

AFME Standard Form

Agreement Among Initial Purchasers

New York Law Version

Rule 144A and/or Regulation S Offering

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AGREEMENT AMONG INITIAL PURCHASERS

Date:

Issuer:

Guarantors:

Securities:

Lead Representative:

Joint Bookrunners:

Initial Purchasers:

This Agreement governs the relationship among the Initial Purchasers in connection with their purchase, reoffer and resale of the Securities (the "**Offering**").

The Initial Purchasers have entered or will enter into an agreement (the "**Purchase Agreement**") with the Issuer and the Guarantors, if any, under which the Initial Purchasers, acting severally and not jointly, have agreed or will agree to purchase the Securities on the terms and conditions set forth therein. The Issuer has prepared or will prepare certain offering documents for use by the Initial Purchasers in connection with their offer and resale of the Securities (such documents, to the extent permitted or required by the Purchase Agreement, including any amendments and supplements thereto, the "**Offering Documents**").

The term "**Purchase Commitment**", as used in this Agreement with respect to any Initial Purchaser, shall refer to the principal amount of Securities which such Initial Purchaser is obligated to purchase pursuant to the Purchase Agreement (plus such additional Securities, if any, as such Initial Purchaser may be required to purchase pursuant to the Purchase Agreement or this Agreement). The ratio of the Purchase Commitment of any Initial Purchaser to the aggregate principal amount of Securities to be purchased by all Initial Purchasers pursuant to the Purchase Agreement is referred to in this Agreement as the "**Placement Percentage**" of such Initial Purchaser.

Each Initial Purchaser acknowledges and agrees that the recommendations of the International Capital Market Association ("**ICMA**"), as amended, modified or supplemented from time to time, including, without limitation, the ICMA recommendations concerning limits on stabilization losses and expenses, shall not apply to this transaction.

1. *Authority of the Lead Representative.*

- (a) Each Initial Purchaser authorizes the Lead Representative as its agent, representative and attorney-in-fact to:
 - (i) with the agreement of the Joint Bookrunners, (A) waive any and all rights of the Initial Purchasers or any of them pursuant to the Purchase Agreement, (B) give notice to the Issuer and the Guarantors, if any, of termination of the Purchase Agreement in accordance with the terms thereof, and (C) agree to any variation in the terms or performance of, and execute and deliver any amendment to, the Purchase Agreement;
 - (ii) with the agreement of the Joint Bookrunners if required pursuant to Section 1(a)(i) above (A) exercise any and all rights of, authority vested in and discretion accorded to, and take any and all action permitted to be taken by, the Initial Purchasers or any of them pursuant to the Purchase Agreement, (B) execute and deliver any agreement (excluding, for the avoidance of doubt, the Purchase Agreement), certificate, letter, receipt or other instrument to be

executed or delivered by or on behalf of the Initial Purchasers in connection with the closing of the Offering, and (C) take all other action that it may believe necessary or desirable in carrying out the provisions of the Purchase Agreement and this Agreement in accordance with their terms; and

- (iii) pay to the Issuer the purchase price for the Securities in accordance with the Purchase Agreement on behalf of, and for the several accounts of, the Initial Purchasers, and borrow in the Initial Purchasers' names and for their several accounts (in proportion to their respective Placement Percentages) such amount as the Lead Representative may in its discretion determine in order that such payment can be effected; and any amount so borrowed shall forthwith be reduced by the amount of all payments subsequently received from any Initial Purchaser in respect of Securities purchased by it;

provided, however, that the Lead Representative shall not, except as otherwise permitted or required by the Purchase Agreement, effect or agree to an increase in the amount of Securities to be purchased by any Initial Purchaser, without the consent of such Initial Purchaser.

Each Initial Purchaser hereby ratifies all such actions heretofore taken by the Lead Representative in respect of the foregoing (provided that the consent of the Joint Bookrunners has been obtained for any actions for which Section 1(a)(i) would require such consent).

- (b) The Lead Representative shall have the authority to reserve for offer and sale and sell Securities for the account of the Initial Purchasers (in proportion to their respective Placement Percentages). The Lead Representative shall advise each Initial Purchaser when the Securities are released for sale and of the amount of Securities sold or reserved for sale for the account of such Initial Purchaser at such time. After completion of the Offering, the Lead Representative shall provide any Initial Purchaser with such information concerning the allocation of the Securities as it may reasonably request. Securities that are held by the Lead Representative for sale for the account of an Initial Purchaser but not sold may at any time, in the Lead Representative's discretion, be released to such Initial Purchaser, and Securities so released to such Initial Purchaser shall no longer be deemed held for sale by the Lead Representative.

2. *Representations, Warranties and Covenants of the Initial Purchasers.*

- (a) *Compliance with Law.*

Each Initial Purchaser represents and agrees that it has complied and will comply with all laws and regulations in each jurisdiction that are applicable to the Offering.

- (b) *Compliance with Offering Documents and Purchase Agreement.*

Each Initial Purchaser (i) confirms that it has examined the Offering Documents as amended and supplemented to date and is familiar with the information contained therein, the terms of the Securities, and the other terms of the Offering, as set forth in the Purchase Agreement and the Offering Documents, and (ii) represents and agrees that it has complied and will comply with all such terms, including, without limitation, all restrictions applicable to the reoffer and resale of the Securities by the Initial Purchasers.

Each Initial Purchaser confirms that (i) the representations and warranties given by it or on its behalf in the Purchase Agreement are accurate and complete when given and (ii) the written information relating to it that has been furnished by it to the Issuer or the Lead Representative specifically for inclusion in the Offering Documents

(including, without receive limitation, information about any material relationship between such Initial Purchaser or any of its affiliates or any of their respective directors, officers or partners and the Issuer or any Guarantor and any affiliates such persons control or that control such persons) is accurate, complete and not misleading in any material respect. Each Initial Purchaser agrees that it will notify the Lead Representative immediately of any development prior to the completion of the Offering that makes any such information inaccurate, incomplete or misleading in any material respect.

(c) *No Public Offering.*

Each Initial Purchaser acknowledges and agrees that, except as contemplated in the Purchase Agreement or the Offering Documents, no action has been or will be taken in any jurisdiction by the Issuer or any Initial Purchaser that would permit a public offering of the Securities, or possession or distribution of the Offering Documents or any other offering material, in any country or jurisdiction where action for that purpose is required.

Each Initial Purchaser agrees that it will not directly or indirectly purchase, offer, sell or deliver any Securities or have in its possession or distribute or publish the Offering Documents or any other offering material in or from any country or jurisdiction under circumstances that will impose any registration or filing obligations on any other Initial Purchaser or the Issuer¹.

(d) *No Resales Prior to Release.*

Each Initial Purchaser agrees (i) not to sell any Securities prior to the time the Lead Representative releases such Securities for resale to purchasers and (ii) prior to pricing of the Securities, not to engage in any activities related to credit default swaps referencing the Issuer, any Guarantor or any parent company or subsidiary of the Issuer or any Guarantor and involving the Securities.

(e) *Eligible Investors.*

Each Initial Purchaser agrees that it will reoffer and resell the Securities only (i) if the Offering contemplates sales into the United States, to persons who it and any person acting on its behalf reasonably believe are “qualified institutional buyers” within the meaning of Rule 144A (“**Rule 144A**”) under the U.S. Securities Act of 1933, as amended (the “**Securities Act**”), in reliance on and compliance with Rule 144A, and (ii) in offshore transactions in reliance on and in compliance with Regulation S under the Securities Act (“**Regulation S**”), and, for the avoidance of doubt, in each case, only if such reoffers and resales are permitted under the Purchase Agreement and the Offering Documents. If the Offering contemplates resales in reliance on Rule 144A, each Initial Purchaser agrees to deliver, either with the confirmation of any resale of the Securities or otherwise prior to settlement of any such resale, a written notice to the effect that the resale of the Securities may be made in reliance upon the exemption from the registration requirements of the Securities Act provided by Rule 144A.

(f) *No General Solicitation or General Advertising; No Directed Selling Efforts.*

Each Initial Purchaser represents and agrees that neither it nor any of its affiliates nor any other person acting on its or their behalf (i) has offered or sold or will offer to sell the Securities by means of any general solicitation or general advertising within the

¹ Except in the event that a public offering is anticipated and the **appropriate and necessary** filing and **registration** has been approved by the **relevant** Joint Book Runner, **with the prior approval of and on behalf of the Initial Purchasers**, and the Issuer.

meaning of Rule 502(c) under the Securities Act or (ii) has engaged or will engage with respect to the Securities in any directed selling efforts within the meaning of Regulation S.

(g) *Distribution of Offering Documents.*

Each Initial Purchaser agrees that it will use its reasonable efforts to (i) deliver the Offering Documents to all persons to whom it distributes any Securities, (ii) keep an accurate record of all persons to whom it delivers copies of any Offering Documents and (iii) when furnished with any subsequent amendment or supplement to any Offering Documents or any memorandum outlining changes therein, promptly deliver copies thereof to all such persons. Delivery pursuant to this Section 2(g) may be made by electronic means.

(h) *No Unauthorized Communications, Representations and Information.*

Each Initial Purchaser represents and agrees that, in connection with the Offering, such Initial Purchaser:

- (i) except as otherwise approved by the Joint Bookrunners, has not made, used, prepared, delivered, distributed, authorized, approved or referred to and will not make, use, prepare, deliver, distribute, authorize, approve or refer to any written communication (as defined under Rule 405 under the Securities Act) other than the Offering Documents, that constitutes an offer to sell or solicitation of an offer to buy the Securities;
- (ii) except as otherwise approved by the Joint Bookrunners, has not made and will not make any representation and has not used and will not use any information other than as contained in the Offering Documents;
- (iii) has not communicated or caused to be communicated and will not communicate or cause to be communicated any invitation or inducement to engage in investment activity within the meaning of the U.K. Financial Services and Markets Act 2000 (“**FSMA**”) received by it in connection with the issue or sale of any Securities, except in circumstances in which Section 21(1) of the FSMA does not apply to the Issuer or any Guarantor; and
- (iv) except as otherwise approved by the Lead Representative, will not make, in any jurisdiction, any press or public announcement or public comment which it believes or ought reasonably to believe is likely to be published in the press or elsewhere concerning the Offering until the later of 40 days after commencement of the Offering and completion of the Offering, provided that the foregoing shall not restrict any Initial Purchaser from making any such public announcement as is required by applicable law.

(i) *Non-U.S. Banks and Dealers.*

Each Initial Purchaser that is a non-U.S. bank or dealer not registered as a broker-dealer under Section 15 of the U.S. Securities Exchange Act of 1934, as amended (the “**Exchange Act**”), agrees that, while acting as an Initial Purchaser in respect of the Securities and in any event during the term of this Agreement, it will not, directly or indirectly, make use of any U.S. mails or any means or instrumentality of interstate commerce to effect transactions in, or induce or attempt to induce the purchase or sale of, any Securities except for transactions in compliance with Rule 15a-6 under the Exchange Act or as otherwise permitted by Section 15 of the Exchange Act and the rules and regulations thereunder.

- (j) Each Initial Purchaser represents that its several obligation to purchase Securities will not result in a violation of the financial responsibility requirements of Rule 15c3-1 under the Exchange Act, if applicable, or of any similar provision of applicable law or any similar rules of a securities exchange to which it is subject.¹
- (k) Each Initial Purchaser represents that it is (i) a member in good standing of the Financial Industry Regulatory Authority ("**FINRA**") or (ii) a foreign bank or dealer not eligible for membership in FINRA. In making sales of Securities, if such Initial Purchaser is a member of FINRA, such Initial Purchaser agrees to comply with all applicable rules of FINRA including compliance with the FINRA Rule ~~5444~~,5141[, or if such Initial Purchaser is a foreign bank or dealer, such limited Purchaser agrees to comply with FINRA Rule 5141 as though it were a member in good standing of FINRA].²

3. *Payment and Delivery; Distribution of Moneys; Expenses; Settlement of Accounts.*

(a) *Payment for and Delivery of Securities.*

The Lead Representative shall (i) upon satisfaction (or waiver by the Lead Representative) of the conditions set forth in the Purchase Agreement, arrange for the payment to the Issuer of the purchase price for the Securities in accordance with the Purchase Agreement, (ii) receive (or retain from the purchase price paid pursuant to clause (i)) on behalf of each Initial Purchaser the commission or discount set forth in the Purchase Agreement, (iii) subject to Section 1(b) above, arrange for delivery of the Securities in accordance with the directions of each Initial Purchaser, and (iv) release the Securities in accordance with the final sentence of Section 1(b) above for resale in accordance with the terms of the Purchase Agreement at the initial offering price as soon as practicable after the execution and delivery of the Purchase Agreement, as in the Lead Representative's judgment is advisable. At the Lead Representative's request, each Initial Purchaser shall pay the Lead Representative an amount equal to the applicable purchase price pursuant to the Purchase Agreement for the Securities allotted to such Initial Purchaser, and such payment will be credited to such Initial Purchaser's account and applied to the payment of the purchase price to the Issuer.

(b) *Transactions Through Euroclear, Clearstream and the Depository Trust Company.*

If transactions in the Securities are to be settled through the facilities of Euroclear Bank S.A./N.V., Clearstream Banking société anonyme and/or the Depository Trust Company, payment for and delivery of Securities purchased by each Initial Purchaser

¹ Rule 15c3-1 under the Exchange Act sets forth minimum net capital requirements for brokers and dealers. The rule is intended to ensure that brokers and dealers have the ability to meet their financial obligations to customers and other creditors.

² FINRA Rule 5141 applies to FINRA members participating in a fixed price offering. Consider applicability to particular transaction. NASD Rule 2740(c), a predecessor of FINRA Rule 5141, required FINRA members to obtain the agreement of non-members as to compliance with certain provisions of this rule – this requirement no longer applies under Rule 5141 so consider whether applicability to non-FINRA members is appropriate in a particular transaction.

FINRA Rule 5141 provides that no member or person associated with a member that participates in a selling syndicate or selling group or that acts as the single underwriter in connection with a fixed price offering may offer or grant, directly or indirectly to any person or account that is not a member of the selling syndicate or selling group or that is a person or account other than the single underwriter any securities in the offering at a price below the stated public offering price (ie at a reduced price). The term "reduced price" includes any offer or grant of any selling concession, discount or other allowance, credit, rebate, reduction of any fee (including any advisory or service fee), any sale of products or services at prices below reasonable commercially available rates for similar products and services (except for research), or any purchase of or arrangement to purchase securities from the person or account at more than their fair market price in exchange for securities in the offering. The rule applies until the termination of the offering or until a member, having made a bona fide public offering of the securities, is unable to continue selling such securities at the stated public offering price (the rule sets a presumption that a security is saleable at the stated price if the securities trade immediately in the secondary market at or above the stated public offering price).

will be made through such facilities, if such Initial Purchaser is a participant of such facilities, or, if it is not such a participant, settlement may be made through a participant of such facilities, and each Initial Purchaser authorizes the Lead Representative, in the Lead Representative's discretion, to arrange for delivery of any Securities and for payment therefor to and by such Initial Purchaser through such facilities.

(c) *Distribution of Commission.*

After payment of the net aggregate purchase price for the Securities to the Issuer and receipt (or retention) of the Initial Purchasers' commission or discount and other amounts from the Issuer in accordance with the Purchase Agreement, the Lead Representative shall, out of the balance of the moneys received by it pursuant to the issue of the Securities in accordance with the Purchase Agreement and after deducting any expenses set forth in Section 3(d) below, distribute among the Initial Purchasers the balance of such moneys [in proportion to their respective Placement Percentages,⁴³ in accordance with, and subject to, Section 3(e) below.

(d) *Expenses.*

The Lead Representative may charge the account of each Initial Purchaser with its respective Placement Percentage of any transfer taxes on sales made by the Lead Representative of the Securities purchased by the Initial Purchasers under the Purchase Agreement, and all other expenses not reimbursed by the Issuer, including but not limited to legal fees and stabilization losses (to the extent provided in Section 4 below) incurred by the Lead Representative or, at the discretion of the Lead Representative, any other Initial Purchaser under this Agreement or the Purchase Agreement in connection with the Offering.

Each Initial Purchaser agrees that any offers, sales and deliveries of Securities and distribution of the Offering Documents made by such Initial Purchaser after release of the Securities to such Initial Purchaser in accordance with the final sentence of Section 1(b) above will be made at such Initial Purchaser's own expense.

(e) *Settlement of Accounts.*

The accounts hereunder will be settled as promptly as practicable after the completion of the Offering, as determined by the Lead Representative, and in any case no later than 90 days after the date of the closing of the purchase of the Securities by the Initial Purchasers (the "**Closing Date**"), but the Lead Representative may reserve such amount as it deems advisable for additional expenses or costs. The Lead Representative's determination of the amount to be paid to or by the Initial Purchasers under this Section 3(e) will be conclusive. The Lead Representative may at any time make partial distributions of credit balances or call for payment of debit balances. Any of the Initial Purchasers' funds in the Lead Representative's hands may be held with its general funds, without accountability for interest. Notwithstanding any settlement, each Initial Purchaser will remain liable for any taxes on transfers for its account, and for its Placement Percentage of all expenses and liabilities that may be incurred by or for the accounts of the Initial Purchasers.

(f) *Reimbursements by Issuer.*

Amounts paid or reimbursed by the Issuer in respect of Initial Purchasers' expenses will be retained by the Lead Representative and distributed to the Initial Purchasers in proportion to the expenses incurred by each Initial Purchaser that such Initial

⁴³ Replace with alternative fee arrangements if applicable.

Purchaser is authorized by the Lead Representative to incur and that the Issuer is required to reimburse under the Purchase Agreement.

4. *Stabilization and Over-Allotment.*

(a) *Authorization to Stabilize.*

In order to facilitate the Offering, each Initial Purchaser authorizes the Lead Representative in its discretion (i) to buy and sell Securities and, in consultation with the Joint Bookrunners, any other debt securities of the Issuer that the Lead Representative designates, in the open market or otherwise, for long or short account, (ii) to over-allot in arranging for sales of the Securities and to buy Securities for the purpose of covering any such over-allotments, and (iii) otherwise to effect transactions with a view to supporting the market price of the Securities at levels higher than those which might otherwise prevail had such transactions not been effected (collectively, “**Stabilizing Transactions**”). Each Initial Purchaser authorizes the Lead Representative to effect Stabilizing Transactions for the account of such Initial Purchaser on such terms and at such prices as the Lead Representative deems advisable. The Lead Representative (A) shall, to the extent practicable, notify and consult with each Initial Purchaser prior to effecting any Stabilizing Transactions that could reasonably be expected to result in losses being incurred for the account of the Initial Purchasers in excess of the full commission or discount due to the Initial Purchasers under the Purchase Agreement and (B) shall in any case promptly notify the Initial Purchasers if such losses have been incurred. No Initial Purchaser shall be relieved of its obligation for any losses so incurred for its account solely because of the Lead Representative’s failure to provide the notice and/or consultation required by the foregoing sentence. The Lead Representative shall complete all Stabilizing Transactions no later than 30 days after the Closing Date (or, if earlier, 60 days after the date of the allotment of the Securities), unless the foregoing period is extended with the consent of each Initial Purchaser and in compliance with applicable law. For the avoidance of doubt, any Initial Purchaser that enters into this Agreement after the original execution hereof shall have the same rights and obligations in respect of any Stabilizing Transactions as if such Initial Purchaser had been an original party to this Agreement.

(b) *Allocation of Gains or Losses.*

Any gains or losses incurred by the Lead Representative in effecting Stabilizing Transactions shall be aggregated and credited or charged by the Lead Representative to the account of each Initial Purchaser in proportion to their respective Placement Percentages. Each Initial Purchaser will, at any time as the Lead Representative determines, upon demand, take up at cost any securities purchased and deliver any securities sold or over-allotted in Stabilizing Transactions for its account pursuant to the authorization in Section 4(a) above, and, if any Initial Purchaser defaults in its corresponding commitment, the other Initial Purchasers will assume their proportionate share (based on the ratio of its Purchase Commitment to the aggregate Purchase Commitments of all non-defaulting Initial Purchasers) of such commitment without relieving the defaulting Initial Purchaser from liability.

(c) *Undertaking Not to Stabilize.*

Each Initial Purchaser (other than the Lead Representative in its capacity as such) represents and agrees that it has not effected and will not effect any transactions (whether in the open market or otherwise) with a view to stabilizing or maintaining the market price of the Securities at levels other than those which might otherwise prevail.

(d) *Regulatory Inquiries.*

The Lead Representative shall, to the extent practicable, act as a central point of inquiry for any request from any relevant regulatory authority in relation to stabilization and shall promptly provide each Initial Purchaser with any information concerning Stabilizing Transactions as such Initial Purchaser is required to provide to any relevant regulatory authority.

(e) *Information about Stabilizing Transactions.*

The Lead Representative shall, after the completion of all Stabilizing Transactions, provide any Initial Purchaser with such information concerning the Stabilizing Transactions as may be reasonably requested by such Initial Purchaser.

(f) *Delegation.*

The Lead Representative may delegate any of its rights or obligations under this Section 4 to any of its affiliates other than an affiliate constituting a fund in the business of holding securities for its own account. Notwithstanding any such delegation, the Lead Representative shall retain its obligations to the other Initial Purchasers hereunder.

5. *Default by Initial Purchasers.*

A default by any Initial Purchaser hereunder or under the Purchase Agreement will not release any other Initial Purchaser from its obligations or affect such defaulting Initial Purchaser's liability to any other Initial Purchaser for damages resulting from its own default. If any Initial Purchaser defaults in its obligation to purchase Securities under the Purchase Agreement, the Lead Representative may arrange for the purchase by others, including any non-defaulting Initial Purchaser, of Securities not taken up by the defaulting Initial Purchaser in accordance with the Purchase Agreement. If any Initial Purchaser defaults in its obligation to make any payments under Section 3(d), 4, 7, 8 or 10 hereof, each non-defaulting Initial Purchaser shall be obligated to pay its proportionate share of all such defaulted payments, based on the ratio of its Purchase Commitment to the aggregate Purchase Commitments of all non-defaulting Initial Purchasers, but no such payment shall relieve the defaulting Initial Purchaser from liability for its default.

6. *Position of the Lead Representative and the Joint Bookrunners; Relationship Between Initial Purchasers.*

The Lead Representative and the Joint Bookrunners will be under no liability to any Initial Purchaser for any act or omission except for obligations expressly assumed by the Lead Representative or the Joint Bookrunners herein, and no obligations on the Lead Representative's or the Joint Bookrunners' part will be implied hereby or inferred herefrom. The rights and liabilities of the Initial Purchasers hereunder are several and not joint, the representations, warranties and covenants of the Initial Purchasers hereunder are given severally and not jointly, and nothing contained herein shall constitute or be deemed to constitute the Initial Purchasers as partners with each other or (except as expressly provided herein) render any Initial Purchaser liable for the obligations of any other Initial Purchaser. No Initial Purchaser shall be bound in any way by the acts of any other Initial Purchaser in respect of the issue of the Securities except those of the Lead Representative on behalf of the Initial Purchasers pursuant to the provisions of this Agreement or the Purchase Agreement, and no Initial Purchaser shall have any right to contribution or account against any other Initial Purchaser except as expressly provided herein. Each Initial Purchaser shall bear all losses and expenses incurred by it and be entitled to retain all profits earned by it in connection with the Purchase Agreement except as otherwise expressly provided herein. If for U.S. federal income tax purposes the Initial Purchasers shall be deemed to constitute a

partnership, each Initial Purchaser elects to be excluded from the application of Subchapter K, Chapter 1, Subtitle A, of the U.S. Internal Revenue Code, as amended.

7. *Indemnification.*

Each Initial Purchaser (each, an “**Indemnifying Initial Purchaser**”) will indemnify and hold harmless each other Initial Purchaser, its affiliates, their respective officers, directors, employees, representatives and agents, and each person, if any, who controls any such Initial Purchaser within the meaning of either Section 15 of the Securities Act or Section 20 of the Exchange Act (each, an “**Indemnified Party**”) to the extent and upon the terms upon which such Indemnifying Initial Purchaser agrees to indemnify and hold harmless any of the Issuer, any Guarantor, any person controlling the Issuer or any Guarantor, and their respective directors and officers, in each case as set forth in the Purchase Agreement. The Indemnifying Initial Purchaser will also indemnify and hold harmless each Indemnified Party from and against any and all losses, claims, damages, liabilities, costs and expenses (including fees and expenses of legal advisers) arising out of or in connection with any breach by the Indemnifying Initial Purchaser of any of the provisions of this Agreement or the Purchase Agreement (including, without limitation, the representations, warranties and covenants in Section 2(b) above), and any litigation, investigation, proceeding, claim or other action which is asserted, threatened, or instituted by any party, including any governmental or regulatory body (collectively, “**Actions**”) relating to any matter covered by this Section 7. The Indemnifying Initial Purchaser will also reimburse each Indemnified Party upon demand for all expenses, including fees and expenses of legal advisers, as they are incurred, in connection with investigating, preparing for or defending any matter covered by this Section 7.

8. *Contribution.*

Each Initial Purchaser will pay, as contribution, its Placement Percentage of any losses, claims, damages, liabilities and, except as limited by the next sentence, costs and expenses (collectively, “**Losses**”), joint or several, paid or incurred by any Initial Purchaser to any person other than an Initial Purchaser, in connection with the Offering (including, without limitation, Losses arising out of or based upon any untrue statement or alleged untrue statement of any material fact contained in any of the Offering Documents, or the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading (other than an untrue statement or alleged untrue statement or omission or alleged omission to the extent made in reliance upon and in conformity with written information furnished by the Initial Purchaser seeking contribution expressly for use therein)) and any Action relating to any of the foregoing. Each Initial Purchaser will also pay its Placement Percentage of any legal or other expenses, including fees and expenses of legal advisers (to the extent such payment of fees and expenses of legal advisers is required under Section 10 below), as they are incurred, which are reasonably incurred by the Initial Purchaser seeking contribution in connection with investigating or defending any such Loss or any Action in respect thereof. No Initial Purchaser shall be entitled to contribution in respect of any such Losses or Actions arising out of or in connection with (i) any Action by a regulatory or supervisory body by which such Initial Purchaser is authorized or regulated, in respect of a breach of the rules or regulations of that body by such Initial Purchaser or (ii) any breach by such Initial Purchaser of any of the provisions of this Agreement or the Purchase Agreement. In determining the amount of any Initial Purchaser’s obligation under this Section 8, appropriate adjustment may be made by the Lead Representative to reflect any amounts received by any Initial Purchaser in respect of such Loss from the Issuer or any other person (other than an Initial Purchaser) pursuant to the Purchase Agreement or otherwise. There shall be credited against any amount paid or payable by any Initial Purchaser pursuant to this Section 8 any Loss that is incurred by such Initial Purchaser as a result of any such Action, and if such Loss is incurred by such Initial Purchaser subsequent to any payment by it pursuant to this Section 8, appropriate provision shall be made to effect such credit, by refund or otherwise. In determining amounts payable

pursuant to this Section 8, any Loss incurred by any person who controls an Initial Purchaser within the meaning of either Section 15 of the Securities Act or Section 20 of the Exchange Act that has been incurred by reason of such control relationship shall be deemed to have been incurred by that Initial Purchaser. Whenever an Initial Purchaser receives notice of any Action to which the provisions of this Section 8 would be applicable, such Initial Purchaser will give prompt notice thereof to each of the other Initial Purchasers. No Initial Purchaser shall be entitled to contribution from any other Initial Purchaser pursuant to this Section 8 for any Loss arising out of or in connection with a settlement or compromise of, or consent to the entry of judgment with respect to, any Action unless such settlement, compromise or consent is in accordance with Section 9 below. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. None of the foregoing provisions of this Section 8 will relieve any defaulting or breaching Initial Purchaser from liability for its default or breach.

9. *Settlement of Actions.*

Neither the Lead Representative nor any other Initial Purchaser party to this Agreement may settle or agree to settle any Action related to or arising out of the Offering, unless the Lead Representative, together with such other Initial Purchasers as represent a majority of the Placement Percentage of the Initial Purchasers as a whole (including the Lead Representative's interest), approve the settlement of such Action, in which case the Lead Representative is authorized to settle for all Initial Purchasers, provided, however, that the settlement agreement results in the settlement of the Action against all Initial Purchasers raised by the plaintiffs party thereto.

10. *Retention of Legal Advisers.*

Except as provided for in Section 7 above, where any Action related to or arising out of the Offering is brought against any of the Initial Purchasers, the Joint Bookrunners shall retain legal advisers reasonably satisfactory to all of them to represent the person against whom such Action is brought and each Initial Purchaser shall pay its Placement Percentage of the fees and expenses of such legal advisers related to such Action. Except as provided for in Section 7 above, in any such Action, any Initial Purchaser shall have the right to retain its own legal advisers, but the fees and expenses of such legal advisers shall be the liability of such Initial Purchaser unless any of the following circumstances occur in which case they shall be the liability of all of the Initial Purchasers on the basis of their respective Placement Percentages:

- (i) the Joint Bookrunners have failed within a reasonable time to agree on the legal advisers to be retained; or
- (ii) counsel selected by the Joint Bookrunners determines that representation of all Initial Purchasers by the same legal advisers would be inappropriate due to actual or potential differing interests between them.

11. *Actions in Respect of the Purchase Agreement.*

If any Initial Purchaser wishes to terminate its obligation to purchase Securities under the Purchase Agreement or waive compliance with any of the conditions therein, in each case as permitted by the terms thereof, it shall consult with the Lead Representative who shall, to the extent it considers reasonably practicable, consult with the other Initial Purchasers. The Lead Representative may in any event, on behalf of the Initial Purchasers and with the agreement of the Joint Bookrunners (as required by Section 1(a)(i) above), give notice to the Issuer and the Guarantors, if any, of termination of the Purchase Agreement or waiver of compliance with any of the conditions therein in accordance with the terms thereof and shall not be responsible to any Initial Purchaser for any consequences resulting from such notice.

No Initial Purchaser other than the Lead Representative may give any such notice, and the Lead Representative is not required to give, or not to give, such notice.

12. *Termination.*

If the Purchase Agreement is terminated prior to the Closing Date as permitted by its terms, this Agreement will terminate upon the date of such termination of the Purchase Agreement.

Upon termination of this Agreement, Sections 3(d), 5, 6, 7, 8, 9, 10, 13, 14 and 15 hereof shall survive.

13. *Notices.*

Any notice or, unless otherwise agreed, approval under this Agreement shall be deemed to have been given if mailed, hand-delivered, or sent by telecopier or electronic transmission or other communication in writing, or telephoned and subsequently confirmed in writing, to the relevant address set forth in the Purchase Agreement or in Annex A to this Agreement. Any such notice shall take effect upon receipt thereof.

14. *No Third Party Rights.*

Nothing expressed or referred to in this Agreement will be construed to give any person other than the parties to this Agreement and their respective successors and permitted assigns any legal or equitable right, remedy or claim under or with respect to this Agreement or any provision hereof, except as expressly set forth in Section 7 above.

15. *Applicable Law; Jurisdiction.*

This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

The federal and state courts in the Borough of Manhattan in the City of New York shall have jurisdiction to settle any disputes which may arise out of or in connection with this Agreement and, accordingly, any legal action or proceedings arising out of or in connection with this Agreement ("**Proceedings**") may be brought in such courts. Each of the parties hereto irrevocably submits to the non-exclusive jurisdiction of the federal and state courts in the Borough of Manhattan in the City of New York and waives any objection to Proceedings in such courts on the grounds of immunity, venue or that Proceedings have been brought in an inconvenient or inappropriate forum.

Each of the parties hereto irrevocably waives its right to a trial by jury in any Proceedings.

16. *Counterparts.*

This Agreement may be signed in various counterparts, which together shall constitute one and the same instrument.

17. *Headings.*

The headings herein are inserted for convenience of reference only and are not intended to be part of, or to affect the meaning or interpretation of, this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed as of the date first written above.

[NAME OF LEAD REPRESENTATIVE]

as the Lead Representative and
as a Joint Bookrunner and
as an Initial Purchaser

By: _____

Name:

Title:

[NAME OF JOINT BOOKRUNNER]

as a Joint Bookrunner and
as an Initial Purchaser

By: _____

Name:

Title:

[NAME OF INITIAL PURCHASER]

as an Initial Purchaser

By: _____

Name:

Title:

[NAME OF INITIAL PURCHASER]

as an Initial Purchaser

By: _____

Name:

Title:

ANNEX A
ADDRESS FOR NOTICES

[NAME OF LEAD REPRESENTATIVE]

Attention:
Mailing address:
Telephone:
Telecopier:
E-mail:

[NAME OF JOINT BOOKRUNNER]

Attention:
Mailing address:
Telephone:
Telecopier:
E-mail:

[NAME OF INITIAL PURCHASER]

Attention:
Mailing address:
Telephone:
Telecopier:
E-mail:

[NAME OF INITIAL PURCHASER]

Attention:
Mailing address:
Telephone:
Telecopier:
E-mail:

