lease and (iii) all other agreements, documents, contracts, indentures and instruments pursuant to which a default, breach or termination thereof could reasonably be expected to result in a Material Adverse Effect.

"Material Indebtedness" shall mean any Indebtedness (other than the Commitments, the Loans and the Letters of Credit) of the Borrower or any of its Subsidiaries individually or in an aggregate committed or outstanding principal amount exceeding $7,500,000. For purposes of determining the amount of attributed Indebtedness from Hedging Obligations, the "principal amount" of any Hedging Obligations at any time shall be the Net Mark-to-Market Exposure of such Hedging Obligations.

"Material Master Lease" shall mean a master lease of multiple properties to the Borrower or its Subsidiaries concerning properties from which the Borrower and its Subsidiaries, when taken together, derived in excess of 7.5% of their consolidated revenues for any Test Period.

"Material Real Estate" shall mean Real Estate with a fair market value in excess of $3,500,000.

"Material Subsidiary" shall mean, as of any date, any direct or indirect Subsidiary of the Borrower that is not an Immaterial Subsidiary.

"Maturity Date" shall mean, (a) with respect to any new tranche of Term Loans (including any Incremental Term Loans, Extended Term Loans or Other Refinancing Term Loans), the maturity dates specified therefor in the applicable Incremental Commitment Joinder, Extended Facility Agreement or Refinancing Amendment, as applicable and (b) with respect to the Revolving Commitments, the Revolving Commitment Termination Date.

"Medicaid" shall mean, collectively, the health care assistance program established by Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) and any statutes succeeding thereto, and all laws, rules, regulations, manuals, orders or requirements pertaining to such program, including (a) all federal statutes affecting such program; (b) all state statutes and plans for medical assistance enacted in connection with such program and federal rules and regulations promulgated in connection with such program; and (c) all applicable provisions of all rules, regulations, manuals, orders and administrative, reimbursement, and requirements of all Government Authorities promulgated in connection with such program (whether or not having the force of law), in each case as the same may be amended and in effect from time to time.

"Medicare" shall mean, collectively, the health insurance program for the aged and disabled established by Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) and any statutes succeeding thereto, and all laws, rules, regulations, manuals, orders or requirements pertaining to such program including (a) all federal statutes (whether set forth in Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) or elsewhere) affecting such program; and (b) all applicable provisions of all rules, regulations, manuals, orders and administrative and reimbursement requirements of all Governmental Authorities promulgated in connection with such program (whether or not having the force of law), in each case as the same may be amended and in effect from time to time.

"Moody's" shall mean Moody's Investors Service, Inc.

"Mortgaged Property" shall mean, collectively, the Real Estate subject to the Mortgages, including, but not limited to, any Real Estate for which a Mortgage is required to be delivered after the Closing Date pursuant to Section 5.13.

"Mortgage Release Event" shall mean, on any date of determination, as applicable, that:

(i) if a Mortgage Trigger Event resulted pursuant to clause (A) of the definition of Mortgage Trigger Event, (x) the Event of Default that resulted in such Mortgage Trigger Event shall no longer exist as of such date, (y) no other Default or Event of Default shall exist and be continuing as of such date and (z) no other Mortgage Trigger Event shall have occurred for which the relevant Mortgage Release Event pursuant to clauses (ii) and/or (iii) below has not occurred as of such date;

(ii) if a Mortgage Trigger Event resulted pursuant to clause (B) of the definition of Mortgage Trigger Event, (x) the Leverage Ratio of the Borrower shall have been less than a ratio that is 0.25:1.00 less than the then-applicable maximum Leverage Ratio permitted under Section 6.1 for three (3) consecutive Fiscal Quarters following the date of such Mortgage Trigger Event and (y) no other Mortgage Trigger Event shall have occurred for which the relevant Mortgage Release Event pursuant to clause (i) above and/or clause (iii) below has not occurred as of such date; and/or

(iii) if a Mortgage Trigger Event resulted pursuant to clause (C) of the definition of Mortgage Trigger Event, (x) Liquidity shall have been greater than 10% of the Aggregate Revolving Commitment Amount for a period of one hundred twenty (120) consecutive days and (y) no other Mortgage Trigger Event shall have occurred for which the relevant Mortgage Release Event pursuant to clauses (i) and/or (ii) above has not occurred as of such date.

"Mortgage Trigger Event" shall mean, as of any date of determination, that (A) an Event of Default has occurred and is continuing, (B) the Leverage Ratio of the Borrower is equal to or greater than a ratio that is 0.25:1.00 less than the then-applicable maximum Leverage Ratio permitted under Section 6.1 for two consecutive Fiscal Quarters, or (C) Liquidity is equal to or less than 10% of the Aggregate Revolving Commitment Amount for a period of ten (10) consecutive Business Days.

"Mortgages" shall mean, collectively, each mortgage, deed of trust, trust deed, security deed, deed to secure debt or other real estate security documents delivered by any Loan Party to the Administrative Agent from time to time, all in form and substance reasonably satisfactory to the Administrative Agent, as the same may be amended, restated, amended and restated, supplemented or otherwise modified from time to time.

"Multiemployer Plan" shall mean any "multiemployer plan" as defined in Section 4001(a)(3) of ERISA, which is contributed to by (or to which there is or may be an obligation to contribute of) the Borrower, any of its Subsidiaries or an ERISA Affiliate, and each such plan for the five-year period immediately following the latest date on which the Borrower, any of its Subsidiaries or an ERISA Affiliate contributed to or had an obligation to contribute to such plan.

"Net Mark-to-Market Exposure" of any Person shall mean, as of any date of determination with respect to any Hedging Obligation, the excess (if any) of all unrealized losses over all unrealized profits of such Person arising from such Hedging Obligation. "Unrealized losses" shall mean the fair market value of the cost to such Person of replacing the Hedging Transaction giving rise to such Hedging Obligation as of the date of determination (assuming such Hedging Transaction were to be terminated as of that date), and "unrealized profits" shall mean the fair market value of the gain to such Person of replacing such Hedging Transaction as of the date of determination (assuming such Hedging Transaction were to be terminated as of that date).

"Non-Defaulting Lender" shall mean, at any time, a Lender that is not a Defaulting Lender.

"Non-Public Information" shall mean any material non-public information (within the meaning of United States federal and state securities laws) with respect to the Borrower or any of its Subsidiaries or any of their respective securities.

"Non-U.S. Plan" shall mean any plan, fund (including, without limitation, any superannuation fund) or other similar program established, contributed to (regardless of whether through direct contributions or through employee withholding) or maintained outside the United States by the Borrower or one or more of its Subsidiaries primarily for the benefit of employees of the Borrower or such Subsidiaries residing outside the United States, which plan, fund or other similar program provides, or results in, retirement income, a deferral of income in contemplation of retirement, or payments to be made upon termination of employment, and which plan is not subject to ERISA or the Code.

"Notice of Conversion/Continuation" shall have the meaning set forth in Section 2.7(b).

"Notice of Borrowing" shall have the meaning set forth in Section 2.3.

"Notice of Swingline Borrowing" shall have the meaning set forth in Section 2.4.

"Obligations" shall mean (a) all amounts owing by the Loan Parties to the Administrative Agent, any Issuing Bank, any Lender (including the Swingline Lender) or any Lead Arranger pursuant to or in connection with this Agreement or any other Loan Document or otherwise with respect to any Commitment, Loan or Letter of Credit, including, without limitation, all principal, interest (including any

interest accruing after the filing of any petition in bankruptcy or the commencement of any insolvency, reorganization or like proceeding relating to the Borrower, whether or not a claim for post-filing or post-petition interest is allowed in such proceeding), reimbursement obligations, fees, expenses, indemnification and reimbursement payments, costs and expenses, whether direct or indirect, absolute or contingent, liquidated or unliquidated, now existing or hereafter arising hereunder or thereunder, (b) all Hedging Obligations owed by any Loan Party to any Lender-Related Hedge Provider, and (c) all Bank Product Obligations, together with all renewals, extensions, modifications or refinancings of any of the foregoing.

"OFAC" shall mean the U.S. Department of the Treasury's Office of Foreign Assets Control.

"Off-Balance Sheet Liabilities" of any Person shall mean (i) any repurchase obligation or liability of such Person with respect to accounts or notes receivable sold by such Person, (ii) any Synthetic Lease Obligation or (iii) any obligation arising with respect to any other transaction which is the functional equivalent of or takes the place of borrowing but which does not constitute a liability on the balance sheet of such Person other than, in the case of this clause (iii), any operating lease, including, for the avoidance of doubt, any other lease referred to in the provisos of the definition of "Capital Lease Obligations".

"OSHA" shall mean the Occupational Safety and Health Act of 1970, as amended and in effect from time to time, and any successor statute thereto.

"Other Refinancing Commitments" shall mean the Other Refinancing Revolving Commitments and the Other Refinancing Term Loan Commitments.

"Other Refinancing Loans" shall mean the Other Refinancing Revolving Loans and the Other Refinancing Term Loans.

"Other Refinancing Revolving Commitments" shall mean one or more classes of revolving commitments hereunder or extended Revolving Commitments that result from a Refinancing Amendment.

"Other Refinancing Revolving Loans" shall mean the Revolving Loans made pursuant to any Other Refinancing Revolving Commitment.

"Other Refinancing Term Loan Commitments" shall mean one or more classes of term loan commitments hereunder that result from a Refinancing Amendment.

"Other Refinancing Term Loans" shall mean one or more classes of Term Loans that result from a Refinancing Amendment.

"Other Taxes" shall mean any and all present or future stamp, court or documentary, intangible, recording, filing or similar Taxes that arise from any payment made hereunder or under any other Loan Document or from the execution, delivery, performance or enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, this Agreement or any other Loan Document.

"Parent Company" shall mean, with respect to a Lender, the "bank holding company" as defined in Regulation Y, if any, of such Lender, and/or any Person owning, beneficially or of record, directly or indirectly, a majority of the shares of such Lender.

"Participant" shall have the meaning set forth in Section 10.4(d).

"Pass-Through Foreign Holdco" shall mean (i) any Domestic Subsidiary that is a Subsidiary of a Foreign Subsidiary of the Borrower and (ii) any Domestic Subsidiary for which all or substantially all of its assets consist (directly or through Subsidiaries) of Capital Stock of one or more CFCs.

"Patent" shall have the meaning assigned to such term in the Guaranty and Security Agreement.

"Patent Security Agreement" shall mean any Patent Security Agreement executed by a Loan Party owning Patents or licenses of Patents in favor of the Administrative Agent for the benefit of the Secured Parties, both on the Closing Date and thereafter.

"Patriot Act" shall mean the USA PATRIOT Improvement and Reauthorization Act of 2005 (Pub. L. 109-177 (signed into law March 9, 2006)), as amended and in effect from time to time.

"Payment in Full" and "Paid in Full" shall mean the termination of all Revolving Commitments and all other commitments of the Lenders to lend funds or extend financial accommodations to the Borrower under the Loan Documents and the payment in full, in immediately available funds, of all of the Obligations (other than (a) contingent indemnification and expense reimbursement Obligations, in each case, to the extent no claim giving rise thereto has been asserted, (b) Hedging Obligations and Bank Product Obligations to the extent arrangements satisfactory to the Lender-Related Hedge Provider or Bank Product Provider, as applicable, shall have been made and (c) contingent Obligations with respect to which the deposit of cash collateral (in the case of LC Exposure, which shall not exceed 103% of the face amount of the relevant Letters of Credit and in the case of other Obligations, which shall not exceed 100% of the amount thereof) (or, as an alternative to cash collateral in the case of any LC Exposure, receipt by the Administrative Agent of a back-up letter of credit reasonably satisfactory to the Administrative Agent and the applicable Issuing Bank), in amounts and on terms and conditions and with parties reasonably satisfactory to the Administrative Agent and each Indemnitee that is, or may be, owed such Obligations has been provided).

"Payment Office" shall mean the office of the Administrative Agent located at 303 Peachtree Street, N.E., Atlanta, Georgia 30308, or such other location as to which the Administrative Agent shall have given written notice to the Borrower and the other Lenders.

"PBGC" shall mean the U.S. Pension Benefit Guaranty Corporation referred to and defined in ERISA, and any successor entity performing similar functions.

"Pennant Business Assets" shall have the meaning assigned to such term in the definition of Pennant Transaction.

"Pennant Contribution Agreement" shall mean that certain Distribution and Contribution Agreement, dated as of October 1, by and among Bridgestone Living, LLC, a Nevada limited liability company, Ensign, and Pinnacle Senior Living, LLC, a Delaware limited liability company.

"Pennant Employee Matters Agreement" shall mean that certain Employee Matters Agreement, dated as of October 1, by and between the Borrower and Ensign.

"Pennant Guaranty" shall mean certain Guarantees of PropCo Master Leases entered into by the Borrower in favor of the PropCo Landlords, in each case in the form of such Guarantees in effect on the Closing Date or otherwise reasonably acceptable to the Administrative Agent.

"Pennant Master Separation Agreement" shall mean that certain Separation and Distribution Agreement, dated as of October 1, by and between the Borrower and Ensign.

"Pennant Preferred Provider Agreement" shall mean that certain Preferred Provider Agreement, dated as of October 1, 2019, by and between the Borrower and Ensign.

"Pennant Tax Matters Agreement" shall mean that certain Tax Matters Agreement, dated as of October 1, by and between the Borrower, by and on behalf of itself and each affiliate of the Borrower, and Ensign, by and behalf of itself and each affiliate of Ensign.

"Pennant Transaction" shall mean (a) the transfer by Ensign of substantially all of the existing assets of Ensign and its Subsidiaries (other than the Borrower and its Subsidiaries) related to their home health, hospice and select senior living businesses (collectively, the "Pennant Business Assets") to the Borrower and its Subsidiaries and (b) the spin-off of the Borrower and its Subsidiaries (which own the Pennant Business Assets) to Ensign's shareholders, in each case in accordance with the Pennant Transaction Documents.

"Pennant Transaction Documents" shall mean the Pennant Master Separation Agreement, the Pennant Transition Services Agreement, the Pennant Employee Matters Agreement, the Pennant Tax Matters Agreement, the Pennant Preferred Provider Agreement, the Pennant Contribution Agreement, the Ensign Master Leases, and the Pennant Guaranty.

"Pennant Transition Services Agreement" shall mean that certain Transition Services Agreement, dated as of October 1, by and between the Borrower and Ensign.

"Perfection Certificate" shall have the meaning assigned to such term in the Guaranty and Security Agreement.

"Permitted Acquisition" shall mean any Acquisition by the Borrower or any of its Subsidiaries that occurs when the following conditions have been satisfied:

(i) subject, in the case of a Limited Condition Acquisition, to Section 1.5, before and after giving effect to such Acquisition, no Default or Event of Default has occurred and is continuing or would result therefrom; provided that (A) this clause (i) shall be limited to Events of Default referenced in Section 2.23(a)(iii) if an Incremental Commitment is being funded in connection with any such Permitted Acquisition and (B) if the Borrower makes an LCA Election pursuant to Section 1.5 and such condition is tested as of the applicable LCA Test Date, it shall also be a condition that no Event of Default under Section 8.1(a), (b), (g), (h) or (i) shall have occurred and be continuing or would result from such Acquisition and the transactions consummated in connection therewith (including the incurrence of any Indebtedness and the use proceeds thereof) on the date on which such Acquisition is consummated;

(ii) subject, in the case of a Limited Condition Acquisition, to Section 1.5, before and after giving effect to such Acquisition, on a Pro Forma Basis (giving effect to such Acquisition and any related debt incurrences), the Borrower is in compliance with each of the covenants set forth in Article VI, measuring Consolidated Total Net Debt for purposes of Section 6.1 as of the date of such Acquisition and otherwise recomputing the covenants set forth in Article VI as of the end of the most recently ended Test Period as if such Acquisition (and any other Acquisitions that have been consummated since the end of such Test Period and on or prior to the date of such Acquisition) had occurred, and any Indebtedness incurred in connection therewith was incurred, on the first day of the relevant period for testing compliance;

(iii) (A) at least five (5) days (or such shorter period of time as may be agreed to by the Administrative Agent) prior to the date of the consummation of any such Acquisition for which the aggregate consideration to be paid is at least $10,000,000, the Borrower shall have delivered to the Administrative Agent notice of such Acquisition and (B) at least five (5) days (or such shorter period of time as may be agreed to by the Administrative Agent) prior to the date of the consummation of any such Acquisition for which the aggregate consideration to be paid is at least $20,000,000, the Borrower shall have delivered to the Administrative Agent, to the extent available and received by the Borrower in connection with such Acquisition (including after request by the Borrower to the applicable seller), historical financial information with respect to the Person whose stock or assets are being acquired, the acquisition agreement and such other information in the possession of the Borrower that is reasonably requested by the Administrative Agent, and which is not subject to confidentiality agreements restricting the Borrower from providing such information;

(iv) such Acquisition is not opposed by the board of directors (or the equivalent thereof) of the Person whose stock or assets are being acquired;

(v) the Person or assets being acquired is in the same type of business conducted by the Borrower and its Subsidiaries on the date hereof or any business reasonably related thereto or ancillary or complementary thereto;

(vi) such Acquisition is consummated in compliance in all material respects with all Requirements of Law, and all material consents and approvals from any Governmental Authority and all material consents and approvals from any other Person in each case required in connection with such Acquisition have been obtained; and

(vii) at least five (5) days (or such shorter period of time as may be agreed to by the Administrative Agent) prior to the date of the consummation of any such Acquisition for which the aggregate consideration to be paid is at least $10,000,000, the Borrower shall have delivered to the Administrative Agent a certificate executed by a Responsible Officer certifying that each of the conditions set forth above has been satisfied (or, with respect to the condition set forth in clause (iv), that such condition will be satisfied by the date of the consummation of such Acquisition) if such a certificate is requested by the Administrative Agent after the Administrative Agent receives notice of such Acquisition; provided that, in the case of a Limited Condition Acquisition, the conditions set forth above that are tested as of the applicable LCA Test Date shall be certified in the applicable LCA Election Certificate instead of the certificate delivered pursuant to this clause (vii).

"Permitted Alternative Investments" shall mean any of the following, but excluding any Permitted Investment:

(i) direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the United States (or by any agency thereof to the extent such obligations are backed by the full faith and credit of the United States);

(ii) commercial paper having the highest rating, at the time of acquisition thereof, of S&P or Moody's and in either case maturing within one year from the date of acquisition thereof;

(iii) certificates of deposit, bankers' acceptances and time deposits maturing within one year from the date of acquisition thereof issued or guaranteed by or placed with, and money market deposit accounts issued or offered by, any domestic office of any commercial bank organized under the laws of the United States or any state thereof which has a combined capital and surplus and undivided profits of not less than $500,000,000 (determined at the time of such investment);

(iv) other securities, including, without limitation, corporate debt, having the highest rating, at the time of acquisition thereof, of S&P or Moody's and in either case maturing within one year from the date of acquisition thereof; and

(v) mutual funds investing primarily in any one or more of the Permitted Alternative Investments described in clauses (i) through (iv) above (determined at the time of such investment).

"Permitted Encumbrances" shall mean:

(i) Liens imposed by law for taxes not yet due or which are being contested in good faith by appropriate proceedings and with respect to which adequate reserves are being maintained in accordance with GAAP;

(ii) Liens of landlords, carriers, warehousemen, mechanics, materialmen and other Liens imposed by law which arise in the ordinary course of business for amounts not yet due or which are being contested in good faith by appropriate proceedings and with respect to which adequate reserves are being maintained in accordance with GAAP;

(iii) pledges and deposits made in the ordinary course of business in compliance with workers' compensation, unemployment insurance and other social security laws or regulations;

(iv) deposits to secure the performance of bids, trade contracts, leases, statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature, in each case in the ordinary course of business;

(v) judgment and attachment liens not giving rise to an Event of Default or Liens created by or existing from any litigation or legal proceeding that are currently being contested in good faith by appropriate proceedings diligently conducted and with respect to which adequate reserves are being maintained in accordance with GAAP;

(vi) customary rights of set-off, revocation, refund or chargeback under deposit agreements or under the Uniform Commercial Code or common law of banks or other financial institutions where the Borrower or any of its Subsidiaries maintains deposits (other than deposits intended as cash collateral) in the ordinary course of business;

(vii) easements, zoning restrictions, rights-of-way and similar encumbrances on real property imposed by law or arising in the ordinary course of business that do not secure any monetary obligations and do not materially interfere with the ordinary conduct of business of the Borrower and its Subsidiaries taken as a whole;

(viii) (x) Liens solely on any cash earnest money deposits made by the Borrower or any of its Subsidiaries and (y) restrictions on transfers of assets that are subject to sale or transfer pursuant to purchase and sale arrangements, in each case, in connection with any letter of intent or purchase and sale agreement permitted hereunder;

(ix) in the case of any non-wholly owned Subsidiary or joint venture, any put and call arrangements or restrictions on disposition related to its Capital Stock set forth in its organizational documents or any related joint venture or similar agreement; and

(x) licenses and sublicenses of intellectual property granted by any Loan Party in the ordinary course of business and not interfering in any material respect with the ordinary conduct of business of the Loan Parties;

provided that the term "Permitted Encumbrances" shall not include any Lien securing Indebtedness.

"Permitted Investments" shall mean:

(i) direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the United States (or by any agency thereof to the extent such obligations are backed by the full faith and credit of the United States), in each case maturing within one year from the date of acquisition thereof;

(ii) commercial paper having the highest rating, at the time of acquisition thereof, of S&P or Moody's and in either case maturing within six months from the date of acquisition thereof;

(iii) certificates of deposit, bankers' acceptances and time deposits maturing within 180 days of the date of acquisition thereof issued or guaranteed by or placed with, and money market deposit accounts issued or offered by, any domestic office of any commercial bank organized under the laws of the United States or any state thereof which has a combined capital and surplus and undivided profits of not less than $500,000,000 (determined at the time of such investment);

(iv) fully collateralized repurchase agreements with a term of not more than 30 days for securities described in clause (i) above and entered into with a financial institution satisfying the criteria described in clause (iii) above (determined at the time of such investment); and

(v) mutual funds investing primarily in any one or more of the Permitted Investments described in clauses (i) through (iv) above (determined at the time of such investment).

"Person" shall mean any individual, partnership, firm, corporation, association, joint venture, limited liability company, trust or other entity, or any Governmental Authority.

"Plan" shall mean any "employee benefit plan" as defined in Section 3 of ERISA (other than a Multiemployer Plan) maintained or contributed to by the Borrower or any ERISA Affiliate or to which the Borrower or any ERISA Affiliate has or may have an obligation to contribute, and each such plan that is subject to Title IV of ERISA for the five-year period immediately following the latest date on which the Borrower or any ERISA Affiliate maintained, contributed to or had an obligation to contribute to (or is deemed under Section 4069 of ERISA to have maintained or contributed to or to have had an obligation to contribute to, or otherwise to have liability with respect to) such plan.

"Proceeding" shall mean any investigation, inquiry, litigation, review, hearing, suit, claim, audit, arbitration, proceeding or action (in each case, whether civil, criminal, administrative, investigative or informal) commenced, brought, conducted or heard by or before, or otherwise involving, any Governmental Authority or arbitrator.

"Pro Forma Basis" shall mean, (i) with respect to any Person, business, property or asset acquired in a Permitted Acquisition or other Acquisition permitted hereunder or approved in writing by the Required Lenders, the inclusion as "Consolidated EBITDA" of the Consolidated EBITDA (determined by reference to such Person, business, property or asset) for such Person, business, property or asset as if such Acquisition had been consummated on the first day of the applicable period, based on historical results accounted for in accordance with GAAP, adjusted by (A) any credit received for acquisition-related costs and savings to the extent expressly permitted pursuant to Article 11 of Securities and Exchange Commission Regulation S-X and (B) other reasonable adjustments consistent with the operation by the Borrower or any of its Subsidiaries of comparable businesses, properties or assets that are in the same or reasonably related line of business in the same or similar geographies for (1) insurance expense savings, (2) bad debt expense savings, (3) any other non-recurring or non-cash charges that have been deducted from the EBITDA of or attributable to such Person, business, property or asset prior to such Acquisition and (4) cost savings and synergies reasonably expected to be achieved by the Borrower relating to such Acquisition; provided that in each case (x) the cost savings or synergies associated with such adjustments are reasonably expected by the Borrower in good faith to be realized within twelve (12) months of the consummation of such Acquisition and (y) for any such adjustments included twelve (12) months after the consummation of such Acquisition, the Borrower and its Subsidiaries have achieved annualized run-rate savings consistent with such adjustments; provided further that the aggregate amount added to Consolidated EBITDA pursuant to this clause (4) shall not exceed 20% of Consolidated EBITDA in any Test Period (calculated before giving effect to the addition of such amount); and (ii) with respect to any Person, business, property or asset sold, transferred or otherwise disposed of, the exclusion from "Consolidated EBITDA" of the portion of Consolidated EBITDA for such Person, business, property or asset so disposed of during such period as if such disposition had been consummated on the first day of the applicable period, in accordance with GAAP.

"Projected Income Statement" shall have the meaning set forth in Section 4.4.

"PropCo Landlord" shall mean CTRI and any Subsidiary of CTRI.

"PropCo Master Leases" shall mean the master leases entered into by the Borrower or any of its Subsidiaries with one or more PropCo Landlords, in each case, in substantially the form of such master leases delivered to the Administrative Agent on or prior to the Closing Date and any other master lease entered into by the Borrower or any of its Subsidiaries with a PropCo Landlord.

"Pro Rata Share" shall mean (i) with respect to any Class of Commitment or Loan of any Lender at any time, a percentage, the numerator of which shall be such Lender's Commitment of such Class (or, if such Commitment has been terminated or expired or the Loans have been declared to be due and payable, such Lender's Revolving Credit Exposure or Term Loan, as applicable), and the denominator of which shall be the sum of all Commitments of such Class of all Lenders (or, if such Commitments have been terminated or expired or the Loans have been declared to be due and payable, all Revolving Credit Exposure or Term Loans, as applicable, of all Lenders) and (ii) with respect to all Classes of Commitments and Loans of any Lender at any time, the numerator of which shall be the sum of such Lender's Revolving Commitment (or, if such Revolving Commitment has been terminated or expired or the Loans have been declared to be due and payable, such Lender's Revolving Credit Exposure) and Term Loan and the denominator of which shall be the sum of all Lenders' Revolving Commitments (or, if such Revolving Commitments have been terminated or expired or the Loans have been declared to be due and payable, all Revolving Credit Exposure of all Lenders funded under such Commitments) and Term Loans.

"PTE" shall mean a prohibited transaction class exemption issued by the U.S. Department of Labor, as any such exemption may be amended from time to time.

"Public Lender" shall mean any Lender who does not wish to receive Non-Public Information and who may be engaged in investment and other market related activities with respect to the Borrower, its Affiliates or any of their securities or loans.

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

"QFC Credit Support" shall have the meaning set forth in Section 10.19.

"Qualified Capital Stock" shall mean, with respect to any Person, any Capital Stock of such Person that is not Disqualified Capital Stock.

"Real Estate" shall mean all real property owned or leased by the Borrower and its Subsidiaries.

"Real Estate Documents" shall mean, collectively, with respect to each parcel of Material Real Estate owned in fee by one or more of the Loan Parties, a Mortgage duly executed by the applicable Loan Party, together with (A) (i) an ALTA extended lender's policy of title insurance (including all endorsements reasonably requested by Administrative Agent) issued by a title insurance company reasonably satisfactory to Administrative Agent, insuring Administrative Agent as the holder of such Mortgage in the amount specified by Administrative Agent (the "Title Policy"), and any additional documentation and/or deliveries required by the title company in order to issue the Title Policy (such as owner's affidavits), (ii) a current as-built ALTA/ACSM Land Title survey certified to the Administrative Agent and the title insurance company issuing the Title Policy, and (iii) a zoning report for such parcel of Material Real Estate reasonably satisfactory in form and substance to the Administrative Agent, (B) (i) a "Life of Loan" Federal Emergency Management Agency Standard Flood Hazard Determination that accurately identifies such Material Real Estate (including its address), (ii) a notice, in the form required under the Flood Insurance Laws, about special flood hazard area status and flood disaster assistance duly executed by the applicable Loan Party, and (iii) if such Material Real Estate constitutes improved real property located in a special flood hazard area, a policy of flood insurance from such providers, in such form, on such terms and in such amounts as required by the Flood Insurance Laws or as otherwise required by the Administrative Agent and/or any Lender, (C) an opinion of counsel in each state in which such Real Estate is located in form and substance and from counsel reasonably satisfactory to the Administrative Agent, (D) a duly executed environmental indemnity agreement with respect thereto, (E) a Phase I Environmental Site Assessment Report, consistent with American Society of Testing and Materials (ASTM) Standard E 1527-05, and applicable state requirements, with respect to such Material Real Estate, dated no more than six (6) months prior to the date of the applicable Mortgage (or such earlier date as may be agreed to by the Administrative Agent), prepared by environmental engineers reasonably satisfactory to the Administrative Agent, all in form and substance reasonably satisfactory to the Administrative Agent, and such environmental review and audit reports, including Phase II reports, with respect to such Material Real Estate as the Administrative Agent shall have reasonably requested, in each case together with letters executed by the environmental firms preparing such environmental reports, in form and substance reasonably satisfactory to the Administrative Agent, authorizing the Administrative Agent and the Lenders to rely on such reports, and (F) such other reports, documents, instruments and agreements as the Administrative Agent shall reasonably request, each in form and substance reasonably satisfactory to Administrative Agent.

"Recipient" shall mean, as applicable, (a) the Administrative Agent, (b) any Lender and (c) any Issuing Bank.

"Refinancing Amendment" shall mean an amendment to this Agreement in form and substance reasonably satisfactory to the Administrative Agent and the Borrower executed by each of (a) the Borrower, (b) the Administrative Agent, (c) each Issuing Bank (in the case of Other Refinancing Revolving Commitments or Other Refinancing Revolving Loans) and (d) each Refinancing Lender and Lender that agrees to provide any portion of the Credit Agreement Refinancing Indebtedness being incurred pursuant thereto, in accordance with Section 2.28.

"Refinancing Lender" shall mean, at any time, any bank, other financial institution or institutional investor that agrees to provide any portion of any Credit Agreement Refinancing Indebtedness pursuant to a Refinancing Amendment in accordance with Section 2.28; provided that each Refinancing Lender (other than any Person that is a Lender, an Affiliate of a Lender or an Approved Fund of a Lender at such time) shall be subject to the approval of the Administrative Agent and each Issuing Bank (in the case of Other Refinancing Revolving Commitments or Other Refinancing Revolving Loans) (such approval not to be unreasonably withheld or delayed), in each case to the extent any such consent would be required from the Administrative Agent and each Issuing Bank (in the case of Other Refinancing Revolving Commitments or Other Refinancing Revolving Loans) under Section 10.4(b) for an assignment of Loans or Commitments to such Refinancing Lender.

"Regulation D" shall mean Regulation D of the Board of Governors of the Federal Reserve System, as the same may be in effect from time to time, and any successor regulations.

"Regulation T" shall mean Regulation T of the Board of Governors of the Federal Reserve System, as the same may be in effect from time to time, and any successor regulations.

"Regulation U" shall mean Regulation U of the Board of Governors of the Federal Reserve System, as the same may be in effect from time to time, and any successor regulations.

"Regulation X" shall mean Regulation X of the Board of Governors of the Federal Reserve System, as the same may be in effect from time to time, and any successor regulations.

"Regulation Y" shall mean Regulation Y of the Board of Governors of the Federal Reserve System, as the same may be in effect from time to time, and any successor regulations.

"Related Parties" shall mean, with respect to any specified Person, such Person's Affiliates and the respective managers, administrators, trustees, partners, directors, officers, employees, agents, advisors or other representatives of such Person and such Person's Affiliates.

"Related Transaction Documents" shall mean the Loan Documents, the Pennant Transaction Documents and all other agreements or instruments executed in connection with the Related Transactions.

"Related Transactions" shall mean, collectively, the Closing Date Release, the making of the initial Loans on the Closing Date, the consummation of the Pennant Transaction, the payment of all fees, costs and expenses associated with all of the foregoing and the execution and delivery of all Related Transaction Documents.

"Release" shall mean any release, spill, emission, leaking, dumping, injection, pouring, deposit, disposal, discharge, dispersal, leaching or migration into the environment (including ambient air, surface water, groundwater, land surface or subsurface strata) or within any building, structure, facility or fixture.

"Required Lenders" shall mean, at any time, Lenders holding more than 50% of the aggregate outstanding Revolving Commitments and Term Loans at such time or, if the Lenders have no Commitments outstanding, then Lenders holding more than 50% of the aggregate outstanding Revolving Credit Exposure and Term Loans of the Lenders at such time; provided that, (x) if at any time there are at least two Lenders that are not Affiliates of each other, the Lenders constituting "Required Lenders" must include at least two Lenders that are not Affiliates of each other and (y) if at any time there are only two Lenders, "Required Lenders" shall mean both Lenders; provided further that to the extent that any Lender is a Defaulting Lender, such Defaulting Lender and all of its Revolving Commitments, Revolving Credit Exposure and Term Loans shall be excluded for purposes of determining Required Lenders.

"Required Revolving Lenders" shall mean, at any time, Lenders holding more than 50% of the aggregate outstanding Revolving Commitments at such time or, if the Lenders have no Revolving Commitments outstanding, then Lenders holding more than 50% of the aggregate outstanding Revolving Credit Exposure at such time; provided that, (x) if at any time there are at least two such Lenders that are not Affiliates of each other, the Lenders constituting "Required Revolving Lenders" must include at least two such Lenders that are not Affiliates of each other and (y) if at any time there are only two such Lenders, "Required Revolving Lenders" shall mean both such Lenders; provided further that to the extent that any Lender is a Defaulting Lender, such Defaulting Lender and all of its Revolving Commitments and Revolving Credit Exposure shall be excluded for purposes of determining Required Revolving Lenders.

"Requirement of Law" for any Person shall mean the articles or certificate of incorporation, bylaws, partnership certificate and agreement, or limited liability company certificate of organization and agreement, as the case may be, and other organizational and governing documents of such Person, and any law, treaty, rule or regulation, or determination of a Governmental Authority, in each case applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject, including, without limitation, all Health Care Laws.

"Responsible Officer" shall mean (x) with respect to certifying compliance with the financial covenants set forth in Article VI, the chief financial officer or the treasurer of the Borrower and (y) with respect to all other provisions, any of the president, the chief executive officer, the chief operating officer, the chief financial officer, the treasurer or a vice president of the Borrower or such other representative of the Borrower as may be designated in writing by any one of the foregoing with the consent of the Administrative Agent.

"Restricted Payment" shall mean, for any Person, any dividend or distribution on any class of its Capital Stock, or any payment on account of, or set apart assets for a sinking or other analogous fund for, the purchase, redemption, retirement, defeasance or other acquisition of any shares of its Capital Stock, any Indebtedness subordinated to the Obligations or any Guarantee thereof or any options, warrants or other rights to purchase such Capital Stock or such Indebtedness, whether now or hereafter outstanding.

"Revolving Commitment" shall mean, with respect to each Lender, the commitment of such Lender to make Revolving Loans to the Borrower and to acquire participations in Letters of Credit and Swingline Loans in an aggregate principal amount not exceeding the amount set forth with respect to such Lender on Schedule I, as such schedule may be amended pursuant to Section 2.23, Section 2.27 or Section 2.28, or, in the case of a Person becoming a Lender after the Closing Date, the amount of the assigned "Revolving Commitment" as provided in the Assignment and Acceptance executed by such Person as an assignee, or the amount provided in the Incremental Commitment Joinder or Refinancing Amendment executed by such Person, in each case as such commitment may subsequently be increased or decreased pursuant to the terms hereof. Unless the context shall otherwise require, the term "Revolving Commitment" shall include any Extended Revolving Commitment.

"Revolving Commitment Termination Date" shall mean the earliest of (a) (i) with respect to the Revolving Commitments (including any Incremental Revolving Commitments) of the Revolving Lenders (other than any portion constituting Extended Revolving Commitments or Other Refinancing Revolving Commitments), October 1, 2024, (ii) with respect to any Extended Revolving Commitments, the maturity date specified therefor in the applicable Extended Facility Agreement and (iii) with respect to any Other Refinancing Revolving Commitments, the maturity date specified therefor in the applicable Refinancing Amendment, (b) the date on which the Revolving Commitments are terminated pursuant to Section 2.8 and (c) the date on which all amounts outstanding under this Agreement have been declared or have automatically become due and payable (whether by acceleration or otherwise).

"Revolving Credit Exposure" shall mean, with respect to any Lender at any time, the sum of the outstanding principal amount of such Lender's Revolving Loans, LC Exposure and Swingline Exposure.

"Revolving Lender" shall mean each Lender with a Revolving Commitment (or if the Revolving Commitments have terminated, who hold Revolving Credit Exposure).

"Revolving Loan" shall mean a loan made by a Lender (other than the Swingline Lender) to the Borrower under its Revolving Commitment, which may either be a Base Rate Loan or a Eurodollar Loan.

"S&P" shall mean Standard & Poor's, a division of The McGraw-Hill Companies, Inc.

"Sanctioned Country" shall mean, at any time, a country, region or territory that is, or whose government or an agency of whose government is, or an organization directly or indirectly controlled by a country or territory that is, the subject or target of any Sanctions.

"Sanctioned Person" shall mean, at any time, (a) any Person listed in any Sanctions-related list of designated Persons maintained by OFAC, the U.S. Department of State, the United Nations Security Council, the European Union, any EU member state or any other Governmental Authority, (b) any Person located, organized, operating or resident in a Sanctioned Country, (c) a Person or legal entity that is a target of Sanctions or (d) any Person directly or indirectly controlled (individually or in the aggregate) by or acting on behalf of any such Person described in the foregoing clauses (a) through (c).

"Sanctions" shall mean economic or financial sanctions or trade embargoes administered, imposed or enforced from time to time by (a) the U.S. government, including those administered by OFAC or the U.S. Department of State or (b) the United Nations Security Council, the European Union, any EU member state, Her Majesty's Treasury of the United Kingdom or any other applicable Governmental Authority.

"Screen Rate" shall mean the rate specified in clause (i) of the definition of Adjusted LIBOR.

"Secured Parties" shall mean the Administrative Agent, the Lenders, the Issuing Banks, the Lender-Related Hedge Providers and the Bank Product Providers.

"Solvent" shall mean, with respect to any Person on a particular date, that on such date (a) the fair value of the property of such Person is greater than the total amount of liabilities, including subordinated and contingent liabilities, of such Person; (b) the present fair saleable value of the assets of such Person is not less than the amount that will be required to pay the probable liability of such Person on its debts and liabilities, including subordinated and contingent liabilities as they become absolute and matured; (c) such Person does not intend to, and does not believe that it will, incur debts or liabilities beyond such Person's ability to pay as such debts and liabilities mature; and (d) such Person is not engaged in a business or transaction, and is not about to engage in a business or transaction, for which such Person's property would constitute an unreasonably small capital. The amount of contingent liabilities (such as litigation, guaranties and pension plan liabilities) at any time shall be computed as the amount that, in light of all the facts and circumstances existing at the time, represents the amount that would reasonably be expected to become an actual or matured liability.

"Specified Representations" shall mean the representations and warranties set forth in Sections 4.1(i) and (ii), 4.2, 4.3(a), 4.3(b), 4.7, 4.9, 4.15, 4.17(a), 4.20, 4.21, and 4.22.

"Specified Subsidiary" shall mean (i) any Pass-Through Foreign Holdco, (ii) any CFC, (iii) any JV Entity and (iv) any Subsidiary that is prohibited by applicable law, rule or regulation or by agreement, instrument or other undertaking to which such Subsidiary is a party or by which it or any of its property or assets is bound from guaranteeing the Obligations; provided that any such agreement, instrument or other undertaking (x) is in existence on the Closing Date and listed on Schedule 1.2 (or, with respect to a Subsidiary acquired after the Closing Date, as of the date of such acquisition) and (y) in the case of a Subsidiary acquired after the Closing Date, was not entered into in connection with or in anticipation of such acquisition. Notwithstanding the foregoing, in no event shall (i) any tenant under any Ensign Master Lease be a Specified Subsidiary other than to the extent such tenant is required to grant a Lien on its assets to secure Indebtedness of the applicable Ensign Landlord or (ii) any tenant under any PropCo Master Lease be a Specified Subsidiary.

"Specified Target Representations" shall have the meaning set forth in Section 2.23(a)(iii).

"Subsidiary" shall mean, with respect to any Person (the "parent") at any date, any corporation, partnership, joint venture, limited liability company, association or other entity the accounts of which would be consolidated with those of the parent in the parent's consolidated financial statements if such financial statements were prepared in accordance with GAAP as of such date, as well as any other corporation, partnership, joint venture, limited liability company, association or other entity (i) of which securities or other ownership interests representing more than 50% of the equity or more than 50% of the ordinary voting power or, in the case of a partnership, more than 50% of the general partnership interests are, as of such date, owned, controlled or held, or (ii) that is, as of such date, otherwise controlled, by the parent or one or more subsidiaries of the parent or by the parent and one or more subsidiaries of the parent. Unless otherwise indicated, all references to "Subsidiary" hereunder shall mean a Subsidiary of the Borrower.

"Subsidiary Loan Party" shall mean any Subsidiary that executes or becomes a party to the Guaranty and Security Agreement, unless and until any such Subsidiary is released pursuant to Section 9.11.

"Supported QFC" shall have the meaning set forth in Section 10.19.

"Sweep Agreement" shall have the meaning set forth in Section 5.11.

"Swingline Commitment" shall mean the commitment of the Swingline Lender to make Swingline Loans in an aggregate principal amount at any time outstanding not to exceed $7,500,000.

"Swingline Exposure" shall mean, with respect to each Lender, the principal amount of the Swingline Loans in which such Lender is legally obligated either to make a Base Rate Loan or to purchase a participation in accordance with Section 2.4, which shall equal such Lender's Pro Rata Share of all outstanding Swingline Loans.

"Swingline Lender" shall mean SunTrust Bank in its capacity as such, together with any successor in such capacity.

"Swingline Loan" shall mean a loan made to the Borrower by the Swingline Lender under the Swingline Commitment.

"Synthetic Lease" shall mean a lease transaction under which the parties intend that (i) the lease will be treated as an "operating lease" by the lessee pursuant to Accounting Standards Codification Sections 840-10 and 840-20, as amended, and (ii) the lessee will be entitled to various tax and other benefits ordinarily available to owners (as opposed to lessees) of like property.

"Synthetic Lease Obligations" shall mean, with respect to any Person, the sum of (i) all remaining rental obligations of such Person as lessee under Synthetic Leases which are attributable to principal and, without duplication, *plus* (ii) all rental and purchase price payment obligations of such Person under such Synthetic Leases assuming such Person exercises the option to purchase the lease property at the end of the lease term.

"Taxes" shall mean any and all present or future taxes, levies, imposts, duties, deductions, assessments, fees, charges or withholdings imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

"Term Loan" shall mean any term loan made hereunder pursuant to Section 2.23, Section 2.27, or Section 2.28.

"Term Loan Commitment" shall mean, with respect to each Lender, such Lender's Incremental Term Loan Commitment, Extended Term Loan Commitment and/or Other Refinancing Term Loan Commitment, as the context may require.

"Term Lender" shall mean a Lender holding a Term Loan or a Term Loan Commitment.

"Test Period" shall mean, for any date of determination under this Agreement, the four consecutive Fiscal Quarters most recently ended as of such date of determination for which financial statements have been or are required to have been delivered pursuant to Section 5.1(a) or (b), provided, that for Test Periods prior to the first such required delivery after the Closing Date, "Test Period" shall refer to the most recently ended period of four consecutive Fiscal Quarters for which financial statements are available; provided, further, that for the purposes of determining quarterly compliance with Sections 6.1 and 6.2, Test Period shall mean the four consecutive Fiscal Quarters ending on the applicable date of determination.

"Third Party Payor" shall mean any Governmental Payor, private insurers, managed care plans, and any other person or entity which presently or in the future maintains Third Party Payor Programs.

"Third Party Payor Authorizations" shall mean all participation agreements, provider or supplier agreements, enrollments, accreditations and billing numbers necessary to participate in and receive reimbursement from a Third Party Payor Program, including all Medicare and Medicaid participation agreements.

"Third Party Payor Programs" shall mean all payment or reimbursement programs, sponsored or maintained by any Third Party Payor, in which the Borrower or any of its Subsidiaries participates.

"Trademark" shall have the meaning assigned to such term in the Guaranty and Security Agreement.

"Trademark Security Agreement" shall mean any Trademark Security Agreement executed by a Loan Party owning registered Trademarks or applications for Trademarks in favor of the Administrative Agent for the benefit of the Secured Parties, both on the Closing Date and thereafter.

"Trading with the Enemy Act" shall mean the Trading with the Enemy Act of the United States of America (50 U.S.C. App. §§ 1 et seq.), as amended and in effect from time to time.

"TRICARE" shall mean, collectively, a program of medical benefits covering former and active members of the uniformed services and certain of their dependents, financed and administered by the United States Departments of Defense, Health and Human Services and Transportation, and all laws applicable to such programs.

"Type", when used in reference to a Loan or a Borrowing, refers to whether the rate of interest on such Loan, or on the Loans comprising such Borrowing, is determined by reference to Adjusted LIBOR or the Base Rate.

"Unfunded Pension Liability" of any Plan shall mean the amount, if any, by which the value of the accumulated plan benefits under the Plan, determined on a plan termination basis in accordance with actuarial assumptions at such time consistent with those prescribed by the PBGC for purposes of Section 4044 of ERISA, exceeds the fair market value of all Plan assets allocable to such liabilities under Title IV of ERISA (excluding any accrued but unpaid contributions).

"Uniform Commercial Code" or "UCC" shall mean the Uniform Commercial Code as amended and in effect from time to time in the State of New York.

"United States" or "U.S." shall mean the United States of America.

"U.S. Person" shall mean any Person that is a "United States person" as defined in Section 7701(a)(30) of the Code.

"U.S. Special Resolution Regimes" shall have the meaning set forth in Section 10.19.

"U.S. Tax Compliance Certificate" shall have the meaning set forth in Section 2.20(e)(ii).

"Weighted Average Life to Maturity" shall mean, when applied to any Indebtedness at any date, the number of years obtained by dividing (i) the sum of the products obtained by multiplying (x) the amount of each then remaining installment, sinking fund, serial maturity or other required payments of principal, including payment at final maturity, in respect thereof, by (y) the number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment by (ii) the then outstanding principal amount of such Indebtedness.

"Withdrawal Liability" shall mean 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" shall mean the Borrower, any other Loan Party or the Administrative Agent, as applicable.

"Write-Down and Conversion Powers" shall mean, with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule.

Section 1.2. Classifications of Loans and Borrowings. For purposes of this Agreement, Loans may be classified and referred to by Class (e.g. "Revolving Loan" or "Term Loan") or by Type (e.g. "Eurodollar Loan" or "Base Rate Loan") or by Class and Type (e.g. "Revolving Eurodollar Loan"). Borrowings also may be classified and referred to by Class (e.g. "Revolving Borrowing") or by Type (e.g. "Eurodollar Borrowing") or by Class and Type (e.g. "Revolving Eurodollar Borrowing").

Section 1.3. Accounting Terms and Determination. Unless otherwise defined or specified herein, all accounting terms used herein shall be interpreted, all accounting determinations hereunder shall be made, and all financial statements required to be delivered hereunder shall be prepared, in accordance with GAAP as in effect from time to time, applied, except as otherwise indicated therein, on a basis consistent with the most recent audited consolidated financial statement of the Borrower delivered pursuant to Section 5.1(a) (or, prior to the first delivery thereof, the audited financial statements of Ensign for the fiscal year ended December 31, 2018); provided that if the Borrower notifies the Administrative Agent that the Borrower wishes to amend any covenant in Article VI to eliminate the effect of any change in GAAP on the operation of such covenant (or if the Administrative Agent notifies the Borrower that the Required Lenders wish to amend Article VI for such purpose), then the Borrower's compliance with such covenant shall be determined on the basis of GAAP in effect immediately before the relevant change in GAAP became effective, until either such notice is withdrawn or such covenant is amended in a manner satisfactory to the Borrower and the Required Lenders (and each party hereto agrees to negotiate in good faith with respect to such amendment). Notwithstanding any other provision contained herein, (i) all terms of an accounting or financial nature used herein shall be construed, and all computations of amounts and ratios referred to herein shall be made, without giving effect to any election under Accounting Standards Codification Section 825-10 (or any other Financial Accounting Standard having a similar result or effect) to value any Indebtedness or other liabilities of any Loan Party or any Subsidiary of any Loan Party at "fair value", as defined therein; and (ii) for purposes of this Agreement, any lease that was accounted for by any Person as an operating lease as of December 31, 2018 and any lease entered into after December 31, 2018 that would have been accounted for as an operating lease if such lease had been in effect on December 31, 2018 shall be accounted for as an operating lease consistent with GAAP as in effect on December 31, 2018.

Notwithstanding anything to the contrary herein, all financial ratios and tests contained in this Agreement that are calculated with respect to any Test Period during which any Permitted Acquisition or other Acquisition permitted hereunder occurs shall be calculated with respect to such Test Period and such Permitted Acquisition or other Acquisition permitted hereunder on a Pro Forma Basis. Further, if since the beginning of any such Test Period and on or prior to the date of any required calculation of any financial ratio or test (other than for compliance with the definition of "Permitted Acquisition") any Permitted Acquisition or other Acquisition permitted hereunder shall have occurred then any applicable financial ratio or test shall be calculated on a Pro Forma Basis for such Test Period as if such Permitted Acquisition or other Acquisition permitted hereunder had occurred at the beginning of the applicable Test Period (it being understood, for the avoidance of doubt, that solely for purposes of calculating quarterly compliance with Sections 6.1 and 6.2, the date of the required calculation shall be the end of the Test Period, and no Permitted Acquisition or other Acquisition permitted hereunder occurring thereafter shall be taken into account).

Section 1.4. Terms Generally. The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation". The word "will" shall be construed to have the same meaning and effect as the word "shall". In the computation of periods of time from a specified date to a later specified date, the word "from" means "from and including" and the word "to" means "to but excluding". Unless the context requires otherwise (i) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as it was originally executed or as it may from time to time be amended, restated, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein), (ii) any reference herein to any Person shall be construed to include such Person's successors and permitted assigns, (iii) the words "hereof", "herein" and "hereunder" and words of similar import shall be construed to refer to this Agreement as a whole and not to any particular provision hereof, (iv) all references to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles, Sections, Exhibits and Schedules to this Agreement and (v) all references to a specific time shall be construed to refer to the time in Atlanta, Georgia, unless otherwise indicated. Any reference herein or in any other Loan Document to an assignment, sale, disposition or transfer, or similar term, shall be deemed to apply to a division of or by a limited liability company, limited partnership or trust, or an allocation of assets to a series of a limited liability company, limited partnership or trust, as if it were an assignment, sale, disposition or transfer, or similar term, as applicable, to, of or with a separate Person, and any reference herein to a merger, consolidation or amalgamation, or similar term, shall be deemed to apply to the unwinding of such a division or allocation, as if it were a merger, consolidation or amalgamation, or similar term, as applicable, with a separate Person. Any division of a limited liability company, limited partnership or trust shall constitute a separate Person hereunder (and each division of any limited liability company, limited partnership or trust that is a Subsidiary, an Excluded Subsidiary, a joint venture or any other like term shall also constitute such a Person unless, in the case of a Subsidiary or an Excluded Subsidiary, it is otherwise designated in accordance with the terms of this Agreement).

Section 1.5. Limited Condition Acquisitions. Notwithstanding anything to the contrary herein, for purposes of (i) determining compliance with Sections 6.1 and 6.2 on a pro forma basis and capacity under baskets (including baskets measured as a percentage of Consolidated EBITDA or based on a ratio test) with respect to the making of any Permitted Acquisitions or other Acquisitions permitted hereunder and the incurrence of any Indebtedness permitted hereunder in connection therewith (other than Indebtedness under or other use of the Revolving Commitment or the establishment of any Incremental Revolving Commitment) or (ii) determining compliance with representations and warranties or any Default or Event of Default test with respect to the making of any Permitted Acquisitions or other Acquisitions permitted hereunder and the incurrence of any Indebtedness permitted hereunder in connection therewith (other than Indebtedness under or other use of the Revolving Commitment or the establishment of any Incremental Revolving Commitment), in the case of clauses (i) and (ii), in connection with a Limited Condition Acquisition, if the Borrower has made an LCA Election with respect to such Limited Condition Acquisition, the date of determination of whether any such action is permitted hereunder (including, in the case of calculating Consolidated EBITDA, the reference date for determining the most recently ended period of four consecutive fiscal quarters) shall be deemed to be the date the definitive agreement for such Limited Condition Acquisition (a "Limited Condition Acquisition Agreement") is entered into (the "LCA Test Date"), and if, after giving effect to such Limited Condition Acquisition and the other transactions to be entered into in connection therewith (including the incurrence of any Indebtedness and the use of proceeds thereof) on a pro forma basis, the Borrower could have taken such action on the relevant LCA Test Date in compliance with such financial covenant, basket, representation and warranty or Default or Event of Default test, such financial covenant, basket, representation and warranty or Default or Event of Default test shall be deemed to have been complied

with. Upon making an LCA Election with respect to any Limited Condition Acquisition, the Borrower shall deliver a certificate of a Responsible Officer of the Borrower to the Administrative Agent (a) notifying the Administrative Agent of such LCA Election and (b) certifying that each of the conditions for such Limited Condition Acquisition and any related transactions that are tested as of the LCA Test Date have been satisfied (which shall include calculations in reasonable detail for any conditions requiring compliance on a pro forma basis with the covenants set forth in Article VI or with any relevant ratio tests) (such certificate, an "LCA Election Certificate"). For the avoidance of doubt, if the Borrower has made an LCA Election and any of the financial covenant, basket, representation and warranty or Default or Event of Default tests for which compliance was determined or tested as of the LCA Test Date would thereafter have failed to have been satisfied as a result of fluctuations in any such financial covenant or basket, including due to fluctuations in Consolidated EBITDA, or changes in compliance with such representation and warranty or Default or Event of Default test at or prior to the consummation of the relevant Limited Condition Acquisition, such financial covenant, basket, representation and warranty and Default or Event of Default tests will not be deemed to have failed to have been satisfied as a result of such fluctuations or changes. If the Borrower has made an LCA Election for any Limited Condition Acquisition, then in connection with any subsequent calculation of any ratio (other than testing of actual compliance with the covenants set forth in Article VI and determination of the Leverage Ratio for purposes of determining the Applicable Margin) or basket on or following the relevant LCA Test Date and prior to the earlier of (i) the date on which such Limited Condition Acquisition is consummated or (ii) the date that the Limited Condition Acquisition Agreement therefor is terminated or expires without consummation of such Limited Condition Acquisition, any such ratio or basket shall be calculated (x) on a pro forma basis assuming such Limited Condition Acquisition and other transactions in connection therewith (including any incurrence of Indebtedness and the use of proceeds thereof) have been consummated and (y) with respect to Restricted Payments only, also on a standalone basis without giving effect to such Limited Condition Acquisition and the other transactions in connection therewith.

ARTICLE II

AMOUNT AND TERMS OF THE COMMITMENTS

Section 2.1. General Description of Facilities. Subject to and upon the terms and conditions herein set forth, (i) the Revolving Lenders hereby establish in favor of the Borrower a revolving credit facility pursuant to which each Revolving Lender severally agrees (to the extent of such Revolving Lender's Revolving Commitment) to make Revolving Loans to the Borrower in accordance with Section 2.2; (ii) each Issuing Bank may issue Letters of Credit in accordance with Section 2.22; (iii) the Swingline Lender may make Swingline Loans in accordance with Section 2.4; and (iv) each Revolving Lender agrees to purchase a participation interest in the Letters of Credit and the Swingline Loans pursuant to the terms and conditions hereof; provided that in no event shall the aggregate principal amount of all outstanding Revolving Loans, Swingline Loans and outstanding LC Exposure exceed the Aggregate Revolving Commitment Amount in effect from time to time.

Section 2.2. Revolving Loans. Subject to the terms and conditions set forth herein, each Revolving Lender severally agrees to make Revolving Loans, ratably in proportion to its Pro Rata Share of the Aggregate Revolving Commitments, to the Borrower, from time to time during the Availability Period, in an aggregate principal amount outstanding at any time that will not result in (a) such Revolving Lender's Revolving Credit Exposure exceeding such Revolving Lender's Revolving Commitment or (b) the aggregate Revolving Credit Exposures of all Revolving Lenders exceeding the Aggregate Revolving Commitment Amount. During the Availability Period, the Borrower shall be entitled to borrow, prepay and reborrow Revolving Loans in accordance with the terms and conditions of this Agreement; provided that the Borrower may not borrow or reborrow should there exist a Default or Event of Default.

Section 2.3. Procedure for Revolving Borrowings. The Borrower shall give the Administrative Agent written notice (or telephonic notice promptly confirmed in writing) of each Revolving Borrowing, substantially in the form of Exhibit 2.3 attached hereto (a "Notice of Borrowing"), (x) prior to 1:00 p.m. one (1) Business Day prior to the requested date of each Base Rate Borrowing and (y) prior to 1:00 p.m. three (3) Business Days prior to the requested date of each Eurodollar Borrowing; provided that in the case of any Base Rate Borrowings on the Closing Date, such Notice of Borrowing may be provided on the Closing Date. Each Notice of Borrowing shall be irrevocable and shall specify (i) the aggregate principal amount of such Borrowing, (ii) the date of such Borrowing (which shall be a Business Day), (iii) the Class and Type of Loan comprising such Borrowing and (iv) in the case of a Eurodollar Borrowing, the duration of the initial Interest Period applicable thereto (subject to the provisions of the definition of Interest Period). Each Revolving Borrowing shall consist entirely of Base Rate Loans or Eurodollar Loans, as the Borrower may request. The aggregate principal amount of each Eurodollar Borrowing shall not be less than $5,000,000 or a larger multiple of $250,000, and the aggregate principal amount of each Base Rate Borrowing shall not be less than $1,000,000 or a larger multiple of $100,000; provided that Base Rate Loans made pursuant to Section 2.4 or Section 2.22(d) may be made in lesser amounts as provided therein. At no time shall the total number of Eurodollar Borrowings outstanding at any time exceed eight (8). Promptly following the receipt of a Notice of Borrowing in accordance herewith, the Administrative Agent shall advise each applicable Lender of the details thereof and the amount of such Lender's Loan to be made as part of the requested Borrowing.

Section 2.4. Swingline Commitment.

(a) Subject to the terms and conditions set forth herein, the Swingline Lender may, in its sole discretion, make Swingline Loans to the Borrower, from time to time during the Availability Period, in an aggregate principal amount outstanding at any time not to exceed the lesser of (i) the Swingline Commitment then in effect and (ii) the difference between the Aggregate Revolving Commitment Amount and the aggregate Revolving Credit Exposures of all Lenders; provided that the Swingline Lender shall not be required to make a Swingline Loan to refinance an outstanding Swingline Loan. The Borrower shall be entitled to borrow, repay and reborrow Swingline Loans in accordance with the terms and conditions of this Agreement.

(b) The Borrower shall give the Administrative Agent written notice (or telephonic notice promptly confirmed in writing) of each Swingline Borrowing, substantially in the form of Exhibit 2.4 attached hereto (a "Notice of Swingline Borrowing"), prior to 1:00 p.m. on the requested date of each Swingline Borrowing. Each Notice of Swingline Borrowing shall be irrevocable and shall specify (i) the principal amount of such Swingline Borrowing, (ii) the date of such Swingline Borrowing (which shall be a Business Day) and (iii) the account of the Borrower to which the proceeds of such Swingline Borrowing should be credited. The Administrative Agent will promptly advise the Swingline Lender of each Notice of Swingline Borrowing. The aggregate principal amount of each Swingline Loan shall not be less than $100,000 or a larger multiple of $50,000, or such other minimum amounts agreed to by the Swingline Lender and the Borrower. The Swingline Lender will make the proceeds of each Swingline Loan available to the Borrower in Dollars in immediately available funds at the account specified by the Borrower in the applicable Notice of Swingline Borrowing not later than 3:00 p.m. on the requested date of such Swingline Borrowing.

(c) The Swingline Lender, at any time and from time to time in its sole discretion, may, but in no event no less frequently than once each calendar week shall, on behalf of the Borrower (which hereby irrevocably authorizes and directs the Swingline Lender to act on its behalf), give a Notice of Borrowing to the Administrative Agent requesting the Revolving Lenders (including the Swingline Lender) to make Base Rate Loans in an amount equal to the unpaid principal amount of any Swingline Loan. Each Revolving Lender will make the proceeds of its Base Rate Loan included in such Borrowing available to the Administrative Agent for the account of the Swingline Lender in accordance with Section 2.6, which will be used solely for the repayment of such Swingline Loan.

(d) If for any reason a Base Rate Borrowing may not be (as determined in the sole discretion of the Administrative Agent), or is not, made in accordance with the foregoing provisions, then each Revolving Lender (other than the Swingline Lender) shall purchase an undivided participating interest in such Swingline Loan in an amount equal to its Pro Rata Share thereof on the date that such Base Rate Borrowing should have occurred. On the date of such required purchase, each Revolving Lender shall promptly transfer, in immediately available funds, the amount of its participating interest to the Administrative Agent for the account of the Swingline Lender.

(e) Each Revolving Lender's obligation to make a Base Rate Loan pursuant to subsection (c) of this Section or to purchase participating interests pursuant to subsection (d) of this Section shall be absolute and unconditional and shall not be affected by any circumstance, including, without limitation, (i) any set-off, counterclaim, recoupment, defense or other right that such Revolving Lender or any other Person may have or claim against the Swingline Lender, the Borrower or any other Person for any reason whatsoever, (ii) the existence of a Default or an Event of Default or the termination of any Revolving Lender's Revolving Commitment, (iii) the existence (or alleged existence) of any event or condition which has had or could reasonably be expected to have a Material Adverse Effect, (iv) any breach of this Agreement or any other Loan Document by any Loan Party, the Administrative Agent or any Lender or (v) any other circumstance, happening or event whatsoever, whether or not similar to any of the foregoing. If such amount is not in fact made available to the Swingline Lender by any Revolving Lender, the Swingline Lender shall be entitled to recover such amount on demand from such Revolving Lender, together with accrued interest thereon for each day from the date of demand thereof (x) at the Federal Funds Rate until the second Business Day after such demand and (y) at the Base Rate at all times thereafter. Until such time as such Revolving Lender makes its required payment, the Swingline Lender shall be deemed to continue to have outstanding Swingline Loans in the amount of the unpaid participation for all purposes of the Loan Documents. In addition, such Revolving Lender shall be deemed to have assigned any and all payments made of principal and interest on its Loans and any other amounts due to it hereunder to the Swingline Lender to fund the amount of such Revolving Lender's participation interest in such Swingline Loans that such Revolving Lender failed to fund pursuant to this Section, until such amount has been purchased in full.

(f) If a Revolving Commitment Termination Date (the "Earlier Swingline Maturity Date") shall have occurred at a time when another tranche or tranches of Revolving Commitments is or are in effect with a longer Maturity Date, then, on the Earlier Swingline Maturity Date, all then outstanding Swingline Loans shall be repaid in full (and there shall be no adjustment to the participations in such Swingline Loans as a result of the occurrence of the Earlier Swingline Maturity Date); provided, however, that if on the occurrence of the Earlier Swingline Maturity Date (after giving effect to any repayments of Revolving Loans and any reallocation of Letter of Credit participations as contemplated in Section 2.22(a)), there shall exist sufficient unutilized Extended Revolving Commitments which will remain in effect after the occurrence of the Earlier Swingline Maturity Date so that the respective outstanding Swingline Loans could be incurred pursuant to such Extended Revolving Commitments, then (1) there shall be an automatic adjustment on the Earlier Swingline Maturity Date of the risk participations of the Revolving Lenders under such Extended Revolving Commitments pro rata according to such Revolving Lender's Pro Rata Share of the existing Extended Revolving Commitments and such outstanding Swingline Loans shall be deemed to have been incurred solely pursuant to such Extended Revolving Commitments and (2) such Swingline Loans shall not be required to be repaid in full on the Earlier Swingline Maturity Date.

Section 2.5. [Reserved].

Section 2.6. Funding of Borrowings.

(a) Each Lender will make available each Loan to be made by it hereunder on the proposed date thereof by wire transfer in immediately available funds by 11:00 a.m. to the Administrative Agent at the Payment Office; provided that the Swingline Loans will be made as set forth in Section 2.4. The Administrative Agent will make such Loans available to the Borrower by promptly crediting the amounts that it receives, in like funds by the close of business on such proposed date, to an account maintained by the Borrower with the Administrative Agent or, at the Borrower's option, by effecting a wire transfer of such amounts to an account designated by the Borrower to the Administrative Agent.

(b) Unless the Administrative Agent shall have been notified by any Lender prior to 5:00 p.m. one (1) Business Day prior to the date of a Borrowing in which such Lender is to participate that such Lender will not make available to the Administrative Agent such Lender's share of such Borrowing, the Administrative Agent may assume that such Lender has made such amount available to the Administrative Agent on such date, and the Administrative Agent, in reliance on such assumption, may make available to the Borrower on such date a corresponding amount. If such corresponding amount is not in fact made available to the Administrative Agent by such Lender on the date of such Borrowing, the Administrative Agent shall be entitled to recover such corresponding amount on demand from such Lender together with interest (x) at the Federal Funds Rate until the second Business Day after such demand and (y) at the Base Rate at all times thereafter. If such Lender does not pay such corresponding amount forthwith upon the Administrative Agent's demand therefor, the Administrative Agent shall promptly notify the Borrower, and the Borrower shall immediately pay such corresponding amount to the Administrative Agent together with interest at the rate specified for such Borrowing. Nothing in this subsection shall be deemed to relieve any Lender from its obligation to fund its Pro Rata Share of any Borrowing hereunder or to prejudice any rights which the Borrower may have against any Lender as a result of any default by such Lender hereunder.

(c) All Revolving Borrowings shall be made by the Revolving Lenders on the basis of their respective Pro Rata Shares of the Revolving Commitments. No Lender shall be responsible for any default by any other Lender in its obligations hereunder, and each Lender shall be obligated to make its Loans provided to be made by it hereunder, regardless of the failure of any other Lender to make its Loans hereunder.

Section 2.7. Interest Elections.

(a) Each Borrowing initially shall be of the Type specified in the applicable Notice of Borrowing. Thereafter, the Borrower may elect to convert such Borrowing into a different Type or to continue such Borrowing, all as provided in this Section. The Borrower may elect different options with respect to different portions of the affected Borrowing, in which case each such portion shall be allocated ratably among the Lenders holding Loans comprising such Borrowing, and the Loans comprising each such portion shall be considered a separate Borrowing.

(b) To make an election pursuant to this Section, the Borrower shall give the Administrative Agent written notice (or telephonic notice promptly confirmed in writing) of each Borrowing that is to be converted or continued, as the case may be, substantially in the form of Exhibit 2.7 attached hereto (a "Notice of Conversion/Continuation") (x) prior to 1:00 p.m. one (1) Business Day prior to the requested date of a conversion into a Base Rate Borrowing and (y) prior to 1:00 p.m. three (3) Business Days prior to a continuation of or conversion into a Eurodollar Borrowing. Each such Notice of Conversion/Continuation shall be irrevocable and shall specify (i) the Borrowing to which such Notice of Conversion/Continuation applies and, if different options are being elected with respect to different portions thereof, the portions thereof that are to be allocated to each resulting Borrowing (in which case the information to be specified pursuant to clauses (iii) and (iv) shall be specified for each resulting

Borrowing), (ii) the effective date of the election made pursuant to such Notice of Conversion/Continuation, which shall be a Business Day, (iii) whether the resulting Borrowing is to be a Base Rate Borrowing or a Eurodollar Borrowing, and (iv) if the resulting Borrowing is to be a Eurodollar Borrowing, the Interest Period applicable thereto after giving effect to such election, which shall be a period contemplated by the definition of "Interest Period". If any such Notice of Conversion/ Continuation requests a Eurodollar Borrowing but does not specify an Interest Period, the Borrower shall be deemed to have selected an Interest Period of one month. The principal amount of any resulting Borrowing shall satisfy the minimum borrowing amount for Eurodollar Borrowings and Base Rate Borrowings set forth in Section 2.3.

(c) If, on the expiration of any Interest Period in respect of any Eurodollar Borrowing, the Borrower shall have failed to deliver a Notice of Conversion/Continuation, then, unless such Borrowing is repaid as provided herein, the Borrower shall be deemed to have elected to convert such Borrowing to a Base Rate Borrowing. No Borrowing may be converted into, or continued as, a Eurodollar Borrowing if a Default or an Event of Default exists, unless the Administrative Agent and each of the Lenders holding Loans comprising such Borrowing shall have otherwise consented in writing. No conversion of any Eurodollar Loan shall be permitted except on the last day of the Interest Period in respect thereof.

(d) Upon receipt of any Notice of Conversion/Continuation, the Administrative Agent shall promptly notify each Lender of the details thereof and of such Lender's portion of each resulting Borrowing.

Section 2.8. Optional Reduction and Termination of Commitments.

(a) Unless previously terminated, all Revolving Commitments, Swingline Commitments and LC Commitments shall terminate on the Revolving Commitment Termination Date.

(b) Upon at least three (3) Business Days' prior written notice (or telephonic notice promptly confirmed in writing) to the Administrative Agent (which notice shall be irrevocable unless the Borrower provides in such notice (in connection with a termination in whole) that it is conditional on the occurrence of another financing or transaction, in which case such notice may be revoked if such financing or transaction does not occur on a timely basis; provided that the Borrower shall pay all amounts required to be paid pursuant to Section 2.19 as a result of such revocation), the Borrower may reduce the Aggregate Revolving Commitments in part or terminate the Aggregate Revolving Commitments in whole; provided that (i) any partial reduction shall apply to reduce proportionately and permanently the Revolving Commitment of each Lender, (ii) any partial reduction pursuant to this Section shall be in an amount of at least $5,000,000 and any larger multiple of $1,000,000, and (iii) no such reduction shall be permitted which would reduce the Aggregate Revolving Commitment Amount to an amount less than the aggregate outstanding Revolving Credit Exposure of all Lenders. Any such reduction in the Aggregate Revolving Commitment Amount below the principal amount of the Swingline Commitment and the LC Commitment shall result in a dollar-for-dollar reduction in the Swingline Commitment and the LC Commitment, as applicable.

(c) With the written approval of the Administrative Agent, the Borrower may terminate (on a non-ratable basis) the unused amount of the Revolving Commitment of a Defaulting Lender, and in such event the provisions of Section 2.26 will apply to all amounts thereafter paid by the Borrower for the account of any such Defaulting Lender under this Agreement (whether on account of principal, interest, fees, indemnity or other amounts); provided that such termination will not be deemed to be a waiver or release of any claim that the Borrower, the Administrative Agent, any Issuing Bank, the Swingline Lender or any other Lender may have against such Defaulting Lender.

Section 2.9. Repayment of Loans.

(a) The outstanding principal amount of all Revolving Loans and Swingline Loans shall be due and payable (together with accrued and unpaid interest thereon) on the Revolving Commitment Termination Date.

(b) The Borrower unconditionally promises to repay any Incremental Term Loan on the applicable Maturity Date and on the applicable dates scheduled for the repayment of principal of any Incremental Term Loan and in the amounts set forth in the applicable Incremental Commitment Joinder. The Borrower unconditionally promises to repay any Extended Term Loan on the applicable Maturity Date and on the applicable dates scheduled for the repayment of principal of any Extended Term Loan and in the amounts set forth in the applicable Extended Facility Agreement. The Borrower promises to repay any Other Refinancing Term Loans on the applicable Maturity Date and on the applicable dates scheduled for the repayment of principal of any Other Refinancing Term Loan and in the amounts set forth in the applicable Refinancing Amendment.

Section 2.10. Evidence of Indebtedness.

(a) Each Lender shall maintain in accordance with its usual practice appropriate records evidencing the Indebtedness of the Borrower to such Lender resulting from each Loan made by such Lender from time to time, including the amounts of principal and interest payable thereon and paid to such Lender from time to time under this Agreement. The Administrative Agent shall maintain appropriate records in which shall be recorded (i) the Revolving Commitment and the Term Loan Commitment of each Lender, (ii) the amount of each Loan made hereunder by each Lender, the Class and Type thereof and, in the case of each Eurodollar Loan, the Interest Period applicable thereto, (iii) the date of any continuation of any Loan pursuant to Section 2.7, (iv) the date of any conversion of all or a portion of any Loan to another Type pursuant to Section 2.7, (v) the date and amount of any principal or interest due and payable or to become due and payable from the Borrower to each Lender hereunder in respect of the Loans and (vi) both the date and amount of any sum received by the Administrative Agent hereunder from the Borrower in respect of the Loans and each Lender's Pro Rata Share thereof. The entries made in such records shall be *prima facie* evidence of the existence and amounts of the obligations of the Borrower therein recorded; provided that the failure or delay of any Lender or the Administrative Agent in maintaining or making entries into any such record or any error therein shall not in any manner affect the obligation of the Borrower to repay the Loans (both principal and unpaid accrued interest) of such Lender in accordance with the terms of this Agreement.

(b) This Agreement evidences the obligation of the Borrower to repay the Loans and is being executed as a "noteless" credit agreement. However, at the request of any Lender (including the Swingline Lender) at any time, the Borrower agrees that it will prepare, execute and deliver to such Lender a promissory note payable to such Lender (or, if requested by such Lender, to such Lender and its registered assigns) and in a form approved by the Administrative Agent. Thereafter, the Loans evidenced by such promissory note and interest thereon shall at all times (including after assignment permitted hereunder) be represented by one or more promissory notes in such form payable to the payee named therein (or, if such promissory note is a registered note, to such payee and its registered assigns).

Section 2.11. Optional Prepayments. The Borrower shall have the right at any time and from time to time to prepay any Borrowing, in whole or in part, without premium or penalty, by giving written notice (or telephonic notice promptly confirmed in writing) to the Administrative Agent no later than (i) in the case of any prepayment of any Eurodollar Borrowing, 1:00 p.m. not less than three (3) Business Days prior to the date of such prepayment, (ii) in the case of any prepayment of any Base Rate Borrowing, 1:00 p.m. not less than one (1) Business Day prior to the date of such prepayment, and (iii) in

the case of any prepayment of any Swingline Borrowing, prior to 1:00 p.m. on the date of such prepayment. Each such notice shall be irrevocable (provided that (x) any such notice in connection with the repayment of all Loans may be conditioned on the occurrence of another financing or transaction, in which case such notice may be revoked if such financing or transaction does not occur on a timely basis and (y) the Borrower shall pay all amounts required to be paid pursuant to Section 2.19 as a result of such revocation) and shall specify the proposed date of such prepayment and the principal amount of each Borrowing or portion thereof to be prepaid. Upon receipt of any such notice, the Administrative Agent shall promptly notify each affected Lender of the contents thereof and of such Lender's Pro Rata Share of any such prepayment. If such notice is given, the aggregate amount specified in such notice shall be due and payable on the date designated in such notice (unless revoked as provided above), together with accrued interest to such date on the amount so prepaid in accordance with Section 2.13(d); provided that if a Eurodollar Borrowing is prepaid on a date other than the last day of an Interest Period applicable thereto, the Borrower shall also pay all amounts required pursuant to Section 2.19. Each partial prepayment of (i) each Eurodollar Borrowing shall not be less than $5,000,000 or a larger multiple of $250,000, (ii) each Base Rate Borrowing (other than a Base Rate Borrowing of Swingline Loans) shall not be less than $1,000,000 or a larger multiple of $100,000 and (iii) each Base Rate Borrowing of Swingline Loans shall not be less than $100,000 or a larger multiple of $50,000. Each prepayment of a Borrowing shall be applied ratably to the Loans comprising such Borrowing and, in the case of a prepayment of a Term Loan Borrowing, to principal installments in the manner directed by the Borrower.

Section 2.12. Mandatory Prepayments.

(a) Immediately upon receipt by the Borrower or any of its Subsidiaries of any proceeds of any sale or disposition by the Borrower or any of its Subsidiaries of any of its assets, or any proceeds from any casualty insurance policies or eminent domain, condemnation or similar proceedings, the Borrower shall prepay the Obligations in an amount equal to all such proceeds, net of commissions and other reasonable and customary transaction costs, fees and expenses properly attributable to such transaction and payable by the Borrower in connection therewith (in each case, paid to non-Affiliates); provided that the Borrower shall not be required to prepay the Obligations with respect to (i) proceeds from the sales of inventory in the ordinary course of business, (ii) proceeds from the sales of assets securing Indebtedness permitted under Section 7.1(c) to the extent such proceeds are used to repay such Indebtedness, (iii) proceeds from other asset sales permitted under Section 7.6(f) and (iv) proceeds that are reinvested in assets then used or usable in the business of the Borrower and its Subsidiaries within 180 days following receipt thereof, so long as such proceeds are held in deposit accounts and/or securities accounts that are, in each case, either (x) subject to Control Account Agreements in favor of the Administrative Agent or (y) Lender Accounts, in each case of clauses (x) and (y), until such proceeds are reinvested. Any such prepayment shall be applied in accordance with subsection (c) of this Section.

(b) In the event that the Borrower or any of its Subsidiaries receives proceeds from the issuance or incurrence of Indebtedness by the Borrower or any of its Subsidiaries that is not permitted under Section 7.1, the Borrower shall, substantially simultaneously with (and in any event not later than the fifth succeeding Business Day) the receipt of such proceeds by the Borrower or its applicable Subsidiary, apply an amount equal to 100% of such proceeds, net of all fees, commissions, costs, underwriting discounts and other fees and expenses incurred in connection therewith, to prepay the Obligations in accordance with subsection (c) of this Section. In the event that the Borrower or any of its Subsidiaries receives proceeds from the issuance or incurrence of Indebtedness that constitutes (i) Incremental Term Loans or Revolving Loans in respect of Incremental Revolving Commitments, in each case incurred to refinance all or any portion of the Term Loans, (ii) Extended Term Loans or Revolving Loans in respect of Extended Revolving Commitments, in each case incurred to refinance all or any portion of the Term Loans or (iii) Other Refinancing Loans incurred to refinance all or any portion of the Term Loans, the Borrower shall, substantially simultaneously with (and in any event not later than the

fifth succeeding Business Day) the receipt of such proceeds by the Borrower or its applicable Subsidiary, apply an amount equal to 100% of such proceeds, net of all fees, commissions, costs, underwriting discounts and other fees and expenses incurred in connection therewith, to prepay the outstanding principal amount of the relevant Term Loans and, thereafter, to prepay the Obligations in accordance with subsection (c) of this Section.

(c) Any prepayments made by the Borrower pursuant to subsection (a) or (b) of this Section shall be applied as follows: first, to the Administrative Agent's fees and reimbursable expenses then due and payable pursuant to any of the Loan Documents; second, to all reimbursable expenses of the Lenders and all fees and reimbursable expenses of the Issuing Bank then due and payable pursuant to any of the Loan Documents, *pro rata* to the Lenders and the Issuing Bank based on their respective *pro rata* shares of such fees and expenses; third, to interest and fees then due and payable hereunder, *pro rata* to the Lenders based on their respective *pro rata* shares of such interest and fees; fourth, unless otherwise provided in the applicable Incremental Commitment Joinder, Extended Facility Agreement or Refinancing Amendment, as applicable, to the principal balance of any then outstanding Term Loans, until the same shall have been paid in full, *pro rata* to the Lenders based on their Pro Rata Shares of such Term Loans, and applied to installments of such Term Loans on a *pro rata* basis (including, without limitation, the final payment due on the Maturity Date); fifth, to the principal balance of the Swingline Loans, until the same shall have been paid in full, to the Swingline Lender; sixth, to the principal balance of the Revolving Loans, until the same shall have been paid in full, *pro rata* to the Lenders based on their respective Revolving Commitments; and seventh, to Cash Collateralize the Letters of Credit in an amount in cash equal to the LC Exposure as of such date plus any accrued and unpaid fees thereon.

(d) If at any time the aggregate Revolving Credit Exposure of all Lenders exceeds the Aggregate Revolving Commitment Amount, as reduced pursuant to Section 2.8 or otherwise increased pursuant to Section 2.23, the Borrower shall immediately repay the Swingline Loans and the Revolving Loans in an amount equal to such excess, together with all accrued and unpaid interest on such excess amount and any amounts due under Section 2.19. Each prepayment shall be applied as follows: first, to the Swingline Loans to the full extent thereof; second, to the Revolving Loans that are Base Rate Loans to the full extent thereof; and third, to the Revolving Loans that are Eurodollar Loans to the full extent thereof. If, after giving effect to prepayment of all Swingline Loans and Revolving Loans, the aggregate Revolving Credit Exposure of all Lenders exceeds the Aggregate Revolving Commitment Amount, the Borrower shall Cash Collateralize its reimbursement obligations with respect to all Letters of Credit in an amount equal to such excess plus any accrued and unpaid fees thereon.

Section 2.13. Interest on Loans.

(a) The Borrower shall pay interest on (i) each Base Rate Loan at the Base Rate plus the Applicable Margin in effect from time to time and (ii) each Eurodollar Loan at Adjusted LIBOR for the applicable Interest Period in effect for such Loan plus the Applicable Margin in effect from time to time.

(b) The Borrower shall pay interest on each Swingline Loan at the Base Rate plus the Applicable Margin in effect from time to time.

(c) Notwithstanding subsections (a) and (b) of this Section, automatically upon the occurrence and during the continuance of an Event of Default, the Borrower shall pay interest ("Default Interest") with respect to all overdue principal and interest and all other Obligations not paid when due at the rate *per annum* equal to 200 basis points above the otherwise applicable interest rate with respect thereto (i.e., for Eurodollar Loans at the rate *per annum* equal to 200 basis points above the otherwise applicable interest rate for such Eurodollar Loans for the then-current Interest Period until the last day of

such Interest Period, and thereafter, and with respect to all Base Rate Loans and all other Obligations hereunder (other than Loans), at the rate *per annum* equal to 200 basis points above the otherwise applicable interest rate for Base Rate Loans). Notwithstanding the foregoing, automatically upon the occurrence and during the continuance of an Event of Default under Sections 8.1(g), (h) or (i) with respect to the Borrower, the Borrower shall pay Default Interest in accordance with the preceding sentence with respect to all Obligations whether or not overdue.

(d) Interest on the principal amount of all Loans shall accrue from and including the date such Loans are made to but excluding the date of any repayment thereof. Interest on all outstanding Base Rate Loans and Swingline Loans shall be payable quarterly in arrears on the last day of each March, June, September and December and on the applicable Maturity Date. Interest on all outstanding Eurodollar Loans shall be payable on the last day of each Interest Period applicable thereto, and, in the case of any Eurodollar Loans having an Interest Period in excess of three months, on each day which occurs every three months after the initial date of such Interest Period, and on the applicable Maturity Date. Interest on any Loan which is converted into a Loan of another Type or which is repaid or prepaid shall be payable on the date of such conversion or on the date of any such repayment or prepayment (on the amount repaid or prepaid) thereof. All Default Interest shall be payable on demand.

(e) The Administrative Agent shall determine each interest rate applicable to the Loans hereunder and shall promptly notify the Borrower and the Lenders of such rate in writing (or by telephone, promptly confirmed in writing). Any such determination shall be conclusive and binding for all purposes, absent manifest error.

Section 2.14. Fees.

(a) The Borrower shall pay to the Administrative Agent for its own account fees in the amounts and at the times previously agreed upon in writing by the Borrower and the Administrative Agent.

(b) The Borrower agrees to pay to the Administrative Agent for the account of each Revolving Lender a commitment fee, which shall accrue at the Applicable Percentage *per annum* (determined daily in accordance with the Pricing Grid) on the daily amount of the unused Revolving Commitment of such Revolving Lender during the Availability Period. For purposes of computing the commitment fee, the Revolving Commitment of each Revolving Lender shall be deemed used to the extent of the outstanding Revolving Loans and LC Exposure, but not Swingline Exposure, of such Revolving Lender.

(c) The Borrower agrees to pay (i) to the Administrative Agent, for the account of each Revolving Lender, a letter of credit fee with respect to its participation in each Letter of Credit, which shall accrue at a rate *per annum* equal to the Applicable Margin for letter of credit fees then in effect on the average daily amount of such Revolving Lender's LC Exposure attributable to such Letter of Credit during the period from and including the date of issuance of such Letter of Credit to but excluding the date on which such Letter of Credit expires or is drawn in full (including, without limitation, any LC Exposure that remains outstanding after the Revolving Commitment Termination Date) and (ii) to each Issuing Bank for its own account a facing fee, which shall accrue at the rate separately agreed to by the Borrower and such Issuing Bank on the average daily amount of the LC Exposure (excluding any portion thereof attributable to unreimbursed LC Disbursements) during the Availability Period (or until the date that such Letter of Credit is irrevocably cancelled, whichever is later), as well as such Issuing Bank's standard fees with respect to issuance, amendment, renewal or extension of any Letter of Credit or processing of drawings thereunder. Notwithstanding the foregoing, if the Borrower, in accordance with Section 2.13(c), is obligated to pay Default Interest with respect to the Obligations whether or not overdue, the fee payable pursuant to this subsection (c) shall increase by two percent (2.00%) per annum.

(d) [Intentionally Omitted].

(e) The Borrower shall pay on the Closing Date to the Administrative Agent and its Affiliates all fees in the Fee Letter that are due and payable on the Closing Date. The Borrower shall pay on the Closing Date to the Lenders all upfront fees previously agreed in writing.

(f) Accrued fees under subsections (b) and (c) of this Section shall be payable quarterly in arrears on the last day of each March, June, September and December, commencing on December 31, 2019, and on the Revolving Commitment Termination Date (and, if later, the date the Revolving Loans and LC Exposure shall be repaid in their entirety); provided that any such fees accruing after the Revolving Commitment Termination Date shall be payable on demand.

(g) Anything herein to the contrary notwithstanding, during such period as a Lender is a Defaulting Lender, such Defaulting Lender will not be entitled to commitment fees accruing with respect to its Revolving Commitment during such period pursuant to subsection (b) of this Section or letter of credit fees accruing during such period pursuant to subsection (c) of this Section (without prejudice to the rights of the Lenders other than Defaulting Lenders in respect of such fees), provided that (x) to the extent that a portion of the LC Exposure of such Defaulting Lender is reallocated to the Non-Defaulting Lenders pursuant to Section 2.26, such fees that would have accrued for the benefit of such Defaulting Lender will instead accrue for the benefit of and be payable to such Non-Defaulting Lenders, *pro rata* in accordance with their respective Revolving Commitments, and (y) to the extent any portion of such LC Exposure cannot be so reallocated, such fees will instead accrue for the benefit of and be payable to the applicable Issuing Bank (unless such LC exposure has been Cash Collateralized). The *pro rata* payment provisions of Section 2.21 shall automatically be deemed adjusted to reflect the provisions of this subsection.

Section 2.15. Computation of Interest and Fees.

Interest hereunder based on the prime lending rate shall be computed on the basis of a year of 365 days (or 366 days in a leap year) and paid for the actual number of days elapsed (including the first day but excluding the last day). All other interest and all fees hereunder shall be computed on the basis of a year of 360 days and paid for the actual number of days elapsed (including the first day but excluding the last day). Each determination by the Administrative Agent of an interest rate or fee hereunder shall be made in good faith and, except for manifest error, shall be final, conclusive and binding for all purposes.

Section 2.16. Inability to Determine Interest Rates.

(a) If, prior to the commencement of any Interest Period for any Eurodollar Borrowing:

(i) the Administrative Agent shall have determined (which determination shall be conclusive and binding upon the Borrower) that, by reason of circumstances affecting the relevant interbank market, adequate means do not exist for ascertaining Adjusted LIBOR (including, without limitation, because the Screen Rate is not available or published on a current basis) for such Interest Period, or

(ii) the Administrative Agent shall have received notice from the Required Lenders that Adjusted LIBOR does not adequately and fairly reflect the cost to such Lenders of making, funding or maintaining their Eurodollar Loans for such Interest Period,

the Administrative Agent shall give written notice (or telephonic notice, promptly confirmed in writing) to the Borrower and to the Lenders as soon as practicable thereafter. Until the Administrative Agent shall notify the Borrower and the Lenders that the circumstances giving rise to such notice no longer exist, (i) the obligations of the Lenders to make Eurodollar Loans or to continue or convert outstanding Loans as or into Eurodollar Loans shall be suspended and (ii) all such affected Loans shall be converted into Base Rate Loans on the last day of the then current Interest Period applicable thereto unless the Borrower prepays such Loans in accordance with this Agreement. Unless the Borrower notifies the Administrative Agent at least one (1) Business Day before the date of any Eurodollar Borrowing for which a Notice of Borrowing or a Notice of Conversion/ Continuation has previously been given that it elects not to borrow, continue or convert to a Eurodollar Borrowing on such date, then such Borrowing shall be made as, continued as or converted into a Base Rate Borrowing.

(b) If at any time the Administrative Agent determines (which determination shall be conclusive absent manifest error) that (i) the circumstances set forth in clause (a)(i) above have arisen and such circumstances are unlikely to be temporary or (ii) the circumstances set forth in clause (a)(i) above have not arisen but the supervisor for the administrator of the Screen Rate or a Governmental Authority having jurisdiction over the Administrative Agent has made a public statement identifying a specific date after which the Screen Rate shall no longer be used for determining interest rates for loans, then the Administrative Agent and the Borrower shall endeavor to establish an alternate rate of interest to the Screen Rate that gives due consideration to the then prevailing market convention for determining a rate of interest for syndicated loans in the United States at such time, and shall enter into an amendment to this Agreement to reflect such alternate rate of interest and such other related changes to this Agreement as may be applicable (but for the avoidance of doubt, such related changes shall not include a reduction of the Applicable Margin). Notwithstanding anything to the contrary in Section 10.2, such amendment shall become effective without any further action or consent of any other party to this Agreement so long as the Administrative Agent shall not have received, within five (5) Business Days of the date notice of such alternate rate of interest is provided to the Lenders, a written notice from the Required Lenders stating that such Required Lenders object to such amendment. Until an alternate rate of interest shall be determined in accordance with this clause (b) (but, in the case of the circumstances described in clause (ii) of the first sentence of this Section 2.16(b), only to the extent the Screen Rate for the applicable currency and/or such Interest Period is not available or published at such time on a current basis), (x) any Notice of Conversion/Continuation that requests the conversion of any Borrowing to, or continuation of any Borrowing as, a Eurodollar Borrowing shall be ineffective, and (y) if any Notice of Borrowing requests a Eurodollar Borrowing, such Borrowing shall be made as a Base Rate Borrowing; provided, that, if such alternate rate of interest shall be less than zero, such rate shall be deemed to be zero for the purposes of this Agreement.

Section 2.17. Illegality. If any Change in Law shall make it unlawful or impossible for any Lender to make, maintain or fund any Eurodollar Loan and such Lender shall so notify the Administrative Agent, the Administrative Agent shall promptly give notice thereof to the Borrower and the other Lenders, whereupon until such Lender notifies the Administrative Agent and the Borrower that the circumstances giving rise to such suspension no longer exist, the obligation of such Lender to make Eurodollar Loans, or to continue or convert outstanding Loans as or into Eurodollar Loans, shall be suspended. In the case of the making of a Eurodollar Borrowing, such Lender's Loan shall be made as a Base Rate Loan as part of the same Borrowing for the same Interest Period and, if the affected Eurodollar Loan is then outstanding, such Loan shall be converted to a Base Rate Loan either (i) on the last day of the then current Interest Period applicable to such Eurodollar Loan if such Lender may lawfully continue to maintain such Loan to such date or (ii) immediately if such Lender shall determine that it may not lawfully continue to maintain such Eurodollar Loan to such date. Notwithstanding the foregoing, the affected Lender shall, prior to giving such notice to the Administrative Agent, designate a different Applicable Lending Office if such designation would avoid the need for giving such notice and if such designation would not otherwise be disadvantageous to such Lender in the good faith exercise of its discretion.

Section 2.18. Increased Costs.

(a) If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit or similar requirement that is not otherwise included in the determination of Adjusted LIBOR hereunder against assets of, deposits with or for the account of, or credit extended by, any Lender (except any such reserve requirement reflected in Adjusted LIBOR) or any Issuing Bank;

(ii) impose on any Lender, any Issuing Bank or the eurodollar interbank market any other condition affecting this Agreement or any Eurodollar Loans made by such Lender or any Letter of Credit or any participation therein; or

(iii) subject any Recipient to any Taxes (other than Indemnified Taxes and Excluded Taxes) on its loans, loan principal, letters of credit, commitments or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto;

and the result of any of the foregoing is to increase the cost to such Lender of making, converting into, continuing or maintaining a Eurodollar Loan or to increase the cost to such Lender or such Issuing Bank of participating in or issuing any Letter of Credit or to reduce the amount received or receivable by such Lender or such Issuing Bank hereunder (whether of principal, interest or any other amount), then, from time to time, such Lender or such Issuing Bank may provide the Borrower (with a copy thereof to the Administrative Agent) with written notice and demand with respect to such increased costs or reduced amounts and within five (5) Business Days after receipt of the certificate required under subsection (c) below, the Borrower shall pay to such Lender or such Issuing Bank, as the case may be, such additional amounts as will compensate such Lender or such Issuing Bank for any such increased costs incurred or reduction suffered.

(b) If any Lender or any Issuing Bank shall have determined that on or after the date of this Agreement any Change in Law regarding capital and liquidity requirements has or would have the effect of reducing the rate of return on such Lender's or such Issuing Bank's capital or assets (or on the capital or assets of the Parent Company of such Lender or such Issuing Bank) as a consequence of its obligations hereunder or under or in respect of any Letter of Credit to a level below that which such Lender, such Issuing Bank or such Parent Company could have achieved but for such Change in Law (taking into consideration such Lender's or such Issuing Bank's policies or the policies of such Parent Company with respect to capital adequacy and liquidity), then, from time to time, such Lender or such Issuing Bank may provide the Borrower (with a copy thereof to the Administrative Agent) with written notice and demand with respect to such reduced amounts, and within five (5) Business Days after receipt of the certificate required under subsection (c) below, the Borrower shall pay to such Lender or such Issuing Bank, as the case may be, such additional amounts as will compensate such Lender, such Issuing Bank or such Parent Company for any such reduction suffered.

(c) A certificate of such Lender or such Issuing Bank setting forth (x) the amount or amounts necessary to compensate such Lender, such Issuing Bank or the Parent Company of such Lender or such Issuing Bank, as the case may be, specified in subsection (a) or (b) of this Section and (y) a reasonably detailed explanation of the applicable Change in Law, shall be delivered to the Borrower (with a copy to the Administrative Agent) and shall be conclusive, absent manifest error.

(d) Failure or delay on the part of any Lender or any Issuing Bank to demand compensation pursuant to this Section shall not constitute a waiver of such Lender's or such Issuing Bank's right to demand such compensation; provided that the Borrower shall not be required to compensate a Lender or Issuing Bank pursuant to this Section for any increased costs incurred or reductions suffered more than six months prior to the date that such Lender or Issuing Bank notifies the Borrower of the Change in Law giving rise to such increased costs or reductions and of such Lender's or Issuing Bank's intention to claim compensation therefor (except that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the six-month period referred to above shall be extended to include the period of retroactive effect thereof).

Section 2.19. Funding Indemnity. In the event of (a) the payment of any principal of a Eurodollar Loan other than on the last day of the Interest Period applicable thereto (including as a result of an Event of Default), (b) the conversion or continuation of a Eurodollar Loan other than on the last day of the Interest Period applicable thereto, or (c) the failure by the Borrower to borrow, prepay, convert or continue any Eurodollar Loan on the date specified in any applicable notice (regardless of whether such notice is withdrawn or revoked), then, in any such event, the Borrower shall compensate each Lender, within five (5) Business Days after written demand from such Lender, for any loss, cost or expense attributable to such event. In the case of a Eurodollar Loan, such loss, cost or expense shall be deemed to include an amount determined by such Lender to be the excess, if any, of (A) the amount of interest that would have accrued on the principal amount of such Eurodollar Loan if such event had not occurred at Adjusted LIBOR applicable to such Eurodollar Loan for the period from the date of such event to the last day of the then current Interest Period therefor (or, in the case of a failure to borrow, convert or continue, for the period that would have been the Interest Period for such Eurodollar Loan) over (B) the amount of interest that would accrue on the principal amount of such Eurodollar Loan for the same period if Adjusted LIBOR were set on the date such Eurodollar Loan was prepaid or converted or the date on which the Borrower failed to borrow, convert or continue such Eurodollar Loan. A certificate as to any additional amount payable under this Section submitted to the Borrower by any Lender (with a copy to the Administrative Agent) shall be conclusive, absent manifest error.

Section 2.20. Taxes.

(a) Any and all payments by or on account of any obligation of the Borrower or any other Loan Party hereunder or under any other Loan Document shall be made free and clear of and without deduction or withholding for any Indemnified Taxes or Other Taxes; provided that if any applicable law requires the deduction or withholding of any Tax from any such payment, then the applicable Withholding Agent shall make such deduction and timely pay the full amount deducted to the relevant Governmental Authority in accordance with applicable law and, if such Tax is an Indemnified Tax or Other Tax, then the sum payable by the Borrower or other Loan Party, as applicable, shall be increased as necessary so that after making all required deductions and withholdings (including deductions and withholdings applicable to additional sums payable under this Section) the applicable Recipient shall receive an amount equal to the sum it would have received had no such deductions or withholdings been made.

(b) In addition, without limiting the provisions of subsection (a) of this Section, the Borrower shall timely pay any Other Taxes to the relevant Governmental Authority in accordance with applicable law.

(c) The Borrower shall indemnify each Recipient, within five (5) Business Days after written demand therefor, for the full amount of any Indemnified Taxes or Other Taxes paid or payable by such Recipient (including Indemnified Taxes or Other Taxes imposed or asserted on or attributable to amounts payable under this Section) and any penalties, interest and reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to the Borrower by the applicable Recipient shall be conclusive, absent manifest error.

(d) As soon as practicable after any payment of Indemnified Taxes or Other Taxes by the Borrower or any other Loan Party to a Governmental Authority, the Borrower or other Loan Party, as applicable, shall deliver to the Administrative Agent an 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.

(e) Tax Forms.

(i) Any Lender that is a U.S. Person shall deliver to the Borrower and the Administrative Agent, on or prior to the date on which such Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), duly executed copies of IRS Form W-9 certifying, to the extent such Lender is legally entitled to do so, that such Lender is exempt from U.S. federal backup withholding tax.

(ii) Any Lender that is a Foreign Person and that is entitled to an exemption from or reduction of withholding tax under the Code or any treaty to which the United States is a party with respect to payments under this Agreement shall deliver to the Borrower and the Administrative Agent, at the time or times prescribed by applicable law, such properly completed and executed documentation prescribed by applicable law or reasonably requested by the Borrower or the Administrative Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. Without limiting the generality of the foregoing, each Lender that is a Foreign Person shall, to the extent it is legally entitled to do so, (w) on or prior to the date such Lender becomes a Lender under this Agreement, (x) on or prior to the date on which any such form or certification expires or becomes obsolete, (y) after the occurrence of any event requiring a change in the most recent form or certification previously delivered by it pursuant to this subsection, and (z) from time to time upon the reasonable request by the Borrower or the Administrative Agent, deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the Borrower or the Administrative Agent), whichever of the following is applicable:

(A) if such Lender is claiming eligibility for benefits of an income tax treaty to which the United States is a party (x) with respect to payments of interest under any Loan Document, duly executed copies of IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable, or any successor form thereto, establishing an exemption from, or reduction of, U.S. federal withholding tax pursuant to the "interest" article of such tax treaty, and (y) with respect to any other applicable payments under any Loan Document, duly executed copies of IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable, or any successor form thereto, 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;

(B) duly executed copies of IRS Form W-8ECI, or any successor form thereto, certifying that the payments received by such Lender are effectively connected with such Lender's conduct of a trade or business in the United States;

(C) if such Lender is claiming the benefits of the exemption for portfolio interest under Section 871(h) or Section 881(c) of the Code, duly executed copies of IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable, or any successor form thereto, together with a certificate (a "U.S. Tax Compliance Certificate") upon which such Lender certifies that (1) such Lender is not a bank for purposes of Section 881(c)(3)(A) of the Code, or the obligation of the Borrower hereunder is not, with respect to such Lender, a loan agreement entered into in the ordinary course of its trade or business, within the meaning of that Section, (2) such Lender is not a 10% shareholder of the Borrower within the meaning of Section 871(h)(3) or Section 881(c)(3)(B) of the Code, (3) such Lender is not a controlled foreign corporation that is related to the Borrower within the meaning of Section 881(c)(3)(C) of the Code, and (4) the interest payments in question are not effectively connected with a U.S. trade or business conducted by such Lender; or

(D) if such Lender is not the beneficial owner (for example, a partnership or a participating Lender granting a typical participation), duly executed copies of IRS Form W-8IMY, or any successor form thereto, accompanied by IRS Form W-9, IRS Form W-8ECI, IRS Form W-8BEN, IRS Form W-8BEN-E, a U.S. Tax Compliance Certificate, and/or other certification documents from each beneficial owner, as applicable.

(iii) Each Lender agrees that if any form or certification it previously delivered under this Section expires or becomes obsolete or inaccurate in any respect and such Lender is not legally entitled to provide an updated form or certification, it shall promptly notify the Borrower and the Administrative Agent of its inability to update such form or certification.

(f) If a payment made to a Lender under any Loan Document would be subject to U.S. federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Borrower and the Administrative Agent at the time or times prescribed by law and at such time or times reasonably requested by the Borrower or the Administrative Agent such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Borrower or the Administrative Agent as may be necessary for the Borrower and the Administrative Agent to comply with their obligations under FATCA and to determine that such Lender has complied with such Lender's obligations under FATCA or to determine the amount to deduct and withhold from such payment.

(g) Treatment of Certain Refunds. If any party 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 2.20 (including by the payment of additional amounts pursuant to this Section 2.20), 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 2.20 with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) of such indemnified party and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund). Such indemnifying party, upon the request of such indemnified party, shall repay to such indemnified party the amount paid over pursuant to this paragraph (g) (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) in the event that such indemnified party is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this paragraph (g) in no event will the indemnified party be required to pay any amount to an indemnifying party pursuant to this paragraph (g) the payment of which would place the indemnified party in a less favorable net after-Tax position than the indemnified party would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. This paragraph shall not be construed to require any indemnified party to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to the indemnifying party or any other Person.

(h) Survival. Each party's obligations under this Section 2.20 shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all obligations under any Loan Document.

Section 2.21. Payments Generally; Pro Rata Treatment; Sharing of Set-offs.

(a) The Borrower shall make each payment required to be made by it hereunder (whether of principal, interest, fees or reimbursement of LC Disbursements, or of amounts payable under Section 2.18, 2.19 or 2.20, or otherwise) prior to 12:00 noon on the date when due, in immediately available funds, free and clear of any defenses, rights of set-off, counterclaim, or withholding or deduction of taxes. Any amounts received after such time on any date may, in the discretion of the Administrative Agent, be deemed to have been received on the next succeeding Business Day for purposes of calculating interest thereon. All such payments shall be made to the Administrative Agent at the Payment Office, except payments to be made directly to the applicable Issuing Bank or the Swingline Lender as expressly provided herein and except that payments pursuant to Sections 2.18, 2.19, 2.20 and 10.3 shall be made directly to the Persons entitled thereto. The Administrative Agent shall distribute any such payments received by it for the account of any other Person to the appropriate recipient promptly following receipt thereof. If any payment hereunder shall be due on a day that is not a Business Day, the date for payment shall be extended to the next succeeding Business Day, and, in the case of any payment accruing interest, interest thereon shall be made payable for the period of such extension. All payments hereunder shall be made in Dollars.

(b) If at any time insufficient funds are received by and available to the Administrative Agent to pay fully all amounts of principal, unreimbursed LC Disbursements, interest and fees then due hereunder, such funds shall be applied as follows: first, to all fees and reimbursable expenses of the Administrative Agent then due and payable pursuant to any of the Loan Documents; second, to all reimbursable expenses of the Lenders and all fees and reimbursable expenses of the Issuing Banks then due and payable pursuant to any of the Loan Documents, *pro rata* to the Lenders and the Issuing Banks based on their respective *pro rata* shares of such fees and expenses; third, to all interest and fees then due and payable hereunder, *pro rata* to the Lenders based on their respective *pro rata* shares of such interest and fees; and fourth, to all principal of the Loans and unreimbursed LC Disbursements then due and payable hereunder, *pro rata* to the parties entitled thereto based on their respective *pro rata* shares of such principal and unreimbursed LC Disbursements.

(c) If any Lender shall, by exercising any right of set-off or counterclaim or otherwise, obtain payment in respect of any principal of or interest on any of its Loans or participations in LC Disbursements or Swingline Loans then due that would result in such Lender receiving payment of a greater proportion of the aggregate amount of its Revolving Credit Exposure, Term Loans and accrued interest and fees thereon (as applicable) than the proportion received by any other Lender with respect to its Revolving Credit Exposure or Term Loans (as applicable), then the Lender receiving such greater proportion shall purchase (for cash at face value) participations in the Revolving Credit Exposure and Term Loans (as applicable) of other Lenders to the extent necessary so that the benefit of all such payments shall be shared by the Lenders ratably in accordance with the aggregate amount of principal of and accrued interest on their respective Revolving Credit Exposure and Term Loans (as applicable); provided that (i) if any such participations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations shall be rescinded and the purchase price restored to the extent of

such recovery, without interest, and (ii) the provisions of this subsection shall not be construed to apply to any payment made by the Borrower pursuant to and in accordance with the express terms of this Agreement or any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Revolving Credit Exposure or Term Loans to any assignee or participant, other than to the Borrower or any Subsidiary or Affiliate thereof (as to which the provisions of this subsection shall apply). The Borrower consents to the foregoing and agrees, to the extent it may effectively do so under applicable law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against the Borrower rights of set-off and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of the Borrower in the amount of such participation.

(d) Unless the Administrative Agent shall have received notice from the Borrower prior to the date on which any payment is due to the Administrative Agent for the account of the Lenders or the Issuing Banks hereunder that the Borrower will not make such payment, the Administrative Agent may assume that the Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Lenders or the Issuing Banks, as the case may be, the amount or amounts due. In such event, if the Borrower has not in fact made such payment, then each of the Lenders or the Issuing Banks, as the case may be, severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender or such Issuing Bank with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at the greater of the Federal Funds Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.

Section 2.22. Letters of Credit.

(a) During the Availability Period, each Issuing Bank, in reliance upon the agreements of the other Revolving Lenders pursuant to subsections (d) and (e) of this Section, shall issue, at the request of the Borrower, Letters of Credit for the account of the Borrower on the terms and conditions hereinafter set forth; provided that (i) each Letter of Credit shall expire on the earlier of (A) the date one year after the date of issuance of such Letter of Credit (or, in the case of any renewal or extension thereof (which may be an automatically renewing or extending Letter of Credit), one year after such renewal or extension) and (B) the date that is five (5) Business Days prior to the latest Revolving Commitment Termination Date; (ii) each Letter of Credit shall be in a stated amount of at least $50,000; and (iii) the Borrower may not request any Letter of Credit if, after giving effect to such issuance, (A) the aggregate LC Exposure would exceed the LC Commitment or (B) the aggregate Revolving Credit Exposure of all Lenders would exceed the Aggregate Revolving Commitment Amount. Each Lender with a Revolving Commitment shall be deemed to, and hereby irrevocably and unconditionally agrees to, purchase from the applicable Issuing Bank without recourse a participation in each Letter of Credit equal to such Lender's Pro Rata Share of the aggregate amount available to be drawn under such Letter of Credit on the date of issuance. Each issuance of a Letter of Credit shall be deemed to utilize the Revolving Commitment of each Lender by an amount equal to the amount of such participation. If the Maturity Date in respect of any tranche of Revolving Commitments occurs prior to the expiration of any Letter of Credit (such maturity date, the "Earlier LC Maturity Date"), then (i) on such Earlier LC Maturity Date, if one or more other tranches of Revolving Commitments in respect of which the Maturity Date shall not have occurred are then in effect, such Letters of Credit shall automatically be deemed to have been issued (including for purposes of the obligations of the Revolving Lenders to purchase participations therein and to make Revolving Loans and payments in respect thereof pursuant to this Section) under (and ratably participated in by Revolving Lenders pursuant to) the Revolving Commitments in respect of such non-terminating tranches up to an aggregate amount not to exceed the aggregate principal amount of the unutilized Revolving Commitments thereunder at such time (it being understood that no partial face amount of any Letter of Credit may be so reallocated) and (ii) to the extent not reallocated pursuant to the immediately preceding clause (i), the Borrower shall Cash Collateralize any such Letter of Credit. Except

to the extent of reallocations of participations pursuant to clause (i) of the immediately preceding sentence, the occurrence of a Maturity Date with respect to a given tranche of Revolving Commitments shall have no effect upon (and shall not diminish) the percentage participations of the Revolving Lenders in any Letter of Credit issued before such Maturity Date.

(b) To request the issuance of a Letter of Credit (or any amendment, renewal or extension of an outstanding Letter of Credit), the Borrower shall give the applicable Issuing Bank and the Administrative Agent irrevocable written notice prior to 1:00 p.m. at least three (3) Business Days prior to the requested date of such issuance specifying the date (which shall be a Business Day) such Letter of Credit is to be issued (or amended, renewed or extended, as the case may be), the expiration date of such Letter of Credit, the amount of such Letter of Credit, the name and address of the beneficiary thereof and such other information as shall be necessary to prepare, amend, renew or extend such Letter of Credit. In addition to the satisfaction of the conditions in Section 3.2, the issuance of such Letter of Credit (or any amendment which increases the amount of such Letter of Credit) will be subject to the further conditions that such Letter of Credit shall be in such form and contain such terms as the applicable Issuing Bank shall approve and that the Borrower shall have executed and delivered any additional applications, agreements and instruments relating to such Letter of Credit as such Issuing Bank shall reasonably require; provided that in the event of any conflict between such applications, agreements or instruments and this Agreement, the terms of this Agreement shall control.

(c) At least two (2) Business Days prior to the issuance of any Letter of Credit, the applicable Issuing Bank will confirm with the Administrative Agent (by telephone or in writing) that the Administrative Agent has received such notice, and, if not, such Issuing Bank will provide the Administrative Agent with a copy thereof. Unless such Issuing Bank has received notice from the Administrative Agent, on or before the Business Day immediately preceding the date such Issuing Bank is to issue the requested Letter of Credit, directing such Issuing Bank not to issue the Letter of Credit because such issuance is not then permitted hereunder because of the limitations set forth in subsection (a) of this Section or that one or more conditions specified in Section 3.2 are not then satisfied, then, subject to the terms and conditions hereof, such Issuing Bank shall, on the requested date, issue such Letter of Credit in accordance with such Issuing Bank's usual and customary business practices.

(d) Each Issuing Bank shall examine all documents purporting to represent a demand for payment under a Letter of Credit promptly following its receipt thereof. The applicable Issuing Bank shall notify the Borrower and the Administrative Agent of such demand for payment and whether such Issuing Bank has made or will make a LC Disbursement thereunder; provided that any failure to give or delay in giving such notice shall not relieve the Borrower of its obligation to reimburse such Issuing Bank and the Revolving Lenders with respect to such LC Disbursement. The Borrower shall be irrevocably and unconditionally obligated to reimburse such Issuing Bank for any LC Disbursements paid by such Issuing Bank in respect of such drawing, without presentment, demand or other formalities of any kind. Unless the Borrower shall have notified the applicable Issuing Bank and the Administrative Agent prior to 11:00 a.m. on the Business Day immediately following the date on which such drawing is honored that the Borrower intends to reimburse such Issuing Bank for the amount of such drawing in funds other than from the proceeds of Revolving Loans, the Borrower shall be deemed to have timely given a Notice of Borrowing to the Administrative Agent requesting the Revolving Lenders to make a Base Rate Borrowing on such date in an exact amount due to such Issuing Bank; provided that for purposes solely of such Borrowing, the conditions precedent set forth in Section 3.2 hereof shall not be applicable. The Administrative Agent shall notify the Revolving Lenders of such Borrowing in accordance with Section 2.3, and each Revolving Lender shall make the proceeds of its Base Rate Loan included in such Borrowing available to the Administrative Agent for the account of such Issuing Bank in accordance with Section 2.6. The proceeds of such Borrowing shall be applied directly by the Administrative Agent to reimburse such Issuing Bank for such LC Disbursement.

(e) If for any reason a Base Rate Borrowing may not be (as determined in the sole discretion of the Administrative Agent), or is not, made in accordance with the foregoing provisions, then each Revolving Lender (other than the applicable Issuing Bank) shall be obligated to fund the participation that such Revolving Lender purchased pursuant to subsection (a) of this Section in an amount equal to its Pro Rata Share of such LC Disbursement on and as of the date which such Base Rate Borrowing should have occurred. Each Revolving Lender's obligation to fund its participation shall be absolute and unconditional and shall not be affected by any circumstance, including, without limitation, (i) any set-off, counterclaim, recoupment, defense or other right that such Revolving Lender or any other Person may have against the applicable Issuing Bank or any other Person for any reason whatsoever, (ii) the existence of a Default or an Event of Default or the termination of the Aggregate Revolving Commitments, (iii) any adverse change in the condition (financial or otherwise) of the Borrower or any of its Subsidiaries, (iv) any breach of this Agreement by the Borrower or any other Lender, (v) any amendment, renewal or extension of any Letter of Credit or (vi) any other circumstance, happening or event whatsoever, whether or not similar to any of the foregoing. On the date that such participation is required to be funded, each Revolving Lender shall promptly transfer, in immediately available funds, the amount of its participation to the Administrative Agent for the account of the applicable Issuing Bank. Whenever, at any time after the applicable Issuing Bank has received from any such Revolving Lender the funds for its participation in a LC Disbursement, such Issuing Bank (or the Administrative Agent on its behalf) receives any payment on account thereof, the Administrative Agent or such Issuing Bank, as the case may be, will distribute to such Revolving Lender its Pro Rata Share of such payment; provided that if such payment is required to be returned for any reason to the Borrower or to a trustee, receiver, liquidator, custodian or similar official in any bankruptcy proceeding, such Revolving Lender will return to the Administrative Agent or such Issuing Bank any portion thereof previously distributed by the Administrative Agent or such Issuing Bank to it.

(f) To the extent that any Revolving Lender shall fail to pay any amount required to be paid pursuant to subsection (d) or (e) of this Section on the due date therefor, such Revolving Lender shall pay interest to the applicable Issuing Bank (through the Administrative Agent) on such amount from such due date to the date such payment is made at a rate *per annum* equal to the Federal Funds Rate; provided that if such Revolving Lender shall fail to make such payment to the applicable Issuing Bank within three (3) Business Days of such due date, then, retroactively to the due date, such Revolving Lender shall be obligated to pay interest on such amount at the rate set forth in Section 2.13(c).

(g) If any Event of Default shall occur and be continuing, on the Business Day that the Borrower receives notice from the Administrative Agent or the Required Lenders demanding that its reimbursement obligations with respect to the Letters of Credit be Cash Collateralized pursuant to this subsection, the Borrower shall deposit in an account with the Administrative Agent, in the name of the Administrative Agent and for the benefit of each Issuing Bank and the Revolving Lenders, an amount in cash equal to 103% of the aggregate LC Exposure of all Lenders as of such date plus any accrued and unpaid fees thereon; provided that such obligation to Cash Collateralize the reimbursement obligations of the Borrower with respect to the Letters of Credit shall become effective immediately, and such deposit shall become immediately due and payable, without demand or notice of any kind, upon the occurrence of any Event of Default with respect to the Borrower described in Section 8.1(h) or (i). Such deposit shall be held by the Administrative Agent as collateral for the payment and performance of the obligations of the Borrower under this Agreement. The Administrative Agent shall have exclusive dominion and control, including the exclusive right of withdrawal, over such account. The Borrower agrees to execute any documents and/or certificates to effectuate the intent of this subsection. Other than any interest earned on the investment of such deposits, which investments shall be made at the option and sole discretion of the Administrative Agent and at the Borrower's risk and expense, such deposits shall not bear interest. Interest and profits, if any, on such investments shall accumulate in such account. Moneys in such account shall be applied by the Administrative Agent to reimburse the applicable Issuing Bank for

LC Disbursements for which it had not been reimbursed and, to the extent not so applied, shall be held for the satisfaction of the reimbursement obligations of the Borrower for the LC Exposure at such time or, if the maturity of the Loans has been accelerated, with the consent of the Required Lenders, be applied to satisfy other obligations of the Borrower under this Agreement and the other Loan Documents. If the Borrower is required to Cash Collateralize its reimbursement obligations with respect to the Letters of Credit as a result of the occurrence of an Event of Default, such cash collateral so posted (to the extent not so applied as aforesaid) shall be returned to the Borrower within three (3) Business Days after all Events of Default have been cured or waived.

(h) Upon the request of any Revolving Lender, but no more frequently than quarterly, each Issuing Bank shall deliver (through the Administrative Agent) to each Revolving Lender and the Borrower a report describing the aggregate Letters of Credit issued by such Issuing Bank and then outstanding. Upon the request of any Revolving Lender from time to time, each Issuing Bank shall deliver to such Revolving Lender any other information reasonably requested by such Revolving Lender with respect to each Letter of Credit issued by such Issuing Bank and then outstanding.

(i) The Borrower's obligation to reimburse LC Disbursements hereunder shall be absolute, unconditional and irrevocable and shall be performed strictly in accordance with the terms of this Agreement under all circumstances whatsoever and irrespective of any of the following circumstances:

(i) any lack of validity or enforceability of any Letter of Credit or this Agreement;

(ii) the existence of any claim, set-off, defense or other right which the Borrower or any Subsidiary or Affiliate of the Borrower may have at any time against a beneficiary or any transferee of any Letter of Credit (or any Persons or entities for whom any such beneficiary or transferee may be acting), any Lender (including any Issuing Bank) or any other Person, whether in connection with this Agreement or the Letter of Credit or any document related hereto or thereto or any unrelated transaction;

(iii) any draft or other document presented under a Letter of Credit proving to be forged, fraudulent or invalid in any respect or any statement therein being untrue or inaccurate in any respect;

(iv) payment by any Issuing Bank under a Letter of Credit against presentation of a draft or other document to such Issuing Bank that does not comply with the terms of such Letter of Credit;

(v) any other event or circumstance whatsoever, whether or not similar to any of the foregoing, that might, but for the provisions of this Section, constitute a legal or equitable discharge of, or provide a right of set-off against, the Borrower's obligations hereunder; or

(vi) the existence of a Default or an Event of Default.

Neither the Administrative Agent, any Issuing Bank, any Lender nor any Related Party of any of the foregoing shall have any liability or responsibility by reason of or in connection with the issuance or transfer of any Letter of Credit or any payment or failure to make any payment thereunder (irrespective of any of the circumstances referred to above), or any error, omission, interruption, loss or delay in transmission or delivery of any draft, notice or other communication under or relating to any Letter of Credit (including any document required to make a drawing thereunder), any error in interpretation of

technical terms or any consequence arising from causes beyond the control of the applicable Issuing Bank; provided that the foregoing shall not be construed to excuse any Issuing Bank from liability to the Borrower to the extent of any actual direct damages (as opposed to special, indirect (including claims for lost profits or other consequential damages), or punitive damages, claims in respect of which are hereby waived by the Borrower to the extent permitted by applicable law) suffered by the Borrower that are caused by such Issuing Bank's failure to exercise due care when determining whether drafts or other documents presented under a Letter of Credit comply with the terms thereof. The parties hereto expressly agree that, in the absence of gross negligence or willful misconduct on the part of any Issuing Bank (as finally determined by a court of competent jurisdiction), such Issuing Bank shall be deemed to have exercised due care in each such determination. In furtherance of the foregoing and without limiting the generality thereof, the parties agree that, with respect to documents presented that appear on their face to be in substantial compliance with the terms of a Letter of Credit, the applicable Issuing Bank may, in its sole discretion, either accept and make payment upon such documents without responsibility for further investigation, regardless of any notice or information to the contrary, or refuse to accept and make payment upon such documents if such documents are not in strict compliance with the terms of such Letter of Credit.

(j) Unless otherwise expressly agreed by the applicable Issuing Bank and the Borrower when a Letter of Credit is issued and subject to applicable laws, (i) each standby Letter of Credit shall be governed by the "International Standby Practices 1998" (ISP98) (or such later revision as may be published by the Institute of International Banking Law & Practice on any date any Letter of Credit may be issued), (ii) each documentary Letter of Credit shall be governed by the Uniform Customs and Practices for Documentary Credits (2007 Revision), International Chamber of Commerce Publication No. 600 (or such later revision as may be published by the International Chamber of Commerce on any date any Letter of Credit may be issued) and (iii) the Borrower shall specify the foregoing in each letter of credit application submitted for the issuance of a Letter of Credit.

Section 2.23. Increase of Commitments; Additional Lenders.

(a) From time to time after the Closing Date and in accordance with this Section, the Borrower and one or more Increasing Lenders or Additional Lenders (each as defined below) may enter into an agreement to (i) increase the aggregate principal amount of the Revolving Commitments and/or (ii) establish one or more tranches of Incremental Term Loan Commitments hereunder (each such increase or additional tranche, an "Incremental Commitment" and the principal amount thereof, the "Incremental Commitment Amount") so long as the following conditions are satisfied:

(i) the aggregate principal amount of all such Incremental Commitments made pursuant to this Section shall not exceed $30,000,000;

(ii) the Borrower shall execute and deliver such documents and instruments and take such other actions as may be reasonably required by the Administrative Agent in connection with and at the time of any such proposed increase;

(iii) subject, in the case of an Incremental Term Loan (and related Incremental Term Loan Commitments) used to finance a Limited Condition Acquisition, to Section 1.5, at the time of and immediately after giving effect to any such Incremental Commitment, (x) no Event of Default shall exist; provided that (A) in the case of any Incremental Commitment obtained for the purposes of financing an Acquisition not prohibited by this Agreement, the Lenders providing such Incremental Commitment and the Administrative Agent may agree that such condition shall be limited to an absence of an Event of Default under Section 8.1(a), (b), (g), (h) or (i) and (B) if the Borrower makes an LCA Election pursuant to Section 1.5 and such condition is tested as of the applicable LCA Test Date, it shall also be a condition that

no Event of Default under Section 8.1(a), (b), (g), (h) or (i) shall have occurred and be continuing or would result from the incurrence of such Incremental Term Loan (and related Term Loan Commitments) and the transactions consummated in connection therewith (including the incurrence of any Indebtedness and the use proceeds thereof) on the date on which such Incremental Term Loan (and related Incremental Term Loan Commitments) is incurred and the applicable Limited Condition Acquisition is consummated, and (y) all representations and warranties of each Loan Party set forth in the Loan Documents shall be true and correct in all material respects (other than those representations and warranties that are expressly qualified by Material Adverse Effect or other materiality, in which case such representations and warranties shall be true and correct in all respects) as of the date of the establishment of such Incremental Commitment (or, if such representation or warranty relates to an earlier date, as of such earlier date); provided that in the case of any Incremental Commitment obtained for the purposes of financing an Acquisition or other Investment not prohibited by this Agreement, the Lenders providing such Incremental Commitment may agree that the only representations and warranties the accuracy of which shall be a condition to such Incremental Commitment (and the Incremental Term Loans or Revolving Loans provided thereunder) shall be (I) the Specified Representations and (II) the representations and warranties made by or on behalf of the applicable target in the purchase, acquisition or similar agreement governing such Acquisition or other Investment as are material to the interests of the Lenders, but only to the extent that the Borrower (or the Borrower's applicable Affiliates or Subsidiaries) has the right (determined without regard to any notice requirement) not to consummate or the right to terminate (or cause the termination of) the Borrower's (or such Affiliates' or Subsidiaries') obligations under such purchase, acquisition or other agreement as a result of a breach of such representations or warranties in such purchase, acquisition or other agreement (or the failure of such representations or warranties to be accurate or to satisfy the closing conditions in such purchase, acquisition or other agreement applicable to such representations or warranties) (such representations and warranties, the "Specified Target Representations");

(iv) (x) any incremental term loans made pursuant to this Section (the "Incremental Term Loans" and, the commitments with respect thereto, the "Incremental Term Loan Commitments") shall have a maturity date no earlier than the latest Maturity Date in effect at the time such Incremental Term Loans are incurred, shall have a Weighted Average Life to Maturity no shorter than that of any then-outstanding Term Loans (without giving effect to previous reductions in and previously made amortization payments on such Term Loans) and shall otherwise have terms (other than pricing and any representations, warranties, covenants and other provisions applicable only to periods after the latest Maturity Date hereunder at such time) that either are consistent with the applicable terms of the existing Loans and Commitments hereunder or are reasonably satisfactory to the Administrative Agent (it being understood and agreed that to the extent that any more restrictive terms are added for the benefit of any Incremental Term Loan Commitments and related Incremental Term Loans, no consent shall be required from the Administrative Agent or any Lender to the extent that such terms are also added for the benefit of the existing Loans and Commitments (to the extent applicable)), and (y) any incremental Revolving Commitments provided pursuant to this Section (the "Incremental Revolving Commitments") shall have identical terms (including pricing and termination date; provided that upfront fees for any Incremental Revolving Commitments will be permitted and shall be determined by the Borrower and the Lenders providing such Incremental Revolving Commitments) to the Revolving Commitments and be treated as the same Class as the Revolving Commitments and the Borrower shall, after the establishment of any Incremental Revolving Commitments pursuant to this Section, repay and incur Revolving Loans ratably as between the Incremental Revolving Commitments and the Revolving Commitments outstanding immediately prior to such increase (provided that such repayment and incurrence may, with the Administrative

Agent's consent, be effectuated through assignments among Lenders with Revolving Commitments, which shall not require an Assignment and Acceptance and may be effectuated by the Administrative Agent through changes in the Register and fundings from such Lenders providing Incremental Commitments); provided, further, that Interest Periods applicable to Incremental Term Loans or Revolving Loans advanced pursuant to Incremental Revolving Commitments may, at the election of the Administrative Agent and the Borrower, be made with Interest Period(s) identical to the then remaining Interest Period(s) applicable to any existing Term Loans of the relevant Class or existing Revolving Loans of the applicable Class (and allocated to such Interest Period(s) on a proportional basis);

(v) subject, in the case of an Incremental Term Loan (and related Incremental Term Loan Commitments) used to finance a Limited Condition Acquisition, to Section 1.5, the Borrower and its Subsidiaries shall be in *pro forma* compliance with each of the financial covenants set forth in Article VI as of the most recently ended Test Period, calculated as if all such Incremental Term Loans had been made and all such Incremental Revolving Commitments had been established (and fully funded) as of the first day of the relevant period for testing compliance (including giving effect to any Acquisitions on a Pro Forma Basis that are contemplated to be funded with such Incremental Term Loans or Incremental Revolving Commitments); and

(vi) any collateral securing any such Incremental Commitments shall also secure all other Obligations on a *pari passu* basis.

(b) The Borrower shall provide at least ten (10) days' (or such shorter period of time as may be agreed to by the Administrative Agent in its sole discretion) written notice to the Administrative Agent (who shall promptly provide a copy of such notice to each Lender) of any proposal to establish an Incremental Commitment. The Borrower may also, but is not required to, specify any fees offered to those Lenders (the "Increasing Lenders") that agree to increase the principal amount of their Revolving Commitments and/or provide Incremental Term Loan Commitments, which fees may be variable based upon the amount by which any such Lender is willing to increase the principal amount of its Revolving Commitment and/or the principal amount of the Incremental Term Loan Commitment such Lender is willing to provide, as applicable. No Lender (or any successor thereto) shall have any obligation, express or implied, to offer to increase the aggregate principal amount of its Revolving Commitment and/or provide an Incremental Term Loan Commitment, and any decision by a Lender to increase its Revolving Commitment and/or provide an Incremental Term Loan Commitment shall be made in its sole discretion independently from any other Lender. Only the consent of each Increasing Lender shall be required for Incremental Commitments pursuant to this Section. No Lender which declines to increase the principal amount of its Revolving Commitment and/or provide an Incremental Term Loan Commitment may be replaced with respect to its existing Revolving Commitment, its existing Term Loan Commitment (if any) and/or its existing Term Loans (if any), as applicable, as a result thereof without such Lender's consent. The Borrower may accept some or all of the offered amounts from existing Lenders or designate new lenders that are acceptable to the Administrative Agent (any such consent to be required only to the extent required under Section 10.4(b) for an assignment of Loans or Commitments of such Type to such new lender), the Borrower and, in the case of any Incremental Revolving Commitments, each Issuing Bank (such approvals of the Administrative Agent, the Borrower and the Issuing Banks not to be unreasonably withheld) as additional Lenders hereunder in accordance with this Section (the "Additional Lenders"), which Additional Lenders may assume all or a portion of such Incremental Commitment. The Borrower shall have discretion to adjust the allocation of such Incremental Revolving Commitments and/or such Incremental Term Loans among the then-existing Lenders and the Additional Lenders (as it may elect). The sum of the increase in the principal amount of the Revolving Commitments and the aggregate principal amount of the Incremental Term Loan Commitments of the Increasing Lenders plus the principal amount of the Revolving Commitments and the aggregate principal amount of the Term Loan Commitments of the Additional Lenders shall not in the aggregate exceed the unsubscribed amount of the Incremental Commitment Amount.

(c) Subject to subsections (a) and (b) of this Section, any increase requested by the Borrower shall be effective upon delivery to the Administrative Agent of each of the following documents:

(i) an originally executed copy of an instrument of joinder (each, an "Incremental Commitment Joinder"), in form and substance reasonably acceptable to the Administrative Agent, executed by the Administrative Agent, by the Borrower, by each Additional Lender and by each Increasing Lender, setting forth the Incremental Revolving Commitments and/or Incremental Term Loan Commitments, as applicable, of such Lenders and setting forth the agreement of each Additional Lender to become a party to this Agreement and to be bound by all of the terms and provisions hereof;

(ii) such evidence of appropriate corporate authorization on the part of the Borrower with respect to such Incremental Commitment and such opinions of counsel for the Borrower with respect to such Incremental Commitment as the Administrative Agent may reasonably request;

(iii) a certificate of the Borrower signed by a Responsible Officer, in form and substance reasonably acceptable to the Administrative Agent, certifying that each of the conditions in subsection (a) of this Section has been satisfied; provided that, in the case of an Incremental Term Loan (and related Incremental Term Loan Commitments) used to finance a Limited Condition Acquisition, the conditions set forth in subsection (a) of this Section that are tested as of the applicable LCA Test Date shall be certified in the applicable LCA Election Certificate instead of the certificate delivered pursuant to this subsection (iii);

(iv) to the extent requested by any Additional Lender or any Increasing Lender, executed promissory notes evidencing such Incremental Revolving Commitments and/or such Incremental Term Loans, issued by the Borrower in accordance with Section 2.10; and

(v) any other certificates or documents that the Administrative Agent shall reasonably request, in form and substance reasonably satisfactory to the Administrative Agent.

Upon the effectiveness of any such Incremental Commitment, the Commitments and Pro Rata Share of each Lender will be adjusted to give effect to the Incremental Commitments and/or the Incremental Term Loans, as applicable, and Schedule I shall automatically be deemed amended accordingly.

(d) If any Incremental Term Loan Commitments are to be established pursuant to this Section, other than as set forth herein, all terms with respect thereto shall be as set forth in the applicable Incremental Commitment Joinder, the execution and delivery of which agreement shall be a condition to the effectiveness of the establishment of the Incremental Term Loan Commitments. Notwithstanding anything to the contrary in Section 10.2, the Administrative Agent is expressly permitted to amend the Loan Documents to the extent necessary to give effect to any increase in Commitments and/or establishment of a new Incremental Term Loan Commitment pursuant to this Section and mechanical changes necessary or advisable in connection therewith (including amendments to implement the requirements in the preceding sentence or the foregoing clause (a)(iv) of this Section, amendments to ensure *pro rata* allocations of Eurodollar Loans and Base Rate Loans between Loans incurred pursuant to this Section and Loans outstanding immediately prior to any such incurrence and amendments to implement ratable participation in Letters of Credit between the Incremental Revolving Commitments and the Revolving Commitments outstanding immediately prior to any such incurrence).

(e) This Section 2.23 shall supersede any provisions in Section 2.21 or 10.2 to the contrary.

Section 2.24. Mitigation of Obligations. If any Lender requests compensation under Section 2.18, or if the Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.20, then such Lender shall use reasonable efforts to designate a different lending office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or Affiliates, if, in the sole judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable under Section 2.18 or Section 2.20, as the case may be, in the future and (ii) would not subject such Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender. The Borrower hereby agrees to pay all costs and expenses incurred by any Lender in connection with such designation or assignment.

Section 2.25. Replacement of Lenders. If (a) any Lender requests compensation under Section 2.18, or if the Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.20 or any Lender has failed to approve an amendment or waiver that requires the consent of all Lenders or all Lenders of a particular Class or all affected Lenders (and such amendment or waiver has been approved by Requisite Lenders or Lenders with a majority of the Commitments or Loans of a particular Class or a majority of affected Lenders), or (b) any Lender is a Defaulting Lender, then the Borrower may, at its sole expense and effort, upon notice to such Lender and the Administrative Agent, require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions set forth in Section 10.4(b)), all of its interests, rights (other than its existing rights to payments pursuant to Section 2.18 or 2.20, as applicable) and obligations under this Agreement to an assignee that shall assume such obligations (which assignee may be another Lender) (a "Replacement Lender"); provided that (i) the Borrower shall have received the prior written consent of the Administrative Agent, which consent shall not be unreasonably withheld, (ii) such Lender shall have received payment of an amount equal to the outstanding principal amount of all Loans owed to it, accrued interest thereon, accrued fees and all other amounts payable to it hereunder from the assignee (in the case of such outstanding principal and accrued interest) and from the Borrower (in the case of all other amounts), and (iii) in the case of a claim for compensation under Section 2.18 or payments required to be made pursuant to Section 2.20, such assignment will result in a reduction in such compensation or payments. A Lender shall not be required to make any such assignment and delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Borrower to require such assignment and delegation cease to apply. If a Lender fails to execute an Assignment and Assumption Acceptance giving effect to the assignment contemplated under this Section 2.25, such Assignment and Acceptance may be executed by the Borrower, the Administrative Agent and any Replacement Lender and become effective without the consent of such replaced Lender.

Section 2.26. Defaulting Lenders.

(a) Cash Collateral

(i) At any time that there shall exist a Defaulting Lender, within one Business Day following the written request of the Administrative Agent or any Issuing Bank (with a copy to the Administrative Agent) the Borrower shall Cash Collateralize each Issuing Bank's LC Exposure with respect to such Defaulting Lender (determined after giving effect to Section 2.26(b)(iv) and any Cash Collateral provided by such Defaulting Lender) in an amount not less than 103% of such Issuing Bank's LC Exposure with respect to such Defaulting Lender.

(ii) The Borrower, and to the extent provided by any Defaulting Lender, such Defaulting Lender, hereby grants to the Administrative Agent, for the benefit of the Issuing Banks, and agrees to maintain, a first priority security interest in all such Cash Collateral as security for the Defaulting Lenders' obligation to fund participations in respect of Letters of Credit, to be applied pursuant to clause (iii) below. If at any time the Administrative Agent determines that Cash Collateral is subject to any right or claim of any Person other than the Administrative Agent and the Issuing Banks as herein provided, or that the total amount of such Cash Collateral is less than the minimum amount required pursuant to clause (i) above, the Borrower will, promptly upon demand by the Administrative Agent, pay or provide to the Administrative Agent additional Cash Collateral in an amount sufficient to eliminate such deficiency (after giving effect to any Cash Collateral provided by the Defaulting Lender).

(iii) Notwithstanding anything to the contrary contained in this Agreement, Cash Collateral provided under this Section 2.26(a) or Section 2.26(b) in respect of Letters of Credit shall be applied to the satisfaction of the Defaulting Lender's obligation to fund participations in respect of Letters of Credit or LC Disbursements (including, as to Cash Collateral provided by a Defaulting Lender, any interest accrued on such obligation) for which the Cash Collateral was so provided, prior to any other application of such property as may otherwise be provided for herein.

(iv) Cash Collateral (or the appropriate portion thereof) provided to reduce any Issuing Bank's LC Exposure shall no longer be required to be held as Cash Collateral pursuant to this Section 2.26(a) following (A) the elimination of the applicable LC Exposure (including by the termination of Defaulting Lender status of the applicable Lender), or (ii) the determination by the Administrative Agent and each Issuing Bank that there exists excess Cash Collateral; provided that, subject to Section 2.26(b) through (d), the Person providing Cash Collateral and each Issuing Bank may agree that Cash Collateral shall be held to support future anticipated LC Exposure or other obligations and provided further that to the extent that such Cash Collateral was provided by the Borrower, such Cash Collateral shall remain subject to the security interest granted pursuant to the Loan Documents.

(b) Defaulting Lender Adjustments. Notwithstanding anything to the contrary contained in this Agreement, if any Lender becomes a Defaulting Lender, then, until such time as such Lender is no longer a Defaulting Lender, to the extent permitted by applicable law:

(i) Such Defaulting Lender's right to approve or disapprove any amendment, waiver or consent with respect to this Agreement shall be restricted as set forth in the definition of Required Lenders and in Section 10.2.

(ii) Any payment of principal, interest, fees or other amounts received by the Administrative Agent for the account of such Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Article VIII or otherwise) or received by the Administrative Agent from a Defaulting Lender pursuant to Section 10.7 shall be applied at such time or times as may be determined by the Administrative Agent as follows: first, to the payment of any amounts owing by such Defaulting Lender to the Administrative Agent hereunder; second, to the payment on a pro rata basis of any amounts owing by such Defaulting Lender to each Issuing Bank or the Swingline Lender hereunder; third, to Cash Collateralize the Issuing Banks' LC Exposure with respect to such Defaulting Lender in accordance with Section 2.26(a); fourth, as the Borrower

may request (so long as no Default or Event of Default exists), to the funding of any Loan in respect of which such Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by the Administrative Agent; fifth, if so determined by the Administrative Agent and the Borrower, to be held in a deposit account and released pro rata in order to (x) satisfy such Defaulting Lender's potential future funding obligations with respect to Loans under this Agreement and (y) Cash Collateralize the Issuing Banks' future LC Exposure with respect to such Defaulting Lender with respect to future Letters of Credit issued under this Agreement, in accordance with Section 2.26(a); sixth, to the payment of any amounts owing to the Lenders, the Issuing Banks or the Swingline Lender as a result of any judgment of a court of competent jurisdiction obtained by any Lender, any Issuing Bank or the Swingline Lender against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; seventh, so long as no Default or Event of Default exists, to the payment of any amounts owing to the Borrower as a result of any judgment of a court of competent jurisdiction obtained by the Borrower against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; and eighth, to such Defaulting Lender or as otherwise directed by a court of competent jurisdiction; provided that if (x) such payment is a payment of the principal amount of any Loans or LC Disbursements in respect of which such Defaulting Lender has not fully funded its appropriate share, and (y) such Loans were made or the related Letters of Credit were issued at a time when the conditions set forth in Section 3.2 were satisfied or waived, such payment shall be applied solely to pay the Loans of, and LC Disbursements owed to, all Non-Defaulting Lenders on a pro rata basis prior to being applied to the payment of any Loans of, or LC Disbursements owed to, such Defaulting Lender until such time as all Loans and funded and unfunded participations in respect of Letters of Credit and Swingline Loans are held by the Lenders pro rata in accordance with the Commitments without giving effect to sub-section (iv) below. Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender or to post Cash Collateral pursuant to this Section 2.26(b)(ii) shall be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto.

(iii)(A) No Defaulting Lender shall be entitled to receive any commitment fees pursuant to Section 2.14(b) for any period during which that Lender is a Defaulting Lender (and the Borrower shall not be required to pay any such fee that otherwise would have been required to have been paid to that Defaulting Lender).

(B) Each Defaulting Lender shall be entitled to receive letter of credit fees pursuant to Section 2.14(c) for any period during which that Lender is a Defaulting Lender only to the extent allocable to that portion of its LC Exposure for which it has provided Cash Collateral pursuant to Section 2.26(a).

(C) With respect to any letter of credit fee not required to be paid to any Defaulting Lender pursuant to clause (A) or (B) above, the Borrower shall (x) pay to each Non-Defaulting Lender that portion of any such fee otherwise payable to such Defaulting Lender with respect to such Defaulting Lender's participation in Letters of Credit or Swingline Loans that has been reallocated to such Non-Defaulting Lender pursuant to clause (iv) below, (y) pay to each Issuing Bank and the Swingline Lender, as applicable, the amount of any such fee otherwise payable to such Defaulting Lender to the extent allocable to such Issuing Bank's LC Exposure or Swingline Lender's Swingline Exposure with respect to such Defaulting Lender that has not been Cash Collateralized, and (z) not be required to pay the remaining amount of any such fee.

(iv) All or any part of such Defaulting Lender's participation in Letters of Credit and Swingline Loans shall be reallocated among the Non-Defaulting Lenders in accordance with their respective Pro Rata Shares of the Revolving Commitments (calculated without regard to such Defaulting Lender's Revolving Commitment) but only to the extent that (x) the conditions set forth in Section 3.2 are satisfied at the time of such reallocation (and, unless the Borrower shall have otherwise notified the Administrative Agent at such time, the Borrower shall be deemed to have represented and warranted that such conditions are satisfied at such time), and (y) such reallocation does not cause the aggregate Revolving Credit Exposure of any Non-Defaulting Lender to exceed such Non-Defaulting Lender's Revolving Commitment. No reallocation hereunder shall constitute a waiver or release of any claim of any party hereunder against a Defaulting Lender arising from that Lender having become a Defaulting Lender, including any claim of a Non-Defaulting Lender as a result of such Non-Defaulting Lender's increased exposure following such reallocation.

(v) If the reallocation described in clause (iv) above cannot, or can only partially, be effected, the Borrower shall, without prejudice to any right or remedy available to it hereunder or under law, (x) first, prepay Swingline Loans in an amount equal to the Swingline Lender's Swingline Exposure with respect to such Defaulting Lender and (y) second, Cash Collateralize the Issuing Banks' LC Exposure with respect to such Defaulting Lender in accordance with the procedures set forth in Section 2.26(a).

(c) Defaulting Lender Cure. If the Borrower, the Administrative Agent, Swingline Lender and Issuing Banks agree in writing that a Lender is no longer a Defaulting Lender, the Administrative Agent will so notify the parties hereto, whereupon as of the effective date specified in such notice and subject to any conditions set forth therein (which may include arrangements with respect to any Cash Collateral), that Lender will, to the extent applicable, purchase at par that portion of outstanding Loans of the other Lenders or take such other actions as the Administrative Agent may determine to be necessary to cause the Loans and funded and unfunded participations in Letters of Credit and Swingline Loans to be held pro rata by the Lenders in accordance with the applicable Commitments (without giving effect to Section 2.26(b)(iv)), whereupon such Lender will cease to be a Defaulting Lender; provided that no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of the Borrower while that Lender was a Defaulting Lender; and provided, further, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender.

(d) New Swingline Loans/Letters of Credit. So long as any Lender is a Defaulting Lender, (i) the Swingline Lender shall not be required to fund any Swingline Loans unless it is satisfied that it will have no Swingline Exposure after giving effect to such Swingline Loan and (ii) no Issuing Bank shall be required to issue, extend, renew or increase any Letter of Credit unless it is satisfied that it will have no LC Exposure after giving effect thereto.

Section 2.27. Request for Extended Facilities. Notwithstanding anything to the contrary in this Agreement, pursuant to one or more offers (each, an "Extension Offer") made from time to time by the Borrower to all Lenders of Term Loans with a like Maturity Date or all Lenders with Revolving Commitments of the same Class, in each case on a pro rata basis (based on the outstanding amount of the respective Loans or the aggregate amount of the Revolving Commitments, as the case may be, with the same Maturity Date) and on the same terms to each such Lender, the Borrower may from time to time offer (but no Lender is obligated to accept such offer) to extend the maturity date, modify the interest rate or fees payable in respect of such Term Loans and/or Revolving Commitments (and related outstandings) and/or modify the amortization schedule in respect of such Term Loans (each, an "Extension", and each group of Term Loans or Revolving Commitments, as applicable, in each case as so extended, as well as the original Term Loans and Revolving Commitments (in each case not so extended), being a tranche;

any Extended Term Loans shall constitute a separate tranche of Term Loans from the tranche of Term Loans from which they were converted, and any Extended Revolving Commitments shall constitute a separate tranche of Revolving Commitments from the tranche of Revolving Commitments from which they were converted), all as set forth in greater detail in an Extended Facility Agreement so long as the terms set forth below are satisfied:

(i) (A) no Event of Default shall have occurred and be continuing at the time an Extension Offer is delivered to the Lenders or at the time of the Extended Facility Closing Date and (B) all representations and warranties of each Loan Party set forth in the Loan Documents shall be true and correct in all material respects (other than those representations and warranties that are expressly qualified by Material Adverse Effect or other materiality, in which case such representations and warranties shall be true and correct in all respects) as of the Extended Facility Closing Date (or, if such representation or warranty relates to an earlier date, as of such earlier date);

(ii) except as to interest rates, fees and final maturity, the Revolving Commitment of any Lender (an "Extending Revolving Lender") extended pursuant to an Extension (an "Extended Revolving Commitment"), and the related outstandings, shall be a Revolving Commitment (or related Revolving Loan outstandings, as the case may be) with the same terms as the original Revolving Commitments (and related Revolving Loan outstandings); provided that (x) subject to the provisions of Sections 2.22(a) and 2.4(f) to the extent dealing with Letters of Credit and Swingline Loans which mature or expire after a Maturity Date when there exist Extended Revolving Commitments with a longer Maturity Date, all Letters of Credit and Swingline Loans shall be participated in on a pro rata basis by all Lenders with Revolving Commitments in accordance with their Pro Rata Share of the Aggregate Revolving Commitment Amount (and except as provided in Sections 2.22(a) and 2.4(f), without giving effect to changes thereto on an earlier Maturity Date with respect to Swingline Loans and Letters of Credit theretofore incurred or issued) and all Borrowings under Revolving Commitments and repayments thereunder shall be made on a pro rata basis (except for (A) payments of interest and fees at different rates on Extended Revolving Commitments (and related outstandings) and (B) repayments required upon the Maturity Date for the non-extending Revolving Commitments) and (y) at no time shall there be Revolving Commitments hereunder (including Extended Revolving Commitments and any original Revolving Commitments) which have more than five (5) different Maturity Dates;

(iii) except as to interest rates, fees, amortization schedule, final maturity date, premium, required prepayment dates and participation in prepayments, the Term Loans of any Lender (an "Extending Term Loan Lender") extended pursuant to any Extension ("Extended Term Loans") shall have the same terms as the tranche of Term Loans subject to such Extension Offer except to the extent that such terms are less favorable to the Extending Term Loan Lenders than to the Lenders of the non-extended Term Loans or apply solely to periods after the Maturity Date of the non-extended Term Loans;

(iv) the final maturity date for any Extended Term Loans shall be no earlier than the then latest Maturity Date hereunder or under any existing Extended Facility Agreement and the amortization schedule applicable to such Extended Term Loans for periods prior to the maturity date of the Term Loans extended thereby may not be increased from any then existing amortization schedule applicable to Term Loans;

(v) the Weighted Average Life to Maturity of any Extended Term Loans shall be no shorter than the remaining Weighted Average Life to Maturity of the Term Loans extended thereby;

(vi) any Extended Term Loans may participate on a pro rata basis or a less than pro rata basis (but not greater than a pro rata basis) in any voluntary or mandatory repayments or prepayments hereunder, in each case as specified in the respective Extended Facility Agreement;

(vii) if the aggregate principal amount of applicable Term Loans (calculated on the face amount thereof) or Revolving Commitments, as the case may be, in respect of which applicable Lenders holding Term Loans or Lenders holding Revolving Commitments, as the case may be, shall have accepted the relevant Extension Offer shall exceed the maximum aggregate principal amount of applicable Term Loans or Revolving Commitments, as the case may be, offered to be extended by Borrower pursuant to such Extension Offer, then the applicable Term Loans or Revolving Commitments, as the case may be, of the applicable Lenders holding Term Loans or Lenders holding Revolving Commitments, as the case may be, shall be extended ratably up to such maximum amount based on the respective principal amounts (but not to exceed actual holdings of record) with respect to which such Lenders holding Term Loans or Lenders holding Revolving Commitments, as the case may be, have accepted such Extension Offer;

(viii) all documentation in respect of such Extension shall be consistent with the foregoing;

(ix) any Extended Facility requested by the Borrower shall be in a minimum amount of $20,000,000; and

(x) the Administrative Agent and the lenders party thereto shall enter into an Extended Revolving Credit Facility Agreement or an Extended Term Facility Agreement, as the case may be, and the conditions precedent set forth therein shall have been satisfied or waived in accordance with its terms.

Subject to compliance with the terms of this Section 2.27, the Administrative Agent, each Issuing Bank and the Lenders hereby consent to the Extensions and the other transactions contemplated by this Section 2.27 (including, for the avoidance of doubt, payment of any interest, fees or premium in respect of any Extended Term Loans and/or Extended Revolving Commitments on such terms as may be set forth in the relevant Extended Facility Agreement) and hereby waive the requirements of any provision of this Agreement (including, without limitation, Sections 2.21, 10.2, or any other provisions regarding the sharing of payments) or any other Loan Document that may otherwise prohibit any such Extension or any other transaction contemplated by this Section 2.27. The Lenders hereto agree that the Extended Facility Lenders party to any Extended Facility Agreement may, from time to time, make amendments to such Extended Facility Agreement or to this Agreement and the other Loan Documents to give effect to the Extended Facility Agreement without the consent of any other Lenders so long as such Extended Facility Agreement, as amended, complies with the terms set forth in this Section 2.27.

Section 2.28. Refinancing Amendment. At any time after the Closing Date, the Borrower may obtain, from any Lender or any Refinancing Lender, Credit Agreement Refinancing Indebtedness in respect of all or any portion of the Loans or Revolving Commitments then outstanding under this Agreement (which for purposes of this Section 2.28 will be deemed to include any then outstanding Other Refinancing Term Loans, Other Refinancing Revolving Commitments, Incremental Term Loans, Incremental Revolving Commitments, Extended Term Loans or Extended Revolving Commitments), in

the form of Other Refinancing Loans or Other Refinancing Commitments in each case pursuant to a Refinancing Amendment; provided that such Credit Agreement Refinancing Indebtedness (i) will rank pari passu or junior in right of payment and of security with the other Loans and Commitments hereunder and (ii) will have such pricing, premiums and optional prepayment or redemption terms as may be agreed by the Borrower and the Lenders thereof. Any Other Refinancing Loans or Other Refinancing Commitments, as applicable, may participate on a pro rata basis or on a less than pro rata basis (but not on a greater than pro rata basis) in any voluntary or mandatory prepayments hereunder, as specified in the applicable Refinancing Amendment. The effectiveness of any Refinancing Amendment shall be subject to the satisfaction or waiver on the date thereof of each of the conditions set forth in Section 3.2 and, to the extent reasonably requested by the Administrative Agent, receipt by the Administrative Agent of (a) board resolutions, officers' certificates and/or reaffirmation agreements consistent with those delivered on the Closing Date under Section 3.1 and (b) customary legal opinions reasonably acceptable to the Administrative Agent. Each issuance of Credit Agreement Refinancing Indebtedness incurred under this Section 2.28 shall be in an aggregate principal amount that is not less than $25,000,000. The Administrative Agent shall promptly notify each Lender as to the effectiveness of each Refinancing Amendment. Each of the parties hereto hereby agrees that, upon the effectiveness of any Refinancing Amendment, this Agreement shall be deemed amended to the extent (but only to the extent) necessary or advisable to reflect the existence and terms of the Credit Agreement Refinancing Indebtedness incurred pursuant thereto (including any amendments necessary to treat the Loans and Commitments subject thereto as Other Refinancing Loans and/or Other Refinancing Commitments). Any Refinancing Amendment may, without the consent of any other Lenders, effect such amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the reasonable opinion of the Administrative Agent and the Borrower, to effect the provisions of this Section 2.28. This Section 2.28 shall supersede any provisions in Sections 2.21 or 10.2 to the contrary.

ARTICLE III

CONDITIONS PRECEDENT TO LOANS AND LETTERS OF CREDIT

Section 3.1. Conditions to Effectiveness. The obligations of the Lenders (including the Swingline Lender) to make Loans and the obligation of each Issuing Bank to issue any Letters of Credit hereunder shall not become effective until the date on which each of the following conditions is satisfied (or waived in accordance with Section 10.2 or otherwise permitted to be satisfied after the Closing Date pursuant to Section 5.16):

(a) The Administrative Agent shall have received payment of all fees, expenses and other amounts due and payable on or prior to the Closing Date, including, without limitation, reimbursement or payment of all out-of-pocket expenses of the Administrative Agent, the Lead Arrangers and their Affiliates (including reasonable fees, charges and disbursements of one primary counsel to the Administrative Agent, one local counsel in each applicable jurisdiction and any special regulatory counsel) required to be reimbursed or paid by the Borrower hereunder, under any other Loan Document and under any agreement with the Administrative Agent or the Lead Arrangers.

(b) The Administrative Agent (or its counsel) shall have received the following, each to be in form and substance satisfactory to the Administrative Agent:

(i) a counterpart of this Agreement signed by or on behalf of each party hereto or written evidence satisfactory to the Administrative Agent (which may include telecopy or email transmission of a signed signature page of this Agreement) that such party has signed a counterpart of this Agreement;

(ii) a certificate of the Secretary or Assistant Secretary of each Loan Party in the form of Exhibit 3.1(b)(ii), attaching and certifying copies of (A) such Loan Party's articles or certificate of incorporation, formation, organization or limited partnership, or other registered organizational documents, which shall, if a recently certified copy thereof has been received by the Loan Parties from such Secretary of State prior to the Closing Date, be certified as of a recent date by the Secretary of State of the jurisdiction of organization of such Loan Party, (B) such Loan Party's bylaws, limited liability company agreement or partnership agreement, as applicable, (C) the resolutions of such Loan Party's board of directors, managers, members, general partner or other equivalent governing body, authorizing the execution, delivery and performance of the Loan Documents to which it is a party, (D) certificates of good standing or existence, as applicable, from the Secretary of State of the jurisdiction of incorporation or organization of such Loan Party and each other jurisdiction where the failure of such Loan Party to be qualified to do business as a foreign company would have a Material Adverse Effect, in each case as of a recent date, and (E) a certificate of incumbency containing the name, title and true signature of each officer of such Loan Party executing the Loan Documents to which such Loan Party is a party;

(iii) favorable written opinions of Kirkland & Ellis LLP, counsel to the Loan Parties, and Snell & Wilmer L.L.P., Nevada counsel to the Loan Parties, in each case, addressed to the Administrative Agent, each Issuing Bank and each of the Lenders, and covering such matters relating to the Loan Parties, the Loan Documents and the transactions contemplated therein as the Administrative Agent or the Required Lenders shall reasonably request;

(iv) a certificate in the form of Exhibit 3.1(b)(iv), dated the Closing Date and signed by a Responsible Officer, certifying that after giving effect to the Related Transactions, (A) no Default or Event of Default has occurred and is continuing on the Closing Date, (B) all representations and warranties of each Loan Party set forth in the Loan Documents are true and correct in all material respects (other than those representations and warranties that are expressly qualified by Material Adverse Effect or other materiality, in which case such representations and warranties shall be true and correct in all respects), (C) since December 31, 2018, there has been no change which has had or could reasonably be expected to have a Material Adverse Effect and (D) the conditions set forth in clause (b)(vii) and (xiii) below have been satisfied;

(v) a duly executed Notice of Borrowing for each Borrowing on the Closing Date;

(vi) a report setting forth the sources and uses of the proceeds hereof;

(vii) all consents, approvals, authorizations, registrations and filings and orders required to be made or obtained under any Requirement of Law, or by any Contractual Obligation of any Loan Party, in connection with the execution, delivery, performance, validity and enforceability of the Loan Documents, the other Related Transaction Documents or any of the transactions contemplated thereby, and such consents, approvals, authorizations, registrations, filings and orders shall be in full force and effect and all applicable waiting periods shall have expired, and no investigation or inquiry by any governmental authority regarding the Commitments or any transaction being financed with the proceeds thereof shall be ongoing;

(viii) copies of (A) the quarterly financial statements of the Borrower and its Subsidiaries on a combined basis for the Fiscal Quarter ended March 31, 2019 and the Fiscal Quarter ended June 30, 2019, including, in each case, the related statements of income and cash flows, (B) the audited combined financial statements for the Borrower and its Subsidiaries for the

Fiscal Year ended December 31, 2018, including in each case the related statements of income, shareholders' equity and cash flows, (C) a pro forma balance sheet and related pro forma statements of income and cash flows of the Borrower and its Subsidiaries (for the avoidance of doubt, excluding Ensign and its Subsidiaries) as of and for (x) the twelve-month period ending on December 31, 2018 and (y) the twelve-month period ending on the last day of each Fiscal Quarter ending after December 31, 2018 and at least 60 days prior to the Closing Date, in each case, prepared so as to give effect to the Related Transactions as if the Related Transactions had occurred as of such date (in the case of such balance sheet) or at the beginning of such period (in the case of such other financial statements) and (D) financial projections of the Borrower and its Subsidiaries (for the avoidance of doubt, excluding Ensign and its Subsidiaries) on an annual basis through December 31, 2024;

(ix) a duly completed and executed Compliance Certificate, including calculations of the financial covenants set forth in Article VI hereof as of June 30, 2019, calculated on a *pro forma* basis as if the initial Borrowing(s) had been funded and the Pennant Transaction and the other Related Transactions had occurred, in each case, as of the first day of the relevant period for testing compliance (and setting forth in reasonable detail such calculations);

(x) a certificate, dated the Closing Date and signed by the chief financial officer of the Borrower, confirming that the Borrower is, and the Borrower and its Subsidiaries, on a consolidated basis, are, Solvent before and after giving effect to the funding of the initial Borrowing(s) and the consummation of the Pennant Transaction and the other Related Transactions contemplated to occur on the Closing Date;

(xi) the Guaranty and Security Agreement, duly executed by the Borrower and each of its Domestic Subsidiaries (other than the Excluded Subsidiaries), together with (A) UCC financing statements and other applicable documents under the laws of all necessary or appropriate jurisdictions with respect to the perfection of the Liens granted under the Guaranty and Security Agreement, as requested by the Administrative Agent in order to perfect such Liens, duly authorized by the Loan Parties, (B) copies of favorable UCC, tax and judgment lien search reports in all necessary or appropriate jurisdictions, as requested by the Administrative Agent, indicating that there are no prior Liens on any of the Collateral other than Permitted Encumbrances and other Liens permitted under Section 7.2 and Liens to be released on the Closing Date, (C) a Perfection Certificate, duly completed and executed by the Borrower, (D) duly executed Patent Security Agreements, Trademark Security Agreements and Copyright Security Agreements, (E) original certificates evidencing all issued and outstanding shares of Capital Stock of all Subsidiaries (other than the Excluded Subsidiaries) owned directly by any Loan Party; provided that, in the case of Capital Stock of any Foreign Subsidiary that is a CFC and Capital Stock of any Pass-Through Foreign Holdco, such original certificates shall be limited to 65% of the issued and outstanding voting Capital Stock and 100% of the issued and outstanding non-voting Capital Stock of such Foreign Subsidiary or such Pass-Through Foreign Holdco, as applicable, (F) stock or membership interest powers or other appropriate instruments of transfer executed in blank and (G) a master intercompany promissory note duly executed by the Borrower and its Subsidiaries;

(xii) certificates of insurance, in form and detail acceptable to the Administrative Agent, describing the types and amounts of insurance (property and liability) maintained by any of the Loan Parties, in each case naming the Administrative Agent as loss payee or additional insured, as the case may be, together with endorsements in form and substance reasonably satisfactory to the Administrative Agent;

(xiii) evidence that (A) Ensign has declared the dividend or distribution constituting the Pennant Transaction and (B) the Pennant Transaction has been consummated or will be consummated substantially concurrently with the effectiveness of this Agreement on the Closing Date, in each case, in form and substance satisfactory to the Administrative Agent;

(xiv) at least three (3) days prior to the Closing Date, (A) all documentation and other information with respect to the Borrower and each other Loan Party that the Administrative Agent or any Lender reasonably determines is required by regulatory authorities under applicable "know your customer" and anti-money laundering rules and regulations, including, without limitation, the Patriot Act and the Beneficial Ownership Regulation, to the extent reasonably requested by the Administrative Agent at least ten (10) days before the Closing Date, and (B) if the Borrower qualifies as a "legal entity customer" under the Beneficial Ownership Regulation, a Beneficial Ownership Certification in relation to the Borrower;

(xv) an executed payoff or release letter, executed by the administrative agent under the Ensign Credit Agreement, together with (a) UCC-3 or other appropriate termination statements releasing all Liens of the administrative agent and lenders under the Ensign Credit Agreement and related loan documents upon any of the personal property of the Borrower and its Subsidiaries granted pursuant thereto and (b) any other releases, terminations or other documents reasonably required by the Administrative Agent to evidence the release of the Borrower and its Subsidiaries from their respective obligations under the Ensign Credit Agreement and related loan documents, in each case of the foregoing, in form and substance reasonably satisfactory to the Administrative Agent (such documents, and the release of the Borrower and its Subsidiaries pursuant thereto, the "Closing Date Release"); and

(xvi) all Control Account Agreements and Sweep Agreements required under Section 5.11, duly executed by the applicable Loan Parties, the applicable depositary or securities intermediary and the Administrative Agent.

Without limiting the generality of the provisions of this Section, for purposes of determining compliance with the conditions specified in this Section, each Lender that has signed this Credit Agreement shall be deemed to have consented to, approved of, accepted or been satisfied with each document or other matter required thereunder to be consented to, approved by or acceptable or satisfactory to a Lender unless the Administrative Agent shall have received notice from such Lender prior to the proposed Closing Date specifying its objection thereto.

Section 3.2. Conditions to Each Credit Event. The obligation of each Lender to make a Loan on the occasion of any Borrowing and of each Issuing Bank to issue, amend, renew or extend any Letter of Credit is subject to Section 2.26(c) and the satisfaction of the following conditions:

(a) at the time of and immediately after giving effect to such Borrowing or the issuance, amendment, renewal or extension of such Letter of Credit, as applicable, no Default or Event of Default shall exist;

(b) at the time of and immediately after giving effect to such Borrowing or the issuance, amendment, renewal or extension of such Letter of Credit, as applicable, all representations and warranties of each Loan Party set forth in the Loan Documents shall be true and correct in all material respects, unless such representation or warranty expressly relates to an earlier date, in which case such representation or warranty shall be true and correct in all material respects as of such earlier date (other than those representations and warranties that are expressly qualified by a Material Adverse Effect or other materiality, in which case such representations and warranties shall be true and correct in all respects); and

(c) the Borrower shall have delivered the required Notice of Borrowing.

Each Borrowing and each issuance, amendment, renewal or extension of any Letter of Credit shall be deemed to constitute a representation and warranty by the Borrower on the date thereof as to the matters specified in subsections (a) and (b) of this Section. Notwithstanding the foregoing, the incurrence of Incremental Commitments and the initial borrowing of Incremental Term Loans (but not Revolving Loans) thereunder shall be subject solely to the conditions set forth in Section 2.23.

Section 3.3. Delivery of Documents. All of the Loan Documents, certificates, legal opinions and other documents and papers referred to in Section 3.1, unless otherwise specified, shall be delivered to the Administrative Agent for the account of each of the Lenders and, if requested by a Lender, in sufficient counterparts or copies for each such Lender.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES

The Borrower represents and warrants, both before and after giving effect to the Related Transactions, to the Administrative Agent, each Lender and each Issuing Bank as follows:

Section 4.1. Existence; Power. The Borrower and each of its Subsidiaries (i) is duly organized, validly existing and in good standing as a corporation, partnership or limited liability company under the laws of the jurisdiction of its organization, (ii) has all requisite power and authority to carry on its business as now conducted, and (iii) is duly qualified to do business, and is in good standing, in each jurisdiction where such qualification is required, except where a failure to be so qualified could not reasonably be expected to result in a Material Adverse Effect.

Section 4.2. Organizational Power; Authorization. The execution, delivery and performance by each Loan Party of the Loan Documents and the other Related Transaction Documents to which it is a party are within such Loan Party's organizational powers and have been duly authorized by all necessary organizational and, if required, shareholder, partner or member action. This Agreement has been duly executed and delivered by the Borrower and constitutes, and each other Loan Document and Related Transaction Document to which any Loan Party is a party, when executed and delivered by such Loan Party, will constitute, valid and binding obligations of the Borrower or such Loan Party (as the case may be), enforceable against it in accordance with their respective terms, except as may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and by general principles of equity.

Section 4.3. Governmental Approvals; No Conflicts. The execution, delivery and performance by each Loan Party of the Loan Documents and the other Related Transaction Documents to which it is a party (a) do not require any consent or approval of, registration or filing with, or any action by, any Governmental Authority, except those as have been obtained or made and are in full force and effect and except for filings necessary to perfect or maintain perfection of the Liens created under the Loan Documents, (b) will not violate any Requirement of Law applicable to the Borrower or any of its Subsidiaries or any judgment, order or ruling of any Governmental Authority, (c) will not violate or result in a default under any Contractual Obligation of the Borrower or any of its Subsidiaries or any of its assets or give rise to a right thereunder to require any payment to be made by the Borrower or any of its Subsidiaries, (d) will not result in the creation or imposition of any Lien on any asset of the Borrower or any of its Subsidiaries, except Liens (if any) created under the Loan Documents, and (e) do not affect the Borrower's or any Subsidiary's right to receive, or reduce the amount of, payments and reimbursements from Third Party Payors, or materially adversely affect any Health Care Permit.

Section 4.4. Financial Statements. The Borrower has furnished to each Lender (i) the audited combined balance sheet of the Borrower and its Subsidiaries as of December 31, 2018, and the related audited combined statements of income, shareholders' equity and cash flows for the Fiscal Year then ended, audited by Deloitte & Touche, LLP and (ii) the unaudited combined balance sheet of the Borrower and its Subsidiaries as of June 30, 2019, and the related unaudited combined statements of income and cash flows for the Fiscal Quarter and year-to-date period then ended, certified by a Responsible Officer. Such financial statements fairly present the combined financial condition of the Borrower and its Subsidiaries as of such dates and the combined results of operations for such periods in conformity with GAAP consistently applied, subject to year-end audit adjustments and the absence of footnotes in the case of the statements referred to in clause (ii). Since December 31, 2018, there have been no changes with respect to the Borrower and its Subsidiaries which have had or could reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect.

Section 4.5. Litigation and Environmental Matters.

(a) No litigation, investigation or proceeding of or before any arbitrators or Governmental Authorities is pending against or, to the knowledge of the Borrower, threatened in writing against or affecting the Borrower or any of its Subsidiaries (i) as to which there is a reasonable possibility of an adverse determination that could reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect or (ii) which could reasonably be expected to result in the invalidity or unenforceability of this Agreement or any other Loan Document or any other Related Transaction Document.

(b) Neither the Borrower nor any of its Subsidiaries (i) has failed to comply with any Environmental Law or to obtain, maintain or comply with any permit, license or other approval required under any Environmental Law, (ii) has become subject to any Environmental Liability, (iii) has received notice of any claim with respect to any Environmental Liability or (iv) knows of any basis for any Environmental Liability, in the case of each of clauses (i), (ii), (iii) and (iv) which have had or could reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect.

Section 4.6. Compliance with Laws and Agreements. The Borrower and each of its Subsidiaries is in compliance with (a) all Requirements of Law and all judgments, decrees and orders of any Governmental Authority and (b) all indentures, agreements or other instruments binding upon it or its properties, except where non-compliance, either individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

Section 4.7. Investment Company Act. Neither the Borrower nor any of its Subsidiaries is (a) an "investment company" or is "controlled" by an "investment company", as such terms are defined in, or subject to regulation under, the Investment Company Act of 1940, as amended and in effect from time to time, or (b) otherwise subject to any other regulatory scheme limiting its ability to incur debt or requiring any approval or consent from, or registration or filing with, any Governmental Authority in connection therewith.

Section 4.8. Taxes. The Borrower and its Subsidiaries and each other Person for whose Taxes the Borrower or any of its Subsidiaries could become liable have timely filed or caused to be filed all Federal income tax returns and all other material tax returns that are required to be filed by them, and have paid all Taxes shown to be due and payable on such returns or on any assessments made against it or its property and all other Taxes, fees or other charges imposed on it or any of its property by any Governmental Authority, except where the same are currently being contested in good faith by appropriate proceedings and for which the Borrower or such Subsidiary, as the case may be, has set aside on its books adequate reserves in accordance with GAAP.

Section 4.9. Use of Proceeds; Margin Regulations. None of the proceeds of any of the Loans or Letters of Credit will be used, directly or indirectly, for "purchasing" or "carrying" any "margin stock" within the respective meanings of each of such terms under Regulation U or for any purpose that violates the provisions of Regulation T, Regulation U or Regulation X. Neither the Borrower nor any of its Subsidiaries is engaged principally, or as one of its important activities, in the business of extending credit for the purpose of purchasing or carrying "margin stock". The Borrower will use the Revolving Loans and the Swingline Loans for working capital, capital expenditures, dividends, distributions and Permitted Acquisitions not prohibited by this Agreement, for other general corporate purposes of the Borrower and its Subsidiaries and for any other purpose not prohibited by this Agreement. The Borrower will use the proceeds of any Incremental Term Loans or Other Refinancing Term Loans for the purposes set forth in any Incremental Commitment Joinder or Refinancing Amendment.

Section 4.10. ERISA. Except as would not reasonably be expected to have a Material Adverse Effect, each Plan is in substantial compliance in form and operation with its terms and with ERISA and the Code (including, without limitation, the Code provisions compliance with which is necessary for any intended favorable tax treatment) and all other applicable laws and regulations. Each Plan (and each related trust, if any) which is intended to be qualified under Section 401(a) of the Code has received a favorable determination letter from the Internal Revenue Service to the effect that it meets the requirements of Sections 401(a) and 501(a) of the Code covering all applicable tax law changes, or is comprised of a master or prototype plan that has received a favorable opinion letter from the Internal Revenue Service, and, except as would not reasonably be expected to have a Material Adverse Effect, nothing has occurred since the date of such determination that would adversely affect such determination (or, in the case of a Plan with no determination, nothing has occurred that would adversely affect the issuance of a favorable determination letter or otherwise adversely affect such qualification). No ERISA Event has occurred or is reasonably expected to occur. There exists no Unfunded Pension Liability with respect to any Plan. None of the Borrower, any of its Subsidiaries or any ERISA Affiliate is making or accruing an obligation to make contributions, or has, within any of the five calendar years immediately preceding the date this assurance is given or deemed given, made, or accrued an obligation to make, contributions to any Multiemployer Plan. There are no actions, suits or claims pending against or involving a Plan (other than routine claims for benefits) or, to the knowledge of the Borrower, any of its Subsidiaries or any ERISA Affiliate, threatened in writing, which would reasonably be expected to be asserted successfully against any Plan and, if so asserted successfully, would reasonably be expected either singly or in the aggregate to result in a Material Adverse Effect. Except as would not reasonably be expected either individually or in the aggregate to have a Material Adverse Effect, the Borrower, each of its Subsidiaries and each ERISA Affiliate have made all contributions to or under each Plan and Multiemployer Plan required by law within the applicable time limits prescribed thereby, by the terms of such Plan or Multiemployer Plan, respectively, or by any contract or agreement requiring contributions to a Plan or Multiemployer Plan. No Plan which is subject to Section 412 of the Code or Section 302 of ERISA has applied for or received an extension of any amortization period within the meaning of Section 412 of the Code or Section 303 or 304 of ERISA. None of the Borrower, any of its Subsidiaries or any ERISA Affiliate have ceased operations at a facility so as to become subject to the provisions of Section 4068(a) of ERISA, withdrawn as a substantial employer so as to become subject to the provisions of Section 4063 of ERISA or ceased making contributions to any Plan subject to Section 4064(a) of ERISA to which it made contributions. None of the Borrower or any of its Subsidiaries has established, contributes to or maintains any Non-U.S. Plan.

Section 4.11. Ownership of Property; Insurance.

(a) Each of the Borrower and its Subsidiaries has good title to, or valid leasehold interests in or other right to occupy, all of its real and personal property material to the operation of its business, including all such properties reflected in the most recent audited consolidated balance sheet of the Borrower referred to in Section 4.4 or purported to have been acquired by the Borrower or any of its Subsidiaries after said date (except as sold or otherwise disposed of in the ordinary course of business), in each case free and clear of Liens prohibited by this Agreement. All leases that individually or in the aggregate are material to the business or operations of the Borrower and its Subsidiaries taken as a whole are valid and subsisting and are in full force. The Borrower has delivered to Administrative Agent a true, complete and correct copy of each Master Lease.

(b) Each of the Borrower and its Subsidiaries owns, or is licensed or otherwise has the right to use, all patents, trademarks, service marks, trade names, copyrights and other intellectual property material to its business, and the use thereof by the Borrower and its Subsidiaries does not infringe on the rights of any other Person, except in any manner to the extent that such failure to do so or such infringement would not reasonably be expected to result in a Material Adverse Effect.

(c) The properties of the Borrower and its Subsidiaries are insured with financially sound and reputable insurance companies which are not Affiliates of the Borrower, in such amounts with such deductibles and covering such risks as are customarily carried by companies engaged in similar businesses and owning similar properties in localities where the Borrower or any applicable Subsidiary operates.

(d) Set forth on Schedule 4.11 are all the locations where the Borrower or any other Loan Party (i) maintains fee-owned Real Estate or (ii) maintains leased Real Estate that is leased under any PropCo Master Lease, any Ensign Master Lease or any other lease pursuant to which annual payments are in excess of $2,000,000.

Section 4.12. Disclosure. None of the reports (including, without limitation, all reports that the Borrower is required to file with the Securities and Exchange Commission), financial statements (including, for the avoidance of doubt, the pro forma financial statements referred to in Section 3.1(b)(viii)(C)), certificates or other information furnished by or on behalf of the Borrower to the Administrative Agent or any Lender in connection with the negotiation or syndication of this Agreement or any other Loan Document or delivered hereunder or thereunder (as modified or supplemented by any other information so furnished) contains any material misstatement of fact or omits to state any material fact necessary to make the statements therein, taken as a whole in light of the circumstances under which they were made, not materially misleading; provided that, with respect to projected financial information, the Borrower represents only that such projected information was prepared in good faith based upon assumptions believed to be reasonable at the time, it being understood and agreed that such projected information is subject to contingencies and assumptions, many of which are not within the control of the Borrower, and no assurances can be given that any projections will be realized, and any divergences from projected results may be material. As of the Closing Date, the information included in the Beneficial Ownership Certification is true and correct in all respects.

Section 4.13. Labor Relations. There are no strikes, lockouts or other labor disputes or grievances against the Borrower or any of its Subsidiaries, or, to the Borrower's knowledge, threatened in writing against or affecting the Borrower or any of its Subsidiaries, and no unfair labor practice charges or grievances are pending against the Borrower or any of its Subsidiaries, or, to the Borrower's knowledge, threatened in writing against any of them before any Governmental Authority, in each case, that would, either individually or in the aggregate, reasonably be expected to result in a Material Adverse

Effect. All payments due from the Borrower or any of its Subsidiaries pursuant to the provisions of any collective bargaining agreement have been paid or accrued as a liability on the books of the Borrower or any such Subsidiary, except where the failure to do so could not reasonably be expected to have a Material Adverse Effect.

Section 4.14. Subsidiaries. As of the Closing Date and as of each date on which such schedule is subsequently updated pursuant to the terms of this Agreement, Schedule 4.14 sets forth the name of, the ownership interest of the applicable owner in, the jurisdiction of incorporation or organization of, and the type of each Subsidiary of the Borrower and the other Loan Parties and identifies each Subsidiary that is a Subsidiary Loan Party and each Subsidiary that is an Excluded Subsidiary.

Section 4.15. Solvency. After giving effect to the execution and delivery of the Loan Documents and the other Related Transaction Documents and the making of the Loans under this Agreement and the consummation of the other Related Transactions, the Borrower is, and the Borrower and its Subsidiaries, on a consolidated basis, are, Solvent.

Section 4.16. [Reserved].

Section 4.17. Collateral Documents.

(a) The Guaranty and Security Agreement is effective to create in favor of the Administrative Agent for the ratable benefit of the Secured Parties a legal, valid and enforceable security interest in the Collateral (as defined therein), and when UCC financing statements in appropriate form are filed in the offices specified on Schedule 3 to the Guaranty and Security Agreement, the Guaranty and Security Agreement shall constitute a fully perfected Lien (to the extent that such Lien may be perfected by the filing of a UCC financing statement) on, and security interest in, all right, title and interest of the grantors thereunder in such Collateral, in each case prior and superior in right to any other Person, other than with respect to Liens expressly permitted by Section 7.2. When the certificates evidencing all Capital Stock pledged pursuant to the Guaranty and Security Agreement are delivered to the Administrative Agent, together with appropriate stock powers or other similar instruments of transfer duly executed in blank, the Liens in such Capital Stock shall be fully perfected first priority security interests, perfected by "control" as defined in the UCC.

(b) When the filings in subsection (a) of this Section are made and when, if applicable, the Patent Security Agreements and the Trademark Security Agreements are filed in the United States Patent and Trademark Office and the Copyright Security Agreements are filed in the United States Copyright Office, the Guaranty and Security Agreement shall constitute a fully perfected Lien on, and security interest in, all right, title and interest of the Loan Parties in the Patents, Trademarks and Copyrights, if any, in which a security interest may be perfected by filing, recording or registering a security agreement, financing statement or analogous document in the United States Patent and Trademark Office or the United States Copyright Office, as applicable, in each case prior and superior in right to any other Person, subject to inchoate Liens permitted hereunder that do not secure Indebtedness.

(c) Each Mortgage, when duly executed and delivered by the relevant Loan Party, will be effective to create in favor of the Administrative Agent for the ratable benefit of the Secured Parties a legal, valid and enforceable Lien on all of such Loan Party's right, title and interest in and to the Real Estate of such Loan Party covered thereby and the proceeds thereof, and when such Mortgage is filed in the real estate records where the respective Mortgaged Property is located, such Mortgage shall give constructive notice to third parties of the Lien and security interest created by such Mortgage on all right, title and interest of such Loan Party in such Real Estate and the proceeds thereof, in each case prior and superior in right to any other Person, other than with respect to Liens expressly permitted by Section 7.2.

(d) No Mortgage encumbers improved real property that is located in an area that has been identified by the Secretary of Housing and Urban Development or the Federal Emergency Management Agency (or any successor agency thereto) as an area having special flood hazards and in which flood insurance has been made available under the Flood Insurance Laws, except to the extent that the applicable Loan Party maintains flood insurance with respect to such improved real property in compliance with the requirements of Section 5.8.

Section 4.18. [Reserved].

Section 4.19. Healthcare Matters.

(a) Compliance with Health Care Laws. The Borrower and each of its Subsidiaries is, and at all times during the four calendar years immediately preceding the Closing Date has been, in compliance with all Health Care Laws and requirements of Third Party Payor Programs applicable to it, its assets, business or operations, except where the failure to do so has not had or could not reasonably be expected to have, in the aggregate, a Material Adverse Effect. No circumstance exists or event has occurred which could result in a violation of any Health Care Law or any requirement of any Third Party Payor Program that could reasonably be expected to result in a Material Adverse Effect.

(b) Health Care Permits. The Borrower and each of its Subsidiaries holds, and at all times during the four calendar years immediately preceding the Closing Date has held, all Health Care Permits necessary for it to own, lease, sublease or operate its assets or to conduct its business or operations for the period covered by such Health Care Permit. All such Health Care Permits are, and at all times during the four calendar years immediately preceding the Closing Date have been, in full force and effect and there is and has been no material default under, violation of, or other noncompliance with the terms and conditions of any such Health Care Permit. No condition exists or event has occurred which, in itself or with the giving of notice or lapse of time or both, has resulted or would result in the suspension, revocation, termination, restriction, limitation, modification or non-renewal of any Health Care Permit that could reasonably be expected to have, in the aggregate, a Material Adverse Effect. Other than as set forth on Schedule 4.19, no Governmental Authority has taken, or to the knowledge of the Borrower or any of its Subsidiaries intends to take, action to suspend, revoke, terminate, place on probation, restrict, limit, modify or not renew any Health Care Permit of the Borrower or any of its Subsidiaries. As of the Closing Date, Schedule 4.19 sets forth an accurate, complete and current list of all material Health Care Permits, and all Third Party Payor Authorizations for Third Party Payor Programs in which the Borrower or any of its Subsidiaries participates.

(c) Third Party Payor Authorizations. The Borrower and each of its Subsidiaries holds, and at all times during the four calendar years immediately preceding the Closing Date has held, in full force and effect, all Third Party Payor Authorizations necessary to participate in and be reimbursed by all Third Party Payor Programs in which the Borrower or any of its Subsidiaries participates, except where the failure to do so has not had or could not reasonably be expected to have, in the aggregate, a Material Adverse Effect. There is no investigation, audit, claim review, or other action pending or, to the knowledge of the Borrower or any of its Subsidiaries, threatened in writing, which could result in a suspension, revocation, termination, restriction, limitation, modification or non-renewal of any Third Party Payor Authorization or result in the exclusion of the Borrower or any of its Subsidiaries from any Third Party Payor Program that could reasonably be expected to have, in the aggregate, a Material Adverse Effect.

(d) Licensed Personnel. The Licensed Personnel have complied and currently are in compliance with all applicable Health Care Laws and hold, and, at all times that such Persons have been Licensed Personnel of the Borrower or any of its Subsidiaries, have held, all professional licenses and other Health Care Permits and all Third Party Payor Authorizations required in the performance of such Licensed Personnel's duties for the Borrower or any of its Subsidiaries, and each such Health Care Permit and Third Party Payor Authorization is in full force and effect and, to the knowledge of the Borrower and its Subsidiaries, no suspension, revocation, termination, impairment, modification or non-renewal of any such Health Care Permit or Third Party Payor Authorization is pending or threatened in writing, except where the failure to do so has not had or could not reasonably be expected to have, in the aggregate, a Material Adverse Effect.

(e) Accreditation. The Borrower and each of its Subsidiaries has obtained and maintains accreditation in good standing and without limitation or impairment by all applicable accrediting organizations, to the extent prudent and customary in the industry in which it is engaged or required by law (including any foreign law or equivalent regulation), except where the failure to have or maintain such accreditation in good standing or imposition of limitation or impairment would not have, in the aggregate, a Material Adverse Effect.

(f) Proceedings; Audits. There are no pending (or, to the knowledge of the Borrower or any of its Subsidiaries, threatened) Proceedings against or affecting the Borrower or any of its Subsidiaries or, to the knowledge of the Borrower or any of its Subsidiaries, any Licensed Personnel, relating to any actual or alleged non-compliance with any Health Care Law or requirement of any Third Party Payor Program, in each case, that could reasonably be expected to have, in the aggregate, a Material Adverse Effect. There are no facts, circumstances or conditions that would reasonably be expected to form the basis for any such Proceeding against or affecting any Loan Party or, to the knowledge of the Borrower or any of its Subsidiaries, any Licensed Personnel that could reasonably be expected to have, in the aggregate, a Material Adverse Effect. There currently exist no restrictions, deficiencies, required plans of correction or other such remedial measures with respect to any Health Care Permit of the Borrower or any of its Subsidiaries, or the participation by the Borrower or any of its Subsidiaries in any Third Party Payor Program, in each case, that could reasonably be expected to have, in the aggregate, a Material Adverse Effect. Without limiting the foregoing, no validation review, program integrity review, audit or other investigation related to the Borrower or any of its Subsidiaries or its operations, or the consummation of the transactions contemplated in the Loan Documents or related to the Collateral, (i) has been conducted by or on behalf of any Governmental Authority, or (ii) is scheduled, pending or, to the knowledge of the Borrower or any of its Subsidiaries, threatened in writing, in each case that could reasonably be expected to have, in the aggregate, a Material Adverse Effect.

(g) Overpayments. Neither the Borrower nor any of its Subsidiaries (i) has knowingly retained an overpayment received from, or failed to refund any amount due to, any Third Party Payor in material violation of any Health Care Law or contract; or (ii) except as set forth on Schedule 4.19, has received written notice of, or has knowledge of, any material overpayment or refunds due to any Third Party Payor.

(h) Material Statements. Neither the Borrower nor any of its Subsidiaries, nor any officer, Affiliate, employee or agent of the Borrower or any of its Subsidiaries, has made an untrue statement of a material fact or fraudulent statement to any Governmental Authority, failed to disclose a material fact that must be disclosed to any Governmental Authority, or committed an act, made a statement or failed to make a statement that, at the time such statement, disclosure or failure to disclose occurred, in each case, that could reasonably be expected to have, in the aggregate, a Material Adverse Effect.

(i) Prohibited Transactions. Except as where any of the following could not be reasonably expected to result in a Material Adverse Effect, neither the Borrower nor any of its Subsidiaries, nor any officer, Affiliate or managing employee of the Borrower or any of its Subsidiaries, directly or indirectly, has (i) offered or paid or solicited or received any remuneration, in cash or in kind, or made any financial arrangements, in violation of any Health Care Law; (ii) given or agreed to give, or is aware that there has been made or that there is any agreement to make, any gift or gratuitous payment of any kind, nature or description (whether in money, property or services) in violation of any Health Care Law; (iii) made or agreed to make, or is aware that there has been made or that there is any agreement to make, any contribution, payment or gift of funds or property to, or for the private use of, any governmental official, employee or agent where either the contribution, payment or gift or the purpose of such contribution, payment or gift is or was illegal under the laws of any Governmental Authority having jurisdiction over such payment, contribution or gift; (iv) established or maintained any unrecorded fund or asset for any purpose or made any misleading, false or artificial entries on any of its books or records for any reason; or (v) made, or agreed to make, or is aware that there has been made or that there is any agreement to make, any payment to any person with the intention or understanding that any part of such payment would be in violation of any Health Care Law or used or was given for any purpose other than that described in the documents supporting such payment. To the knowledge of the Borrower and its Subsidiaries, no Person has filed or has threatened in writing to file against the Borrower, any of its Subsidiaries or any of their Affiliates an action under any federal or state whistleblower statute, including, without limitation, under the False Claims Act of 1863 (31 U.S.C. § 3729 et seq.), to the extent such a filing, if adversely determined, would reasonably be expected to result in a Material Adverse Effect.

(j) Exclusion. Except as where any of the following could not be reasonably expected to result in a Material Adverse Effect, neither the Borrower nor any of its Subsidiaries, nor any owner, officer, director, partner, agent, managing employee or Person with a "direct or indirect ownership interest" (as that phrase is defined in 42 C.F.R. § 420.201) in the Borrower or any of its Subsidiaries, nor any Licensed Personnel of the Borrower or any of its Subsidiaries, has been (or has been threatened to be) (i) excluded from any Third Party Payor Program pursuant to 42 U.S.C. § 1320a-7 and related regulations, (ii) "suspended" or "debarred" from selling products to the U.S. government or its agencies pursuant to the Federal Acquisition Regulation, relating to debarment and suspension applicable to federal government agencies generally (42 C.F.R. Subpart 9.4), or other applicable laws or regulations, (iii) debarred, disqualified, suspended or excluded from participation in any Third Party Payor Program or is listed on the General Services Administration list of excluded parties, nor is any such debarment, disqualification, suspension or exclusion threatened or pending, or (iv) made a party to any other action by any Governmental Authority that may prohibit it from selling products or providing services to any governmental or other purchaser pursuant to any federal, state or local laws or regulations.

Section 4.20. Sanctions. Neither any Loan Party nor any of its Subsidiaries or Affiliates or, to the knowledge of any Loan Party, any of their respective directors, officers, employees or agents, is an individual or entity that is, or is owned or controlled by any individual or entity that is, (i) currently the subject or target of any Sanctions, (ii) a Sanctioned Person or (iii) located, organized or resident in a Sanctioned Country. Each of the Loan Parties and their Subsidiaries, and to the knowledge of the Loan Parties, each of their respective directors, officers, employees, agents and Affiliates is in compliance with all applicable Sanctions and has instituted and maintained policies and procedures designed to promote and achieve compliance with all applicable Sanctions.

Section 4.21. Anti-Corruption Laws. The Loan Parties and their Subsidiaries and Affiliates have conducted their businesses in compliance in all material respects with the United States Foreign Corrupt Practices Act of 1977, the UK Bribery Act of 2010, and other applicable legislation or laws and regulations concerning or relating to bribery, money laundering or corruption in other jurisdictions (collectively, the "Anti-Corruption Laws") and have instituted and maintained policies and procedures designed to promote and achieve compliance with such Anti-Corruption Laws.

Section 4.22. Patriot Act. Neither any Loan Party nor any of its Subsidiaries is an "enemy" or an "ally of the enemy" within the meaning of Section 2 of the Trading with the Enemy Act or any enabling legislation or executive order relating thereto. Neither any Loan Party nor any or its Subsidiaries is in violation of (a) the Trading with the Enemy Act, (b) any of the foreign assets control regulations of the United States Treasury Department (31 C.F.R., Subtitle B, Chapter V, as amended) or any enabling legislation or executive order relating thereto or (c) the Patriot Act. None of the Loan Parties (i) is a blocked person described in Section 1 of the Anti-Terrorism Order or (ii) to the best of its knowledge, engages in any dealings or transactions, or is otherwise associated, with any such blocked person.

Section 4.23. EEA Financial Institutions. Neither the Borrower nor any Subsidiary is an EEA Financial Institution.

ARTICLE V

AFFIRMATIVE COVENANTS

The Borrower covenants and agrees that until Payment in Full of the Obligations:

Section 5.1. Financial Statements and Other Information. The Borrower will deliver to the Administrative Agent:

(a) as soon as available and in any event within 90 days after the end of each Fiscal Year of the Borrower (or if the Borrower is no longer required to file periodic reports under Section 13(a) or Section 15(d) of the Exchange Act, then 120 days after the end of each Fiscal Year) (commencing with the Fiscal Year ending December 31, 2019), a copy of the annual audited report for such Fiscal Year for the Borrower and its Subsidiaries, containing a consolidated balance sheet of the Borrower and its Subsidiaries as of the end of such Fiscal Year and the related consolidated statements of income, stockholders' equity and cash flows (together with all footnotes thereto) of the Borrower and its Subsidiaries for such Fiscal Year, setting forth in each case in comparative form the figures for the previous Fiscal Year, all in reasonable detail and reported on by Deloitte & Touche, LLP or other independent public accountants of nationally recognized standing (without a "going concern" or like qualification, exception or explanation and without any qualification or exception as to the scope of such audit (other than any "going concern" or similar qualification or exception related to the maturity or refinancing of the Obligations)) to the effect that such financial statements present fairly in all material respects the financial condition and the results of operations of the Borrower and its Subsidiaries for such Fiscal Year on a consolidated basis in accordance with GAAP, and that the examination by such accountants in connection with such consolidated financial statements has been made in accordance with generally accepted auditing standards;

(b) as soon as available and in any event within 45 days after the end of each of the first three Fiscal Quarters of the Borrower (or if the Borrower is no longer required to file periodic reports under Section 13(a) or Section 15(d) of the Exchange Act, then 60 days after the end of each Fiscal Quarter) (commencing with the Fiscal Quarter ending September 30, 2019), an unaudited consolidated balance sheet of the Borrower and its Subsidiaries as of the end of such Fiscal Quarter and the related unaudited consolidated statements of income and cash flows of the Borrower and its Subsidiaries for such Fiscal Quarter and the then elapsed portion of such Fiscal Year, setting forth in each case in comparative form the figures for the corresponding Fiscal Quarter and the corresponding portion of the Borrower's previous Fiscal Year;

(c) concurrently with the delivery of the financial statements referred to in subsections (a) and (b) of this Section, a Compliance Certificate signed by the principal executive officer or the principal financial officer of the Borrower (i) certifying that such financial statements fairly present the financial condition, results of operations, shareholders' equity and cash flows of the Borrower and its Subsidiaries on a consolidated basis in accordance with GAAP, in the case of quarterly financial statements subject only to normal year-end audit adjustments and the absence of footnotes, (ii) certifying as to whether there exists a Default or Event of Default on the date of such certificate and, if a Default or an Event of Default then exists, specifying the details thereof and the action which the Borrower has taken or proposes to take with respect thereto, (iii) setting forth in reasonable detail calculations demonstrating compliance with the financial covenants set forth in Article VI (beginning with the Fiscal Quarter ended September 30, 2019), (iv) specifying any change in the identity of the Borrower or any of its Subsidiaries as of the end of such Fiscal Year or Fiscal Quarter from the Borrower or any of its Subsidiaries identified to the Lenders on the Closing Date or as of the most recent Fiscal Year or Fiscal Quarter, as the case may be, (v) stating whether any change in GAAP or the application thereof has occurred since the date of the mostly recently delivered audited financial statements of the Borrower and its Subsidiaries, and, if any change has occurred, specifying the effect of such change on the financial statements accompanying such Compliance Certificate, (vi) setting forth a list of all Subsidiaries of the Borrower (other than Excluded Subsidiaries and Specified Subsidiaries) that are not Subsidiary Loan Parties as of such date and setting forth in reasonable detail calculations of total assets of such Subsidiaries as of such date (and the percentage obtained by dividing such total assets by the total assets of the Borrower and its Subsidiaries (other than Excluded Subsidiaries) as of such date) and the total revenue of such Subsidiaries for the Test Period then ended (and the percentage obtained by dividing such total revenue by the total revenue of the Borrower and its Subsidiaries (other than Excluded Subsidiaries) for the Test Period then ended) and (vii) setting forth a list of all Excluded Subsidiaries as of such date and setting forth in reasonable detail calculations of (x) Indebtedness of such Excluded Subsidiaries incurred pursuant to Section 7.1(h) that remains outstanding as of such date, (y) the total amount of Investments made in Excluded Subsidiaries pursuant to Section 7.4(h) as of such date and (z) that portion of Consolidated EBITDA that is attributable to such Excluded Subsidiaries (and their respective Subsidiaries) with respect to the applicable Fiscal Year or Fiscal Quarter end;

(d) as soon as available and in any event within 60 days after the end of the calendar year, a budget for the succeeding Fiscal Year, containing an income statement, balance sheet and statement of cash flow;

(e) promptly after the same become publicly available, copies of all periodic and other reports, proxy statements and other materials filed with the Securities and Exchange Commission, or any Governmental Authority succeeding to any or all functions of said Commission, or with any national securities exchange, or distributed by the Borrower to its shareholders generally, as the case may be; and

(f) promptly following any request therefor, such other information regarding the results of operations, business affairs and financial condition of the Borrower or any of its Subsidiaries (including information and documentation for purposes of compliance with applicable "know your customer" and anti-money-laundering rules and regulations, including, without limitation, the Patriot Act and the Beneficial Ownership Regulation) as the Administrative Agent may reasonably request (provided that no such information shall be required to be provided if providing such information would violate confidentiality agreements or result in a loss of attorney-client privilege or a claim of attorney work product with respect to such information so long as the Borrower notifies the Administrative Agent that such information is being withheld and the reason therefor).

So long as the Borrower is required to file periodic reports under Section 13(a) or Section 15(d) of the Exchange Act, the Borrower shall be deemed to have satisfied its obligation to deliver the financial statements referred to in clauses (a), (b) and (e) upon the filing of such reports with the Securities and Exchange Commission.

Section 5.2. Notices of Material Events. The Borrower will furnish to the Administrative Agent (for distribution to each Lender) prompt written notice of the following:

(a) the occurrence of any Default or Event of Default;

(b) the filing or commencement of, or any material development in, any action, suit, proceeding, audit, claim, demand, order or dispute with, by or before any arbitrator or Governmental Authority against or, to the knowledge of the Borrower, affecting the Borrower or any of its Subsidiaries that (i) seeks injunctive or similar relief, (ii) alleges potential or actual violations of any Health Care Law by the Borrower or any of its Subsidiaries or any of its Licensed Personnel and (iii) would, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect;

(c) the occurrence of any event or any other development by which the Borrower or any of its Subsidiaries (i) fails to comply with any Environmental Law or to obtain, maintain or comply with any permit, license or other approval required under any Environmental Law, (ii) becomes subject to any Environmental Liability, (iii) receives notice of any claim with respect to any Environmental Liability, or (iv) becomes aware of any basis for any Environmental Liability, in each case which, either individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect;

(d) promptly and in any event within 15 days after (i) the Borrower, any of its Subsidiaries or any ERISA Affiliate knows or has reason to know that any ERISA Event has occurred, a certificate of the chief financial officer of the Borrower describing such ERISA Event and the action, if any, proposed to be taken with respect to such ERISA Event and a copy of any notice filed with the PBGC or the IRS pertaining to such ERISA Event and any notices received by the Borrower, such Subsidiary or such ERISA Affiliate from the PBGC or any other governmental agency with respect thereto, and (ii) becoming aware (1) that there has been a material increase in Unfunded Pension Liabilities (not taking into account Plans with negative Unfunded Pension Liabilities) since the date the representations hereunder are given or deemed given, or from any prior notice, as applicable, (2) of the existence of any material Withdrawal Liability, (3) of the adoption of, or the commencement of contributions to, any Plan subject to Section 412 of the Code by the Borrower, any of its Subsidiaries or any ERISA Affiliate, or (4) of the adoption of any amendment to a Plan subject to Section 412 of the Code which results in a material increase in contribution obligations of the Borrower, any of its Subsidiaries or any ERISA Affiliate, a detailed written description thereof from the chief financial officer of the Borrower;

(e) the occurrence of any event of default, or the receipt by the Borrower or any of its Subsidiaries of any written notice of an alleged event of default, with respect to any Material Indebtedness of the Borrower or any of its Subsidiaries;

(f) any termination, expiration or loss of any Material Agreement that, individually or in the aggregate, could reasonably be expected to result in a reduction in Consolidated EBITDA of 10% or more on a consolidated basis from the prior Fiscal Year; and

(g) any other development that results in, or could reasonably be expected to result in, a Material Adverse Effect.

The Borrower will furnish to the Administrative Agent and each Lender the following:

(x) notice of any change (i) in any Loan Party's legal name (but, for the avoidance of doubt, excluding any trade names), (ii) in any Loan Party's chief executive office, (iii) in any Loan Party's organizational existence or (iv) in any Loan Party's federal taxpayer identification number or organizational number or jurisdiction of organization, in each case, prior to or concurrently with such change; and

(y) promptly and in any event no later than three (3) Business Days after any Responsible Officer of the Borrower or any of its Subsidiaries has actual knowledge of:

(i) the voluntary disclosure by the Borrower or any of its Subsidiaries to the Office of the Inspector General of the United States Department of Health and Human Services, or any Third Party Payor Program (including to any intermediary, carrier or contractor of such Program), of an actual overpayment matter involving the submission of claims to a Third Party Payor in an amount greater than $1,000,000;

(ii) that the Borrower or any of its Subsidiaries, or an owner, officer, manager, employee or Person with a "direct or indirect ownership interest" (as that phrase is defined in 42 C.F.R. §420.201) in the Borrower or any of its Subsidiaries, (i) has had a civil monetary penalty assessed against him or her pursuant to 42 U.S.C. §1320a-7a or is the subject of a proceeding seeking to assess such penalty; (ii) has been excluded from participation in a Federal Health Care Program (as that term is defined in 42 U.S.C. §1320a-7b) or is the subject of a proceeding seeking to assess such penalty; (iii) has been convicted (as that term is defined in 42 C.F.R. §1001.2) of any of those offenses described in 42 U.S.C. §1320a-7b or 18 U.S.C. §§669, 1035, 1347, 1518 or is the subject of a proceeding seeking to assess such penalty; or (iv) has been involved or named in a U.S. Attorney complaint made or any other action taken pursuant to the False Claims Act under 31 U.S.C. §§3729-3731 or in any qui tam action brought pursuant to 31 U.S.C. §3729 et seq.;

(iii) any claim to recover any alleged overpayments (other than any such claim made against the Borrower or any of its Subsidiaries that relates to a period during which the Borrower or such Subsidiary did not operate the respective facility) with respect to any receivables in excess of $500,000;

(iv) notice of any final and documented material reduction in the level of reimbursement expected to be received with respect to receivables;

(v) any allegations of licensure violations or fraudulent acts or omissions involving the Borrower or any of its Subsidiaries, or, to the knowledge of the Borrower or any of its Subsidiaries, any Licensed Personnel that would, in the aggregate, have a Material Adverse Effect;

(vi) the pending or threatened imposition of any material fine or penalty by any Governmental Authority under any Health Care Law against the Borrower or any of its Subsidiaries, or, to the knowledge of the Borrower or any of its Subsidiaries, any Licensed Personnel;

(vii) any changes in any Health Care Law (including the adoption of a new Health Care Law) known to the Borrower or any of its Subsidiaries that would, in the aggregate, have a Material Adverse Effect;

(viii) any pending or threatened (in writing) revocation, suspension, termination, probation, restriction, limitation, denial, or non-renewal with respect to any Health Care Permit or Third Party Payor Authorization;

(ix) any non-routine and material inspection of any facility of the Borrower or any of its Subsidiaries by any Governmental Authority; and

(x) without duplication, any failure of the Borrower or any of its Subsidiaries to comply with the covenants and conditions of Section 5.15.

Each notice or other document delivered under this Section shall be accompanied by a written statement of a Responsible Officer setting forth the details of the event or development requiring such notice or other document and any action taken or proposed to be taken with respect thereto.

Section 5.3. Existence; Conduct of Business. The Borrower will, and will cause each of its Subsidiaries to, do or cause to be done all things necessary to (i) maintain in full force and effect its legal existence and (ii) preserve, renew and maintain its respective rights, licenses, permits, privileges, franchises, patents, copyrights, trademarks and trade names material to the conduct of its business (except, in the case of this clause (ii), as would not reasonably be expected to result in a Material Adverse Effect); provided that nothing in this Section shall prohibit any merger, consolidation, liquidation or dissolution permitted under Section 7.3.

Section 5.4. Compliance with Laws. The Borrower will, and will cause each of its Subsidiaries to, comply with all laws, rules, regulations and requirements of any Governmental Authority applicable to its business and properties, including, without limitation, all Environmental Laws, ERISA and OSHA, except where the failure to do so, either individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect. The Borrower will, and will cause each of its Subsidiaries to, comply with all applicable Sanctions and in all material respects with the laws, rules, regulations and requirements referenced in Sections 4.20, 4.21, and 4.22.

Section 5.5. Payment of Obligations. The Borrower will, and will cause each of its Subsidiaries to, pay and discharge at or before maturity all of its obligations and liabilities (including, without limitation, all taxes, assessments and other governmental charges, levies and all other claims that could result in a statutory Lien) before the same shall become delinquent or in default, except where (a) the validity or amount thereof is being contested in good faith by appropriate proceedings and the Borrower or such Subsidiary has set aside on its books adequate reserves with respect thereto in accordance with GAAP or (b) the failure to make any such payment could not reasonably be expected to result in a Material Adverse Effect.

Section 5.6. Books and Records. The Borrower will, and will cause each of its Subsidiaries to, keep proper books of record and account in which full, true and correct entries shall be made of all dealings and transactions in relation to its business and activities to the extent necessary to prepare the consolidated financial statements of the Borrower in conformity with GAAP.

Section 5.7. Visitation and Inspection. The Borrower will, and will cause each of its Subsidiaries to, permit any representative of the Administrative Agent or any Lender to visit and inspect its properties, to examine its books and records and to make copies and take extracts therefrom, and to discuss its affairs, finances and accounts with any of its officers and with its independent certified public accountants, all at such reasonable times as the Administrative Agent or any Lender may reasonably request after reasonable prior notice to the Borrower; provided that (a) so long as no Event of Default shall have occurred and be continuing, the Administrative Agent and the Lenders shall not make more than one (1) such visit and inspection in any Fiscal Year; (b) if an Event of Default has occurred and is continuing, no prior notice shall be required and the limitation on the number of visits and inspections shall no longer apply; (c) any such inspection and examination, copies and discussions shall not be permitted to the extent it would violate confidentiality agreements or result in a loss of attorney-client privilege or claim of attorney work product so long as the Borrower notifies the Administrative Agent of such limitation and the reason therefor; and (d) any such inspection and examination, copies and discussions shall be subject to the terms of any applicable Master Lease and the accompanying Collateral Access Agreement.

Section 5.8. Maintenance of Properties; Insurance. The Borrower will, and will cause each of its Subsidiaries to, (a) keep and maintain all property material to the conduct of its business in good working order and condition, ordinary wear and tear, force majeure, casualty and condemnation events excepted, (b) maintain with financially sound and reputable insurance companies, or with Affiliates of the Borrower (as permitted in Section 4.11(c)(ii)), (i) insurance with respect to its properties and business, and the properties and business of its Subsidiaries, against loss or damage of the kinds customarily insured against by companies in the same or similar businesses operating in the same or similar locations (including, in any event, flood insurance as described in the definition of Real Estate Documents for any Mortgaged Property) and (ii) all insurance required to be maintained pursuant to the Collateral Documents, and will, upon request of the Administrative Agent, furnish to each Lender a certificate of a Responsible Officer setting forth the nature and extent of all insurance maintained by the Borrower and its Subsidiaries in accordance with this Section, and (c) at all times shall name the Administrative Agent as additional insured on all liability policies of the Borrower and the other Loan Parties and as loss payee (pursuant to a loss payee endorsement approved by the Administrative Agent) on all casualty and property insurance policies of the Borrower and the other Loan Parties; provided that, so long as no Event of Default shall have occurred and be continuing, the Administrative Agent shall not make more than two requests for a certificate pursuant to clause (b)(ii) of this Section in any Fiscal Year; provided, further, that if an Event of Default has occurred and is continuing, the limitation on the number of requests for such a certificate shall no longer apply.

Section 5.9. Use of Proceeds; Margin Regulations. The Borrower (i) will use the proceeds of the initial Borrowing(s) on the Closing Date to pay transaction costs and expenses arising in connection with this Agreement and the Related Transactions and for working capital and other general corporate purposes, and (ii) after the Closing Date, will use the proceeds of the Revolving Loans and the Swingline Loans for working capital, capital expenditures, dividends, distributions and Permitted Acquisitions not prohibited by this Agreement, for other general corporate purposes of the Borrower and its Subsidiaries and for any other purpose not prohibited by this Agreement. The Borrower will use the proceeds of any Incremental Term Loans or Other Refinancing Term Loans for the purposes set forth in the applicable Incremental Commitment Joinder or Refinancing Amendment. No part of the proceeds of any Loan will be used, whether directly or indirectly, for any purpose that would violate any rule or regulation of the Board of Governors of the Federal Reserve System, including Regulation T, Regulation U or Regulation X. All Letters of Credit will be used for general corporate purposes.

Section 5.10. [Reserved].

Section 5.11. Cash Management.

(a) The Borrower shall, and shall cause each Loan Party to, execute and deliver to the Administrative Agent, and thereafter maintain in effect, Control Account Agreements with respect to all deposit accounts and securities accounts (other than any (i) such accounts that are used solely to fund payroll and payroll taxes and other employee wage and benefit payments in the ordinary course of business on a current basis, (ii) escrow accounts (to the extent maintained exclusively by any Loan Party for the purpose of establishing or maintaining escrow amounts for third parties), (iii) trust accounts (to the extent maintained exclusively by any Loan Party for the purpose of establishing or maintaining trust amounts for third parties), (iv) such accounts not located in the United States or any of its states or territories, (v) zero-balance accounts for the purpose of managing local disbursements, payroll, withholding and other fiduciary accounts, (vi) Lender Accounts, (vii) such accounts (other than such

accounts referred to in the foregoing clauses (i) through (vi)) that have an average daily account balance of less than $500,000 individually and less than $1,000,000 in the aggregate for all such accounts, (viii) any deposit or securities account established by a Subsidiary of the Borrower, and into which amounts are deposited, in the ordinary course of business the balance of which is swept at the end of each Business Day into a Controlled Account or a Lender Account and (ix) Governmental Deposit Accounts) (each, a "Controlled Account"); each Controlled Account shall be a cash collateral account, with all cash, checks and other similar items of payment in such account securing payment of the Obligations, and in which the Borrower and each other Loan Party shall have granted a first priority Lien to the Administrative Agent, on behalf of the Secured Parties, pursuant to such Control Account Agreements.

(b) The Borrower shall, and shall cause each Loan Party to, execute and deliver to the Administrative Agent, and thereafter maintain in effect, a "sweep" agreement (each, a "Sweep Agreement") with respect to each Governmental Deposit Account pursuant to which the applicable depository bank will agree to sweep amounts deposited therein on a daily basis to a Controlled Account or a Lender Account as and when funds clear and become available in accordance with such depository bank's customary procedures, each with such financial institution and each in form and substance reasonably acceptable to the Administrative Agent; no Loan Party will change any sweep instruction set forth in such Sweep Agreement without the prior written consent of the Administrative Agent. The Administrative Agent agrees and confirms that the Loan Parties will have sole dominion and "control" (within the meaning of Section 9-104 of the UCC and the common law) over each Governmental Deposit Account and all funds therein and the Administrative Agent disclaims any right of any nature whatsoever to control or otherwise direct or make any claim against the funds held in any Governmental Deposit Account from time to time.

(c) The Borrower shall, and shall cause each Loan Party to, deposit promptly, and in any event no later than 10 Business Days after the date of receipt thereof, all cash, checks, drafts or other similar items of payment relating to or constituting payments made in respect of any and all accounts and other Collateral into Controlled Accounts, Lender Accounts or Governmental Deposit Accounts, in each case except for cash and Permitted Investments the aggregate value of which does not exceed $250,000 at any time.

(d) At any time after the occurrence and during the continuance of an Event of Default, at the request of the Required Lenders, the Borrower will, and will cause each other Loan Party to, cause all payments constituting proceeds of accounts or other Collateral to be directed into lockbox accounts under agreements in form and substance satisfactory to the Administrative Agent.

Section 5.12. Additional Subsidiaries and Collateral.

(a) In the event that, subsequent to the Closing Date, any Person becomes a Domestic Subsidiary that is a Material Subsidiary (excluding any Excluded Subsidiary, any Specified Subsidiary and any Subsidiary that is already a Guarantor) (a "Joining Guarantor"), whether pursuant to formation, acquisition or otherwise (including if any Domestic Subsidiary ceases to qualify as an Immaterial Subsidiary or is the subject of an Excluded Subsidiary Revocation) (x) the Borrower shall promptly notify the Administrative Agent and the Lenders thereof and of any Material Real Estate owned by such Joining Guarantor and (y) within 60 days (or such longer period as may be agreed to by the Administrative Agent in its sole discretion) after such Person becomes a Joining Guarantor, the Borrower shall cause such Joining Guarantor (A) to become a new Guarantor and to grant Liens in favor of the Administrative Agent in all of its personal property subject to the Guaranty and Security Agreement by executing and delivering to the Administrative Agent a supplement to the Guaranty and Security Agreement in form and substance reasonably satisfactory to the Administrative Agent, executing and delivering a Copyright Security Agreement, Patent Security Agreement and Trademark Security

Agreement, as and to the extent applicable, and authorizing and delivering, at the request of the Administrative Agent, such UCC financing statements or similar instruments required by the Administrative Agent to perfect the Liens in favor of the Administrative Agent and granted under any of the Loan Documents, (B) to deliver all such other documentation (including, without limitation, certified organizational documents, resolutions, lien searches and, if requested by the Administrative Agent, legal opinions, provided, that legal opinions shall only be required for a Joining Guarantor having a fair market value in excess of $25,000,000) and to take all such other actions as such Joining Guarantor would have been required to deliver and take pursuant to Section 3.1 if such Joining Guarantor had been a Loan Party on the Closing Date, (C) to comply with Section 5.11, and (D) to deliver Collateral Access Agreements with respect to leased Real Estate (to the extent the landlord of any such leased Real Estate is a PropCo Landlord, an Ensign Landlord or a landlord under a Material Master Lease), in each case, of the type required under Section 5.13, (ii) pledge, or cause the applicable Loan Party to pledge, all of the Capital Stock of such Joining Guarantor to the Administrative Agent as security for the Obligations by executing and delivering a supplement to the Guaranty and Security Agreement in form and substance reasonably satisfactory to the Administrative Agent, and (iii) deliver the original certificates (if any and to the extent not prohibited under applicable law) evidencing such pledged Capital Stock to the Administrative Agent, together with appropriate powers executed in blank. In addition, subject to Section 5.13(b), if a Mortgage Trigger Event has occurred prior to such Joining Guarantor becoming a Loan Party, within 60 days (or such longer period as may be agreed to by the Administrative Agent in its sole discretion) after such Joining Guarantor becomes a Loan Party, the Borrower shall cause such Joining Guarantor to execute and deliver to the Administrative Agent, with respect to all Material Real Estate owned by such Loan Party, such Real Estate Documents as the Administrative Agent shall require; provided that no owned Real Estate shall be taken as Collateral unless (i) the Administrative Agent and all Lenders have received at least 45 days advance written notice (which may be provided via email or via posting on any datasite to which the Lenders have access) thereof and (ii) each Lender has notified the Administrative Agent in writing (which notice may be provided via email) that such Lender has completed its flood insurance due diligence and compliance procedures.

(b) In the event that, subsequent to the Closing Date, any Person becomes a Foreign Subsidiary or a Subsidiary that is a Pass-Through Foreign Holdco (in each case, other any Excluded Subsidiary or Immaterial Subsidiary) that is directly owned by a Loan Party, whether pursuant to formation, acquisition or otherwise, (x) the Borrower shall promptly notify the Administrative Agent and the Lenders thereof and (y) within 60 days (or such longer period as may be agreed to by the Administrative Agent in its sole discretion) after such Person becomes a Foreign Subsidiary or a Pass-Through Foreign Holdco, as applicable, the Borrower shall, or shall cause the applicable Loan Parties to (i) pledge all of the Capital Stock of such Foreign Subsidiary or such Pass-Through Foreign Holdco to the Administrative Agent as security for the Obligations pursuant to the Guaranty and Security Agreement; provided that, in the case of any such Foreign Subsidiary that is a CFC and any such Pass-Through Foreign Holdco, such pledge shall be limited to 65% of the issued and outstanding voting Capital Stock and 100% of the issued and outstanding non-voting Capital Stock of such Foreign Subsidiary or such Pass-Through Foreign Holdco, as applicable, (ii) deliver the original certificates (if any and to the extent not prohibited under applicable law) evidencing such pledged Capital Stock to the Administrative Agent, together with appropriate powers executed in blank and (iii) deliver all such other documentation (including, without limitation, certified organizational documents, resolutions, lien searches and, if requested by the Administrative Agent, legal opinions) and to take all such other actions as the Administrative Agent may reasonably request.

(c) The Borrower agrees that, following the delivery of any Collateral Documents required to be executed and delivered by this Section, the Administrative Agent shall have a valid and enforceable, first priority perfected Lien on the property required to be pledged pursuant to subsections (a) or (b) of this Section (to the extent that such Lien can be perfected by execution, delivery and/or

recording of the Collateral Documents or UCC financing statements, or possession of such Collateral), free and clear of all Liens other than Liens expressly permitted by Section 7.2. All actions to be taken pursuant to this Section shall be at the expense of the Borrower or the applicable Loan Party, and shall be taken to the reasonable satisfaction of the Administrative Agent.

Section 5.13. Mortgages; Collateral Access Agreements.

(a) If a Mortgage Trigger Event occurs, (i) the Borrower shall promptly notify the Administrative Agent of such Mortgage Trigger Event, and (ii) each Loan Party shall execute and deliver or cause to be executed and delivered to the Administrative Agent, within sixty (60) days after the Mortgage Trigger Event occurring (or such later date to which the Administrative Agent may agree in its sole discretion), with respect to all Material Real Estate owned by such Loan Party such Real Estate Documents as the Administrative Agent shall require; provided that no owned Real Estate shall be taken as Collateral unless (i) the Administrative Agent and all Lenders have received at least 45 days advance written notice (which may be provided via email or via posting on any datasite to which the Lenders have access) thereof and (ii) each Lender has notified (which notice may be provided via email) the Administrative Agent that such Lender has completed its flood insurance due diligence and compliance procedures.

(b) To the extent that the Borrower demonstrates to the Administrative Agent, by delivery of a certificate of a Responsible Officer of the Borrower that a Mortgage Release Event has occurred, then the Administrative Agent shall promptly release any Mortgages (at the expense of the Borrower and without recourse or warranty to the Secured Parties) on Mortgaged Properties.

(c) To the extent otherwise permitted hereunder, if any Loan Party proposes to lease any Real Estate from a PropCo Landlord or an Ensign Landlord under a Master Lease or any landlord that is party to a Material Master Lease, it shall first provide to the Administrative Agent a copy of such lease (if the Administrative Agent has not previously received a copy of such lease) and a Collateral Access Agreement from the landlord of such leased property; provided that with regard to landlords other than PropCo Landlords and the Ensign Landlords, no such Collateral Access Agreement shall be required if the Borrower is unable to obtain such Collateral Access Agreement following use of commercially reasonable efforts to do so.

Section 5.14. Further Assurances. The Borrower will, and will cause each other Loan Party to, execute any and all further documents, financing statements, agreements and instruments, and take all such further actions (including the filing and recording of financing statements, fixture filings, Mortgages and other documents), which may be required under any applicable law, or which the Administrative Agent or the Required Lenders may reasonably request, to effectuate the transactions contemplated by the Loan Documents or to grant, preserve, protect or perfect the Liens created by the Collateral Documents or the validity or priority of any such Lien, all at the expense of the Loan Parties; provided that no owned Real Estate shall be taken as Collateral unless (i) the Administrative Agent and all Lenders have received at least 45 days advance written notice (which may be provided via email or via posting on any datasite to which the Lenders have access) thereof and (ii) each Lender has notified (which notice may be provided via email) the Administrative Agent that such Lender has completed its flood insurance due diligence and compliance procedures. The Borrower also agrees to provide to the Administrative Agent, from time to time upon reasonable request, evidence reasonably satisfactory to the Administrative Agent as to the perfection and priority of the Liens created or intended to be created by the Collateral Documents.

Section 5.15. Health Care Matters.

(a) Without limiting or qualifying Section 5.4, or any other provision of this Agreement, the Borrower and each of its Subsidiaries will be in material compliance with all applicable Health Care Laws relating to the operation of such Person's business.

(b) Each of the Borrower and its Subsidiaries shall:

(i) obtain, maintain and preserve, and cause each of its Subsidiaries to obtain, maintain and preserve, and take all necessary action to timely renew, all material Health Care Permits (including, as applicable, Health Care Permits necessary for it to be eligible to receive payment and compensation from and to participate in Medicare, Medicaid or any other Third Party Payor programs) which are necessary or useful in the proper conduct of its business;

(ii) be and remain in material compliance with all requirements for participation in, and for licensure required to provide the goods or services that are reimbursable under, Medicare, Medicaid and other Third Party Payor Programs;

(iii) cause all Licensed Personnel to be in material compliance with all applicable Health Care Laws in the performance of their duties to or for the Borrower and its Subsidiaries, and to maintain in full force and effect all professional licenses and other Health Care Permits required to perform such duties; and

(iv) keep and maintain all records required to be maintained by any Governmental Authority or otherwise under any Health Care Law.

(c) The Borrower and each of its Subsidiaries shall maintain a corporate and health care regulatory compliance program ("CCP") which addresses the requirements of Health Care Laws, including, without limitation, HIPAA and includes at least the following components and allows the Administrative Agent (and/or its consultants) from time to time to review such CCP: (i) standards of conduct and procedures that describe compliance policies regarding laws with an emphasis on prevention of fraud and abuse; (ii) a specific officer within high-level personnel identified as having overall responsibility for compliance with such standards and procedures; (iii) training and education programs which effectively communicate the compliance standards and procedures to employees and agents, including, without limitation, fraud and abuse laws and illegal billing practices; (iv) auditing and monitoring systems and reasonable steps for achieving compliance with such standards and procedures, including, without limitation, publicizing a report system to allow employees and other agents to anonymously report criminal or suspect conduct and potential compliance problems; (v) disciplinary guidelines and consistent enforcement of compliance policies, including, without limitation, discipline of individuals responsible for the failure to detect violations of the CCP; and (vi) mechanisms to immediately respond to detected violations of the CCP. The Borrower and its Subsidiaries shall modify such CCPs from time to time, as may be necessary to ensure continuing compliance with all applicable Health Care Laws. Upon request, the Administrative Agent (and/or its consultants) shall be permitted to review such CCPs.

Section 5.16. Post-Closing Matters. The Borrower will, and will cause each other Loan Party to, satisfy the requirements set forth on Schedule 5.16 on or before the date specified for such requirement or such later date as agreed to by the Administrative Agent in its sole discretion.

Section 5.17. [Reserved].

Section 5.18. Limitations on Designation of Excluded Subsidiaries.

(a) The Borrower may, on or after the Closing Date, designate any Subsidiary of the Borrower as an "Excluded Subsidiary" under this Agreement (an "Excluded Subsidiary Designation") only if:

(i) no Default or Event of Default shall have occurred and be continuing at the time of or immediately after giving effect to such Excluded Subsidiary Designation;

(ii) the Borrower would be permitted under this Agreement to make an Investment at the time of such Excluded Subsidiary Designation (assuming the effectiveness of such Excluded Subsidiary Designation) in an amount (the "Excluded Subsidiary Designation Amount") equal to the sum of the book value (or, in the case of cash, the amount of cash invested) (without duplication) of Investments held by the Borrower or other Loan Parties in such Subsidiary determined net of any payments received with respect to such Investment from the date that such Investment was made through the date of such Excluded Subsidiary Designation (to be determined without duplication of other Investments permitted under Section 7.4);

(iii) after giving effect to such Excluded Subsidiary Designation and any Acquisition or Disposition permitted by this Agreement consummated since the most recently ended Test Period, the Borrower shall be in compliance on a Pro Forma Basis with the covenants set forth in Article VI as of the end of the most recently ended Test Period as if such Excluded Subsidiary Designation had occurred, and any Indebtedness incurred in connection therewith was incurred, on the first day of such Test Period;

(iv) substantially concurrent with such Excluded Subsidiary Designation, either (x) such Subsidiary incurs or assumes Indebtedness that is permitted pursuant to Section 7.1(h) that is secured by Liens that are permitted pursuant to Section 7.2(f), (y) such Subsidiary enters into a lease with respect to Real Estate to be operated or otherwise used by such Subsidiary, which lease requires such Subsidiary to grant a first priority Lien in favor of such landlord on such Subsidiary's accounts receivable and/or the Capital Stock of such Subsidiary or otherwise prohibits such Subsidiary from granting a first priority Lien in favor of the Administrative Agent on such Subsidiary's accounts receivable and/or the Capital Stock of such Subsidiary (or results in a lease default if such Lien is granted), provided, that the Borrower shall not be required to designate such Subsidiary as an Excluded Subsidiary to the extent such Subsidiary is a Subsidiary Loan Party and the Liens and security interests in favor of the landlord on the assets of such Subsidiary Loan Party are permitted pursuant to, and subject to an intercreditor agreement contemplated by, Section 7.2(i) or (z) with respect to a lease that was previously entered into by such Subsidiary with respect to Real Estate to be operated or otherwise used by such Subsidiary and in connection with such lease the landlord under such lease was granted a Lien on and security interest in the assets of such Subsidiary that were permitted immediately prior to such Excluded Subsidiary Designation pursuant to, and subject to an intercreditor agreement contemplated by, Section 7.2(i), the date occurs that is 75 days prior to the date provided in the applicable intercreditor agreement whereupon any of the Liens on and security interests in favor of such landlord on the assets of such Subsidiary will cease to have the relative lien priority necessary for such Liens and security interests to be permitted pursuant to Section 7.2(i); and

(v) such Subsidiary is not (A) except in the case of a tenant that is required to grant a Lien on its assets to secure Indebtedness of the applicable Ensign Landlord, a tenant under any Ensign Master Lease or (B) a tenant under any PropCo Master.

(b) Upon any such Excluded Subsidiary Designation after the Closing Date, the Borrower and its Subsidiaries shall be deemed to have made an Investment in such Excluded Subsidiary in an amount equal to the Excluded Subsidiary Designation Amount.

(c) Borrower may revoke any Excluded Subsidiary Designation of a Subsidiary as an Excluded Subsidiary (an "Excluded Subsidiary Revocation"), whereupon such Subsidiary shall cease to be an Excluded Subsidiary, if:

(i) no Default or Event of Default shall have occurred and be continuing at the time and immediately after giving effect to such Excluded Subsidiary Revocation;

(ii) all Liens and Indebtedness of such Excluded Subsidiary and its Subsidiaries outstanding immediately following such Excluded Subsidiary Revocation would, if incurred at the time of such Excluded Subsidiary Revocation, have been permitted to be incurred for all purposes of this Agreement; and

(iii) such Subsidiary (and any other applicable Loan Party) executes and delivers the documents and takes the actions described in Section 5.12(a) as if such Subsidiary was a Joining Guarantor.

(d) All Excluded Subsidiary Designations and Excluded Subsidiary Revocations occurring after the Closing Date must be evidenced by a certificate of a Responsible Officer of the Borrower delivered to the Administrative Agent certifying compliance with the foregoing provisions of this Section 5.18(a) (in the case of any such Excluded Subsidiary Designations) and of Section 5.18(c) (in the case of any such Excluded Subsidiary Revocations).

(e) If the Borrower designates a Guarantor as an Excluded Subsidiary in accordance with this Section 5.18, the Obligations of such Guarantor under the Loan Documents shall terminate and be of no further force and effect and all Liens granted by such Guarantor under the applicable Collateral Documents shall terminate and be released and be of no further force and effect, and all Liens on the Capital Stock and debt obligations of such Guarantor shall be terminated and released and of no further force and effect, in each case, without any action required by the Administrative Agent. At the Borrower's request, the Administrative Agent will execute and deliver any instrument evidencing such termination and the Administrative Agent shall take all actions appropriate in order to effect such termination and release of such Liens and without recourse or warranty by the Administrative Agent (including the execution and delivery of appropriate UCC termination statements and such other instruments and releases as may be necessary and appropriate to effect such release). Any such foregoing actions taken by the Administrative Agent shall be at the sole cost and expense of the Borrower.

Section 5.19. Anti-Corruption Laws; Sanctions. The Borrower will comply and conduct its, and cause its Subsidiaries to comply and conduct their, business in compliance in all material respects with the Anti-Corruption Laws and all applicable Sanctions and institute and maintain policies and procedures designed to promote and achieve compliance by the Borrower and its Subsidiaries and their respective directors, officers, employees, agents and Affiliates with such Anti-Corruption Laws and Sanctions.

ARTICLE VI

FINANCIAL COVENANTS

The Borrower covenants and agrees that so long as any Lender has a Commitment hereunder or any Obligation remains unpaid or outstanding:

Section 6.1. Leverage Ratio. The Borrower will maintain, as of the end of each Test Period, commencing with the Test Period ended on September 30, 2019, a Leverage Ratio of not greater than 2.50:1.00 (the "Maximum Leverage Threshold"); provided that if the aggregate consideration paid in connection with all Permitted Acquisitions or other Acquisitions permitted hereunder consummated during any six (6) consecutive month period exceeds $20,000,000, then, at the election of the Borrower by written notice to the Administrative Agent (with a description in reasonable detail of the Permitted Acquisitions or other Acquisitions permitted hereunder consummated during such period and the consideration paid), the Maximum Leverage Threshold shall be increased to 3.00:1.00 for the current Fiscal Quarter and the immediately following three Fiscal Quarters; provided, further, that the Maximum Leverage Threshold shall not be increased pursuant to the preceding proviso (i) more than four times (or with respect to more than twelve Fiscal Quarters) during the term of this Agreement and (ii) unless in the most recently ended four consecutive Fiscal Quarter period there shall be at least one Fiscal Quarter in respect of which the Maximum Leverage Threshold has not been increased.

Section 6.2. Interest/Rent Coverage Ratio. The Borrower will maintain, as of the end of each Test Period, commencing with the Test Period ended on September 30, 2019, an Interest/Rent Coverage Ratio of not less than the Interest/Rent Coverage Ratio set forth below for such Test Period:

Test Period Ending	Interest/Rent Coverage Ratio
September 30, 2019	1.25:1.00
December 31, 2019	1.25:1.00
March 31, 2020	1.25:1.00
June 30, 2020	1.25:1.00
September 30, 2020	1.25:1.00
December 31, 2020	1.25:1.00
March 31, 2021	1.25:1.00
June 30, 2021	1.25:1.00
September 30, 2021	1.25:1.00
December 31, 2021 and thereafter	1.50:1.00

ARTICLE VII

NEGATIVE COVENANTS

The Borrower covenants and agrees that until Payment in Full of the Obligations:

Section 7.1. Indebtedness and Preferred Equity. The Borrower will not, and will not permit any of its Subsidiaries to, create, incur, assume or suffer to exist any Indebtedness, except:

(a) Indebtedness created pursuant to the Loan Documents;

(b) Indebtedness of the Borrower and its Subsidiaries existing on the date hereof and set forth on Schedule 7.1 and extensions, renewals and replacements of any such Indebtedness that do not increase the outstanding principal amount thereof (immediately prior to giving effect to such extension, renewal or replacement) or shorten the maturity or the weighted average life thereof;

(c) Indebtedness of the Borrower or any of its Subsidiaries incurred to finance the acquisition, construction or improvement of any fixed or capital assets, including Capital Lease Obligations (it being understood that the completion of the construction or development of additional beds at existing facilities or new facilities shall constitute the acquisition of property), and any Indebtedness assumed in connection with the acquisition of any such assets or secured by a Lien on any such assets (provided that such Indebtedness is incurred prior to or within 90 days after such acquisition or the completion of such construction or improvements), and extensions, renewals, refinancings or replacements of any such Indebtedness that do not increase the outstanding principal amount thereof (immediately prior to giving effect to such extension, renewal, refinancing or replacement, other than in an amount not to exceed unpaid interest and fees and expenses incurred in connection therewith) or shorten the maturity or the weighted average life thereof; provided that the aggregate principal amount of such Indebtedness at any time outstanding does not exceed the greater of $5,000,000 and, if the Lease-Adjusted Leverage Ratio (calculated on a pro forma basis giving effect to the incurrence of such Indebtedness) is less than or equal to 5.00:1.00 at the time of incurrence thereof, 25.0% of Consolidated EBITDA for the most recently ended Test Period; provided, further, that the aggregate principal amount of Capital Lease Obligations that are permitted under subsection (j) of this Section shall not be included in calculating the aggregate principal amount of Indebtedness for purposes of the limitation set forth in this subsection;

(d) Indebtedness of the Borrower owing to any Subsidiary and of any Subsidiary owing to the Borrower or any other Subsidiary; provided that any such Indebtedness that is owed by a Subsidiary that is not a Subsidiary Loan Party shall be subject to Section 7.4;

(e) Guarantees by the Borrower of Indebtedness of any Subsidiary and by any Subsidiary of Indebtedness of the Borrower or any other Subsidiary; provided that Guarantees by any Loan Party of Indebtedness of any Subsidiary that is not a Subsidiary Loan Party shall be subject to Section 7.4; provided, further, that the Borrower may Guarantee on an unsecured basis all Indebtedness permitted under Section 7.1(h);

(f) Indebtedness of any Person which becomes a Subsidiary (other than an Excluded Subsidiary) after the date of this Agreement and Indebtedness secured by assets acquired by the Borrower or any of its Subsidiaries (other than an Excluded Subsidiary) after the date of this Agreement; provided that in each case (i) such Indebtedness exists at the time that such Person becomes a Subsidiary or such asset is acquired and is not created in contemplation of or in connection with such Person becoming a Subsidiary or such asset being acquired, and (ii) the aggregate principal amount of all such Indebtedness permitted hereunder at any time outstanding shall not exceed the greater of $5,000,000 and, if the Lease-Adjusted Leverage Ratio (calculated on a pro forma basis giving effect to the incurrence of such Indebtedness) is less than or equal to 5.00:1.00 at the time of incurrence thereof, 25.0% of Consolidated EBITDA for the most recently ended Test Period;

(g) Hedging Obligations permitted by Section 7.10;

(h) Indebtedness of an Excluded Subsidiary secured by Liens permitted by Section 7.2(f) in an aggregate principal amount, when taken together with the aggregate amount of Investments in any Excluded Subsidiaries made pursuant to Section 7.4(h) that remain outstanding at such time (other than any portion of such Investment made in reliance on the Available Amount), for all such Indebtedness not to exceed at any time outstanding the greater of (x) $50,000,000 and (y) an amount equal to (I) Consolidated EBITDA for the most recently ended Test Period multiplied by (II) two; provided that, at the time of and immediately after giving effect to the incurrence or assumption of any such Indebtedness, (A) no Default or Event of Default shall exist and (B) the Borrower and its Subsidiaries shall be in *pro forma* compliance with Sections 6.1 and 6.2 as of the most recently ended Test Period, calculated as if all such Indebtedness had been incurred as of the first day of the relevant period for testing compliance;

(i) other unsecured Indebtedness of the Borrower or its Subsidiaries; provided that, at the time of and immediately after giving effect to any such Indebtedness, (A) no Default or Event of Default shall exist and (B) the Borrower and its Subsidiaries shall be in *pro forma* compliance with Sections 6.1 and 6.2 as of the most recently ended Test Period, calculated as if all such Indebtedness had been incurred as of the first day of the relevant period for testing compliance;

(j) Capital Lease Obligations incurred in connection with any Permitted Acquisition structured as a capital lease;

(k) unsecured Indebtedness of a Subsidiary Loan Party owing to its landlord or Affiliates of such landlord under a lease of Real Estate for loans advanced by such landlord or its Affiliates for the purpose of funding capital expenditures with respect to healthcare facilities located on such Real Estate, provided that the aggregate amount of Indebtedness at any time outstanding pursuant to this Section 7.1(k) shall not exceed the greater of $5,000,000 and, if the Lease-Adjusted Leverage Ratio (calculated on a pro forma basis giving effect to the incurrence of such Indebtedness) is less than or equal to 5.00:1.00 at the time of incurrence thereof, 25.0% of Consolidated EBITDA for the most recently ended Test Period;

(l) Indebtedness in respect of workers' compensation claims, self-insurance obligations, performance bonds, surety appeal or similar bonds, completion guarantees and letters of credit arising in the ordinary course of its business;

(m) Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument drawn against insufficient funds in the ordinary course of business; *provided*, *however*, that such Indebtedness is extinguished within five (5) Business Days of its incurrence;

(n) Indebtedness arising in connection with endorsement of instruments for deposit in the ordinary course of business;

(o) Indebtedness consisting of the financing of insurance premiums in the ordinary course of business; and

(p) other Indebtedness of the Borrower or its Subsidiaries in an aggregate principal amount at any time outstanding not to exceed the greater of $1,500,000 and, if the Lease-Adjusted Leverage Ratio (calculated on a pro forma basis giving effect to the incurrence of such Indebtedness) is less than or equal to 5.00:1.00 at the time of incurrence thereof, 10.0% of Consolidated EBITDA for the most recently ended Test Period.

The Borrower will not, and will not permit any Subsidiary to, issue any preferred stock or other preferred equity interest that (i) matures or is mandatorily redeemable pursuant to a sinking fund obligation or otherwise, (ii) is or may become redeemable or repurchaseable by the Borrower or such Subsidiary at the option of the holder thereof, in whole or in part, or (iii) is convertible or exchangeable at the option of the holder thereof for Indebtedness or preferred stock or any other preferred equity interest described in this paragraph, on or prior to, in the case of clause (i), (ii) or (iii), the date that is 180 days after the later of the Revolving Commitment Termination Date and the then latest Maturity Date.

Section 7.2. Liens. The Borrower will not, and will not permit any of its Subsidiaries to, create, incur, assume or suffer to exist any Lien on any of its assets or property now owned or hereafter acquired, except:

(a) Liens securing the Obligations; provided that no Liens may secure Hedging Obligations or Bank Product Obligations without securing all other Obligations on a basis at least *pari passu* with such Hedging Obligations or Bank Product Obligations and subject to the priority of payments set forth in Section 2.21 and Section 8.2;

(b) Permitted Encumbrances;

(c) Liens on any property or asset of the Borrower or any of its Subsidiaries existing on the date hereof and set forth on Schedule 7.2; provided that such Liens shall not apply to any other property or asset of the Borrower or any Subsidiary;

(d) purchase money Liens upon or in any fixed or capital assets to secure the purchase price or the cost of construction or improvement of such fixed or capital assets or to secure Indebtedness incurred solely for the purpose of financing the acquisition, construction or improvement of such fixed or capital assets (including Liens securing any Capital Lease Obligations); provided that (i) any such Lien secures Indebtedness permitted by Section 7.1(c), (ii) any such Lien attaches to such asset concurrently or within 90 days after the acquisition or the completion of the construction or improvements thereof (or, in the case of an extension, refinancing, replacement or renewal, at the time of such extension, refinancing, replacement or renewal), (iii) any such Lien does not extend to any other asset other than accessions and reasonable extensions thereof, and (iv) the Indebtedness secured thereby does not exceed the cost (including interest costs) of acquiring, constructing or improving such fixed or capital assets;

(e) any Lien (x) existing on any asset of any Person at the time such Person becomes a Subsidiary of the Borrower, (y) existing on any asset of any Person (other than any Subsidiary of the Borrower) at the time such Person is merged with or into the Borrower or any of its Subsidiaries, or (z) existing on any asset prior to the acquisition thereof by the Borrower or any of its Subsidiaries; provided that (i) any such Lien was not created in the contemplation of any of the foregoing and (ii) any such Lien secures only those obligations which it secures on the date that such Person becomes a Subsidiary or the date of such merger or the date of such acquisition;

(f) Liens on the assets of, and Capital Stock in, any Excluded Subsidiary; provided that (i) to the extent any such Lien secures Indebtedness, any such Lien secures only Indebtedness permitted by Section 7.1(h), (ii) no such Lien is prohibited by any other Contractual Obligation of the Borrower or any of its Subsidiaries and (iii) at the time of and immediately after giving effect to any such Lien (which for Liens on the assets of, and Capital Stock in, any Excluded Subsidiary that is designated pursuant to Section 5.18(a)(iv)(z) shall be the date of such designation), (A) no Default or Event of Default shall exist and (B) the Borrower and its Subsidiaries shall be in *pro forma* compliance with Sections 6.1 and 6.2 as of the most recently ended Test Period, calculated as if all Indebtedness secured by such Lien had been incurred as of the first day of the relevant period for testing compliance and all Acquisitions permitted hereunder since the end of such Test Period had been consummated as of the first day of the relevant period for testing compliance;

(g) [Reserved];

(h) extensions, renewals, or replacements of any Lien referred to in subsections (b) through (g) of this Section; provided that the principal amount of the Indebtedness secured thereby is not increased (other than in an amount not to exceed unpaid interest and fees, and expenses incurred in connection therewith) and that any such extension, renewal or replacement is limited to the assets originally encumbered thereby;

(i) to the extent required by the landlord under a lease of Real Estate entered into by a Subsidiary Loan Party with a landlord that is not (x) an Affiliate of the Borrower or (y) a PropCo Landlord, Liens on the assets of a Subsidiary Loan Party or such Subsidiary Loan Party's Subsidiaries (but not, for the avoidance of doubt, on the Capital Stock of such Subsidiary Loan Party or such Subsidiary Loan Party's Subsidiaries) to secure the obligations of such Subsidiary Loan Party under such lease; provided that such Subsidiary Loan Party and its Subsidiaries shall not be required to become Excluded Subsidiaries on account of such lease and shall instead be Subsidiary Loan Parties to the extent any such lien granted to or in favor of such landlord is subject to a customary intercreditor agreement between the Administrative Agent and the landlord under such lease that provides that any such Liens of such landlord on accounts receivable (and proceeds thereof, books and records related thereto and accounts into which the same are deposited) of such Subsidiary Loan Party or such Subsidiary Loan Party's Subsidiary (collectively, "Accounts Collateral") shall be junior to the Lien of the Administrative Agent on such Accounts Collateral; provided further that, to the extent any such intercreditor agreement provides that the Liens of such landlord on Accounts Collateral that are initially junior to the Lien of the Administrative Agent on such Accounts Collateral are to become senior to the Lien of the Administrative Agent on such Accounts Collateral, such Liens of such landlord on Accounts Collateral shall cease to be permitted pursuant to this clause (i) on the date that is 75 days prior to the date provided in such intercreditor agreement whereupon the Liens of such landlord on Accounts Collateral will cease to be junior to the Liens of the Administrative Agent on such Accounts Collateral; and

(j) Liens on the assets of the Borrower or its Subsidiaries not otherwise permitted by this Section 7.2, securing an aggregate principal amount of obligations at any time outstanding not to exceed the greater of $1,500,000 and, if the Lease-Adjusted Leverage Ratio (calculated on a pro forma basis giving effect to the incurrence of such Liens and any Indebtedness secured thereby) is less than or equal to 5.00:1.00 at the time of incurrence thereof, 10.0% of Consolidated EBITDA for the most recently ended Test Period.

Section 7.3. Fundamental Changes.

(a) The Borrower will not, and will not permit any of its Subsidiaries to, merge into or consolidate into any other Person, or permit any other Person to merge into or consolidate with it, or sell, lease, transfer or otherwise dispose of (in a single transaction or a series of transactions) all or substantially all of the assets of the Borrower and its Subsidiaries on a consolidated basis (in each case, whether now owned or hereafter acquired) or liquidate or dissolve; provided that if, at the time thereof and immediately after giving effect thereto, no Default or Event of Default shall have occurred and be continuing, (i) the Borrower or any Subsidiary may merge with a Person if the Borrower (or such Subsidiary if the Borrower is not a party to such merger and if any party to such merger is a Subsidiary Loan Party, a Subsidiary Loan Party shall be the surviving Person (unless the Borrower is a party thereto, in which case the Borrower shall be the surviving Person)) is the surviving Person, (ii) any Subsidiary may merge into another Subsidiary, provided that if any party to such merger is a Subsidiary Loan Party, the Subsidiary Loan Party shall be the surviving Person, (iii) any Subsidiary may sell, transfer, lease or otherwise dispose of all or substantially all of its assets to the Borrower or to a Subsidiary Loan Party, (iv) any Subsidiary may liquidate or dissolve if the Borrower determines in good faith that such liquidation or dissolution is in the best interests of the Borrower and is not materially disadvantageous to the Lenders; provided that if such Subsidiary is a Subsidiary Loan Party, the assets of such Subsidiary shall be

distributed to the Borrower or a Subsidiary Loan Party, (v) subject to clause (ii), any Subsidiary may merge, dissolve or consolidate in connection with the consummation of any Permitted Acquisition, and (vi) any Subsidiary that is not a Loan Party may sell, transfer, lease or otherwise dispose of all or substantially all of its assets to the Borrower or any Subsidiary of the Borrower.

(b) The Borrower will not, and will not permit any of its Subsidiaries to, engage in any business other than businesses of the type conducted by the Borrower and its Subsidiaries on the date hereof and businesses ancillary or reasonably related to, or extensions of, the business of the Borrower and its Subsidiaries.

Section 7.4. Investments, Loans. The Borrower will not, and will not permit any of its Subsidiaries to, purchase, hold or acquire (including pursuant to any merger with any Person that was not a wholly owned Subsidiary prior to such merger) any Capital Stock, evidence of Indebtedness or other securities (including any option, warrant, or other right to acquire any of the foregoing) of, make or permit to exist any loans or advances to, Guarantee any obligations of, or make or permit to exist any investment or any other interest in, any other Person (all of the foregoing being collectively called "Investments"), or purchase or otherwise acquire (in one transaction or a series of transactions) any assets of any other Person that constitute a business unit, or create or form any Subsidiary, except:

(a) (x) Investments existing on the date hereof in Excluded Subsidiaries that are set forth on Schedule 7.4 and (y) other Investments (other than Permitted Investments) existing on the date hereof (including Investments in Subsidiaries);

(b) Permitted Investments;

(c) Permitted Alternative Investments;

(d) Guarantees by the Borrower and its Subsidiaries constituting Indebtedness permitted by Section 7.1; provided that the aggregate principal amount of Indebtedness of Subsidiaries that are not Subsidiary Loan Parties that is Guaranteed by any Loan Party shall be subject to the limitation set forth in subsection (e) of this Section;

(e) Investments made by the Borrower in or to any Subsidiary and by any Subsidiary to the Borrower or in or to another Subsidiary; provided that (i) Investments by the Loan Parties in or to, and Guarantees by the Loan Parties of Indebtedness of, Subsidiaries that are not Loan Parties (other than Excluded Subsidiaries) pursuant to this clause (e) shall not exceed in the aggregate at any time outstanding the greater of $2,500,000 and, if the Lease-Adjusted Leverage Ratio (calculated on a pro forma basis giving effect to such Investment) is less than or equal to 5.00:1.00 at the time such Investment is made, 15.0% of Consolidated EBITDA for the most recently ended Test Period and (ii) Investments by the Loan Parties or Subsidiaries that are not Excluded Subsidiaries in or to, and Guarantees by the Loan Parties or Subsidiaries that are not Excluded Subsidiaries of Indebtedness of, Excluded Subsidiaries shall not be permitted under this clause (e);

(f) loans or advances to employees, officers or directors of the Borrower or any of its Subsidiaries in the ordinary course of business for travel, relocation and related expenses; provided that the aggregate amount of all such loans and advances does not exceed $1,500,000 at any time outstanding;

(g) Hedging Transactions permitted by Section 7.10;

(h) (x) Permitted Acquisitions, (y) so long as no Event of Default then exists or would result therefrom, Investments in Excluded Subsidiaries made for the purpose of financing the construction, development, refurbishment or expansion of any health care facility and (z) Investments constituting Excluded Subsidiary Designation Amounts (other than, in the case of this clause (z), cash or cash equivalents funded by any Loan Party into an Excluded Subsidiary prior to such Subsidiary being designated as an Excluded Subsidiary, except to the extent of cash or cash equivalents funded for the purpose of financing the Permitted Acquisition of such Subsidiary or the construction, development, refurbishment or expansion of any health care facility); provided that (i) the aggregate amount of Acquisition Consideration paid in connection with Permitted Acquisitions of Persons (other than Excluded Subsidiaries) that do not become Loan Parties and assets (other than assets that are acquired by Excluded Subsidiaries) that do not become owned by Loan Parties shall not exceed $3,000,000 at any time outstanding and (ii) the aggregate amount of Acquisition Consideration paid in connection with Permitted Acquisitions of Excluded Subsidiaries (determined at the time of such Permitted Acquisition) and Investments in Excluded Subsidiaries made for the purpose of financing the construction, development, refurbishment or expansion of any health care facility and Excluded Subsidiary Designation Amounts, together with the amount of any then outstanding Indebtedness that was incurred or assumed pursuant to Section 7.1(h) and any other then outstanding Investment in any Excluded Subsidiary arising pursuant to this Section 7.4(h) (in each case, without duplication), shall not exceed at any time the sum of (A) the greater of (x) $50,000,000 and (y) an amount equal to (I) Consolidated EBITDA for the most recently ended four consecutive Fiscal Quarter period for which financial statements were required to have been delivered pursuant to Section 5.1(a) or (b) multiplied by (II) two plus (B) the Available Amount; provided, that, (i) in the event of a Permitted Acquisition consisting of the purchase or acquisition of both (x) entities that do not become, or assets that do not become owned by, Loan Parties or Excluded Subsidiaries and (y) entities that become, or assets that become owned by, Loan Parties or Excluded Subsidiaries, the aggregate amount of Acquisition Consideration attributable to such entities that do not become, and assets that do not become owned by, Loan Parties or Excluded Subsidiaries for purposes of this clause (h), shall be determined by the Borrower in good faith and be reasonably acceptable to the Administrative Agent, (ii) in the event of a Permitted Acquisition consisting of the purchase or acquisition of both (x) Excluded Subsidiaries or assets that become owned by Excluded Subsidiaries and (y) entities that do not become, or assets that do not become owned by, Excluded Subsidiaries, the aggregate amount of Acquisition Consideration attributable to the Excluded Subsidiaries for purposes of this clause (h), shall be determined by the Borrower in good faith and be reasonably acceptable to the Administrative Agent and (iii) the amount of Investments made (or Acquisition Consideration payable) under this Section 7.4(h) in connection with a Permitted Acquisition of an Excluded Subsidiary shall be determined without duplication of any Indebtedness incurred or assumed under Section 7.1(h) in connection therewith to the extent such Indebtedness is included in the determination of Acquisition Consideration for such Permitted Acquisition;

(i) Investments in joint ventures with a joint venture partner that is reasonably acceptable to the Administrative Agent (it being understood and agreed that the potential joint venture partner identified to the Administrative Agent on or prior to the Closing Date is reasonably acceptable to the Administrative Agent and the Lenders); provided that (A) the aggregate amount of Investments made pursuant to this clause (i) shall not exceed $11,000,000 at any time outstanding, (ii) the Capital Stock of the joint venture entities (the "JV entities") that is owned or held by the Borrower and its Subsidiaries shall be directly owned by Loan Parties and shall be pledged as Collateral pursuant to the Collateral Documents, (iii) the documentation and other arrangements of such joint ventures shall be reasonably acceptable to the Administrative Agent (such reasonably acceptable documents, the "JV Documents"), (iv) at the time of any such Investment, no Default or Event of Default shall exist or would result from such Investment and (v) the Borrower and its Subsidiaries shall be in *pro forma* compliance with Sections 6.1 and 6.2 as of the most recently ended Test Period (calculated on a *pro forma* basis as if such Investment had been made on the first day of such Test Period).

(j) other Investments that in the aggregate do not exceed at any time outstanding the greater of $1,500,000 and, if the Lease-Adjusted Leverage Ratio (calculated on a pro forma basis giving effect to such Investment) is less than or equal to 5.00:1.00 at the time such Investment is made, 10.0% of Consolidated EBITDA for the most recently ended Test Period; and

(k) Investments held by a Subsidiary Loan Party that is acquired after the Closing Date, or of a Person (other than a Subsidiary of the Borrower) merged or consolidated with or into the Borrower or a Subsidiary Loan Party, in each case in accordance with the terms of this Agreement to the extent that such Investments were not made in contemplation of or in connection with such acquisition, merger or consolidation and were in existence on the date of such acquisition, merger or consolidation (such Investments, "Acquired Investments"); provided, however, that (i) the aggregate amount of Acquired Investments that would not otherwise be permitted as an Investment pursuant to clauses (a) through (j) of this Section 7.4 shall not exceed 10% of the book value of such Subsidiary Loan Party (and its Subsidiaries) that is acquired after the Closing Date or such Person (and its Subsidiaries) that is merged or consolidated with or into the Borrower or a Subsidiary Loan Party, as of the date of such acquisition, merger or consolidation and (ii) Acquired Investments shall not include (and in no event shall this Section 7.4(k) permit) Investments in or with respect to Excluded Subsidiaries (including, for the avoidance of doubt, Investments constituting Excluded Subsidiary Designation Amounts).

The amount of any Investment (other than Investments made using the Available Amount) shall be deemed to be the amount actually invested, without adjustment for subsequent increases or decreases in the value of such Investment but determined net of all payments received with respect to such Investment whether constituting sale proceeds thereof, dividends, distributions, interest, return of capital or otherwise, and the amount of any Investment constituting a Guarantee shall be reflective of the principal amount subject to such Guarantee from time to time.

Notwithstanding the foregoing, in no event shall any Excluded Subsidiary make, purchase, hold or acquire any Investments in the Capital Stock of any Loan Party.

Section 7.5. Restricted Payments. The Borrower will not, and will not permit any of its Subsidiaries to, declare or make, or agree to pay or make, directly or indirectly, any Restricted Payment, except:

(i) dividends payable by the Borrower solely in interests of any class of its common equity;

(ii) Restricted Payments made by any Subsidiary to the Borrower or to another Subsidiary, on at least a *pro rata* basis with any other shareholders if such Subsidiary is not wholly owned by the Borrower and other wholly owned Subsidiaries of the Borrower;

(iii) [reserved];

(iv) the Borrower may repurchase common stock or common stock options from present or former officers, directors or employees (or heirs of, estates of or trusts formed by such Persons) of the Borrower or any Subsidiary upon the death, disability, retirement or termination of employment or position of such officer, director or employee or pursuant to the terms of any stock option plan or like agreement; provided, however, that the aggregate amount of payments under this clause (except to the extent made with Equity Issuance Proceeds received for such purpose that are not used to increase the Available Amount or otherwise applied to increase basket capacity hereunder) shall not exceed the lesser of (i) $2,500,000 in any Fiscal Year or (ii) $12,500,000 during the term of this Agreement;

(v) other Restricted Payments (including, for the avoidance of doubt, payments with respect to subordinated Indebtedness) in an aggregate amount not to exceed $2,500,000 in any Fiscal Year;

(vi) the Borrower and its Subsidiaries may (x) repurchase Capital Stock to the extent deemed to occur upon exercise of stock options, warrants or rights in respect thereof to the extent such Capital Stock represents a portion of the exercise price of such options, warrants or rights in respect thereof and (y) if such payments are made pursuant to a stock option plan or an incentive plan, make payments in respect of withholding or similar taxes payable or expected to be payable by any present or former member of management, director, officer, employee, or consultant of the Borrower or any of its Subsidiaries or family members, spouses or former spouses, heirs of, estates of or trusts formed by such Persons in connection with the exercise of stock options or grant, vesting or delivery of Capital Stock;

(vii) the Borrower and its Subsidiaries may make Restricted Payments to allow the payment of cash in lieu of the issuance of fractional shares upon the exercise of options or, warrants or rights or upon the conversion or exchange of or into Capital Stock, or payments or distributions to dissenting stockholders pursuant to applicable law;

(viii) the Borrower may make a Restricted Payment to Ensign on or after the Closing Date and on or prior to October 4, 2019 in connection with the Pennant Transaction in an amount not to exceed $11,000,000 pursuant to Section 2.1(a)(iii) of the Pennant Master Separation Agreement;

(ix) the refinancing of any Indebtedness that is subordinated to the Obligations; provided that (A) no Default or Event of Default shall have occurred and be continuing or would result therefrom; (B) any such refinancing Indebtedness shall (x) not have a stated maturity or, other than in the case of a revolving credit facility, a Weighted Average Life to Maturity that is shorter than that of the Indebtedness being refinanced, (y) if the Indebtedness being refinanced is subordinated to the Obligations by its terms or by the terms of any agreement or instrument relating to such Indebtedness, be at least as subordinate to the Obligations as the Indebtedness being refinanced (and unsecured if the refinanced Indebtedness is unsecured) and (z) be in a principal amount that does not exceed the principal amount so refinanced, *plus*, accrued interest, *plus*, any premium or other payment required to be paid in connection with such refinancing, *plus*, the amount of fees and expenses of the Borrower or any of its Subsidiaries incurred in connection with such refinancing, *plus*, any unutilized commitments thereunder; and (C) the obligors on such refinancing Indebtedness shall be the obligors on such Indebtedness being refinanced; provided, further, however, that (i) the borrower of the refinancing indebtedness shall be the Borrower or the borrower of the Indebtedness being refinanced, (ii) any Loan Party shall be permitted to guarantee any such refinancing Indebtedness of any other Loan Party and (iii) any non-Loan Party shall be permitted to guarantee any such refinancing Indebtedness of any other non-Loan Party; and

(x) in addition to the other Restricted Payments otherwise permitted under this Section 7.5, the Borrower and its Subsidiaries may make additional Restricted Payments so long as (A) no Default or Event of Default shall have occurred and be continuing or would result therefrom, (B) the Leverage Ratio for the most recently ended four consecutive Fiscal Quarter period for which financial statements were required to have been delivered pursuant to Section 5.1(a) or (b) (calculated on a *pro forma* basis as if such Restricted Payment (and any other Restricted Payment or Investment that occurs subsequent to such four consecutive Fiscal Quarter period for which the *pro forma* financial effect of such events has been calculated under this

Agreement) had been made on the first day of such four consecutive Fiscal Quarter period) does not exceed 0.75:1.00 and (C) the Borrower and its Subsidiaries shall be in *pro forma* compliance with Sections 6.1 and 6.2 as of the most recently ended Test Period (calculated on a *pro forma* basis as if such Restricted Payment (and any other Restricted Payment or Investment that occurs subsequent to such Test Period) had been made on the first day of such Test Period).

Section 7.6. Sale of Assets. The Borrower will not, and will not permit any of its Subsidiaries to, convey, sell, lease, assign, transfer or otherwise dispose of any of its assets, business or property or, in the case of any Subsidiary (other than an Immaterial Subsidiary), any shares of such Subsidiary's Capital Stock, in each case whether now owned or hereafter acquired, to any Person other than the Borrower or any wholly owned Subsidiary of the Borrower (or to qualify directors if required by applicable law), except:

(a) the sale or other disposition of obsolete or worn out property or other property not necessary for operations or no longer useful in the business disposed of in the ordinary course of business;

(b) the sale of inventory and Permitted Investments in the ordinary course of business;

(c) dispositions of cash and cash equivalents;

(d) dispositions of equipment to the extent that (i) such equipment is exchanged for credit against the purchase price of similar replacement equipment and (ii) the proceeds of such disposition are applied in whole or in part to purchases of such replacement equipment;

(e) assets sold in connection with condemnation, eminent domain or insurance claims;

(f) asset sales or other dispositions in an aggregate amount (determined based on the fair market value of the assets sold or otherwise disposed of (as determined by the Borrower in good faith)) not to exceed in any Fiscal Year the greater of $1,500,000 and, if the Lease-Adjusted Leverage Ratio (calculated on a pro forma basis giving effect to such asset sale or disposition) is less than or equal to 5.00:1.00 at the time such asset sale or disposition is consummated, 10.0% of Consolidated EBITDA for the most recently ended Test Period; provided that (i) at the time of such sale or other disposition, no Event of Default then exists or would arise therefrom, and (ii) the Borrower or any of its Subsidiaries shall receive not less than 75% of such consideration in the form of (x) cash or Permitted Investments or (y) real property (and improvements thereon related to one or more healthcare facilities) acquired in an exchange pursuant to or intended to qualify under Section 1031 (or any successor section) of the Code (it being understood that for the purposes of clause (f)(ii)(x), the following shall be deemed to be cash: (A) any liabilities (as shown on the Borrower's most recent balance sheet provided hereunder or in the footnotes thereto) of the Borrower or such Subsidiary, other than liabilities that are by their terms subordinated to the payment in cash of the Obligations, that are assumed by the transferee with respect to the applicable sale or disposition and for which all of its Subsidiaries shall have been validly released by all applicable creditors in writing, (B) any securities received by such Subsidiary from such transferee that are converted by such Subsidiary into cash or Permitted Investments (to the extent of the cash or Permitted Investments received) within one hundred and eighty (180) days following the closing of the applicable disposition and (C) any Designated Non-Cash Consideration received in respect of such disposition having an aggregate fair market value, taken together with all other Designated Non-Cash Consideration received pursuant to this clause (C) that is at that time outstanding, not in excess of $1,000,000, with the fair market value of each item of Designated Non-Cash Consideration being measured at such date of receipt or such agreement, as applicable, and without giving effect to subsequent changes in value).

Section 7.7. Transactions with Affiliates. The Borrower will not, and will not permit any of its Subsidiaries to, sell, lease or otherwise transfer any property or assets to, or purchase, lease or otherwise acquire any property or assets from, or otherwise engage in any other transactions with, any of its Affiliates, except:

(a) in the ordinary course of business at prices and on terms and conditions not less favorable to the Borrower or such Subsidiary than could be obtained on an arm's-length basis from unrelated third parties;

(b) transactions between or among the Borrower and its Subsidiaries in the ordinary course of business; and

(c) any Restricted Payment permitted by Section 7.5 and Investments permitted by Section 7.4.

Section 7.8. Restrictive Agreements. The Borrower will not, and will not permit any of its Subsidiaries to, directly or indirectly, enter into, incur or permit to exist any agreement (including any lease of Real Estate) that prohibits, restricts or imposes any condition upon (a) the ability of the Borrower or any of its Subsidiaries to create, incur or permit any Lien as security for the Obligations upon any of its assets or properties, whether now owned or hereafter acquired, or (b) the ability of any of its Subsidiaries to pay dividends or other distributions with respect to its Capital Stock, to make or repay loans or advances to the Borrower or any other Subsidiary thereof, to Guarantee Indebtedness of the Borrower or any other Subsidiary thereof or to transfer any of its property or assets to the Borrower or any other Subsidiary thereof; provided that (i) the foregoing shall not apply to restrictions or conditions imposed by law or by this Agreement or any other Loan Document, (ii) the foregoing shall not apply to customary restrictions and conditions contained in agreements relating to the sale of a Subsidiary pending such sale, provided such restrictions and conditions apply only to the Subsidiary that is to be sold and such sale is permitted hereunder, (iii) the foregoing shall not apply to restrictions contained in the leases of Real Estate listed on Schedule 7.8 as in effect as of the Closing Date, (iv) the foregoing shall not apply to restrictions or conditions imposed by any agreement relating to secured Indebtedness permitted by this Agreement if such restrictions and conditions apply only to the property or assets securing such Indebtedness, (v) the foregoing shall not apply to customary provisions in leases restricting the assignment thereof, (vi) the foregoing shall not apply to Excluded Subsidiaries or the Capital Stock of Excluded Subsidiaries, (vii) the foregoing shall not apply to restrictions in Indebtedness described in Section 7.1(f) to the extent relating solely to the applicable assets or Persons acquired after the Closing Date in connection with the assumption of such Indebtedness, (viii) the foregoing shall not apply to restrictions in leases of Real Estate binding upon the tenants thereunder (or guarantors thereof), (ix) the foregoing shall not apply to Indebtedness permitted under Section 7.1(i) to the extent the restrictions thereunder are no more restrictive, in any material respect, taken as a whole, than such restrictions contained herein, (x) the foregoing shall not apply to customary restrictions in joint venture arrangements, provided that such restrictions are limited to the assets of such joint ventures and the Capital Stock of the Persons party to such joint venture arrangements and (xi) the foregoing shall not apply to customary non-assignment provisions in contracts entered into in the ordinary course of business, provided that such restrictions are limited to the assets subject to such contracts and the Capital Stock of the Persons party to such contracts.

Section 7.9. Sale and Leaseback Transactions. The Borrower will not, and will not permit any of its Subsidiaries to, enter into any arrangement, directly or indirectly, whereby it shall sell or transfer any property, real or personal, used or useful in its business, whether now owned or hereinafter acquired, and thereafter rent or lease such property or other property that it intends to use for substantially the same purpose or purposes as the property sold or transferred (each, a "Sale/Leaseback Transaction"), unless at the time such Sale/Leaseback Transaction is entered into (a) no Default or Event of Default has occurred and is continuing, (b) after giving *pro forma* effect to such Sale/Leaseback Transaction, the Borrower and its Subsidiaries are in compliance with the financial covenants set forth in Article VI and (c) the Borrower has delivered a certificate to the Lenders certifying the conditions set forth in clauses (a) and (b) and setting forth in reasonable detail calculations demonstrating *pro forma* compliance with the financial covenants set forth in Article VI.

Section 7.10. Hedging Transactions. The Borrower will not, and will not permit any of its Subsidiaries to, enter into any Hedging Transaction, other than Hedging Transactions entered into in the ordinary course of business to hedge or mitigate risks to which the Borrower or any of its Subsidiaries is exposed in the conduct of its business or the management of its liabilities, including, without limitation, any Hedging Transaction entered into in order to hedge against fluctuations in interest rates or currency values that arise in connection with any Borrowing or any other Indebtedness. Solely for the avoidance of doubt, the Borrower acknowledges that a Hedging Transaction entered into for speculative purposes or of a speculative nature (which shall be deemed to include any Hedging Transaction under which the Borrower or any of its Subsidiaries is or may become obliged to make any payment (i) in connection with the purchase by any third party of any Capital Stock or any Indebtedness or (ii) as a result of changes in the market value of any Capital Stock or any Indebtedness) is not a Hedging Transaction entered into in the ordinary course of business to hedge or mitigate risks.

Section 7.11. Amendment to Material Documents. The Borrower will not, and will not permit any of its Subsidiaries to, amend, modify or waive any of its rights under (a) its certificate of incorporation, bylaws or other organizational documents or (b) any Material Agreements, in each case in any manner that is materially adverse to the interests of the Lenders or the Administrative Agent.

Section 7.12. PropCo Master Leases and Ensign Master Leases.

(a) The Borrower will not, and will not permit any of its Subsidiaries to, terminate or allow or consent to the termination of any PropCo Master Lease or enter into any amendment, waiver or modification to any PropCo Master Lease if (i) such amendment, waiver or modification could reasonably be expected to have a Material Adverse Effect or (ii) after giving *pro forma* effect to such amendment, waiver or modification, the Borrower will not be in compliance with the provisions of Article VI; provided that, notwithstanding the foregoing, the Borrower will not, and will not permit any of its Subsidiaries to, allow any amendment, waiver or modification of any PropCo Master Lease that (i) shortens the term of such PropCo Master Lease to less than twelve (12) years (including extension or renewal options) from the date of such amendment, waiver or modification, (ii) amends, waives or modifies Articles X, XI, or XVI of such PropCo Master Lease (including by amendment of the defined terms used therein) in a manner adverse in any material respects to the interests of the Secured Parties or (iii) amends, waives or modifies Section 5.13 of such PropCo Master Lease to the extent adversely impacting the ability of the Secured Parties to obtain or maintain a Lien on any assets of the Borrower or any of its Subsidiaries (other than the leasehold interests in such PropCo Master Lease), in each case, without the consent of the Required Lenders. No tenant under any PropCo Master Lease shall transfer its rights or obligations under such PropCo Master Lease to any Person other than to the Borrower or any other Loan Party; provided, however, that no such transfer shall be permitted hereunder unless expressly permitted under such PropCo Master Lease or consented to in writing by landlord under such PropCo Master Lease.

(b) The Borrower will not, and will not permit any of its Subsidiaries to, terminate or allow or consent to the termination of any Ensign Master Lease or enter into any amendment, waiver or modification to any Ensign Master Lease if (i) such amendment, waiver or modification could reasonably be expected to have a Material Adverse Effect or (ii) after giving *pro forma* effect to such amendment, waiver or modification, the Borrower will not be in compliance with the provisions of Article VI; provided that, notwithstanding the foregoing, the Borrower will not, and will not permit any of its Subsidiaries to, allow any amendment, waiver or modification of any Ensign Master Lease that (i) shortens the term of such Ensign Master Lease to less than twelve (12) years (including extension or renewal options) from the date of such amendment, waiver or modification, (ii) amends, waives or modifies Articles X, XI, XVI or XIX of such Ensign Master Lease (including by amendment of the defined terms used therein) in a manner adverse in any material respects to the interests of the Secured Parties or (iii) amends, waives or modifies Section 5.13 of such Ensign Master Lease to the extent adversely impacting the ability of the Secured Parties to obtain or maintain a Lien on any assets of the Borrower or any of its Subsidiaries (other than the leasehold interests in such Ensign Master Lease), in each case, without the consent of the Required Lenders. No tenant under any Ensign Master Lease shall transfer its rights or obligations under such Ensign Master Lease to any Person other than (x) in the case of a tenant that is a Loan Party, any other Loan Party or (y) in the case of any tenant that is an Excluded Subsidiary, any other Excluded Subsidiary; provided, however, that no such transfer shall be permitted hereunder unless expressly permitted under such Ensign Master Lease or consented to in writing by landlord under such Ensign Master Lease.

Section 7.13. Accounting Changes. The Borrower will not, and will not permit any of its Subsidiaries to, change the fiscal year of the Borrower or of any of its Subsidiaries, except to change the fiscal year of a Subsidiary to conform its fiscal year to that of the Borrower.

Section 7.14. Government Regulation. The Borrower will not, and will not permit any of its Subsidiaries to, be or become subject at any time to any law, regulation or list of any Governmental Authority of the United States (including, without limitation, the OFAC list) that prohibits or limits the Lenders or the Administrative Agent from making any advance or extension of credit to the Borrower or from otherwise conducting business with the Loan Parties.

Section 7.15. Sanctions. The Borrower will not, and will not permit any of its Subsidiaries to, use any Loan or Letter of Credit or the proceeds of any Loan and/or Letter of Credit, or lend, contribute or otherwise make available any Loan or Letter Credit or the proceeds of any Loan or Letter of Credit to any Sanctioned Person, to fund any activities of or business with any Sanctioned Person or in any Sanctioned Country, or in any other manner that will result in a violation by any Person (including any Person participating in the transaction, whether as a Lead Arranger, the Administrative Agent, a Lender (including a Swingline Lender) or an Issuing Bank or otherwise) of Sanctions.

Section 7.16. Anti-Corruption Laws. The Borrower will not, and will not permit any of its Subsidiaries to, use any Loan or Letter of Credit or the proceeds therefrom for any purpose that would violate any Anti-Corruption Laws.

ARTICLE VIII

EVENTS OF DEFAULT

Section 8.1. Events of Default. If any of the following events (each, an "Event of Default") shall occur:

(a) the Borrower shall fail to pay any principal of any Loan or of any reimbursement obligation in respect of any LC Disbursement, when and as the same shall become due and payable, whether at the due date thereof or at a date fixed for prepayment or otherwise; or

(b) the Borrower shall fail to pay any interest on any Loan or any fee or any other amount (other than an amount payable under subsection (a) of this Section or an amount related to a Bank Product Obligation) payable under this Agreement or any other Loan Document, when and as the same shall become due and payable, and such failure shall continue unremedied for a period of five (5) days; or

(c) any representation or warranty made or deemed made by or on behalf of the Borrower or any of its Subsidiaries in or in connection with this Agreement or any other Loan Document (including the Schedules attached hereto and thereto), or in any amendments or modifications hereof or waivers hereunder, or in any certificate, report, financial statement or other document submitted to the Administrative Agent or the Lenders by any Loan Party or any representative of any Loan Party pursuant to or in connection with this Agreement or any other Loan Document shall prove to be incorrect in any material respect (other than any representation or warranty that is expressly qualified by a Material Adverse Effect or other materiality, in which case such representation or warranty shall prove to be incorrect in any respect) when made or deemed made or submitted; or

(d) the Borrower shall fail to observe or perform any covenant or agreement contained in Section 5.3 (with respect to the Borrower's legal existence), Section 5.18 or Article VI or VII; or

(e) (i) any Loan Party shall fail to observe or perform any covenant or agreement contained in Section 5.1 or 5.2, and such failure shall remain unremedied for fifteen (15) days after the earlier of (x) any Responsible Officer of the Borrower becomes aware of such failure, or (y) notice thereof shall have been given to the Borrower by the Administrative Agent or any Lender, or (ii) any Loan Party shall fail to observe or perform any covenant or agreement contained in this Agreement (other than those referred to in subsections (a), (b), (d) and (e)(i) of this Section) or any other Loan Document or related to any Bank Product Obligation, and such failure shall remain unremedied for 30 days after the earlier of (x) any Responsible Officer of the Borrower becomes aware of such failure, or (y) notice thereof shall have been given to the Borrower by the Administrative Agent or any Lender; or

(f) the Borrower or any of its Subsidiaries (whether as primary obligor or as guarantor or other surety) shall fail to pay any principal of, or premium or interest on, any Material Indebtedness that is outstanding, when and as the same shall become due and payable (whether at scheduled maturity, required prepayment, acceleration, demand or otherwise), and such failure shall continue after the applicable grace period, if any, specified in the agreement or instrument evidencing or governing such Indebtedness; or any other event shall occur or condition shall exist under any agreement or instrument relating to any Material Indebtedness and shall continue after the applicable grace period, if any, specified in such agreement or instrument, if the effect of such event or condition is to accelerate, or permit the acceleration of, the maturity of such Indebtedness; or any Material Indebtedness shall be declared to be due and payable, or required to be prepaid or redeemed (other than by a regularly scheduled required prepayment or redemption), purchased or defeased, or any offer to prepay, redeem, purchase or defease such Indebtedness shall be required to be made, in each case prior to the stated maturity thereof (excluding (i) any prepayment or redemption requirements in connection with a sale of assets that secures Material Indebtedness to the extent such Material Indebtedness is repaid in connection with such sale and (ii) any offer to prepay or redeem Indebtedness of any Person or securing any assets acquired in a Permitted Acquisition); or

(g) the Borrower or any of its Material Subsidiaries shall (i) commence a voluntary case or other proceeding or file any petition seeking liquidation, reorganization or other relief under any federal, state or foreign bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a custodian, trustee, receiver, liquidator or other similar official of it or any substantial part of its property, (ii) consent to the institution of, or fail to contest in a timely and appropriate manner, any proceeding or petition described in clause (i) of this subsection, (iii) apply for or consent to the appointment of a custodian, trustee, receiver, liquidator or other similar official for the Borrower or any such Material Subsidiary 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, (v) make a general assignment for the benefit of creditors, or (vi) take any action for the purpose of effecting any of the foregoing; or

(h) 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 or any of its Material Subsidiaries or its debts, or any substantial part of its assets, under any federal, state or foreign bankruptcy, insolvency or other similar law now or hereafter in effect or (ii) the appointment of a custodian, trustee, receiver, liquidator or other similar official for the Borrower or any of its Material Subsidiaries or for a substantial part of its assets, and in any such case, such proceeding or petition shall remain undismissed for a period of 60 days or an order or decree approving or ordering any of the foregoing shall be entered; or

(i) the Borrower or any of its Material Subsidiaries shall become unable to pay, shall admit in writing its inability to pay, or shall fail to pay, its debts as they become due; or

(j) (i) an ERISA Event shall have occurred, (ii) there is or arises an Unfunded Pension Liability (not taking into account Plans with negative Unfunded Pension Liability), or (iii) there is or arises any potential Withdrawal Liability, which, with respect to any of the foregoing clauses (i) through (iii), could reasonably be expected, either individually or in the aggregate, to have a Material Adverse Effect; or

(k) any judgment or order for the payment of money in excess of $7,500,000 in the aggregate, to the extent not adequately covered by insurance as to which a solvent insurance company has not contested or denied coverage, shall be rendered against the Borrower or any of its Subsidiaries, and there shall be a period of 60 consecutive days during which (i) a stay of enforcement of such judgment or order, by reason of a pending appeal or otherwise, shall not be in effect or (ii) such judgment or order shall remain undischarged, unvacated or unbonded; or

(l) any non-monetary judgment or order shall be rendered against the Borrower or any of its Subsidiaries that could reasonably be expected, either individually or in the aggregate for all such events, to have a Material Adverse Effect, and there shall be a period of 60 consecutive days during which a stay of enforcement of such judgment or order, by reason of a pending appeal or otherwise, shall not be in effect; or

(m) a Change in Control shall occur or exist; or

(n) (i) there shall occur any revocation, suspension, termination, rescission, non-renewal or forfeiture or any similar final administrative action with respect to one or more Health Care Permits, Third Party Payor Programs or Third Party Payor Authorizations that could reasonably be expected, either individually or in the aggregate, to have a Material Adverse Effect or (ii) the Borrower or any of its Subsidiaries shall be named in any action, fully or partially unsealed, in which the United States has affirmatively intervened, alleging violation of the federal False Claims Act or any other applicable law and, in connection with such action, the Borrower shall have offered, agreed or paid to, or received a final judgment requiring payment to, any Governmental Authority for payment of any fine, penalty or overpayment in excess of $25,000,000; or

(o) any material provision of the Guaranty and Security Agreement or any other Collateral Document shall for any reason cease to be valid and binding on, or enforceable against, any Loan Party, or any Loan Party shall so state in writing, or any Loan Party shall seek to terminate its obligation under the Guaranty and Security Agreement or any other Collateral Document (other than the release of any guaranty or collateral to the extent permitted pursuant to Section 9.11); or

(p) any Lien purported to be created under any Collateral Document (with respect to a material portion of the Collateral) shall fail or cease to be, or shall be asserted by any Loan Party not to be, a valid and perfected Lien on any Collateral, with the priority required by the applicable Collateral Documents (other than as a result of the failure by the Administrative Agent to take any action within its control); or

(q) (i) any PropCo Master Lease shall terminate or otherwise cease to be effective, other than upon the expiration or termination thereof with respect to any particular property or properties pursuant to Section 10.4 or Article XI of such PropCo Master Lease or pursuant to an amendment, waiver or modification of such PropCo Master Lease not prohibited by Section 7.12(a) of this Agreement, or an "Event of Default" (as defined in such PropCo Master Lease) shall have occurred and is continuing under Section 12.1.1, Section 12.1.2, Section 12.1.3 (for the avoidance of doubt, in the case of Sections 12.1.2 and 12.1.3, after the expiration of the applicable cure period set forth therein), Section 12.1.15, Section 12.1.16 (other than with respect to Section 5.11 and 5.12.3 thereof), or Section 16.1 of such PropCo Master Lease, or the landlord under such PropCo Master Lease shall have given the tenant under such PropCo Master Lease notice of termination of such PropCo Master Lease following an "Event of Default" (as defined in such PropCo Master Lease) or the landlord has issued a "Termination Notice" pursuant to Section 12.2.6 of the PropCo Master Lease, (ii) any Ensign Master Lease shall terminate or otherwise cease to be effective, other than upon the expiration or termination thereof with respect to any particular property or properties pursuant to Section 10.4 or Article XI of such Ensign Master Lease or pursuant to an amendment, waiver or modification of such Ensign Master Lease not prohibited by Section 7.12(b) of this Agreement, or an "Event of Default" (as defined in such Ensign Master Lease) shall have occurred and is continuing under Section 12.1.1, Section 12.1.2, Section 12.1.3 (for the avoidance of doubt, in the case of Sections 12.1.2 and 12.1.3, after the expiration of the applicable cure period set forth therein), Section 12.1.15, Section 12.1.16 (other than with respect to Section 5.11 and 5.12.3 thereof), or Section 16.1 of such Ensign Master Lease, or the landlord under such Ensign Master Lease shall have given the tenant under such Ensign Master Lease notice of termination of such Ensign Master Lease following an "Event of Default" (as defined in such Ensign Master Lease) or the landlord has issued a "Termination Notice" pursuant to Section 12.2.6 of the Ensign Master Lease or (iii) any event of the type described in the foregoing clause (i) or (ii) shall have occurred with respect to any Material Master Lease;

then, and in every such event (other than an event with respect to the Borrower described in subsection (g), (h) or (i) of this Section) and at any time thereafter during the continuance of such event, the Administrative Agent may, and upon the written request of the Required Lenders shall, by notice to the Borrower, take any or all of the following actions, at the same or different times: (i) terminate the Commitments, whereupon the Commitment of each Lender shall terminate immediately, (ii) declare the principal of and any accrued interest on the Loans, and all other Obligations owing hereunder, to be, whereupon the same shall become, due and payable immediately, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrower, (iii) exercise all remedies contained in any other Loan Document and (iv) exercise any other remedies available at law or in equity; provided that, if an Event of Default with respect to the Borrower specified in either subsection (g), (h) or (i) shall occur, the Commitments shall automatically terminate and the principal of the Loans then outstanding, together with accrued interest thereon, and all fees and all other Obligations shall automatically become due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrower.

Section 8.2. Application of Proceeds from Collateral. All proceeds from each sale of, or other realization upon, all or any part of the Collateral by any Secured Party after an Event of Default arises shall be applied as follows:

(a) first, to the reimbursable expenses of the Administrative Agent incurred in connection with such sale or other realization upon the Collateral, until the same shall have been paid in full;

(b) second, to the fees and other reimbursable expenses of the Administrative Agent, the Swingline Lender and each Issuing Bank then due and payable pursuant to any of the Loan Documents, until the same shall have been paid in full;

(c) third, to all reimbursable expenses, if any, of the Lenders then due and payable pursuant to any of the Loan Documents, until the same shall have been paid in full;

(d) fourth, to the fees and interest then due and payable under the terms of this Agreement, until the same shall have been paid in full;

(e) fifth, to the aggregate outstanding principal amount of the Loans, the LC Exposure, the Bank Product Obligations and the Hedging Obligations that constitute Obligations, until the same shall have been paid in full, allocated *pro rata* among the Secured Parties based on their respective *pro rata* shares of the aggregate amount of such Loans, LC Exposure, Bank Product Obligations and Hedging Obligations;

(f) sixth, to additional cash collateral for the aggregate amount of all outstanding Letters of Credit until the aggregate amount of all cash collateral held by the Administrative Agent pursuant to this Agreement is at least 103% of the LC Exposure after giving effect to the foregoing clause fifth; and

(g) seventh, to the extent any proceeds remain, to the Borrower or as otherwise provided by a court of competent jurisdiction.

All amounts allocated pursuant to the foregoing clauses third through fifth to the Lenders as a result of amounts owed to the Lenders under the Loan Documents shall be allocated among, and distributed to, the Lenders *pro rata* based on their respective Pro Rata Shares; provided that all amounts allocated to that portion of the LC Exposure comprised of the aggregate undrawn amount of all outstanding Letters of Credit pursuant to clauses fifth and sixth shall be distributed to the Administrative Agent, rather than to the Lenders, and held by the Administrative Agent in an account in the name of the Administrative Agent for the benefit of each Issuing Bank and the Lenders as cash collateral for the LC Exposure, such account to be administered in accordance with Section 2.22(g). All cash collateral for LC Exposure shall be applied to satisfy drawings under the Letters of Credit as they occur; if any amount remains on deposit on cash collateral after all letters of credit have either been fully drawn or expired, such remaining amount shall be applied to other Obligations, if any, in the order set forth above.

Notwithstanding the foregoing, Bank Product Obligations and Hedging Obligations shall be excluded from the application described above if the Administrative Agent has not received written notice thereof, together with such supporting documentation as the Administrative Agent may request, from the Bank Product Provider or the Lender-Related Hedge Provider, as the case may be. Each Bank Product Provider or Lender-Related Hedge Provider that has given the notice contemplated by the preceding sentence shall, by such notice, be deemed to have acknowledged and accepted the appointment of the Administrative Agent pursuant to the terms of Article IX hereof for itself and its Affiliates as if a "Lender" party hereto.

ARTICLE IX

THE ADMINISTRATIVE AGENT

Section 9.1. Appointment of the Administrative Agent.

(a) Each Lender irrevocably appoints SunTrust Bank as the Administrative Agent and authorizes it to take such actions on its behalf and to exercise such powers as are delegated to the Administrative Agent under this Agreement and the other Loan Documents, together with all such actions and powers that are reasonably incidental thereto. The Administrative Agent may perform any of its duties hereunder or under the other Loan Documents by or through any one or more sub-agents or attorneys-in-fact appointed by the Administrative Agent. The Administrative Agent and any such sub-agent or attorney-in-fact may perform any and all of its duties and exercise its rights and powers through their respective Related Parties. The exculpatory provisions set forth in this Article shall apply to any such sub-agent, attorney-in-fact or Related Party and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as the Administrative Agent.

(b) Each Issuing Bank shall act on behalf of the Revolving Lenders with respect to any Letters of Credit issued by it and the documents associated therewith until such time and except for so long as the Administrative Agent may agree at the request of the Required Lenders to act for such Issuing Bank with respect thereto; provided that each Issuing Bank shall have all the benefits and immunities (i) provided to the Administrative Agent in this Article with respect to any acts taken or omissions suffered by such Issuing Bank in connection with Letters of Credit issued by it or proposed to be issued by it and the application and agreements for letters of credit pertaining to the Letters of Credit as fully as if the term "Administrative Agent" as used in this Article included such Issuing Bank with respect to such acts or omissions and (ii) as additionally provided in this Agreement with respect to such Issuing Bank.

Section 9.2. Nature of Duties of the Administrative Agent and the Other Agents. The Administrative Agent and the other Agents shall not have any duties or obligations except those expressly set forth in this Agreement and the other Loan Documents. Without limiting the generality of the foregoing, (a) the Administrative Agent and the other Agents shall not be subject to any fiduciary or other implied duties, regardless of whether a Default or an Event of Default has occurred and is continuing, (b) the Administrative Agent and the other Agents shall not have any duty to take any discretionary action or exercise any discretionary powers, except those discretionary rights and powers expressly contemplated by the Loan Documents that the Administrative Agent is required to exercise in writing by the Required Lenders (or such other number or percentage of the Lenders as shall be necessary under the circumstances as provided in Section 10.2), provided that the Administrative Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose the Administrative Agent to liability or that is contrary to any Loan Document or applicable law, including for the avoidance of doubt any action that may be in violation of the automatic stay under any Debtor Relief Law or that may effect a forfeiture, modification or termination of property of a Defaulting Lender in violation of any Debtor Relief Law, and (c) the Administrative Agent and each other Agent shall not have any duty or responsibility to disclose, and shall not be liable for the failure to disclose to any Lender or Issuing Bank, any credit or other information concerning the business, prospects, operations, property, financial and other condition or creditworthiness of any of the Loan Parties or any of their Affiliates that is communicated to, obtained by or in the possession of the Administrative Agent, such other Agent or any of their respective Related Parties in any capacity, except for notices, reports and other documents

expressly required to be furnished to the Lenders and Issuing Banks by the Administrative Agent herein or in any other Loan Document. The Administrative Agent shall not be liable for any action taken or not taken by it, its sub-agents or its attorneys-in-fact with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary under the circumstances as provided in Section 10.2) or in the absence of its own gross negligence or willful misconduct (as determined by a court of competent jurisdiction by final and non-appealable judgment). The Administrative Agent shall not be responsible for the negligence or misconduct of any sub-agents or attorneys-in-fact selected by it with reasonable care. The Administrative Agent shall not be deemed to have knowledge of any Default or Event of Default unless and until written notice thereof (which notice shall include an express reference to such event being a "Default" or "Event of Default" hereunder) is given to the Administrative Agent by the Borrower or any Lender, and the Administrative Agent and each other Agent shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with any Loan Document, (ii) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (iii) the performance or observance of any of the covenants, agreements, or other terms and conditions set forth in any Loan Document, (iv) the validity, enforceability, effectiveness or genuineness of any Loan Document or any other agreement, instrument or document, or (v) the satisfaction of any condition set forth in Article III or elsewhere in any Loan Document, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent. The Administrative Agent may consult with legal counsel (including counsel for the Borrower) concerning all matters pertaining to such duties.

Section 9.3. Lack of Reliance on the Agents, the Issuing Banks and the Lenders. Each Lender and each Issuing Bank expressly acknowledges that none of the Agents has made any representation or warranty to it, and that no act by any Agent hereafter taken, including any consent to, and acceptance of any assignment or review of the affairs of any Loan Party or any Affiliate thereof, shall be deemed to constitute any representation or warranty by any Agent to any Issuing Bank or Lender as to any matter, including whether any Agent disclosed material information in its (or its Related Parties') possession. Each Lender and each Issuing Bank represents to each Agent, each other Issuing Bank and each other Lender that it has, independently and without reliance upon any Agent, any other Issuing Bank, any other Lender or any of their Related Parties and based on such documents and information as it has deemed appropriate, made its own credit analysis of, appraisal of, and investigation into, the business, prospects, operations, property, financial and other condition and creditworthiness of the Loan Parties and their Subsidiaries, and all applicable bank or other regulatory laws relating to the transactions contemplated hereby, and made its own decision to enter into this Agreement and to extend credit to the Borrower hereunder. Each Lender and each Issuing Bank also acknowledges that it will, independently and without reliance upon any Agent, any other Issuing Bank, any other Lender or any of their Related Parties and based on such documents and information as it shall from time to time deem appropriate, continue to make its own credit analysis, appraisals and decisions in taking or not taking any action under or based on this Agreement, any other Loan Document or any related agreement or any document furnished hereunder or thereunder, and to make such investigations as it deems necessary to inform itself as to the business, prospects, operations, property, financial and other condition and creditworthiness of the Loan Parties. Each Lender and each Issuing Bank represents and warrants that (i) the Loan Documents set forth the terms of a commercial lending facility and (ii) it is engaged in making, acquiring or holding commercial loans in the ordinary course and is entering into this Agreement as a Lender or Issuing Bank for the purpose of making, acquiring or holding commercial loans and providing other facilities set forth herein as may be applicable to such Lender or Issuing Bank, and not for the purpose of purchasing, acquiring or holding any other type of financial instrument, and each Lender and each Issuing Bank agrees not to assert a claim in contravention of the foregoing. Each Lender and each Issuing Bank represents and warrants that it is sophisticated with respect to decisions to make, acquire and/or hold commercial loans and to provide other facilities set forth herein, as may be applicable to such Lender or such Issuing Bank, and either it, or the Person exercising discretion in making its decision to make, acquire and/or hold such commercial loans or to provide such other facilities, is experienced in making, acquiring or holding such commercial loans or providing such other facilities.

Section 9.4. Certain Rights of the Administrative Agent. If the Administrative Agent shall request instructions from the Required Lenders with respect to any action or actions (including the failure to act) in connection with this Agreement, the Administrative Agent shall be entitled to refrain from such act or taking such act unless and until it shall have received instructions from such Lenders, and the Administrative Agent shall not incur liability to any Person by reason of so refraining. Without limiting the foregoing, no Lender shall have any right of action whatsoever against the Administrative Agent as a result of the Administrative Agent acting or refraining from acting hereunder in accordance with the instructions of the Required Lenders where required by the terms of this Agreement.

Section 9.5. Reliance by the Administrative Agent. The Administrative Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, posting or other distribution) believed by it to be genuine and to have been signed, sent or made by the proper Person. The Administrative Agent may also rely upon any statement made to it orally or by telephone and believed by it to be made by the proper Person and shall not incur any liability for relying thereon. The Administrative Agent may consult with legal counsel (including counsel for the Borrower), independent public accountants and other experts selected by it and shall not be liable for any action taken or not taken by it in accordance with the advice of such counsel, accountants or experts.

Section 9.6. The Administrative Agent in its Individual Capacity. The bank serving as the Administrative Agent shall have the same rights and powers under this Agreement and any other Loan Document in its capacity as a Lender as any other Lender and may exercise or refrain from exercising the same as though it were not the Administrative Agent; and the terms "Lenders", "Required Lenders", "Required Revolving Lenders", or any similar terms shall, unless the context clearly otherwise indicates, include the Administrative Agent in its individual capacity. The bank acting as the Administrative Agent and its Affiliates may accept deposits from, lend money to, and generally engage in any kind of business with the Borrower or any Subsidiary or Affiliate of the Borrower as if it were not the Administrative Agent hereunder.

Section 9.7. Successor Administrative Agent.

(a) The Administrative Agent may resign at any time by giving notice thereof to the Lenders and the Borrower. Upon any such resignation, the Required Lenders shall have the right to appoint a successor Administrative Agent, subject to approval by the Borrower provided that no Default or Event of Default shall exist at such time. If no successor Administrative Agent shall have been so appointed, and shall have accepted such appointment within 30 days after the retiring Administrative Agent gives notice of resignation, then the retiring Administrative Agent may, on behalf of the Lenders, appoint a successor Administrative Agent, which shall be a commercial bank organized under the laws of the United States or any state thereof or a bank which maintains an office in the United States, having a combined capital and surplus of at least $500,000,000.

(b) Upon the acceptance of its appointment as the Administrative Agent hereunder by a successor, such successor Administrative Agent shall thereupon succeed to and become vested with all the rights, powers, privileges and duties of the retiring Administrative Agent, and the retiring Administrative Agent shall be discharged from its duties and obligations under this Agreement and the other Loan Documents. If, within 45 days after written notice is given of the retiring Administrative Agent's resignation under this Section, no successor Administrative Agent shall have been appointed and shall have accepted such appointment, then on such 45th day (i) the retiring Administrative Agent's

resignation shall become effective, (ii) the retiring Administrative Agent shall thereupon be discharged from its duties and obligations under the Loan Documents and (iii) the Required Lenders shall thereafter perform all duties of the retiring Administrative Agent under the Loan Documents until such time as the Required Lenders appoint a successor Administrative Agent as provided above. After any retiring Administrative Agent's resignation hereunder, the provisions of this Article shall continue in effect for the benefit of such retiring Administrative Agent and its representatives and agents in respect of any actions taken or not taken by any of them while it was serving as the Administrative Agent.

(c) In addition to the foregoing, if a Lender becomes, and during the period it remains, a Defaulting Lender, and if any Default has arisen from a failure of the Borrower to comply with Section 2.26(a), then each Issuing Bank and the Swingline Lender may, upon prior written notice to the Borrower and the Administrative Agent, resign as an Issuing Bank or as Swingline Lender, as the case may be, effective at the close of business Atlanta, Georgia time on a date specified in such notice (which date may not be less than five (5) Business Days after the date of such notice).

Section 9.8. Withholding Tax.

(a) To the extent required by any applicable law, the Administrative Agent may withhold from any payment to any Lender an amount equivalent to any applicable withholding tax. If the Internal Revenue Service or any authority of the United States or any other jurisdiction asserts a claim that the Administrative Agent did not properly withhold tax from amounts paid to or for the account of any Lender (because the appropriate form was not delivered or was not properly executed, or because such Lender failed to notify the Administrative Agent of a change in circumstances that rendered the exemption from, or reduction of, withholding tax ineffective, or for any other reason), such Lender shall indemnify the Administrative Agent (to the extent that the Administrative Agent has not already been reimbursed by the Borrower and without limiting the obligation of the Borrower to do so) fully for all amounts paid, directly or indirectly, by the Administrative Agent as tax or otherwise, including penalties and interest, together with all expenses incurred, including legal expenses, allocated staff costs and any out of pocket expenses; provided that if the Administrative Agent is subsequently reimbursed by the Borrower or any other Loan Party for any such amounts, the Administrative Agent shall reasonably promptly refund to the applicable Lender the amount of any excess reimbursement.

(b) Without duplication of any indemnity provided under subsection (a) of this Section, each Lender shall also indemnify the Administrative Agent, within 10 days after demand therefor, for (i) any Indemnified Taxes or Other Taxes attributable to such Lender (to the extent that the Administrative Agent has not already been reimbursed by the Borrower and without limiting the obligation of the Borrower to do so); provided that if the Administrative Agent is subsequently reimbursed by the Borrower or any other Loan Party for any such amounts, the Administrative Agent shall reasonably promptly refund to the applicable Lender the amount of any excess reimbursement, (ii) any Taxes attributable to such Lender's failure to comply with the provisions of Section 10.4(d) relating to the maintenance of a Participant Register and (iii) any Excluded Taxes attributable to such Lender, in each case, that are payable or paid by the Administrative Agent in connection with any Loan Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under any Loan Document or otherwise payable by the Administrative Agent to the Lender from any other source against any amount due to the Administrative Agent under this subsection.

Section 9.9. The Administrative Agent May File Proofs of Claim.

(a) In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceeding relative to any Loan Party, the Administrative Agent (irrespective of whether the principal of any Loan or any Revolving Credit Exposure shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on the Borrower) shall be entitled and empowered, by intervention in such proceeding or otherwise:

(i) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans or Revolving Credit Exposure and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders, each Issuing Bank and the Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders, each Issuing Bank and the Administrative Agent and its agents and counsel and all other amounts due the Lenders, each Issuing Bank and the Administrative Agent under Section 10.3) allowed in such judicial proceeding; and

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

(b) Any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender and each Issuing Bank to make such payments to the Administrative Agent and, if the Administrative Agent shall consent to the making of such payments directly to the Lenders and each Issuing Bank, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Administrative Agent and its agents and counsel, and any other amounts due the Administrative Agent under Section 10.3.

Nothing contained herein shall be deemed to authorize the Administrative Agent to authorize or consent to or accept or adopt on behalf of any Lender or any Issuing Bank any plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Lender or to authorize the Administrative Agent to vote in respect of the claim of any Lender in any such proceeding.

Section 9.10. Authorization to Execute Other Loan Documents. Each Lender hereby authorizes the Administrative Agent to execute on behalf of all Lenders all Loan Documents (including, without limitation, the Collateral Documents and any subordination agreements permitted hereunder) other than this Agreement, subject to any approval of the Lenders or the Required Lenders required by the Loan Documents.

Section 9.11. Collateral and Guaranty Matters. The Lenders irrevocably authorize the Administrative Agent, at its option and discretion to effectuate the releases and subordination agreements contemplated by Section 10.17. Upon request by the Administrative Agent at any time, the Required Lenders will confirm in writing the Administrative Agent's authority to release its interest in particular types or items of property or to release any Loan Party from its obligations under the applicable Collateral Documents pursuant to Section 10.17.

Section 9.12. Co-Documentation Agents; Co-Syndication Agents; Lead Arrangers. Each Lender hereby designates BBVA USA, Citizens Bank, N.A., Fifth Third Bank and Wells Fargo Bank, National Association as Co-Documentation Agents (the "Co-Documentation Agents") and agrees that the Co-Documentation Agents shall have no duties or obligations under any Loan Documents to any Lender or any Loan Party. Each Lender hereby designates Bank of America, N.A. and Regions Bank as Co-Syndication Agents (the "Co-Syndication Agents") and agrees that the Co-Syndication Agents shall have no duties or obligations under any Loan Documents to any Lender or any Loan Party. Each Lender agrees that the Lead Arrangers shall have no duties or obligations under any Loan Documents to any Lender or any Loan Party.

Section 9.13. Right to Realize on Collateral and Enforce Guarantee. Anything contained in any of the Loan Documents to the contrary notwithstanding, the Borrower, the Administrative Agent and each Lender hereby agree that (i) no Lender shall have any right individually to realize upon any of the Collateral or to enforce the Collateral Documents, it being understood and agreed that all powers, rights and remedies hereunder and under the Collateral Documents may be exercised solely by the Administrative Agent, and (ii) in the event of a foreclosure by the Administrative Agent on any of the Collateral pursuant to a public or private sale or other disposition, the Administrative Agent or any Lender may be the purchaser or licensor of any or all of such Collateral at any such sale or other disposition and the Administrative Agent, as agent for and representative of the Lenders (but not any Lender or Lenders in its or their respective individual capacities unless the Required Lenders shall otherwise agree in writing), shall be entitled, for the purpose of bidding and making settlement or payment of the purchase price for all or any portion of the Collateral sold at any such public sale, to use and apply any of the Obligations as a credit on account of the purchase price for any collateral payable by the Administrative Agent at such sale or other disposition.

Section 9.14. Secured Bank Product Obligations and Hedging Obligations. No Bank Product Provider or Lender-Related Hedge Provider that obtains the benefits of Section 8.2, the Collateral Documents or any Collateral by virtue of the provisions hereof or of any other Loan Document shall have any right to notice of any action or to consent to, direct or object to any action hereunder or under any other Loan Document or otherwise in respect of the Collateral (including the release or impairment of any Collateral) other than in its capacity as a Lender and, in such case, only to the extent expressly provided in the Loan Documents. Notwithstanding any other provision of this Article to the contrary, the Administrative Agent shall not be required to verify the payment of, or that other satisfactory arrangements have been made with respect to, Bank Product Obligations and Hedging Obligations unless the Administrative Agent has received written notice of such Obligations, together with such supporting documentation as the Administrative Agent may request, from the applicable Bank Product Provider or Lender-Related Hedge Provider, as the case may be.

Section 9.15. Certain ERISA Matters.

(a) Each Lender (x) represents and warrants, as of the date such Person became a Lender party hereto, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent and the Lead Arrangers and their respective Affiliates, and not, for the avoidance of doubt, to or for the benefit of the Borrower or any other Loan Party, that at least one of the following is and will be true:

(i) such Lender is not using "plan assets" (within the meaning of Section 3(42) of ERISA or otherwise for purposes of Title I of ERISA or Section 4975 of the Code) of one or more Benefit Plans in connection with the Loans, the Letters of Credit or the Commitments,

(ii) the prohibited transaction exemption set forth in one or more PTEs, such as PTE 84-14 (a class exemption for certain transactions determined by independent qualified professional asset managers), PTE 95-60 (a class exemption for certain transactions involving insurance company general accounts), PTE 90-1 (a class exemption for certain transactions involving insurance company pooled separate accounts), PTE 91-38 (a class exemption for certain transactions involving bank collective investment funds) or PTE 96-23 (a class exemption for certain transactions determined by in-house asset managers), is applicable so as to exempt from the prohibitions of Section 406 of ERISA and Section 4975 of the Code such Lender's entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement,

(iii) (A) such Lender is an investment fund managed by a "Qualified Professional Asset Manager" (within the meaning of Part VI of PTE 84-14), (B) such Qualified Professional Asset Manager made the investment decision on behalf of such Lender to enter into, participate in, administer and perform the Loans, the Letters of Credit, the Commitments and this Agreement, (C) the entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement satisfies the requirements of sub-sections (b) through (g) of Part I of PTE 84-14 and (D) to the best knowledge of such Lender, the requirements of subsection (a) of Part I of PTE 84-14 are satisfied with respect to such Lender's entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement, or

(iv) such other representation, warranty and covenant as may be agreed in writing between the Administrative Agent, in its sole discretion, and such Lender.

(b) In addition, unless either (1) sub-clause (i) in the immediately preceding clause (a) is true with respect to a Lender or (2) a Lender has provided another representation, warranty and covenant in accordance with sub-clause (iv) in the immediately preceding clause (a), such Lender further (x) represents and warrants, as of the date such Person became a Lender party hereto, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent and the Lead Arrangers and their respective Affiliates, and not, for the avoidance of doubt, to or for the benefit of the Borrower or any other Loan Party, that none of the Administrative Agent or the Lead Arrangers or any of their respective Affiliates is a fiduciary with respect to the assets of such Lender involved in the Loans, the Letters of Credit, the Commitments and this Agreement (including in connection with the reservation or exercise of any rights by the Administrative Agent under this Agreement, any Loan Document or any documents related to hereto or thereto).

ARTICLE X

MISCELLANEOUS

Section 10.1. Notices.

(a) Written Notices.

(i) Except in the case of notices and other communications expressly permitted to be given by telephone, all notices and other communications to any party herein to be effective shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by telecopy, as follows:

To the Borrower: The Pennant Group, Inc.
1675 East Riverside Drive, Suite 150
Eagle, ID 83616
Attention: Jennifer L. Freeman, Chief Financial Officer
Telecopy Number: (208) 576-6909
Email: JFreeman@pennantservices.com

With a copy to:	Pennant Services, Inc. 1675 East Riverside Drive, Suite 150 Eagle, ID 83616 Attention: Legal Telecopy Number: (208) 576-6909 Email: Legal@pennantservices.com
To the Administrative Agent:	SunTrust Bank 3333 Peachtree Road 7th Floor Atlanta, Georgia 30326 Attention: Portfolio Manager Email: Katherine.Bass@SunTrust.com
With copies to (for informational purposes only):	
	SunTrust Bank 3333 Peachtree Road Atlanta, Georgia 30326 Attn: Ron Caldwell Telecopy Number: (404) 926-5248 Email: Ron.Caldwell@SunTrust.com
	SunTrust Bank Agency Services 303 Peachtree Street, N.E. / 25th Floor Atlanta, Georgia 30308 Attention: Agency Services Manager Telecopy Number: (404) 221-2001
	and
	Latham & Watkins LLP 355 South Grand Avenue, Suite 100 Los Angeles, CA 90071-1560 Attention: Jason Bosworth Telecopy Number: (213) 891-8291 Email: jason.bosworth@lw.com
To the Issuing Bank:	SunTrust Bank Attn: Standby Letter of Credit Dept. 245 Peachtree Center Ave., 17th FL Atlanta, GA 30303 Telephone: (800) 951-7847 Telecopy Number: (801) 567-6205 Email: LCandTradeServices@SunTrust.com

To the Swingline Lender:	SunTrust Bank Agency Services 303 Peachtree Street, N.E. / 25th Floor Atlanta, Georgia 30308 Attention: Agency Services Manager Telecopy Number: (404) 221-2001
To any other Lender:	the address set forth in the Administrative Questionnaire or the Assignment and Acceptance executed by such Lender

Any party hereto may change its address or telecopy number for notices and other communications hereunder by notice to the other parties hereto. All such notices and other communications shall be effective upon actual receipt by the relevant Person or, if delivered by overnight courier service, upon the first Business Day after the date deposited with such courier service for overnight (next-day) delivery or, if sent by telecopy, upon transmittal in legible form by facsimile machine or, if mailed, upon the third Business Day after the date deposited into the mail or, if delivered by hand, upon delivery; provided that notices delivered to the Administrative Agent, any Issuing Bank or the Swingline Lender shall not be effective until actually received by such Person at its address specified in this Section.

(ii) Any agreement of the Administrative Agent, any Issuing Bank or any Lender herein to receive certain notices by telephone or facsimile is solely for the convenience and at the request of the Borrower. The Administrative Agent, each Issuing Bank and each Lender shall be entitled to rely on the authority of any Person purporting to be a Person authorized by the Borrower to give such notice and the Administrative Agent, each Issuing Bank and the Lenders shall not have any liability to the Borrower or other Person on account of any action taken or not taken by the Administrative Agent, any Issuing Bank or any Lender in reliance upon such telephonic or facsimile notice. The obligation of the Borrower to repay the Loans and all other Obligations hereunder shall not be affected in any way or to any extent by any failure of the Administrative Agent, any Issuing Bank or any Lender to receive written confirmation of any telephonic or facsimile notice or the receipt by the Administrative Agent, any Issuing Bank or any Lender of a confirmation which is at variance with the terms understood by the Administrative Agent, such Issuing Bank and such Lender to be contained in any such telephonic or facsimile notice.

(b) Electronic Communications.

(i) Notices and other communications to the Lenders and each Issuing Bank hereunder may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites) pursuant to procedures approved by the Administrative Agent, provided that the foregoing shall not apply to notices to any Lender or any Issuing Bank pursuant to Article II unless such Lender, such Issuing Bank, as applicable, and the Administrative Agent have agreed to receive notices under any Section thereof by electronic communication and have agreed to the procedures governing such communications. The Administrative Agent or the Borrower may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it; provided that approval of such procedures may be limited to particular notices or communications.

(ii) Unless the Administrative Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement); provided that if such notice or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next Business Day for the recipient, and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing clause (i) of notification that such notice or communication is available and identifying the website address therefor.

(c) Certification of Public Information. The Borrower and each Lender acknowledge that certain of the Lenders may be Public Lenders and, if documents or notices required to be delivered pursuant to Section 5.1 or Section 5.2 otherwise are being distributed through Syndtrak, Intralinks or any other Internet or intranet website or other information platform (the "Platform"), any document or notice that the Borrower has indicated contains Non-Public Information shall not be posted on that portion of the Platform designated for such Public Lenders. The Borrower agrees to clearly designate all information provided to the Administrative Agent by or on behalf of the Borrower which is suitable to make available to Public Lenders. If the Borrower has not indicated whether a document or notice delivered pursuant to Section 5.1 or Section 5.2 contains Non-Public Information, the Administrative Agent reserves the right to post such document or notice solely on that portion of the Platform designated for Lenders who wish to receive Non-Public Information.

(d) Private Side Information Contacts. Each Public Lender agrees to cause at least one individual at or on behalf of such Public Lender to at all times have selected the "Private Side Information" or similar designation on the content declaration screen of the Platform in order to enable such Public Lender or its delegate, in accordance with such Public Lender's compliance procedures and applicable law, including Unites States federal and state securities laws, to make reference to information that is not made available through the "Public Side Information" portion of the Platform and that may contain Non-Public Information with respect to the Borrower, its Affiliates or any of their securities or loans for purposes of United States federal or state securities laws. In the event that any Public Lender has determined for itself not to access any information disclosed through the Platform or otherwise, such Public Lender acknowledges that (i) other Lenders may have availed themselves of such information and (ii) neither the Borrower nor the Administrative Agent has any responsibility for such Public Lender's decision to limit the scope of the information it has obtained in connection with this Agreement and the other Loan Documents.

Section 10.2. Waiver; Amendments.

(a) No failure or delay by the Administrative Agent, any Issuing Bank or any Lender in exercising any right or power hereunder or under any other Loan Document, and no course of dealing between the Borrower and the Administrative Agent or any Lender, shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such right or power, preclude any other or further exercise thereof or the exercise of any other right or power hereunder or thereunder. The rights and remedies of the Administrative Agent, each Issuing Bank and the Lenders hereunder and under the other Loan Documents are cumulative and are not exclusive of any rights or remedies provided by law. No waiver of any provision of this Agreement or of any other Loan Document or consent to any departure by the Borrower therefrom shall in any event be effective unless the same shall be permitted by subsection (b) of this Section, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. Without limiting the generality of the foregoing, the making of a Loan or the issuance of a Letter of Credit shall not be construed as a waiver of any Default or Event of Default, regardless of whether the Administrative Agent, any Lender or any Issuing Bank may have had notice or knowledge of such Default or Event of Default at the time.

(b) Subject to Section 2.16(b), no amendment or waiver of any provision of this Agreement or of the other Loan Documents (other than the Fee Letter), nor consent to any departure by the Borrower therefrom, shall in any event be effective unless the same shall be in writing and signed by the Borrower and the Required Lenders, or the Borrower and the Administrative Agent with the consent of the Required Lenders, and then such amendment, waiver or consent shall be effective only in the specific instance and for the specific purpose for which given; provided that, in addition to the consent of the Required Lenders, no amendment, waiver or consent shall:

(i) extend or increase the Commitment of any Lender without the written consent of such Lender;

(ii) reduce the principal amount of any Loan or LC Disbursement or reduce the rate of interest thereon, or reduce any fees payable hereunder or in any other Loan Document, without the written consent of each Lender directly affected thereby (provided that any change to the calculation of the Leverage Ratio or the component definitions used therein shall not require consent of each Lender directly affected thereby and shall only be subject to Required Lender approval);

(iii) postpone the date fixed for any payment (other than any mandatory prepayment) of any principal of, or interest on, any Loan or LC Disbursement or any fees hereunder or reduce the amount of, waive or excuse any such payment, or postpone the scheduled date for the termination or reduction of any Commitment, without the written consent of each Lender directly affected thereby (provided that any change to the calculation of the Leverage Ratio or the component definitions used therein shall not require consent of each Lender directly affected thereby and shall only be subject to Required Lender approval);

(iv) change Section 2.21(b) or (c) or Section 8.2 in a manner that would alter the *pro rata* sharing of payments required thereby, without the written consent of each Lender directly affected thereby;

(v) change any of the provisions of this subsection (b) or the percentage set forth in the definition of "Required Lenders" or any other provision hereof specifying the number or percentage of Lenders which are required to waive, amend or modify any rights hereunder or make any determination or grant any consent hereunder, without the consent of each Lender;

(vi) release all or substantially all of the guarantors, or limit the liability of all or substantially all of the guarantors, under any guaranty agreement guaranteeing any of the Obligations, without the written consent of each Lender; or

(vii) release all or substantially all collateral (if any) securing any of the Obligations, without the written consent of each Lender;

provided, further, that (x) no such amendment, waiver or consent shall amend, modify or otherwise affect the rights, duties or obligations of the Administrative Agent, the Swingline Lender or any Issuing Bank without the prior written consent of such Person, and (y) no amendment, waiver or consent shall, unless signed by the Borrower and the Required Revolving Lenders, or the Borrower and the Administrative Agent with the consent of the Required Revolving Lenders:

(1) amend or waive compliance with the conditions precedent to the obligations of the Revolving Lenders to make any Revolving Loan or LC Disbursement;

(2) amend or waive non-compliance with any provision of Section 2.12(d);

(3) waive any Default or Event of Default for the purpose of satisfying the conditions precedent to the obligations of the Revolving Lenders to make any Revolving Loan or LC Disbursement; or

(4) change any of the provisions of this clause (y);

provided, further, that no such amendment, waiver or consent shall change the number or percentage contained in the definition of "Required Revolving Lenders" or any other provision hereof specifying the number or percentage of Revolving Lenders which are required to waive, amend or modify any rights hereunder or make any determination or grant any consent hereunder, without the consent of each Revolving Lender.

(c) Notwithstanding anything to the contrary herein, no Defaulting Lender shall have any right to approve or disapprove any amendment, waiver or consent hereunder, except that the Commitment of such Lender may not be increased or extended, and amounts payable to such Lender hereunder may not be permanently reduced, without the consent of such Lender (other than reductions in fees and interest in which such reduction does not disproportionately affect such Lender). Notwithstanding anything contained herein to the contrary, this Agreement may be amended and restated without the consent of any Lender (but with the consent of the Borrower and the Administrative Agent) if, upon giving effect to such amendment and restatement, such Lender shall no longer be a party to this Agreement (as so amended and restated), the Commitments of such Lender shall have terminated (but such Lender shall continue to be entitled to the benefits of Sections 2.18, 2.19, 2.20 and 10.3), such Lender shall have no other commitment or other obligation hereunder and such Lender shall have been paid in full all principal, interest and other amounts owing to it or accrued for its account under this Agreement.

(d) Notwithstanding the foregoing, this Agreement may be amended (or amended and restated) with the written consent of the Required Lenders, Administrative Agent and Borrower (a) to add one or more additional credit facilities to this Agreement and to permit extensions of credit from time to time outstanding thereunder and the accrued interest and fees in respect thereof to share ratably in the benefits of this Agreement and the other Loan Documents with the Term Loans and the Revolving Loans and the accrued interest and fees in respect thereof and (b) to include appropriately the Lenders holding such credit facilities in any determination of the Required Lenders.

(e) Notwithstanding anything to the contrary herein, any Loan Document may be waived, amended, supplemented or modified pursuant to an agreement or agreements in writing entered into by the Borrower and the Administrative Agent (without the consent of any Lender) solely to effect administrative changes that are not adverse to any Lender or to correct administrative errors or omissions or to cure an ambiguity, defect or error (including, without limitation, to revise the legal description of any Collateral), or to grant a new Lien for the benefit of the Secured Parties or extend an existing Lien over additional property. Notwithstanding anything to the contrary herein, (A) additional extensions of credit consented to by the Required Lenders shall be permitted hereunder on a ratable basis with the existing Loans (including as to proceeds of, and sharing in the benefits of, Collateral and sharing of prepayments), and (B) the Administrative Agent shall enter into the intercreditor agreement upon the request of the Borrower as contemplated by Section 7.2(i) solely to the extent such intercreditor agreement is reasonably acceptable to the Administrative Agent.

Section 10.3. Expenses; Indemnification.

(a) The Borrower shall pay (i) all reasonable, documented out-of-pocket costs and expenses of the Administrative Agent, the Lead Arrangers and their Affiliates, including the reasonable fees, charges and disbursements of one outside counsel for the Administrative Agent, the Lead Arrangers and their Affiliates, in connection with the syndication of the credit facilities provided for herein, the preparation and administration of the Loan Documents and any amendments, modifications or waivers thereof (whether or not the transactions contemplated in this Agreement or any other Loan Document shall be consummated), (ii) all reasonable, documented out-of-pocket expenses incurred by any Issuing Bank in connection with the issuance, amendment, renewal or extension of any Letter of Credit or any demand for payment thereunder and (iii) all documented out-of-pocket costs and expenses which shall be limited, in the case of outside counsel, to the reasonable fees, charges and disbursements of one outside counsel to the Secured Parties, taken as a whole, any applicable local counsel required for the Secured Parties in any applicable jurisdiction and any special regulatory counsel (and, solely in the case of a conflict of interest, one additional of each such counsel for each group of similarly situated Secured Parties)) incurred by the Administrative Agent, any Issuing Bank or any Lender in connection with the enforcement or protection of its rights in connection with this Agreement, including its rights under this Section, or in connection with the Loans made or any Letters of Credit issued hereunder, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of such Loans or Letters of Credit.

(b) The Borrower shall indemnify the Administrative Agent (and any sub-agent thereof), each Lender and each Issuing Bank, and each Related Party of any of the foregoing Persons (each such Person being called an "Indemnitee") against, and hold each Indemnitee harmless from, any and all losses, claims, penalties, damages, liabilities and related expenses (including the reasonable and documented fees, charges and disbursements of one primary counsel for the Indemnitees, taken as a whole, any local counsel for the Indemnitees in any applicable jurisdiction and any special regulatory counsel (and, solely in the case of a conflict of interest, one additional of each such counsel for each group of similarly situated Indemnitees)) incurred by any Indemnitee or asserted against any Indemnitee by any third party or by the Borrower or any other Loan Party arising out of, in connection with, or as a result of (i) the execution or delivery of this Agreement, any other Loan Document or any agreement or instrument contemplated hereby or thereby, the performance by the parties hereto of their respective obligations hereunder or thereunder or the consummation of the transactions contemplated hereby or thereby, (ii) any Loan or Letter of Credit or the use or proposed use of the proceeds therefrom (including any refusal by any Issuing Bank to honor a demand for payment under a Letter of Credit if the documents presented in connection with such demand do not strictly comply with the terms of such Letter of Credit), (iii) any actual or alleged presence or Release of Hazardous Materials on or from any property owned or operated by the Borrower or any of its Subsidiaries, or any Environmental Liability related in any way to the Borrower or any of its Subsidiaries, or (iv) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by a third party or by the Borrower or any other Loan Party, and regardless of whether any Indemnitee is a party thereto; provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, penalties, damages, liabilities or related expenses are determined by a court of competent jurisdiction by final and non-appealable judgment to have resulted from (x) the gross negligence or willful misconduct of such Indemnitee or (y) a material breach of such Indemnitee's obligations hereunder or under any other Loan Document. No Indemnitee shall be liable for any damages arising from the use by others of any information or other materials obtained through Syndtrak, Intralinks or any other Internet or intranet website, except as a result of such Indemnitee's gross negligence or willful misconduct as determined by a court of competent jurisdiction in a final and non-appealable judgment.

(c) The Borrower shall pay, and hold the Administrative Agent, each Issuing Bank and each of the Lenders harmless from and against, any and all present and future stamp, documentary, and other similar taxes with respect to this Agreement and any other Loan Documents, any collateral described therein or any payments due thereunder, and save the Administrative Agent, each Issuing Bank and each Lender harmless from and against any and all liabilities with respect to or resulting from any delay or omission to pay such taxes.

(d) To the extent that the Borrower fails to pay any amount required to be paid to the Administrative Agent, any Issuing Bank or the Swingline Lender under subsection (a), (b) or (c) hereof, each Lender severally agrees to pay to the Administrative Agent, the applicable Issuing Bank or the Swingline Lender, as the case may be, such Lender's *pro rata* share (in accordance with its respective Revolving Commitment (or Revolving Credit Exposure, as applicable) and Term Loan determined as of the time that the unreimbursed expense or indemnity payment is sought) of such unpaid amount; provided that the unreimbursed expense or indemnified payment, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the Administrative Agent, the applicable Issuing Bank or the Swingline Lender in its capacity as such.

(e) To the extent permitted by applicable law, each party hereto waives, and agrees not to assert, any claim against any other party hereto, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to actual or direct damages) arising out of, in connection with or as a result of this Agreement, any other Loan Document or any agreement or instrument contemplated hereby, the transactions contemplated therein, any Loan or any Letter of Credit or the use of proceeds thereof.

(f) All amounts due under this Section shall be payable promptly after written demand therefor.

Section 10.4. Successors and Assigns.

(a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that the Borrower may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Administrative Agent and each Lender, and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an assignee in accordance with the provisions of subsection (b) of this Section, (ii) by way of participation in accordance with the provisions of subsection (d) of this Section or (iii) by way of pledge or assignment of a security interest subject to the restrictions of subsection (f) of this Section (and any other attempted assignment or transfer by any party hereto shall be null and void). Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants to the extent provided in subsection (d) of this Section and, to the extent expressly contemplated hereby, the Related Parties of each of the Administrative Agent and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) Any Lender may at any time assign to one or more assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitments, Loans and other Revolving Credit Exposure at the time owing to it); provided that any such assignment shall be subject to the following conditions:

(i) Minimum Amounts.

(A) in the case of an assignment of the entire remaining amount of the assigning Lender's Commitments, Loans and other Revolving Credit Exposure at the time owing to it or in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund, no minimum amount need be assigned; and

(B) in any case not described in subsection (b)(i)(A) of this Section, the aggregate amount of the Commitment (which, in the case of Revolving Commitments, includes Revolving Loans and Revolving Credit Exposure outstanding thereunder) or, if the applicable Commitment is not then in effect, the principal outstanding balance of the Loans and/or Revolving Credit Exposure, as applicable, of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Acceptance with respect to such assignment is delivered to the Administrative Agent or, if "Trade Date" is specified in the Assignment and Acceptance, as of the Trade Date) shall not be less than $1,000,000 with respect to Term Loans and $5,000,000 with respect to Revolving Loans and Revolving Commitments and in minimum increments of $1,000,000, unless each of the Administrative Agent and, so long as no Event of Default has occurred and is continuing, the Borrower otherwise consents (each such consent not to be unreasonably withheld, conditioned or delayed).

(ii) Proportionate Amounts. Each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement with respect to the Loans, other Revolving Credit Exposure or the Commitments assigned, except that this subsection (b)(ii) shall not prohibit any Lender from assigning all or a portion of its rights and obligations among separate Commitments or Classes on a non-*pro rata* basis.

(iii) Required Consents. No consent shall be required for any assignment except to the extent required by subsection (b)(i)(B) of this Section and, in addition:

(A) the consent of the Borrower shall be required (such consent not to be unreasonably withheld, conditioned or delayed) unless (x) an Event of Default has occurred and is continuing at the time of such assignment or (y) (1) in the case of Term Loans such assignment is to a Lender, an Affiliate of such Lender or an Approved Fund of such Lender, or (2) in the case of Revolving Commitments or Revolving Loans, such assignment is to a Lender holding Revolving Commitments or an Affiliate of such Lender or an Approved Fund of such Lender;

(B) the consent of the Administrative Agent (such consent not to be unreasonably withheld, conditioned or delayed) shall be required unless (1) such assignment is of a Term Loan to a Lender, an Affiliate of such Lender or an Approved Fund of such Lender, or (2) in the case of Revolving Commitments or Revolving Loans, such assignment is to a Lender holding Revolving Commitments or an Affiliate of such Lender or an Approved Fund; and

(C) the consent of each Issuing Bank (such consent not to be unreasonably withheld, conditioned or delayed) shall be required for any assignment that increases the obligation of the assignee to participate in exposure under one or more Letters of Credit (whether or not then outstanding), and the consent of the Swingline Lender (such consent not to be unreasonably withheld, conditioned or delayed) shall be required for any assignment in respect of the Revolving Commitments unless such assignment is to a Lender holding Revolving Commitments or Revolving Loans, an Affiliate of such Lender or an Approved Fund of such Lender.

(iv) Assignment and Acceptance. The parties to each assignment shall deliver to the Administrative Agent (A) a duly executed Assignment and Acceptance, (B) a processing and recordation fee of $3,500 (except with respect to any assignment by a Lender to one of its Affiliates or Approved Funds), (C) an Administrative Questionnaire unless the assignee is already a Lender and (D) the documents required under Section 2.20(e).

(v) No Assignment to the Borrower. No such assignment shall be made to the Borrower or any of the Borrower's Affiliates or Subsidiaries.

(vi) No Assignment to Natural Persons, Defaulting Lenders or Disqualified Institutions. No such assignment shall be made to a natural person, a Defaulting Lender or a Disqualified Institution.

Subject to acceptance and recording thereof by the Administrative Agent pursuant to subsection (c) of this Section, from and after the effective date specified in each Assignment and Acceptance, the assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Assignment and Acceptance, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Acceptance, be released from its obligations under this Agreement (and, in the case of an Assignment and Acceptance covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto) but shall continue to be entitled to the benefits of Sections 2.18, 2.19, 2.20 and 10.3 with respect to facts and circumstances occurring prior to the effective date of such assignment; provided that, except to the extent otherwise expressly agreed by the affected parties, no assignment by a Defaulting Lender will constitute a waiver or release of any claim of any party hereunder arising from such Lender's having been a Defaulting Lender. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this subsection shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with subsection (d) of this Section. If the consent of the Borrower to an assignment is required hereunder (including a consent to an assignment which does not meet the minimum assignment thresholds specified above), the Borrower shall be deemed to have given its consent unless it shall object thereto by written notice to the Administrative Agent within ten (10) Business Days after notice thereof has actually been delivered by the assigning Lender (through the Administrative Agent) to the Borrower.

(c) The Administrative Agent, acting solely for this purpose as a non-fiduciary agent of the Borrower, shall maintain at one of its offices in Atlanta, Georgia a copy of each Assignment and Acceptance delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amount of the Loans and Revolving Credit Exposure owing to, each Lender pursuant to the terms hereof from time to time (the "Register"). Information contained in the Register with respect to any Lender shall be available for inspection by such Lender at any reasonable time and from time to time upon reasonable prior notice; information contained in the Register shall also be available for inspection by the Borrower at any reasonable time and from time to time upon reasonable prior notice. In establishing and maintaining the Register, the Administrative Agent shall serve as the Borrower's agent solely for tax purposes and solely with respect to the actions described in this Section, and the Borrower hereby agrees that, to the extent SunTrust Bank serves in such capacity, SunTrust Bank and its officers, directors, employees, agents, sub-agents and Affiliates shall constitute "Indemnitees".

(d) Any Lender may at any time, without the consent of, or notice to, the Borrower, the Administrative Agent, the Swingline Lender or any Issuing Bank, sell participations to any Person (other than a natural person, a Disqualified Institution, the Borrower or any of the Borrower's Affiliates or Subsidiaries) (each, a "Participant") in all or a portion of such Lender's rights and/or obligations under this Agreement (including all or a portion of its Commitment and/or the Loans owing to it); provided that (i) such Lender's obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (iii) the Borrower, the Administrative Agent, each Issuing Bank, the Swingline Lender and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement.

Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver with respect to the following to the extent affecting such Participant: (i) increase the Commitment of such Lender; (ii) reduce the principal amount of any Loan or LC Disbursement or reduce the rate of interest thereon, or reduce any fees payable hereunder (excluding the right of any Participant to consent to changes in the calculation of the Leverage Ratio or the component definitions thereof); (iii) postpone the date fixed for any payment of any principal of, or interest on, any Loan or LC Disbursement or any fees hereunder or reduce the amount of, waive or excuse any such payment, or postpone the scheduled date for the termination or reduction of any Commitment (excluding the right of any Participant to consent to changes in the calculation of the Leverage Ratio or the component definitions thereof); (iv) change Section 2.21(b) or (c) in a manner that would alter the *pro rata* sharing of payments required thereby; (v) change any of the provisions of Section 10.2(b) or the definition of "Required Lenders" or "Required Revolving Lenders" or any other provision hereof specifying the number or percentage of Lenders which are required to waive, amend or modify any rights hereunder or make any determination or grant any consent hereunder; (vi) release all or substantially all of the guarantors, or limit the liability of all or substantially all of the guarantors, under any guaranty agreement guaranteeing any of the Obligations; or (vii) release all or substantially all collateral (if any) securing any of the Obligations. Subject to subsection (e) of this Section, the Borrower agrees that each Participant shall be entitled to the benefits of Sections 2.18, 2.19, and 2.20 to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to subsection (b) of this Section; provided that such Participant agrees to be subject to Section 2.24 as though it were a Lender. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 10.7 as though it were a Lender; provided that such Participant agrees to be subject to Section 2.21 as though it were a Lender.

Each Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of the Borrower, maintain a register in the United States 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 the Loan Documents (the "Participant Register"); provided that no Lender shall have any obligation to disclose all or any portion of the Participant Register to any Person (including the identity of any Participant or any information relating to a Participant's interest in any commitments, loans, letters of credit or other obligations under any Loan Document) except to the extent that such disclosure is necessary to establish that such commitment, loan, letter of credit or other obligation is in registered form under Section 5f.103-1(c) or Proposed Section 1.163-5(B) of the United States Treasury Regulations (or, in each case, any amended or successor version). The entries in the Participant Register shall be conclusive, absent manifest error, and such Lender shall treat each person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary.

(e) A Participant shall not be entitled to receive any greater payment under Sections 2.18 and 2.20 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless the sale of the participation to such Participant is made with the Borrower's prior written consent. A Participant shall not be entitled to the benefits of Section 2.20 unless the Borrower is notified of the participation sold to such Participant and such Participant agrees, for the benefit of the Borrower, to comply with Sections 2.20(e) and (f) as though it were a Lender (it being understood that the documentation required under Sections 2.20(e) and (f) shall be delivered to the participating Lender).

(f) Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including, without limitation, any pledge or assignment to secure obligations to a Federal Reserve Bank; provided that no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

(g) The Administrative Agent shall not have any responsibility for ensuring that an assignee of, or a participant in, a Loan or Commitment is not a Disqualified Institution, and shall not have any liability in the event that Loans or Commitments, or a participation therein, are transferred to any Disqualified Institution.

(h) For the avoidance of doubt, the addition of any Person to the Disqualified Institution List shall solely apply prospectively and shall have no effect with respect to any assignment or participation that occurs or any Loans, Commitments or Revolving Credit Exposure acquired by such Person, in each case prior to the date such Person is added to the Disqualified Institution List.

Section 10.5. Governing Law; Jurisdiction; Consent to Service of Process.

(a) This Agreement and the other Loan Documents and any claim, controversy, dispute or cause of action (whether in contract or tort or otherwise) based upon, arising out of or relating to this Agreement or any other Loan Document (except, as to any other Loan Document, as expressly set forth therein) and the transactions contemplated hereby and thereby shall be construed in accordance with and be governed by the law of the State of New York.

(b) The Borrower hereby irrevocably and unconditionally submits, for itself and its property, to the exclusive jurisdiction of the United States District Court for the Southern District of New York, and of the Supreme Court of the State of New York sitting in New York county, and of any appellate court from any thereof, in any action or proceeding arising out of or relating to this Agreement or any other Loan Document or the transactions contemplated hereby or thereby, or for recognition or enforcement of any judgment, and each of the parties hereto hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in such District Court or New York state court or, to the extent permitted by applicable law, such appellate court. Each of the parties hereto agrees 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. Nothing in this Agreement or any other Loan Document shall affect any right that the Administrative Agent, any Issuing Bank or any Lender may otherwise have to bring any action or proceeding relating to this Agreement or any other Loan Document against the Borrower or its properties in the courts of any jurisdiction.

(c) The Borrower irrevocably and unconditionally waives any objection which it may now or hereafter have to the laying of venue of any such suit, action or proceeding described in subsection (b) of this Section and brought in any court referred to in subsection (b) of this Section. Each of the parties hereto irrevocably waives, to the fullest extent permitted by applicable law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

(d) Each party to this Agreement irrevocably consents to the service of process in the manner provided for notices in Section 10.1. Nothing in this Agreement or in any other Loan Document will affect the right of any party hereto to serve process in any other manner permitted by law.

Section 10.6. WAIVER OF JURY TRIAL. EACH PARTY HERETO IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER, AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

Section 10.7. Right of Set-off. In addition to any rights now or hereafter granted under applicable law and not by way of limitation of any such rights, each Lender and each Issuing Bank shall have the right, at any time or from time to time upon the occurrence and during the continuance of an Event of Default, without prior notice to the Borrower, any such notice being expressly waived by the Borrower to the extent permitted by applicable law, to set off and apply against all deposits (general or special, time or demand, provisional or final) of the Borrower at any time held or other obligations at any time owing by such Lender and such Issuing Bank to or for the credit or the account of the Borrower against any and all Obligations held by such Lender or such Issuing Bank, as the case may be, irrespective of whether such Lender or such Issuing Bank shall have made demand hereunder and although such Obligations may be unmatured. Each Lender and each Issuing Bank agrees promptly to notify the Administrative Agent and the Borrower after any such set-off and any application made by such Lender or such Issuing Bank, as the case may be; provided that the failure to give such notice shall not affect the validity of such set-off and application. Each Lender and each Issuing Bank agrees to apply all amounts collected from any such set-off to the Obligations before applying such amounts to any other Indebtedness or other obligations owed by the Borrower and any of its Subsidiaries to such Lender or such Issuing Bank.

Section 10.8. Counterparts; Integration. This Agreement may be executed by one or more of the parties to this Agreement on any number of separate counterparts, and all of said counterparts taken together shall be deemed to constitute one and the same instrument. This Agreement, the Fee Letter, the other Loan Documents, and any separate letter agreements relating to any fees payable to the Administrative Agent and its Affiliates constitute the entire agreement among the parties hereto and thereto and their Affiliates regarding the subject matters hereof and thereof and supersede all prior agreements and understandings, oral or written, regarding such subject matters. Delivery of an executed counterpart to this Agreement or any other Loan Document by facsimile transmission or by electronic mail in pdf format shall be as effective as delivery of a manually executed counterpart hereof.

Section 10.9. Survival. All covenants, agreements, representations and warranties made by the Borrower herein and in the certificates, reports, notices or other instruments delivered in connection with or pursuant to this Agreement shall be considered to have been relied upon by the other parties hereto and shall survive the execution and delivery of this Agreement and the other Loan Documents and the making of any Loans and issuance of any Letters of Credit, regardless of any investigation made by any such other party or on its behalf and notwithstanding that the Administrative Agent, any Issuing Bank or any Lender may have had notice or knowledge of any Default or incorrect representation or warranty at the time any credit is extended hereunder, and shall continue in full force and effect as long as the principal of or any accrued interest on any Loan or any fee or any other amount payable under this Agreement is outstanding and unpaid or any Letter of Credit is outstanding and so long as the Commitments have not expired or terminated. The provisions of Sections 2.18, 2.19, 2.20, and 10.3 and Article IX shall survive and remain in full force and effect regardless of the consummation of the transactions contemplated hereby, the repayment of the Loans, the expiration or termination of the Letters of Credit and the Commitments or the termination of this Agreement or any provision hereof.

Section 10.10. Severability. Any provision of this Agreement or any other Loan Document held to be illegal, invalid or unenforceable in any jurisdiction, shall, as to such jurisdiction, be ineffective to the extent of such illegality, invalidity or unenforceability without affecting the legality, validity or enforceability of the remaining provisions hereof or thereof; and the illegality, invalidity or unenforceability of a particular provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

Section 10.11. Confidentiality. Each of the Administrative Agent, the Issuing Banks and the Lenders agrees to maintain the confidentiality of any information relating to the Borrower or any of its Subsidiaries or any of their respective businesses, to the extent designated in writing as confidential and provided to it by the Borrower or any of its Subsidiaries, other than any such information that is available to the Administrative Agent, any Issuing Bank or any Lender on a non-confidential basis prior to disclosure by the Borrower or any of its Subsidiaries, except that such information may be disclosed (i) to any Related Party of the Administrative Agent, any such Issuing Bank or any such Lender including, without limitation, accountants, legal counsel and other advisors who need to know such information in connection with the Related Transactions and are informed of the confidential nature of such information, (ii) pursuant to the order of any court or administrative agency or in any pending legal or administrative proceeding, or otherwise as required by applicable law or regulation or compulsory legal process (in which case such disclosing party agrees to inform the Borrower reasonably promptly thereof prior to such disclosure to the extent not prohibited by law, rule or regulation), (iii) to the extent requested by any regulatory agency or authority purporting to have jurisdiction over such disclosing party or its Affiliates (including any self-regulatory authority such as the National Association of Insurance Commissioners) (in which case such disclosing party agrees to inform the Borrower reasonably promptly thereof prior to such disclosure to the extent not prohibited by law, rule or regulation), (iv) to the extent that such information becomes publicly available other than as a result of a breach of this Section, or which becomes available to the Administrative Agent, any Issuing Bank, any Lender or any Related Party of any of the foregoing on a non-confidential basis from a source other than the Borrower or any of its Subsidiaries that is not, to such disclosing party's knowledge, subject to confidentiality obligations to the Borrower and its Subsidiaries, (v) in connection with the exercise of any remedy hereunder or under any other Loan Documents or any suit, action or proceeding relating to this Agreement or any other Loan Documents or the enforcement of rights hereunder or thereunder, (vi) subject to execution by such Person of an agreement containing provisions substantially the same as those of this Section (or language substantially similar to this paragraph, including provisions customary in the syndicated loan market), to (A) any assignee of or Participant in, or any prospective assignee of or Participant in, any of such disclosing party's rights or obligations under this Agreement, or (B) any direct or indirect actual or prospective contractual counterparty (and its Related Parties) to any swap, derivative or similar product that is to be secured by the Collateral, (vii) to the CUSIP Service Bureau or any similar organization, (viii) for purposes of establishing a "due diligence" defense, (ix) to the extent that such information is independently developed by such disclosing party (other than with confidential information provided to such disclosing party by the Borrower and its Subsidiaries), (x) to industry trade organizations, general information with respect to this Agreement that is customary for inclusion in league table measurements or (xi) with the consent of the Borrower. Any Person required to maintain the confidentiality of any information as provided for in this Section 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 its own confidential information. In the event of any conflict between the terms of this Section and those of any other Contractual Obligation entered into with any Loan Party (whether or not a Loan Document), the terms of this Section shall govern.

Section 10.12. Interest Rate Limitation. Notwithstanding anything herein to the contrary, if at any time the interest rate applicable to any Loan, together with all fees, charges and other amounts which may be treated as interest on such Loan under applicable law (collectively, the "Charges"), shall exceed the maximum lawful rate of interest (the "Maximum Rate") which may be contracted for, charged, taken, received or reserved by a Lender holding such Loan in accordance with applicable law, the rate of interest payable in respect of such Loan hereunder, together with all Charges payable in respect thereof, shall be limited to the Maximum Rate and, to the extent lawful, the interest and Charges that would have been payable in respect of such Loan but were not payable as a result of the operation of this Section shall be cumulated and the interest and Charges payable to such Lender in respect of other Loans or periods shall be increased (but not above the Maximum Rate therefor) until such cumulated amount, together with interest thereon at the Federal Funds Rate to the date of repayment (to the extent permitted by applicable law), shall have been received by such Lender.

Section 10.13. Waiver of Effect of Corporate Seal. The Borrower represents and warrants that neither it nor any other Loan Party is required to affix its corporate seal to this Agreement or any other Loan Document pursuant to any Requirement of Law, agrees that this Agreement is delivered by the Borrower under seal and waives any shortening of the statute of limitations that may result from not affixing the corporate seal to this Agreement or such other Loan Documents.

Section 10.14. Patriot Act and Beneficial Ownership Regulation. The Administrative Agent and each Lender hereby notifies the Loan Parties that, pursuant to the requirements of the Patriot Act and the Beneficial Ownership Regulation, it is required to obtain, verify and record information that identifies each Loan Party, which information includes the name and address of such Loan Party and other information that will allow such Lender or the Administrative Agent, as applicable, to identify such Loan Party in accordance with the Patriot Act and the Beneficial Ownership Regulation. The Borrower will, and will cause its Subsidiaries to, provide documentary and other evidence of the identity of the Loan Parties as may be requested by the Lenders or the Administrative Agent at any time to enable the Lenders or the Administrative Agent to verify the identity of the Loan Parties or to comply with any applicable law or regulation, including, without limitation, Section 326 of the Patriot Act at 31 U.S.C. Section 5318 and the Beneficial Ownership Regulation.

Section 10.15. No Advisory or Fiduciary Responsibility. In connection with all aspects of each transaction contemplated hereby (including in connection with any amendment, waiver or other modification hereof or of any other Loan Document), the Borrower and each other Loan Party acknowledges and agrees and acknowledges its Affiliates' understanding that (i) (A) the services regarding this Agreement provided by the Administrative Agent and/or the Lenders are arm's-length commercial transactions between the Borrower, each other Loan Party and their respective Affiliates, on the one hand, and the Administrative Agent and the Lenders, on the other hand, (B) each of the Borrower and the other Loan Parties have consulted their own legal, accounting, regulatory and tax advisors to the extent they have deemed appropriate, and (C) the Borrower and each other Loan Party is capable of evaluating and understanding, and understands and accepts, the terms, risks and conditions of the transactions contemplated hereby and by the other Loan Documents; (ii) (A) each of the Administrative Agent and the Lenders is and has been acting solely as a principal and, except as expressly agreed in writing by the relevant parties, has not been, is not, and will not be acting as an advisor, agent or fiduciary for the Borrower, any other Loan Party or any of their respective Affiliates, or any other Person, and (B) neither the Administrative Agent nor any Lender has any obligation to the Borrower, any other Loan Party or any of their Affiliates with respect to the credit facilities contemplated hereby except those obligations expressly set forth herein and in the other Loan Documents; and (iii) the Administrative Agent, the Lenders and their respective Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Borrower, the other Loan Parties and their respective Affiliates, and each of the Administrative Agent and the Lenders has no obligation to disclose any of such interests to the Borrower, any other Loan Party or any of their respective Affiliates. To the fullest extent permitted by law, each of the Borrower and the other Loan Parties hereby waives and releases any claims that it may have against the Administrative Agent or any Lender with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transaction contemplated hereby.

Section 10.16. Location of Closing. Each Lender and each Issuing Bank acknowledges and agrees that it has delivered, with the intent to be bound, its executed counterparts of this Agreement to the Administrative Agent, c/o Latham & Watkins LLP, 885 3rd Ave, New York, NY 10022. The Borrower acknowledges and agrees that it has delivered, with the intent to be bound, its executed counterparts of this Agreement and each other Loan Document, together with all other documents, instruments, opinions, certificates and other items required under Section 3.1, to the Administrative Agent, c/o Latham & Watkins LLP, 885 3rd Ave, New York, NY 10022. All parties agree that the closing of the transactions contemplated by this Agreement has occurred in New York.

Section 10.17. Releases of Collateral. The Administrative Agent agrees with the Borrower that the Administrative Agent shall:

(a) release any Lien on any property granted to or held by the Administrative Agent under any Loan Document (i) upon Payment in Full of all Obligations, (ii) when such property is sold as part of or in connection with any sale permitted hereunder or under any other Loan Document, (iii) if such release is approved, authorized or ratified in writing in accordance with Section 10.2 or (iv) when such property is subject to Liens permitted under Section 7.2(d) (solely to the extent required by the holder of such Lien), (e), (f), and, to the extent relating to extensions, renewals or replacements of such Liens, Section 7.2(h);

(b) release any Lien on any Mortgaged Properties upon the occurrence of the Mortgage Release Event;

(c) release any Loan Party from its obligations under the applicable Collateral Documents (i) if such Person ceases to be a Subsidiary as a result of a transaction permitted hereunder or (ii) if such Subsidiary becomes an Excluded Subsidiary in accordance with the requirements set forth in Section 5.18;

(d) release any Lien on any Capital Stock of any Subsidiary that (i) ceases to be a Subsidiary as a result of any transaction permitted hereunder or (ii) is an Excluded Subsidiary; and

(e) subordinate the Liens and security interests of the Administrative Agent on any Collateral (other than Capital Stock and accounts receivable) to the extent contemplated by, and in accordance with the requirements of (including, without limitation, that any intercreditor agreement entered into in connection therewith be reasonably satisfactory to the Administrative Agent), Section 7.2(i);

in each case, upon delivery by the Borrower of a certificate of a Responsible Officer to the Administrative Agent requesting and certifying as to the grounds for such release or subordination pursuant to this Section 10.17, as applicable.

In each case as specified in this Section 10.17, the Administrative Agent is authorized by the Secured Parties and the Borrower and shall, at the Borrower's expense, execute and deliver to the applicable Loan Party such documents as such Loan Party may reasonably request to evidence the release of such item of Collateral from the Liens granted under the applicable Collateral Documents, or release such Loan Party from its obligations under the applicable Collateral Documents, in each case in accordance with the terms of the Loan Documents and this Section.

Section 10.18. Acknowledgement and Consent to Bail-In of EEA Financial Institutions. Notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any EEA Financial Institution arising under any Loan Document, to the extent such liability is unsecured, may be subject to the Write-Down and Conversion Powers of an EEA Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

(a) the application of any Write-Down and Conversion Powers by an EEA Resolution Authority to any such liabilities arising hereunder which may be payable to it by any party hereto that is an EEA Financial Institution; and

(b) the effects of any Bail-in Action on any such liability, including, if applicable (i) a reduction in full or in part or cancellation of any such liability, (ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such EEA Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document or (iii) the variation of the terms of such liability in connection with the exercise of the Write-Down and Conversion Powers of any EEA Resolution Authority.

Section 10.19. Acknowledgement Regarding Any Supported QFCs. To the extent that the Loan Documents provide support, through a guarantee or otherwise, for any agreement providing for any Hedging Transactions or Hedging Obligations, or any other agreement or instrument that is a QFC (such support, "QFC Credit Support" and each such QFC a "Supported QFC"), the parties acknowledge and agree as follows with respect to the resolution power of the Federal Deposit Insurance Corporation under the Federal Deposit Insurance Act and Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (together with the regulations promulgated thereunder, the "U.S. Special Resolution Regimes") in respect of such Supported QFC and QFC Credit Support (with the provisions below applicable notwithstanding that the Loan Documents and any Supported QFC may in fact be stated to be governed by the laws of the State of New York and/or of the United States or any other state of the United States):

(a) In the event a Covered Entity that is party to a Supported QFC (each, a "Covered Party") becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer of such Supported QFC and the benefit of such QFC Credit Support (and any interest and obligation in or under such Supported QFC and such QFC Credit Support, and any rights in property securing such Supported QFC or such QFC Credit Support) from such Covered Party will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if the Supported QFC and such QFC Credit Support (and any such interest, obligation and rights in property) were governed by the laws of the United States or a state of the United States. In the event a Covered Party or a BHC Act Affiliate of a Covered Party becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights under the Loan Documents that might otherwise apply to such Supported QFC or any QFC Credit Support that may be exercised against such Covered Party are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if the Supported QFC and the Loan Documents were governed by the laws of the United States or a state of the United States. Without limitation of the foregoing, it is understood and agreed that rights and remedies of the parties with respect to a Defaulting Lender shall in no event affect the rights of any Covered Party with respect to a Supported QFC or any QFC Credit Support.

Section 10.20. MIRE Events. Notwithstanding anything set forth herein to the contrary (including in Section 10.2), at any time that a Mortgage is in effect (or will be required after giving effect to the relevant transactions), no modification of a Loan Document shall add, increase, renew or extend the maturity date of any Loan, Commitment or credit line hereunder until the Administrative Agent has been notified (which notice may be provided via email) by each Lender that such Lender has completed and is reasonably satisfied with such Lender's flood insurance due diligence and compliance, and Borrower shall cooperate with such flood insurance due diligence and compliance, including delivering all further documents as any such Lender reasonably shall require.

(remainder of page left intentionally blank)

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

THE PENNANT GROUP, INC.

By: /s/ Derek Bunker
Name: Derek Bunker
Title: Chief Investment Officer, Executive Vice President and Secretary

SUNTRUST BANK
as the Administrative Agent, as an Issuing Bank, as the Swingline Lender and as a Lender

By: /s/ Katherine Bass
Name: Katherine Bass
Title: Director

[LENDERS SIGNATURE PAGES ON FILE WITH ADMINISTRATIVE AGENT]

THE PENNANT GROUP, INC.

2019 LONG TERM INCENTIVE PLAN

THE PENNANT GROUP, INC.
2019 LONG TERM INCENTIVE PLAN

Section 1. Purpose

The purpose of the Plan is to promote the interests of the Company by aiding the Company in attracting and retaining employees, officers, consultants, independent contractors and directors capable of assuring the future success of the Company and its Affiliates, to offer such persons incentives to continue in the employ or service of the Company or its Affiliates and to afford such persons an opportunity to acquire a proprietary interest, or otherwise increase their proprietary interest, in the Company.

Section 2. Definitions

As used in the Plan, the following terms shall have the meanings set forth below:

(a) "*Affiliate*" shall mean (i) any entity that, directly or indirectly through one or more intermediaries, is controlled by the Company, (ii) any entity in which the Company has a significant equity interest, in each case as determined by the Committee and (iii) The Ensign Group, Inc. and its subsidiaries and affiliates.

(b) "*Award*" shall mean any Restricted Stock granted under the Plan.

(c) "*Award Agreement*" shall mean any written agreement, contract or other instrument or document evidencing an Award granted under the Plan. Each Award Agreement shall be subject to the applicable terms and conditions of the Plan and any other terms and conditions (not inconsistent with the Plan) determined by the Committee.

(d) "*Board*" shall mean the Board of Directors of Pennant.

(e) "*Cause*" shall mean (i) the willful and continued failure by Participant substantially to perform his or her duties and obligations (other than any such failure resulting from his or her incapacity due to physical or mental illness), (ii) Participant's conviction or plea bargain of any felony or gross misdemeanor involving moral turpitude, fraud or misappropriation of funds, or (iii) the willful engaging by Participant in misconduct which causes substantial injury to the Company or its affiliates, its other employees or the employees of its affiliates or its clients or the clients of its affiliates, whether monetarily or otherwise. For purposes of this paragraph, no action or failure to act on Participant's part shall be considered "*willful*" unless done or omitted to be done, by Participant in bad faith and without reasonable belief that his or her action or omission was in the best interests of the Company. However, if the term or concept has been defined in an employment agreement between the Company and Participant, then Cause shall have the definition set forth in such employment agreement. The foregoing definition shall not in any way preclude or restrict the right of the Company (or any Affiliate) to discharge or dismiss Participant or other person providing Service to the Company (or any Affiliate) for any other acts or omissions but such other acts or omissions shall not be deemed, for purposes of this Agreement, to constitute grounds for termination for Cause.

(f) "*Change in Control*" shall mean a change in ownership or control of the Company effected through any of the following transactions: (i) a merger, consolidation or other reorganization unless securities representing more than 50% of the total combined voting power of the voting securities of the successor corporation are immediately thereafter beneficially owned, directly or indirectly and in substantially the same proportion, by the persons who beneficially owned the Company's outstanding voting securities immediately prior to such transaction; (ii) a sale, transfer or other disposition of all or substantially all of the Company's assets; or (iii) the acquisition, directly or indirectly, by any person or related group of persons (other than the Company or a person that directly or indirectly controls, is controlled by, or is under common control with, the Company), of beneficial ownership (within the meaning of Rule 13d-3 of the Exchange Act) of securities possessing more than 50% of the total combined voting power of the Company's outstanding securities pursuant to a tender or exchange offer made directly to the Company's stockholders. Change in Control shall not include an Initial Public Offering ("IPO") by the Company of its equity securities to the public pursuant to an effective registration statement filed under the Securities Act of 1933, as amended, or under any similar law then in effect.

(g) "*Code*" shall mean the Internal Revenue Code of 1986, as amended from time to time, and any regulations promulgated thereunder.

(h) "*Committee*" shall mean a committee of the Board appointed to administer the Plan; provided if there is no compensation committee, the Board means the compensation committee of the Board.

(i) "*Company*" shall mean The Pennant Group, Inc., a Delaware Corporation, and any successor corporation.

(j) "*Director*" shall mean a member of the Board of Directors of the Company.

(k) "*Eligible Person*" shall mean any employee, officer, consultant, independent contractor or director providing services to the Company or any Affiliate who the Committee determines to be an Eligible Person. An Eligible Person must be a natural person.

(l) "*Equity Restructuring*" shall mean a dividend or other distribution (whether in the form of cash, Shares, other securities or other property), recapitalization, stock split, reverse stock split, reorganization, merger, consolidation, split-up, spin-off, combination, repurchase or exchange of Shares or other securities of the Company, issuance of warrants or other rights to purchase Shares or other securities of the Company or other similar corporate transaction or event that affects the Shares such that an adjustment is necessary in order to prevent dilution or enlargement of the benefits or potential benefits intended to be made available under the Plan.

(m) "*Exchange Act*" shall mean the Securities Exchange Act of 1934, as amended.

(n) "*Market Value*" shall mean, for purposes of the Plan, unless otherwise required by any applicable provision of the Code or any regulations issued thereunder, the market value as determined by the Committee in good faith in whatever manner it considers appropriate, taking into account the requirements of Section 409A of the Code and any other applicable laws, rules or regulations.

(o) "*Participant*" shall mean an Eligible Person designated to be granted an Award under the Plan.

(p) "*Person*" shall mean any individual or entity, including a corporation, partnership, limited liability company, association, joint venture or trust.

(q) "*Plan*" shall mean The Pennant Group, Inc. 2019 Long Term Incentive Plan, as amended from time to time, the provisions of which are set forth herein.

(r) "*Securities Act*" shall mean the Securities Act of 1933, as amended.

(s) "*Service*" shall mean the Participant's performance of services for the Company (or any Affiliate) in the capacity of an employee, officer, consultant, independent contractor or director.

(t) "*Share*" or "*Shares*" shall mean a share or shares of common stock, $0.001 par value per share, of the Company or such other securities or property as may become subject to Awards pursuant to an adjustment made under Section 4(c) of the Plan.

Section 3. Administration

(a) Power and Authority of the Committee. The Plan shall be administered by the Committee. Subject to the express provisions of the Plan and to applicable law, the Committee shall have full power and authority to: (i) designate Participants; (ii) determine the type or types of Awards to be granted to each Participant under the Plan; (iii) determine the number of Shares to be covered by (or the method by which payments or other rights are to be determined in connection with) each Award; (iv) determine the terms and conditions of any Award or Award Agreement; (v) amend the terms and conditions of any Award or Award Agreement or waive any restrictions relating to any Award; (vi) determine whether, to what extent and under what circumstances Awards may be exercised in cash, Shares, other securities, other Awards or other property, or canceled, forfeited or suspended; (vii) interpret and administer the Plan and any instrument or agreement, including an Award Agreement, relating to the Plan; (viii) establish, amend, suspend or waive such rules and regulations and appoint such agents as it shall deem appropriate for the proper administration of the Plan; and (ix) make any other determination and take any other action that the Committee deems necessary or desirable for the administration of the Plan. Unless otherwise expressly provided in the Plan, all designations, determinations, interpretations and other decisions under or with respect to the Plan or any Award or Award Agreement shall be within the sole discretion of the Committee, may be made at any time and shall be final, conclusive and binding upon any Eligible Person and any holder or beneficiary of any Award.

(b) Power and Authority of the Board. Notwithstanding anything to the contrary contained herein, the Board may, at any time and from time to time, without any further action of the Committee, exercise the powers and duties of the Committee under the Plan.

Section 4. Shares Available for Awards

(a) Shares Available. Subject to adjustment as provided in Section 4(c) of the Plan, the aggregate number of Shares that may be issued under the Plan shall be 500,000 Shares, or (ii) such lesser number of Shares as determined by the Board. Shares to be issued under the Plan may be either authorized but unissued Shares or Shares re-acquired and held in treasury. Any Shares that are used by a Participant as full or partial payment to the Company of the purchase price relating to an Award, or in connection with the satisfaction of tax obligations relating to an Award, shall again be available for granting Awards under the Plan. In addition, if any Shares covered by an Award or to which an Award relates are not purchased or are forfeited, or if an Award otherwise terminates without delivery of any Shares, then the number of Shares counted against the aggregate number of Shares available under the Plan with respect to such Award, to the extent of any such forfeiture or termination, shall again be available for granting Awards under the Plan.

(b) Accounting for Awards. For purposes of this Section 4, if an Award entitles the holder thereof to receive or purchase Shares, the number of Shares covered by such Award or to which such Award relates shall be counted on the date of grant of such Award against the aggregate number of Shares available for granting Awards under the Plan. Any Shares that are used by a Participant as full or partial payment to the Company of the purchase price relating to an Award or in connection with the satisfaction of tax obligations relating to an Award, shall again be available for granting Awards under the Plan. In addition, if any Shares covered by an Award or to which an Award relates are not purchased or are forfeited, or if an Award otherwise terminates without delivery of any Shares, then the number of Shares counted against the aggregate number of Shares available under the Plan with respect to such Award, to the extent of any such forfeiture or termination, shall again be available for granting Awards under the Plan.

(c) Adjustments. In the event of any Equity Restructuring, the number and type of Shares (or other securities or other property) subject to outstanding Awards, and the purchase price or exercise price with respect to any Award will be proportionately adjusted to avoid dilution or enlargement of rights resulting from such event; *provided*, *however*, that the number of Shares covered by any Award or to which such Award relates shall always be a whole number. The adjustments provided under this Section 4(c) shall be nondiscretionary and shall be final and binding on the affected Participant and the Company. The Committee shall make such proportionate adjustments to appropriately reflect such Equity Restructuring with respect to the number and kind of Shares that may be issued under the Plan (including, but not limited to, adjustments of the limitations in Sections 4(a) hereof). Notwithstanding the above, in the event (i) of any reorganization, merger, consolidation, split-up, spin-off, combination, repurchase or exchange of Shares or other securities of the Company or any other similar corporate transaction or event or (ii) the Company shall enter into a written agreement to undergo such a transaction or event, any or all outstanding Awards may be canceled and the holders of any such Awards that are otherwise vested, may be paid in cash, the value of such Awards based upon the price per share of capital stock received or to be received by other stockholders of the Company in such event. Notwithstanding anything to the contrary herein, any such adjustment will be made in accordance with the provisions of Section 409A of the Code to the extent applicable. The number of Shares granted hereunder covered by any Award may also be adjusted if the total Shares granted hereunder equal greater than two percent (2%) of the outstanding shares of common stock of the Company following its spin-off from The Ensign Group, Inc. In such event, all Awards granted hereunder shall be adjusted *pro rata* such that they will total less than two percent (2%) of the outstanding shares of the common stock of the Company following such spin-off.

Section 5. Eligibility

Any Eligible Person shall be eligible to be designated a Participant. In determining which Eligible Persons shall receive an Award and the terms of any Award, the Committee may take into account the nature of the services rendered by the respective Eligible Persons, their present and potential contributions to the success of the Company or such other factors as the Committee, in its discretion, shall deem relevant.

Section 6. Awards

(a) Restricted Stock Awards. The Committee is hereby authorized to grant Restricted Stock to Eligible Persons with the following terms and conditions and with such additional terms and conditions not inconsistent with the provisions of the Plan, the terms and conditions of any Award, as the Committee shall determine:

(i) Restrictions. Shares of Restricted Stock shall be subject to such restrictions the Committee may impose (including, without limitation, a restriction on or prohibition against the right to receive any dividend or other right or property with respect thereto), which restrictions may lapse separately or in combination at such time or times, in such installments or otherwise as the Committee may deem appropriate.

(ii) Vesting of Restricted Stock Awards. A Restricted Stock Award shall vest in accordance with the schedule designated by the Committee as set forth in the Award Notice.

(iii) Issuance of Shares. Any Restricted Stock granted under the Plan may be evidenced in such manner as the Board may deem appropriate, including book-entry registration or issuance of a stock certificate or certificates, which certificate or certificates shall be held by the Company. Such certificate or certificates shall be registered in the name of the Participant and shall bear an appropriate legend referring to the restrictions and possible forfeiture applicable to such Restricted Stock as set forth in the Award Agreement.

(iv) Forfeiture. Except as otherwise determined by the Committee, (A) upon a Participant's termination of Service (as determined under criteria established by the Committee) during the applicable restriction period or prior to the vesting of such Awards, all applicable Shares of Restricted Stock at such time subject to restriction shall be forfeited to the Company; (B) upon a Participant's death or disability all applicable Shares of Restricted Stock at such time subject to restriction or that are not vested shall be forfeited to the Company, *provided*, *however*, that the Committee may, when it finds that a waiver would be in the best interest of the Company, waive in whole or in part any or all remaining restrictions with respect to Shares of Restricted Stock or any such award.

(b) General Consideration for Awards. Awards may be granted for no cash consideration or for any cash or other consideration as determined by the Committee and required by applicable law.

(i) Awards May Be Granted Separately or Together. Awards may, in the discretion of the Committee, be granted either alone or in addition to, in tandem with any other Award or any award granted under any plan of the Company or any Affiliate. Awards granted in addition to or in tandem with other Awards or in addition to or in tandem with awards granted under any such other plan of the Company or any Affiliate may be granted either at the same time as or at a different time from the grant of such other Awards or awards.

(ii) Forms of Payment under Awards. Subject to the terms of the Plan and of any applicable Award Agreement, payments or transfers to be made by the Company or an Affiliate upon the grant, exercise or payment of an Award may be made in such form or forms as the Committee shall determine (including, without limitation, cash, Shares, other securities, other Awards or other property or any combination thereof), and may be made in a single payment or transfer, in installments or on a deferred basis, in each case in accordance with rules and procedures established by the Committee.

(iii) Limits on Transfer of Awards. No Award and no right under any such Award shall be transferable by a Participant and the Company shall not be required to recognize any attempted assignment of such rights by any Participant; *provided*, *however*, that, if so determined by the Committee or as set forth in the terms and conditions of any Awards (which have been previously approved by the Committee), a Participant may, in the manner established by the Committee, designate a beneficiary or beneficiaries to exercise the rights of the Participant and receive any property distributable with respect to any Award upon the death of the Participant. Except as otherwise determined by the Committee or as set forth in the terms and conditions of any Awards (which have been previously approved by the Committee), each Award or right under any such Award shall be exercisable during the Participant's lifetime only by the Participant or, if permissible under applicable law, by the Participant's guardian or legal representative. Except as otherwise determined by the Committee, no Award or right under any such Award may be pledged, alienated, attached or otherwise encumbered, and any purported pledge, alienation, attachment or other encumbrance thereof shall be void and unenforceable against the Company or any Affiliate.

(iv) Restrictions; Securities Exchange Listing. All Shares or other securities delivered under the Plan pursuant to any Award or the exercise thereof shall be subject to such stop transfer orders and other restrictions as the Committee may deem advisable under the Plan, applicable federal or state securities laws and regulatory requirements, and the Committee may direct appropriate stop transfer orders and cause other legends to be placed on the certificates for such Shares or other securities to reflect such restrictions. If the Shares or other securities are traded on a securities exchange, the Company shall not be required, and shall have no liability for failure, to deliver any Shares or other securities covered by an Award unless and until such Shares or other securities have been and continue to be admitted for trading on such securities exchange. No Shares shall be issued or delivered pursuant to the Plan, and the Company shall have no liability for failure to issue or deliver Shares under the Plan, if doing so would violate any internal policies of the Company.

Section 7. Amendment and Termination; Adjustments

(a) Amendments to the Plan. The Board may amend, alter, suspend, discontinue or terminate the Plan at any time; *provided*, *however*, that, such amendment, alteration, suspension, discontinuation or termination shall be consistent with the terms the Securities Act.

(b) Amendments to Awards. The Committee may waive any conditions of or rights of the Company under any outstanding Award, prospectively or retroactively. Except as otherwise provided herein or in an Award Agreement, the Committee may not amend, alter, suspend, discontinue or terminate any outstanding Award, prospectively or retroactively, if such action would adversely affect the rights of the holder of such Award, without the consent of the Participant or holder or beneficiary thereof.

(c) Correction of Defects, Omissions and Inconsistencies. The Committee may correct any defect, supply any omission or reconcile any inconsistency in the Plan or in any Award or Award Agreement in the manner and to the extent it shall deem desirable to implement or maintain the effectiveness of the Plan.

Section 8. Income Tax Withholding

In order to comply with all applicable federal, state or local income tax laws or regulations, the Company may take such action as it deems appropriate to ensure that all applicable federal, state or local payroll, withholding, income or other taxes, which are the sole and absolute responsibility of a Participant, are withheld or collected from such Participant. In order to assist a Participant in paying all or a portion of the federal, state and local taxes to be withheld or collected upon exercise or receipt of (or the lapse of restrictions relating to) an Award, the Committee, in its discretion and subject to such additional terms and conditions as it may adopt, may permit the Participant to satisfy such tax obligation by (i) electing to have the Company withhold a portion of the Shares otherwise to be delivered upon exercise or receipt of (or the lapse of restrictions relating to) such Award with a Market Value equal to the amount of such taxes (up to the maximum marginal tax rate in the Participant's jurisdiction) or (ii) delivering to the Company Shares other than Shares issuable upon exercise or receipt of (or the lapse of restrictions relating to) such Award with a Market Value equal to the amount of such taxes (but only to the extent of the minimum amount required to be withheld under applicable laws or regulations). The election, if any, must be made on or before the date that the amount of tax to be withheld is determined.

Section 9. General Provisions

(a) No Rights to Awards. No Eligible Person or other Person shall have any claim to be granted any Award under the Plan, and there is no obligation for uniformity of treatment of Eligible Persons or holders or beneficiaries of Awards under the Plan. The terms and conditions of Awards need not be the same with respect to any Participant or with respect to different Participants.

(b) Award Agreements. No Participant will have rights under an Award granted to such Participant unless and until an Award Agreement shall have been duly executed on behalf of the Company and, if requested by the Company, signed by the Participant.

(c) Plan Provisions Control. In the event that any provision of an Award Agreement conflicts with or is inconsistent in any respect with the terms of the Plan as set forth herein or subsequently amended, the terms of the Plan shall control.

(d) No Rights of Stockholders. Neither a Participant nor the Participant's legal representative shall have any voting rights, dividend rights, or cash dividend rights with respect to any Award or issuance of Shares under this plan other than those rights that are mandated by operation of law.

(e) No Limit on Other Compensation Arrangements. Nothing contained in the Plan shall prevent the Company or any Affiliate from adopting or continuing in effect other or additional compensation arrangements, and such arrangements may be either generally applicable or applicable only in specific cases.

(f) No Right to Employment. The grant of an Award shall not be construed as giving a Participant the right to be retained in the employ, nor will it affect in any way the right of the Company or an Affiliate to terminate a Participant's employment or Service at any time, with or without cause. In addition, the Company or an Affiliate may at any time dismiss a Participant from employment, free from any liability or any claim under the Plan or any Award, unless otherwise expressly provided in the Plan or in any Award Agreement. Nothing in this Plan shall confer on any person any legal or equitable right against the Company or any Affiliate, directly or indirectly, or give rise to any cause of action at law or in equity against the Company or an Affiliate. The Awards granted hereunder shall not form any part of the wages or salary of any Eligible Person for purposes of severance pay or termination indemnities, irrespective of the reason for termination of employment. Under no circumstances shall any person ceasing to be an employee of the Company or any Affiliate be entitled to any compensation for any loss of any right or benefit under the Plan which such employee might otherwise have enjoyed but for termination of employment, whether such compensation is claimed by way of damages for wrongful or unfair dismissal, breach of contract or otherwise. By participating in the Plan, each Participant shall be deemed to have accepted all the conditions of the Plan and the terms and conditions of any rules and regulations adopted by the Committee and shall be fully bound thereby.

(g) Governing Law. The validity, construction and effect of the Plan or any Award, and any rules and regulations relating to the Plan or any Award, shall be determined in accordance with the internal laws, and not the law of conflicts, of the State of Delaware.

(h) Severability. If any provision of the Plan or any Award is or becomes or is deemed to be invalid, illegal or unenforceable in any jurisdiction or would disqualify the Plan or any Award under any law deemed applicable by the Committee, such provision shall be construed or deemed amended to conform to applicable laws, or if it cannot be so construed or deemed amended without, in the determination of the Committee, materially altering the purpose or intent of the Plan or the Award, such provision shall be stricken as to such jurisdiction or Award, and the remainder of the Plan or any such Award shall remain in full force and effect.

(i) No Trust or Fund Created. Neither the Plan nor any Award shall create or be construed to create a trust or separate fund of any kind or a fiduciary relationship between the Company or any Affiliate and an Eligible Person or any other Person. To the extent that any Person acquires a right to receive payments from the Company or any Affiliate pursuant to an Award, such right shall be no greater than the right of any unsecured general creditor of the Company or any Affiliate.

(j) Other Benefits. No compensation or benefit awarded to or realized by any Participant under the Plan shall be included for the purpose of computing such Participant's compensation under any compensation-based retirement, disability, or similar plan of the Company unless required by law or otherwise provided by such other plan.

(k) No Fractional Shares. No fractional Shares shall be issued or delivered pursuant to the Plan or any Award, and the Committee shall determine whether cash shall be paid in lieu of any fractional Shares or whether such fractional Shares or any rights thereto shall be canceled, terminated or otherwise eliminated.

(l) Headings. Headings are given to the Sections and subsections of the Plan solely as a convenience to facilitate reference. Such headings shall not be deemed in any way material or relevant to the construction or interpretation of the Plan or any provision thereof.

(m) Conditions Precedent to Issuance of Shares. Shares shall not be issued, and the Company shall not have any liability for failure to issue Shares, pursuant to the exercise or payment of the purchase price relating to an Award unless such exercise or payment and the issuance and delivery of such Shares pursuant thereto shall comply with all relevant provisions of law, including, without limitation, the Securities Act, the Exchange Act, the rules and regulations promulgated thereunder, the requirements of any applicable Stock Exchange and the Delaware General Corporation Law. As a condition to the exercise or payment of the purchase price relating to such Award, the Company may require that the person exercising or paying the purchase price represent and warrant that the Shares are being purchased only for investment and without any present intention to sell or distribute such Shares if, in the opinion of counsel for the Company, such a representation and warranty is required by law.

Section 10. Effective Date of the Plan

The Plan shall be effective as of August 27, 2019.

Section 11. Term of the Plan

No Award shall be granted under the Plan after (a) the tenth anniversary of the later of (i) the date on which this Plan was adopted by the Board or (ii) the date this Plan was approved by the stockholders of the Company, or (b) any earlier date of discontinuation or termination established pursuant to Section 7(a) of the Plan. However, unless otherwise expressly provided in the Plan or in an applicable Award Agreement, any Award theretofore granted may extend beyond such date, and the authority of the Committee provided for hereunder with respect to the Plan and any Awards, and the authority of the Board to amend the Plan, shall extend beyond the termination of the Plan.

THE PENNANT GROUP, INC.
2019 OMNIBUS INCENTIVE PLAN

Section 1. Purpose

The purpose of the Plan is to promote the interests of the Company and its stockholders by aiding the Company in attracting and retaining officers, consultants, independent contractors and Directors capable of assuring the future success of the Company and to attract and retain officers, employees and independent contractors and directors for its Affiliates, to offer Eligible Persons incentives to continue in the Company's, or its Affiliates' employ or service, as applicable, and to afford Eligible Persons an opportunity to acquire a proprietary interest, or otherwise increase their proprietary interest, in the Company.

Section 2. Definitions

As used in the Plan, the following terms shall have the meanings set forth below:

(a) "*Affiliate*" shall mean (i) any entity that, directly or indirectly through one or more intermediaries, is controlled by the Company and (ii) any entity in which the Company has a significant equity interest, in each case as determined by the Committee.

(b) "*Annual Meeting*" shall mean the Company's regular annual meeting of stockholders

(c) "*Automatic Stock Grant Program*" shall mean the Directors' Automatic Stock Grant Program described in Section 6(i) of the Plan.

(d) "*Award*" shall mean any Option, Stock Appreciation Right, Restricted Stock, Restricted Stock Unit, Performance Award, Dividend Equivalent, Other Stock Grant, or Other Stock-Based Award granted under the Plan.

(e) "*Award Agreement*" shall mean any written agreement, contract or other instrument or document evidencing an Award granted under the Plan. Each Award Agreement shall be subject to the applicable terms and conditions of the Plan and any other terms and conditions (not inconsistent with the Plan) determined by the Committee.

(f) "*Board*" shall mean the Board of Directors of the Company.

(g) "*Cause*" shall mean the occurrence of any of the following: (i) Participant's personal dishonesty, willful misconduct, or breach of fiduciary duty involving personal profit, (ii) Participant's continuing intentional or habitual failure to perform stated duties, (iii) Participant's violation of any law (other than minor traffic violations or similar misdemeanor offenses not involving moral turpitude), (iv) Participant's material breach of any provision of an employment or independent contractor agreement with the Company, or (v) any other act or omission by a Participant that, in the opinion of the Committee, could reasonably be expected to adversely affect the Company's business, financial condition, prospects and/or reputation. In each of the foregoing subclauses (i) through (v), whether or not a "Cause" event has occurred will be determined by the Committee in its sole discretion or, in the case of Participants who are Directors or officers or persons subject to Section 16 of the Exchange Act, the Board, each of whose determination shall be final, conclusive and binding. A Participant's Service shall be deemed to have terminated for Cause if, after the Participant's Service has terminated, facts and circumstances are discovered that would have justified a termination for Cause, including, without limitation, violation of material Company policies or breach of noncompetition, confidentiality or other restrictive covenants that may apply to the Participant.

(h) "*Change in Control*" shall mean a change in ownership or control of the Company effected through the consummation of any of the following transactions: (i) a merger, consolidation or other reorganization unless securities representing more than 50% of the total combined voting power of the voting securities of the successor corporation (or its ultimate parent company) are immediately thereafter beneficially owned, directly or indirectly and in substantially the same proportion, by the Persons who beneficially owned the Company's outstanding voting securities immediately prior to such transaction; (ii) a sale, transfer or other disposition of all or substantially all of

the Company's assets; (iii) the acquisition, directly or indirectly, by any Person or related group of Persons (other than the Company or a Person that directly or indirectly controls, is controlled by, or is under common control with, the Company), of beneficial ownership (within the meaning of Rule 13d-3 of the Exchange Act) of securities possessing more than 50% of the total combined voting power of the Company's outstanding securities pursuant to a tender or exchange offer made directly to the Company's stockholders or (iv) a majority of the members of the Board are replaced during any 12-month period by board of directors whose appointment or election is not endorsed by a majority of the member of the Board before the date of appointment or election. To the extent necessary to comply with Section 409A, a Change in Control must also constitute a Section 409A "change in control event".

(i) "*Code*" shall mean the Internal Revenue Code of 1986, as amended from time to time, and any regulations promulgated thereunder.

(j) "*Committee*" shall mean a committee of Directors designated by the Board to administer the Plan, which shall initially be the Compensation Committee. The Committee shall be comprised of at least two Directors but not less than such number of Directors as shall be required to permit Awards granted under the Plan to qualify under Rule 16b-3, and each member of the Committee shall be a Rule 16b-3 "*Non-Employee Director*."

(k) "*Company*" shall mean The Pennant Group, Inc., a Delaware corporation, and any successor corporation.

(l) "*Compensation Committee*" shall mean the compensation committee of the Board.

(m) "*Director*" shall mean a member of the Board, including any Non-Employee Director.

(n) "*Dividend Equivalent*" shall mean any right granted under Section 6(e) of the Plan.

(o) "*Eligible Person*" shall mean any Person who/that is an employee, officer, consultant, independent contractor or Director providing Services to the Company or any Affiliate who the Committee determines to be an Eligible Person.

(p) "*Equity Restructuring*" shall mean a dividend or other distribution (whether in the form of cash, Shares, other securities or other property), recapitalization, stock split, reverse stock split, reorganization, merger, consolidation, split-up, spin-off, combination, repurchase or exchange of Shares or other securities of the Company, issuance of warrants or other rights to purchase Shares or other securities of the Company or other similar corporate transaction or event that affects the Shares such that an adjustment is necessary in order to prevent dilution or enlargement of the benefits or potential benefits intended to be made available under the Plan.

(q) "*Exchange Act*" shall mean the Securities Exchange Act of 1934, as amended.

(r) "*Fair Market Value*" shall mean, with respect to any property (including, without limitation, any Shares or other securities), the fair market value of such property determined by the Committee pursuant to such methods or procedures as shall be established from time to time by the Committee. Notwithstanding the foregoing and unless otherwise determined by the Committee, the Fair Market Value of a Share as of a given date shall be the closing sale price of one Share as reported on the Nasdaq Stock Market or such other principal United States securities market for such Shares on the date as of which Fair Market Value is being determined, if the Shares are then listed on the Nasdaq Stock Market or another principal United States securities market for such Shares.

(s) "*Fiscal Year*" shall mean the Company's fiscal year.

(t) "*Full Value Award*" shall mean any Award of Shares under this Plan or an Award payable in Shares, other than an Option, a Stock Appreciation Right or other purchase right for which the Participant pays fair market value for the Shares measured as of the date of grant.

(u) "*Incentive Stock Option*" shall mean an option granted under Section 6(a) of the Plan that is intended to qualify as an "incentive stock option" in accordance with the terms of Section 422 of the Code or any successor provision.

(v) "*Non-Employee Director*" shall mean any Director who is not also an employee of the Company or an Affiliate within the meaning of Rule 16b-3 (which term "Non-Employee Director" is defined in this paragraph for purposes of the definition of "Committee" only and is not intended to define such term as used elsewhere in the Plan).

(w) "*Non-Qualified Stock Option*" shall mean an option granted under Section 6(a) of the Plan that is not an Incentive Stock Option.

(x) "*Option*" shall mean an Incentive Stock Option or a Non-Qualified Stock Option.

(y) "*Other Stock Grant*" shall mean any right granted under Section 6(f) of the Plan.

(z) "*Other Stock-Based Award*" shall mean any right granted under Section 6(g) of the Plan.

(aa) "*Participant*" shall mean an Eligible Person designated to be granted an Award under the Plan.

(bb) "*Performance Award*" shall mean any right granted under Section 6(d) of the Plan.

(cc) "*Performance Goal*" shall mean a performance goal selected by the Committee, which may include one or more of the following performance goals, either individually, alternatively or in any combination, applied on a corporate, subsidiary or business unit basis: revenue, cash flow, gross profit, earnings before interest and taxes, earnings before interest, taxes, depreciation and amortization and net earnings, earnings per share, margins (including one or more of gross, operating and net income margins), returns (including one or more of return on assets, equity, investment, capital and revenue and total stockholder return), stock price, economic value added, working capital, market share, cost reductions, workforce satisfaction and diversity goals, employee retention, customer satisfaction, completion of key projects and strategic plan development and implementation. Such goals may reflect absolute entity or business unit performance or a relative comparison to the performance of a peer group of entities or other external measure of the selected performance criteria. The Committee shall establish the Performance Goals for a Performance Award on or before the 90th day of the applicable performance period for which Performance Goals are established and in no event after 25% of the applicable performance period has elapsed and in any event when the achievement of the applicable Performance Goals remains substantially uncertain. The Committee may appropriately adjust any evaluation of performance under such Performance Goals to exclude the effect of certain events, including without limitation any of the following events: asset write-downs; litigation or claim judgments or settlements; changes in tax law, accounting principles or other such laws or provisions affecting reported results; severance, contract termination and other costs related to exiting certain business activities; and gains or losses from the disposition of businesses or assets, from the early extinguishment of debt or items incorporated in the Company's reporting.

(dd) "*Person*" shall mean any individual or entity, including a corporation, partnership, limited liability company, association, joint venture or trust.

(ee) "*Plan*" shall mean The Pennant Group, Inc. 2019 Omnibus Incentive Plan, as amended from time to time, the provisions of which are set forth herein.

(ff) "*Restricted Stock*" shall mean any Share granted under Section 6(c) of the Plan (or any Share issued pursuant to an Option that is early exercised).

(gg) "*Restricted Stock Unit*" shall mean any unit granted under Section 6(c) of the Plan evidencing the right to receive a Share (or evidencing the right to receive a cash payment equal to the Fair Market Value of a Share if explicitly so provided in the Award Agreement) at some future date.

(hh) "*Rule 16b-3*" shall mean Rule 16b-3 promulgated by the Securities and Exchange Commission under the Exchange Act, or any successor rule or regulation.

(ii) "*Section 409A*" shall mean Section 409A of the Code and the applicable Treasury Regulations promulgated thereunder.

(jj) "*Securities Act*" shall mean the Securities Act of 1933, as amended.

(kk) "*Separation From Service*" has the meaning provided to such term under Section 409A and the regulations promulgated thereunder.

(ll) "*Service*" shall mean the Participant's performance of services for the Company (or any Affiliate) in the capacity of an employee, officer, consultant, independent contractor or Director.

(mm) "*Share*" or "*Shares*" shall mean a share or shares of common stock, $0.001 par value per share, of the Company or such other securities or property as may become subject to Awards pursuant to an adjustment made under Section 4(c) of the Plan.

(nn) "*Specified Employee*" has the meaning provided to such term under Section 409A and the regulations promulgated thereunder.

(oo) "*Stock Appreciation Right*" shall mean any right granted under Section 6(b) of the Plan.

(pp) "*Substitute Awards*" shall mean the Awards granted or Shares issued by the Company in assumption of, or in substitution or exchange for, awards previously granted, or the right or obligation to make future awards, in each case by a company acquired by the Company or any Affiliate or with which the Company or any Affiliate combines.

Section 3. Administration

(a) *Power and Authority of the Committee.* The Plan shall be administered by the Committee. Any Awards made solely to members of the Committee, however, should also be authorized by a disinterested majority of the Board. Subject to the express provisions of the Plan and to applicable law, the Committee shall have full power and authority to: (i) designate Participants; (ii) determine the type or types of Awards to be granted to each Participant under the Plan; (iii) determine the number of Shares to be covered by (or the method by which payments or other rights are to be determined in connection with) each Award; (iv) determine the terms and conditions of any Award or Award Agreement; (v) modify or amend the terms and conditions of any Award or Award Agreement and accelerate the exercisability of any Option or waive any restrictions relating to any Award or extending the period of exercisability for an Award; (vi) determine whether, to what extent and under what circumstances Awards may be exercised in cash, Shares, other securities, other Awards or other property, or canceled, forfeited or suspended; (vii) interpret and administer the Plan and any instrument or agreement, including an Award Agreement, relating to the Plan; (viii) establish, amend, suspend or waive such rules and regulations and appoint such agents as it shall deem appropriate for the proper administration of the Plan; (ix) include in an Award Agreement a requirement that, under certain circumstances, acceleration of vesting (or compensation payable) with respect to such Award shall be reduced (or eliminated) to the extent that such reduction (or elimination) would, after taking into account any other payments in the nature of compensation to which the Participant would have a right to receive from the Company and any other Person contingent upon the occurrence of a Change in Control, prevent the occurrence of a "parachute payment" as defined under Code Section 280G; (x) granting Awards to Eligible Persons who are foreign nationals on such terms and conditions different from those specified in the Plan, which may be necessary or desirable to foster and promote achievement of the purposes of the Plan, and adopting such modifications, procedures, and/or subplans (with any such subplans attached as appendices to the Plan) and the like as may be necessary or desirable to comply with provisions of the laws or regulations of other countries or jurisdictions to ensure the viability of the benefits from Awards granted to Participants employed in such countries or jurisdictions, or to meet the requirements that permit the Plan to operate in a qualified or tax efficient manner, and/or comply with applicable foreign laws or regulations; and (xi) make any other determination and take any other action that the Committee deems necessary or desirable for the administration of the Plan. Unless otherwise expressly provided in the Plan, all designations, determinations, interpretations and other decisions under or with respect to the Plan or any Award or Award Agreement shall be within the sole discretion of the Committee, may be made at any time and shall be final, conclusive and binding upon any Eligible Person and

any holder or beneficiary of any Award and shall receive the maximum deference permitted under applicable law. The administration of the Automatic Stock Grant Program, however, shall be self-executing in accordance with the terms of that program so that neither the Board nor any Committee shall exercise any discretionary functions with respect to any Awards made under that program. If at any time (including after a notice of exercise has been delivered) the Committee (or the Board), reasonably believes that a Participant has committed an act of Cause (which includes a failure to act), the Committee (or Board) may suspend the Participant's right to exercise any Award (or vesting or settlement of any Award) pending a determination of whether there was in fact an act of Cause. If the Committee (or the Board) determines a Participant has committed an act of Cause, neither the Participant nor his or her estate shall be entitled to exercise any outstanding Award whatsoever and all of Participant's outstanding Awards shall then terminate without consideration. The expenses of the Plan shall be borne by the Company.

Section 4. Shares Available for Awards

(a) *Shares Available.* Subject to adjustment as provided in Section 4(c) of the Plan, a maximum number of 5,000,000 shares may be issued pursuant to the Plan (the "*Share Limit*"). Such Shares may be in whole or in part authorized and unissued or held by the Company as treasury shares.

(b) *Accounting for Awards.* To the extent that (i) Options or Stock Appreciation Rights granted under the Plan shall expire unexercised, are cancelled, forfeited, terminated or are not distributed, or (ii) Shares subject to Awards under the Plan shall be, cancelled, forfeited, terminated or are settled in cash in lieu of Shares, such Shares shall immediately become available for grant under the Plan, as applicable, and shall increase the number of Shares available for purposes of the Plan. To the extent that Options, Stock Appreciation Rights or Shares awarded under this Plan shall be cancelled, forfeited or terminated (or are settled in cash in lieu of Shares), such Shares shall be added back to the Plan on the same basis and subject to the same ratio that applied when they were granted and shall increase the number of Shares available for purposes of the Plan. Shares delivered in payment of the purchase price in connection with the exercise of any Award, Shares repurchased on the open market with proceeds received by the Company from stock exercises, Shares delivered or withheld to pay tax withholding obligations or otherwise under the Plan and Shares not issued upon the net settlement or net exercise of Stock Appreciation Rights shall be added to and shall increase the number of Shares available for purposes of the Plan. Stock Appreciation Rights to be settled in Shares shall be counted in full against the number of Shares available for award under the Plan regardless of the number of Shares issued upon settlement of the Stock Appreciation Rights.

(c) *Adjustments.* In the event of any Equity Restructuring, the number and type of Shares (or other securities or other property) subject to outstanding Awards, and the purchase price or exercise price with respect to any Award will be proportionately adjusted; *provided, however*, that the number of Shares covered by any Award or to which such Award relates shall always be rounded down to the nearest whole number. The adjustments provided under this Section 4(c) shall be nondiscretionary and shall be final and binding on the affected Participant and the Company. The Committee shall make such proportionate adjustments, if any, as the Committee in its discretion may deem appropriate to reflect such Equity Restructuring with respect to the Share Limit, the ISO Limit, the aggregate number and kind of shares that may be issued under the Plan (including, but not limited to, adjustments of the limitations in Sections 4(a), 4(b) and 6(d) hereof, the Limitations and Director Grant Limits as each are defined below, and the automatic grant figures set forth in Section 6(i)).

(d) *Substitute Awards*. Substitute Awards shall not count toward the Share Limit (or the other limits in Section 4(a)), nor shall Shares subject to a Substitute Award again be available for Awards under the Plan as provided in Section 4(a). Additionally, in the event that a company acquired by the Company or any Affiliate or with which the Company or any Affiliate combines has shares available under a pre-existing plan approved by stockholders and not adopted in contemplation of such acquisition or combination, the shares available for grant pursuant to the terms of such pre-existing plan (as adjusted, to the extent appropriate, using the exchange ratio or other adjustment or valuation ratio or formula used in such acquisition or combination to determine the consideration payable to the holders of common stock of the entities party to such acquisition or combination) may be used for Awards under the Plan and shall not count toward the Share Limit; provided that Awards using such available shares shall not be made after the date awards or grants could have been made under the terms of the pre-existing plan, absent the acquisition or combination, and shall only be made to individuals who were not Employees or Board members prior to such acquisition or combination.

Section 5. Eligibility

Participation in the Plan shall be limited to Eligible Persons. In determining which Eligible Persons shall receive an Award and the terms of any Award, the Committee may take into account the nature of the services rendered by the respective Eligible Persons, their present and potential contributions to the success of the Company or such other factors as the Committee, in its discretion, shall deem relevant. Notwithstanding the foregoing, an Incentive Stock Option may only be granted to full-time or part-time employees (which term as used herein includes, without limitation, officers and Directors who are also employees), and an Incentive Stock Option shall not be granted to an employee of an Affiliate unless such Affiliate is also a "subsidiary corporation" of the Company within the meaning of Section 424(f) of the Code or any successor provision.

Notwithstanding anything to the contrary, the maximum grant date fair value of any Award granted to any Non-Employee Director during any calendar year will not exceed $500,000, such limit which, for the avoidance of doubt, applies to Awards granted under the Plan only and does not include Shares granted in lieu of all or any portion of such Non-Employee Director's cash retainer fees.

Section 6. Awards

(a) *Options.* The Committee is hereby authorized to grant Options to Eligible Persons with the following terms and conditions and with such additional terms and conditions not inconsistent with the provisions of the Plan as the Committee shall determine:

(i) *Exercise Price*. The purchase price per Share purchasable under an Option shall be determined by the Committee; *provided*, *however*, that such purchase price shall not be less than 100% of the Fair Market Value of a Share on the date of grant of such Option unless the Committee expressly acknowledges in its granting resolutions that such Option has been structured to be exempt from or compliant with the requirements of Section 409A.

(ii) *Option Term*. The term of each Option shall be fixed by the Committee at the time of grant, but shall not be longer than 10 years from the date of grant.

(iii) *Time and Method of Exercise*. The Committee shall determine the time or times at which an Option may be exercised in whole or in part and the method or methods by which, and the form or forms (including, without limitation, cash, Shares, other securities, other Awards or other property, or any combination thereof, having a Fair Market Value on the exercise date equal to the applicable exercise price) in which payment of the exercise price with respect thereto may be made or deemed to have been made.

(iv) *Incentive Stock Options*. Notwithstanding anything in the Plan to the contrary, the following additional provisions shall apply to the grant of stock options which are intended to qualify as Incentive Stock Options:

(A) The Committee will not grant Incentive Stock Options in which the aggregate Fair Market Value (determined as of the time the option is granted) of the Shares with respect to which Incentive Stock Options are exercisable for the first time by any Participant during any calendar year (under this Plan and all other plans of the Company and its Affiliates) shall exceed $100,000.

(B) All Incentive Stock Options must be granted within ten years from the earlier of the date on which this Plan was adopted by the Board or the date this Plan was approved by the stockholders of the Company.

(C) Unless sooner exercised, all Incentive Stock Options shall expire and no longer be exercisable no later than 10 years after the date of grant; *provided*, *however*, that in the case of a grant of an Incentive Stock Option to a Participant who, at the time such Option is granted, owns (within the meaning of Section 422 of the Code) stock possessing more than 10% of the total combined voting power of all classes of stock of the Company or of its Affiliate, such Incentive Stock Option shall expire and no longer be exercisable no later than 5 years from the date of grant.

(D) The purchase price per Share for an Incentive Stock Option shall be not less than 100% of the Fair Market Value of a Share on the date of grant of the Incentive Stock Option; *provided*, *however*, that, in the case of the grant of an Incentive Stock Option to a Participant who, at the time such Option is granted, owns (within the meaning of Section 422 of the Code) stock possessing more than 10% of the total combined voting power of all classes of stock of the Company or of its Affiliate, the purchase price per Share purchasable under an Incentive Stock Option shall be not less than 110% of the Fair Market Value of a Share on the date of grant of the Incentive Stock Option.

(E) Any Incentive Stock Option authorized under the Plan shall contain such other provisions as the Committee shall deem advisable, but shall in all events be consistent with and contain all provisions required in order to qualify the Option as an Incentive Stock Option.

(F) Subject to adjustment as provided in Section 4(c), the maximum aggregate number of Shares that may be issued pursuant to the exercise of Incentive Stock Options granted under this Plan shall not exceed 5,000,000 Shares (the "*ISO Limit*").

(b) *Stock Appreciation Rights.* The Committee is hereby authorized to grant Stock Appreciation Rights to Eligible Persons subject to the terms of the Plan and any applicable Award Agreement. Each Stock Appreciation Right granted under the Plan shall confer on the holder upon exercise the right to receive a whole number of Shares equal to the excess of (a) the Fair Market Value of one Share on the date of exercise (or, if the Committee shall so determine, at any time during a specified period before or after the date of exercise) over (b) the grant price of the Stock Appreciation Right as determined by the Committee, which grant price shall not be less than 100% of the Fair Market Value of one Share on the date of grant of the Stock Appreciation Right. The term of any Stock Appreciation Right shall not exceed 10 years.

(c) *Restricted Stock and Restricted Stock Units.* The Committee is hereby authorized to grant Restricted Stock and Restricted Stock Units to Eligible Persons with the following terms and conditions and with such additional terms and conditions not inconsistent with the provisions of the Plan as the Committee shall determine:

(i) *Restrictions*. Shares of Restricted Stock and Restricted Stock Units shall be subject to such restrictions as the Committee may impose (including, without limitation, a restriction on or prohibition against the right to receive any dividend or other right or property with respect thereto), which restrictions may lapse separately or in combination at such time or times, in such installments or otherwise as the Committee may deem appropriate.

(ii) *Issuance of Shares*. Any Restricted Stock granted under the Plan may be evidenced in such manner as the Board may deem appropriate, including book-entry registration or issuance of a stock certificate or certificates, which certificate or certificates shall be held by the Company. Such certificate or certificates shall be registered in the name of the Participant and shall bear an appropriate legend referring to the restrictions and possible forfeiture applicable to such Restricted Stock, as set forth in the Award Agreement.

(iii) *Dividends*. Dividends payable to holders of Restricted Stock and Restricted Stock Units shall be handled pursuant to Section 9(s) of the Plan.

(iv) *Forfeiture*. Except as otherwise determined by the Committee, upon a Participant's termination of Service (as determined under criteria established by the Committee) during the applicable restriction period, all applicable Shares of Restricted Stock and Restricted Stock Units at such time subject to restriction shall be forfeited and with Shares of Restricted Stock reacquired by the Company; *provided, however*, that the Committee may, when it finds that a waiver would be in the best interest of the Company, waive in whole or in part any or all remaining restrictions with respect to Shares of Restricted Stock or Restricted Stock Units.

(d) *Performance Awards.* The Committee is hereby authorized to grant Performance Awards to Eligible Persons subject to the terms of the Plan. A Performance Award granted under the Plan (i) may be denominated or payable in cash, Shares (including, without limitation, Restricted Stock and Restricted Stock Units), other securities, other Awards or other property and (ii) shall confer on the holder thereof the right to receive payments, in whole or in part, upon the achievement of such Performance Goals during such performance periods as the Committee shall establish. Subject to the terms of the Plan, the Performance Goals to be achieved during any performance period, the length of any performance period, the amount of any Performance Award granted, the amount of any payment or transfer to be made pursuant to any Performance Award and any other terms and conditions of any Performance Award shall be determined by the Committee.

(e) *Dividend Equivalents.* The Committee is hereby authorized to grant Dividend Equivalents to Eligible Persons under which the Participant shall be entitled to receive payments (in cash, Shares, other securities, other Awards or other property as determined in the discretion of the Committee) equivalent to the amount of cash dividends paid by the Company to holders of Shares with respect to a number of Shares determined by the Committee. Subject to the terms of the Plan, such Dividend Equivalents may have such terms and conditions as the Committee shall determine except that all Dividend Equivalents shall be subject to the same vesting conditions as to the underlying Award to which they are attached.

(f) *Other Stock Grants.* The Committee is hereby authorized, subject to the terms of the Plan, to grant to Eligible Persons Shares without restrictions thereon as are deemed by the Committee to be consistent with the purpose of the Plan. Subject to the terms of the Plan and any applicable Award Agreement, such Other Stock Grant may have such terms and conditions as the Committee shall determine.

(g) *Other Stock-Based Awards.* The Committee is hereby authorized to grant to Eligible Persons, subject to the terms of the Plan, such other Awards that are denominated or payable in, valued in whole or in part by reference to, or otherwise based on or related to, Shares (including, without limitation, securities convertible into Shares), as are deemed by the Committee to be consistent with the purpose of the Plan. Shares or other securities delivered pursuant to a purchase right granted under this Section 6(g) shall be purchased for such consideration, which may be paid by such method or methods and in such form or forms (including, without limitation, cash, Shares, other securities, other Awards or other property or any combination thereof), as the Committee shall determine, the value of which consideration, as established by the Committee, shall not be less than 100% of the Fair Market Value of such Shares or other securities as of the date such purchase right is granted unless the Committee expressly acknowledges in its granting resolutions that such Other Stock-Based Award has been structured to be exempt from or compliant with the requirements of Section 409A.

(h) *General*.

(i) *Consideration for Awards*. Awards may be granted for no cash consideration or for any cash or other consideration as determined by the Committee and required by applicable law.

(ii) *Awards May Be Granted Separately or Together*. Awards may, in the discretion of the Committee, be granted either alone or in addition to, in tandem with or in substitution for any other Award or any award granted under any plan of the Company or any Affiliate. Awards granted in addition to or in tandem with other Awards or in addition to or in tandem with awards granted under any such other plan of the Company or any Affiliate may be granted either at the same time as or at a different time from the grant of such other Awards or awards.

(iii) *Forms of Payment under Awards*. Subject to the terms of the Plan and of any applicable Award Agreement, payments or transfers to be made by the Company or an Affiliate upon the grant, exercise or payment of an Award may be made in such form or forms as the Committee shall determine (including, without limitation, cash, Shares, other securities, other Awards or other property or any combination thereof), and may be made in a single payment or transfer, in installments or on a deferred basis, in each case in accordance with rules and procedures established by the Committee. Such rules and procedures may include, without limitation, provisions for the payment or crediting of reasonable interest on installment or deferred payments or the grant or crediting of Dividend Equivalents with respect to installment or deferred payments.

(iv) *Limits on Transfer of Awards*. No Award (other than Other Stock Grants) and no right under any such Award shall be transferable by a Participant other than by will or by the laws of descent and distribution and the Company shall not be required to recognize any attempted assignment of such rights by any Participant; *provided*, *however*, that, if so determined by the Committee, a Participant may, in the manner established by the Committee, designate a beneficiary or beneficiaries to exercise the rights of the Participant and receive any property distributable with respect to any Award upon the death of the Participant; *provided*, *further*, that, if so determined by the Committee, a Participant may, at any time that such Participant holds such Option, transfer a Non-Qualified Stock Option to any "*Family Member*" (as such term is defined in the General Instructions to Form S-8 (or any successor to such Instructions or such Form) under the Securities Act), *provided* that the Participant may not receive any consideration for such transfer, the Family Member may not make any subsequent transfers other than by will or by the laws of descent and distribution and the Company receives written notice of such transfer. Except as otherwise determined by the Committee, each Award (other than an Incentive Stock Option) or right under any such Award shall be exercisable during the Participant's lifetime only by the Participant or, if permissible under applicable law, by the Participant's guardian or legal representative. Except as otherwise determined by the Committee, no Award (other than an Incentive Stock Option) or right under any such Award may be pledged, alienated, attached or otherwise encumbered, and any purported pledge, alienation, attachment or other encumbrance thereof shall be void and unenforceable against the Company or any Affiliate.

(v) *Term of Awards*. Subject to Section 6(a)(iv)(C), the term of each Award shall be fixed by the Committee at the time of grant, but shall not be longer than 10 years from the date of grant.

(vi) *Restrictions; Securities Exchange Listing*. All Shares or other securities delivered under the Plan pursuant to any Award or the exercise thereof shall be subject to such stop transfer orders and other restrictions as the Committee may deem advisable under the Plan, applicable federal or state securities laws and regulatory requirements, and the Committee may direct appropriate stop transfer orders and cause other legends to be placed on the certificates for such Shares or other securities to reflect such restrictions. If the Shares or other securities are traded on a securities exchange, the Company shall not be required, and shall have no liability for failure, to deliver any Shares or other securities covered by an Award unless and until such Shares or other securities have been and continue to be admitted for trading on such securities exchange. No Shares or other assets shall be issued or delivered pursuant to the Plan, and the Company shall have no liability for failure to issue or deliver Shares under the Plan, unless and until there shall have been compliance with all applicable requirements of applicable securities laws, including the filing and effectiveness of the Form S-8 registration statement for the Shares issuable pursuant to the Plan, and all applicable listing requirements of any stock exchange or trading system, including the Nasdaq Stock Market, on which Common Stock is then traded. No Shares shall be issued or delivered pursuant to the Plan, and the Company shall have no liability for failure to issue or deliver Shares under the Plan, if doing so would violate any internal policies of the Company.

(vii) *Prohibition on Repricing*. Except as provided in Section 4(c) of the Plan, no Option or Stock Appreciation Right may be amended to reduce its initial exercise or grant price and no Option or Stock Appreciation Right shall be canceled and replaced with either cash or Shares or with Options or Stock Appreciation Rights having a lower exercise or grant price, without the approval of the stockholders of the Company. In addition, no re-load Options may be granted without the approval of the stockholders of the Company.

(i) *Directors' Automatic Stock Grant Program*.

(i) *Automatic Quarterly Restricted Stock Awards*. Beginning with the Adoption Date, each Non-Employee Director serving as a duly elected or appointed Class I, Class II, or Class III Director on the first day of each fiscal quarter shall receive 750 Shares for each fiscal quarter of service. Shares granted pursuant to the Automatic Stock Grant Program shall vest in accordance with the schedule designated by the Committee as set forth in the Award Agreement. There shall be no limit on the number of Shares any one Non-Employee Director may receive over his or her period of Board service pursuant to the Automatic Stock Grant Program, and Non-Employee Directors who have previously been employees of the Company (or any Affiliate) or who have received one or more Awards from the Company prior to becoming a Non-Employee Director shall nevertheless be eligible to receive Shares pursuant to the Automatic Stock Grant Program over their period of continued Board service. Non-Employee Directors must be serving as a member of the Board on the first day of the fiscal quarter in question to be eligible to receive an Award under this subsection. If a Non-Employee Director ceases to serve as a member of the Board for any reason, such Non-Employee Director shall no longer be eligible or entitled to receive any Awards contemplated by this subsection. Non-Employee Directors elected to fill less than a three-year term will receive a pro rata stock award

(ii) *Timing of Awards*. Awards made pursuant to the Automatic Stock Grant Program shall be granted on the fifteenth (15th) day of the first month of the fiscal quarter for which the Non-Employee Director qualifies for such Award, provided that such day is not a Saturday, Sunday or holiday observed by the NASDAQ Stock Market. In the event that the fifteenth (15th) day of the first month of the fiscal quarter is a Saturday, Sunday or holiday observed by the NASDAQ Stock Market, the Shares shall be issued on the next regular business and trading day following the fifteenth (15th) day of the first month of the fiscal quarter.

Section 7. Amendment and Termination; Adjustments

(a) *Amendments to the Plan.* The Board may amend, alter, suspend, discontinue or terminate the Plan at any time; *provided, however*, that, notwithstanding any other provision of the Plan or any Award Agreement, without the approval of the stockholders of the Company, no such amendment, alteration, suspension, discontinuation or termination shall be made that, absent such approval:

(i) violates the rules or regulations of the National Association of Securities Dealers, Inc. or any other securities exchange that are applicable to the Company;

(ii) causes the Company to be unable, under the Code, to grant Incentive Stock Options under the Plan;

(iii) increases the number of shares authorized under the Plan as specified in Section 4(a); or

(iv) permits the award of Options or Stock Appreciation Rights at a price less than 100% of the Fair Market Value of a Share on the date of grant of such Option or Stock Appreciation Right, as prohibited by Sections 6(a)(i) and 6(b) of the Plan or the repricing of Options or Stock Appreciation Rights, as prohibited by Section 6(h)(vii) of the Plan.

(b) *Amendments to Awards.* The Committee may waive any conditions of or rights of the Company under any outstanding Award, prospectively or retroactively. Except as otherwise provided herein or in an Award Agreement, the Committee may not amend, alter, suspend, discontinue or terminate any outstanding Award, prospectively or retroactively, if such action would adversely affect the rights of the holder of such Award, without the consent of the Participant or holder or beneficiary thereof.

(c) *Correction of Defects, Omissions and Inconsistencies.* The Committee may correct any defect, supply any omission or reconcile any inconsistency in the Plan or in any Award or Award Agreement in the manner and to the extent it shall deem desirable to implement or maintain the effectiveness of the Plan.

Section 8. Income Tax Withholding

In order to comply with all applicable federal, state or local income tax laws or regulations, the Company may take such action as it deems appropriate to ensure that all applicable federal, state or local payroll, withholding, income or other taxes, which are the sole and absolute responsibility of a Participant, are withheld or collected from such Participant. In order to assist a Participant in paying all or a portion of the federal, state and local taxes to be withheld or collected upon exercise or receipt of (or the lapse of restrictions relating to) an Award, the Committee, in its discretion and subject to such additional terms and conditions as it may adopt, may permit the Participant to satisfy such tax obligation by (i) electing to have the Company withhold a portion of the Shares otherwise to be delivered upon exercise or receipt of (or the lapse of restrictions relating to) such Award with a Fair Market Value equal to the amount of such taxes (but only up to the maximum amount permitted to be withheld under applicable laws or regulations or financial accounting rules and without causing the Award to be classified as a liability under financial accounting rules) or (ii) delivering to the Company Shares other than Shares issuable upon exercise or receipt of (or the lapse of restrictions relating to) such Award with a Fair Market Value equal to the amount of such taxes (but only up to the maximum amount permitted to be withheld under applicable laws or regulations or financial accounting rules and without causing the Award to be classified as a liability under financial accounting rules). The election, if any, must be made on or before the date that the amount of tax to be withheld is determined.

Section 9. General Provisions

(a) *No Rights to Awards.* No Eligible Person or other Person shall have any claim to be granted any Award under the Plan, and there is no obligation for uniformity of treatment of Eligible Persons or holders or beneficiaries of Awards under the Plan. The terms and conditions of Awards need not be the same with respect to any Participant or with respect to different Participants. A grant of any type made hereunder in any one year to an Eligible Person shall neither guarantee nor preclude a further grant of that or any other type of Award to such Eligible Person in that year or subsequent years.

(b) *Award Agreements.* No Participant will have rights under an Award granted to such Participant unless and until an Award Agreement shall have been duly executed on behalf of the Company and, if requested by the Company, signed by the Participant.

(c) *Plan Provisions Control.* In the event that any provision of an Award Agreement conflicts with or is inconsistent in any respect with the terms of the Plan as set forth herein or subsequently amended, the terms of the Plan shall control.

(d) *No Rights of Stockholders.* Except with respect to Shares of Restricted Stock as to which the Participant has been granted the right to vote, neither a Participant nor the Participant's legal representative shall be, or have any of the rights and privileges of, a stockholder of the Company with respect to any Shares issuable to such Participant upon the exercise or payment of any Award, in whole or in part, unless and until such Shares have been issued in the name of such Participant or such Participant's legal representative without restrictions thereto.

(e) *No Limit on Other Compensation Arrangements.* Nothing contained in the Plan shall prevent the Company or any Affiliate from adopting or continuing in effect other or additional compensation arrangements, and such arrangements may be either generally applicable or applicable only in specific cases.

(f) *No Right to Employment.* The grant of an Award shall not be construed as giving a Participant the right to be retained in the employ, or as giving a Director of the Company or an Affiliate the right to continue as a Director or an Affiliate of the Company or any Affiliate, nor will it affect in any way the right of the Company or an Affiliate to terminate a Participant's employment or Service at any time, with or without cause. In addition, the Company or an Affiliate may at any time dismiss a Participant from employment, or terminate the term of a Director of the Company or an Affiliate, free from any liability or any claim under the Plan or any Award, unless otherwise expressly provided in the Plan or in any Award Agreement. Nothing in this Plan shall confer on any Participant any legal or equitable right against the Company or any Affiliate, directly or indirectly, or give rise to any cause of action at law or in equity against the Company or an Affiliate. The Awards granted hereunder shall not form any part of the wages or salary of any Eligible Person for purposes of severance pay or termination indemnities, irrespective of the reason for termination of employment. Under no circumstances shall any Participant ceasing to

be an employee of the Company or any Affiliate be entitled to any compensation for any loss of any right or benefit under the Plan which such employee might otherwise have enjoyed but for termination of employment, whether such compensation is claimed by way of damages for wrongful or unfair dismissal, breach of contract or otherwise. By participating in the Plan, each Participant shall be deemed to have accepted all the conditions of the Plan and the terms and conditions of any rules and regulations adopted by the Committee and shall be fully bound thereby.

(g) *Transferability*. Unless the Committee determines otherwise, no Award granted under the Plan shall be transferable by a Participant other than by will or the laws of descent and distribution or, with respect to such grants other than grants of Incentive Stock Options, to a Participant's Family Member by gift or a qualified domestic relations order as defined by the Code. Unless the Committee determines otherwise, an Option or SAR may be exercised only by the Participant thereof; by his or her Family Member if such person has acquired the Option or SAR by gift or qualified domestic relations order; by his or her executor or administrator or the executor or administrator of the estate of any of the foregoing or any person to whom the Option is transferred by will or the laws of descent and distribution; or by his or her guardian or legal representative or the guardian or legal representative of any of the foregoing; provided that Incentive Stock Options may be exercised by any Family Member, guardian or legal representative only if permitted by the Code and any regulations thereunder. All provisions of the Plan shall in any event continue to apply to any Award granted under the Plan and transferred as permitted by this Section 9(g), and any transferee of any such Award shall be bound by all provisions of the Plan as and to the same extent as the applicable original Participant.

(h) *Governing Law.* The validity, construction and effect of the Plan or any Award, and any rules and regulations relating to the Plan or any Award, shall be determined in accordance with the internal laws, and not the law of conflicts, of the State of Delaware.

(i) *Severability.* If any provision of the Plan or any Award is or becomes or is deemed to be invalid, illegal or unenforceable in any jurisdiction or would disqualify the Plan or any Award under any law deemed applicable by the Committee, such provision shall be construed or deemed amended to conform to applicable laws, or if it cannot be so construed or deemed amended without, in the determination of the Committee, materially altering the purpose or intent of the Plan or the Award, such provision shall be stricken as to such jurisdiction or Award, and the remainder of the Plan or any such Award shall remain in full force and effect.

(j) *No Trust or Fund Created.* Neither the Plan nor any Award shall create or be construed to create a trust or separate fund of any kind or a fiduciary relationship between the Company or any Affiliate and an Eligible Person or Participant. To the extent that a Participant acquires a right to receive payments from the Company or any Affiliate pursuant to an Award, such right shall be no greater than the right of any unsecured general creditor of the Company or any Affiliate.

(k) *Other Benefits.* No compensation or benefit awarded to or realized by any Participant under the Plan shall be included for the purpose of computing such Participant's compensation under any compensation-based retirement, disability, or similar plan of the Company unless required by law or otherwise provided by such other plan.

(l) *No Fractional Shares.* No fractional Shares shall be issued or delivered pursuant to the Plan or any Award, and the Committee shall determine whether cash shall be paid in lieu of any fractional Shares or whether such fractional Shares or any rights thereto shall be canceled, terminated or otherwise eliminated.

(m) *Headings.* Headings are given to the Sections and subsections of the Plan solely as a convenience to facilitate reference. Such headings shall not be deemed in any way material or relevant to the construction or interpretation of the Plan or any provision thereof.

(n) *Section 16 Compliance*. The Plan is intended to comply in all respects with Rule 16b-3 or any successor provision, as in effect from time to time, and in all events the Plan shall be construed in accordance with the requirements of Rule 16b-3. If any Plan provision does not comply with Rule 16b-3 as hereafter amended or interpreted, the provision shall be deemed inoperative. The Board, in its absolute discretion, may bifurcate the Plan so as to restrict, limit or condition the use of any provision of the Plan with respect to persons who are officers or Directors subject to Section 16 of the Exchange Act without so restricting, limiting or conditioning the Plan with respect to other Eligible Persons.

(o) *Conditions Precedent to Issuance of Shares.* Shares shall not be issued, and the Company shall not have any liability for failure to issue Shares, pursuant to the exercise or payment of the purchase price relating to an Award unless such exercise or payment and the issuance and delivery of such Shares pursuant thereto shall comply with all relevant provisions of law, including, without limitation, the Securities Act, the Exchange Act, the rules and regulations promulgated thereunder, the requirements of any applicable Stock Exchange and the Delaware General Corporation Law. As a condition to the exercise or payment of the purchase price relating to such Award, the Company may require that the Participant exercising or paying the purchase price represent and warrant that the Shares are being purchased only for investment and without any present intention to sell or distribute such Shares if, in the opinion of counsel for the Company, such a representation and warranty is required by law.

(p) *Section 409A.* Notwithstanding anything in the Plan to the contrary, the Plan and Awards granted hereunder are intended to be exempt from or comply with the requirements of Section 409A and shall be interpreted in a manner consistent with such intention. In the event that any provision of the Plan or an Award Agreement is determined by the Committee to not comply with the applicable requirements of Section 409A or the applicable regulations and other guidance issued thereunder, the Committee shall have the authority (but without an affirmative obligation) to take such actions and to make such changes to the Plan or an Award Agreement as the Committee deems necessary to comply with such requirements. Any payment made pursuant to any Award shall be considered a separate payment and not one of a series of payments for purposes of Section 409A. Notwithstanding the foregoing or anything elsewhere in the Plan or an Award Agreement to the contrary, if upon a Participant's Separation From Service he/she is then a Specified Employee, then solely to the extent necessary to comply with Section 409A and avoid the imposition of taxes under Section 409A, the Company shall defer payment of "nonqualified deferred compensation" subject to Section 409A payable as a result of and within six (6) months following such Separation From Service under this Plan until the earlier of (i) the first business day of the seventh month following the Participant's Separation From Service, or (ii) twenty (20) days after the Company receives written confirmation of the Participant's death. Any such delayed payments shall be made without interest. While it is intended that all payments and benefits provided under the Plan or an Award will be exempt from or comply with Section 409A, the Company makes no representation or covenant to ensure that the payments under the Plan or an Award are exempt from or compliant with Section 409A. In no event whatsoever shall the Company be liable if a payment or benefit under the Plan or an Award is challenged by any taxing authority or for any additional tax, interest or penalties that may be imposed on a Participant by Section 409A or any damages for failing to comply with Section 409A. The Participant will be entirely responsible for any and all taxes on any benefits payable to such Participant as a result of the Plan or an Award. If the applicable Award Agreement or Participant's employment agreement provides for Section 409A related provisions other than what is specified above in this Section 9(p), then such provisions in the Award or employment agreement shall govern.

(q) *Change in Control*. In the event that there is a Change in Control and/or the Company is a party to a merger or acquisition or reorganization or similar transaction, outstanding Awards shall be subject to the merger agreement or other applicable transaction agreement. Such agreement may provide, without limitation, that subject to the consummation of the applicable transaction, for the assumption (or substitution) of outstanding Awards by the surviving entity or its parent, for their continuation by the Company (if the Company is a surviving corporation), for accelerated vesting, or for their cancellation either with or without consideration, in all cases without the consent of the Participant.

(r) *Recoupment of Compensation*. The Company may (i) cause the cancellation of any Award, (ii) require reimbursement of any Award by a Participant and (iii) effect any other right of recoupment of equity or other compensation provided under this Plan or otherwise in accordance with Company policies as may be adopted and/or modified from time to time by the Company and/or applicable law (each, a "*Clawback Policy*"). In addition, a Participant may be required to repay to the Company certain previously paid compensation, whether provided under this Plan or an Award Agreement or otherwise, in accordance with the Clawback Policy. By accepting an Award, a Participant is also agreeing to be bound by the Company's Clawback Policy which may be amended from time to time by the Company in its discretion (including without limitation to comply with applicable laws or stock exchange requirements) and is further agreeing that all of the Participant's Awards may be unilaterally amended by the Company to the extent needed to comply with the Clawback Policy.

(s) *Dividends*. No dividends (that are paid by the Company to holders of Shares) will be paid or accrued with respect to Options, Stock Appreciation Rights, Restricted Stock Units or unearned Performance Awards; however, dividends may be paid with respect to unvested Restricted Stock awards issued under the Plan that are subject to time-vesting requirements only.

(t) *Dissolution*. To the extent not previously exercised or settled, all Awards shall terminate immediately prior to the dissolution or liquidation of the Company and shall be forfeited to the Company (except for repayment of any amounts a Participant had paid to the Company to acquire unvested Shares underlying the forfeited Awards).

Section 10. Effective Date of the Plan

The Plan shall be effective as of the date of its approval by the Board (the "*Adoption Date*"), however no Awards may be granted until the Plan has been approved by Company stockholders.

Section 11. Term of the Plan

No Award shall be granted under the Plan after (a) the tenth anniversary of the Adoption Date, or (b) any earlier date of discontinuation or termination established pursuant to Section 7(a) of the Plan. However, unless otherwise expressly provided in the Plan or in an applicable Award Agreement, any Award theretofore granted may extend beyond such date, and the authority of the Committee provided for hereunder with respect to the Plan and any Awards, and the authority of the Board to amend the Plan, shall extend beyond the termination of the Plan.

Exhibit 99.3

The Pennant Group, Inc. Announces Completion of Spin-off from The Ensign Group, Inc.

EAGLE, Idaho, October 1, 2019 – The Pennant Group, Inc. (NASDAQ: PNTG), the parent company of operating subsidiaries that provide home health, hospice and senior living services, announced today that it has successfully completed its spin-off from The Ensign Group, Inc. (NASDAQ: ENSG). The effective date of the distribution is October 1, 2019. In the spin-off, Ensign stockholders received one share of Pennant common stock for every two shares of Ensign common stock held at the close of business on September 20, 2019. No fractional shares have been distributed in connection with the spin-off, and a cash payment will be made in lieu of any fractional shares.

Mr. Daniel H Walker, Pennant's Chairman, Chief Executive Officer and President, commented, "This is an important milestone in the history of our organization. We would like to thank the many Pennant and Ensign team members that worked tirelessly to get us to this point and make this complex transaction happen. While we take a moment to celebrate this momentous occasion, we know the real work is just beginning—and we are excited by the many, many opportunities we have to continue to drive growth across each of our home health, hospice and senior living businesses."

Mr. Christopher Christensen, Ensign's Executive Chairman and a Pennant director, said, "The spin-off of Pennant represents the culmination of a tremendous amount of work over many years from our local leaders and Service Center resources. It is also evidence that Ensign's culture and operating model—which is also the foundation for Pennant's home health, hospice and senior living businesses—is the reason for long-term, sustained growth." Noting that this is Ensign's second spin-off following the CareTrust REIT, Inc. spin-off in 2014, Mr. Christensen continued, "Our intention from the beginning of this transaction was to create two companies that had healthy balance sheets, plenty of dry powder to execute on our disciplined acquisition strategies and a group of ownership-minded leaders that are committed to realizing the significant organic growth potential in each organization. While we set out as two separate companies pursuing our independent strategies, we know our shared core values, guiding principles and leadership model will create many opportunities to collaborate to meet the needs of patients in local healthcare communities."

"We are thrilled for the Pennant team as they enter the next chapter of their growth story," commented Mr. Barry Port, Ensign's Chief Executive Officer. He noted that Pennant is a product of Ensign's new business venture program, which continues to incubate a number of other businesses applying Ensign's proven best practices in other healthcare-related settings. "Ensign will always be an operationally-driven organization first, but we are always evaluating the growing underlying value in our owned real estate and other new business ventures and the additional potential opportunities that each of those businesses gives us in the future," he said.

“We will be forever grateful for the opportunities Ensign has provided the Pennant team,” said Mr. Walker. “We are confident that we will maintain a close relationship with Ensign for many years to come through the Ensign Pennant Care Continuum (the “EPCC”). The EPCC memorializes the relationship Ensign and Pennant independent operating subsidiaries have historically had by providing those that opt in a framework to share data and create care pathways that will help us achieve the highest possible outcomes in transitions between care settings.”

Mr. Walker continued, “Pennant enters the next phase of growth as a stand-alone public company with substantial organic growth potential and plenty of dry powder to continue our disciplined acquisition efforts. For us and for Ensign, this transaction does not represent a one-time value-creation event, but rather a catalyst that will multiply the leadership, acquisition and organic growth opportunities across both organizations that we believe will generate even more long-term value for our various stakeholders. This is just one step in a long-term strategy to transform these industries that we have been methodically working toward since we made our first home health and hospice acquisition a decade ago. There is a lot of work to do to make that a realization. But as we move on from the spin-off, we have never been more committed and excited to roll up our sleeves and get to work.”

Since September 19, 2019, Pennant has been available to trade on the NASDAQ Global Select Market in a “when-issued” market (NASDAQ: PNTGV). Starting today, all shares of Pennant common stock commenced trading in a “regular-way” market.

BofA Merrill Lynch served as lead financial advisor to Ensign in connection with the spin-off. Kirkland & Ellis LLP served as legal advisor to Ensign.

About Pennant

The Pennant Group, Inc. is a holding company of independent operating subsidiaries that provide healthcare services through 63 home health and hospice agencies and 52 senior living communities located throughout Arizona, California, Colorado, Idaho, Iowa, Nevada, Oklahoma, Oregon, Texas, Utah, Washington, Wisconsin and Wyoming. Each of these businesses is operated by a separate, independent operating subsidiary that has its own management, employees and assets. References herein to the consolidated “company” and “its” assets and activities, as well as the use of the terms “we,” “us,” “its” and similar verbiage, are not meant to imply that The Pennant Group, Inc. has direct operating assets, employees or revenue, or that any of the home health and hospice businesses, senior living communities or the Service Center are operated by the same entity. More information about Pennant is available at http://www.pennantgroup.com.

Safe Harbor Statement under the Private Securities Litigation Reform Act of 1995

This press release contains forward-looking statements that are based on management's current expectations, assumptions and beliefs about its business, financial performance, operating results, the industry in which it operates and other future events. Forward-looking statements can often be identified by words such as "anticipates," "expects," "intends," "plans," "predicts," "believes," "seeks," "estimates," "may," "will," "should," "would," "could," "potential," "continue," "ongoing," similar expressions, and variations or negatives of these words. These forward-looking statements include, but are not limited to, statements regarding operational strategies, growth prospects and operating and financial performance. They are not guarantees of future results and are subject to risks, uncertainties and assumptions that could cause actual results to differ materially from those expressed in any forward-looking statement.

Factors that could cause actual results to differ materially from those in the forward-looking statements include without limitation the ability to expand the healthcare businesses following the spin-off; the ability to realize the anticipated benefits of the spin-off; the ability to manage its increasing borrowing costs as it incurs additional indebtedness to fund the acquisition of new operations; the ability to access capital on a cost-effective basis to continue to successfully implement its growth strategy; federal and state changes to, or delays receiving, reimbursement and other aspects of Medicaid and Medicare; changes in the regulation of the healthcare services industry; increased competition for, or a shortage of, skilled personnel; government reviews, audits and investigations of our business; changes in federal and state employment related laws; compliance with state and federal employment, immigration, licensing and other laws; competition from other healthcare providers; actions of national labor unions; the leases of our affiliated senior living communities; the inability to complete future community or business acquisitions and failure to successfully integrate acquired communities and businesses into our operations; general economic conditions; security breaches and other cyber security incidents; and the performance of the financial and credit markets. Readers should not place undue reliance on any forward-looking statements and are encouraged to review the information statement filed as an exhibit to Pennant's registration statement on Form 10 filed with the Securities and Exchange Commission for a more complete discussion of the risks and other factors that could affect Pennant's business, prospects and any forward-looking statements. Except as required by the federal securities laws, Pennant does not undertake any obligation to update or revise any forward-looking statements, whether as a result of new information, future events, changing circumstances or any other reason after the date of this press release.

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