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): November 12, 2010

BEAZER HOMES USA, INC.

(Exact name of registrant as specified in its charter)

Delaware	**001-12822**	**58-2086934**
(State or other jurisdiction of incorporation or organization)	**(Commission File Number)**	**(I.R.S. Employer Identification No.)**

1000 Abernathy Road, Suite 1200
Atlanta, Georgia 30328
(Address of Principal Executive Offices)

(770) 829-3700
(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:

☐ 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))

Item 1.01. Entry into a Material Definitive Agreement.

Issuance of Senior Notes due 2019

On November 12, 2010, Beazer Homes USA, Inc. (the "Company") issued and sold $250 million aggregate principal amount of its 9.125% Senior Notes due 2019 (the "Notes") through a private placement to qualified institutional buyers pursuant to Rule 144A under the Securities Act of 1933, as amended (the "Securities Act"), and to purchasers outside the United States in reliance on Regulation S under the Securities Act. The Notes were initially sold pursuant to a purchase agreement, dated November 8, 2010, among the Company, the whollyowned subsidiaries named as guarantors therein (the "Guarantors") and Citigroup Global Markets Inc. and Deutsche Bank Securities Inc. (collectively the "Initial Purchasers"). The Notes were issued at 98.556% of their principal amount, resulting in net proceeds to the Company of approximately $242.1 million.

The Notes were issued under an Indenture, dated as of April 17, 2002 (the "Base Indenture"), as supplemented by the Fourteenth Supplemental Indenture, dated as of November 12, 2010 (the "Supplemental Indenture"), among the Company, the Guarantors and U.S. Bank National Association, as trustee (the "Trustee"). The Notes and the related guarantees are the Company's and the Guarantors' unsecured senior obligations and rank equally with all of the Company's and the Guarantors' other senior indebtedness. The Notes accrue interest at a rate of 9.125% per year, payable on May 15 and November 15 of each year, commencing on May 15, 2011. The Notes will mature on May 15, 2019.

The Company may redeem some or all of the Notes at any time prior to November 15, 2014 at a price equal to 100% of the principal amount of the Notes redeemed, plus accrued and unpaid interest and a "make-whole" premium as described in the Supplemental Indenture. Thereafter, the Company may redeem some or all of the Notes at the redemption prices specified in the Supplemental Indenture. In addition, prior to November 15, 2013, the Company may redeem up to 35% of the Notes from the proceeds of certain equity offerings at a price equal to 109.125% of the principal amount of the Notes redeemed, plus accrued and unpaid interest.

The Supplemental Indenture contains covenants which, subject to certain exceptions, limit the ability of the Company and its restricted subsidiaries (as defined in the Supplemental Indenture) to, among other things, incur additional indebtedness, make certain types of restricted payments, and create liens on assets of the Company or the Guarantors. Upon a change of control (as defined in the Supplemental Indenture), the Company is required to make an offer to repurchase the Notes at 101% of their principal amount, plus accrued and unpaid interest. The Supplemental Indenture also contains customary events of default.

In connection with the issuance of the Notes, the Company and the Guarantors entered into a Registration Rights Agreement, dated as of November 12, 2010 (the "Registration Rights Agreement"), with the Initial Purchasers. The Registration Rights Agreement requires the Company to register under the Securities Act new 9.125% Senior Notes due 2019 (the "Exchange Notes") having substantially identical terms to the Notes and to complete an exchange of the privately placed Notes for the publicly registered

Exchange Notes or, if the exchange cannot be effected, to file and keep effective a shelf registration statement for resale of the Notes. Failure of the Company to comply with the registration and exchange requirements set forth in the Registration Rights Agreement within the time periods specified therein would require the Company to pay as liquidated damages additional interest on the Notes until any such failure to comply is cured.

The foregoing descriptions of the Notes, the Supplemental Indenture and Registration Rights Agreement do not purport to be complete and are qualified in their entirety by reference to the copies of the Supplemental Indenture and the Registration Rights Agreement filed herewith as Exhibits 4.1 and 4.2, respectively, which are incorporated herein by reference.

Cash-Secured Loan Facilities

On November 16, 2010, the Company entered into two separate cash-secured delayed-draw term loan facilities (collectively, the "Cash-Secured Facilities") with Citibank, N.A. ("Citi") and an affiliate of Deutsche Bank AG ("Deutsche Bank"). Pursuant to the terms of the Cash-Secured Facilities, the Company has the right to borrow up to an aggregate of $137.5 million under each facility in a maximum of two borrowings. The Cash-Secured Facilities mature on November 16, 2017; however, the lenders thereunder have the right to require the Company to repay the loans in full on each of the second and fourth anniversaries of the closing date. The Company may, at its option, prepay loans under the Cash-Secured Facilities at anytime without any prepayment penalty. Outstanding amounts under the Citi and Deutsche Bank Cash-Secured Facilities bear interest at a rate per annum equal to LIBOR plus 40 basis points and 35 basis points, respectively.

Borrowings under the Cash-Secured Facilities are senior secured obligations of the Company and are not guaranteed by any of its subsidiaries. The Cash-Secured Facilities are secured by accounts (the "Collateral Accounts") maintained with the lending banks (or their affiliates) and the Company is required to maintain a balance in such Collateral Accounts equal to the amounts outstanding under the Cash-Secured Facilities. The Citi and Deutsche Bank Collateral Accounts will earn a return equal to LIBOR and LIBOR minus 5 basis points, respectively. The Cash-Secured Facilities also include customary covenants and events of default.

On November 16, 2010, the Company borrowed an aggregate of $16,295,500 under each of the Cash-Secured Facilities, which funds will be used to replenish cash used previously to repurchase or redeem the Company's outstanding senior notes.

The foregoing description of the Cash-Secured Facilities does not purport to be complete and is qualified in its entirety by reference to the copies of the applicable loan agreements filed herewith as Exhibits 10.1 and 10.2, respectively, which are incorporated herein by reference.

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

The disclosures set forth under Item 1.01 under the headings "Issuance of Senior Notes due 2019" and "Cash-Secured Loan Facilities" are incorporated by reference into this Item 2.03.

Item 8.01 Other Events

On November 15, 2010, the Company issued a redemption notice with respect to all of the Company's outstanding 6 ½% Senior Notes due 2013 (the "2013 Notes"). The 2013 Notes will be redeemed on November 30, 2010 at a redemption price equal to 101.083% of the principal amount thereof, plus accrued but unpaid interest to, but not including, the redemption date. As of November 15, 2010, $164.5 million aggregate principal amount of the 2013 Notes was outstanding.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits

4.1 Fourteenth Supplemental Indenture, dated November 12, 2010, among Beazer Homes USA, Inc., the subsidiary guarantors party thereto and U.S. Bank National Association, as trustee (includes the form of Note)

4.2 Registration Rights Agreement, dated November 12, 2010, among Beazer Homes USA, Inc., the subsidiary guarantors party thereto and the initial purchasers party thereto

10.1 Delayed-Draw Term Loan Loan Facility, dated November 16, 2010, among Beazer Homes USA, Inc., Citibank, N.A. and Citigroup Global Markets Inc.

10.2 Delayed-Draw Term Loan Loan Facility, dated November 16, 2010, among Beazer Homes USA, Inc., Deutsche Bank AG Cayman Islands Branch and Deutsche Bank Securities Inc.

SIGNATURES

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

BEAZER HOMES USA, INC.

Date: November 18, 2010

By: /s/ Allan P. Merrill
Allan P. Merrill
Executive Vice President and
Chief Financial Officer

Exhibit 4.1

Execution Version

BEAZER HOMES USA, INC. AND THE SUBSIDIARY GUARANTORS PARTY HERETO,

9.125% Senior Notes due 2019

Fourteenth Supplement Indenture

Dated as of November 12, 2010

U.S. BANK NATIONAL ASSOCIATION,
Trustee

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FOURTEENTH SUPPLEMENTAL INDENTURE, dated as of November 12, 2010 (the "Supplemental Indenture"), to the Indenture, dated as of April 17, 2002 (as amended, modified or supplemented from time to time prior to the date hereof in accordance therewith, the "Base Indenture" and, together with this Supplemental Indenture, the "Indenture"), by and among BEAZER HOMES USA, INC., a Delaware corporation (the "Company"), the Subsidiary Guarantors (as defined herein) and U.S. BANK NATIONAL ASSOCIATION, as trustee (the "Trustee").

Each party agrees as follows for the benefit of the other party and for the equal and ratable benefit of the holders of Notes (as defined herein).

WHEREAS, the Company, the Subsidiary Guarantors and the Trustee have duly authorized the execution and delivery of the Base Indenture to provide for the issuance from time to time of senior debt securities ("Securities") to be issued in one or more series as provided in the Base Indenture;

WHEREAS, the Company and the Subsidiary Guarantors desire and have requested the Trustee to join them in the execution and delivery of this Supplemental Indenture in order to establish and provide for the issuance by the Company of a series of Securities designated as its 9.125% Senior Notes due 2019, in the initial aggregate principal amount of $250,000,000. The 9.125% Senior Notes due 2019 shall be substantially in the form attached hereto as Exhibit A (the "Notes"), guaranteed by the Subsidiary Guarantors, on the terms set forth herein;

WHEREAS, Section 2.01 of the Base Indenture provides that a supplemental indenture may be entered into by the Company, the Subsidiary Guarantors and the Trustee for such purpose provided certain conditions are met;

WHEREAS, the conditions set forth in the Base Indenture for the execution and delivery of this Supplemental Indenture have been complied with; and

WHEREAS, all things necessary to make this Supplemental Indenture a valid agreement of the Company, the Subsidiary Guarantors and the Trustee, in accordance with its terms, and a valid amendment of, and supplement to, the Base Indenture have been done.

NOW, THEREFORE:

In consideration of the premises and the purchase and acceptance of the Notes by the holders thereof, the Company and the Subsidiary Guarantors mutually covenant and agree with the Trustee, for the equal and ratable benefit of the Holders, that the Base Indenture is supplemented and amended, to the extent expressed herein, as follows:

ARTICLE ONE

The 9.125% Senior Notes due 2019

Section 1.01 Designation of 9.125% Senior Notes due 2019. The changes, modifications and supplements to the Base Indenture effected by this Supplemental Indenture

shall be applicable only with respect to, and govern the terms of, the Notes, which shall not be limited in aggregate principal amount, and shall not apply to any other Securities that may be issued under the Base Indenture unless a supplemental indenture with respect to such other Securities specifically incorporates such changes, modifications and supplements. Pursuant to this Supplemental Indenture, there is hereby created and designated a series of Securities under the Base Indenture entitled "9.125% Senior Notes due 2019." The Notes shall be in the form of Exhibit A hereto. The Notes shall be guaranteed by the Subsidiary Guarantors as provided herein. The Notes may bear an appropriate legend regarding original issue discount for federal income tax purposes. Subject to the terms herein, including compliance with Section 3.05 hereof, the Company may, at its option, without consent from the Holders, issue Additional Notes from time to time ranking *pari passu* with the Notes that shall be consolidated with and form a single class with the Notes and shall have the same terms as to status, waivers, amendments, offers to purchase, redemption or otherwise as the Notes.

Section 1.02 Interest. The Notes shall bear interest at the rate set forth in the Notes. Interest on the Notes shall be payable to the persons in whose name the Notes are registered at the close of business on the Record Date for such interest payment. The date from which interest shall accrue for each Note shall be the most recent to occur of November 12, 2010 or the most recent Interest Payment Date.

Section 1.03 Redemption. The Company, at its option, may redeem the Notes in accordance with the provisions set forth in the Notes and in accordance with the provisions of the Base Indenture, including, without limitation, Article Three thereof.

Section 1.04 Maturity. The date on which the principal of the Notes is payable, unless accelerated pursuant to the terms hereof, shall be May 15, 2019.

Section 1.05 Global Notes. Notes issued in global form shall be substantially in the form of Exhibit A hereto (including the Global Note Legend thereon and the "Schedule of Exchanges of Interests in the Global Note" attached thereto). Notes issued in definitive form shall be substantially in the form of Exhibit A attached hereto (but without the Global Note Legend thereon and without the "Schedule of Exchanges of Interests in the Global Note" attached thereto). Each Global Note shall represent such of the outstanding Notes as shall be specified in the "Schedule of Exchanges of Interests in the Global Note" attached thereto and each shall provide that it shall represent up to the aggregate principal amount of Notes from time to time endorsed thereon and that the aggregate principal amount of outstanding Notes represented thereby may from time to time be reduced or increased, as applicable, to reflect exchanges and redemptions and transfers of interests. Any endorsement of a Global Note to reflect the amount of any increase or decrease in the aggregate principal amount of outstanding Notes represented thereby shall be made by the Trustee or the Custodian, at the direction of the Trustee, in accordance with instructions given by the Holder thereof as required by Section 1.08 hereof.

The Company initially appoints DTC to act as Depositary with respect to the Global Notes.

The Company initially appoints the Trustee to act as custodian with respect to the Global Notes.

Section 1.06 Execution and Authentication. Section 2.02 of the Base Indenture is hereby replaced in its entirety as follows:

"Section 2.02 Execution and Authentication.

At least one Officer shall execute the Notes on behalf of the Company by manual or facsimile signature.

If an Officer whose signature is on a Note no longer holds that office at the time a Note is authenticated, the Note shall nevertheless be valid.

A Note shall not be entitled to any benefit under this Indenture or be valid or obligatory for any purpose until authenticated substantially in the form provided for in Exhibit A attached to the Fourteenth Supplemental Indenture hereto, dated as of November 12, 2010 (the "Fourteenth Supplemental Indenture"), by and among the Company, the Subsidiary Guarantors, and the Trustee, as the case may be, by the manual or facsimile signature of the Trustee. The signature shall be conclusive evidence that the Note has been duly authenticated and delivered under this Indenture.

On the Issue Date, the Trustee shall, upon receipt of an Authentication Order, authenticate and deliver the Notes. In addition, at any time, from time to time, the Trustee shall upon an Authentication Order authenticate and deliver any (i) Additional Notes or (ii) Exchange Notes or private exchange notes for issue only in an Exchange Offer or a private exchange, respectively, pursuant to the Registration Rights Agreement, for a like principal amount of Notes. Such Authentication Order shall specify the amount of the Notes to be authenticated and, in the case of any issuance of Additional Notes pursuant to Section 1.01 of the Fourteenth Supplemental Indenture, shall certify that such issuance is in compliance with Section 3.05 of the Fourteenth Supplemental Indenture.

The Trustee may appoint an authenticating agent acceptable to the Company to authenticate Notes. An authenticating agent may authenticate Notes whenever the Trustee may do so. Each reference in this Indenture to authentication by the Trustee includes authentication by such agent. An authenticating agent has the same rights as an Agent to deal with Holders or an Affiliate of the Company."

Section 1.07 Outstanding Securities. Section 2.08 of the Base Indenture is hereby replaced in its entirety as follows:

"Section 2.08 Outstanding Securities.

The Notes outstanding at any time are all the Notes authenticated by the Trustee except for those canceled by it, those delivered to it for cancellation, those reductions in the interest in a Global Note effected by the Trustee in accordance with the provisions in the Fourteenth Supplemental Indenture, and those described in this Section 2.08 as not outstanding.

Except as set forth in Section 2.12 hereof, a Note does not cease to be outstanding because the Company or an Affiliate of the Company holds the Note.

If a Note is replaced pursuant to Section 2.07 hereof, it ceases to be outstanding unless the Trustee receives proof satisfactory to it that the replaced Note is held by a bona fide purchaser.

If the principal amount of any Note is considered paid under Section 4.01 hereof, it ceases to be outstanding and interest on it ceases to accrue.

If the Paying Agent (other than the Company, a Subsidiary or an Affiliate of any thereof) holds, on a redemption date or maturity date, money sufficient to pay Notes payable on that date, then on and after that date such Notes shall be deemed to be no longer outstanding and shall cease to accrue interest.

Subject to the foregoing provisions of this Section, each Note delivered under this Indenture upon registration of transfer of or in exchange for or in lieu of any other Note shall carry the rights to interest accrued and unpaid, and to accrue, which were carried by such other Note."

Section 1.08 Transfer and Exchanges. Section 2.15 of the Base Indenture is hereby replaced in its entirety as follows:

"Section 2.15 Transfer and Exchanges.

(a) Transfer and Exchange of Global Notes. Except as otherwise set forth in this Section 2.15, a Global Note may be transferred, in whole and not in part, only to another nominee of the Depositary or to a successor Depositary or a nominee of such successor Depositary. A beneficial interest in a Global Note may not be exchanged for a Definitive Note unless (i) the Depositary (x) notifies the Company that it is unwilling or unable to continue as Depositary for such Global Note or (y) has ceased to be a clearing agency registered under the Exchange Act and, in either case, a successor Depositary is not appointed by the Company within 120 days, (ii) the Company, at its option, notifies the Trustee in writing that the Company elects to cause the issuance of the Notes in certificated form (*provided* that under current industry practices, the Depositary would notify Participants of the Company's determination, but would only withdraw beneficial interests from a Global Note at the request of Participants), or (iii) there shall have occurred and be continuing a Default with respect to the Notes. Upon the occurrence of any of the preceding events in (i), (ii) or (iii) above, Definitive Notes delivered in exchange for any Global Note or beneficial interests therein will be registered in the names, and issued in any approved denominations, requested by or on behalf of the Depositary (in accordance with its customary procedures). Global Notes also may be exchanged or replaced, in whole or in part, as provided in Sections 2.07 and 2.09 hereof. Every Note authenticated and delivered in exchange for, or in lieu of, a Global Note or any portion thereof, pursuant to this Section 2.15 or Section 2.07 or 2.09 hereof, shall be authenticated and delivered in the form of, and shall be, a Global Note, except for Definitive Notes issued subsequent to any of the preceding events in (i), (ii) or (iii) above and pursuant to Section 2.15(c) hereof. A Global Note may not be exchanged for another Note other than as provided in this Section 2.15(a); *provided*,

however, beneficial interests in a Global Note may be transferred and exchanged as provided in Section 2.15(b), (c) or (f) hereof.

(b) Transfer and Exchange of Beneficial Interests in the Global Notes. The transfer and exchange of beneficial interests in the Global Notes shall be effected through the Depositary, in accordance with the provisions of this Indenture and the Applicable Procedures. Beneficial interests in the Restricted Global Notes shall be subject to restrictions on transfer comparable to those set forth herein to the extent required by the Securities Act. Transfers of beneficial interests in the Global Notes also shall require compliance with either subparagraph (i) or (ii) below, as applicable, as well as one or more of the other following subparagraphs, as applicable:

(i) *Transfer of Beneficial Interests in the Same Global Note*. Beneficial interests in any Restricted Global Note may be transferred to Persons who take delivery thereof in the form of a beneficial interest in the same Restricted Global Note in accordance with the transfer restrictions set forth in the Private Placement Legend; *provided*, *however*, that prior to the expiration of the Restricted Period, transfers of beneficial interests in the Regulation S Global Note may not be made to a U.S. Person or for the account or benefit of a U.S. Person (other than an Initial Purchaser). Beneficial interests in any Unrestricted Global Note may be transferred to Persons who take delivery thereof in the form of a beneficial interest in an Unrestricted Global Note. No written orders or instructions shall be required to be delivered to the Registrar to effect the transfers described in this Section 2.15(b)(i).

(ii) *All Other Transfers and Exchanges of Beneficial Interests in Global Notes*. In connection with all transfers and exchanges of beneficial interests that are not subject to Section 2.15(b)(i) hereof, the transferor of such beneficial interest must deliver to the Registrar either (A) (1) a written order from a Participant or an Indirect Participant given to the Depositary in accordance with the Applicable Procedures directing the Depositary to credit or cause to be credited a beneficial interest in another Global Note in an amount equal to the beneficial interest to be transferred or exchanged and (2) instructions given in accordance with the Applicable Procedures containing information regarding the Participant account to be credited with such increase or (B) (1) a written order from a Participant or an Indirect Participant given to the Depositary in accordance with the Applicable Procedures directing the Depositary to cause to be issued a Definitive Note in an amount equal to the beneficial interest to be transferred or exchanged and (2) instructions given by the Depositary to the Registrar containing information regarding the Person in whose name such Definitive Note shall be registered to effect the transfer or exchange referred to in (1) above; *provided* that in no event shall Definitive Notes be issued upon the transfer or exchange of beneficial interests in the Regulation S Global Note prior to the expiration of the Restricted Period. Upon consummation of an Exchange Offer by the Company in accordance with Section 2.15(f) hereof, the requirements of this Section 2.15(b)(ii) shall be deemed to have been satisfied upon receipt by the Registrar of the instructions contained in the Letter of Transmittal delivered by the Holder of such beneficial interests in the Restricted Global Notes. Upon satisfaction of all of the requirements for transfer or exchange of beneficial interests in Global Notes contained in this Indenture and the Notes or otherwise applicable under the Securities Act, the Trustee shall adjust the principal amount of the relevant Global Note(s) pursuant to Section 2.15(h) hereof.

(iii) *Transfer of Beneficial Interests to Another Restricted Global Note*. A beneficial interest in any Restricted Global Note may be transferred to a Person who takes delivery thereof in the form of a beneficial interest in another Restricted Global Note if the transfer complies with the requirements of Section 2.15(b)(ii) hereof and the Registrar receives the following:

(A) if the transferee will take delivery in the form of a beneficial interest in the 144A Global Note, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications in item (1) thereof; or

(B) if the transferee will take delivery in the form of a beneficial interest in the Regulation S Global Note, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications in item (2) thereof.

(iv) *Transfer and Exchange of Beneficial Interests in a Restricted Global Note for Beneficial Interests in an Unrestricted Global Note*. A beneficial interest in any Restricted Global Note may be exchanged by any holder thereof for a beneficial interest in an Unrestricted Global Note or transferred to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted Global Note if the exchange or transfer complies with the requirements of Section 2.15(b)(ii) hereof and:

(A) such exchange or transfer is effected pursuant to the Exchange Offer in accordance with the Registration Rights Agreement and the holder of the beneficial interest to be transferred, in the case of an exchange, or the transferee, in the case of a transfer, certifies in the applicable Letter of Transmittal that (w) at the time the Exchange Offer begins, such Person has no arrangement or understanding with any person to participate in the distribution of the Exchange Notes in violation of the provisions of the Securities Act, (x) if such Person is not a broker-dealer, such Person is not engaged in, and does not intend to engage in, a distribution of the Exchange Notes, (y)(1) such Person is not an affiliate (as defined in Rule 405) of the Company or (2) if such Person is an affiliate (as defined in Rule 405) of the Company, such Person will comply with the registration and prospectus delivery requirements of the Securities Act to the extent applicable, and (z) any Exchange Notes to be received by such Person will be acquired in the ordinary course of such Persons' business;

(B) such transfer is effected pursuant to the Shelf Registration Statement in accordance with the Registration Rights Agreement;

(C) such transfer is effected by a Participating Broker-Dealer pursuant to the Exchange Offer Registration Statement in accordance with the Registration Rights Agreement; or

(D) the Registrar receives the following:

(1) if the holder of such beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for a beneficial interest in an

Unrestricted Global Note, a certificate from such Holder substantially in the form of Exhibit C hereto, including the certifications in item (1)(a) thereof; or

(2) if the holder of such beneficial interest in a Restricted Global Note proposes to transfer such beneficial interest to a Person who shall take delivery thereof in the form of a beneficial interest in an Unrestricted Global Note, a certificate from such holder in the form of Exhibit B hereto, including the certifications in item (4) thereof;

and, in each such case set forth in this subparagraph (D), if the Registrar so requests or if the Applicable Procedures so require, an Opinion of Counsel in form reasonably acceptable to the Registrar to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

If any such transfer is effected pursuant to subparagraph (B) or (D) above at a time when an Unrestricted Global Note has not yet been issued, the Company shall issue and, upon receipt of an Authentication Order in accordance with Section 2.02 hereof, the Trustee shall authenticate one or more Unrestricted Global Notes in an aggregate principal amount equal to the aggregate principal amount of beneficial interests transferred pursuant to subparagraph (B) or (D) above.

Beneficial interests in an Unrestricted Global Note cannot be exchanged for, or transferred to Persons who take delivery thereof in the form of, a beneficial interest in a Restricted Global Note.

(c) Transfer or Exchange of Beneficial Interests for Definitive Notes.

(i) *Beneficial Interests in Restricted Global Notes to Restricted Definitive Notes*. If any holder of a beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for a Restricted Definitive Note or to transfer such beneficial interest to a Person who takes delivery thereof in the form of a Restricted Definitive Note, then, upon the occurrence of any of the events in paragraph (i), (ii) or (iii) of Section 2.15(a) hereof and receipt by the Registrar of the following documentation:

(A) if the holder of such beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for a Restricted Definitive Note, a certificate from such holder substantially in the form of Exhibit C hereto, including the certifications in item (2)(a) thereof;

(B) if such beneficial interest is being transferred to a QIB in accordance with Rule 144A, a certificate substantially in the form of Exhibit B hereto, including the certifications in item (1) thereof;

(C) if such beneficial interest is being transferred to a Non-U.S. Person in an offshore transaction in accordance with Rule 903 or Rule 904, a certificate

substantially in the form of Exhibit B hereto, including the certifications in item (2) thereof;

(D) if such beneficial interest is being transferred pursuant to an exemption from the registration requirements of the Securities Act in accordance with Rule 144, a certificate substantially in the form of Exhibit B hereto, including the certifications in item (3)(a) thereof;

(E) if such beneficial interest is being transferred to the Company or any of its Restricted Subsidiaries, a certificate substantially in the form of Exhibit B hereto, including the certifications in item (3)(b) thereof; or

(F) if such beneficial interest is being transferred pursuant to an effective registration statement under the Securities Act, a certificate substantially in the form of Exhibit B hereto, including the certifications in item (3)(c) thereof,

the Trustee shall cause the aggregate principal amount of the applicable Global Note to be reduced accordingly pursuant to Section 2.15(h) hereof, and the Company shall execute and the Trustee shall authenticate and mail to the Person designated in the instructions a Definitive Note in the applicable principal amount. Any Definitive Note issued in exchange for a beneficial interest in a Restricted Global Note pursuant to this Section 2.15(c) shall be registered in such name or names and in such authorized denomination or denominations as the holder of such beneficial interest shall instruct the Registrar through instructions from the Depositary and the Participant or Indirect Participant. The Trustee shall mail such Definitive Notes to the Persons in whose names such Notes are so registered. Any Definitive Note issued in exchange for a beneficial interest in a Restricted Global Note pursuant to this Section 2.15(c)(i) shall bear the Private Placement Legend and shall be subject to all restrictions on transfer contained therein.

(ii) *Beneficial Interests in Restricted Global Notes to Unrestricted Definitive Notes*. A holder of a beneficial interest in a Restricted Global Note may exchange such beneficial interest for an Unrestricted Definitive Note or may transfer such beneficial interest to a Person who takes delivery thereof in the form of an Unrestricted Definitive Note only upon the occurrence of any of the events in subsection (i), (ii) or (iii) of Section 2.15(a) hereof and if:

(A) such exchange or transfer is effected pursuant to the Exchange Offer in accordance with the Registration Rights Agreement and the holder of such beneficial interest, in the case of an exchange, or the transferee, in the case of a transfer, certifies in the applicable Letter of Transmittal that (w) at the time the Exchange Offer begins, such Person has no arrangement or understanding with any person to participate in the distribution of the Exchange Notes in violation of the provisions of the Securities Act, (x) if such Person is not a broker-dealer, such Person is not engaged in, and does not intend to engage in, a distribution of the Exchange Notes, (y)(1) such Person is not an affiliate (as defined in Rule 405) of the Company or (2) if such Person is an affiliate (as defined in Rule 405) of the Company, such Person will comply with the registration and prospectus delivery requirements of the Securities Act to the extent applicable, and (z)

any Exchange Notes to be received by such Person will be acquired in the ordinary course of such Persons' business;

(B) such transfer is effected pursuant to the Shelf Registration Statement in accordance with the Registration Rights Agreement;

(C) such transfer is effected by a Participating Broker-Dealer pursuant to the Exchange Offer Registration Statement in accordance with the Registration Rights Agreement; or

(D) the Registrar receives the following:

(1) if the holder of such beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for an Unrestricted Definitive Note, a certificate from such holder substantially in the form of Exhibit C hereto, including the certifications in item (1) (b) thereof; or

(2) if the holder of such beneficial interest in a Restricted Global Note proposes to transfer such beneficial interest to a Person who shall take delivery thereof in the form of an Unrestricted Definitive Note, a certificate from such holder substantially in the form of Exhibit B hereto, including the certifications in item (4) thereof;

and, in each such case set forth in this subparagraph (D), if the Registrar so requests or if the Applicable Procedures so require, an Opinion of Counsel in form reasonably acceptable to the Registrar to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

(iii) *Beneficial Interests in Unrestricted Global Notes to Unrestricted Definitive Notes*. If any holder of a beneficial interest in an Unrestricted Global Note proposes to exchange such beneficial interest for a Definitive Note or to transfer such beneficial interest to a Person who takes delivery thereof in the form of a Definitive Note, then, upon the occurrence of any of the events in subsection (i), (ii) or (iii) of Section 2.15(a) hereof and satisfaction of the conditions set forth in Section 2.15(b)(ii) hereof, the Trustee shall cause the aggregate principal amount of the applicable Global Note to be reduced accordingly pursuant to Section 2.15(h) hereof, and the Company shall execute and the Trustee shall authenticate and mail to the Person designated in the instructions a Definitive Note in the applicable principal amount. Any Definitive Note issued in exchange for a beneficial interest pursuant to this Section 2.15(c)(iii) shall be registered in such name or names and in such authorized denomination or denominations as the holder of such beneficial interest shall instruct the Registrar through instructions from or through the Depositary and the Participant or Indirect Participant. The Trustee shall mail such Definitive Notes to the Persons in whose names such Notes are so registered. Any Definitive Note issued in exchange for a beneficial interest pursuant to this Section 2.15(c)(iii) shall not bear the Private Placement Legend.

(d) Transfer and Exchange of Definitive Notes for Beneficial Interests.

(i) *Restricted Definitive Notes to Beneficial Interests in Restricted Global Notes*. If any Holder of a Restricted Definitive Note proposes to exchange such Note for a beneficial interest in a Restricted Global Note or to transfer such Restricted Definitive Note to a Person who takes delivery thereof in the form of a beneficial interest in a Restricted Global Note, then, upon receipt by the Registrar of the following documentation:

(A) if the Holder of such Restricted Definitive Note proposes to exchange such Note for a beneficial interest in a Restricted Global Note, a certificate from such Holder substantially in the form of Exhibit C hereto, including the certifications in item (2)(b) thereof;

(B) if such Restricted Definitive Note is being transferred to a QIB in accordance with Rule 144A, a certificate substantially in the form of Exhibit B hereto, including the certifications in item (1) thereof;

(C) if such Restricted Definitive Note is being transferred to a Non-U.S. Person in an offshore transaction in accordance with Rule 903 or Rule 904, a certificate substantially in the form of Exhibit B hereto, including the certifications in item (2) thereof;

(D) if such Restricted Definitive Note is being transferred pursuant to an exemption from the registration requirements of the Securities Act in accordance with Rule 144, a certificate substantially in the form of Exhibit B hereto, including the certifications in item (3)(a) thereof;

(E) if such Restricted Definitive Note is being transferred to the Company or any of its Restricted Subsidiaries, a certificate substantially in the form of Exhibit B hereto, including the certifications in item (3)(b) thereof; or

(F) if such Restricted Definitive Note is being transferred pursuant to an effective registration statement under the Securities Act, a certificate substantially in the form of Exhibit B hereto, including the certifications in item (3)(c) thereof,

the Trustee shall cancel the Restricted Definitive Note, increase or cause to be increased the aggregate principal amount of, in the case of clause (A) above, the applicable Restricted Global Note, in the case of clause (B) above, the applicable 144A Global Note, and in the case of clause (C) above, the applicable Regulation S Global Note.

(ii) *Restricted Definitive Notes to Beneficial Interests in Unrestricted Global Notes*. A Holder of a Restricted Definitive Note may exchange such Note for a beneficial interest in an Unrestricted Global Note or transfer such Restricted Definitive Note to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted Global Note only if:

(A) such exchange or transfer is effected pursuant to the Exchange Offer in accordance with the Registration Rights Agreement and the Holder, in the case of an exchange, or the transferee, in the case of a transfer, certifies in the applicable Letter of Transmittal that (w) at the time the Exchange Offer begins, such Person has no arrangement or understanding with any person to participate in the distribution of the Exchange Notes in violation of the provisions of the Securities Act, (x) if such Person is not a broker-dealer, such Person is not engaged in, and does not intend to engage in, a distribution of the Exchange Notes, (y)(1) such Person is not an affiliate (as defined in Rule 405) of the Company or (2) if such Person is an affiliate (as defined in Rule 405) of the Company, such Person will comply with the registration and prospectus delivery requirements of the Securities Act to the extent applicable, and (z) any Exchange Notes to be received by such Person will be acquired in the ordinary course of such Persons' business;

(B) such transfer is effected pursuant to the Shelf Registration Statement in accordance with the Registration Rights Agreement;

(C) such transfer is effected by a Participating Broker-Dealer pursuant to the Exchange Offer Registration Statement in accordance with the Registration Rights Agreement; or

(D) the Registrar receives the following:

(1) if the Holder of such Definitive Notes proposes to exchange such Notes for a beneficial interest in the Unrestricted Global Note, a certificate from such Holder substantially in the form of Exhibit C hereto, including the certifications in item (1)(c) thereof; or

(2) if the Holder of such Definitive Notes proposes to transfer such Notes to a Person who shall take delivery thereof in the form of a beneficial interest in the Unrestricted Global Note, a certificate from such Holder substantially in the form of Exhibit B hereto, including the certifications in item (4) thereof;

and, in each such case set forth in this subparagraph (D), if the Registrar so requests or if the Applicable Procedures so require, an Opinion of Counsel in form reasonably acceptable to the Registrar to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

Upon satisfaction of the conditions of any of the subparagraphs in this Section 2.15(d)(ii), the Trustee shall cancel the Definitive Notes and increase or cause to be increased the aggregate principal amount of the Unrestricted Global Note.

(iii) *Unrestricted Definitive Notes to Beneficial Interests in Unrestricted Global Notes*. A Holder of an Unrestricted Definitive Note may exchange such Note for a beneficial interest in an Unrestricted Global Note or transfer such Definitive Notes to

a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted Global Note at any time. Upon receipt of a request for such an exchange or transfer, the Trustee shall cancel the applicable Unrestricted Definitive Note and increase or cause to be increased the aggregate principal amount of one of the Unrestricted Global Notes.

If any such exchange or transfer from a Definitive Note to a beneficial interest is effected pursuant to subparagraph (ii)(B), (ii)(D) or (iii) above at a time when an Unrestricted Global Note has not yet been issued, the Company shall issue and, upon receipt of an Authentication Order in accordance with Section 2.02 hereof, the Trustee shall authenticate one or more Unrestricted Global Notes in an aggregate principal amount equal to the principal amount of Definitive Notes so transferred.

(e) Transfer and Exchange of Definitive Notes for Definitive Notes. Upon request by a Holder of Definitive Notes and such Holder's compliance with the provisions of this Section 2.15(e), the Registrar shall register the transfer or exchange of Definitive Notes. Prior to such registration of transfer or exchange, the requesting Holder shall present or surrender to the Registrar the Definitive Notes duly endorsed or accompanied by a written instruction of transfer in form satisfactory to the Registrar duly executed by such Holder or by its attorney, duly authorized in writing. In addition, the requesting Holder shall provide any additional certifications, documents and information, as applicable, required pursuant to the following provisions of this Section 2.15(e):

(i) *Restricted Definitive Notes to Restricted Definitive Notes*. Any Restricted Definitive Note may be transferred to and registered in the name of Persons who take delivery thereof in the form of a Restricted Definitive Note if the Registrar receives the following:

(A) if the transfer will be made to a QIB pursuant to Rule 144A, then the transferor must deliver a certificate substantially in the form of Exhibit B hereto, including the certifications in item (1) thereof;

(B) if the transfer will be made pursuant to Rule 903 or Rule 904 then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications in item (2) thereof; or

(C) if the transfer will be made pursuant to any other exemption from the registration requirements of the Securities Act, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications required by item (3) thereof, if applicable.

(ii) *Restricted Definitive Notes to Unrestricted Definitive Notes*. Any Restricted Definitive Note may be exchanged by the Holder thereof for an Unrestricted Definitive Note or transferred to a Person or Persons who take delivery thereof in the form of an Unrestricted Definitive Note if:

(A) such exchange or transfer is effected pursuant to the Exchange Offer in accordance with the Registration Rights Agreement and the Holder, in the case

of an exchange, or the transferee, in the case of a transfer, certifies in the applicable Letter of Transmittal that (w) at the time the Exchange Offer begins, such Person has no arrangement or understanding with any person to participate in the distribution of the Exchange Notes in violation of the provisions of the Securities Act, (x) if such Person is not a broker-dealer, such Person is not engaged in, and does not intend to engage in, a distribution of the Exchange Notes, (y)(1) such Person is not an affiliate (as defined in Rule 405) of the Company or (2) if such Person is an affiliate (as defined in Rule 405) of the Company, such Person will comply with the registration and prospectus delivery requirements of the Securities Act to the extent applicable, and (z) any Exchange Notes to be received by such Person will be acquired in the ordinary course of such Persons' business;

(B) any such transfer is effected pursuant to the Shelf Registration Statement in accordance with the Registration Rights Agreement;

(C) any such transfer is effected by a Participating Broker-Dealer pursuant to the Exchange Offer Registration Statement in accordance with the Registration Rights Agreement; or

(D) the Registrar receives the following:

(1) if the Holder of such Restricted Definitive Notes proposes to exchange such Notes for an Unrestricted Definitive Note, a certificate from such Holder substantially in the form of Exhibit C hereto, including the certifications in item (1)(d) thereof; or

(2) if the Holder of such Restricted Definitive Notes proposes to transfer such Notes to a Person who shall take delivery thereof in the form of an Unrestricted Definitive Note, a certificate from such Holder substantially in the form of Exhibit B hereto, including the certifications in item (4) thereof;

and, in each such case set forth in this subparagraph (D), if the Registrar so requests, an Opinion of Counsel in form reasonably acceptable to the Registrar to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

(iii) *Unrestricted Definitive Notes to Unrestricted Definitive Notes*. A Holder of Unrestricted Definitive Notes may transfer such Notes to a Person who takes delivery thereof in the form of an Unrestricted Definitive Note. Upon receipt of a request to register such a transfer, the Registrar shall register the Unrestricted Definitive Notes pursuant to the instructions from the Holder thereof.

(f) Exchange Offer. Upon the occurrence of an Exchange Offer in accordance with the Registration Rights Agreement, the Company shall issue and, upon receipt of an Authentication Order in accordance with Section 2.02 hereof, the Trustee shall authenticate (i) one or more Unrestricted Global Notes in an aggregate principal amount equal to the principal

amount of the beneficial interests in the Restricted Global Notes tendered for acceptance by Persons that certify in the applicable Letters of Transmittal that (w) at the time the Exchange Offer begins, such Person has no arrangement or understanding with any person to participate in the distribution of the Exchange Notes in violation of the provisions of the Securities Act, (x) if such Person is not a broker-dealer, such Person is not engaged in, and does not intend to engage in, a distribution of the Exchange Notes, (y)(1) such Person is not an affiliate (as defined in Rule 405) of the Company or (2) if such Person is an affiliate (as defined in Rule 405) of the Company, such Person will comply with the registration and prospectus delivery requirements of the Securities Act to the extent applicable, and (z) any Exchange Notes to be received by such Person will be acquired in the ordinary course of such Persons' business, and accepted for exchange in the Exchange Offer, and (ii) Unrestricted Definitive Notes in an aggregate principal amount equal to the principal amount of the Restricted Definitive Notes tendered for acceptance by Persons that certify in the applicable Letters of Transmittal that (w) at the time the Exchange Offer begins, such Person has no arrangement or understanding with any person to participate in the distribution of the Exchange Notes in violation of the provisions of the Securities Act, (x) if such Person is not a broker-dealer, such Person is not engaged in, and does not intend to engage in, a distribution of the Exchange Notes, (y)(1) such Person is not an affiliate (as defined in Rule 405) of the Company or (2) if such Person is an affiliate (as defined in Rule 405) of the Company, such Person will comply with the registration and prospectus delivery requirements of the Securities Act to the extent applicable, and (z) any Exchange Notes to be received by such Person will be acquired in the ordinary course of such Persons' business, and accepted for exchange in the Exchange Offer. Concurrently with the issuance of such Notes, the Trustee shall cause the aggregate principal amount of the applicable Restricted Global Notes to be reduced accordingly, and the Company shall execute and the Trustee shall authenticate and mail to the Persons designated by the Holders of Definitive Notes so accepted Unrestricted Definitive Notes in the applicable principal amount. Any Notes that remain outstanding after the consummation of an Exchange Offer, and Exchange Notes issued in connection with an Exchange Offer, shall be treated as a single class of securities under this Indenture.

(g) Legends. The following legends shall appear on the face of all Global Notes and Definitive Notes issued under this Indenture unless specifically stated otherwise in the applicable provisions of this Indenture:

(i) *Private Placement Legend*.

(A) Except as permitted by subparagraph (B) below, each Global Note and each Definitive Note (and all Notes issued in exchange therefor or substitution therefor) shall bear the legend in substantially the following form:

"THIS SECURITY (OR ITS PREDECESSOR) HAS NOT BEEN REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND, ACCORDINGLY, MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED OR SOLD WITHIN THE UNITED STATES OR TO, OR FOR THE ACCOUNT OR BENEFIT OF, U.S. PERSONS EXCEPT AS SET FORTH BELOW. BY ITS ACQUISITION HEREOF OR OF A BENEFICIAL INTEREST HEREIN, THE HOLDER (1) REPRESENTS THAT (A) IT IS A

“QUALIFIED INSTITUTIONAL BUYER” (AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT), OR (B) IT IS NOT A U.S. PERSON AND IS ACQUIRING THIS NOTE IN AN OFFSHORE TRANSACTION IN COMPLIANCE WITH RULE 904 UNDER THE SECURITIES ACT, (2) AGREES THAT IT WILL NOT RESELL OR OTHERWISE TRANSFER THIS NOTE OR ANY BENEFICIAL INTEREST HEREIN EXCEPT (A) TO THE ISSUER OR ANY SUBSIDIARY THEREOF, (B) INSIDE THE UNITED STATES TO A PERSON WHOM THE SELLER REASONABLY BELIEVES IS A QUALIFIED INSTITUTIONAL BUYER IN COMPLIANCE WITH RULE 144A UNDER THE SECURITIES ACT, (C) OUTSIDE THE UNITED STATES IN AN OFFSHORE TRANSACTION IN COMPLIANCE WITH RULE 904 UNDER THE SECURITIES ACT (IF AVAILABLE), (D) PURSUANT TO THE EXEMPTION FROM REGISTRATION PROVIDED BY RULE 144 UNDER THE SECURITIES ACT (IF AVAILABLE), (E) IN ACCORDANCE WITH ANOTHER EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT (AND BASED UPON AN OPINION OF COUNSEL IF THE ISSUER SO REQUESTS), OR (F) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT AND (3) AGREES THAT IT WILL GIVE TO EACH PERSON TO WHOM THIS SECURITY IS TRANSFERRED A NOTICE SUBSTANTIALLY TO THE EFFECT OF THIS LEGEND. AS USED HEREIN, THE TERMS “OFFSHORE TRANSACTION,” “UNITED STATES” AND “U.S. PERSON” HAVE THE MEANING GIVEN TO THEM BY REGULATION S UNDER THE SECURITIES ACT.”

(B) Notwithstanding the foregoing, any Global Note or Definitive Note issued pursuant to subparagraph (b)(iv), (c)(ii), (c)(iii), (d)(ii), (d)(iii), (e)(ii), (e)(iii) or (f) of this Section 2.15 (and all Notes issued in exchange therefor or substitution thereof) shall not bear the Private Placement Legend.

(ii) *Global Note Legend*. Each Global Note shall bear a legend in substantially the following form:

THIS GLOBAL NOTE IS HELD BY THE DEPOSITARY (AS DEFINED IN THE INDENTURE GOVERNING THIS NOTE) OR ITS NOMINEE IN CUSTODY FOR THE BENEFIT OF THE BENEFICIAL OWNERS HEREOF, AND IS NOT TRANSFERABLE TO ANY PERSON UNDER ANY CIRCUMSTANCES EXCEPT THAT (I) THE TRUSTEE MAY MAKE SUCH NOTATIONS HEREON AS MAY BE REQUIRED PURSUANT TO SECTION 2.15(h) OF THE INDENTURE, (II) THIS GLOBAL NOTE MAY BE EXCHANGED IN WHOLE BUT NOT IN PART PURSUANT TO SECTION 2.15(a) OF THE INDENTURE, (III) THIS GLOBAL NOTE MAY BE DELIVERED TO THE TRUSTEE FOR CANCELLATION PURSUANT TO SECTION 2.10 OF THE INDENTURE AND (IV) THIS GLOBAL NOTE MAY BE TRANSFERRED TO A SUCCESSOR DEPOSITARY WITH THE PRIOR WRITTEN CONSENT OF THE COMPANY. UNLESS AND UNTIL IT IS EXCHANGED IN WHOLE OR IN PART FOR NOTES IN DEFINITIVE FORM, THIS NOTE MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITARY TO A NOMINEE OF THE DEPOSITARY OR BY A NOMINEE OF THE DEPOSITARY TO

THE DEPOSITARY OR ANOTHER NOMINEE OF THE DEPOSITARY OR BY THE DEPOSITARY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITARY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITARY. UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY (55 WATER STREET, NEW YORK, NEW YORK) ("DTC") TO THE COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR SUCH OTHER NAME AS MAY BE REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR SUCH OTHER ENTITY AS MAY BE REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN."

(iii) *Regulation S Global Note Legend*. The Regulation S Global Note shall bear a legend in substantially the following form:

"BY ITS ACQUISITION HEREOF, THE HOLDER HEREOF REPRESENTS THAT IT IS NOT A U.S. PERSON, NOR IS IT PURCHASING FOR THE ACCOUNT OF A U.S. PERSON, AND IS ACQUIRING THIS SECURITY IN AN OFFSHORE TRANSACTION IN ACCORDANCE WITH REGULATION S UNDER THE SECURITIES ACT. THE FOREGOING SHALL NOT APPLY FOLLOWING THE EXPIRATION OF FORTY DAYS FROM THE LATER OF (i) THE DATE ON WHICH THESE NOTES WERE FIRST OFFERED AND (ii) THE DATE OF ISSUANCE OF THESE NOTES."

(h) Cancellation and/or Adjustment of Global Notes. At such time as all beneficial interests in a particular Global Note have been exchanged for Definitive Notes or a particular Global Note has been redeemed, repurchased or canceled in whole and not in part, each such Global Note shall be returned to or retained and canceled by the Trustee in accordance with Section 2.10 hereof. At any time prior to such cancellation, if any beneficial interest in a Global Note is exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Note or for Definitive Notes, the principal amount of Notes represented by such Global Note shall be reduced accordingly and an endorsement shall be made on such Global Note by the Trustee or by the Depositary at the direction of the Trustee to reflect such reduction; and if the beneficial interest is being exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Note, such other Global Note shall be increased accordingly and an endorsement shall be made on such Global Note by the Trustee or by the Depositary at the direction of the Trustee to reflect such increase.

(i) General Provisions Relating to Transfers and Exchanges.

(i) To permit registrations of transfers and exchanges, the Company shall execute and the Trustee shall authenticate Global Notes and Definitive Notes upon receipt of an Authentication Order in accordance with Section 2.02 hereof or at the Registrar's request.

(ii) No service charge shall be made to a holder of a beneficial interest in a Global Note or to a Holder of a Definitive Note for any registration of transfer or exchange, but the Company may require payment of a sum sufficient to cover any transfer tax or similar governmental charge payable in connection therewith (other than any such transfer taxes or similar governmental charge payable upon exchange or transfer pursuant to Sections 2.07, 2.09, 3.06 and 9.05 hereof and Section 3.03 of the Fourteenth Supplemental Indenture).

(iii) Neither the Registrar nor the Company shall be required to register the transfer of or exchange any Note selected for redemption in whole or in part, except the unredeemed portion of any Note being redeemed in part.

(iv) All Global Notes and Definitive Notes issued upon any registration of transfer or exchange of Global Notes or Definitive Notes shall be the valid obligations of the Company, evidencing the same debt, and entitled to the same benefits under this Indenture, as the Global Notes or Definitive Notes surrendered upon such registration of transfer or exchange.

(v) The Company shall not be required (A) to issue, to register the transfer of or to exchange any Notes during a period beginning at the opening of business 15 days before the day of any selection of Notes for redemption under Section 3.02 hereof and ending at the close of business on the day of selection, (B) to register the transfer of or to exchange any Note so selected for redemption in whole or in part, except the unredeemed portion of any Note being redeemed in part or (C) to register the transfer of or to exchange a Note between a Record Date and the next succeeding Interest Payment Date.

(vi) Prior to due presentment for the registration of a transfer of any Note, the Trustee, any Agent and the Company may deem and treat the Person in whose name any Note is registered as the absolute owner of such Note for the purpose of receiving payment of principal of (and premium, if any) and interest on such Notes and for all other purposes, and none of the Trustee, any Agent or the Company shall be affected by notice to the contrary.

(vii) Upon surrender for registration of transfer of any Note at the office or agency of the Company designated pursuant to Section 4.02 hereof, the Company shall execute, and the Trustee shall authenticate and mail, in the name of the designated transferee or transferees, one or more replacement Notes of any authorized denomination or denominations of a like aggregate principal amount.

(viii) At the option of the Holder, Notes may be exchanged for other Notes of any authorized denomination or denominations of a like aggregate principal amount upon surrender of the Notes to be exchanged at such office or agency. Whenever any Global Notes or Definitive Notes are so surrendered for exchange, the Company shall execute, and the Trustee shall authenticate and mail, the replacement Global Notes and Definitive Notes which the Holder making the exchange is entitled to in accordance with the provisions of Section 2.02 hereof.

(ix) All certifications, certificates and Opinions of Counsel required to be submitted to the Registrar pursuant to this Section 2.15 to effect a registration of transfer or exchange may be submitted by facsimile.

(j) Euroclear and Clearstream Procedures Applicable. The provisions of the "Operating Procedures of the Euroclear System" and "Terms and Conditions Governing Use of Euroclear" and the "General Terms and Conditions of Clearstream Banking" and "Customer Handbook" of Clearstream shall be applicable to transfers of beneficial interests in the Regulation S Global Notes that are held by Participants through Euroclear or Clearstream."

Section 1.09 Deletion of Sections of Base Indenture.

(a) Section 2.16 of the Base Indenture is hereby replaced in its entirety as follows: "Section 2.16 [Reserved]".

(b) Section 2.17 of the Base Indenture is hereby replaced in its entirety as follows: "Section 2.17 [Reserved]".

Section 1.10 Other Terms of the Notes. Without limiting the foregoing provisions of this Article One, the terms of the Notes shall be as set forth in the form of Note set forth in Exhibit A hereto and as provided in the Base Indenture.

The Notes shall be payable and may be presented for payment, purchase, conversion, registration of transfer and exchange, without service charge, at the office of the Company maintained for such purpose in New York, New York, which shall initially be the office or agency of the Trustee.

ARTICLE TWO

Certain Definitions

The following terms have the meanings set forth below in this Supplemental Indenture. Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Base Indenture. To the extent terms defined herein differ from the Base Indenture the terms defined herein will govern.

"144A Global Note" means a Global Note substantially in the form of Exhibit A attached hereto, as the case may be, bearing the Global Note Legend and the Private Placement Legend and deposited with or on behalf of, and registered in the name of, the Depositary or its nominee that will be issued in a denomination equal to the outstanding principal amount of the Notes sold in reliance on Rule 144A.

"Acquired Indebtedness" means Indebtedness of any Person and its Subsidiaries existing at the time such Person became a Subsidiary of the Company (or such Person is merged with or into the Company or one of the Company's Subsidiaries) or assumed in connection with the acquisition of assets from any such Person, including, without limitation, Indebtedness Incurred in connection with, or in contemplation of (i) such Person being merged with or into or

becoming a Subsidiary of the Company or one of its Subsidiaries (but excluding Indebtedness of such Person which is extinguished, retired or repaid in connection with such Person being merged with or into or becoming a Subsidiary of the Company or one of its Subsidiaries) or (ii) such acquisition of assets from any such Person.

"Additional Interest" means the additional interest, if any, to be paid on the Notes pursuant to the Registration Rights Agreement. All references in this Indenture to "interest" shall include Additional Interest, if any, with respect to the Notes.

"Additional Notes" means Notes (other than the Notes issued on the Issue Date) issued pursuant to Section 1.01 hereof and otherwise in compliance with the provisions of the Indenture.

"Adjusted Consolidated Tangible Net Worth" of the Company means Consolidated Tangible Net Worth plus the amount of any Mandatory Convertible Notes.

"Adjusted Indebtedness" of the Company means the Company's Indebtedness minus the amount of any Mandatory Convertible Notes.

"Affiliate" of any Person means any other Person directly or indirectly controlling or controlled by, or under direct or indirect common control with, such Person. For purposes hereof, each executive officer and director of the Company and each Subsidiary of the Company will be an Affiliate of the Company. In addition, for purposes hereof, control of a Person means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise. Notwithstanding the foregoing, the term "Affiliate" will not include, with respect to the Company or any Restricted Subsidiary which is a Wholly Owned Subsidiary of the Company, any Restricted Subsidiary which is a Wholly Owned Subsidiary of the Company.

"Applicable Premium" means, with respect to a Note at any redemption date, the greater of (i) 1.00% of the principal amount of such Note and (ii) the excess of (a) the present value at such redemption date of (1) the redemption price of such Note on November 15, 2014 (such redemption price being described under Section 5(b) of such Note, exclusive of any accrued interest) plus (2) all required remaining scheduled interest payments due on such Note through November 15, 2014 (but excluding accrued and unpaid interest to the redemption date), computed using a discount rate equal to the Treasury Rate plus 0.50% per annum, over (b) the principal amount of such Note on such redemption date.

"Applicable Procedures" means, with respect to any transfer or exchange of or for beneficial interests in any Global Note, the rules and procedures of the Depositary, Euroclear and/or Clearstream that apply to such transfer or exchange.

"Asset Sale" for any Person means the sale, transfer, lease, conveyance or other disposition (including, without limitation, by merger, consolidation or sale and leaseback transaction, and whether by operation of law or otherwise) of any of that Person's assets (including, without limitation, the sale or other disposition of Capital Stock of any Subsidiary of such Person, whether by such Person or such Subsidiary), whether owned on the date hereof or

subsequently acquired in one transaction or a series of related transactions, in which such Person and/or its Subsidiaries receive cash and/or other consideration (including, without limitation, the unconditional assumption of Indebtedness of such Person and/or its Subsidiaries) having an aggregate Fair Market Value of $5.0 million or more as to each such transaction or series of related transactions; *provided*, *however*, that none of the following shall constitute an Asset Sale:

(i) a transaction or series of related transactions that results in a Change of Control;

(ii) sales of homes or land in the ordinary course of business;

(iii) sales, leases, conveyances or other dispositions, including, without limitation, exchanges or swaps, of real estate or other assets, in each case in the ordinary course of business, for development or disposition of the Company's or any of its Subsidiaries' projects;

(iv) sales, leases, sale-leasebacks or other dispositions of amenities, model homes and other improvements at the Company's or its Subsidiaries' projects in the ordinary course of business;

(v) transactions between the Company and any of its Restricted Subsidiaries, or among such Restricted Subsidiaries;

(vi) a transaction involving the sale of Capital Stock of, or the disposition of assets in, an Unrestricted Subsidiary;

(vii) any exchange or swap of assets of the Company or any Restricted Subsidiary for assets (including Capital Stock of any Person that is or will be a Restricted Subsidiary following receipt thereof) that (i) are to be used by the Company or any Restricted Subsidiary in the ordinary course of business and (ii) have a Fair Market Value not less than the Fair Market Value of the assets exchanged or swapped;

(viii) any disposition of Cash Equivalents or obsolete or worn out equipment, in each case, in the ordinary course of business;

(ix) the sale or other disposition of assets no longer used or useful in the conduct of business of the Company or any of its Restricted Subsidiaries; and

(x) the making of any Restricted Payment or Permitted Investment that is permitted to be made, and is made, under Section 3.02 hereof

"Authentication Order" means a written request or order signed on behalf of the Company by an Officer of the Company and delivered to the Trustee.

"Bankruptcy Law" means title 11 of the United States Code, as amended, or any similar federal or state law for the relief of debtors.

"Book Value" means, with respect to any asset of the Company or any of its Subsidiaries, the book value thereof as reflected in the most recent consolidated financial statements of the

Company filed with SEC (or if such asset has been acquired after the date of such financial statements, the then-current book value thereof as reasonably determined by the Company consistent with recent practices).

"Business Day" means any day other than a Legal Holiday.

"Capital Stock" of any Person means any and all shares, rights to purchase, warrants or options (whether or not currently exercisable), participations, or other equivalents of or interests in (however designated and whether voting or non-voting) the equity (which includes, but is not limited to, common stock, preferred stock and partnership and joint venture interests) of such Person (excluding any debt securities that are convertible into, or exchangeable for, such equity).

"Capitalized Lease Obligations" of any Person means the obligations of such Person to pay rent or other amounts under a lease that is required to be capitalized for financial reporting purposes in accordance with GAAP, and the amount of such obligation will be the capitalized amount thereof determined in accordance with GAAP.

"Cash Equivalents" means any security or instrument that constitutes a cash equivalent under GAAP, including any of the following:

(i) direct obligations of the United States or any agency thereof or obligations guaranteed by the United States or any agency thereof, in each case maturing within one year of the date of acquisition thereof;

(ii) certificates of deposit, time deposits, bankers acceptances and other obligations placed with commercial banks organized under the laws of the United States of America or any state thereof, or branches or agencies of foreign banks licensed under the laws of the United States of America or any state thereof, having a short-term rating of not less than A- by Moody's or S&P at the time of acquisition, and having a maturity of not more than one year;

(iii) commercial paper rated at least P-1, A-1 or the equivalent thereof by Moody's or S&P, respectively, and in each case and maturing not more than one year from the date of the acquisition thereof;

(iv) repurchase agreements or money-market accounts which are fully secured by direct obligations of the United States or any agency thereof; and

(v) investments in money market funds (a) substantially all of the assets of which consist of investments described in the foregoing clauses (i) through (iv) or (b) which (1) have total net assets of at least $2.0 billion, (2) have investment objectives and policies that substantially conform with the Company's investment policy as in effect from time to time, (3) purchase only first-tier or U.S. government obligations as defined by Rule 2a-7 of the SEC promulgated under the Investment Company Act of 1940 and (4) otherwise comply with such Rule 2a-7.

"Change of Control" means any of the following:

(i) the sale, transfer, lease, conveyance or other disposition (in one transaction or a series of transactions) of all or substantially all of the Company's assets as an entirety or substantially as an entirety to any Person or "group" (within the meaning of Section 13(d)(3) of the Exchange Act); *provided* that a transaction where the holders of all classes of Common Equity of the Company immediately prior to such transaction own, directly or indirectly, 50% or more of the aggregate voting power of all classes of Common Equity of such Person or group immediately after such transaction will not be a Change of Control;

(ii) the acquisition by the Company and/or any of its Subsidiaries of 50% or more of the aggregate voting power of all classes of Common Equity of the Company in one transaction or a series of related transactions;

(iii) the liquidation or dissolution of the Company; *provided* that a liquidation or dissolution of the Company which is part of a transaction or series of related transactions that does not constitute a Change of Control under the "provided" clause of clause (i) above will not constitute a Change of Control under this clause (iii);

(iv) any transaction or a series of related transactions (as a result of a tender offer, merger, consolidation or otherwise) that results in, or that is in connection with, (a) any Person, including a "group" (within the meaning of Section 13(d)(3) of the Exchange Act) acquiring "beneficial ownership" (as defined in Rule 13d-3 under the Exchange Act), directly or indirectly, of 50% or more of the aggregate voting power of all classes of Common Equity of the Company or of any Person that possesses "beneficial ownership" (as defined in Rule 13d-3 under the Exchange Act), directly or indirectly, of 50% or more of the aggregate voting power of all classes of Common Equity of the Company or (b) less than 50% (measured by the aggregate voting power of all classes) of the Common Equity of the Company being registered under Section 12(b) or 12(g) of the Exchange Act;

(v) a majority of the Board of Directors of the Company not being comprised of Continuing Directors; or

(vi) a change of control shall occur as defined in the instrument governing any publicly-traded debt securities of the Company which requires the Company to repay or repurchase such debt securities.

"Change of Control Offer" shall have the meaning set forth in Section 3.03(a) hereof.

"Change of Control Payment Date" shall have the meaning set forth in Section 3.03(a) hereof.

"Change of Control Price" shall have the meaning set forth in Section 3.03(a) hereof.

"Clearstream" means Clearstream Banking, Société Anonyme.

"Common Equity" of any Person means all Capital Stock of such Person that is generally entitled to (i) vote in the election of directors of such Person or (ii) if such Person is not a

corporation, vote or otherwise participate in the selection of the governing body, partners, managers or others that will control the management and policies of such Person.

"Consolidated Cash Flow Available for Fixed Charges" of the Company and its Restricted Subsidiaries means for any period, the sum of the amounts for such period of:

(i) Consolidated Net Income, plus

(ii) Consolidated Income Tax Expense (without regard to income tax expense or credits attributable to extraordinary and nonrecurring gains or losses on Asset Sales), plus

(iii) Consolidated Interest Expense, plus

(iv) all depreciation, and, without duplication, amortization (including, without limitation, capitalized interest amortized to cost of sales), plus

(v) all other non-cash items reducing Consolidated Net Income during such period, minus all other non-cash items increasing Consolidated Net Income during such period; all as determined on a consolidated basis for the Company and its Restricted Subsidiaries in accordance with GAAP.

"Consolidated Fixed Charge Coverage Ratio" of the Company means, with respect to any determination date, the ratio of (i) Consolidated Cash Flow Available for Fixed Charges of the Company for the prior four full fiscal quarters for which financial results have been reported immediately preceding the determination date to (ii) the aggregate Consolidated Interest Incurred of the Company for the prior four full fiscal quarters for which financial results have been reported immediately preceding the determination date; *provided* that:

(i) with respect to any Indebtedness Incurred during, and remaining outstanding at the end of, such four full fiscal quarters period, such Indebtedness will be assumed to have been incurred as of the first day of such four full fiscal quarters period;

(ii) with respect to Indebtedness repaid (other than a repayment of revolving credit obligations repaid solely out of operating cash flows) during such four full fiscal quarters period, such Indebtedness will be assumed to have been repaid on the first day of such four full fiscal quarters period;

(iii) with respect to the Incurrence of any Acquired Indebtedness, such Indebtedness and any proceeds therefrom will be assumed to have been Incurred and applied as of the first day of such four full fiscal quarters period, and the results of operations of any Person and any Subsidiary of such Person that, in connection with or in contemplation of such Incurrence, becomes a Subsidiary of the Company or is merged with or into the Company or one of the Company's Subsidiaries or whose assets are acquired, will be included, on a pro forma basis, in the calculation of the Consolidated Fixed Charge Coverage Ratio as if such transaction had occurred on the first day of such four full fiscal quarters period; and

(iv) with respect to any other transaction pursuant to which any Person becomes a Subsidiary of the Company or is merged with or into the Company or one of the Company's Subsidiaries or pursuant to which any Person's assets are acquired, such Consolidated Fixed Charge Coverage Ratio shall be calculated on a pro forma basis as if such transaction had occurred on the first day of such four full fiscal quarters period, but only if such transaction would require a pro forma presentation in financial statements prepared pursuant to Rule 11-02 of Regulation S-X under the Securities Act.

"Consolidated Income Tax Expense" of the Company for any period means the income tax expense of the Company and its Restricted Subsidiaries for such period, determined on a consolidated basis in accordance with GAAP.

"Consolidated Interest Expense" of the Company for any period means the Interest Expense of the Company and its Restricted Subsidiaries for such period, determined on a consolidated basis in accordance with GAAP.

"Consolidated Interest Incurred" of the Company for any period means the Interest Incurred of the Company and its Restricted Subsidiaries for such period, determined on a consolidated basis in accordance with GAAP.

"Consolidated Net Income" of the Company for any period means the aggregate net income (or loss) of the Company and its Restricted Subsidiaries for such period, determined on a consolidated basis in accordance with GAAP; ***provided*** that there will be excluded from such net income (to the extent otherwise included therein), without duplication:

(i) the net income (or loss) of any Person (other than a Restricted Subsidiary) in which any Person (including, without limitation, an Unrestricted Subsidiary) other than the Company or any Restricted Subsidiary has an ownership interest, except to the extent that any such income has actually been received by the Company or any Restricted Subsidiary in the form of cash dividends or similar cash distributions during such period, or in any other form but converted to cash during such period;

(ii) except to the extent includable in Consolidated Net Income pursuant to the foregoing clause (i), the net income (or loss) of any Person that accrued prior to the date that (a) such Person becomes a Restricted Subsidiary or is merged with or into or consolidated with the Company or any of its Restricted Subsidiaries or (b) the assets of such Person are acquired by the Company or any of its Restricted Subsidiaries;

(iii) the net income of any Restricted Subsidiary to the extent that (but only so long as) the declaration or payment of dividends or similar distributions by such Restricted Subsidiary of that income is not permitted by operation of the terms of its charter or any agreement, instrument, judgment, decree, order, statute, rule or governmental regulation applicable to that Restricted Subsidiary during such period;

(iv) in the case of a successor to the Company by consolidation, merger or transfer of its assets, any earnings of the successor prior to such merger, consolidation or transfer of assets; and

(v) the gains (but not losses) realized during such period by the Company or any of its Restricted Subsidiaries resulting from (a) the acquisition of securities issued by the Company or extinguishment of Indebtedness of the Company or any of its Restricted Subsidiaries, (b) Asset Sales by the Company or any of its Restricted Subsidiaries and (c) other extraordinary items realized by the Company or any of its Restricted Subsidiaries.

Notwithstanding the foregoing, in calculating Consolidated Net Income, the Company will be entitled to take into consideration the tax benefits associated with any loss described in clause (v) of the preceding sentence, but only to the extent such tax benefits are actually recognized by the Company or any of its Restricted Subsidiaries during such period; *provided*, *further*, that there will be included in such net income, without duplication, the net income of any Unrestricted Subsidiary to the extent such net income is actually received by the Company or any of its Restricted Subsidiaries in the form of cash dividends or similar cash distributions during such period, or in any other form but converted to cash during such period.

"Consolidated Tangible Assets" of the Company as of any date means the total amount of assets of the Company and its Restricted Subsidiaries (less applicable reserves) on a consolidated basis at the end of the fiscal quarter immediately preceding such date, as determined in accordance with GAAP, less: (i) Intangible Assets and (ii) appropriate adjustments on account of minority interests of other Persons holding equity investments in Restricted Subsidiaries, in the case of each of clauses (i) and (ii) above, as reflected on the consolidated balance sheet of the Company and its Restricted Subsidiaries as of the end of the fiscal quarter immediately preceding such date.

"Consolidated Tangible Net Worth" of the Company as of any date means the stockholders' equity (including any Preferred Stock that is classified as equity under GAAP, other than Disqualified Stock) of the Company and its Restricted Subsidiaries on a consolidated basis at the end of the fiscal quarter immediately preceding such date, as determined in accordance with GAAP, plus any amount of unvested deferred compensation included, in accordance with GAAP, as an offset to stockholders' equity, less the amount of Intangible Assets reflected on the consolidated balance sheet of the Company and its Restricted Subsidiaries as of the end of the fiscal quarter immediately preceding such date.

"Continuing Director" means at any date a member of the Board of Directors of the Company who:

(i) was a member of the Board of Directors of the Company on the Issue Date; or

(ii) was nominated for election or elected to the Board of Directors of the Company with the affirmative vote of at least a majority of the directors who were Continuing Directors at the time of such nomination or election.

"Covenant Defeasance" shall have the meaning set forth in Section 8.01(c) of the Indenture.

"Covenant Trigger Date" means the earlier of (i) 24 months from the Issue Date and (ii) the date that the Net Income Threshold is met.

"Credit Facilities" means, with respect to the Company or any of its Restricted Subsidiaries, one or more debt facilities or other financing arrangements (including, without limitation, commercial paper or letter of credit facilities or indentures) providing for revolving credit loans, term loans, letters of credit or other Indebtedness (including the Revolving Credit Facility), including any notes, mortgages, guarantees, collateral documents, instruments and agreements executed in connection therewith, and any amendments, supplements, modifications, extensions, renewals, restatements or refundings thereof and any indentures, credit facilities, letter of credit facilities or commercial paper facilities that replace, refund or refinance any part of the loans, notes, other credit facilities or commitments thereunder, including any such replacement, refunding or refinancing facility or indenture that increases the amount permitted to be borrowed thereunder or alters the maturity thereof (provided that such increase in borrowings is permitted by Section 3.05 hereof) or adds Restricted Subsidiaries as additional borrowers or guarantors thereunder and whether by the same or any other agent, lender or group of lenders.

"Custodian" means any receiver, trustee, assignee, liquidator or similar official under any Bankruptcy Law.

"Default" means any event, act or condition that is, or after notice or the passage of time, or both, would be, an Event of Default.

"Definitive Note" means a certificated Note registered in the name of the Holder thereof and issued in accordance with Section 2.15 of the Indenture, substantially in the form of Exhibit A hereto, except that such Note shall not bear the Global Note Legend and shall not have the "Schedule of Exchanges of Interests in the Global Note" attached thereto.

"Depositary" means, with respect to the Notes issuable or issued in whole or in part in global form, DTC, and any and all successors thereto appointed as Depositary hereunder and having become such pursuant to the applicable provision of the Indenture.

"Disqualified Stock" means any Capital Stock 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 or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, or is redeemable at the option of the holder thereof, in whole or in part, on or prior to the final maturity date of the Notes; *provided* that any Capital Stock which would not constitute Disqualified Stock but for provisions thereof giving holders thereof the right to require the Company to repurchase or redeem such Capital Stock upon the occurrence of a change of control occurring prior to the final maturity of the Notes will not constitute Disqualified Stock if the change of control provisions applicable to such Capital Stock are no more favorable to the holders of such Capital Stock than those contained in Section 3.03 hereof and such Capital Stock specifically provides that the Company will not repurchase or redeem (or be required to repurchase or redeem) any such Capital Stock pursuant to such provisions prior to the Company's repurchase of Notes pursuant to Section 3.03 hereof.

"Disqualified Stock Dividend" of any Person means, for any dividend payable with regard to Disqualified Stock issued by such Person, the amount of such dividend multiplied by a fraction, the numerator of which is one and the denominator of which is one minus the maximum

statutory combined federal, state and local income tax rate (expressed as a decimal number between 1 and 0) then applicable to such Person.

"DTC" means The Depository Trust Company.

"Equity Offering" means a public or private equity offering or sale after the Issue Date by the Company for cash of Capital Stock, other than an offering or sale of Disqualified Stock.

"Euroclear" means Euroclear S.A./N.V., as operator of the Euroclear system.

"Event of Default" has the meaning set forth in Section 6.01(a) of the Indenture.

"Exchange Act" means the Securities Exchange Act of 1934, as amended, and the rules and regulations of the SEC promulgated thereunder.

"Exchange Notes" means any notes issued in exchange for the Notes pursuant to the Registration Rights Agreement or similar agreement.

"Exchange Offer" has the meaning set forth in the Registration Rights Agreement.

"Exchange Offer Registration Statement" has the meaning set forth in the Registration Rights Agreement.

"Existing Indebtedness" means all of the Indebtedness of the Company and its Subsidiaries that is outstanding on the date hereof.

"GAAP" means generally accepted accounting principles set forth in the opinions and interpretations of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and interpretations of the Financial Accounting Standards Board or in such other statements by such other entity as may be approved by a significant segment of the accounting profession of the United States, as in effect from time to time. At any time after the Issue Date, the Company may elect to apply IFRS accounting principles in lieu of GAAP and, upon any such election, references herein to GAAP shall thereafter be construed to mean IFRS (except as otherwise provided herein); *provided* that any such election, once made, shall be irrevocable; *provided*, *further*, any calculation or determination herein that requires the application of GAAP for periods that include fiscal quarters ended prior to the Company's election to apply IFRS shall remain as previously calculated or determined in accordance with GAAP. The Company shall give notice of any such election made in accordance with this definition to the Trustee and the Holders of Notes.

"Global Note Legend" means the legend set forth in Section 2.15(g)(ii) of the Indenture, which is required to be placed on all Global Notes issued hereunder.

"Global Notes" means, individually and collectively, each of the Global Notes issued pursuant to the Indenture, substantially in the form of Exhibit A hereto.

"Hedging Obligations" of any Person means the obligations of such Person pursuant to any interest rate swap agreement, foreign currency exchange agreement, interest rate collar agreement, option or futures contract or other similar agreement or arrangement relating to interest rates or foreign exchange rates.

"IFRS" means International Financial Reporting Standards.

"Incur" (and derivatives thereof) means to, directly or indirectly, create, incur, assume, guarantee, extend the maturity of, or otherwise become liable with respect to any Indebtedness; *provided*, *however*, that neither the accrual of interest (whether such interest is payable in cash or kind) nor the accretion of original issue discount shall be considered an Incurrence of Indebtedness.

"Indebtedness" of any Person at any date means, without duplication,

(i) all indebtedness of such Person for borrowed money (whether or not the recourse of the lender is to the whole of the assets of such Person or only to a portion thereof);

(ii) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments (including a purchase money obligation) given in connection with the acquisition of any businesses, properties or assets of any kind or with services incurred in connection with capital expenditures (other than any obligation to pay a contingent purchase price which, as of the date of incurrence thereof, is not required to be recorded as a liability in accordance with GAAP);

(iii) all fixed obligations of such Person in respect of letters of credit or other similar instruments or reimbursement obligations with respect thereto (other than standby letters of credit or similar instruments issued for the benefit of, or surety, performance, completion or payment bonds, earnest money notes or similar purpose undertakings or indemnifications issued by, such Person in the ordinary course of business);

(iv) all obligations of such Person with respect to Hedging Obligations (other than those that fix or cap the interest rate on variable rate Indebtedness otherwise permitted hereby or that fix the exchange rate in connection with Indebtedness denominated in a foreign currency and otherwise permitted hereby);

(v) all Capitalized Lease Obligations of such Person;

(vi) all Indebtedness of others secured by a Lien on any asset of such Person, whether or not such Indebtedness is assumed by such Person to the extent of the Fair Market Value of such asset;

(vii) all Indebtedness of others guaranteed by, or otherwise the liability of, such Person to the extent of such guarantee or liability; and

(viii) all Disqualified Stock issued by such Person (the amount of Indebtedness represented by any Disqualified Stock will equal the greater of the voluntary or involuntary

liquidation preference plus accrued and unpaid dividends);

provided, that Indebtedness shall not include accrued expenses, accounts payable, trade payables, liabilities related to inventory not owned, customer deposits or deferred income taxes arising in the ordinary course of business. The amount of Indebtedness of any Person at any date will be:

(a) the outstanding balance at such date of all unconditional obligations as described above;

(b) the maximum liability of such Person for any contingent obligations under clause (vii) above; and

(c) in the case of clause (vi) (if the Indebtedness referred to therein is not assumed by such Person), the lesser of the (1) Fair Market Value of all assets subject to a Lien securing the Indebtedness of others on the date that the Lien attaches and (2) amount of the Indebtedness secured.

"Indirect Participant" means a Person who holds a beneficial interest in a Global Note through a Participant.

"Initial Purchaser" means each of Citigroup Global Markets Inc. and Deutsche Bank Securities Inc.

"Intangible Assets" of the Company means all unamortized debt discount and expense, unamortized deferred charges, goodwill, patents, trademarks, service marks, trade names, copyrights and all other items which would be treated as intangibles on the consolidated balance sheet of the Company and its Restricted Subsidiaries prepared in accordance with GAAP.

"Interest Expense" of any Person for any period means, without duplication, the aggregate amount of (i) interest which, in conformity with GAAP, would be set opposite the caption "interest expense" or any like caption on an income statement for such Person (including, without limitation, imputed interest included on Capitalized Lease Obligations, all commissions, discounts and other fees and charges owed with respect to letters of credit securing financial obligations and bankers' acceptance financing, the net costs associated with Hedging Obligations, amortization of other financing fees and expenses, the interest portion of any deferred payment obligation, amortization of discount or premium, if any, and all other non-cash interest expense other than interest and other charges amortized to cost of sales) and includes, with respect to the Company and its Restricted Subsidiaries, without duplication (including duplication of the foregoing items), all interest amortized to cost of sales for such period, and (ii) the amount of Disqualified Stock Dividends recognized by the Company on any Disqualified Stock whether or not paid during such period.

"Interest Incurred" of any Person for any period means, without duplication, the aggregate amount of (i) interest which, in conformity with GAAP, would be set opposite the caption "interest expense" or any like caption on an income statement for such Person (including, without limitation, imputed interest included on Capitalized Lease Obligations, all commissions, discounts and other fees and charges owed with respect to letters of credit securing financial

obligations and bankers' acceptance financing, the net costs associated with Hedging Obligations, amortization of other financing fees and expenses, the interest portion of any deferred payment obligation, amortization of discount or premium, if any, and all other noncash interest expense other than interest and other charges amortized to cost of sales) and includes, with respect to the Company and its Restricted Subsidiaries, without duplication (including duplication of the foregoing items), all interest capitalized for such period, all interest attributable to discontinued operations for such period to the extent not set forth on the income statement under the caption "interest expense" or any like caption, and all interest actually paid by the Company or a Restricted Subsidiary under any guarantee of Indebtedness (including, without limitation, a guarantee of principal, interest or any combination thereof) of any other Person during such period and (ii) the amount of Disqualified Stock Dividends recognized by the Company on any Disqualified Stock whether or not declared during such period.

"Interest Payment Date" means May 15 and November 15 of each year to Stated Maturity, commencing May 15, 2011.

"Investments" of any Person means all (i) investments by such Person in any other Person in the form of loans, advances or capital contributions, (ii) guarantees of Indebtedness or other obligations of any other Person by such Person, (iii) purchases (or other acquisitions for consideration) by such Person of Indebtedness, Capital Stock or other securities of any other Person and (iv) other items that would be classified as investments on a balance sheet of such Person determined in accordance with GAAP. For all purposes hereof, the amount of any such Investment shall be the Fair Market Value thereof (with the Fair Market Value of each Investment being measured at the time made and without giving effect to subsequent changes in value). The making of any payment in accordance with the terms of a guarantee or other contingent obligation permitted hereunder shall not be considered an Investment.

"Issue Date" means the initial date of issuance of the Notes hereunder.

"Legal Defeasance" shall have the meaning set forth in Section 8.01(b) of the Indenture.

"Legal Holiday" means Saturday, Sunday or a day on which banking institutions in New York, New York, Atlanta, Georgia or at a place of payment are authorized or obligated by law, regulation or executive order to remain closed. If a payment date is a Legal Holiday at a place of payment, payment shall be made at that place on the next succeeding day that is not a Legal Holiday.

"Letter of Transmittal" means the letter of transmittal to be prepared by the Company and sent to all Holders of the Notes for use by such Holders in connection with the Exchange Offer.

"Lien" means, with respect to any asset, any mortgage, lien, pledge, charge, security interest or other similar encumbrance of any kind upon or in respect of such asset, whether or not filed, recorded or otherwise perfected under applicable law (including, without limitation, any conditional sale or other title retention agreement).

"Mandatory Convertible Notes" means any Indebtedness of a Person, the principal amount of which is payable at maturity solely in Capital Stock of such Person (provided that a

requirement to pay accrued, but unpaid interest on such Indebtedness in cash at maturity or a requirement to pay cash fees, expenses or premiums as a result of the acceleration of payment, early redemption or otherwise with respect to such Indebtedness shall not disqualify such Indebtedness as Mandatory Convertible Notes).

"Material Subsidiary" means any Subsidiary of the Company which accounted for five percent or more of the Consolidated Tangible Assets or Consolidated Cash Flow Available for Fixed Charges of the Company on a consolidated basis for the fiscal year ending immediately prior to any Default or Event of Default.

"Moody's" means Moody's Investors Service, Inc. or any successor to its debt rating business.

"Net Income Threshold" means Consolidated Net Income of greater than $0.01 for any two consecutive fiscal quarters ended on or after the Issue Date.

"Non-Recourse Indebtedness" with respect to any Person means Indebtedness of such Person for which (i) the sole legal recourse for collection of principal and interest on such Indebtedness is against the specific property identified in the instruments evidencing or securing such Indebtedness and such property was acquired (directly or indirectly, including through the purchase of Capital Stock of the Person owning such property) with the proceeds of such Indebtedness or such Indebtedness was Incurred within 90 days after the acquisition (directly or indirectly, including through the purchase of Capital Stock of the Person owning such property) of such property and (ii) no other assets of such Person may be realized upon in collection of principal or interest on such Indebtedness. Indebtedness which is otherwise Non-Recourse Indebtedness will not lose its character as Non-Recourse Indebtedness because there is recourse to the borrower, any guarantor or any other Person for (a) environmental warranties and indemnities, (b) indemnities for and liabilities arising from fraud, misrepresentation, misapplication or non-payment of rents, profits, insurance and condemnation proceeds and other sums actually received by the borrower from secured assets to be paid to the lender, waste and mechanics' liens or (c) in the case of the borrower thereof only, other obligations in respect of such Indebtedness that are payable solely as a result of a voluntary bankruptcy filing (or similar filing or action) by such borrower.

"Notes" means the Notes as set forth in the recitals and more particularly means any Notes authenticated and delivered under this Indenture, including the Exchange Notes and any Additional Notes. Unless the context requires otherwise, references to "Notes" for all purposes of this Indenture include any Exchange Notes and/or Additional Notes that are actually issued.

"Obligations" means, with respect to any Indebtedness, all obligations (whether in existence on the Issue Date or arising afterwards, absolute or contingent, direct or indirect) for or in respect of principal (when due, upon acceleration, upon redemption, upon mandatory repayment or repurchase pursuant to a mandatory offer to purchase, or otherwise), premium, interest, penalties, fees, indemnification, reimbursement and other amounts payable and liabilities with respect to such Indebtedness, including all interest accrued or accruing after the commencement of any bankruptcy, insolvency or reorganization or similar case or proceeding at the contract rate (including, without limitation, any contract rate applicable upon default)

specified in the relevant documentation, whether or not the claim for such interest is allowed as a claim in such case or proceeding.

"Officer" means the chairman, the chief executive officer, the president, the chief financial officer, the chief operating officer, the chief accounting officer, the treasurer, or any assistant treasurer, the controller, the secretary, any assistant secretary or any vice president of a Person.

"Officers' Certificate" means a certificate signed by two Officers, one of whom must be the Person's chief executive officer, chief operating officer, chief financial officer or chief accounting officer.

"Participant" means, with respect to the Depositary, Euroclear or Clearstream, a Person who has an account with the Depositary, Euroclear or Clearstream, respectively (and, with respect to DTC, shall include Euroclear and Clearstream).

"Participating Broker-Dealer" has the meaning set forth in the Registration Rights Agreement.

"Paying Agent" means any office or agency where Notes and the Subsidiary Guarantees may be presented for payment.

"Permitted Investments" of any Person means any Investments of such Person that are not Restricted Investments.

"Person" means any individual, corporation, partnership, limited liability company, joint venture, incorporated or unincorporated association, joint stock company, trust, unincorporated organization or government or other agency or political subdivision thereof or other entity of any kind.

"Preferred Stock" of any Person means all Capital Stock of such Person which has a preference in liquidation or with respect to the payment of dividends.

"Private Placement Legend" means the legend set forth in Section 2.15(g)(i) of the Indenture to be placed on all Notes issued under this Indenture, except where otherwise permitted by the provisions of this Indenture.

"QIB" means a "qualified institutional buyer" as defined in Rule 144A.

"Record Date" for the interest, if any, payable on any applicable Interest Payment Date means May 1 or November 1 (whether or not a Business Day) next preceding such Interest Payment Date.

"Refinancing Indebtedness" means Indebtedness that refunds, refinances or extends any Existing Indebtedness or other Indebtedness permitted to be incurred by the Company or its Restricted Subsidiaries pursuant to the terms hereof, but only to the extent that:

(i) the Refinancing Indebtedness is subordinated in right of payment to the Notes or the Subsidiary Guarantees, as the case may be, to the same extent as the Indebtedness being refunded, refinanced or extended, if at all;

(ii) the Refinancing Indebtedness is scheduled to mature either (a) no earlier than the Indebtedness being refunded, refinanced or extended or (b) after the maturity date of the Notes;

(iii) the portion, if any, of the Refinancing Indebtedness that is scheduled to mature on or prior to the maturity date of the Notes has a Weighted Average Life to Maturity at the time such Refinancing Indebtedness is Incurred that is equal to or greater than the Weighted Average Life to Maturity of the portion of the Indebtedness being refunded, refinanced or extended that is scheduled to mature on or prior to the maturity date of the Notes;

(iv) such Refinancing Indebtedness is in an aggregate amount that is equal to or less than the aggregate amount then outstanding (including accrued interest) under the Indebtedness being refunded, refinanced or extended plus an amount necessary to pay any reasonable fees and expenses, including premiums and defeasance costs, related to such refinancing; and

(v) such Refinancing Indebtedness is Incurred by the same Person that initially Incurred the Indebtedness being refunded, refinanced or extended, except that the Company may Incur Refinancing Indebtedness to refund, refinance or extend Indebtedness of any Restricted Subsidiary.

"Registrar" means an office or agency where Notes may be presented for registration of transfer or for exchange.

"Registration Rights Agreement" means the Registration Rights Agreement related to the Notes, dated the Issue Date, among the Company, the Subsidiary Guarantors and Citigroup Global Markets Inc. and Deutsche Bank Securities Inc.

"Regulation S" means Regulation S promulgated under the Securities Act.

"Regulation S Global Note" means a Global Note in the form of Exhibit A hereto, as the case may be, bearing the Global Note Legend, the Private Placement Legend and the Regulation S Global Note Legend and deposited with or on behalf of and registered in the name of the Depositary or its nominee, issued in a denomination equal to the outstanding principal amount of the Notes initially sold in reliance on Rule 903.

"Regulation S Global Note Legend" means the legend set forth in Section 2.15(g)(iii) of the Indenture to be placed on the Regulation S Global Note.

"Restricted Definitive Note" means a Definitive Note bearing the Private Placement Legend.

"Restricted Global Note" means a Global Note bearing the Private Placement Legend.

"Restricted Investment" means any Investment in joint ventures or Unrestricted Subsidiaries having an aggregate fair market value (with the fair market value of each Investment being measured at the time made and without giving effect to subsequent changes in value), taken together with all other Investments made pursuant to this definition that are at the time outstanding, net of any amounts paid to the Company or any Restricted Subsidiary as a return of, or on, such Investments, not to exceed five percent of Consolidated Tangible Assets;

"Restricted Payment" means any of the following:

(i) the declaration of any dividend or the making of any other payment or distribution of cash, securities or other property or assets in respect of the Capital Stock of the Company or any Restricted Subsidiary (other than (a) dividends, payments or distributions payable solely in Capital Stock (other than Disqualified Stock) of the Company or a Restricted Subsidiary and (b) in the case of a Restricted Subsidiary, dividends, payments or distributions payable to the Company or to another Restricted Subsidiary and pro rata dividends, payments or distributions payable to minority stockholders of such Restricted Subsidiary);

(ii) the purchase, redemption, retirement or other acquisition for value of any Capital Stock of the Company or any Restricted Subsidiary (other than Capital Stock held by the Company or a Restricted Subsidiary);

(iii) any Restricted Investment; and

(iv) any principal payment, redemption, repurchase, defeasance or other acquisition or retirement of any Subordinated Indebtedness (other than (a) Indebtedness permitted under Section 3.05(b)(vii) hereof or (b) the payment, redemption, repurchase, defeasance or other acquisition or retirement of such Indebtedness in anticipation of satisfying a sinking fund obligation, principal installment or final maturity, in each case due within one year of the date of such payment, redemption, repurchase, defeasance or other acquisition or retirement); ***provided***, ***however***, that Restricted Payments will not include any purchase, redemption, retirement or other acquisition for value of Indebtedness or Capital Stock of the Company or a Restricted Subsidiary if the consideration therefor consists solely of Capital Stock (other than Disqualified Stock) of the Company or a Restricted Subsidiary.

"Restricted Period" means the 40-day distribution compliance period as defined in Regulation S.

"Restricted Subsidiary" means each of the Subsidiaries of the Company which is not an Unrestricted Subsidiary.

"Revolving Credit Facility" means the Amended and Restated Credit Agreement, dated as of August 5, 2009, among the Company, the lenders and letter of credit issuers party thereto, and Citibank, N.A., as agent and swingline lender, as such facility may be amended, restated, supplemented or otherwise modified, refinanced or replaced from time to time.

"Rule 144" means Rule 144 promulgated under the Securities Act.

"Rule 144A" means Rule 144A promulgated under the Securities Act.

"Rule 405" means Rule 405 promulgated under the Securities Act.

"Rule 902" means Rule 902 promulgated under the Securities Act.

"Rule 903" means Rule 903 promulgated under the Securities Act.

"Rule 904" means Rule 904 promulgated under the Securities Act.

"S&P" means Standard and Poor's Ratings Service, a division of McGraw Hill, Inc., a New York corporation, or any successor to its debt rating business.

"SEC" means the Securities and Exchange Commission.

"Secured Indebtedness" means any Indebtedness which is secured by (1) a Lien on any property of the Company or any Restricted Subsidiary or (2) a Lien on shares of stock owned directly or indirectly by the Company or a Restricted Subsidiary in a corporation or on equity interests owned by the Company or a Restricted Subsidiary in a partnership or other entity not organized as a corporation or in the Company's rights or the rights of a Restricted Subsidiary in respect of Indebtedness of a corporation, partnership or other entity in which the Company or a Restricted Subsidiary has an equity interest; *provided* that "Secured Indebtedness" shall not include Non-Recourse Indebtedness. The securing in the foregoing manner of any such Indebtedness which immediately prior thereto was not Secured Indebtedness shall be deemed to be the creation of Secured Indebtedness at the time security is given.

"Securities Act" means the Securities Act of 1933, as amended, and the rules and regulations of the SEC promulgated thereunder.

"Security Register" is a register of the Notes and of their transfer and exchange kept by the Registrar.

"Shelf Registration Statement" means the Shelf Registration Statement as defined in the Registration Rights Agreement.

"Subordinated Indebtedness" means any Indebtedness which is subordinated in right of payment to the Notes or the Subsidiary Guarantees, as the case may be.

"Subsidiary" of any Person means any (i) corporation of which at least a majority of the aggregate voting power of all classes of the Common Equity is directly or indirectly beneficially owned by such Person and (ii) any entity other than a corporation of which such Person, directly or indirectly, beneficially owns at least a majority of the Common Equity; *provided* that in each of case (i) and (ii), such Person is required to consolidate such entity in accordance with GAAP.

"Subsidiary Guarantee" means the guarantee of the Notes by each Subsidiary Guarantor hereunder.

"Subsidiary Guarantors" means (i) each of the Company's Restricted Subsidiaries in existence on the Issue Date, other than The Ridings Development LLC and (ii) each of the Company's Subsidiaries that becomes a guarantor of the Notes pursuant to the provisions hereof.

"Successor" shall have the meaning set forth in Section 3.06(i) hereof.

"Treasury Rate" means, as of any redemption date, the yield to maturity as of such redemption date of United States Treasury securities with a constant maturity (as compiled and published in the most recent Federal Reserve Statistical Release H.15 (519) that has become publicly available at least two Business Days prior to the redemption date (or, if such Statistical Release is no longer published, any publicly available source of similar market data)) most nearly equal to the period from the redemption date to November 15, 2014; *provided*, *however*, that if the period from the redemption date to November 15, 2014 is less than one year, the weekly average yield on actually traded United States Treasury securities adjusted to a constant maturity of one year will be used.

"Unrestricted Definitive Note" means one or more Definitive Notes that do not bear and are not required to bear the Private Placement Legend.

"Unrestricted Global Note" means a permanent Global Note, substantially in the form of Exhibit A attached hereto, as the case may be, that bears the Global Note Legend and that has the "Schedule of Exchanges of Interests in the Global Note" attached thereto, and that is deposited with or on behalf of and registered in the name of the Depositary, representing Notes that do not bear the Private Placement Legend.

"Unrestricted Subsidiary" means United Home Insurance Corporation, a Vermont corporation, Security Title Insurance Company, Inc., a Vermont corporation, and, to the extent considered a Subsidiary of the Company, Beazer Homes Capital Trust I, and each of the Subsidiaries of the Company (including any newly formed or acquired Subsidiary) so designated by a resolution adopted by the Board of Directors of the Company as provided below and provided that:

(i) neither the Company nor any of its other Subsidiaries (other than Unrestricted Subsidiaries) (a) provides any direct or indirect credit support for any Indebtedness of such Subsidiary (including any undertaking, agreement or instrument evidencing such Indebtedness) or (b) is directly or indirectly liable for any Indebtedness of such Subsidiary;

(ii) the creditors with respect to Indebtedness for borrowed money of such Subsidiary have agreed in writing that they have no recourse, direct or indirect, to the Company or any other Subsidiary of the Company (other than Unrestricted Subsidiaries), including, without limitation, recourse with respect to the payment of principal or interest on any Indebtedness of such Subsidiary; and

(iii) no default with respect to any Indebtedness of such Subsidiary (including any right which the holders thereof may have to take enforcement action against such Subsidiary) would permit (upon notice, lapse of time or both) any holder of any other Indebtedness of the Company and of its other Subsidiaries (other than other Unrestricted Subsidiaries), to declare a

default on such other Indebtedness or cause the payment thereof to be accelerated or payable prior to its Stated Maturity.

The Board of Directors of the Company, or a committee thereof, may designate an Unrestricted Subsidiary to be a Restricted Subsidiary; *provided* that:

(i) any such redesignation will be deemed to be an Incurrence by the Company and its Restricted Subsidiaries of the Indebtedness (if any) of such redesignated Subsidiary for purposes of Section 3.05 hereof as of the date of such redesignation;

(ii) immediately after giving effect to such redesignation and the Incurrence of any such additional Indebtedness, the Company and its Restricted Subsidiaries could incur $1.00 of additional Indebtedness under the Consolidated Fixed Charge Coverage Ratio contained in Section 3.05 hereof; and

(iii) the Liens on the property and assets of such Unrestricted Subsidiary could then be incurred in accordance with Section 3.04 hereof as of the date of such redesignation.

Subject to the foregoing, the Board of Directors of the Company also may designate any Restricted Subsidiary to be an Unrestricted Subsidiary; *provided* that:

(i) all previous Investments by the Company and its Restricted Subsidiaries in such Restricted Subsidiary (net of any returns previously paid on such Investments) will be deemed to be Restricted Payments at the time of such designation and will reduce the amount available for Restricted Payments under Section 3.02 hereof;

(ii) immediately after giving effect to such designation and reduction of amounts available for Restricted Payments under Section 3.02 hereof, either (a) the Company and its Restricted Subsidiaries could incur $1.00 of additional Indebtedness under the Consolidated Fixed Charge Coverage Ratio contained in Section 3.05 hereof or (b) the Consolidated Fixed Charge Coverage Ratio for the Company and its Restricted Subsidiaries would be greater than such ratio immediately prior to such designation, in each case on a pro forma basis taking into account such designation; and

(iii) no Default or Event of Default shall have occurred or be continuing.

Any such designation or redesignation by the Board of Directors of the Company will be evidenced to the Trustee by the filing with the Trustee of a certified copy of the resolution of the Board of Directors of the Company giving effect to such designation or redesignation and an Officers' Certificate certifying that such designation or redesignation complied with the foregoing conditions and setting forth the underlying calculations.

"U.S. Government Obligations" means securities which are (i) direct obligations of the United States of America, for the payment of which its full faith and credit is pledged or (ii) obligations of a Person controlled or supervised by and acting as an agency or instrumentality of the United States of America, the payment of which is unconditionally guaranteed as a full faith and credit obligation by the United States of America, which are not callable or redeemable at

the option of the issuer thereof, and shall also include a depository receipt issued by a bank or trust company as custodian with respect to any such U.S. Government Obligation or a specific payment of interest on or principal of any such U.S. Government Obligation held by such custodian for the account of the holder of a depository receipt; *provided* that (except as required by law) such custodian is not authorized to make any deduction from the amount payable to the holder of such depository receipt from any amount received by the custodian in respect of the U.S. Government Obligation or the specific payment of interest on or principal of the U.S. Government Obligation evidenced by such depository receipt.

"U.S. Person" means a U.S. person as defined in Rule 902(k) under the Securities Act.

"Weighted Average Life to Maturity" means, when applied to any Indebtedness or portion thereof, at any date, the number of years obtained by dividing (i) the sum of the products obtained by multiplying (a) the amount of each then remaining installment, sinking fund, serial maturity or other required payment of principal, including, without limitation, payment at final maturity, in respect thereof, by (b) 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 sum of all such payments described in clause (a) above.

"Wholly Owned Subsidiary" of any Person means (i) a Subsidiary of which 100% of the Common Equity (except for directors' qualifying shares or certain minority interests owned by other Persons solely due to local law requirements that there be more than one stockholder, but which interest is not in excess of what is required for such purpose) is owned directly by such Person or through one or more other Wholly Owned Subsidiaries of such Person, or (ii) any entity other than a corporation in which such Person, directly or indirectly, owns all of the Common Equity of such entity.

ARTICLE THREE

Covenants

Section 3.01 Reports.

As long as any of the Notes are outstanding, the Company shall deliver to the Trustee and mail to each Holder within 15 days after the filing of the same with the SEC copies of the quarterly and annual reports and of the information, documents and other reports with respect to the Company and the Subsidiary Guarantors, if any, which the Company and the Subsidiary Guarantors may be required to file with the SEC pursuant to Section 13 or 15(d) of the Exchange Act. Notwithstanding that neither the Company nor any of the Subsidiary Guarantors may be required to remain subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act, the Company shall continue to file with the SEC and provide the Trustee and Holders with such annual and quarterly reports and such information, documents and other reports with respect to the Company and the Subsidiary Guarantors as are required under Sections 13 and 15(d) of the Exchange Act. If filing of documents by the Company with the SEC as aforementioned in this paragraph is not permitted under the Exchange Act, the Company shall promptly upon written notice supply copies of such documents to any prospective Holder. The Company and each Subsidiary Guarantor shall also comply with the other provisions of

Section 314(a) of the TIA. For the avoidance of doubt, this Section 3.01 shall not require the Company to file any such reports, information or documents with the SEC within any specified time period and the obligation to deliver such reports, information or documents to the Trustee and Holders shall only arise after (and only to the extent) such reports, information or documents are filed with the SEC.

Section 3.02 Limitations on Restricted Payments.

(a) The Company shall not, and shall not cause or permit any of its Restricted Subsidiaries to, make any Restricted Payment, directly or indirectly, after the date hereof if at the time of such Restricted Payment:

(i) the amount of such proposed Restricted Payment (the amount of such Restricted Payment, if other than in cash, shall be determined in good faith by a majority of the disinterested members of the Board of Directors of the Company), when added to the aggregate amount of all Restricted Payments (excluding Restricted Payments permitted by paragraph (b) of this Section 3.02) declared or made after the Issue Date exceeds the sum of:

(A) $200.0 million, *plus*

(B) 50% of the Company's Consolidated Net Income accrued during the period (taken as a single period) commencing on the first day of the fiscal quarter in which the Covenant Trigger Date occurs and ending on the last day of the fiscal quarter immediately preceding the fiscal quarter in which the Restricted Payment is to occur (or, if such aggregate Consolidated Net Income is a deficit, minus 100% of such aggregate deficit); *provided*, that for purposes of this calculation, if a Covenant Trigger Date occurs as the result of the Company achieving the Net Income Threshold, the Covenant Trigger Date will be deemed to have occurred as of the first day of the second fiscal quarter included in calculating such Net Income Threshold, *plus*

(C) the net cash proceeds derived from the issuance and sale of Capital Stock of the Company and its Restricted Subsidiaries (or any capital contribution to the Company or a Restricted Subsidiary) that is not Disqualified Stock (other than a sale to, or a contribution by, a Subsidiary of the Company) after the Issue Date, *plus*

(D) 100% of the principal amount of, or, if issued at a discount, the accreted value of, any Indebtedness of the Company or a Restricted Subsidiary which is issued (other than to a Subsidiary of the Company) after the Issue Date that is converted into or exchanged for Capital Stock of the Company that is not Disqualified Stock, *plus*

(E) 100% of the aggregate amounts received by the Company or any Restricted Subsidiary from the sale, disposition or liquidation (including by way of dividends) of any Investment (other than to any Subsidiary

of the Company and other than to the extent sold, disposed of or liquidated with recourse to the Company or any of its Subsidiaries or to any of their respective properties or assets) but only to the extent (x) not included in clause (B) above and (y) that the making of such Investment constituted a permitted Restricted Investment (to the extent the Investment was made after the Issue Date), *plus*

(F) 100% of the principal amount of, or if issued at a discount, the accreted value of, any Indebtedness or other obligation that is the subject of a guarantee by the Company which is released (other than due to a payment on such guarantee) after the Issue Date, but only to the extent that such guarantee constituted a permitted Restricted Payment, *plus*

(G) with respect to any Unrestricted Subsidiary that is redesignated as a Restricted Subsidiary in accordance with the definition of "Unrestricted Subsidiary" (so long as the designation of such Subsidiary as an Unrestricted Subsidiary was treated as a Restricted Payment made after the Issue Date, and only to the extent not included in clause (B) above), an amount equal to the lesser of (x) the proportionate interest of the Company or a Restricted Subsidiary in an amount equal to the excess of (I) the total assets of such Subsidiary, valued on an aggregate basis at the lesser of Book Value and Fair Market Value thereof, over (II) the total liabilities of such Subsidiary, determined in accordance with GAAP, and (y) the amount of the Restricted Payment deemed to be made upon such Subsidiary's designation as an Unrestricted Subsidiary; or

(ii) the Company would be unable to incur $1.00 of additional Indebtedness under the Consolidated Fixed Charge Coverage Ratio contained in Section 3.05 hereof; or

(iii) a Default or Event of Default has occurred and is continuing or occurs as a consequence thereof.

(b) Notwithstanding the foregoing, Section 3.02(a) shall not prohibit:

(i) the payment of any dividend within 60 days after the date of declaration thereof if the payment thereof would have complied with the limitations hereof on the date of declaration;

(ii) the purchase, repayment, redemption, repurchase, defeasance or other acquisition or retirement of shares of the Company's Capital Stock or the Company's or a Restricted Subsidiary's Indebtedness for, or out of the net proceeds of a substantially concurrent sale (other than a sale to a Subsidiary of the Company) of, other shares of its Capital Stock (other than Disqualified Stock), ***provided*** that the proceeds of any such sale shall be excluded in any computation made under Section 3.02(a)(i)(C) above;

(iii) the purchase, repayment, redemption, repurchase, defeasance or other acquisition or retirement for value of Indebtedness, including premium, if any, with the proceeds of Refinancing Indebtedness; or

(iv) other Restricted Payments made after the Issue Date in an amount not to exceed $50.0 million in the aggregate.

Section 3.03 Change of Control.

(a) Following the occurrence of any Change of Control, the Company shall so notify the Trustee in writing by delivery of an Officers' Certificate and shall offer to purchase (a "Change of Control Offer") from all Holders, and shall purchase from Holders accepting such Change of Control Offer on the date fixed for the closing of such Change of Control Offer (the "Change of Control Payment Date"), the outstanding principal amount of Notes at an offer price (the "Change of Control Price") in cash in an amount equal to 101% of the aggregate principal amount thereof plus accrued and unpaid interest, if any, to the Change of Control Payment Date in accordance with the procedures set forth in this Section 3.03.

(b) Within 30 days after the date on which a Change of Control occurs, the Company (with notice to the Trustee) or the Trustee, at the written request (coupled with an Officers' Certificate which sets forth the information contained in subclauses (i)-(ix) of this clause (b)) and expense of the Company, shall send or cause to be sent by first-class mail, postage pre-paid, to all Persons who were Holders on the date of the Change of Control at their respective addresses appearing in the Security Register, a notice of such occurrence and of such Holder's rights arising as a result thereof. Such notice, which will govern the terms of the Change of Control Offer, will state:

(i) that the Change of Control Offer is being made pursuant to Section 3.03(a) hereof and the length of time the Change of Control Offer will remain open;

(ii) that the Holder has the right to require the Company to repurchase such Holder's Notes at the Change of Control Price;

(iii) that any Note not tendered will continue to accrue interest;

(iv) that any Note accepted for payment pursuant to the Change of Control Offer will cease to accrue interest on the Change of Control Payment Date;

(v) that the Change of Control Payment Date shall be no earlier than 45 days nor later than 60 days from the date such notice is mailed;

(vi) that Holders electing to have a Note purchased pursuant to any Change of Control Offer will be required to surrender the Note to the Company, a Depositary, if appointed by the Company, or a Paying Agent at

the address specified in the notice prior to termination of the Change of Control Offer;

(vii) that Holders will be entitled to withdraw their election if the Company, Depositary or Paying Agent, as the case may be, receives, not later than the expiration of the Change of Control Offer, or such longer period as may be required by law, a telegram, telex, facsimile transmission or letter setting forth the name of the Holder, the principal amount of the Note the Holder delivered for purchase and a statement that such Holder is withdrawing its election to have the Note purchased pursuant to this Section 3.03;

(viii) that Holders which elect to have their Notes purchased only in part will be issued new Notes in a principal amount equal to the unpurchased portion of the Notes surrendered; and

(ix) information concerning the date and details of the Change of Control and the business of the Company which the Company in good faith believes will enable such Holders to make an informed decision (which at a minimum will include (A) the most recently filed Annual Report on Form 10-K (including audited consolidated financial statements) of the Company, the most recent subsequently filed Quarterly Report on Form 10-Q and any Current Report on Form 8-K of the Company filed subsequent to such Quarterly Report, other than Current Reports otherwise describing the offering materials relating to the Change of Control Offer (or corresponding successor reports); *provided* that the Company may at its option incorporate by reference any such filed reports in the notice, (B) a description of material developments in the Company's business subsequent to the date of the latest of such reports, and (C) if material, appropriate pro forma financial information).

(c) In the event of a Change of Control Offer, the Company shall only be required to accept Notes in minimum denominations of $2,000 and integral multiples of $1,000 in excess thereof.

(d) Not later than one Business Day after the Change of Control Payment Date in connection with which the Change of Control Offer is being made, the Company shall (i) accept for payment Notes or portions thereof tendered pursuant to the Change of Control Offer, (ii) deposit with the Paying Agent money sufficient, in immediately available funds, to pay the purchase price of all Notes or portions thereof so accepted and (iii) deliver to the Paying Agent an Officers' Certificate identifying the Notes or portions thereof accepted for payment by the Company. The Paying Agent shall promptly mail or deliver to Holders of Notes so accepted payment in an amount equal to the Change of Control Price of the Notes purchased from each such Holder, and the Company shall execute and, upon receipt of an Officers' Certificate of the Company, the Trustee shall promptly authenticate and mail or deliver to such Holder a new Note equal in principal amount to any unpurchased portion of the Note surrendered. Any Notes not so accepted shall be promptly mailed or delivered by the Paying Agent at the

Company's expense to the Holder thereof. The Company shall publicly announce the results of the Change of Control Offer promptly after the Change of Control Payment Date.

(e) Any Change of Control Offer shall be conducted by the Company in compliance with applicable law, including, without limitation, Section 14(e) of the Exchange Act and Rule 14e-1 thereunder.

Section 3.04 Limitations on Secured Indebtedness.

(a) Notwithstanding any Indebtedness that may be incurred under Section 3.05, the Company shall not, and shall not permit any of its Restricted Subsidiaries to, create, incur, assume or guarantee any Secured Indebtedness unless the Notes are equally and ratably secured with (or on a senior basis to, if the Secured Indebtedness is subordinated Indebtedness) the Secured Indebtedness. Notwithstanding the foregoing, this Section 3.04(a) shall not prohibit the creation, incurrence, assumption or guarantee of Secured Indebtedness that is secured by:

(i) Liens on model homes, homes held for sale, homes that are under contract for sale, or any option, contract or other agreement to sell an asset;

(ii) Liens on property acquired by the Company or a Restricted Subsidiary and Liens on property of a Person existing at the time such Person is merged with or into or consolidated with the Company or any Restricted Subsidiary or becomes a Restricted Subsidiary; *provided* that in each case such Liens (a) were in existence prior to the contemplation of such acquisition, merger or consolidation and (b) do not extend to any asset other than those of the Person merged with or into or consolidated with the Company or the Restricted Subsidiary or the property acquired by the Company or the Restricted Subsidiary;

(iii) Liens arising out of conditional sale, title retention, consignment or similar arrangements for the sale of goods entered into by the Company or any of its Subsidiaries in the ordinary course of business;

(iv) purchase money mortgages (including, without limitation, Capitalized Lease Obligations and purchase money security interests); or

(v) Liens on property or assets of any Restricted Subsidiary securing Indebtedness of such Restricted Subsidiary owing to the Company or one or more Restricted Subsidiaries.

Secured Indebtedness permitted pursuant to clauses (i) through (v) of this Section 3.04(a) includes any amendment, restatement, supplement, renewal, replacement, extension or refunding in whole or in part of Secured Indebtedness permitted at the time of the original incurrence thereof.

(b) Any Lien created for the benefit of the Holders of the Notes pursuant to paragraph (a) of this Section 3.04 shall provide by its terms that such Lien shall be automatically and unconditionally released and discharged upon the release and discharge of the Lien securing such other obligations.

(c) Notwithstanding anything to the contrary in this Section 3.04, the Company and its Restricted Subsidiaries may create, incur, assume or guarantee Secured Indebtedness, without equally or ratably securing the Notes, if immediately thereafter the aggregate principal amount of all Secured Indebtedness outstanding (excluding (a) Secured Indebtedness permitted under clauses (i) through (v) of paragraph (a) of this Section 3.04 and (b) any Secured Indebtedness in relation to which the Notes have been equally and ratably secured) as of the date of determination would not exceed the greater of (i) $700.0 million and (ii) 40% of Consolidated Tangible Assets.

Section 3.05 Limitations on Additional Indebtedness.

(a) The Company shall not, and shall not cause or permit any of its Restricted Subsidiaries, directly or indirectly, to, Incur any Indebtedness including Acquired Indebtedness; *provided* that the Company and the Subsidiary Guarantors may Incur Indebtedness, including Acquired Indebtedness, if, after giving effect thereto and the application of the proceeds therefrom, either (i) the Company's Consolidated Fixed Charge Coverage Ratio on the date thereof would be at least 2.0 to 1.0 or (ii) the ratio of Adjusted Indebtedness of the Company and the Restricted Subsidiaries to Adjusted Consolidated Tangible Net Worth is less than 7.5 to 1.

(b) Notwithstanding the foregoing, Section 3.05(a) shall not prevent:

(i) the Company or any Restricted Subsidiary from Incurring (A) Refinancing Indebtedness or (B) Non-Recourse Indebtedness;

(ii) the Company from Incurring Indebtedness evidenced by the Notes issued on the Issue Date or any Exchange Notes issued in exchange thereof;

(iii) the Company or any Subsidiary Guarantor from Incurring Indebtedness under Credit Facilities not to exceed the greater of $250.0 million and 15.0% of Consolidated Tangible Assets of the Company;

(iv) any Subsidiary Guarantee of Indebtedness of the Company under the Notes;

(v) the Company and its Restricted Subsidiaries from Incurring Indebtedness under any deposits made to secure performance of tenders, bids, leases, statutory obligations, surety and appeal bonds, progress statements, government contracts and other obligations of like nature (exclusive of the obligation for the payment of borrowed money);

(vi) any Subsidiary Guarantor from guaranteeing Indebtedness of the Company or any other Subsidiary Guarantor, or the Company from guaranteeing Indebtedness of any Subsidiary Guarantor, in each case permitted to be Incurred hereunder (other than Non-Recourse Indebtedness);

(vii) (a) any Restricted Subsidiary from Incurring Indebtedness owing to the Company or any Subsidiary Guarantor that is both a Wholly Owned Subsidiary and a Restricted Subsidiary; *provided* that (I) such Indebtedness is subordinated to any Subsidiary Guarantee of such Restricted Subsidiary, if any, and (II) such Indebtedness shall only be permitted pursuant to this clause (vii)(a) for so long as the Person to whom such Indebtedness is owing is the Company or a Subsidiary Guarantor that is both a Wholly Owned Subsidiary and a Restricted Subsidiary and (b) the Company from Incurring Indebtedness owing to any Subsidiary Guarantor that is both a Wholly Owned Subsidiary and a Restricted Subsidiary; *provided* that (I) such Indebtedness is subordinated to the Company's obligations hereunder and under the Notes and (II) such Indebtedness shall only be permitted pursuant to this clause (vii)(b) for so long as the Person to whom such Indebtedness is owing is a Subsidiary Guarantor that is both a Wholly Owned Subsidiary and a Restricted Subsidiary;

(viii) the Company and any Restricted Subsidiary from Incurring Indebtedness under Capitalized Lease Obligations or purchase money obligations, in each case Incurred for the purpose of acquiring or financing all or any part of the purchase price or cost of construction or improvement of property or equipment used in the business of the Company or such Restricted Subsidiary, as the case may be, in an aggregate amount not to exceed $50.0 million;

(ix) the Company or any Restricted Subsidiary from Incurring obligations for, pledge of assets in respect of, and guaranties of, bond financings of political subdivisions or enterprises thereof in the ordinary course of business;

(x) the Company or any Restricted Subsidiary from incurring Indebtedness owed to a seller of entitled land, lots under development or finished lots under the terms of which the Company or such Restricted Subsidiary, as obligor, is required to make a payment upon the future sale of such land or lots; and

(xi) the Company or any Restricted Subsidiary from Incurring Indebtedness in an aggregate principal amount at any time outstanding not to exceed $100.0 million.

(c) The Company shall not, and shall not cause or permit any Subsidiary Guarantor that is a Restricted Subsidiary to, directly or indirectly, in any event Incur any Indebtedness that purports to be by its terms (or by the terms of any agreement governing such Indebtedness) subordinated to any other Indebtedness of the Company or of such Subsidiary Guarantor, as the case may be, unless such Indebtedness is also by its terms (or by the

terms of any agreement governing such Indebtedness) made expressly subordinated to the Notes or the Subsidiary Guarantee of such Subsidiary Guarantor, as the case may be, to the same extent and in the same manner as such Indebtedness is subordinated to such other Indebtedness of the Company or such Subsidiary Guarantor, as the case may be.

(d) For purposes of determining compliance with this Section 3.05, in the event an item of Indebtedness meets the criteria of more than one of the types of Indebtedness described in the above clauses of this Section 3.05, the Company, in its sole discretion, shall classify such item of Indebtedness in any manner that complies with this Section 3.05 and may from time to time reclassify such item of Indebtedness in any manner in which such item could be Incurred at the time of such reclassification.

Section 3.06 Limitations on Mergers and Consolidations. Neither the Company nor any Subsidiary Guarantor shall consolidate or merge with or into, or sell, lease, convey or otherwise dispose of all or substantially all of its assets (including, without limitation, by way of liquidation or dissolution), or assign any of its obligations under the Notes, the Guarantees or this Supplemental Indenture (as an entirety or substantially in one transaction or series of related transactions), to any Person (in each case other than with the Company or another Wholly Owned Restricted Subsidiary) unless:

(i) the Person formed by or surviving such consolidation or merger (if other than the Company or such Subsidiary Guarantor, as the case may be), or to which such sale, lease, conveyance or other disposition or assignment shall be made (collectively, the "Successor"), is a solvent corporation or other legal entity organized and existing under the laws of the United States or any state thereof or the District of Columbia, and the Successor assumes by supplemental indenture in a form reasonably satisfactory to the Trustee all of the obligations of the Company or such Subsidiary Guarantor, as the case may be, under the Notes or such Subsidiary Guarantor's Subsidiary Guarantee, as the case may be, and the Indenture; and

(ii) immediately after giving effect to such transaction, no Default or Event of Default has occurred and is continuing.

The foregoing provisions shall not apply to a transaction involving the consolidation or merger of a Subsidiary Guarantor with or into another Person, or the sale, lease, conveyance or other disposition of all or substantially all of the assets of such Subsidiary Guarantor, that results in such Subsidiary Guarantor being released from its Subsidiary Guarantee as provided in Section 4.04 hereof. In addition, clauses (i) and (ii) of this Section 3.06 will not apply to any transaction the purpose of which is to change the state of organization of the Company or a Restricted Subsidiary.

ARTICLE FOUR

Subsidiary Guarantees

Section 4.01 Subsidiary Guarantees.

(a) Subject to the provisions of this Article Four, each Subsidiary Guarantor hereby jointly and severally unconditionally guarantees to each Holder and to the Trustee and its successors and assigns, irrespective of the validity and enforceability of the Indenture, the Notes or the obligations of the Company or any other Subsidiary Guarantor to the Holders or the Trustee hereunder or thereunder, that: (i) the principal of, premium, if any, and interest on the Notes will be duly and punctually paid in full when due, whether at maturity, by acceleration or otherwise, and interest on the overdue principal and (to the extent permitted by law) interest, if any, on the Notes and all other obligations of the Company or the Subsidiary Guarantors to the Holders or the Trustee hereunder or thereunder (including fees, expenses or other) and all other obligations with respect to the Notes and the Indenture will be promptly paid in full or performed, all in accordance with the terms hereof and thereof; and (ii) in case of any extension of time of payment or renewal of any Notes, the same will be promptly paid in full when due or performed in accordance with the terms of the extension or renewal, whether at maturity, by acceleration or otherwise. Failing payment when due of any amount so guaranteed, or failing performance of any other obligation of the Company to the Holders, for whatever reason, each Subsidiary Guarantor will be obligated, jointly and severally with each other Subsidiary Guarantor, to pay, or to perform or cause the performance of, the same immediately. An Event of Default under the Indenture or the Notes shall constitute an event of default under this Article Four, and shall entitle the Holders of Notes to accelerate the obligations of the Subsidiary Guarantors hereunder in the same manner and to the same extent as the obligations of the Company.

(b) Each of the Subsidiary Guarantors hereby agrees that its obligations hereunder shall be continuing, absolute and unconditional, irrespective of, and shall be unaffected by, the validity, regularity or enforceability of the Notes or the Indenture, the absence of any action to enforce the same, any waiver or consent by any Holder or the Trustee with respect to any provisions hereof or thereof, any release of any other Subsidiary Guarantor, the recovery of any judgment against the Company, any action to enforce the same, whether or not a Subsidiary Guarantee is affixed to any particular Note, or any other circumstance which might otherwise constitute a legal or equitable discharge or defense of a Subsidiary Guarantor. Each of the Subsidiary Guarantors hereby waives the benefit of diligence, presentment, demand of payment, filing of claims with a court in the event of insolvency or bankruptcy of the Company, any right to require a proceeding first against the Company, protest, notice and all demands whatsoever and covenants that its Subsidiary Guarantee will not be discharged except by complete performance of the obligations contained in the Notes, the Indenture and this Article Four. If any Holder or the Trustee is required by any court or otherwise to return to the Company or to any Subsidiary Guarantor, or any custodian, trustee, liquidator or other similar official acting in relation to the Company or such Subsidiary Guarantor, any amount paid by the Company or such Subsidiary Guarantor to the Trustee or such Holder, this Article Four, to the extent theretofore discharged, shall be reinstated in full force and effect. Each Subsidiary Guarantor further agrees that, as between it, on the one hand, and the Holders of Notes and the Trustee, on the other hand, (i) subject to this Article Four, the maturity of the obligations guaranteed hereby may be accelerated as provided in Section 6.02 of the Indenture for the purposes of this Article Four, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the obligations guaranteed hereby, and (ii) in the event of any acceleration of such obligations as provided in Section 6.02 of the Indenture, such

obligations (whether or not due and payable) shall forthwith become due and payable by the Subsidiary Guarantors for the purpose of this Article Four.

(c) This Article Four shall remain in full force and effect and continue to be effective should any petition be filed by or against the Company for liquidation or reorganization, should the Company become insolvent or make an assignment for the benefit of creditors or should a receiver or trustee be appointed for all or any significant part of the Company's assets, and shall, to the fullest extent permitted by law, continue to be effective or be reinstated, as the case may be, if at any time payment and performance of the Notes are, pursuant to applicable law, rescinded or reduced in amount, or must otherwise be restored or returned by any obligee on the Notes, whether as a "voidable preference," "fraudulent transfer" or otherwise, all as though such payment or performance had not been made. In the event that any payment, or any part thereof, is rescinded, reduced, restored or returned, the Subsidiary Guarantees shall, to the fullest extent permitted by law, be reinstated and deemed reduced only by such amount paid and not so rescinded, reduced, restored or returned.

(d) Each Subsidiary Guarantor, and by its acceptance hereof each Holder, hereby confirms that it is the intention of all such parties that the guarantee by each Subsidiary Guarantor pursuant to its Subsidiary Guarantee not constitute a fraudulent transfer or conveyance for purposes of the Bankruptcy Law, the Uniform Fraudulent Conveyance Act, the Uniform Fraudulent Transfer Act or any similar federal or state law. To effectuate the foregoing intention, the Holders and each Subsidiary Guarantor hereby irrevocably agree that the obligations of each Subsidiary Guarantor under the Subsidiary Guarantees shall be limited to the maximum amount which, after giving effect to all other contingent and fixed liabilities of such Subsidiary Guarantor and after giving effect to any collections from or payments made by or on behalf of any other Subsidiary Guarantor in respect of the obligations of such other Subsidiary Guarantor under its Subsidiary Guarantee or pursuant to its contribution obligations under the Indenture, will result in the obligations of such Subsidiary Guarantor and its Subsidiary Guarantee not constituting a fraudulent conveyance or fraudulent transfer under federal or state law.

Section 4.02 Execution and Delivery of Subsidiary Guarantees.

(a) To further evidence the Subsidiary Guarantee set forth in Section 4.01, each of the Subsidiary Guarantors hereby agrees that a notation of such Subsidiary Guarantee, substantially in the form included in Exhibit A hereto, shall be endorsed on each Note authenticated and delivered by the Trustee after such Subsidiary Guarantee is executed by either manual or facsimile signature of an Officer of each Subsidiary Guarantor. The validity and enforceability of any Subsidiary Guarantee shall not be affected by the fact that it is not affixed to any particular Note.

(b) Each of the Subsidiary Guarantors hereby agrees that its Subsidiary Guarantee set forth in Section 4.01 shall remain in full force and effect notwithstanding any failure to endorse on each Note a notation of such Subsidiary Guarantee.

(c) If an Officer of a Subsidiary Guarantor whose signature is on the Indenture or a Note no longer holds that office at the time the Trustee authenticates such Note or

at any time thereafter, such Subsidiary Guarantor's Subsidiary Guarantee of such Note shall be valid nevertheless.

(d) The delivery of any Note by the Trustee, after the authentication thereof hereunder, shall constitute due delivery of any Subsidiary Guarantee set forth in the Indenture on behalf of the Subsidiary Guarantor.

Section 4.03 Additional Subsidiary Guarantors.

Any Person may become a Subsidiary Guarantor by executing and delivering to the Trustee (a) a supplemental indenture in form and substance satisfactory to the Trustee which subjects such Person to the provisions of the Indenture as a Subsidiary Guarantor, and (b) an Opinion of Counsel to the effect that such supplemental indenture has been duly authorized and executed by such Person and constitutes the legal, valid, binding and enforceable obligation of such Person (subject to such customary exceptions concerning fraudulent conveyance laws, creditors' rights and equitable principles as may be acceptable to the Trustee in its discretion).

Section 4.04 Release of a Subsidiary Guarantor.

(a) If all or substantially all of the assets of any Subsidiary Guarantor or all (or a portion sufficient to cause such Subsidiary Guarantor to no longer be a Subsidiary of the Company) of the Capital Stock of any Subsidiary Guarantor is sold (including by consolidation, merger, issuance or otherwise) or disposed of (including by liquidation, dissolution or otherwise) by the Company or any of its Subsidiaries, or, unless the Company elects otherwise, if any Subsidiary Guarantor is designated an Unrestricted Subsidiary in accordance with the terms hereof, then such Subsidiary Guarantor (in the event of a sale or other disposition of all of the Capital Stock of such Subsidiary Guarantor or a designation as an Unrestricted Subsidiary) or the Person acquiring such assets (in the event of a sale or other disposition of all or substantially all of the assets of such Subsidiary Guarantor) shall be deemed automatically and unconditionally released and discharged from any of its obligations hereunder without any further action on the part of the Trustee or any Holder of the Notes, subject in each case to compliance with Section 3.06 hereof.

(b) The Trustee shall deliver an appropriate instrument or instruments evidencing the release of a Subsidiary Guarantor from its obligations under its Subsidiary Guarantee endorsed on the Notes and under this Article Four upon receipt of a request of the Company accompanied by an Officers' Certificate certifying as to the compliance with this Section 4.04. Any Subsidiary Guarantor not so released or the entity surviving such Subsidiary Guarantor, as applicable, will remain or be liable under its Subsidiary Guarantee as provided in this Article Four.

(c) The Trustee shall execute any other documents reasonably requested by the Company or a Subsidiary Guarantor in order to evidence the release of such Subsidiary Guarantor from its obligations under its Subsidiary Guarantee endorsed on the Notes and under this Article Four.

(d) Except as set forth in Article Three hereof and this Section 4.04, nothing contained in this Supplemental Indenture or in any of the Notes shall prevent any consolidation or merger of a Subsidiary Guarantor with or into the Company or another Subsidiary Guarantor or shall prevent any sale or conveyance of the property of a Subsidiary Guarantor as an entirety or substantially as an entirety to the Company or another Subsidiary Guarantor.

Section 4.05 Waiver of Subrogation; Right of Contribution.

(a) Except as set forth in Section 4.05(b) below, each Subsidiary Guarantor hereby irrevocably waives any claim or other rights which it may now or hereafter acquire against the Company or any of its Subsidiaries that arise from the existence, payment, performance or enforcement of such Subsidiary Guarantor's obligations under this Article Four and this Supplemental Indenture, including, without limitation, any right of subrogation, reimbursement, exoneration, indemnification, and any right to participate in any claim or remedy of any Holder of Notes against the Company or any of its Subsidiaries, whether or not such claim, remedy or right arises in equity, or under contract, statute or common law, including, without limitation, the right to take or receive from the Company or any of its Subsidiaries, directly or indirectly, in cash or other property or by set-off or in any other manner, payment or security on account of such claim or other rights. If any amount shall be paid to any Subsidiary Guarantor in violation of the preceding sentence and the Notes shall not have been paid in full, such amount shall have been deemed to have been paid to such Subsidiary Guarantor for the benefit of, and held in trust for the benefit of, the Holders of the Notes, and shall forthwith be paid to the Trustee for the benefit of such Holders to be credited and applied upon the Notes, whether matured or unmatured, in accordance with the terms of this Supplemental Indenture. Each Subsidiary Guarantor acknowledges that it will receive direct and indirect benefits from the financing arrangements contemplated by this Supplemental Indenture and that the waiver set forth in this Section 4.05 is knowingly made in contemplation of such benefits.

(b) Notwithstanding Section 4.05(a), each Subsidiary Guarantor that makes a payment or distribution under a Subsidiary Guarantee shall be entitled to a contribution from each other Subsidiary Guarantor in an amount *pro rata*, based on the net assets of each Subsidiary Guarantor, determined in accordance with GAAP.

ARTICLE FIVE

Miscellaneous

Section 5.01 Defeasance Upon Deposit of Moneys or U.S. Government Obligations.

Section 8.01 of the Base Indenture is hereby replaced in its entirety as follows:

"Section 8.01 Defeasance Upon Deposit of Moneys or U.S. Government Obligations.

(a) The Company may, at its option and at any time, elect to have either paragraph (b) or paragraph (c) below be applied to the outstanding Notes upon compliance with the applicable conditions set forth in paragraph (d).

(b) Upon the Company's exercise under Section 8.01(a) of the option applicable to this clause (b), the Company and the Subsidiary Guarantors shall be deemed to have been released and discharged from their respective obligations with respect to the outstanding Notes and Subsidiary Guarantees on the date the applicable conditions set forth below are satisfied (hereinafter, "Legal Defeasance"). For this purpose, Legal Defeasance means that the Company shall be deemed to have paid and discharged the entire Indebtedness represented by the outstanding Notes, which shall thereafter be deemed to be "outstanding" only for the purposes of the Sections and matters under this Indenture referred to in (i) and (ii) below, and to have satisfied all its other obligations under the Notes and this Indenture, except for the following provisions which shall survive until otherwise terminated or discharged hereunder: (i) the rights of Holders of outstanding Notes to receive solely from the trust fund described in paragraph (d) below and as more fully set forth in such paragraph, payments in respect of the principal of and interest on such Notes when such payments are due and (ii) obligations listed in Section 8.02 of this Indenture, subject to compliance with this Section 8.01. The Company may exercise its option under this paragraph (b) notwithstanding the prior exercise of its option under paragraph (c) below with respect to such Notes.

(c) Upon the Company's exercise under Section 8.01(a) of the option applicable to this clause (c), the Company and the Subsidiary Guarantors shall be released and discharged from the obligations under any covenant contained in Article Three of the Fourteenth Supplemental Indenture on and after the date the conditions set forth below are satisfied (hereinafter, "Covenant Defeasance"), and the Notes shall thereafter be deemed to be not "outstanding" for the purpose of any direction, waiver, consent or declaration or act of Holders (and the consequences of any thereof) in connection with such covenants, but shall continue to be deemed "outstanding" for all other purposes hereunder. For this purpose, such Covenant Defeasance means that, with respect to the outstanding Notes, the Company may omit to comply with and shall have no liability in respect of any term, condition or limitation set forth in any such covenant, whether directly or indirectly, by reason of any reference elsewhere herein to any such covenant or by reason of any reference in any such covenant to any other provision herein or in any other document and such omission to comply shall not constitute a Default or an Event of Default under Section 6.01(a)(iii) of the Indenture, but, except as specified above, the remainder of this Indenture and such Notes shall be unaffected thereby. In addition, upon the Company's exercise under Section 8.01(a) of the option applicable to this Section 8.01(c), subject to the satisfaction of the conditions set forth in Section 8.01(d), Sections 6.01(a)(iii), (iv), (v), (vi) and (x) of this Indenture shall not constitute Events of Default.

(d) The following shall be the conditions to application of either paragraph (b) or paragraph (c) above to the outstanding Notes:

(i) The Company shall provide written notice to the Trustee and the Holders of its election under Section 8.01(a).

(ii) The Company shall irrevocably have deposited or caused to be deposited with the Trustee (or another trustee satisfying the requirements of Section 7.10 of this Indenture who shall agree to comply with the provisions of this Article Eight applicable to it) as trust funds in trust for the purpose of making the following payments, specifically pledged as security for, and dedicated solely to, the benefit of the Holders of Notes, (1) cash in U.S. dollars, or (2) U.S. Government Obligations which through the scheduled payment of principal and interest in respect thereof in accordance with their terms will provide, not later than the due date of any payment of principal of (and premium, if any) and interest, if any, on such Notes, money in an amount, or (3) a combination thereof, in any case, in an amount, sufficient, without consideration of any reinvestment of such principal and interest, in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee, to pay and discharge, and which shall be applied by the Trustee (or other qualifying trustee) to pay and discharge, (i) the principal of (and premium, if any) and interest, if any, on such Notes on the maturity date of such principal or installment of principal or interest and (ii) any mandatory sinking fund payments or analogous payments applicable to such Notes on the day on which such payments are due and payable in accordance with the terms of this Indenture and of such Notes.

(iii) Such Legal Defeasance or Covenant Defeasance shall not result in a breach or violation of, or constitute a default under, this Indenture or any other material agreement or instrument to which the Company is a party or by which it is bound.

(iv) No Event of Default or event which with notice or lapse of time or both would become an Event of Default shall have occurred and be continuing on the date of such deposit or, insofar as Section 6.01(a)(vi) and Section 6.01(a)(vii) of this Indenture are concerned, at any time during the period ending on the 91st day after the date of such deposit (it being understood that this condition shall not be deemed satisfied until the expiration of such period).

(v) In the case of an election under Section 8.01(b), the Company shall have delivered to the Trustee an Opinion of Counsel stating that (i) the Company has received from, or there has been published by, the Internal Revenue Service a ruling, or (ii) since the date of execution of this Indenture, there has been a change in the applicable federal income tax law, in either case to the effect that, and based thereon such opinion shall confirm that, the Holders of Notes will not recognize income, gain or loss for federal income tax purposes as a result of such defeasance and will be subject to federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such defeasance had not occurred.

(vi) In the case of an election under Section 8.01(c), the Company shall have delivered to the Trustee an Opinion of Counsel to the effect

that the Holders of such Notes will not recognize income, gain or loss for federal income tax purposes as a result of such covenant defeasance and will be subject to federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such covenant defeasance had not occurred.

(vii) The Company shall have delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that all conditions precedent to the Legal Defeasance under Section 8.01(b) or the Covenant Defeasance under Section 8.01(c) (as the case may be) have been complied with and an Opinion of Counsel to the effect that either (i) as a result of a deposit pursuant to Section 8.01(d)(ii) and the related exercise of the Company's option under Section 8.01(b) or Section 8.01(c) (as the case may be), registration is not required under the Investment Company Act of 1940, as amended, by the Company, with respect to the trust funds representing such deposit or by the Trustee for such trust funds or (ii) all necessary registrations under said Act have been effected.

(viii) Notwithstanding any other provisions of this Section, such Legal Defeasance or Covenant Defeasance shall be effected in compliance with any additional or substitute terms, conditions or limitations with may be imposed on the Company in connection therewith pursuant to Section 2.01 of this Indenture.

In the event all or any portion of the Notes are to be redeemed through such irrevocable trust, the Company must make arrangements satisfactory to the Trustee, at the time of such deposit, for the giving of the notice of such redemption or redemptions by the Trustee in the name and at the expense of the Company."

Section 5.02 Events of Default.

Sections 6.01 and 6.02 of the Base Indenture are hereby replaced in their entirety as follows:

"Section 6.01 Events of Default.

(a) An "Event of Default" wherever used herein, means any one of the following events:

(i) the failure by the Company to pay interest on any Note when the same becomes due and payable and the continuance of any such failure for a period of 30 days;

(ii) the failure by the Company to pay the principal or premium of any Note when the same becomes due and payable at maturity, upon acceleration or otherwise (including the failure to make payment pursuant to a Change of Control Offer);

(iii) the failure by the Company or any of its Subsidiaries to comply with any of its agreements or covenants in, or provisions of, the Notes, the Subsidiary Guarantees or this Indenture and such failure continues for the period and after the notice specified below;

(iv) the acceleration of any Indebtedness that has an outstanding principal amount of $25.0 million or more in the aggregate (other than Non-Recourse Indebtedness) of the Company or any of its Subsidiaries;

(v) the failure by the Company or any of its Subsidiaries to make any principal or interest payment in respect of Indebtedness with an outstanding aggregate amount of $25.0 million or more (other than Non-Recourse Indebtedness) of the Company or any of its Subsidiaries within five days of such principal or interest payment becoming due and payable (after giving effect to any applicable grace period set forth in the documents governing such Indebtedness); ***provided***, that if such failure to pay shall be remedied, waived or extended, then the Event of Default hereunder shall be deemed likewise to be remedied, waived or extended without further action by the Company;

(vi) a final judgment or judgments that exceed $25.0 million or more in the aggregate, for the payment of money, having been entered by a court or courts of competent jurisdiction against the Company or any of its Subsidiaries and such judgment or judgments is not satisfied, stayed, annulled or rescinded within 60 days of being entered;

(vii) the Company or any Material Subsidiary pursuant to or within the meaning of any Bankruptcy Law:

(A) commences a voluntary case;

(B) consents to the entry of an order for relief against it in an involuntary case;

(C) consents to the appointment of a Custodian of it or for all or substantially all of its property; or

(D) makes a general assignment for the benefit of its creditors;

(viii) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that:

(A) is for relief against the Company or any Material Subsidiary as debtor in an involuntary case;

(B) appoints a Custodian of the Company or any Material Subsidiary or a Custodian for all or substantially all of the property of the Company or any Material Subsidiary; or

(C) orders the liquidation of the Company or any Material Subsidiary and the order or decree remains unstayed and in effect for 60 days; or

(ix) any Subsidiary Guarantee ceases to be in full force and effect (other than in accordance with the terms of such Subsidiary Guarantee and this Indenture) or is declared null and void and unenforceable or found to be invalid or any Subsidiary Guarantor denies its liability under its Subsidiary Guarantee (other than by reason of release of a Subsidiary Guarantor from its Subsidiary Guarantee in accordance with the terms of this Indenture and the Subsidiary Guarantee).

(b) A Default under clause (a)(iii) of Section 6.01 hereof shall not be deemed an Event of Default until the Trustee notifies the Company, or the Holders of at least 25% in principal amount of the then outstanding Notes notify the Company and the Trustee, of the Default and the Company does not cure the Default within 60 days after receipt of the notice. The notice must specify the Default, demand that it be remedied and state that the notice is a "Notice of Default." If such a Default is cured within such time period, it shall cease.

(c) The Trustee may withhold from the Holders notice of any continuing Default or Event of Default (except any Default or Event of Default in payment of principal or interest on the Notes or that resulted from the failure to comply with Section 3.03 hereof) if the Trustee determines that withholding such notice is in the Holders' interest.

Section 6.02 Acceleration; Rescission.

(d) If an Event of Default (other than an Event of Default specified in clause (vii) or (viii) of Section 6.01(a) hereof) shall have occurred and be continuing under this Indenture, the Trustee by notice to the Company, or the Holders of at least 25% in principal amount of the Notes then outstanding by notice to the Company and the Trustee, may declare all Notes to be due and payable immediately. Upon such declaration of acceleration, the amounts due and payable on the Notes, as determined pursuant to Section 6.02(b), shall be due and payable immediately. If an Event of Default with respect to the Company specified in clause (vii) or (viii) of Section 6.01(a) hereof occurs, such an amount will *ipso facto* become and be immediately due and payable without any declaration, notice or other act on the part of the Trustee and the Company or any Holder.

(e) In the event that the maturity of the Notes is accelerated pursuant to Section 6.02(a) hereof, 100% of the principal amount of the Notes (or, in the case of a default under clause (ii) or (iii) of Section 6.01 hereof resulting from a breach of Section 3.03 of the Fourteenth Supplemental Indenture, 101% of the principal amount of the Notes that have been surrendered for repurchase pursuant to Section 3.03 thereof) shall become due and payable plus accrued interest, if any, to the date of payment.

(f) Holders of a majority in principal amount of the then outstanding Notes may rescind an acceleration and its consequence (except an acceleration due to nonpayment of principal or interest on the Notes, whether resulting from a breach of Section 3.03 of the Fourteenth Supplemental Indenture or otherwise) if the rescission would not conflict with any judgment or decree relating to the Notes and if all existing Events of Default have been cured or waived. Upon any such waiver, such Default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured for every purpose of this Indenture; but no such waiver shall extend to any subsequent or other Default or impair any right consequent thereon."

Section 5.03 Amendment, Supplement and Waiver.

(a) Subject to clause (c) of this Section 5.03, the Notes may be amended or supplemented with the consent (which may include consents obtained in connection with a tender offer or exchange offer for Notes) of the Holders of at least a majority in principal amount of the Notes then outstanding, and any existing Default or Event of Default (other than any continuing Default or Event of Default in the payment of interest on or the principal of the Notes) under, or compliance with any provision of, this Supplemental Indenture may be waived with the consent (which may include consents obtained in connection with a tender offer or exchange offer for Notes) of the Holders of a majority in principal amount of the Notes then outstanding. Any Default that is waived or cured stops continuing and any Event of Default arising therefrom is deemed cured; but no such waiver shall extend to any subsequent or other Default or Event of Default or impair any right consequent thereon.

(b) The Company, the Subsidiary Guarantors and the Trustee may amend or supplement the Indenture or the Notes or waive any provisions thereof, hereof or thereof without notice to or consent of any Holder of Notes:

(i) to cure any ambiguity, defect or inconsistency or to comply with Section 3.06 hereof;

(ii) to provide for uncertificated Notes in addition to, or in place of, certificated Notes;

(iii) to provide for any Subsidiary Guarantee of the Notes, to add security to or for the benefit of the Notes, or to confirm and evidence the release, termination or discharge of any Subsidiary Guarantee of the Notes when such release, termination or discharge is permitted by the Indenture;

(iv) to add covenants or new events of default for the protection of the Holders;

(v) to make any change that does not adversely affect the legal rights under the Indenture of any Holder; or

(vi) to comply with or qualify the Indenture under the TIA.

(c) Without the consent of each Holder, the Company, may not:

(i) reduce the amount of Notes whose Holders must consent to an amendment, supplement or waiver;

(ii) reduce the rate of, or change the time for payment of, interest, including default interest, on any Note;

(iii) reduce the principal of, or change the fixed maturity of, any Note or alter the provisions with respect to redemption contained in Exhibit A hereof;

(iv) make any Note payable in currency other than that stated in the Note;

(v) make any change in Section 4.01 of the Base Indenture or this Section 5.03;

(vi) modify the ranking or priority of the Notes or any Subsidiary Guarantee;

(vii) modify any of the provisions with respect to mandatory offers to repurchase Notes pursuant to Section 3.03 hereof after the occurrence of a Change of Control;

(viii) release any Subsidiary Guarantor from any of its obligations under its Subsidiary Guarantee or the Indenture otherwise than in accordance with the terms contained herein; or

(ix) waive a continuing Default or Event of Default in the payment of principal of or interest on the Notes.

(d) It shall not be necessary for the consent of the Holders under this Section 5.03 to approve the particular form of any proposed supplement, but it shall be sufficient if such consent approves the substance thereof.

(e) After any supplement or amendment under this Article becomes effective, the Company shall mail to the Holders a notice briefly describing such supplement or amendment; *provided*, *however*, that the failure to give such notice to all Holders, or any defect therein, shall not impair or affect the validity of such supplement or amendment.

(f) The right of any Holder to participate in any consent required or sought pursuant to any provision of the Indenture (and the obligation of the Company to obtain any such consent otherwise required from such Holder) may be subject to the requirement that such Holder shall have been the Holder of record of Notes with respect to which such consent is required or sought as of a date identified by the Company in a notice furnished to Holders in accordance with the terms of the Indenture.

(g) Section 6.04 of the Base Indenture is hereby replaced in its entirety as follows: “Section 6.04 [Reserved]”.

Section 5.04 Compliance Certificate.

Section 4.03 of the Base Indenture is hereby replaced in its entirety as follows:

“Section 4.03 Compliance Certificate.

The Company shall deliver to the Trustee a quarterly statement regarding compliance with the Indenture, and include in such statement, if any Officer of the Company is aware of any Default or Event of Default, a statement specifying such Default or Event of Default and what action the Company is taking or proposes to take with respect thereto. In addition, the Company shall deliver to the Trustee prompt written notice of the occurrence of any Default or Event of Default and any other development, financial or otherwise, which might materially affect its business, properties or affairs or the ability of the Company to perform its obligations under the Indenture.”

Section 5.05 Indenture.

(a) The Base Indenture is in all respects ratified and confirmed.

(b) In the event of any conflict between this Supplemental Indenture and the Base Indenture, the provisions of this Supplemental Indenture shall prevail.

Section 5.06 Notices.

Any notice or communication by the Company, any Subsidiary Guarantor or the Trustee to the others is duly given if in writing and delivered in person or mailed by first-class mail (registered or certified, return receipt requested), fax or overnight air courier guaranteeing next day delivery, to the others’ address:

If to the Company and/or any Subsidiary Guarantor:

c/o Beazer Homes USA, Inc.
1000 Abernathy Road
Atlanta, Georgia 30328
Fax: (770) 481-2808
Attention: Kenneth F. Khoury

If to the Trustee:

U.S. Bank National Association
Corporate Trust Services
1349 West Peachtree Street NW
Suite 1050
Atlanta, Georgia 30309
Fax No.: (404) 898-8844
Attention: Beazer 9.125% Senior Notes due 2019

The Company, any Subsidiary Guarantor or the Trustee, by notice to the others, may designate additional or different addresses for subsequent notices or communications.

All notices and communications (other than those sent to Holders) shall be deemed to have been duly given: at the time delivered by hand, if personally delivered; five calendar days after being deposited in the mail, postage prepaid, if mailed by first-class mail; when receipt acknowledged, if faxed; and the next Business Day after timely delivery to the courier, if sent by overnight air courier guaranteeing next day delivery; *provided* that any notice or communication delivered to the Trustee shall be deemed effective upon actual receipt thereof.

Any notice or communication to a Holder shall be mailed by first-class mail, certified or registered, return receipt requested, or by overnight air courier guaranteeing next day delivery to its address shown on the register kept by the Registrar. Any notice or communication shall also be so mailed to any Person described in TIA Section 313(c), to the extent required by the TIA. Failure to mail a notice or communication to a Holder or any defect in it shall not affect its sufficiency with respect to other Holders.

If a notice or communication is mailed in the manner provided above within the time prescribed, it is duly given, whether or not the addressee receives it.

If the Company mails a notice or communication to Holders, it shall mail a copy to the Trustee and each Agent at the same time.

Section 5.07 No Personal Liability of Incorporators, Shareholders, Officers, Directors or Employees.

No recourse for the payment of the principal of, premium, if any, or interest on any of the Notes, or for any claim based thereon or otherwise in respect thereof, and no recourse under or upon any obligation, covenant or agreement of the Company or any Subsidiary Guarantor herein or in any of the Notes or because of the creation of any Indebtedness represented thereby, shall be had against any incorporator, shareholder, officer, director, employee or controlling person of the Company, any Subsidiary Guarantor or any successor Person thereof. Each Holder, by accepting such Notes waives and releases all such liability.

Section 5.08 Governing Law.

THIS SUPPLEMENTAL INDENTURE, THE NOTES AND THE SUBSIDIARY GUARANTEES WILL BE GOVERNED BY THE LAWS OF THE STATE OF NEW YORK.

Section 5.09 No Adverse Interpretation of Other Agreements.

This Supplemental Indenture may not be used to interpret another indenture, loan or debt agreement of the Company or its Restricted Subsidiaries or of any other Person. Any such indenture, loan or debt agreement may not be used to interpret this Supplemental Indenture.

Section 5.10 Successors and Assigns.

All covenants and agreements of the Company and the Subsidiary Guarantors in this Supplemental Indenture and the Notes shall bind its successors and assigns. All agreements of the Trustee in this Supplemental Indenture shall bind its successors and assigns.

Section 5.11 Duplicate Originals.

The parties may sign any number of copies of this Supplemental Indenture. Each signed copy shall be an original, but all of them together represent the same agreement.

Section 5.12 Severability.

In case any one or more of the provisions contained in this Supplemental Indenture or in the Notes shall for any reason be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 5.13 Trustee Disclaimer.

The recitals herein contained are made by the Company and not by the Trustee, and the Trustee assumes no responsibility for the correctness thereof. The Trustee makes no representation as to the validity or sufficiency of this Supplemental Indenture or the Notes issued hereunder, other than its certificate of authentication thereon.

Section 5.14 Trustee Rights.

(a) Without limiting Section 7.01 of the Base Indenture, the Trustee shall have no duty to inquire as to the performance of the Company with respect to any of its covenants contained in Article Three of this Supplemental Indenture.

(b) In the event the Company is required to pay Additional Interest, the Company will provide written notice to the Trustee of the Company's obligation to pay Additional Interest no later than 15 days prior to the next Interest Payment Date, which notice shall set forth the amount of the Additional Interest to be paid by the Company. The Trustee shall not at any time be under any duty or responsibility to any Holders to determine whether any Additional Interest is payable and the amount thereof.

[*Signature pages follow*]

IN WITNESS WHEREOF, the parties have executed this Supplemental Indenture as of the date first written above.

BEAZER HOMES USA, INC.

By: /s/ Allan P. Merrill
Name: Allan P. Merrill
Title: Executive Vice President and
Chief Financial Officer

APRIL CORPORATION
BEAZER ALLIED COMPANIES HOLDINGS, INC.
BEAZER GENERAL SERVICES, INC.
BEAZER HOMES CORP.
BEAZER HOMES HOLDINGS CORP.
BEAZER HOMES INDIANA HOLDINGS CORP.
BEAZER HOMES SALES, INC.
BEAZER HOMES TEXAS HOLDINGS, INC.
BEAZER REALTY CORP.
BEAZER REALTY, INC.
BEAZER REALTY LOS ANGELES, INC.
BEAZER REALTY SACRAMENTO, INC.
BEAZER/SQUIRES REALTY, INC.
HOMEBUILDERS TITLE SERVICES OF VIRGINIA, INC.
HOMEBUILDERS TITLE SERVICES, INC.

By: /s/ Allan P. Merrill
Name: Allan P. Merrill
Title: Executive Vice President

BEAZER MORTGAGE CORPORATION

By: /s/ Allan P. Merrill
Name: Allan P. Merrill
Title: President

BEAZER HOMES INDIANA LLP

By: BEAZER HOMES INVESTMENTS, LLC,
its Managing Partner

By: BEAZER HOMES CORP.,
its Sole Member

By: /s/ Allan P. Merrill
Name: Allan P. Merrill
Title: Executive Vice President

ARDEN PARK VENTURES, LLC
BEAZER CLARKSBURG, LLC
BEAZER COMMERCIAL HOLDINGS, LLC
DOVE BARRINGTON DEVELOPMENT LLC
BEAZER HOMES INVESTMENTS, LLC
BEAZER HOMES MICHIGAN, LLC
ELYSIAN HEIGHTS POTOMIA, LLC

By: BEAZER HOMES CORP.,
its Sole Member

By: /s/ Allan P. Merrill
Name: Allan P. Merrill
Title: Executive Vice President

BEAZER HOMES TEXAS, L.P.

By: BEAZER HOMES TEXAS HOLDINGS, INC.,
its General Partner

By: /s/ Allan P. Merrill
Name: Allan P. Merrill
Title: Executive Vice President

BEAZER REALTY SERVICES, LLC

By: BEAZER HOMES INVESTMENTS, LLC,
its Sole Member

By: BEAZER HOMES CORP.,
its Sole Member

By: /s/ Allan P. Merrill
Name: Allan P. Merrill
Title: Executive Vice President

BEAZER SPE, LLC

By: BEAZER HOMES HOLDINGS CORP.,
its Sole Member

By: /s/ Allan P. Merrill
Name: Allan P. Merrill
Title: Executive Vice President

BH BUILDING PRODUCTS, LP

By: BH PROCUREMENT SERVICES, LLC,
its General Partner

By: BEAZER HOMES TEXAS, L.P.,
its Sole Member

By: BEAZER HOMES TEXAS HOLDINGS, INC.,
its General Partner

By: /s/ Allan P. Merrill
Name: Allan P. Merrill
Title: Executive Vice President

BH PROCUREMENT SERVICES, LLC

By: BEAZER HOMES TEXAS, L.P.,
its Sole Member

By: BEAZER HOMES TEXAS HOLDINGS, INC.,
its General Partner

By: /s/ Allan P. Merrill
Name: Allan P. Merrill
Title: Executive Vice President

PARAGON TITLE, LLC

By: BEAZER HOMES INVESTMENTS, LLC,
its Sole Member and Manager

By: BEAZER HOMES CORP.,
its Sole Member

By: /s/ Allan P. Merrill
Name: Allan P. Merrill
Title: Executive Vice President

TRINITY HOMES, LLC

By: BEAZER HOMES INVESTMENTS, LLC,
its Member

By: BEAZER HOMES CORP.,
its Sole Member

By: /s/ Allan P. Merrill
Name: Allan P. Merrill
Title: Executive Vice President

CLARKSBURG ARORA LLC

By: BEAZER CLARKSBURG, LLC,
its Sole Member

By: BEAZER HOMES CORP.,
its Sole Member

By: /s/ Allan P. Merrill
Name: Allan P. Merrill
Title: Executive Vice President

CLARKSBURG SKYLARK, LLC

By: CLARKSBURG ARORA LLC,
its Sole Member

By: BEAZER CLARKSBURG, LLC,
its Sole Member

By: BEAZER HOMES CORP.,
its Sole Member

By: /s/ Allan P. Merrill
Name: Allan P. Merrill
Title: Executive Vice President

[SIGNATURE PAGE TO INDENTURE]

U.S. BANK NATIONAL ASSOCIATION
as Trustee

By: /s/ William B. Echols
Name: William B. Echols
Title: Vice President

[SIGNATURE PAGE TO INDENTURE]

Subsidiary Guarantors

Beazer General Services, Inc.
Beazer Homes Corp.
Beazer/Squires Realty, Inc.
Beazer Homes Sales, Inc.
Beazer Homes Investments, LLC
Beazer Realty Corp.
Beazer Homes Holdings Corp.
Beazer Homes Indiana Holdings Corp.
Beazer Homes Texas Holdings, Inc.
Beazer Homes Texas, L.P.
Beazer Homes Indiana LLP
April Corporation
Beazer SPE, LLC
Beazer Realty, Inc.
Beazer Realty Services, LLC
Beazer Realty Los Angeles, Inc.
Beazer Realty Sacramento, Inc.
BH Building Products, LP
BH Procurement Services, LLC
Homebuilders Title Services of Virginia, Inc.
Homebuilders Title Services, Inc.
Beazer Allied Companies Holdings, Inc.
Paragon Title, LLC
Trinity Homes, LLC
Beazer Commercial Holdings, LLC
Beazer Clarksburg, LLC
Arden Park Ventures, LLC
Beazer Mortgage Corporation
Beazer Homes Michigan, LLC
Dove Barrington Development LLC
Clarksburg Arora LLC
Clarksburg Skylark, LLC
Elysian Heights Potomia, LLC

EXHIBIT A

[Face of Note]

[Insert the Global Note Legend, if applicable, pursuant to the provisions of the Indenture.]

[Insert the Private Placement Legend, if applicable, pursuant to the provisions of the Indenture.]

[Insert the Regulation S Global Note Legend, if applicable, pursuant to the provisions of the Indenture.]

CUSIP:
ISIN:

9.125% Senior Notes due 2019

No. ____ [$_____]

BEAZER HOMES USA, INC.
a Delaware corporation

promises to pay to [CEDE & CO. or registered assigns][1] [_____][2], the principal sum [set forth on the Schedule of Exchanges of Interests in the Global Note attached hereto][1] [of _____ United States Dollars][2] on May 15, 2019.

Interest Payment Dates: May 15 and November 15

Record Dates: May 1 and November 1

[1] If the Note is issued in global form.
[2] If the Note is issued in definitive form.

IN WITNESS HEREOF, the Company has caused this instrument to be duly executed.

Dated:

BEAZER HOMES USA, INC.

By: _____
Name:
Title:

By: _____
Name:
Title:

This is one of the Notes referred to in the within-mentioned Indenture.

U.S. BANK NATIONAL ASSOCIATION,
as Trustee

By: _____
Authorized Signatory

[Back of Note]

9.125% Senior Notes due 2019

Capitalized terms used herein shall have the meanings assigned to them in the Indenture referred to below unless otherwise indicated.

1. Interest.

Beazer Homes USA, Inc., a Delaware corporation (the "Company"), promises to pay interest on the principal amount of this Note at 9.125% per annum from November 12, 2010 until maturity. The Company will pay interest, semi-annually in arrears on May 15 and November 15 of each year, or if any such day is not a Business Day, on the next succeeding Business Day (each, an "Interest Payment Date"). Interest on the Notes will accrue from the most recent date to which interest has been paid or, if no interest has been paid, from the Issue Date; *provided* that the first Interest Payment Date shall be May 15, 2011. Interest will be computed on the basis of a 360-day year of twelve 30-day months. The Company will pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue principal and premium, if any, from time to time on demand at the interest rate on the Notes to the extent lawful; it shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue installments of interest from time to time on demand at the interest rate on the Notes to the extent lawful.

2. Method of Payment.

The Company will pay interest on the Notes to the Persons who are registered Holders of Notes at the close of business on the May 1 or November 1 (whether or not a Business Day), as the case may be, next preceding the applicable Interest Payment Date, even if such Notes are canceled after such Record Date and on or before such Interest Payment Date, except as provided in Section 2.11 of the Base Indenture with respect to defaulted interest. At the option of the Company, payment of interest may be made by check mailed to the Holders at their addresses set forth in the register of Holders, *provided* that payments of principal, premium, if any, and interest with respect to Notes represented by one or more permanent Global Notes registered in the name of or held by The Depository Trust Company ("DTC") or its nominee will be made by wire transfer of immediately available funds to the accounts specified by the Holder or Holders thereof. Such payment shall be in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts.

3. Paying Agent And Registrar.

Initially, U.S. Bank National Association, the Trustee under the Indenture, will act as Paying Agent and Registrar. The Company may change any Paying Agent or Registrar without notice to the Holders. The Company or any of its Subsidiaries may act in any such capacity.

4. Indenture.

The Company issued the Notes under the Fourteenth Supplemental Indenture, dated as of November 12, 2010 (the "Supplemental Indenture"), to the Indenture, dated as of April 17, 2002 (as amended, modified or supplemented from time to time prior to the date of the Supplemental Indenture in accordance therewith, the "Base Indenture" and, together with the Supplemental Indenture, the "Indenture"), among the Company, the Subsidiary Guarantors named therein and the Trustee. The terms of the Notes include those stated in the Indenture and those made part of the Indenture by reference to the Trust Indenture Act of 1939, as amended (the "TIA"). The Notes are subject to all such terms, and Holders are referred to the Indenture and the TIA for a statement of such terms. To the extent any provision of this Note conflicts with the express provisions of the Indenture, the provisions of the Indenture shall govern and be controlling.

5. Optional Redemption.

(a) Prior to November 15, 2014, the Company may, at its option, redeem the Notes, in whole or in part, at a redemption price equal to 100% of the principal amount of the Notes to be redeemed plus the Applicable Premium as of, and accrued and unpaid interest to, the redemption date (subject to the right of Holders on the relevant record date to receive interest due on the relevant interest payment date). Notice of such redemption must be mailed by first class mail to each Holder's registered address, not less than 15 nor more than 60 days prior to the redemption date.

(b) The Company may redeem all or any portion of the Notes at any time and from time to time on or after November 15, 2014 and prior to maturity at the following redemption prices (expressed in percentages of the principal amount thereof) together, in each case, with accrued and unpaid interest to the date fixed for redemption, if redeemed during the 12-month period beginning on November 15 of each year indicated below:

Year	Percentage
2014	104.563%
2015	102.281%
2016 and thereafter	100.000%

(c) On or prior to November 15, 2013, the Company may, at its option, redeem up to 35% of the aggregate principal amount of Notes issued under the Supplemental Indenture with the net proceeds of an Equity Offering at 109.125% of the principal amount thereof plus accrued and unpaid interest, if any, to the date fixed for redemption; *provided*, that at least 65% of the aggregate principal amount of the Notes originally issued under the Supplemental Indenture remain outstanding after such redemption. Notice of any such redemption must be given within 60 days after the date of the closing of the relevant Equity Offering.

(d) If the Company redeems less than all of the outstanding Notes, the Trustee shall select the Notes to be redeemed in the manner described under Section 3.02 of the Indenture.

(e) Any redemption pursuant to this paragraph 5 shall be made pursuant to the provisions of Article Three of the Indenture.

6. Offers To Repurchase.

The Company shall be required to make offers to repurchase the Notes as set forth under Section 3.03 of the Supplemental Indenture.

7. Denominations, Transfer, Exchange.

The Notes are in registered form without coupons in denominations of $2,000 and integral multiples of $1,000 in excess thereof. The transfer of Notes may be registered and may be exchanged as provided in the Indenture. The Registrar and the Trustee may require a Holder, among other things, to furnish appropriate endorsements and transfer documents and the Company may require a Holder to pay any taxes and fees required by law or permitted by the Indenture. The Company need not exchange or register the transfer of any Notes or portion of the Notes selected for redemption, except for the unredeemed portion of any Notes being redeemed in part. Also, the Company need not exchange or register the transfer of any Notes for a period of 15 days before a selection of Notes to be redeemed.

8. Persons Deemed Owners.

The registered Holder of a Note may be treated as its owner for all purposes.

9. Amendment, Supplement And Waiver.

The Indenture, the Subsidiary Guarantees or the Notes may be amended or supplemented as provided in the Indenture.

10. Authentication.

This Note shall not be entitled to any benefit under the Indenture or be valid or obligatory for any purpose until authenticated by the manual signature of the Trustee.

11. Additional Rights of Holders of Restricted Global Notes and Restricted Definitive Notes.

In addition to the rights provided to Holders of Notes under the Indenture, Holders of Restricted Global Notes and Restricted Definitive Notes shall have all the rights set forth in the Registration Rights Agreement, dated as of November 12, 2010 among the Company, the Subsidiary Guarantors named therein and the other parties named on the signature pages thereof (the "Registration Rights Agreement").

12. Governing Law.

THE INDENTURE, THE NOTES AND ANY SUBSIDIARY GUARANTEE WILL BE GOVERNED BY THE LAWS OF THE STATE OF NEW YORK.

13. CUSIP/ISIN Numbers.

Pursuant to a recommendation promulgated by the Committee on Uniform Security Identification Procedures, the Company has caused CUSIP/ISIN numbers to be printed on the Notes and the Trustee may use CUSIP/ISIN numbers in notices of redemption as a convenience to Holders. No representation is made as to the accuracy of such numbers either as printed on the Notes or as contained in any notice of redemption and reliance may be placed only on the other identification numbers placed thereon.

14. Successor Corporation.

When a successor corporation assumes all the obligations of its predecessor under the Notes and the Indenture, the predecessor corporation will be released from those obligations.

15. Trustee Dealings With Company.

U.S. Bank National Association, the Trustee under the Indenture, in its individual or any other capacity, may make loans to, accept deposits from, and perform services for the Company or its affiliates, and may otherwise deal with the Company or its affiliates, as if it were not Trustee.

16. Abbreviations.

Customary abbreviations may be used in the name of a Holder or an assignee, such as: TEN COM (= tenants in common), TEN ENT (= tenants by the entireties), JT TEN (= joint tenants with right of survivorship and not as tenants in common), CUST (= custodian), and U/G/M/A (= Uniform Gifts to Minors Act).

The Company will furnish to any Holder upon written request and without charge a copy of the Indenture and/or the Registration Rights Agreement. Requests may be made to the Company at the following address:

c/o Beazer Homes USA, Inc.
1000 Abernathy Road, Suite 1200
Atlanta, Georgia 30328
Fax No.: (770) 481-2808
Attention: Kenneth F. Khoury

ASSIGNMENT FORM

To assign this Note, fill in the form below:

(I) or (we) assign and transfer this Note to: _____
(Insert assignee's legal name)

_____
(Insert assignee's soc. sec. or tax I.D. no.)

_____
_____
_____
_____
(Print or type assignee's name, address and zip code)

and irrevocably appoint _____
to transfer this Note on the books of the Company. The agent may substitute another to act for him.

Date: _____

Your Signature: _____
(Sign exactly as your name appears on the face of this Note)

Signature Guarantee*: _____

* Participant in a recognized Signature Guarantee Medallion Program (or other signature guarantor acceptable to the Trustee).

OPTION OF HOLDER TO ELECT PURCHASE

If you want to elect to have this Note purchased by the Company pursuant to Section 3.03 of the Supplemental Indenture, check the box below:

[ ] Section 3.03

If you want to elect to have only part of this Note purchased by the Company pursuant to Section 3.03 of the Supplemental Indenture, state the amount you elect to have purchased:

$_____

Date: _____

Your Signature: _____
(Sign exactly as your name appears on the face of this Note)
Tax Identification No.: _____

Signature Guarantee*: _____

* Participant in a recognized Signature Guarantee Medallion Program (or other signature guarantor acceptable to the Trustee).

SCHEDULE OF EXCHANGES OF INTERESTS IN THE GLOBAL NOTE*

The initial outstanding principal amount of this Global Note is $_____. The following exchanges of a part of this Global Note for an interest in another Global Note or for a Definitive Note, or exchanges of a part of another Global or Definitive Note for an interest in this Global Note, have been made:

Date of Exchange	Amount of decrease in Principal Amount of this Global Note	Amount of increase in Principal Amount of this Global Note	Principal Amount of this Global Note following such decrease or increase	Signature of authorized officer of Trustee or Custodian

* This schedule should be included only if the Note is issued in global form.

[FORM OF NOTATION ON NOTE RELATING TO GUARANTEE]

GUARANTEE

April Corporation, Arden Park Ventures, LLC, Beazer Allied Companies Holdings, Inc., Beazer Clarksburg, LLC, Beazer Commercial Holdings, LLC, Beazer General Services, Inc., Beazer Homes Corp., Beazer Homes Holdings Corp., Beazer Homes Indiana Holdings Corp., Beazer Homes Indiana LLP, Beazer Homes Investments, LLC, Beazer Homes Michigan, LLC, Beazer Homes Sales, Inc., Beazer Homes Texas Holdings, Inc., Beazer Homes Texas, L.P., Beazer Mortgage Corporation, Beazer Realty Corp., Beazer Realty, Inc., Beazer Realty Los Angeles, Inc., Beazer Realty Sacramento, Inc., Beazer Realty Services, LLC, Beazer SPE, LLC, Beazer/Squires Realty, Inc., BH Building Products, LP, BH Procurement Services, LLC, Clarksburg Arora LLC, Clarksburg Skylark, LLC, Dove Barrington Development LLC, Elysian Heights Potomia, LLC, Homebuilders Title Services of Virginia, Inc., Homebuilders Title Services, Inc., Paragon Title, LLC and Trinity Homes, LLC (the "Subsidiary Guarantors") have unconditionally guaranteed, jointly and severally (such guarantee by each Subsidiary Guarantor being referred to herein as the "Subsidiary Guarantee"), that (i) the principal of, premium, if any, and interest on the Notes will be duly and punctually paid in full when due, whether at maturity, by acceleration or otherwise, and interest on the overdue principal and (to the extent permitted by law) interest, if any, on the Notes and all other obligations of the Company to the Holders or the Trustee all in accordance with the terms set forth under Article Four of the Supplemental Indenture, and (ii) in case of any extension of time of payment or renewal of any Notes, that the same will be promptly paid in full when due or performed in accordance with the terms of the extension or renewal, whether at maturity, by acceleration or otherwise.

No recourse for the payment of the principal of, premium, if any, or interest on any of the Notes, or for any claim based thereon or otherwise in respect thereof, and no recourse under or upon any obligation, covenant or agreement of the Company or any Subsidiary Guarantor in this Subsidiary Guarantee, the Indenture or any of the Notes or because of the creation of any Indebtedness represented thereby, shall be had against any incorporator, shareholder, officer, director, employee or controlling person of any Subsidiary Guarantor or any successor Person thereof. Each Holder, by accepting such Notes waives and releases all such liability.

Each Holder of a Note by accepting a Note agrees that any Subsidiary Guarantor named below shall have no further liability with respect to its Subsidiary Guarantee if such Subsidiary Guarantor otherwise ceases to be liable in respect of its Subsidiary Guarantee in accordance with the terms of the Indenture. The Obligations of each Guarantor under its Subsidiary Guarantee shall be limited to the extent necessary to insure that it does not constitute a fraudulent conveyance under applicable law.

The Subsidiary Guarantee shall not be valid or obligatory for any purpose until the certificate of authentication on the Notes upon which the Subsidiary Guarantee is noted shall have been executed by the Trustee under the Indenture by the manual signature of one of its authorized officers.

APRIL CORPORATION
BEAZER ALLIED COMPANIES HOLDINGS, INC.
BEAZER GENERAL SERVICES, INC.
BEAZER HOMES CORP.
BEAZER HOMES HOLDINGS CORP.
BEAZER HOMES INDIANA HOLDINGS CORP.
BEAZER HOMES SALES, INC.
BEAZER HOMES TEXAS HOLDINGS, INC.
BEAZER REALTY CORP.
BEAZER REALTY, INC.
BEAZER REALTY LOS ANGELES, INC.
BEAZER REALTY SACRAMENTO, INC.
BEAZER/SQUIRES REALTY, INC.
HOMEBUILDERS TITLE SERVICES OF VIRGINIA, INC.
HOMEBUILDERS TITLE SERVICES, INC.

By: _____
Name:
Title:

BEAZER MORTGAGE CORPORATION

By: _____
Name:
Title:

BEAZER HOMES INDIANA LLP

By: BEAZER HOMES INVESTMENTS, LLC,
its Managing Partner

By: BEAZER HOMES CORP.,
its Sole Member

By: _____
Name:
Title:

ARDEN PARK VENTURES, LLC
BEAZER CLARKSBURG, LLC
BEAZER COMMERCIAL HOLDINGS, LLC
DOVE BARRINGTON DEVELOPMENT LLC
BEAZER HOMES INVESTMENTS, LLC
BEAZER HOMES MICHIGAN, LLC
ELYSIAN HEIGHTS POTOMIA, LLC

By: BEAZER HOMES CORP.,
its Sole Member

By: _____
Name:
Title:

BEAZER HOMES TEXAS, L.P.

By: BEAZER HOMES TEXAS HOLDINGS, INC.,
its General Partner

By: _____
Name:
Title:

BEAZER REALTY SERVICES, LLC

By: BEAZER HOMES INVESTMENTS, LLC,
its Sole Member

By: BEAZER HOMES CORP.,
its Sole Member

By: _____
Name:
Title:

BEAZER SPE, LLC

By: BEAZER HOMES HOLDINGS CORP.,
its Sole Member

By: _____
Name:
Title:

BH BUILDING PRODUCTS, LP

By: BH PROCUREMENT SERVICES, LLC,
its General Partner

By: BEAZER HOMES TEXAS, L.P.,
its Sole Member

By: BEAZER HOMES TEXAS HOLDINGS, INC.,
its General Partner

By: _____
Name:
Title:

BH PROCUREMENT SERVICES, LLC

By: BEAZER HOMES TEXAS, L.P.,
its Sole Member

By: BEAZER HOMES TEXAS HOLDINGS, INC.,
its General Partner

By: _____
Name:
Title:

PARAGON TITLE, LLC

By: BEAZER HOMES INVESTMENTS, LLC,
its Sole Member and Manager

By: BEAZER HOMES CORP.,
its Sole Member

By: _____
Name:
Title:

TRINITY HOMES, LLC

By: BEAZER HOMES INVESTMENTS, LLC,
its Member

By: BEAZER HOMES CORP.,
its Sole Member

By: _____
Name:
Title:

CLARKSBURG ARORA LLC

By: BEAZER CLARKSBURG, LLC,
its Sole Member

By: BEAZER HOMES CORP.,
its Sole Member

By: _____
Name:
Title:

CLARKSBURG SKYLARK, LLC

By: CLARKSBURG ARORA LLC,
its Sole Member

By: BEAZER CLARKSBURG, LLC,
its Sole Member

By: BEAZER HOMES CORP.,
its Sole Member

By: _____
Name:
Title:

EXHIBIT B

FORM OF CERTIFICATE OF TRANSFER

Beazer Homes USA Inc.
1000 Abernathy Road, Suite 1200
Atlanta, Georgia 30328
Fax No.: (770) 481-2808
Attention: Kenneth F. Khoury

U.S. Bank National Association
Corporate Trust Services
1349 West Peachtree Street NW
Suite 1050
Atlanta, Georgia 30309
Fax No.: (404) 898-8844
Attention: Beazer 9.125% Senior Notes due 2019

Re: 9.125% Senior Notes due 2019

Reference is hereby made to the Indenture, dated as of dated as of April 17, 2002 (as amended, modified or supplemented from time to time prior to the date of the Supplemental Indenture (as defined below) in accordance therewith, the "Base Indenture"), as amended by the Fourteenth Supplemental Indenture thereto, dated as of November 12, 2010 (the "Supplemental Indenture" and, together with the Base Indenture, the "Indenture"), each by and among Beazer Homes USA Inc., the Subsidiary Guarantors named therein and the Trustee. Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

_____ (the "Transferor") owns and proposes to transfer the Note[s] or interest in such Note[s] specified in Annex A hereto, in the principal amount of $__ in such Note[s] or interests (the "Transfer"), to _____ (the "Transferee"), as further specified in Annex A hereto. In connection with the Transfer, the Transferor hereby certifies that:

[CHECK ALL THAT APPLY]

1. [ ] CHECK IF TRANSFEREE WILL TAKE DELIVERY OF A BENEFICIAL INTEREST IN THE 144A GLOBAL NOTE OR A DEFINITIVE NOTE PURSUANT TO RULE 144A. The Transfer is being effected pursuant to and in accordance with Rule 144A under the United States Securities Act of 1933, as amended (the "Securities Act"), and, accordingly, the Transferor hereby further certifies that the beneficial interest or Definitive Note is being transferred to a Person that the Transferor reasonably believes is purchasing the beneficial interest or Definitive Note for its own account, or for one or more accounts with respect to which such Person exercises sole investment discretion, and such Person and each such account is a "qualified institutional buyer" within the meaning of Rule 144A in a

transaction meeting the requirements of Rule 144A and such Transfer is in compliance with any applicable blue sky securities laws of any state of the United States.

2. [ ] CHECK IF TRANSFEREE WILL TAKE DELIVERY OF A BENEFICIAL INTEREST IN THE REGULATION S GLOBAL NOTE OR A DEFINITIVE NOTE PURSUANT TO REGULATION S. The Transfer is being effected pursuant to and in accordance with Rule 903 or Rule 904 under the Securities Act and, accordingly, the Transferor hereby further certifies that (i) the Transfer is not being made to a person in the United States and (x) at the time the buy order was originated, the Transferee was outside the United States or such Transferor and any Person acting on its behalf reasonably believed and believes that the Transferee was outside the United States or (y) the transaction was executed in, on or through the facilities of a designated offshore securities market and neither such Transferor nor any Person acting on its behalf knows that the transaction was prearranged with a buyer in the United States, (ii) no directed selling efforts have been made in contravention of the requirements of Rule 903(b) or Rule 904(b) of Regulation S under the Securities Act, (iii) the transaction is not part of a plan or scheme to evade the registration requirements of the Securities Act and (iv) if the proposed transfer is being made prior to the expiration of the Restricted Period, the transfer is not being made to a U.S. Person or for the account or benefit of a U.S. Person (other than an Initial Purchaser). Upon consummation of the proposed transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will be subject to the restrictions on Transfer enumerated in the Indenture and the Securities Act.

3. [ ] CHECK AND COMPLETE IF TRANSFEREE WILL TAKE DELIVERY OF A BENEFICIAL INTEREST IN THE DEFINITIVE NOTE PURSUANT TO ANY PROVISION OF THE SECURITIES ACT OTHER THAN RULE 144A OR REGULATION S. The Transfer is being effected in compliance with the transfer restrictions applicable to beneficial interests in Restricted Global Notes and Restricted Definitive Notes and pursuant to and in accordance with the Securities Act and any applicable blue sky securities laws of any state of the United States, and accordingly the Transferor hereby further certifies that (check one):

(a) [ ] such Transfer is being effected pursuant to and in accordance with Rule 144 under the Securities Act;

or

(b) [ ] such Transfer is being effected to the Company or a subsidiary thereof;

or

(c) [ ] such Transfer is being effected pursuant to an effective registration statement under the Securities Act and in compliance with the prospectus delivery requirements of the Securities Act.

4. [ ] CHECK IF TRANSFEREE WILL TAKE DELIVERY OF A BENEFICIAL INTEREST IN AN UNRESTRICTED GLOBAL NOTE OR OF AN UNRESTRICTED DEFINITIVE NOTE.

(a) [ ] CHECK IF TRANSFER IS PURSUANT TO RULE 144. (i) The Transfer is being effected pursuant to and in accordance with Rule 144 under the Securities Act and in compliance with the transfer restrictions contained in the Indenture and any applicable blue sky securities laws of any state of the United States and (ii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will no longer be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Global Notes, on Restricted Definitive Notes and in the Indenture.

(b) [ ] CHECK IF TRANSFER IS PURSUANT TO REGULATION S. (i) The Transfer is being effected pursuant to and in accordance with Rule 903 or Rule 904 under the Securities Act and in compliance with the transfer restrictions contained in the Indenture and any applicable blue sky securities laws of any state of the United States and (ii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will no longer be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Global Notes, on Restricted Definitive Notes and in the Indenture.

(c) [ ] CHECK IF TRANSFER IS PURSUANT TO OTHER EXEMPTION. (i) The Transfer is being effected pursuant to and in compliance with an exemption from the registration requirements of the Securities Act other than Rule 144, Rule 903 or Rule 904 and in compliance with the transfer restrictions contained in the Indenture and any applicable blue sky securities laws of any State of the United States and (ii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will not be subject to the restrictions on transfer enumerated in the Private Placement

Legend printed on the Restricted Global Notes or Restricted Definitive Notes and in the Indenture.

This certificate and the statements contained herein are made for your benefit and the benefit of the Company.

[Insert Name of Transferor]

By: _____
Name:
Title:

Dated: _____

1. The Transferor owns and proposes to transfer the following:

[CHECK ONE OF (a) OR (b)]

(a) [ ] a beneficial interest in the:

(i) [ ] 144A Global Note (CUSIP 07556Q AX3), or

(ii) [ ] Regulation S Global Note (CUSIP U0758T AG2), or

(b) [ ] a Restricted Definitive Note.

2. After the Transfer the Transferee will hold:

[CHECK ONE]

(a) [ ] a beneficial interest in the:

(i) [ ] 144A Global Note (CUSIP 07556Q AX3), or

(ii) [ ] Regulation S Global Note (CUSIP U0758T AG2), or

(iii) [ ] Unrestricted Global Note (CUSIP 07556Q AY1); or

(b) [ ] a Restricted Definitive Note; or

(c) [ ] an Unrestricted Definitive Note, in accordance with the terms of the Indenture.

EXHIBIT C

FORM OF CERTIFICATE OF EXCHANGE

Beazer Homes USA Inc.
1000 Abernathy Road, Suite 1200
Atlanta, Georgia 30328
Fax No.: (770) 481-2808
Attention: Kenneth F. Khoury

U.S. Bank National Association
Corporate Trust Services
1349 West Peachtree Street NW
Suite 1050
Atlanta, Georgia 30309
Fax No.: (404) 898-8844
Attention: Beazer 9.125% Senior Notes due 2019

Re: 9.125% Senior Notes due 2019

Reference is hereby made to the Indenture, dated as of dated as of April 17, 2002 (as amended, modified or supplemented from time to time prior to the date of the Supplemental Indenture (as defined below) in accordance therewith, the "Base Indenture"), as amended by the Fourteenth Supplemental Indenture thereto, dated as of November 12, 2010 (the "Supplemental Indenture" and, together with the Base Indenture, the "Indenture"), each by and among Beazer Homes USA Inc., the Subsidiary Guarantors named therein and the Trustee. Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

_____ (the "Owner") owns and proposes to exchange the Note[s] or interest in such Note[s] specified herein, in the principal amount of $__ in such Note[s] or interests (the "Exchange"). In connection with the Exchange, the Owner hereby certifies that:

1) EXCHANGE OF RESTRICTED DEFINITIVE NOTES OR BENEFICIAL INTERESTS IN A RESTRICTED GLOBAL NOTE FOR UNRESTRICTED DEFINITIVE NOTES OR BENEFICIAL INTERESTS IN AN UNRESTRICTED GLOBAL NOTE

a) [ ] CHECK IF EXCHANGE IS FROM BENEFICIAL INTEREST IN A RESTRICTED GLOBAL NOTE TO BENEFICIAL INTEREST IN AN UNRESTRICTED GLOBAL NOTE. In connection with the Exchange of the Owner's beneficial interest in a Restricted Global Note for a beneficial interest in an Unrestricted Global Note in an equal principal amount, the Owner hereby certifies (i) the beneficial interest is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to the Global Notes and pursuant to and in accordance with the United States Securities Act of 1933, as amended (the

"Securities Act"), (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the beneficial interest in an Unrestricted Global Note is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

b) [ ] CHECK IF EXCHANGE IS FROM BENEFICIAL INTEREST IN A RESTRICTED GLOBAL NOTE TO UNRESTRICTED DEFINITIVE NOTE. In connection with the Exchange of the Owner's beneficial interest in a Restricted Global Note for an Unrestricted Definitive Note, the Owner hereby certifies (i) the Definitive Note is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to the Restricted Global Notes and pursuant to and in accordance with the Securities Act, (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the Definitive Note is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

c) [ ] CHECK IF EXCHANGE IS FROM RESTRICTED DEFINITIVE NOTE TO BENEFICIAL INTEREST IN AN UNRESTRICTED GLOBAL NOTE. In connection with the Owner's Exchange of a Restricted Definitive Note for a beneficial interest in an Unrestricted Global Note, the Owner hereby certifies (i) the beneficial interest is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to Restricted Definitive Notes and pursuant to and in accordance with the Securities Act, (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the beneficial interest is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

d) [ ] CHECK IF EXCHANGE IS FROM RESTRICTED DEFINITIVE NOTE TO UNRESTRICTED DEFINITIVE NOTE. In connection with the Owner's Exchange of a Restricted Definitive Note for an Unrestricted Definitive Note, the Owner hereby certifies (i) the Unrestricted Definitive Note is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to Restricted Definitive Notes and pursuant to and in accordance with the Securities Act, (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the Unrestricted Definitive Note is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

2) EXCHANGE OF RESTRICTED DEFINITIVE NOTES OR BENEFICIAL INTERESTS IN RESTRICTED GLOBAL NOTES FOR RESTRICTED DEFINITIVE NOTES OR BENEFICIAL INTERESTS IN RESTRICTED GLOBAL NOTES

a) [ ] CHECK IF EXCHANGE IS FROM BENEFICIAL INTEREST IN A RESTRICTED GLOBAL NOTE TO RESTRICTED DEFINITIVE NOTE. In connection with the Exchange of the Owner's beneficial interest in a Restricted Global Note for a Restricted Definitive Note with an equal principal amount, the Owner hereby certifies that the Restricted Definitive Note is being acquired for the Owner's own account without transfer. Upon consummation of the proposed Exchange in accordance with the terms of the Indenture, the Restricted Definitive Note issued will continue to be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Definitive Note and in the Indenture and the Securities Act.

b) [ ] CHECK IF EXCHANGE IS FROM RESTRICTED DEFINITIVE NOTE TO BENEFICIAL INTEREST IN A RESTRICTED GLOBAL NOTE. In connection with the Exchange of the Owner's Restricted Definitive Note for a beneficial interest in the [CHECK ONE] [ ] 144A Global Note [ ] Regulation S Global Note, with an equal principal amount, the Owner hereby certifies (i) the beneficial interest is being acquired for the Owner's own account without transfer and (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to the Restricted Global Notes and pursuant to and in accordance with the Securities Act, and in compliance with any applicable blue sky securities laws of any state of the United States. Upon consummation of the proposed Exchange in accordance with the terms of the Indenture, the beneficial interest issued will be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the relevant Restricted Global Note and in the Indenture and the Securities Act.

This certificate and the statements contained herein are made for your benefit and the benefit of the Company and are dated _____.

[Insert Name of Transferor]

By: _____
Name:
Title:

Dated: _____

Exhibit 4.2

Execution Version

REGISTRATION RIGHTS AGREEMENT

Dated as of November 12, 2010

By and Among

BEAZER HOMES USA, INC.,

as Issuer,

the GUARANTORS named herein

and

CITIGROUP GLOBAL MARKETS INC. AND DEUTSCHE BANK SECURITIES INC.,
as Representatives of the Initial Purchasers

9.125% Senior Notes due 2019

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REGISTRATION RIGHTS AGREEMENT

This Registration Rights Agreement (this "Agreement") is dated as of November 12, 2010, by and among Beazer Homes USA, Inc., a Delaware corporation (the "Company"), and each of the Guarantors (as defined herein) (the Company and the Guarantors are referred to collectively herein as the "Issuers"), on the one hand, and Citigroup Global Markets Inc. and Deutsche Bank Securities Inc., for themselves and as representatives (the "Representatives") of the Initial Purchasers (as defined herein), on the other hand.

This Agreement is entered into in connection with the Purchase Agreement, dated as of November 12, 2010, by and among the Issuers and the Representatives (the "Purchase Agreement"), relating to the offering and sale of $250,000,000 aggregate principal amount of the Company's 9.125% Senior Notes due 2019 (including the guarantees thereof by the Guarantors, the "Notes") to the Initial Purchasers. The execution and delivery of this Agreement is a condition to the Initial Purchasers' obligations to purchase the Notes under the Purchase Agreement.

The parties hereby agree as follows:

Section 1. Definitions

As used in this Agreement, the following terms shall have the following meanings:

"action" shall have the meaning set forth in Section 7(c) hereof.

"Additional Interest" shall have the meaning set forth in Section 4(a) hereof.

"Advice" shall have the meaning set forth in Section 5 hereof.

"Agreement" shall have the meaning set forth in the first introductory paragraph hereto.

"Applicable Period" shall have the meaning set forth in Section 2(b) hereof.

"Board of Directors" shall have the meaning set forth in Section 5 hereof.

"Business Day" shall mean a day that is not a Legal Holiday.

"Commission" shall mean the Securities and Exchange Commission.

"Company" shall have the meaning set forth in the introductory paragraph hereto and shall also include the Company's permitted successors and assigns.

"day" shall mean a calendar day.

"Delay Period" shall have the meaning set forth in Section 5 hereof.

"Effectiveness Period" shall have the meaning set forth in the second paragraph of Section 3(a) hereof.

"Event Date" shall have the meaning set forth in Section 4(b) hereof.

"Exchange Act" shall mean the Securities Exchange Act of 1934, as amended, and the rules and regulations of the Commission promulgated thereunder.

"Exchange Notes" shall have the meaning set forth in Section 2(a) hereof.

"Exchange Offer" shall have the meaning set forth in Section 2(a) hereof.

"Exchange Offer Registration Statement" shall have the meaning set forth in Section 2(a) hereof.

"FINRA" shall have the meaning set forth in Section 5(u) hereof.

"Guarantors" means each of the Persons executing this Agreement on the date hereof listed on Schedule I and each Person who executes and delivers a counterpart of this Agreement hereafter pursuant to Section 10(e) hereof.

"Holder" shall mean any holder of a Registrable Note or Registrable Notes.

"Indenture" shall mean the Indenture, dated as of April 17, 2002, as amended by the Fourteenth Supplemental Indenture, dated as of November 12, 2010, as subsequently amended or supplemented from time to time in accordance with the terms thereof, by and among the Company, the Guarantors and U.S. Bank National Association, as trustee.

"Initial Purchasers" shall mean Citigroup Global Markets Inc. and Deutsche Bank Securities Inc.

"Initial Shelf Registration Statement" shall have the meaning set forth in Section 3(a) hereof.

"Inspectors" shall have the meaning set forth in Section 5(p) hereof.

"Issue Date" shall mean November 12, 2010, the date of original issuance of the Notes.

"Issuers" shall have the meaning set forth in the introductory paragraph hereto.

"Legal Holiday" shall mean a Saturday, a Sunday or a day on which banking institutions in New York, New York are authorized or required by law, regulation or executive order to remain closed.

"Liquidated Damages" shall have the meaning set forth in Section 4(a) hereof.

"Losses" shall have the meaning set forth in Section 7(a) hereof.

"Notes" shall have the meaning set forth in the second introductory paragraph hereto.

"Participant" shall have the meaning set forth in Section 7(a) hereof.

"Participating Broker-Dealer" shall have the meaning set forth in Section 2(b) hereof.

"Person" shall mean an individual, corporation, partnership, joint venture association, joint stock company, trust, unincorporated limited liability company, government or any agency or political subdivision thereof or any other entity.

"Private Exchange" shall have the meaning set forth in Section 2(b) hereof.

"Private Exchange Notes" shall have the meaning set forth in Section 2(b) hereof.

"Prospectus" shall mean the prospectus included in any Registration Statement (including, without limitation, any prospectus subject to completion and a prospectus that includes any information previously omitted from a prospectus filed as part of an

effective registration statement in reliance upon Rule 430A promulgated under the Securities Act), as amended or supplemented by any prospectus supplement, and all other amendments and supplements to the Prospectus, including post-effective amendments, and all exhibits thereto and material incorporated by reference or deemed to be incorporated by reference in such Prospectus.

"Purchase Agreement" shall have the meaning set forth in the second introductory paragraph hereof.

"Records" shall have the meaning set forth in Section 5(r) hereof.

"Registrable Notes" shall mean each Note upon its original issuance and at all times subsequent thereto, each Exchange Note as to which Section 2(c)(iv) hereof is applicable upon original issuance and at all times subsequent thereto and each Private Exchange Note upon original issuance thereof and at all times subsequent thereto, in each case until (i) a Registration Statement (other than, with respect to any Exchange Note as to which Section 2(c)(iv) hereof is applicable, the Exchange Offer Registration Statement) covering such Note, Exchange Note or Private Exchange Note has been declared effective by the Commission and such Note, Exchange Note or such Private Exchange Note, as the case may be, has been disposed of in accordance with such effective Registration Statement, (ii) such Note has been exchanged pursuant to the Exchange Offer for an Exchange Note or Exchange Notes that may be resold without restriction under state and federal securities laws, (iii) such Note, Exchange Note or Private Exchange Note, as the case may be, ceases to be outstanding for purposes of the Indenture or (iv) such Note, Exchange Note or Private Exchange Note has been sold in compliance with Rule 144.

"Registration Default" shall have the meaning set forth in Section 4(a) hereof.

"Registration Statement" shall mean any appropriate registration statement of the Issuers covering any of the Registrable Notes filed with the Commission under the Securities Act, and all amendments and supplements to any such Registration Statement, including post-effective amendments, in each case including the Prospectus contained therein, all exhibits thereto and all material incorporated by reference therein.

"Requesting Participating Broker-Dealer" shall have the meaning set forth in Section 2(b) hereof.

"Rule 144" shall mean Rule 144 promulgated under the Securities Act, as such Rule may be amended from time to time, or any similar rule (other than Rule 144A) or regulation hereafter adopted by the Commission providing for offers and sales of securities made in compliance therewith resulting in offers and sales by subsequent holders that are not affiliates of an issuer of such securities being free of the registration and prospectus delivery requirements of the Securities Act.

"Rule 144A" shall mean Rule 144A promulgated under the Securities Act, as such Rule may be amended from time to time, or any similar rule (other than Rule 144) or regulation hereafter adopted by the Commission.

"Rule 415" shall mean Rule 415 promulgated under the Securities Act, as such Rule may be amended from time to time, or any similar rule or regulation hereafter adopted by the Commission.

"Securities Act" shall mean the Securities Act of 1933, as amended, and the rules and regulations of the Commission promulgated thereunder.

"Shelf Filing Event" shall have the meaning set forth in Section 2(c) hereof.

"Shelf Registration Statement" shall have the meaning set forth in Section 3(b) hereof.

"Subsequent Shelf Registration Statement" shall have the meaning set forth in Section 3(b) hereof.

"TIA" shall mean the Trust Indenture Act of 1939, as amended, and the rules and regulations of the Commission promulgated thereunder.

"Trustee" shall mean the trustee under the Indenture and the trustee (if any) under any indenture governing the Exchange Notes and Private Exchange Notes.

"underwritten registration or underwritten offering" shall mean a registration in which securities of the Company are sold to an underwriter for reoffering to the public.

Section 2. Exchange Offer

(a) Unless the Exchange Offer would violate applicable law or any applicable interpretation of the staff of the Commission, the Issuers shall (i) file a Registration Statement (the "Exchange Offer Registration Statement") with the Commission on an appropriate registration form with respect to a registered offer (the "Exchange Offer") to exchange any and all of the Registrable Notes for a like aggregate principal amount of notes (including the guarantees with respect thereto, the "Exchange Notes") that are identical in all material respects to the Notes (except that the Exchange Notes shall not contain terms with respect to transfer restrictions or Liquidated Damages upon a Registration Default), (ii) use their commercially reasonable efforts to cause the Exchange Offer Registration Statement to be declared effective under the Securities Act and (iii) use their commercially reasonable efforts to consummate the Exchange Offer within 180 days after the Issue Date. Upon the Exchange Offer Registration Statement being declared effective by the Commission, the Company will offer the Exchange Notes in exchange for surrender of the Notes. The Company shall keep the Exchange Offer open for not less than 20 Business Days (or longer if required by applicable law) after the date notice of the Exchange Offer is mailed to Holders.

Each Holder that participates in the Exchange Offer will be required to represent to the Company in writing that (i) any Exchange Notes to be received by it will be acquired in the ordinary course of its business, (ii) it has no arrangement or understanding with any Person to participate in the distribution (within the meaning of the Securities Act) of the Exchange Notes in violation of the provisions of the Securities Act, (iii) it is not an affiliate (as defined in Rule 405 under the Securities Act) of any Issuer or, if it is an affiliate, it will comply with the registration and prospectus delivery requirements of the Securities Act to the extent applicable, (iv) if such Holder is not a broker-dealer, it is not engaged in, and does not intend to engage in, a distribution of Exchange Notes and (v) if such Holder is a broker-dealer that will receive Exchange Notes for its own account in exchange for Notes that were acquired as a result of market-making or other trading

activities, it will deliver a prospectus in connection with any re-sale of such Exchange Notes.

(b) The Company and the Initial Purchasers acknowledge that the staff of the Commission has taken the position that any broker-dealer that elects to exchange Notes that were acquired by such broker-dealer for its own account as a result of market-making or other trading activities for Exchange Notes in the Exchange Offer (a "Participating Broker-Dealer") may be deemed to be an "underwriter" within the meaning of the Securities Act and must deliver a prospectus meeting the requirements of the Securities Act in connection with any resale of such Exchange Notes (other than a resale of an unsold allotment resulting from the original offering of the Notes).

The Company and the Initial Purchasers also acknowledge that the staff of the Commission has taken the position that if the Prospectus contained in the Exchange Offer Registration Statement includes a plan of distribution containing a statement to the above effect and the means by which Participating Broker-Dealers may resell the Exchange Notes, without naming the Participating Broker-Dealers or specifying the amount of Exchange Notes owned by them, such Prospectus may be delivered by Participating Broker-Dealers to satisfy their prospectus delivery obligations under the Securities Act in connection with resales of Exchange Notes for their own accounts, so long as the Prospectus otherwise meets the requirements of the Securities Act.

In light of the foregoing, if requested by a Participating Broker-Dealer (a "Requesting Participating Broker-Dealer"), the Issuers agree to use their reasonable best efforts to keep the Exchange Offer Registration Statement continuously effective for a period of up to 210 days after the date on which the Exchange Registration Statement is declared effective, or such longer period if extended pursuant to the penultimate paragraph of Section 5 hereof (such period, the "Applicable Period"), or such earlier date as all Requesting Participating Broker-Dealers shall have notified the Company in writing that such Requesting Participating Broker-Dealers have resold all Exchange Notes acquired in the Exchange Offer. The Company shall include a plan of distribution in such Exchange Offer Registration Statement that meets the requirements set forth in the preceding paragraph.

If, prior to consummation of the Exchange Offer, any Holder holds any Notes acquired by it that have, or that are reasonably likely to be determined to have, the status of an unsold allotment in an initial distribution, or if any Holder is not entitled to participate in the Exchange Offer, the Company upon the request of any such Holder shall simultaneously with the delivery of the Exchange Notes in the Exchange Offer, issue and deliver to any such Holder, in exchange (the "Private Exchange") for such Notes held by any such Holder, a like principal amount of notes (the "Private Exchange Notes") of the Company that are identical in all material respects to the Exchange Notes. The Private Exchange Notes shall be issued pursuant to the same indenture as the Exchange Notes and bear the same CUSIP number as the Exchange Notes.

In connection with the Exchange Offer, the Company shall:

(1) mail or cause to be mailed to each Holder entitled to participate in the Exchange Offer a copy of the Prospectus forming part of the Exchange Offer

Registration Statement, together with an appropriate letter of transmittal and related documents;

(2) utilize the services of a depositary for the Exchange Offer with an address in the Borough of Manhattan, The City of New York;

(3) permit Holders to withdraw tendered Notes at any time prior to 5:00 p.m., New York time, on the last Business Day on which the Exchange Offer shall remain open; and

(4) otherwise comply in all material respects with all applicable laws, rules and regulations.

As soon as practicable after the close of the Exchange Offer and the Private Exchange, if any, the Company shall:

(1) accept for exchange all Notes validly tendered and not validly withdrawn pursuant to the Exchange Offer and the Private Exchange;

(2) deliver or cause to be delivered to the Trustee for cancellation in accordance with Section 5(t) all Notes so accepted for exchange; and

(3) cause the Trustee to authenticate and deliver promptly to each Holder of Notes, Exchange Notes or Private Exchange Notes, as the case may be, equal in principal amount to the Notes of such Holder so accepted for exchange.

The Exchange Offer and the Private Exchange shall not be subject to any conditions, other than that (i) the Exchange Offer or Private Exchange, as the case may be, does not violate applicable law or any applicable interpretation of the staff of the Commission, (ii) no action or proceeding shall have been instituted or threatened in any court or by any governmental agency which might materially impair the ability of the Issuers to proceed with the Exchange Offer or the Private Exchange, and no material adverse development shall have occurred in any existing action or proceeding with respect to the Issuers and (iii) all governmental approvals shall have been obtained, which approvals the Issuers (based upon advice of counsel) deem necessary for the consummation of the Exchange Offer or Private Exchange.

The Exchange Notes and the Private Exchange Notes shall be issued under (i) the Indenture or (ii) an indenture identical in all material respects to the Indenture (in either case, with such changes as are necessary to comply with any requirements of the Commission to effect or maintain the qualification thereof under the TIA) and which, in either case, has been qualified under the TIA and shall provide that the Exchange Notes shall not be subject to the transfer restrictions set forth in the Indenture. The Indenture or such indenture shall provide that the Exchange Notes, the Private Exchange Notes and the Notes shall vote and consent together on all matters as one class and that none of the Exchange Notes, the Private Exchange Notes or the Notes will have the right to vote or consent as a separate class on any matter.

(c) In the event that (i) any changes in law or the applicable interpretations of the staff of the Commission do not permit the Issuers to effect the Exchange Offer, (ii) for any reason the Exchange Offer is not consummated within 180 days of the Issue Date, (iii) any Holder (other than the Initial Purchasers) is prohibited by law or the

applicable interpretations of the staff of the Commission or is otherwise ineligible from participating in the Exchange Offer, (iv) in the case of any Holder that participates in the Exchange Offer, such Holder does not receive Exchange Notes on the date of the exchange that may be sold without restriction under state and federal securities laws (other than due solely to the status of such holder as an affiliate of any Issuer), (v) the Initial Purchasers so request with respect to Notes that have, or that are reasonably likely to be determined to have, the status of unsold allotments in an initial distribution or (vi) any Holder of Private Exchange Notes so requests (each such event referred to in clauses (i) through (vi) of this sentence, a "Shelf Filing Event"), then the Issuers shall file a Shelf Registration Statement pursuant to Section 3 hereof.

Section 3. Shelf Registration

If at any time a Shelf Filing Event shall occur, then:

(a) Shelf Registration. The Issuers shall file with the Commission a Registration Statement for an offering to be made on a continuous basis pursuant to Rule 415 (the "Initial Shelf Registration Statement") covering all of the Registrable Notes. The Issuers shall file with the Commission the Initial Shelf Registration Statement as promptly as practicable and in any event on or prior to the 45th day after such Shelf Filing Event occurs. The Initial Shelf Registration Statement shall be on Form S-3 or another appropriate form permitting registration of such Registrable Notes for resale by Holders in the manner or manners designated by them (including, without limitation, in one or more underwritten offerings). The Company shall not permit any securities other than the Registrable Notes to be included in the Initial Shelf Registration Statement or in any Subsequent Shelf Registration Statement (as defined below).

The Issuers shall (x) use their commercially reasonable efforts to cause the Initial Shelf Registration Statement to be declared effective under the Securities Act on or prior to the 90th day after such Shelf Filing Event occurs (but in no event shall such effectiveness be required prior to 180 days following the Issue Date) and (y) use their commercially reasonable efforts to keep the Initial Shelf Registration Statement continuously effective under the Securities Act for the period ending on the date which is two years from the date it becomes effective (or one year if the Initial Shelf Registration Statement is filed at the request of the Initial Purchasers), subject to extension pursuant to the penultimate paragraph of Section 5 hereof (the "Effectiveness Period"), or such shorter period ending when (i) all Registrable Notes covered by the Initial Shelf Registration Statement have been sold in the manner set forth and as contemplated in the Initial Shelf Registration Statement or (ii) a Subsequent Shelf Registration Statement covering all of the Registrable Notes covered by and not sold under the Initial Shelf Registration Statement or an earlier Subsequent Shelf Registration Statement has been declared effective under the Securities Act; provided, however, that (i) the Effectiveness Period in respect of the Initial Shelf Registration Statement shall be extended to the extent required to permit dealers to comply with the applicable prospectus delivery requirements of Rule 174 under the Securities Act and as otherwise provided herein and (ii) the Company may suspend the effectiveness of the Initial Shelf Registration Statement by written notice to the Holders solely as a result of the filing of a post-effective amendment to the Initial Shelf Registration Statement to incorporate annual audited financial information with respect to the Company where such post-effective

amendment is not yet effective and needs to be declared effective to permit holders to use the related Prospectus.

(b) Subsequent Shelf Registration Statements. If the Initial Shelf Registration Statement or any Subsequent Shelf Registration Statement ceases to be effective for any reason at any time during the Effectiveness Period (other than because of the sale of all of the securities registered thereunder), the Issuers shall use their respective reasonable best efforts to obtain the prompt withdrawal of any order suspending the effectiveness thereof, and in any event shall as soon as practicable after such cessation amend the Initial Shelf Registration Statement or such Subsequent Shelf Registration Statement, as the case may be, in a manner to obtain the withdrawal of the order suspending the effectiveness thereof, or file an additional Registration Statement for an offering to be made on a continuous basis pursuant to Rule 415 covering all of the Registrable Notes covered by and not sold under the Initial Shelf Registration Statement or such earlier Subsequent Shelf Registration Statement (each, a "Subsequent Shelf Registration Statement"). If a Subsequent Shelf Registration Statement is filed, the Issuers shall use their commercially reasonable efforts to cause the Subsequent Shelf Registration Statement to be declared effective under the Securities Act as soon as practicable after such filing and to keep such Subsequent Shelf Registration Statement continuously effective for a period equal to the number of days in the Effectiveness Period less the aggregate number of days during which the Initial Shelf Registration Statement and any Subsequent Shelf Registration Statement were previously continuously effective. As used herein, the term "Shelf Registration Statement" includes the Initial Shelf Registration Statement and any Subsequent Shelf Registration Statement.

(c) Supplements and Amendments. The Issuers agree to supplement or make amendments to the Shelf Registration Statement as and when required by the rules, regulations or instructions applicable to the registration form used for such Shelf Registration Statement or by the Securities Act for a shelf registration, or if reasonably requested by the Holders of a majority in aggregate principal amount of the Registrable Notes covered by such Registration Statement or by any underwriter of such Registrable Notes.

Section 4. Liquidated Damages

(a) The Issuers and the Initial Purchasers agree that the Holders will suffer damages if the Issuers fail to fulfill their obligations under Section 2 or Section 3 hereof and that it would not be feasible to ascertain the extent of such damages with precision. Accordingly, the Issuers agree that if:

(i) the Exchange Offer is not consummated on or prior to the 180th day following the Issue Date, or, if that day is not a Business Day, then the next succeeding day that is a Business Day, or

(ii) the Shelf Registration Statement is required to be filed but is not filed or declared effective within the time periods set forth herein or is declared effective but thereafter ceases to be effective or usable prior to the expiration of the Effectiveness Period, except if the Shelf Registration Statement ceases to be effective or usable as specifically permitted by the penultimate paragraph of Section 5 hereof,

(each such event referred to in clauses (i) and (ii), a "Registration Default"), liquidated damages in the form of additional cash interest ("Liquidated Damages") will accrue on the affected Notes and the affected Exchange Notes, as applicable. The rate of Liquidated Damages will be 0.25% per annum for the first 90-day period immediately following the occurrence of a Registration Default, increasing by an additional 0.25% per annum with respect to each subsequent 90-day period up to a maximum amount of additional interest of 1.0% per annum ("Additional Interest"), from and including the date on which any such Registration Default shall occur to, but excluding, the earlier of (1) the date on which all Registration Defaults have been cured or (2) the date on which all the Notes and Exchange Notes otherwise become freely transferable by Holders other than affiliates of the Issuer without further registration under the Securities Act.

Notwithstanding the foregoing, (1) the amount of Liquidated Damages payable shall not increase because more than one Registration Default has occurred and is pending and (2) a Holder of Notes or Exchange Notes who is not entitled to the benefits of the Shelf Registration Statement (i.e., such Holder has not elected to include information) shall not be entitled to Liquidated Damages with respect to a Registration Default that pertains to the Shelf Registration Statement.

(b) The Company shall notify the Trustee within one Business Day after each and every date on which an event occurs in respect of which Liquidated Damages are required to be paid (an "Event Date"). Any amounts of Liquidated Damages due pursuant to this Section 4 will be payable in addition to any other interest payable from time to time with respect to the Registrable Notes in cash semi-annually on the Interest Payment Dates specified in the Indenture (to the holders of record as specified in the Indenture), commencing with the first such interest payment date occurring after any such Liquidated Damages commence to accrue. The amount of Liquidated Damages will be determined in a manner consistent with the calculation of interest under the Indenture.

Section 5. Registration Procedures

In connection with the filing of any Registration Statement pursuant to Section 2 or 3 hereof, the Issuers shall effect such registrations to permit the sale of the securities covered thereby in accordance with the intended method or methods of disposition thereof, and pursuant thereto and in connection with any Registration Statement filed by the Issuers hereunder, the Issuers shall:

(a) Prepare and file with the Commission the Registration Statement or Registration Statements prescribed by Section 2 or 3 hereof, and use their commercially reasonable efforts to cause each such Registration Statement to become effective and remain effective as provided herein; provided that if (1) such filing is pursuant to Section 3 hereof, or (2) a Prospectus contained in the Exchange Offer Registration Statement filed pursuant to Section 2 hereof is required to be delivered under the Securities Act by any Participating Broker-Dealer who seeks to sell Exchange Notes during the Applicable Period relating thereto, before filing any Registration Statement or Prospectus or any amendments or supplements thereto, the Company shall furnish to and afford the Holders of the Registrable Notes covered by such Registration Statement or each such Participating Broker-Dealer, as the case may be, their counsel and the managing underwriters, if any, a reasonable opportunity to review copies of all such documents

(including copies of any documents to be incorporated by reference therein and all exhibits thereto) proposed to be filed (in each case at least five Business Days prior to such filing) and use its commercially reasonable efforts to reflect in each such document, when so filed with the Commission, such comments as any such Person determines are reasonably necessary to be included therein. The Company shall not file any Registration Statement or Prospectus or any amendments or supplements thereto if the Holders of a majority in aggregate principal amount of the Registrable Notes covered by such Registration Statement, or any such Participating Broker-Dealer, as the case may be, their counsel, or the managing underwriters, if any, shall reasonably object.

(b) Prepare and file with the Commission such amendments and post-effective amendments to each Shelf Registration Statement or Exchange Offer Registration Statement, as the case may be, as may be necessary to keep such Registration Statement continuously effective for the Effectiveness Period or the Applicable Period, as the case may be; cause the related Prospectus to be supplemented by any Prospectus supplement required by applicable law, and as so supplemented to be filed pursuant to Rule 424 (or any similar provisions then in force) promulgated under the Securities Act; and comply with the provisions of the Securities Act and the Exchange Act applicable to each of them with respect to the disposition of all securities covered by such Registration Statement as so amended or in such Prospectus as so supplemented and with respect to the subsequent resale of any securities being sold by a Participating Broker-Dealer covered by any such Prospectus, in each case, in accordance with the intended methods of distribution set forth in such Registration Statement or Prospectus, as so amended or supplemented, as the case may be.

(c) Ensure that any Registration Statement and any amendment thereto and any Prospectus forming a part thereof and any amendment or supplement thereto: (i) complies in all material respects with the Securities Act and (ii) does not, when the Registration Statement or such amendment or supplement becomes effective, contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein (in the case of a Prospectus, in the light of the circumstances under which they were made) not misleading.

(d) If (1) a Shelf Registration Statement is filed pursuant to Section 3 hereof, or (2) a Prospectus contained in the Exchange Offer Registration Statement filed pursuant to Section 2 hereof is required to be delivered under the Securities Act by any Participating Broker-Dealer who seeks to sell Exchange Notes during the Applicable Period relating thereto (from whom the Issuers have received written notice that it will be a Participating Broker-Dealer in the Exchange Offer), notify the selling Holders of Registrable Notes, or each such Participating Broker-Dealer, as the case may be, their counsel and the managing underwriters, if any, as promptly as possible, and, if requested by any such Person, confirm such notice in writing (which notice pursuant to clauses (ii) through (vii) hereof shall be accompanied by an instruction to suspend the use of the Prospectus until the Issuers shall have remedied the basis for such suspension), (i) when a Registration Statement, Prospectus or any Prospectus supplement or post-effective amendment has been filed, and, with respect to a Registration Statement or any post-effective amendment, when the same has become effective under the Securities Act (including in such notice a written statement that any Holder may, upon request, obtain,

at the sole expense of the Company, one conformed copy of such Registration Statement or post-effective amendment including financial statements and schedules, documents incorporated or deemed to be incorporated by reference and exhibits), (ii) of any request by the Commission for any amendment or supplement to the Registration Statement or the Prospectus or for additional information, (iii) of the issuance by the Commission of any stop order suspending the effectiveness of a Registration Statement or of any order preventing or suspending the use of any preliminary prospectus or the initiation of any proceedings for that purpose, (iv) if at any time when a Prospectus is required by the Securities Act to be delivered in connection with sales of the Registrable Notes or resales of Exchange Notes by Participating Broker-Dealers the representations and warranties of the Issuers contained in any agreement (including any underwriting agreement) contemplated by Section 5(n) or Section 5(o) hereof cease to be true and correct in all material respects, (v) of the receipt by any of the Issuers of any notification with respect to the suspension of the qualification or exemption from qualification of a Registration Statement or any of the Registrable Notes or the Exchange Notes for offer or sale in any jurisdiction, or the initiation or threatening of any proceeding for such purpose, (vi) subject to the penultimate paragraph of Section 5, of the happening of any event, the existence of any condition or any information becoming known to any Issuer that makes any statement made in such Registration Statement or related Prospectus or any document incorporated or deemed to be incorporated therein by reference untrue in any material respect or that requires the making of any changes in or amendments or supplements to such Registration Statement, Prospectus or documents so that, in the case of the Registration Statement, it will not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading, and that in the case of the Prospectus, it will not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, and (vii) subject to the penultimate paragraph of Section 5, of the Company's determination that a post-effective amendment to a Registration Statement would be appropriate.

(e) If (1) a Shelf Registration Statement is filed pursuant to Section 3 hereof, or (2) a Prospectus contained in the Exchange Offer Registration Statement filed pursuant to Section 2 hereof is required to be delivered under the Securities Act by any Participating Broker-Dealer who seeks to sell Exchange Notes during the Applicable Period, use their reasonable best efforts to prevent the issuance of any order suspending the effectiveness of a Registration Statement or of any order preventing or suspending the use of a Prospectus or suspending the qualification (or exemption from qualification) of any of the Registrable Notes or the Exchange Notes, as the case may be, for sale in any jurisdiction, and, if any such order is issued, to use their reasonable best efforts to obtain the withdrawal of any such order at the earliest practicable moment.

(f) If (1) a Shelf Registration Statement is filed pursuant to Section 3 or (2) a Prospectus contained in the Exchange Offer Registration Statement filed pursuant to Section 2 hereof is required to be delivered under the Securities Act by any Participating Broker-Dealer who seeks to sell Exchange Notes during the Applicable Period and if requested by the managing underwriter or underwriters (if any), the Holders of a majority in aggregate principal amount of the Registrable Notes covered by such Registration

Statement or any Participating Broker-Dealer, as the case may be, (i) promptly incorporate in such Registration Statement or Prospectus a prospectus supplement or post-effective amendment containing such information as the managing underwriter or underwriters (if any), such Holders or any Participating Broker-Dealer, as the case may be (based upon advice of counsel), determine is reasonably necessary to be included therein and (ii) make all required filings of such prospectus supplement or such post-effective amendment as soon as practicable after the Company has received notification of the matters to be incorporated in such prospectus supplement or post-effective amendment; provided, however, that the Issuers shall not be required to take any action hereunder that would, in the opinion of counsel to the Company, violate applicable laws.

(g) If (1) a Shelf Registration Statement is filed pursuant to Section 3 hereof or (2) a Prospectus contained in the Exchange Offer Registration Statement filed pursuant to Section 2 hereof is required to be delivered under the Securities Act by any Participating Broker-Dealer who seeks to sell Exchange Notes during the Applicable Period, furnish to each selling Holder of Registrable Notes or each such Participating Broker-Dealer, as the case may be, who so requests, their counsel and each managing underwriter, if any, at the sole expense of the Company, one conformed copy of the Registration Statement or Registration Statements and each post-effective amendment thereto, including financial statements and schedules, and, if requested, all documents incorporated or deemed to be incorporated therein by reference and all exhibits.

(h) If (1) a Shelf Registration Statement is filed pursuant to Section 3 hereof, or (2) a Prospectus contained in the Exchange Offer Registration Statement filed pursuant to Section 2 hereof is required to be delivered under the Securities Act by any Participating Broker-Dealer who seeks to sell Exchange Notes during the Applicable Period, deliver to each selling Holder of Registrable Notes or each such Participating Broker-Dealer, as the case may be, their respective counsel, and the underwriters, if any, at the sole expense of the Company, as many copies of the Prospectus or Prospectuses (including each form of preliminary prospectus) and each amendment or supplement thereto and any documents incorporated by reference therein as such Persons may reasonably request; and, subject to the last paragraph of this Section 5, the Issuers hereby consent to the use of such Prospectus and each amendment or supplement thereto by each of the selling Holders of Registrable Notes or each such Participating Broker-Dealer, as the case may be, and the underwriters or agents, if any, and dealers (if any), in connection with the offering and sale of the Registrable Notes or the sale by Participating Broker-Dealers of the Exchange Notes.

(i) Prior to the Exchange Offer or any other public offering of Registrable Notes or Exchange Notes or any delivery of a Prospectus contained in the Exchange Offer Registration Statement by any Participating Broker-Dealer who seeks to sell Exchange Notes during the Applicable Period, use their reasonable best efforts to register or qualify, and to cooperate with the selling Holders of Registrable Notes or each such Participating Broker-Dealer, as the case may be, the managing underwriter or underwriters, if any, and their respective counsel in connection with the registration or qualification (or exemption from such registration or qualification) of such Registrable Notes or Exchange Notes, as the case may be, for offer and sale under the securities or Blue Sky laws of such jurisdictions within the United States as any selling Holder,

Participating Broker-Dealer, or the managing underwriter or underwriters reasonably request (provided that where Exchange Notes or Registrable Notes are offered other than through an underwritten offering, the Company agrees to cause the Company's counsel to perform Blue Sky investigations and file registrations and qualifications required to be filed pursuant to this Section 5(i)) and keep each such registration or qualification (or exemption therefrom) effective during the period such Registration Statement is required to be kept effective and do any and all other acts or things reasonably necessary or advisable to enable the disposition in such jurisdictions of such Exchange Notes or Registrable Notes covered by the applicable Registration Statement); provided, however, that no Issuer shall be required to (A) qualify generally to do business in any jurisdiction where it is not then so qualified, (B) take any action that would subject it to general service of process in any such jurisdiction where it is not then so subject or (C) subject itself to taxation in excess of a nominal dollar amount in any such jurisdiction where it is not then so subject.

(j) If a Shelf Registration Statement is filed pursuant to Section 3 hereof, cooperate with the selling Holders of Registrable Notes and the managing underwriter or underwriters, if any, to facilitate the timely preparation and delivery of certificates representing Registrable Notes to be sold, which certificates shall not bear any restrictive legends and shall be in a form eligible for deposit with The Depository Trust Company; and enable such Registrable Notes to be in such denominations and registered in such names as the managing underwriter or underwriters, if any, or selling Holders may request at least two Business Days prior to any sale of such Registrable Notes or Exchange Notes.

(k) Use their reasonable best efforts to cause the Registrable Notes or Exchange Notes covered by any Registration Statement to be registered with or approved by such other governmental agencies or authorities as may be reasonably necessary to enable the seller or sellers thereof or the underwriter or underwriters, if any, to consummate the disposition of such Registrable Notes or Exchange Notes, except as may be required solely as a consequence of the nature of such selling Holder's business, in which case the Company will cooperate in all reasonable respects with the filing of such Registration Statement and the granting of such approvals.

(l) If (1) a Shelf Registration Statement is filed pursuant to Section 3 hereof, or (2) a Prospectus contained in the Exchange Offer Registration Statement filed pursuant to Section 2 hereof is required to be delivered under the Securities Act by any Participating Broker-Dealer who seeks to sell Exchange Notes during the Applicable Period, upon the occurrence of any event contemplated by Section 5(d)(vi) or 5(d)(vii) hereof, as promptly as practicable prepare and (subject to Section 5(a) and the penultimate paragraph of this Section 5) file with the Commission, at the sole expense of the Company, a supplement or post-effective amendment to the Registration Statement or a supplement to the related Prospectus or any document incorporated or deemed to be incorporated therein by reference, or file any other required document so that, as thereafter delivered to the purchasers of the Registrable Notes being sold thereunder or to the purchasers of the Exchange Notes to whom such Prospectus will be delivered by a Participating Broker-Dealer, any such Prospectus will not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to

make the statements therein, in light of the circumstances under which they were made, not misleading.

(m) Prior to the effective date of the first Registration Statement relating to the Registrable Notes, (i) provide the Trustee with certificates for the Registrable Notes in a form eligible for deposit with The Depository Trust Company and (ii) provide a CUSIP number for the Registrable Notes.

(n) In connection with any underwritten offering of Registrable Notes pursuant to a Shelf Registration Statement, enter into an underwriting agreement as is customary in underwritten offerings of debt securities similar to the Notes and take all such other actions as are reasonably requested by the managing underwriter or underwriters in order to expedite or facilitate the registration or the disposition of such Registrable Notes and, in such connection, (i) make such representations and warranties to, and covenants with, the underwriters with respect to the business of the Company and its subsidiaries (including any acquired business, properties or entity, if applicable) and the Registration Statement, Prospectus and documents, if any, incorporated or deemed to be incorporated by reference therein, in each case, as are customarily made by issuers to underwriters in primary underwritten offerings of debt securities similar to the Notes and covering matters including, but not limited to, matters similar to those set forth in the Purchase Agreement, and confirm the same in writing if and when requested; (ii) use their reasonable best efforts to obtain written opinions of counsel to the Company and written updates thereof in form, scope and substance reasonably satisfactory to the managing underwriter or underwriters, addressed to the underwriters covering the matters customarily covered in opinions requested in underwritten offerings and such other matters as may be reasonably requested by the managing underwriter or underwriters; (iii) use their reasonable best efforts to obtain “cold comfort” letters and updates thereof in form, scope and substance reasonably satisfactory to the managing underwriter or underwriters from the independent certified public accountants of the Company (and, if necessary, any other independent certified public accountants of any subsidiary of the Company or of any business acquired by the Company for which financial statements and financial data are, or are required to be, included or incorporated by reference in the Registration Statement), addressed to the underwriters, such letters to be in customary form and covering matters of the type customarily covered in “cold comfort” letters in connection with primary underwritten offerings; and (iv) deliver such documents and certificates as may be reasonably requested by the managing underwriter or underwriters, including those to evidence compliance with Section 5(l) and with any customary conditions contained in the underwriting agreement or other agreement entered into by the Issuers. If an underwriting agreement is entered into, the same shall contain indemnification provisions and procedures no less favorable than those set forth in Section 7 hereof (or such other provisions and procedures acceptable to the Holders of a majority in aggregate principal amount of Registrable Notes covered by such Registration Statement and the managing underwriter or underwriters or agents) with respect to all parties to be indemnified pursuant to said Section. The above shall be done at each closing under any such underwriting agreement, or as and to the extent required thereunder.

(o) In connection with any Prospectus contained in the Exchange Offer Registration Statement filed pursuant to Section 2 hereof that is required to be delivered under the Securities Act by any Participating Broker-Dealer who seeks to sell Exchange Notes during the Applicable Period, take all such actions as are reasonably requested by each such Participating Broker-Dealer in order to expedite or facilitate the disposition of such Exchange Notes, including (i) make such representations and warranties to, and covenants with, each such Participating Broker-Dealer with respect to the business of the Company and its subsidiaries (including any acquired business, properties or entity, if applicable) and the Registration Statement, Prospectus and documents, if any, incorporated or deemed to be incorporated by reference therein, in each case, as are customarily made by issuers to underwriters in primary underwritten offerings of debt securities similar to the Exchange Notes, and confirm the same in writing if and when requested; (ii) use their reasonable best efforts to obtain written opinions of counsel to the Company and written updates thereof (which opinions, in form, scope and substance, shall be reasonably satisfactory to each such Participating Broker-Dealer), addressed to each such Participating Broker-Dealer covering the matters customarily covered in opinions requested in underwritten offerings and such other matters as may be reasonably requested by each such Participating Broker-Dealer or its counsel; (iii) use their reasonable best efforts to obtain "cold comfort" letters and updates thereof in form, scope and substance reasonably satisfactory to each such Participating Broker-Dealer from the independent certified public accountants of the Company (and, if necessary, any other independent certified public accountants of any subsidiary of the Company or of any business acquired by the Company for which financial statements and financial data are, or are required to be, included or incorporated by reference in the Registration Statement), addressed to each such Participating Broker-Dealer, such letters to be in customary form and covering matters of the type customarily covered in "cold comfort" letters in connection with primary underwritten offerings, or if requested by any such Participating Broker-Dealer or its counsel in lieu of a "cold comfort" letter, an agreed-upon procedures letter under Statement on Auditing Standards No. 75, covering matters requested by such Participating Broker-Dealer or its counsel; and (iv) deliver such documents and certificates as may be reasonably requested by Participating Broker-Dealers holding a majority in aggregate principal amount of Notes held by Participating Broker-Dealers, including those to evidence compliance with Section 5(l) and with any customary conditions contained in underwriting agreements. The above shall be done at the close of the Registered Exchange Offer.

(p) If (1) a Shelf Registration Statement is filed pursuant to Section 3 hereof or (2) a Prospectus contained in the Exchange Offer Registration Statement filed pursuant to Section 2 hereof is required to be delivered under the Securities Act by any Participating Broker-Dealer who seeks to sell Exchange Notes during the Applicable Period, make available for inspection by any selling Holder of such Registrable Notes being sold or each such Participating Broker-Dealer, as the case may be, any underwriter participating in any such disposition of Registrable Notes, if any, and any attorney, accountant or other agent retained by any such selling Holder or each such Participating Broker-Dealer, as the case may be, or underwriter (collectively, the "Inspectors"), at the offices where normally kept, during reasonable business hours, all financial and other records, pertinent corporate documents and instruments of the Company and its

subsidiaries (collectively, the "Records") as shall be reasonably necessary to enable them to exercise any applicable due diligence responsibilities, and cause the officers, directors and employees, and use commercially reasonable efforts to cause the accountants and auditors, of the Company and its subsidiaries to supply all information reasonably requested by any such Inspector in connection with such Registration Statement and Prospectus. Each Inspector shall agree in writing that it will not disclose any records that the Company determines, in good faith, to be confidential and that it notifies the Inspectors in writing are confidential unless (i) the disclosure of such Records is necessary to avoid or correct a misstatement or omission in such Registration Statement or Prospectus, (ii) the release of such Records is ordered pursuant to a subpoena or other order from a court of competent jurisdiction, (iii) disclosure of such information is necessary or advisable in connection with any action, claim, suit or proceeding, directly or indirectly, involving or potentially involving such Inspector and arising out of, based upon, relating to, or involving this Agreement or the Purchase Agreement, or any transactions contemplated hereby or thereby or arising hereunder or thereunder, or (iv) the information in such Records has been made generally available to the public; provided, however, that such Inspectors shall take such actions as are reasonably necessary to protect the confidentiality of such information (if practicable) to the extent such action is otherwise not inconsistent with an impairment of or in derogation of the rights and interests of the Holder or any Inspector; provided further, however, that to the extent the foregoing inspections shall be made contemporaneously by more than one Holder, there shall be one law firm (plus local counsel (if needed)) and one accounting firm retained by all such Holders to make such investigation.

(q) Provide an indenture trustee for the Registrable Notes or the Exchange Notes, as the case may be, and cause the Indenture or the trust indenture provided for in Section 2(b) hereof to be qualified under the TIA not later than the effective date of the Exchange Offer or the first Registration Statement relating to the Registrable Notes; and in connection therewith, cooperate with the trustee under any such indenture and the Holders of the Registrable Notes or Exchange Notes, as applicable, to effect such changes to such indenture as may be required for such indenture to be so qualified in accordance with the terms of the TIA; and execute, and use their reasonable best efforts to cause such trustee to execute, all documents as may be required to effect such changes, and all other forms and documents required to be filed with the Commission to enable such indenture to be so qualified in a timely manner. In the event that such qualification would require the appointment of a new trustee under the Indenture or the trust indenture provided for in Section 2(b) hereof, the Company shall appoint a new trustee thereunder pursuant to the applicable provisions thereof.

(r) Comply with all applicable rules and regulations of the Commission and make generally available to the Company's security holders earnings statements satisfying the provisions of Section 11(a) of the Securities Act and Rule 158 thereunder (or any similar rule promulgated under the Securities Act) as soon as practicable after the effective date of the applicable Registration Statement and in no event later than 45 days after the end of any 12-month period (or 90 days after the end of any 12-month period if such period is a fiscal year) (i) commencing at the end of any fiscal quarter in which Registrable Notes or Exchange Notes are sold to underwriters in a firm commitment or best efforts underwritten offering and (ii) if not sold to underwriters in such an offering,

commencing on the first day of the first fiscal quarter of the Company after the effective date of a Registration Statement, which statements shall cover said 12-month periods.

(s) Upon the request of a Holder, upon consummation of the Exchange Offer or a Private Exchange, use their reasonable best efforts to obtain an opinion of counsel to the Company, in a form customary for underwritten transactions, addressed to the Trustee for the benefit of all Holders of Registrable Notes participating in the Exchange Offer or the Private Exchange, as the case may be, that the Exchange Notes or Private Exchange Notes, as the case may be, and the related indenture constitute legal, valid and binding obligations of the Company, enforceable against the Company in accordance with its respective terms, subject to customary exceptions and qualifications.

(t) If the Exchange Offer or a Private Exchange is to be consummated, upon delivery of the Registrable Notes by Holders to the Company (or to such other Person as directed by the Company) in exchange for the Exchange Notes or the Private Exchange Notes, as the case may be, mark, or cause to be marked, on such Registrable Notes that such Registrable Notes are being canceled in exchange for the Exchange Notes or the Private Exchange Notes, as the case may be; in no event shall such Registrable Notes be marked as paid or otherwise satisfied.

(u) Cooperate with each seller of Registrable Notes covered by any Registration Statement and each broker-dealer registered under the Exchange Act that shall underwrite any Registrable Notes or participate as a member of an underwriting syndicate or selling group or "assist in the distribution" (within the meaning of the Conduct Rules of the Financial Industry Regulatory Authority, Inc. (the "FINRA")) thereof, whether as a Holder of such Registrable Notes or as an underwriter, a placement or sales agent or a broker or dealer in respect thereof, or otherwise, and their respective counsel in connection with any filings required to be made with FINRA.

(v) Use their reasonable best efforts to take all other steps necessary or advisable to effect the registration or disposition of the Exchange Notes and/or Registrable Notes covered by a Registration Statement contemplated hereby.

The Company may require each seller of Registrable Notes or Exchange Notes as to which any registration is being effected to furnish to the Company such information regarding such seller and the distribution of such Registrable Notes or Exchange Notes as the Company may, from time to time, reasonably request. The Company may exclude from such registration the Registrable Notes or Exchange Notes of any seller so long as such seller fails to furnish such information within a reasonable time after receiving such request and the failure to include any such seller shall not be deemed to be a Registration Default. Each seller covered by any Shelf Registration Statement agrees to furnish promptly to the Company all information required to be disclosed in order to make any information previously furnished to the Company by such seller not materially misleading.

If any such Registration Statement refers to any Holder by name or otherwise as the holder of any securities of the Company, then such Holder shall have the right to require (i) the insertion therein of language, in form and substance reasonably satisfactory to such Holder, to the effect that the holding by such Holder of such securities is not to be construed as a recommendation by such Holder of the investment quality of the securities

covered thereby and that such holding does not imply that such Holder will assist in meeting any future financial requirements of the Company, or (ii) in the event that such reference to such Holder by name or otherwise is not required by the Securities Act or any similar federal statute then in force, the deletion of the reference to such Holder in any amendment or supplement to the Registration Statement filed or prepared subsequent to the time that such reference ceases to be required.

Each Holder of Registrable Notes and each Participating Broker-Dealer agrees by acquisition of such Registrable Notes or Exchange Notes that, upon actual receipt of any notice from the Company (x) of the happening of any event of the kind described in Section 5(d)(ii) through 5(d)(vii) hereof, or (y) that the Board of Directors of the Company (the "Board of Directors") has resolved that the Company has a bona fide business purpose for doing so, then the Company may delay the filing or the effectiveness of the Exchange Offer Registration Statement or the Shelf Registration Statement (if not then filed or effective, as applicable) and shall not be required to maintain the effectiveness thereof or amend or supplement the Exchange Offer Registration Statement or the Shelf Registration Statement, in all cases, for a period (a "Delay Period") expiring upon the earlier to occur of (i) in the case of the immediately preceding clause (x), such Holder's or Participating Broker-Dealer's receipt of the copies of the supplemented or amended Prospectus contemplated by Section 5(l) hereof or until it is advised in writing (the "Advice") by the Company that the use of the applicable Prospectus may be resumed, and has received copies of any amendments or supplements thereto or (ii) in the case of the immediately preceding clause (y), the date which is the earlier of (A) the date on which such business purpose ceases to interfere with the Company's obligations to file or maintain the effectiveness of any such Registration Statement pursuant to this Agreement or (B) 60 days after the Company notifies the Holders of such good faith determination (and it is further agreed that during the Delay Period, the Issuers shall not be required to provide any information pursuant to Section 5(d)(vi) or 5(d)(vii) to the extent the provision thereof would violate Regulation FD under the Exchange Act). There shall not be more than 60 days of Delay Periods during any 12-month period. Each of the Effectiveness Period and the Applicable Period, if applicable, shall be extended by the number of days during any Delay Period. Any Delay Period will not alter the obligations of the Company to pay Liquidated Damages under the circumstances set forth in Section 4 hereof.

In the event of any Delay Period pursuant to clause (y) of the preceding paragraph, notice shall be given as soon as practicable after the Board of Directors makes such a determination of the need for a Delay Period and shall state, to the extent practicable, an estimate of the duration of such Delay Period and shall advise the recipient thereof of the agreement of such Holder provided in the next succeeding sentence. Each Holder, by his acceptance of any Registrable Note, agrees that during any Delay Period, each Holder will discontinue disposition of such Notes or Exchange Notes covered by such Registration Statement or Prospectus or Exchange Notes to be sold by such Holder or Participating Broker-Dealer, as the case may be.

Section 6. Registration Expenses

All fees and expenses incident to the performance of or compliance with this Agreement by the Issuers shall be borne by the Issuers, whether or not the Exchange

Offer Registration Statement or the Shelf Registration Statement is filed or becomes effective or the Exchange Offer is consummated, including, without limitation, (i) all registration and filing fees (including, without limitation, (A) fees with respect to filings required to be made with the FINRA in connection with an underwritten offering and (B) fees and expenses of compliance with state securities or Blue Sky laws (including, without limitation, reasonable fees and disbursements of counsel in connection with Blue Sky qualifications of the Registrable Notes or Exchange Notes and determination of the eligibility of the Registrable Notes or Exchange Notes for investment under the laws of such jurisdictions (x) where the holders of Registrable Notes are located, in the case of an Exchange Offer, or (y) as provided in Section 5(i) hereof, in the case of a Shelf Registration Statement or in the case of Exchange Notes to be sold by a Participating Broker-Dealer during the Applicable Period)), (ii) printing expenses, including, without limitation, expenses of printing certificates for Registrable Notes or Exchange Notes in a form eligible for deposit with The Depository Trust Company and of printing prospectuses if the printing of prospectuses is requested by the managing underwriter or underwriters, if any, or by the Holders of a majority in aggregate principal amount of the Registrable Notes included in any Registration Statement or in respect of Exchange Notes to be sold by any Participating Broker-Dealer during the Applicable Period, as the case may be, (iii) messenger, telephone and delivery expenses, (iv) fees and disbursements of counsel for the Company and reasonable fees and disbursements of one special counsel for all of the sellers of Registrable Notes pursuant to a Shelf Registration Statement (exclusive of any counsel retained pursuant to Section 7 hereof), (v) fees and disbursements of all independent certified public accountants referred to in Section 5(n)(iii) and Section 5(o)(iii) hereof (including, without limitation, the expenses of any special audit and “cold comfort” letters required by or incident to such performance), (vi) Securities Act liability insurance, if the Company desires such insurance, (vii) fees and expenses of all other Persons retained by any of the Issuers, (viii) internal expenses of the Issuers (including, without limitation, all salaries and expenses of officers and employees of the Company performing legal or accounting duties), (ix) the expense of any audit, (x) the fees and expenses incurred in connection with the listing of the securities to be registered on any securities exchange, and the obtaining of a rating of the securities, in each case, if applicable, and (xi) the expenses relating to printing, word processing and distributing all Registration Statements, underwriting agreements, indentures and any other documents necessary in order to comply with this Agreement. Notwithstanding the foregoing or anything to the contrary, (i) each Holder shall pay all underwriting discounts and commissions of any underwriters with respect to any Registrable Notes sold by or on behalf of it and (ii) all Holders shall pay all fees and expenses of counsel to the underwriters in any underwritten offering made pursuant to a Shelf Registration Statement.

Section 7. Indemnification

(a) Each Issuer, jointly and severally, agrees to indemnify and hold harmless each Holder of Registrable Notes and each Participating Broker-Dealer selling Exchange Notes during the Applicable Period, each Person, if any, who controls any such Person within the meaning of Section 15 of the Securities Act or Section 20(a) of the Exchange Act, the agents, employees, officers and directors of each Holder and each such Participating Broker-Dealer and the agents, employees, officers and directors of any such

controlling Person (each, a "Participant") from and against any and all losses, liabilities, claims, damages and expenses whatsoever (including, but not limited to, reasonable attorneys' fees and any and all reasonable expenses whatsoever incurred in investigating, preparing or defending against any litigation, commenced or threatened, or any claim whatsoever, and any and all reasonable amounts paid in settlement of any claim or litigation) (collectively, "Losses") to which they or any of them may become subject under the Securities Act, the Exchange Act or otherwise insofar as such Losses (or actions in respect thereof) arise out of or are based upon any untrue statement or alleged untrue statement of a material fact contained in any Registration Statement (or any amendment thereto) or Prospectus (as amended or supplemented if the Company shall have furnished any amendments or supplements thereto) or any preliminary prospectus, or caused by, arising out of or based upon any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein, in the case of the Prospectus, in the light of the circumstances under which they were made, not misleading, provided that (i) the foregoing indemnity shall not be available to any Participant insofar as such Losses are caused by any untrue statement or omission or alleged untrue statement or omission made in reliance upon and in conformity with information relating to such Participant furnished to the Company in writing by or on behalf of such Participant expressly for use therein, and (ii) the foregoing indemnity with respect to any preliminary prospectus shall not inure to the benefit of any Participant from whom the Person asserting such Losses purchased Registrable Notes if (x) it is established in the related proceeding that such Participant failed to send or give a copy of the Prospectus (as amended or supplemented if such amendment or supplement was furnished to such Participant prior to the written confirmation of such sale) to such Person with or prior to the written confirmation of such sale, if required by applicable law, and (y) the untrue statement or omission or alleged untrue statement or omission was completely corrected in the Prospectus (as amended or supplemented if amended or supplemented as aforesaid) and such Prospectus does not contain any other untrue statement or omission or alleged untrue statement or omission that was the subject matter of the related proceeding. This indemnity agreement will be in addition to any liability that the Issuers may otherwise have, including, but not limited to, liability under this Agreement.

(b) Each Participant agrees, severally and not jointly, to indemnify and hold harmless each Issuer, each Person, if any, who controls any Issuer within the meaning of Section 15 of the Securities Act or Section 20(a) of the Exchange Act, and each of their respective agents, employees, officers and directors and the agents, employees, officers and directors of any such controlling Person from and against any Losses to which they or any of them may become subject under the Securities Act, the Exchange Act or otherwise insofar as such Losses (or actions in respect thereof) arise out of or are based upon any untrue statement or alleged untrue statement of a material fact contained in any Registration Statement (or any amendment thereto) or Prospectus (as amended or supplemented if the Company shall have furnished any amendments or supplements thereto) or any preliminary prospectus, or caused by, arising out of or based upon any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein, in the case of the Prospectus, in light of the circumstances under which they were made, not misleading, in each case to the extent,

but only to the extent, that any such Loss arises out of or is based upon any untrue statement or alleged untrue statement or omission or alleged omission made in reliance upon and in conformity with information relating to such Participant furnished in writing to the Company by or on behalf of such Participant expressly for use therein.

(c) Promptly after receipt by an indemnified party under subsection 7(a) or 7(b) above of notice of the commencement of any action, suit or proceeding (collectively, an "action"), such indemnified party shall, if a claim in respect thereof is to be made against the indemnifying party under such subsection, notify each party against whom indemnification is to be sought in writing of the commencement of such action (but the failure so to notify an indemnifying party shall not relieve such indemnifying party from any liability that it may have under this Section 7 except to the extent that it has been prejudiced in any material respect by such failure). In case any such action is brought against any indemnified party, and it notifies an indemnifying party of the commencement of such action, the indemnifying party will be entitled to participate in such action, and to the extent it may elect by written notice delivered to the indemnified party promptly after receiving the aforesaid notice from such indemnified party, to assume the defense of such action with counsel reasonably satisfactory to such indemnified party. Notwithstanding the foregoing, the indemnified party or parties shall have the right to employ its or their own counsel in any such action, but the reasonable fees and expenses of such counsel shall be at the expense of such indemnified party or parties unless (i) the employment of such counsel shall have been authorized in writing by the indemnifying parties in connection with the defense of such action, (ii) the indemnifying parties shall not have employed counsel to take charge of the defense of such action within a reasonable time after notice of commencement of the action, (iii) the named parties to such action (including any impleaded parties) include such indemnified party and the indemnifying party or parties (or such indemnifying parties have assumed the defense of such action), and such indemnified party or parties shall have reasonably concluded that there may be defenses available to it or them that are different from or additional to those available to one or all of the indemnifying parties (in which case the indemnifying parties shall not have the right to direct the defense of such action on behalf of the indemnified party or parties), or (iv) the use of counsel chosen by the indemnifying party to represent the indemnified party would present such counsel with a conflict of interest, in any of which events such reasonable fees and expenses of counsel shall be borne by the indemnifying parties. In no event shall the indemnifying party be liable for the fees and expenses of more than one counsel (together with appropriate local counsel (if any)) at any time for all indemnified parties in connection with any one action or separate but substantially similar or related actions arising in the same jurisdiction out of the same general allegations or circumstances. An indemnifying party shall not be liable for any settlement of any claim or action effected without its written consent, which consent may not be unreasonably withheld. Notwithstanding the foregoing sentence, if at any time an indemnified party shall have requested an indemnifying party to reimburse the indemnified party for fees and expenses of counsel as contemplated by paragraph (a) or (b) of this Section 7, then the indemnifying party agrees that it shall be liable for any settlement of any proceeding effected without its written consent if (i) such settlement is entered into more than 60 Business Days after receipt by such indemnifying party of the aforesaid request, (ii) such indemnifying party shall not have reimbursed the indemnified

party in accordance with such request prior to the date of such settlement and (iii) such indemnified party shall have given the indemnifying party at least 45 days' prior notice of its intention to settle. No indemnifying party shall, without the prior written consent of the indemnified party, effect any settlement of any pending or threatened proceeding in respect of which any indemnified party is or could have been a party and indemnity could have been sought hereunder by such indemnified party, unless such settlement includes an unconditional release of such indemnified party from all liability on claims that are the subject matter of such proceeding.

(d) In order to provide for contribution in circumstances in which the indemnification provided for in this Section 7 is for any reason held to be unavailable from the indemnifying party, or is insufficient to hold harmless a party indemnified under this Section 7, each indemnifying party shall contribute to the amount paid or payable by such indemnified party as a result of such aggregate Losses (i) in such proportion as is appropriate to reflect the relative benefits received by each indemnifying party, on the one hand, and each indemnified party, on the other hand, from the sale of the Notes to the Initial Purchasers or the resale of the Registrable Notes by such Holder, as applicable, or (ii) if such allocation is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to above but also the relative fault of each indemnified party, on the one hand, and each indemnifying party, on the other hand, in connection with the statements or omissions that resulted in such Losses, as well as any other relevant equitable considerations. The relative benefits received by the Issuers, on the one hand, and each Participant, on the other hand, shall be deemed to be in the same proportion as (x) the total proceeds from the sale of the Notes to the Initial Purchasers (net of discounts and commissions but before deducting expenses) received by the Issuers are to (y) the total net profit received by such Participant in connection with the sale of the Registrable Notes. The relative fault of the parties shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the Issuers or such Participant and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission or alleged statement or omission.

(e) The parties agree that it would not be just and equitable if contribution pursuant to this Section 7 were determined by pro rata allocation or by any other method of allocation that does not take into account the equitable considerations referred to above. Notwithstanding the provisions of this Section 7, (i) in no case shall any Participant be required to contribute any amount in excess of the amount by which the total net profit received by such Participant in connection with the sale of the Registrable Notes exceeds the amount of any damages that such Participant has otherwise been required to pay by reason of any untrue or alleged untrue statement or omission or alleged omission and (ii) no Person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Act) shall be entitled to contribution from any Person who was not guilty of such fraudulent misrepresentation. For purposes of this Section 7, each Person, if any, who controls any party within the meaning of Section 15 of the Act or Section 20(a) of the Exchange Act and each director, officer, employee and agent of such party shall have the same rights to contribution as such party. Any party entitled to contribution will, promptly after receipt of notice of commencement of any action against

such party in respect of which a claim for contribution may be made against another party or parties under this Section 7, notify such party or parties from whom contribution may be sought, but the omission to so notify such party or parties shall not relieve the party or parties from whom contribution may be sought from any obligation it or they may have under this Section 7 or otherwise, except to the extent that it has been prejudiced in any material respect by such failure; provided, however, that no additional notice shall be required with respect to any action for which notice has been given under this Section 7 for purposes of indemnification. Anything in this section to the contrary notwithstanding, no party shall be liable for contribution with respect to any action or claim settled without its written consent, provided, however, that such written consent was not unreasonably withheld.

(f) The provisions of this Section 7 will remain in full force and effect, regardless of any investigation made by or on behalf of any Holder or the Issuers or any of the indemnified persons referred to in this Section 7, and will survive the sale by a Holder of securities covered by a Registration Statement.

Section 8. Rules 144 and 144A

The Company covenants that it will file the reports required to be filed by it under the Securities Act and the Exchange Act and the rules and regulations adopted by the Commission thereunder in a timely manner in accordance with the requirements of the Securities Act and the Exchange Act and, if at any time the Company is not required to file such reports, it will, upon the request of any Holder or beneficial owner of Registrable Notes, make publicly available such information for so long as necessary to permit sales pursuant to Rules 144 and 144A under the Securities Act. The Issuers further covenant that they will take such further action as any Holder of Registrable Notes may reasonably request from time to time to enable such Holder to sell Registrable Notes without registration under the Securities Act within the limitation of the exemptions provided by (a) Rule 144 and Rule 144A (including the requirements of Rule 144A(d)(4)) under the Securities Act, as such Rules may be amended from time to time and (b) any similar rule or regulation hereafter adopted by the Commission. The Issuers will provide a copy of this Agreement to prospective purchasers of Registrable Notes identified to the Issuers by the Initial Purchasers upon request. Notwithstanding the foregoing, nothing in this Section 8 shall be deemed to require any Issuer to register any of its securities pursuant to the Exchange Act.

Section 9. Underwritten Registrations

If any of the Registrable Notes covered by any Shelf Registration Statement are to be sold in an underwritten offering, the investment banker or investment bankers and manager or managers that will manage the offering will be selected by the Holders of a majority in aggregate principal amount of such Registrable Notes included in such offering and shall be reasonably acceptable to the Company.

No Holder of Registrable Notes may participate in any underwritten registration hereunder if such Holder does not (a) agree to sell such Holder's Registrable Notes on the basis provided in any underwriting arrangements approved by the Persons entitled hereunder to approve such arrangements and (b) complete and execute all questionnaires,

powers of attorney, indemnities, underwriting agreements and other documents required under the terms of such underwriting arrangements.

Section 10. Miscellaneous

(a) No Inconsistent Agreements. The Issuers have not, as of the date hereof, and shall not, after the date of this Agreement, enter into any agreement with respect to any of their securities that is inconsistent with the rights granted to the Holders of Registrable Notes in this Agreement or otherwise conflicts with the provisions hereof. The rights granted to the Holders hereunder do not conflict with and are not inconsistent with, in any material respect, the rights granted to the holders of any of the Issuers' other issued and outstanding securities under any such agreements. The Issuers have not entered and will not enter into any agreement with respect to any of their securities which will grant to any Person piggyback registration rights with respect to any Registration Statement.

(b) Adjustments Affecting Registrable Notes. The Company shall not, directly or indirectly, take any action with respect to the Registrable Notes as a class that would adversely affect the ability of the Holders of Registrable Notes to include such Registrable Notes in a registration undertaken pursuant to this Agreement.

(c) Amendments and Waivers. The provisions of this Agreement may not be amended, qualified, modified or supplemented, and waivers or consents to departures from the provisions hereof may not be given except pursuant to a written agreement duly signed and delivered by (i) the Company (on behalf of all Issuers) and (ii)(A) the Holders of not less than a majority in aggregate principal amount of the then outstanding Registrable Notes and (B) in circumstances that would adversely affect the Participating Broker-Dealers, the Participating Broker-Dealers holding not less than a majority in aggregate principal amount of the Exchange Notes held by all Participating Broker-Dealers; provided, however, that Section 4, Section 7, and this Section 10(c) may not be amended, qualified, modified or supplemented, and waivers or consents to departures from the provisions thereof or hereof may not be given, except pursuant to a written agreement duly signed and delivered by each Holder and each Participating Broker-Dealer (including any Person who was a Holder or Participating Broker-Dealer of Registrable Notes or Exchange Notes, as the case may be, disposed of pursuant to any Registration Statement) affected by any such amendment, modification, qualification, supplement, waiver, or consent. Notwithstanding the foregoing, a waiver or consent to depart from the provisions hereof with respect to a matter that relates exclusively to the rights of Holders of Registrable Notes whose securities are being sold pursuant to a Registration Statement and that does not directly or indirectly affect, impair, limit or compromise the rights of other Holders of Registrable Notes may be given by Holders of at least a majority in aggregate principal amount of the Registrable Notes being sold pursuant to such Registration Statement.

(d) Notices. All notices and other communications (including, without limitation, any notices or other communications to the Trustee) provided for or permitted hereunder shall be made in writing by hand-delivery, registered first-class mail, next-day air courier or telecopier:

(i) if to a Holder of the Registrable Notes or any Participating Broker-Dealer, at the most current address of such Holder or Participating Broker-Dealer, as the case may be, set forth on the records of the registrar under the Indenture.

(ii) if to the Issuers, at the address as follows:

Beazer Homes USA, Inc.
1000 Abernathy Road
Atlanta, Georgia 30328
Fax: 770-481-7364
Attention: Kenneth F. Khoury

With a copy to:

Troutman Sanders LLP
600 Peachtree Street NE
Suite 5200
Atlanta, Georgia 30308
Fax: 404-962-6880
Attention: Cal Smith

(iii) if to the Initial Purchasers, at the addresses as follow:

Citigroup Global Markets Inc.
88 Greenwich Street
New York, NY 10013
Fax: 212-816-7912
Attention: General Counsel

and

Deutsche Bank Securities Inc.
60 Wall Street
New York, NY 10005
Fax: 212-797-4877
Attention: Debt Capital Markets Syndicate Desk

With a copy to:

Skadden, Arps, Slate, Meagher & Flom LLP
300 South Grand Avenue, Suite 3400
Los Angeles, CA 90071-3144
Fax: 213-687-5600
Attention: Casey T. Fleck

All such notices and communications shall be deemed to have been duly given: when delivered by hand, if personally delivered; five Business Days after being deposited in the mail, postage prepaid, if mailed; when receipt is acknowledged by the recipient's telecopier machine, if telecopied; and on the next Business Day, if timely delivered to an air courier guaranteeing overnight delivery.

Copies of all such notices, demands or other communications shall be concurrently delivered by the Person giving the same to the Trustee at the address and in the manner specified in such Indenture.

The Initial Purchasers or the Issuers by notice to the other parties may designate additional or different addresses for subsequent notices or communications

(e) Guarantors. So long as any Registrable Notes remain outstanding, the Issuers shall cause each Person that becomes a guarantor of the Notes under the Indenture to execute and deliver a counterpart to this Agreement which subjects such Person to the provisions of this Agreement as a Guarantor. Each of the Guarantors agrees to join the Company in all of its undertakings hereunder to effect the Exchange Offer for the Exchange Notes and the filing of any Shelf Registration Statement required hereunder.

(f) Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the successors and assigns of each of the parties hereto, the Holders, the Participating Broker-Dealers and the indemnified parties referred to in Section 7 hereof; provided, however, that this Agreement shall only inure to the benefit of and be binding upon a successor or assign of a Holder if and to the extent such successor or assign holds Registrable Notes.

(g) Counterparts. This Agreement may be executed in any number of counterparts and by the parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

(h) Headings. The headings in this Agreement are for convenience of reference only and shall not limit or otherwise affect the meaning hereof.

(i) Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, AS APPLIED TO CONTRACTS MADE AND PERFORMED WHOLLY WITHIN THE STATE OF NEW YORK, WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAW.

(j) Severability. If any term, provision, covenant or restriction of this Agreement is held by a court of competent jurisdiction to be invalid, illegal, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions set forth herein shall remain in full force and effect and shall in no way be affected, impaired or invalidated, and the parties hereto shall use their best efforts to find and employ an alternative means to achieve the same or substantially the same result as that contemplated by such term, provision, covenant or restriction. It is hereby stipulated and declared to be the intention of the parties that they would have executed the remaining terms, provisions, covenants and restrictions without including any of such that may be hereafter declared invalid, illegal, void or unenforceable.

(k) Securities Held by the Company or Its Affiliates. Whenever the consent or approval of Holders of a specified percentage of Registrable Notes is required hereunder, Registrable Notes held by the Company or any of its affiliates (as such term is defined in Rule 405 under the Securities Act), other than Holders deemed to be affiliates solely by

reason of their holdings of such Registrable Notes, shall not be counted in determining whether such consent or approval was given by the Holders of such required percentage.

(l) Third-Party Beneficiaries. Holders and beneficial owners of Registrable Notes, Participating Broker-Dealers and the indemnified parties referred to in Section 7 hereof are intended third-party beneficiaries of this Agreement, and this Agreement may be enforced by such Persons. No other Person is intended to be, or shall be construed as, a third-party beneficiary of this Agreement.

(m) Attorneys' Fees. As between the parties to this Agreement, in any action or proceeding brought to enforce any provision of this Agreement, or where any provision hereof is validly asserted as a defense, the successful party shall be entitled to recover reasonable attorneys' fees actually incurred in addition to its costs and expenses and any other available remedy.

(n) Entire Agreement. This Agreement, together with the Purchase Agreement and the Indenture, is intended by the parties as a final and exclusive statement of the agreement and understanding of the parties hereto in respect of the subject matter contained herein and therein and any and all prior oral or written agreements, representations, or warranties, contracts, understandings, correspondence, conversations and memoranda between the Holders on the one hand and the Company on the other, or between or among any agents, representatives, parents, subsidiaries, affiliates, predecessors in interest or successors in interest with respect to the subject matter hereof and thereof are merged herein and replaced hereby.

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

BEAZER HOMES USA, INC.

By: /s/ Allan P. Merrill
Name: Allan P. Merrill
Title: Executive Vice President and Chief Financial Officer

APRIL CORPORATION
BEAZER ALLIED COMPANIES HOLDINGS, INC.
BEAZER GENERAL SERVICES, INC.
BEAZER HOMES CORP.
BEAZER HOMES HOLDINGS CORP.
BEAZER HOMES INDIANA HOLDINGS CORP.
BEAZER HOMES SALES, INC.
BEAZER HOMES TEXAS HOLDINGS, INC.
BEAZER REALTY CORP.
BEAZER REALTY, INC.
BEAZER REALTY LOS ANGELES, INC.
BEAZER REALTY SACRAMENTO, INC.
BEAZER/SQUIRES REALTY, INC.
HOMEBUILDERS TITLE SERVICES OF VIRGINIA, INC.
HOMEBUILDERS TITLE SERVICES, INC.

By: /s/ Allan P. Merrill
Name: Allan P. Merrill
Title: Executive Vice President

BEAZER MORTGAGE CORPORATION

By: /s/ Allan P. Merrill
Name: Allan P. Merrill
Title: President

BEAZER HOMES INDIANA LLP

By: BEAZER HOMES INVESTMENTS, LLC, its Managing Partner

By: BEAZER HOMES CORP.,
its Sole Member

By: /s/ Allan P. Merrill
Name: Allan P. Merrill
Title: Executive Vice President

ARDEN PARK VENTURES, LLC
BEAZER CLARKSBURG, LLC
BEAZER COMMERCIAL HOLDINGS, LLC
DOVE BARRINGTON DEVELOPMENT LLC
BEAZER HOMES INVESTMENTS, LLC
BEAZER HOMES MICHIGAN, LLC
ELYSIAN HEIGHTS POTOMIA, LLC

By: BEAZER HOMES CORP.,
its Sole Member

By: /s/ Allan P. Merrill
Name: Allan P. Merrill
Title: Executive Vice President

BEAZER HOMES TEXAS, L.P.

By: BEAZER HOMES TEXAS HOLDINGS, INC., its General Partner

By: /s/ Allan P. Merrill
Name: Allan P. Merrill
Title: Executive Vice President

BEAZER REALTY SERVICES, LLC

By: BEAZER HOMES INVESTMENTS, LLC, its Sole Member

By: BEAZER HOMES CORP.,
its Sole Member

By: /s/ Allan P. Merrill
Name: Allan P. Merrill
Title: Executive Vice President

BEAZER SPE, LLC

By: BEAZER HOMES HOLDINGS CORP., its Sole Member

By: /s/ Allan P. Merrill
Name: Allan P. Merrill
Title: Executive Vice President

BH BUILDING PRODUCTS, LP

By: BH PROCUREMENT SERVICES, LLC, its General Partner

By: BEAZER HOMES TEXAS, L.P.,
its Sole Member

By: BEAZER HOMES TEXAS HOLDINGS, INC., its General Partner

By: /s/ Allan P. Merrill
Name: Allan P. Merrill
Title: Executive Vice President

BH PROCUREMENT SERVICES, LLC

By: BEAZER HOMES TEXAS, L.P.,
its Sole Member

By: BEAZER HOMES TEXAS HOLDINGS, INC., its General Partner

By: /s/ Allan P. Merrill
Name: Allan P. Merrill
Title: Executive Vice President

PARAGON TITLE, LLC

By: BEAZER HOMES INVESTMENTS, LLC, its Sole Member and Manager

By: BEAZER HOMES CORP.,
its Sole Member

By: /s/ Allan P. Merrill
Name: Allan P. Merrill
Title: Executive Vice President

TRINITY HOMES, LLC

By: BEAZER HOMES INVESTMENTS, LLC, its Member

By: BEAZER HOMES CORP.,
its Sole Member

By: /s/ Allan P. Merrill
Name: Allan P. Merrill
Title: Executive Vice President

CLARKSBURG ARORA LLC

By: BEAZER CLARKSBURG, LLC,
its Sole Member

By: BEAZER HOMES CORP.,
its Sole Member

By: /s/ Allan P. Merrill
Name: Allan P. Merrill
Title: Executive Vice President

CLARKSBURG SKYLARK, LLC

By: CLARKSBURG ARORA LLC,
its Sole Member

By: BEAZER CLARKSBURG, LLC,
its Sole Member

By: BEAZER HOMES CORP.,
its Sole Member

By: /s/ Allan P. Merrill
Name: Allan P. Merrill
Title: Executive Vice President

[SIGNATURE PAGE – REGISTRATION RIGHTS AGREEMENT]

Accepted and agreed to as of the date
first above written, on behalf of themselves
and the other several Initial Purchasers:

CITIGROUP GLOBAL MARKETS INC.

By: /s/ David Leland
Name: David Leland
Title: Director

DEUTSCHE BANK SECURITIES INC.

By: /s/ Scott Sartorius
Name: Scott Sartorius
Title: Managing Director

By: /s/ Nicholas Hayes
Name: Nicholas Hayes
Title: Managing Director

Schedule of Guarantors

Beazer General Services, Inc.
Beazer Homes Corp.
Beazer/Squires Realty, Inc.
Beazer Homes Sales, Inc.
Beazer Homes Investments, LLC
Beazer Realty Corp.
Beazer Homes Holdings Corp.
Beazer Homes Indiana Holdings Corp.
Beazer Homes Texas Holdings, Inc.
Beazer Homes Texas, L.P.
Beazer Homes Indiana LLP
April Corporation
Beazer SPE, LLC
Beazer Realty, Inc.
Beazer Realty Services, LLC
Beazer Realty Los Angeles, Inc.
Beazer Realty Sacramento, Inc.
BH Building Products, LP
BH Procurement Services, LLC
Homebuilders Title Services of Virginia, Inc.
Homebuilders Title Services, Inc.
Beazer Allied Companies Holdings, Inc.
Paragon Title, LLC
Trinity Homes, LLC
Beazer Commercial Holdings, LLC
Beazer Clarksburg, LLC
Arden Park Ventures, LLC
Beazer Mortgage Corporation
Beazer Homes Michigan, LLC
Dove Barrington Development LLC
Clarksburg Arora LLC
Clarksburg Skylark, LLC
Elysian Heights Potomia, LLC

Exhibit 10.1

Execution Version

CREDIT AGREEMENT

Dated as of November 16, 2010

BEAZER HOMES USA, INC.,

CITIBANK, N.A.,
as Lender

and

CITIGROUP GLOBAL MARKETS INC.,
as Lead Arranger and Bookrunner

$137,500,000 DELAYED DRAW TERM LOAN FACILITY

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LIST OF SCHEDULES AND EXHIBITS

CREDIT AGREEMENT dated as of November 16, 2010, between BEAZER HOMES USA, INC., a Delaware corporation (the "Borrower") and CITIBANK, N.A. (the "Lender").

PRELIMINARY STATEMENTS

WHEREAS, the Borrower has requested that the Lender agree to extend credit to the Borrower, and the Lender has agreed to extend such credit to the Borrower, in an aggregate principal amount of up to $137,500,000 upon the terms and subject to the conditions set forth in this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, the parties hereto hereby agree as follows:

ARTICLE I
DEFINITIONS AND ACCOUNTING TERMS

Section 1.01 Defined Terms. As used in this Agreement, the following terms have the following meanings (terms defined in the singular shall have the same meaning when used in the plural and vice versa):

"Acquired Indebtedness" means Indebtedness of any Person and its Subsidiaries existing at the time such Person became a Subsidiary of the Borrower (or such Person is merged with or into the Borrower or one of the Borrower's Subsidiaries) or assumed in connection with the acquisition of assets from any such Person, including, without limitation, Indebtedness Incurred in connection with, or in contemplation of (i) such Person being merged with or into or becoming a Subsidiary of the Borrower or one of its Subsidiaries (but excluding Indebtedness of such Person which is extinguished, retired or repaid in connection with such Person being merged with or into or becoming a Subsidiary of the Borrower or one of its Subsidiaries) or (ii) such acquisition of assets from any such Person.

"Adjusted Consolidated Tangible Net Worth" of the Borrower means Consolidated Tangible Net Worth plus the amount of any Mandatory Convertible Notes.

"Adjusted Indebtedness" of the Borrower means the Borrower's Indebtedness minus the amount of any Mandatory Convertible Notes.

"Affiliate" of any Person means any other Person directly or indirectly controlling or controlled by, or under direct or indirect common control with, such Person. For purposes hereof, each executive officer and director of the Borrower and each Subsidiary of the Borrower will be an Affiliate of the Borrower. In addition, for purposes hereof, control of a Person means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise. Notwithstanding the foregoing, the term "Affiliate" will not include, with respect to the Borrower or any Restricted Subsidiary which is a Wholly-Owned Subsidiary of the Borrower, any Restricted Subsidiary which is a Wholly-Owned Subsidiary of the Borrower.

"Agreement" means this Credit Agreement, as amended, supplemented or otherwise modified from time to time.

"Alternate Base Rate" means, for any day, the sum of (a) a rate per annum equal to the greater of (i) the Base Rate in effect on such day and (ii) the Federal Funds Effective Rate in effect on such day plus 1/2 of 1% per annum, plus (b) the Applicable Margin. Any change in the Alternate Base Rate due to a change in the Base Rate or the Federal Funds Effective Rate shall be effective from and including the effective date of such change in the Base Rate or the Federal Funds Effective Rate, respectively.

"Applicable Margin" means, as at any date of determination, 0.40%.

"Applicable Margin Portion" is defined in Section 2.04(a).

"Approved Electronic Communications" means each Communication that the Borrower is obligated to, or otherwise chooses to, provide to the Lender pursuant to any Loan Document or the transactions contemplated therein, including any financial statement, financial and other report, notice, request, certificate and other information material; provided, however, that, solely with respect to delivery of any such Communication by the Borrower to the Lender, "Approved Electronic Communications" shall exclude (i) any notice of borrowing, and any other notice, demand, communication, information, document and other material relating to a request for a new Borrowing, (ii) any notice of prepayment pursuant to Section 2.06 and any other notice relating to the payment of any principal or other amount due under any Loan Document prior to the scheduled date therefor, (iii) all notices of any Default or Event of Default and (iv) any notice, demand, communication, information, document and other material required to be delivered to satisfy any of the conditions set forth in Article III.

"Arranger" means Citigroup Global Markets Inc.

"Asset Sale" for any Person means the sale, transfer, lease, conveyance or other disposition (including, without limitation, by merger, consolidation or sale and leaseback transaction, and whether by operation of law or otherwise) of any of that Person's assets (including, without limitation, the sale or other disposition of Capital Stock of any Subsidiary of such Person, whether by such Person or such Subsidiary), whether owned on the date hereof or subsequently acquired in one transaction or a series of related transactions, in which such Person and/or its Subsidiaries receive cash and/or other consideration (including, without limitation, the unconditional assumption of Indebtedness of such Person and/or its Subsidiaries) having an aggregate Fair Market Value of $5.0 million or more as to each such transaction or series of related transactions; provided, however, that none of the following shall constitute an Asset Sale:

(i) a transaction or series of related transactions that results in a Change of Control;

(ii) sales of homes or land in the ordinary course of business;

(iii) sales, leases, conveyances or other dispositions, including, without limitation, exchanges or swaps, of real estate or other assets, in each case in the ordinary course of business, for development or disposition of the Borrower's or any of its Subsidiaries' projects;

(iv) sales, leases, sale-leasebacks or other dispositions of amenities, model homes and other improvements at the Borrower's or its Subsidiaries' projects in the ordinary course of business;

(v) transactions between the Borrower and any of its Restricted Subsidiaries, or among such Restricted Subsidiaries;

(vi) a transaction involving the sale of Capital Stock of, or the disposition of assets in, an Unrestricted Subsidiary;

(vii) any exchange or swap of assets of the Borrower or any Restricted Subsidiary for assets (including Capital Stock of any Person that is or will be a Restricted Subsidiary following receipt thereof) that (i) are to be used by the Borrower or any Restricted Subsidiary in the ordinary course of business and (ii) have a Fair Market Value not less than the Fair Market Value of the assets exchanged or swapped;

(viii) any disposition of Cash Equivalents or obsolete or worn out equipment, in each case, in the ordinary course of business;

(ix) the sale or other disposition of assets no longer used or useful in the conduct of business of the Borrower or any of its Restricted Subsidiaries; and

(x) the making of any Restricted Payment or Permitted Investment that is permitted to be made, and is made, under Section 6.03 hereof.

"Bankruptcy Law" means title 11 of the United States Code, as amended, or any similar federal or state law for the relief of debtors.

"Base Rate" means the fluctuating rate of interest announced publicly by Citibank, N.A. in New York, New York from time to time as its base rate.

"Board" means the Board of Governors of the Federal Reserve System of the United States of America.

"Book Value" means, with respect to any asset of the Borrower or any of its Subsidiaries, the book value thereof as reflected in the most recent consolidated financial statements of the Borrower filed with SEC (or if such asset has been acquired after the date of such financial statements, the then-current book value thereof as reasonably determined by the Borrower consistent with recent practices).

"Borrower" has the meaning assigned to such term in the opening paragraph of this Agreement.

"Borrowing" means a borrowing consisting of Loans made on the same day.

"Business Day" means (i) with respect to any Borrowing, payment or rate determination of Loans, a day (other than a Saturday or Sunday) on which banks generally are open in New York City for the conduct of substantially all of their commercial lending activities and on which dealings in United States dollars are carried on in the London interbank market and (ii) for all other purposes, a day (other than a Saturday or Sunday) on which banks generally are open in New York City for the conduct of substantially all of their commercial lending activities.

"Capital Stock" of any Person means any and all shares, rights to purchase, warrants or options (whether or not currently exercisable), participations, or other equivalents of or interests in (however designated and whether voting or non-voting) the equity (which includes, but is not limited to, common stock, preferred stock and partnership and joint venture interests) of such Person (excluding any debt securities that are convertible into, or exchangeable for, such equity).

"Capitalized Lease Obligations" of any Person means the obligations of such Person to pay rent or other amounts under a lease that is required to be capitalized for financial reporting purposes in accordance with GAAP, and the amount of such obligation will be the capitalized amount thereof determined in accordance with GAAP.

"Cash Collateral Account" means the Account (as such term is defined in the Cash Collateral Agreement) maintained under the Cash Collateral Agreement.

"Cash Collateral Agreement" means the Cash Collateral Agreement to be executed and delivered by the Borrower in accordance with Section 3.01, in form mutually satisfactory to Lender and Borrower.

"Cash Equivalents" means any security or instrument that constitutes a cash equivalent under GAAP, including any of the following:

(i) direct obligations of the United States or any agency thereof or obligations guaranteed by the United States or any agency thereof, in each case maturing within one year of the date of acquisition thereof;

(ii) certificates of deposit, time deposits, bankers acceptances and other obligations placed with commercial banks organized under the laws of the United States of America or any state thereof, or branches or agencies of foreign banks licensed under the laws of the United States of America or any state thereof, having a short-term rating of not less than A- by Moody's or S&P at the time of acquisition, and having a maturity of not more than one year;

(iii) commercial paper rated at least P-1, A-1 or the equivalent thereof by Moody's or S&P, respectively, and in each case and maturing not more than one year from the date of the acquisition thereof;

(iv) repurchase agreements or money-market accounts which are fully secured by direct obligations of the United States or any agency thereof; and

(v) investments in money market funds (a) substantially all of the assets of which consist of investments described in the foregoing clauses (i) through (iv) or (b) which (1) have total net assets of at least $2.0 billion, (2) have investment objectives and policies that substantially conform with the Borrower's investment policy as in effect from time to time, (3) purchase only first-tier or U.S. government obligations as defined by Rule 2a-7 of the SEC promulgated under the Investment Company Act of 1940 and (4) otherwise comply with such Rule 2a-7.

"Change" is defined in Section 2.10.

"Change of Control" means any of the following:

(i) the sale, transfer, lease, conveyance or other disposition (in one transaction or a series of transactions) of all or substantially all of the Borrower's assets as an entirety or substantially as an entirety to any Person or "group" (within the meaning of Section 13(d)(3) of the Exchange Act); provided that a transaction where the holders of all classes of Common Equity of the Borrower immediately prior to such transaction own, directly or indirectly, 50% or more of the aggregate voting power of all classes of Common Equity of such Person or group immediately after such transaction will not be a Change of Control;

(ii) the acquisition by the Borrower and/or any of its Subsidiaries of 50% or more of the aggregate voting power of all classes of Common Equity of the Borrower in one transaction or a series of related transactions;

(iii) the liquidation or dissolution of the Borrower; provided that a liquidation or dissolution of the Borrower which is part of a transaction or series of related transactions that does not constitute a Change of Control under the "provided" clause of clause (i) above will not constitute a Change of Control under this clause (iii);

(iv) any transaction or a series of related transactions (as a result of a tender offer, merger, consolidation or otherwise) that results in, or that is in connection with, (a) any Person, including a "group" (within the meaning of Section 13(d)(3) of the Exchange Act) acquiring "beneficial ownership" (as defined in Rule 13d-3 under the Exchange Act), directly or indirectly, of 50% or more of the aggregate voting power of all classes of Common Equity of the Borrower or of any Person that possesses "beneficial ownership" (as defined in Rule 13d-3 under the Exchange Act), directly or indirectly, of 50% or more of the aggregate voting power of all classes of Common Equity of the Borrower or (b) less than 50% (measured by the aggregate voting power of all classes) of the Common Equity of the Borrower being registered under Section 12(b) or 12(g) of the Exchange Act;

(v) a majority of the Board of Directors of the Borrower not being comprised of Continuing Directors; or

(vii) a change of control shall occur as defined in the instrument governing any publicly traded debt securities of the Borrower which requires the Borrower to repay or repurchase such debt securities.

"Change of Control Payment Date" is defined in Section 2.06(b).

"Closing Date" is defined in Section 3.01.

"Code" means the Internal Revenue Code of 1986, as amended from time to time, and the regulations and published interpretations thereof.

"Collateral" means all property of the Borrower, now owned or hereafter acquired, upon which a Lien is purported to be created by any Security Document.

"Commitment" means the obligation of the Lender to make Loans in an aggregate principal amount not exceeding $137,500,000.

"Commitment Termination Date" means the earliest to occur of (i) June 14, 2011 (ii) the first date upon which the Lender shall have funded Loans in respect of two (2) separate Borrowings (including the Borrowing on the Closing Date), (iii) the date upon which a Change of Control occurs and (iv) the date on which the Lender's obligation to fund Loans hereunder has terminated pursuant to Section 7.01.

"Common Equity" of any Person means all Capital Stock of such Person that is generally entitled to (i) vote in the election of directors of such Person or (ii) if such Person is not a corporation, vote or otherwise participate in the selection of the governing body, partners, managers or others that will control the management and policies of such Person.

"Commonly Controlled Entity" means an entity, whether or not incorporated, which is under common control with the Borrower within the meaning of Section 414(b) or 414(c) of the Code.

"Communications" means each notice, demand, communication, information, document and other material provided for under this Agreement or under any other Loan Document or otherwise transmitted between the parties hereto relating this Agreement, the other Loan Documents, the Borrower or its Affiliates, or the transactions contemplated by this Agreement or the other Loan Documents including, without limitation, all Approved Electronic Communications.

"Consolidated Cash Flow Available for Fixed Charges" of the Borrower and its Restricted Subsidiaries means for any period, the sum of the amounts for such period of:

(i) Consolidated Net Income, plus

(ii) Consolidated Income Tax Expense (without regard to income tax expense or credits attributable to extraordinary and nonrecurring gains or losses on Asset Sales), plus

(iii) Consolidated Interest Expense, plus

(iv) all depreciation, and, without duplication, amortization (including, without limitation, capitalized interest amortized to cost of sales), plus

(v) all other non-cash items reducing Consolidated Net Income during such period, minus

all other non-cash items increasing Consolidated Net Income during such period; all as determined on a consolidated basis for the Borrower and its Restricted Subsidiaries in accordance with GAAP.

"Consolidated Fixed Charge Coverage Ratio" of the Borrower means, with respect to any determination date, the ratio of (i) Consolidated Cash Flow Available for Fixed Charges of the Borrower for the prior four full fiscal quarters for which financial results have been reported immediately preceding the determination date to (ii) the aggregate Consolidated Interest Incurred of the Borrower for the prior four full fiscal quarters for which financial results have been reported immediately preceding the determination date; provided that:

(1) with respect to any Indebtedness Incurred during, and remaining outstanding at the end of, such four full fiscal quarter period, such Indebtedness will be assumed to have been incurred as of the first day of such four full fiscal quarter period;

(2) with respect to Indebtedness repaid (other than a repayment of revolving credit obligations repaid solely out of operating cash flows) during such four full fiscal quarter period, such Indebtedness will be assumed to have been repaid on the first day of such four-full-fiscal-quarter period;

(3) with respect to the Incurrence of any Acquired Indebtedness, such Indebtedness and any proceeds therefrom will be assumed to have been Incurred and applied as of the first day of such four full fiscal quarter period, and the results of operations of any Person and any Subsidiary of such Person that, in connection with or in contemplation of such Incurrence, becomes a Subsidiary of the Borrower or is merged with or into the Borrower or one of the Borrower's Subsidiaries or whose assets are acquired, will be included, on a pro forma basis, in the calculation of the Consolidated Fixed Charge Coverage Ratio as if such transaction had occurred on the first day of such four full fiscal quarter period; and

(4) with respect to any other transaction pursuant to which any Person becomes a Subsidiary of the Borrower or is merged with or into the Borrower or one of the Borrower's Subsidiaries or pursuant to which any Person's assets are acquired, such Consolidated Fixed Charge Coverage Ratio shall be calculated on a pro forma basis as if such transaction had occurred on the first day of such four full fiscal quarter period, but only if such transaction would require a pro forma presentation in financial statements prepared pursuant to Rule 11-02 of Regulation S-X under the Securities Act.

"Consolidated Income Tax Expense" of the Borrower for any period means the income tax expense of the Borrower and its Restricted Subsidiaries for such period, determined on a consolidated basis in accordance with GAAP.

"Consolidated Interest Expense" of the Borrower for any period means the Interest Expense of the Borrower and its Restricted Subsidiaries for such period, determined on a consolidated basis in accordance with GAAP.

"Consolidated Interest Incurred" of the Borrower for any period means the Interest Incurred of the Borrower and its Restricted Subsidiaries for such period, determined on a consolidated basis in accordance with GAAP.

"Consolidated Net Income" of the Borrower for any period means the aggregate net income (or loss) of the Borrower and its Restricted Subsidiaries for such period, determined on a consolidated basis in accordance with GAAP; provided that there will be excluded from such net income (to the extent otherwise included therein), without duplication:

(i) the net income (or loss) of any Person (other than a Restricted Subsidiary) in which any Person (including, without limitation, an Unrestricted Subsidiary) other than the Borrower or any Restricted Subsidiary has an ownership interest, except to the extent that any such income has actually been received by the Borrower or any Restricted Subsidiary in the form of cash dividends or similar cash distributions during such period, or in any other form but converted to cash during such period;

(ii) except to the extent includable in Consolidated Net Income pursuant to the foregoing clause (i), the net income (or loss) of any Person that accrued prior to the date that (a) such Person becomes a Restricted Subsidiary or is merged with or into or consolidated with the Borrower or any of its Restricted Subsidiaries or (b) the assets of such Person are acquired by the Borrower or any of its Restricted Subsidiaries;

(iii) the net income of any Restricted Subsidiary to the extent that (but only so long as) the declaration or payment of dividends or similar distributions by such Restricted Subsidiary of that income is not permitted by operation of the terms of its charter or any agreement, instrument, judgment, decree, order, statute, rule or governmental regulation applicable to that Restricted Subsidiary during such period;

(iv) in the case of a successor to the Borrower by consolidation, merger or transfer of its assets, any earnings of the successor prior to such merger, consolidation or transfer of assets; and

(v) the gains (but not losses) realized during such period by the Borrower or any of its Restricted Subsidiaries resulting from (a) the acquisition of securities issued by the Borrower or extinguishment of Indebtedness of the Borrower or any of its Restricted Subsidiaries, (b) Asset Sales by the Borrower or any of its Restricted Subsidiaries and (c) other extraordinary items realized by the Borrower or any of its Restricted Subsidiaries.

Notwithstanding the foregoing, in calculating Consolidated Net Income, the Borrower will be entitled to take into consideration the tax benefits associated with any loss described in clause (v) of the preceding sentence, but only to the extent such tax benefits are actually recognized by the Borrower or any of its Restricted Subsidiaries during such period; provided, further, that there will be included in such net income, without duplication, the net income of any Unrestricted Subsidiary to the extent such net income is actually received by the Borrower or any of its Restricted Subsidiaries in the form of cash dividends or similar cash distributions during such period, or in any other form but converted to cash during such period.

"Consolidated Tangible Assets" of the Borrower as of any date means the total amount of assets of the Borrower and its Restricted Subsidiaries (less applicable reserves) on a consolidated basis at the end of the fiscal quarter immediately preceding such date, as determined in accordance with GAAP, less: (i) Intangible Assets and (ii) appropriate adjustments on account of minority interests of other Persons holding equity investments in Restricted Subsidiaries, in the case of each of clauses (i) and (ii) above, as reflected on the consolidated balance sheet of the Borrower and its Restricted Subsidiaries as of the end of the fiscal quarter immediately preceding such date.

"Consolidated Tangible Net Worth" of the Borrower as of any date means the stockholders' equity (including any Preferred Stock that is classified as equity under GAAP, other than Disqualified Stock) of the Borrower and its Restricted Subsidiaries on a consolidated basis at the end of the fiscal quarter immediately preceding such date, as determined in accordance with GAAP, plus any amount of unvested deferred compensation included, in accordance with GAAP, as an offset to stockholders' equity, less the amount of Intangible Assets reflected on the consolidated balance sheet of the Borrower and its Restricted Subsidiaries as of the end of the fiscal quarter immediately preceding such date.

"Continuing Director" means at any date a member of the Board of Directors of the Borrower who:

(i) was a member of the Board of Directors of the Borrower on the Closing Date; or

(ii) was nominated for election or elected to the Board of Directors of the Borrower with the affirmative vote of at least a majority of the directors who were Continuing Directors at the time of such nomination or election.

"Covenant Trigger Date" means the earlier of (i) 24 months from the Closing Date and (ii) the date that the Net Income Threshold is met.

"Credit Facilities" means, with respect to the Borrower or any of its Restricted Subsidiaries, one or more debt facilities or other financing arrangements (including, without limitation, commercial paper or letter of credit facilities or indentures) providing for revolving credit loans, term loans, letters of credit or other Indebtedness including any notes, mortgages, guarantees, collateral documents, instruments and agreements executed in connection therewith, and any amendments, supplements, modifications, extensions, renewals, restatements or refundings thereof and any indentures, credit facilities, letter of credit facilities or commercial paper facilities that replace, refund or refinance any part of the loans, notes, other credit facilities or commitments thereunder, including any such replacement, refunding or refinancing facility or indenture that increases the amount permitted to be borrowed thereunder or alters the maturity thereof (provided that such increase in borrowings is permitted by Section 6.01 hereof) or adds Restricted Subsidiaries as additional borrowers or guarantors thereunder and whether by the same or any other agent, lender or group of lenders.

"Custodian" means any receiver, trustee, assignee, liquidator or similar official under any Bankruptcy Law.

"Default" means any of the events specified in Section 7.01, whether or not any requirement for the giving of notice, the lapse of time, or both, or any other condition, has been satisfied.

"Disqualified Stock" means any Capital Stock 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 or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, or is redeemable at the option of the holder thereof, in whole or in part, on or prior to the Maturity Date; provided that any Capital Stock which would not constitute Disqualified Stock but for provisions thereof giving holders thereof the right to require the Borrower to repurchase or redeem such Capital Stock upon the occurrence of a change of control occurring prior to the Maturity Date will not constitute Disqualified Stock if the change of control provisions applicable to such Capital Stock are no more favorable to the holders of such Capital Stock than those contained in Section 2.06(b) hereof and such Capital Stock specifically provides that the Borrower will not repurchase or redeem (or be required to repurchase or redeem) any such Capital Stock pursuant to such provisions prior to the Borrower's prepayment of Loans pursuant to Section 2.06(b) hereof

"Disqualified Stock Dividend" of any Person means, for any dividend payable with regard to Disqualified Stock issued by such Person, the amount of such dividend multiplied by a fraction, the numerator of which is one and the denominator of which is one minus the maximum statutory combined federal, state and local income tax rate (expressed as a decimal number between 1 and 0) then applicable to such Person.

"Dollars" and the sign "$" mean lawful money of the United States of America.

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended from time to time, and the regulations and published interpretations thereof.

"Eurodollar Rate" means, with respect to a Loan for any day, the sum of (a) the LIBO Rate applicable to such day plus (b) the Applicable Margin.

"Event of Default" means any of the events specified in Section 7.01, provided that any requirement for the giving of notice, the lapse of time, or both, or any other condition, has been satisfied.

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

"Existing Indebtedness" means all of the Indebtedness of the Borrower and its Subsidiaries that is outstanding on the date hereof.

"Facility" means the credit facility described in Section 2.01.

"Fair Market Value" means, with respect to any asset or property, the sale value that would be obtained in an arm's-length transaction between an informed and willing seller under no compulsion to sell and an informed and willing buyer under no compulsion to buy. Fair Market Value shall be determined by the Board of Directors of the Borrower acting in good faith and shall be evidenced by a board resolution (certified by the Secretary or Assistant Secretary of the Borrower) delivered to the Lender.

"Federal Funds Effective Rate" means, for each day, a fluctuating interest rate per annum equal to the weighted average of the rates on overnight Federal Funds transactions with members of the Federal Reserve System arranged by Federal Funds brokers, as published for such day (or, if such day is not a Business Day, for the immediately preceding Business Day) by the Federal Reserve Bank of New York, or, if such rate is not so published for any day which is a Business Day, the average of the quotations at approximately 11:00 A.M. New York City time on such day on such transactions received by the Lender from three Federal Funds brokers of recognized standing selected by the Lender in its sole discretion.

"Fee Letter" means that certain fee letter dated November 16, 2010 from Citigroup Global Markets Inc. and Deutsche Bank Securities Inc. to the Borrower and accepted by the Borrower.

"GAAP" means generally accepted accounting principles set forth in the opinions and interpretations of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and interpretations of the Financial Accounting Standards Board or in such other statements by such other entity as may be approved by a significant segment of the accounting profession of the United States, as in effect from time to time. At any time after the Closing Date, the Borrower may elect to apply IFRS accounting principles in lieu of GAAP and, upon any such election, references herein to GAAP shall thereafter be construed to mean IFRS (except as otherwise provided herein); provided that any such election, once made, shall be irrevocable; provided, further, any calculation or determination herein that requires the application of GAAP for periods that include fiscal quarters ended prior to the Borrower's election to apply IFRS shall remain as previously calculated or determined in accordance with GAAP. The Borrower shall give notice of any such election made in accordance with this definition to the Lender.

"Hedging Obligations" of any Person means the obligations of such Person pursuant to any interest rate swap agreement, foreign currency exchange agreement, interest rate collar agreement, option or futures contract or other similar agreement or arrangement relating to interest rates or foreign exchange rates.

"IFRS" means International Financial Reporting Standards.

"Incur" (and derivatives thereof) means to, directly or indirectly, create, incur, assume, guarantee, extend the maturity of, or otherwise become liable with respect to any Indebtedness; provided, however, that neither the accrual of interest (whether such interest is payable in cash or kind) nor the accretion of original issue discount shall be considered an Incurrence of Indebtedness.

"Indebtedness" of any Person at any date means, without duplication:

(i) all indebtedness of such Person for borrowed money (whether or not the recourse of the lender is to the whole of the assets of such Person or only to a portion thereof);

(ii) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments (including a purchase money obligation) given in connection with the acquisition of any businesses, properties or assets of any kind or with services incurred in connection with capital expenditures (other than any obligation to pay a contingent purchase price which, as of the date of incurrence thereof, is not required to be recorded as a liability in accordance with GAAP);

(iii) all fixed obligations of such Person in respect of letters of credit or other similar instruments or reimbursement obligations with respect thereto (other than standby letters of credit or similar instruments issued for the benefit of, or surety, performance, completion or payment bonds, earnest money notes or similar purpose undertakings or indemnifications issued by, such Person in the ordinary course of business);

(iv) all obligations of such Person with respect to Hedging Obligations (other than those that fix or cap the interest rate on variable rate Indebtedness otherwise permitted hereby or that fix the exchange rate in connection with Indebtedness denominated in a foreign currency and otherwise permitted hereby);

(v) all Capitalized Lease Obligations of such Person;

(vi) all Indebtedness of others secured by a Lien on any asset of such Person, whether or not such Indebtedness is assumed by such Person;

(vii) all Indebtedness of others guaranteed by, or otherwise the liability of, such Person to the extent of such guarantee or liability; and

(viii) all Disqualified Stock issued by such Person (the amount of Indebtedness represented by any Disqualified Stock will equal the greater of the voluntary or involuntary liquidation preference plus accrued and unpaid dividends);

provided, that Indebtedness shall not include accrued expenses, accounts payable, trade payables, liabilities related to inventory not owned, customer deposits or deferred income taxes arising in the ordinary course of business. The amount of Indebtedness of any Person at any date will be:

(a) the outstanding balance at such date of all unconditional obligations as described above;

(b) the maximum liability of such Person for any contingent obligations under clause (vii) above; and

(c) in the case of clause (vi) (if the Indebtedness referred to therein is not assumed by such Person), the lesser of the (1) Fair Market Value of all assets subject to a Lien securing the Indebtedness of others on the date that the Lien attaches and (2) amount of the Indebtedness secured.

"Indemnified Parties" is defined in Section 8.06.

"Intangible Assets" of the Borrower means all unamortized debt discount and expense, unamortized deferred charges, goodwill, patents, trademarks, service marks, trade names, copyrights and all other items which would be treated as intangibles on the consolidated balance sheet of the Borrower and its Restricted Subsidiaries prepared in accordance with GAAP.

"Interest Expense" of any Person for any period means, without duplication, the aggregate amount of (i) interest which, in conformity with GAAP, would be set opposite the caption "interest expense" or any like caption on an income statement for such Person (including, without limitation, imputed interest included on Capitalized Lease Obligations, all commissions, discounts and other fees and charges owed with respect to letters of credit securing financial obligations and bankers' acceptance financing, the net costs associated with Hedging Obligations, amortization of other financing

fees and expenses, the interest portion of any deferred payment obligation, amortization of discount or premium, if any, and all other non-cash interest expense other than interest and other charges amortized to cost of sales) and includes, with respect to the Borrower and its Restricted Subsidiaries, without duplication (including duplication of the foregoing items), all interest amortized to cost of sales for such period, and (ii) the amount of Disqualified Stock Dividends recognized by the Borrower on any Disqualified Stock whether or not paid during such period.

"Interest Incurred" of any Person for any period means, without duplication, the aggregate amount of (i) interest which, in conformity with GAAP, would be set opposite the caption "interest expense" or any like caption on an income statement for such Person (including, without limitation, imputed interest included on Capitalized Lease Obligations, all commissions, discounts and other fees and charges owed with respect to letters of credit securing financial obligations and bankers' acceptance financing, the net costs associated with Hedging Obligations, amortization of other financing fees and expenses, the interest portion of any deferred payment obligation, amortization of discount or premium, if any, and all other non-cash interest expense other than interest and other charges amortized to cost of sales) and includes, with respect to the Borrower and its Restricted Subsidiaries, without duplication (including duplication of the foregoing items), all interest capitalized for such period, all interest attributable to discontinued operations for such period to the extent not set forth on the income statement under the caption "interest expense" or any like caption, and all interest actually paid by the Borrower or a Restricted Subsidiary under any guarantee of Indebtedness (including, without limitation, a guarantee of principal, interest or any combination thereof) of any other Person during such period and (ii) the amount of Disqualified Stock Dividends recognized by the Borrower on any Disqualified Stock whether or not declared during such period.

"Internal Reorganization" means any reorganization between or among the Borrower and any Subsidiary or Subsidiaries or between or among any Subsidiary and one or more other Subsidiaries or any combination thereof by way of liquidations, mergers, consolidations, conveyances, assignments, sales, transfers and other dispositions of all or substantially all of the assets of a Subsidiary (whether in one transaction or in a series of transactions); provided that (a) the Borrower shall preserve and maintain its status as a validly existing corporation and (b) all assets, liabilities, obligations and guarantees of any Subsidiary party to such reorganization will continue to be held by such Subsidiary or be assumed by the Borrower or a Wholly-Owned Subsidiary of the Borrower.

"Investments" of any Person means all (i) investments by such Person in any other Person in the form of loans, advances or capital contributions, (ii) guarantees of Indebtedness or other obligations of any other Person by such Person, (iii) purchases (or other acquisitions for consideration) by such Person of Indebtedness, Capital Stock or other securities of any other Person and (iv) other items that would be classified as investments on a balance sheet of such Person determined in accordance with GAAP. For all purposes hereof, the amount of any such Investment shall be the fair market value thereof (with the fair market value of each Investment being measured at the time made and without giving effect to subsequent changes in value). The making of any payment in accordance with the terms of a guarantee or other contingent obligation permitted hereunder shall not be considered an Investment.

"Lender" has the meaning assigned to such term in the opening paragraph of this Agreement.

"Lending Office" means the lending office of the Lender (or of an affiliate of the Lender) heretofore designated in writing by the Lender to the Borrower or such other office or branch of the Lender (or of an affiliate of the Lender) as the Lender may from time to time specify to the Borrower as the office or branch at which its Loans are to be made and maintained.

"LIBO Rate" means, with respect to any Loan for each day, the rate appearing on Reuters Screen LIBOR01 Page, or on any successor or substitute page of such service, or any successor to or substitute for such service, providing rate quotations comparable to those currently provided on such page of such service, as determined by the Lender from time to time for purposes of providing quotations of interest rates applicable to dollar deposits in the London interbank market, at approximately 11:00 a.m., London time, one (1) Business Day prior to the day to which such rate will apply, as the rate for overnight dollar deposits. In the event that such rate is not available at such time for any reason, then the "LIBO Rate" with respect to such Loan for such day shall be the rate at which overnight dollar deposits of $5,000,000 are offered by the principal London office of Citibank, N.A.

"LIBO Rate Portion" is defined in Section 2.04(a).

"Lien" means, with respect to any asset, any mortgage, lien, pledge, charge, security interest or other similar encumbrance of any kind upon or in respect of such asset, whether or not filed, recorded or otherwise perfected under applicable law (including, without limitation, any conditional sale or other title retention agreement).

"Loan" means a Loan made pursuant to Section 2.01.

"Loan Documents" means this Agreement, the Note, the Security Documents and any and all documents delivered hereunder or pursuant hereto.

"Mandatory Convertible Notes" means any Indebtedness of a Person, the principal amount of which is payable at maturity solely in Capital Stock of such Person (provided that a requirement to pay accrued, but unpaid interest on such Indebtedness in cash at maturity or a requirement to pay cash fees, expenses or premiums as a result of the acceleration of payment, early redemption or otherwise with respect to such Indebtedness shall not disqualify such Indebtedness as Mandatory Convertible Notes).

"Material Subsidiary" means any Subsidiary of the Borrower which accounted for five percent or more of the Consolidated Tangible Assets or Consolidated Cash Flow Available for Fixed Charges of the Borrower on a consolidated basis for the fiscal year ending immediately prior to any Default or Event of Default.

"Maturity Date" means November 16, 2017.

"Moody's" means Moody's Investors Service, Inc.

"Multiemployer Plan" means a plan described in Section 4001(a)(3) of ERISA in respect of which the Borrower, a Subsidiary or a Commonly Controlled Entity is an "employer" as defined in Section 3(5) of ERISA.

"Net Income Threshold" means Consolidated Net Income of greater than $0.01 for any two consecutive fiscal quarters ended on or after the Closing Date.

"Non-Recourse Indebtedness" with respect to any Person means Indebtedness of such Person for which (i) the sole legal recourse for collection of principal and interest on such Indebtedness is against the specific property identified in the instruments evidencing or securing such Indebtedness and such property was acquired (directly or indirectly, including through the purchase of Capital Stock of the Person owning such property) with the proceeds of such Indebtedness or such Indebtedness was Incurred within 90 days after the acquisition (directly or indirectly, including through the purchase of Capital Stock

of the Person owning such property) of such property and (ii) no other assets of such Person may be realized upon in collection of principal or interest on such Indebtedness. Indebtedness which is otherwise Non-Recourse Indebtedness will not lose its character as Non-Recourse Indebtedness because there is recourse to the borrower, any guarantor or any other Person for (a) environmental warranties and indemnities, (b) indemnities for and liabilities arising from fraud, misrepresentation, misapplication or non-payment of rents, profits, insurance and condemnation proceeds and other sums actually received by the borrower from secured assets to be paid to the lender, waste and mechanics' liens or (c) in the case of the borrower thereof only, other obligations in respect of such Indebtedness that are payable solely as a result of a voluntary bankruptcy filing (or similar filing or action) by such borrower.

"Note" means a promissory note in substantially the form of Exhibit A hereto, executed and delivered by the Borrower, payable to the order of the Lender in the amount of the Commitment, including any amendment, modification, restatement, continuation or replacement of such promissory note.

"Obligations" means (a) the due and punctual payment of principal of and interest on the Loans and the Note and (b) the due and punctual payment of fees, expenses, reimbursements, indemnifications and other present and future monetary obligations of the Borrower to the Lender or any indemnified party, in each case arising under the Loan Documents.

"PBGC" means the Pension Benefit Guaranty Corporation or any entity succeeding to any or all of its functions under ERISA.

"Permitted Investments" of any Person means any Investments of such Person that are not Restricted Investments.

"Person" means an individual, partnership, corporation, business trust, joint stock company, trust, limited liability company, unincorporated association, joint venture, governmental authority, or other entity of whatever nature.

"Plan" means any pension plan which is covered by Title IV of ERISA and in respect of which (a) the Borrower or a Subsidiary or a Commonly Controlled Entity is an "employer" as defined in Section 3(5) of ERISA and (b) the Borrower or a Subsidiary has any material liability; provided, however, that the term "Plan" shall not include any Multiemployer Plan.

"Preferred Stock" of any Person means all Capital Stock of such Person which has a preference in liquidation or with respect to the payment of dividends.

"Prohibited Transaction" means any transaction set forth in Section 406 of ERISA or Section 4975 of the Code that could subject the Borrower or any Subsidiary to any material liability.

"Put Date" is defined in Section 2.06(d).

"Quarterly Payment Date" means January 31, 2011 and the last day of each April, July, October and January thereafter.

"Refinancing Indebtedness" means Indebtedness that refunds, refinances or extends any Existing Indebtedness or other Indebtedness permitted to be incurred by the Borrower or its Restricted Subsidiaries pursuant to the terms hereof, but only to the extent that:

(i) the Refinancing Indebtedness is subordinated in right of payment to the Loans to the same extent as the Indebtedness being refunded, refinanced or extended, if at all;

(ii) the Refinancing Indebtedness is scheduled to mature either (a) no earlier than the Indebtedness being refunded, refinanced or extended, or (b) after the Maturity Date;

(iii) the portion, if any, of the Refinancing Indebtedness that is scheduled to mature on or prior to the Maturity Date has a Weighted Average Life to Maturity at the time such Refinancing Indebtedness is Incurred that is equal to or greater than the Weighted Average Life to Maturity of the portion of the Indebtedness being refunded, refinanced or extended that is scheduled to mature on or prior to the Maturity Date;

(iv) such Refinancing Indebtedness is in an aggregate amount that is equal to or less than the aggregate amount then outstanding (including accrued interest) under the Indebtedness being refunded, refinanced or extended plus an amount necessary to pay any reasonable fees and expenses, including premiums and defeasance costs, related to such refinancing;

(v) such Refinancing Indebtedness is Incurred by the same Person that initially Incurred the Indebtedness being refunded, refinanced or extended, except that the Borrower may Incur Refinancing Indebtedness to refund, refinance or extend Indebtedness of any Restricted Subsidiary; and

(vi) such Refinancing Indebtedness is Incurred within 180 days before or after the Indebtedness being refunded, refinanced or extended is so refunded, refinanced or extended; provided, however, that if all of the indentures for the debt securities of the Borrower and its Subsidiaries that have an exception for the incurrence of refinancing indebtedness that permits such refinancing indebtedness to be incurred more than 180 days after the Indebtedness being refunded, refinanced or extended is so refunded, refinanced or extended, then the foregoing 180-day period shall be deemed extended to the shortest corresponding period permitted in such indentures.

"Regulation D" means Regulation D of the Board of Governors of the Federal Reserve System as from time to time in effect and any successor thereto or other regulation or official interpretation of said Board of Governors relating to reserve requirements applicable to member banks of the Federal Reserve System.

"Regulation U" means Regulation U of the Board of Governors of the Federal Reserve System as from time to time in effect and any successor or other regulation or official interpretation of said Board of Governors relating to the extension of credit by banks for the purpose of purchasing or carrying margin stocks applicable to member banks of the Federal Reserve System.

"Regulation X" means Regulation X of the Board of Governors of the Federal Reserve System as from time to time in effect and any successor or other regulation or official interpretation of said Board of Governors relating to the extension of credit by foreign lenders for the purpose of purchasing or carrying margin stock (as defined therein).

"Related Parties" means, with respect to any Person, such Person's Affiliates and such Person's and such Person's Affiliates respective managers, administrators, trustees, partners, directors, officers, employees, agents, fund managers and advisors.

"Reportable Event" means any of the events set forth in Section 4043 of ERISA with respect to a Plan (excluding any such event with respect to which the PBGC has waived the 30-day notice requirement).

"Restricted Investment" means any Investment in joint ventures or Unrestricted Subsidiaries having an aggregate fair market value (with the fair market value of each Investment being measured at the time made and without giving effect to subsequent changes in value), taken together with all other Investments made pursuant to this definition that are at the time outstanding, net of any amounts paid to the Borrower or any Restricted Subsidiary as a return of, or on, such Investments, not to exceed five percent of Consolidated Tangible Assets.

"Restricted Payment" means any of the following:

(i) the declaration of any dividend or the making of any other payment or distribution of cash, securities or other property or assets in respect of the Capital Stock of the Borrower or any Restricted Subsidiary (other than (a) dividends, payments or distributions payable solely in Capital Stock (other than Disqualified Stock) of the Borrower or a Restricted Subsidiary and (b) in the case of a Restricted Subsidiary, dividends, payments or distributions payable to the Borrower or to another Restricted Subsidiary and *pro rata* dividends, payments or distributions payable to minority stockholders of such Restricted Subsidiary);

(ii) the purchase, redemption, retirement or other acquisition for value of any Capital Stock of the Borrower or any Restricted Subsidiary (other than Capital Stock held by the Borrower or a Restricted Subsidiary);

(iii) any Restricted Investment; and

(iv) any principal payment, redemption, repurchase, defeasance or other acquisition or retirement of any Subordinated Indebtedness (other than (a) Indebtedness permitted under Section 6.01(b)(vi) hereof or (b) the payment, redemption, repurchase, defeasance or other acquisition or retirement of such Indebtedness in anticipation of satisfying a sinking fund obligation, principal installment or final maturity, in each case due within one year of the date of such payment, redemption, repurchase, defeasance or other acquisition or retirement);

provided, however, that Restricted Payments will not include any purchase, redemption, retirement or other acquisition for value of Indebtedness or Capital Stock of the Borrower or a Restricted Subsidiary if the consideration therefor consists solely of Capital Stock (other than Disqualified Stock) of the Borrower or a Restricted Subsidiary.

"Restricted Subsidiary" means each of the Subsidiaries of the Borrower which is not an Unrestricted Subsidiary.

"Risk-Based Capital Guidelines" is defined in Section 2.10.

"S&P" means Standard & Poor's Rating Services.

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

"SEC Reports" means the Borrower's annual report on Form 10-K for the fiscal year ended September 30, 2010 and all quarterly reports on Form 10-Q and current reports on Form 8-K filed with the SEC subsequent to the date such annual report was filed with the SEC.

"Secured Indebtedness" means any Indebtedness which is secured by (1) a Lien on any property of the Borrower or any Restricted Subsidiary or (2) a Lien on shares of stock owned directly or indirectly by the Borrower or a Restricted Subsidiary in a corporation or on equity interests owned by the Borrower or a Restricted Subsidiary in a partnership or other entity not organized as a corporation or in the Borrower's rights or the rights of a Restricted Subsidiary in respect of Indebtedness of a corporation, partnership or other entity in which the Borrower or a Restricted Subsidiary has an equity interest; provided that "Secured Indebtedness" shall not include Non-Recourse Indebtedness. The securing in the foregoing manner of any such Indebtedness which immediately prior thereto was not Secured Indebtedness shall be deemed to be the creation of Secured Indebtedness at the time security is given.

"Securities Act" means the Securities Act of 1933, as amended from time to time.

"Security Documents" means the collective reference to the Cash Collateral Agreement and all other security documents hereafter delivered to the Lender granting a Lien on any property of any Person to secure the Obligations of the Borrower under any Loan Document.

"Significant Subsidiary" means, at any date of determination thereof, any Subsidiary that (together with its Subsidiaries) accounts for five percent (5%) or more of the Consolidated Tangible Assets as of the last day of the most recent fiscal quarter then ended and five percent (5%) or more of the consolidated net revenues for the twelve-month period ending on the last day of the most recent fiscal quarter then ended, in each case of the Borrower and its Subsidiaries taken as a whole. Such percentage shall be determined on the basis of financial reports that shall be available not later than 25 days (or, in the case of the last fiscal quarter of the fiscal year, 35 days) following the end of such fiscal quarter.

"Solvent" means, with respect to any date, that on such date (A) the present fair saleable value of the assets of the Borrower is not less than the total amount required to pay the probable liabilities of the Borrower on its total existing debts and liabilities (including contingent liabilities) as they become absolute and matured, (B) the Borrower is able to pay its debts and other liabilities, contingent obligations and commitments as they mature and become due in the normal course of business and (C) the Borrower is not incurring debts or liabilities beyond its ability to pay as such debts and liabilities mature. In computing the amount of any contingent liabilities at any time, it is intended that such liabilities will be computed at the amount that, in the light of all the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability.

"Subordinated Indebtedness" means any Indebtedness which is subordinated in right of payment to Obligations.

"Subsidiary" means, as to the Borrower, in the case of a corporation, a corporation of which shares of stock having ordinary voting power (other than stock having such power only by reason of the happening of a contingency) to elect a majority of the board of directors or other managers of such corporation are at the time owned, or the management of which is otherwise controlled, directly, or indirectly through one or more intermediaries, or both, by the Borrower, or in the case of an entity which is not a corporation, the activities of which are controlled directly, or indirectly through one or more intermediaries, or both, by the Borrower.

"Successor" is defined in Section 6.04.

"Taxes" means any and all present or future taxes, duties, levies, imposts, deductions, charges or withholdings, and any and all liabilities with respect to the foregoing, imposed by the United States, but excluding, in the case of the Lender or its Lending Office, (a) taxes imposed on or measured by its overall net income, and franchise taxes imposed on it, by (i) the jurisdiction under the laws of

which the Lender is incorporated or organized or (ii) the jurisdiction in which the Lender's principal executive office or the Lender's Lending Office is located and (b) taxes that are in effect and would apply at the time of the Closing Date.

"Unrestricted Cash" of a Person means the cash of such Person that would not be identified as "restricted" on a balance sheet of such Person prepared in accordance with GAAP, except to the extent such cash is identified as "restricted" as a result of the Liens pursuant to the Security Documents.

"Unrestricted Subsidiary" means United Home Insurance Corporation, a Vermont corporation, Security Title Insurance Company, Inc., a Vermont corporation, and, to the extent considered a Subsidiary of the Borrower, Beazer Homes Capital Trust I, and each of the Subsidiaries of the Borrower (including any newly formed or acquired Subsidiary) so designated by a resolution adopted by the Board of Directors of the Borrower as provided below and provided that:

(i) neither the Borrower nor any of its other Subsidiaries (other than Unrestricted Subsidiaries) (a) provides any direct or indirect credit support for any Indebtedness of such Subsidiary (including any undertaking, agreement or instrument evidencing such Indebtedness) or (b) is directly or indirectly liable for any Indebtedness of such Subsidiary;

(ii) the creditors with respect to Indebtedness for borrowed money of such Subsidiary have agreed in writing that they have no recourse, direct or indirect, to the Borrower or any other Subsidiary of the Borrower (other than Unrestricted Subsidiaries), including, without limitation, recourse with respect to the payment of principal or interest on any Indebtedness of such Subsidiary; and

(iii) no default with respect to any Indebtedness of such Subsidiary (including any right which the holders thereof may have to take enforcement action against such Subsidiary) would permit (upon notice, lapse of time or both) any holder of any other Indebtedness of the Borrower and of its other Subsidiaries (other than other Unrestricted Subsidiaries), to declare a default on such other Indebtedness or cause the payment thereof to be accelerated or payable prior to its stated maturity.

The Board of Directors of the Borrower, or a committee thereof, may designate an Unrestricted Subsidiary to be a Restricted Subsidiary; provided that:

(i) any such redesignation will be deemed to be an Incurrence by the Borrower and its Restricted Subsidiaries of the Indebtedness (if any) of such redesignated Subsidiary for purposes of Section 6.01 hereof as of the date of such redesignation;

(ii) immediately after giving effect to such redesignation and the Incurrence of any such additional Indebtedness, the Borrower and its Restricted Subsidiaries could incur $1.00 of additional Indebtedness under the Consolidated Fixed Charge Coverage Ratio contained in Section 6.01 hereof; and

(iii) the Liens on the property and assets of such Unrestricted Subsidiary could then be incurred in accordance with Section 6.02 hereof as of the date of such redesignation.

Subject to the foregoing, the Board of Directors of the Borrower also may designate any Restricted Subsidiary to be an Unrestricted Subsidiary; provided that:

(i) all previous Investments by the Borrower and its Restricted Subsidiaries in such Restricted Subsidiary (net of any returns previously paid on such Investments) will be deemed to be Restricted Payments at the time of such designation and will reduce the amount available for Restricted Payments under Section 6.03 hereof;

(ii) immediately after giving effect to such designation and reduction of amounts available for Restricted Payments under Section 6.03 hereof, either (a) the Borrower and its Restricted Subsidiaries could incur $1.00 of additional Indebtedness under the Consolidated Fixed Charge Coverage Ratio contained in Section 6.01 hereof or (b) the Consolidated Fixed Charge Coverage Ratio for the Borrower and its Restricted Subsidiaries would be greater than such ratio immediately prior to such designation, in each case on a pro forma basis taking into account such designation; and

(iii) no Default or Event of Default shall have occurred or be continuing.

Any such designation or redesignation by the Board of Directors of the Borrower will be evidenced to the Lender by the filing with the Lender of a certified copy of the resolution of the Board of Directors of the Borrower giving effect to such designation or redesignation and an Officers' Certificate certifying that such designation or redesignation complied with the foregoing conditions and setting forth the underlying calculations.

"Weighted Average Life to Maturity" means, when applied to any Indebtedness or portion thereof, at any date, the number of years obtained by dividing (i) the sum of the products obtained by multiplying (a) the amount of each then remaining installment, sinking fund, serial maturity or other required payment of principal, including, without limitation, payment at final maturity, in respect thereof, by (b) 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 sum of all such payments described in clause (a) above.

"Wholly-Owned Subsidiary" of any Person means (i) a Subsidiary, of which one hundred percent (100%) of the outstanding Common Equity (except for directors' qualifying shares or certain minority interests owned by other Persons solely due to local law requirements that there be more than one stockholder, but which interest is not in excess of what is required for such purpose) is owned directly by such Person or through one or more other Wholly-Owned Subsidiaries of such Person, or (ii) any entity other than a corporation in which such Person, directly or indirectly, owns all of the outstanding Common Equity of such entity.

Section 1.02 Accounting Terms. All accounting terms not specifically defined herein shall be construed in accordance with GAAP.

Section 1.03 Rules of Construction.

(a) The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined.

(b) Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms.

(c) The words “include”, “includes” and “including” shall be deemed to be followed by the phrase “without limitation”.

(d) The word “will” shall be construed to have the same meaning and effect as the word “shall”.

(e) 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 from time to time amended, 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 assigns (subject to any restrictions on such assignments set forth herein), (iii) the words “herein”, “hereof” and “hereunder”, and words of similar import shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, (iv) all references herein to Articles, Sections, Schedules and Exhibits shall be construed to refer to Articles and Sections of, and Schedules and Exhibits to, this Agreement, (v) the words “asset” and “property” shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, and (vi) any reference to any law, rule or regulation shall be construed to mean that law, rule or regulation as amended and in effect from time to time.

(f) Each covenant in this Agreement shall be given independent effect, and the fact that any act or omission may be permitted by one covenant and prohibited or restricted by any other covenant (whether or not dealing with the same or similar events) shall not be construed as creating any ambiguity, conflict or other basis to consider any matter other than the express terms hereof in determining the meaning or construction of such covenants and the enforcement thereof in accordance with their respective terms.

(g) This Agreement is being entered into by and between competent and sophisticated parties who are experienced in business matters and represented by legal counsel and other advisors, and has been reviewed by the parties and their legal counsel and other advisors. Therefore, any ambiguous language in this Agreement will not be construed against any particular party as the drafter of the language.

ARTICLE II
AMOUNTS AND TERMS OF THE LOANS

Section 2.01 The Facility.

(a) Upon the terms and conditions set forth in this Agreement and in reliance upon the representations and warranties of the Borrower herein set forth, the Lender agrees to make (a) a Loan to the Borrower on the Closing Date in the principal amount of $16,295,500 and (b) a Loan to the Borrower after the Closing Date and prior to the Commitment Termination Date in a principal amount not to exceed $121,204,500; provided that, in no event may the aggregate principal amount of all outstanding Loans exceed $137,500,000. Each Loan will be funded directly to the Cash Collateral Account.

(b) All Obligations shall be due and payable by the Borrower on the Maturity Date unless such Obligations shall sooner become due and payable pursuant to Section 7.01 or as otherwise provided in this Agreement.

(c) Each Borrowing which shall not utilize the Commitment in full shall be in an amount not less than $1,000,000. No more than two (2) Borrowings may be requested under this Agreement (including the Borrowing on the Closing Date). Once repaid, Loans may not be reborrowed. Loans shall be made and maintained at the Lender’s Lending Office.

Section 2.02 Notice and manner of Borrowing. The Borrower shall give the Lender notice of any Loans under this Agreement at least three (3) Business Days before each Loan, specifying: (1) the date of such Loan and (2) the amount of such Loan. All notices given by the Borrower under this Section 2.02 shall be irrevocable and shall be given not later than 11:00 A.M. New York City time on the day specified above for such notice. In the event such notice from the Borrower is received after 11:00 A.M. New York City time, it shall be treated as if received on the next succeeding Business Day. On the date of such Loans and upon fulfillment of the applicable conditions set forth in Article III, the Lender will make such Loans available to the Borrower by depositing the amount thereof to the Cash Collateral Account.

Section 2.03 [Reserved].

Section 2.04 Interest.

(a) The Borrower shall pay interest to the Lender on the outstanding and unpaid principal amount of each Loan at a rate per annum for applicable to such Loan equal to the Eurodollar Rate. Each interest payment shall be divided into the portion attributable to the LIBO Rate (the "LIBO Rate Portion") and a portion attributable to the Applicable Margin (the "Applicable Margin Portion"). The Applicable Margin Portion shall be paid directly by the Borrower to the Lender as set forth below. The Lender will apply income on the Cash Collateral Account to the payment of the LIBO Rate Portion; provided that, the Lender may, at its option, at any time that an Event of Default under Section 7.01(1), (7) or (8) hereof has occurred and is continuing, cease such application of income on the Cash Collateral Account to the payment of the LIBO Rate Portion.

(b) Interest on each Loan accruing interest at the LIBO Rate shall be calculated on the basis of a year of 360 days for the actual number of days elapsed. Interest on each Loan accruing interest calculated on the basis of the Base Rate shall be calculated on the basis of a year of 365 or 366 days (as appropriate) for the actual number of days elapsed and interest on each Loan calculated based on the Federal Funds Effective Rate shall be calculated on the basis of a year of 360 days for the actual number of days elapsed.

(c) Interest on the Loans shall be paid (in an amount set forth in a statement delivered by the Lender to the Borrower; provided, however, that the failure of the Lender to deliver such statement shall not limit or otherwise affect the obligations of the Borrower hereunder) in immediately available funds to the Lender at its Lending Office (either directly by the Borrower or through withdrawals from the Cash Collateral Account as described in clause (a) above) as follows:

(1) For each Loan, on the third Business Day of each calendar quarter with respect thereto; and

(2) If not sooner paid, then on the Maturity Date or such earlier date as the Loans may be due or declared due hereunder.

(d) Any amount payable hereunder that is not paid when due (at maturity, by acceleration, or otherwise) shall bear interest thereafter until paid in full, payable on demand, at a rate per annum equal to the Alternate Base Rate in effect from time to time as interest accrues, plus two percent (2%) per annum.

(e) The Lender shall determine each LIBO Rate and shall give prompt notice to the Borrower of the applicable interest rate determined by the Lender pursuant to the terms of this Agreement.

Section 2.05 Note. All Loans shall be evidenced by, and repaid with interest in accordance with, a single Note of the Borrower in substantially the form of Exhibit A hereto, duly completed, dated the date of this Agreement and payable to the Lender for the account of its Lending Office, such Note to represent the obligation of the Borrower to repay the Loans made by the Lender. The Lender is hereby authorized by the Borrower, but the Lender shall not be required, to endorse on the schedule attached to the Note held by it the amount of the Loans and each payment of principal amount received by the Lender for the account of its Lending Office on account of its Loans, which endorsement shall, in the absence of manifest error, be conclusive as to the outstanding balance of the Loans made by the Lender; provided, however, that the failure to make such notation with respect to any Loan or payment shall not limit or otherwise affect the obligations of the Borrower under this Agreement or the Note held by the Lender. All Loans shall be repaid on the Maturity Date.

Section 2.06 Prepayments.

(a) The Borrower may, upon at least three (3) Business Days' prior notice to the Lender, prepay, the Loans in whole or in part with accrued interest to the date of such prepayment on the amount prepaid, provided that each partial payment shall be in a principal amount of not less than One Million Dollars ($1,000,000).

(b) Within fifteen (15) days following a Change of Control, the Borrower shall notify the Lender in writing of such Change of Control. The Lender shall have the right to require the Borrower to prepay all or any portion of the Loans on the date that is forty-five (45) days following the occurrence of a Change of Control (each, a "Change of Control Payment Date"), by giving the Borrower written notice of such election no later than ten (10) days prior to the Change of Control Payment Date. The Borrower shall prepay, the elected portion of the Loans at 100% of the principal amount thereof, together with accrued interest to the date of such prepayment on the amount prepaid. The Borrower shall make such payment to the Lender on the Change of Control Payment Date.

(c) If, as a result of the application of funds held in the Cash Collateral Account to Obligations other than principal or the LIBO Rate Portion of interest in accordance with the Loan Documents, the amount of funds held in the Cash Collateral Account at any time is less than 100% of the aggregate principal amount of the Loans outstanding at such time, then the Borrower shall within two (2) Business Days thereafter either, at the Borrower's option, prepay the Loans and/or deposit Unrestricted Cash into the Cash Collateral Account in an aggregate amount equal to any such shortfall. Any failure to prepay the Loan or deposit sufficient Unrestricted Cash will be deemed to constitute a failure to pay principal on the second (2nd) Business Day following the date upon which the Borrower's prepayment obligation and/or deposit obligation first arises.

(d) The Lender shall have the right to require the Borrower to prepay all or any portion of the Loans on November 16, 2012 or November 14, 2014 (each, a "Put Date"), by giving the Borrower written notice of such election no later than thirty (30) days prior to the applicable Put Date. If the Borrower receives any such election notices, the Borrower shall prepay, the elected portion of the Loans at 100% of the principal amount thereof, together with accrued interest to the date of such prepayment on the amount prepaid. The Borrower shall make such payment to the Lender on the applicable Put Date.

Section 2.07 Method of Payment. The Borrower shall make each payment under this Agreement and under the Note not later than noon New York City time on the date when due in lawful money of the United States to the Lender in immediately available funds. The Borrower hereby authorizes the Lender, if and to the extent payment is not made when due under this Agreement or under the Note, to charge from time to time against the Cash Collateral Account any amount as due. Whenever any payment to be made under this Agreement or under the Note shall be stated to be due on a day other than a Business Day, such payment shall be made on the next succeeding Business Day, and such extension of time shall be included in the computation of the payment of interest; provided that if the result of such extension would be to extend such payment into another calendar month, such payment shall be made on the immediately preceding Business Day.

Section 2.08 Use of Proceeds. The proceeds of the Loans hereunder shall initially be deposited into the Cash Collateral Account and, upon release from the Cash Collateral Account in accordance with this Agreement and the Security Documents, shall be used by the Borrower for working capital and general corporate purposes of the Borrower and its Subsidiaries to the extent permitted in this Agreement. The Borrower will not, directly or indirectly, use any part of such proceeds for the purpose of purchasing or carrying any margin stock within the meaning of Regulation U or to extend credit to any Person for the purpose of purchasing or carrying any such margin stock, or for any purpose which violates, or is inconsistent with, Regulation X.

Section 2.09 Yield Protection. If any law or any governmental or quasi-governmental rule, regulation, policy, guideline or directive (whether or not having the force of law), or any interpretation thereof, or the compliance of the Lender therewith:

(i) subjects the Lender or its Lending Office to any tax, duty, charge or withholding on or from payments due from the Borrower (excluding federal taxation of the overall net income of the Lender or its Lending Office), or changes the basis of taxation of payments to the Lender in respect of its Loans or other amounts due it hereunder, or

(ii) imposes or increases or deems applicable any reserve, assessment, insurance charge, special deposit or similar requirement against assets of, deposits with or for the account of, or credit extended by, the Lender or its Lending Office (other than reserves and assessments taken into account in determining the interest rate applicable to the Loans), or

(iii) imposes any other condition the result of which is to increase the cost to the Lender or its Lending Office of making, funding or maintaining loans or reduces any amount receivable by the Lender or its Lending Office in connection with loans, or requires the Lender or its Lending Office to make any payment calculated by reference to the amount of loans held, letters of credit issued or interest received by it, by an amount deemed material by the Lender,

then, within fifteen (15) days of demand by the Lender, the Borrower shall pay the Lender that portion of such increased expense incurred or reduction in an amount received which the Lender reasonably determines is attributable to making, funding and maintaining its Loans and its Commitment.

Section 2.10 Changes in Capital Adequacy Regulations. If the Lender determines the amount of capital required or expected to be maintained by the Lender, its Lending Office or any corporation controlling the Lender is increased as a result of a Change, then, within ten (10) days of demand by the Lender, the Borrower shall pay the Lender the amount necessary to compensate for any shortfall in the rate of return on the portion of such increased capital which the Lender determines is attributable to this Agreement, the Loans or its obligation to make the Loans hereunder (after taking into account the Lender's policies as to capital adequacy); provided, however, that the Lender shall impose

such cost upon the Borrower only if the Lender is generally imposing such cost on its other borrowers having similar credit arrangements. "Change" means (i) any change after the date of this Agreement in the Risk-Based Capital Guidelines or (ii) any adoption of or change in any other law, governmental or quasi-governmental rule, regulation, policy, guideline, interpretation, or directive (whether or not having the force of law) after the date of this Agreement which affects the amount of capital required or expected to be maintained by the Lender or its Lending Office or any corporation controlling the Lender. "Risk-Based Capital Guidelines" means (i) the risk-based capital guidelines in effect in the United States on the date of this Agreement, including transition rules, and (ii) the corresponding capital regulations promulgated by regulatory authorities outside the United States implementing the July 1988 report of the Basel Committee on Banking Regulation and Supervisory Practices Entitled "International Convergence of Capital Measurements and Capital Standards," including transition rules, and any amendments to such regulations adopted prior to the date of this Agreement.

Section 2.11 [Reserved].

Section 2.12 Lender Statements; Survival of Indemnity. To the extent reasonably possible, the Lender shall designate an alternate Lending Office with respect to its Loans to reduce any liability of the Borrower to the Lender under Sections 2.09 and 2.10 or to avoid the unavailability of Loans. The Lender shall deliver a written statement of the Lender as to the amount due, if any, under Section 2.09 or 2.10. Such written statement shall set forth in reasonable detail the calculations upon which the Lender determined such amount and shall be final, conclusive and binding on the Borrower in the absence of manifest error. Determination of amounts payable under such Sections in connection with a Loan shall be calculated as though the Lender funded such Loan through the purchase of a deposit of the type and maturity corresponding to the deposit used as a reference in determining the Eurodollar Rate applicable to such Loan, whether in fact that is the case or not. Unless otherwise provided herein, the amount specified in the written statement shall be payable on demand after receipt by the Borrower of the written statement. The obligations of the Borrower under Sections 2.09 and 2.10 shall survive payment of the Obligations and termination of this Agreement.

Section 2.13 Cash Collateral Account. On the date of the borrowing of each Loan hereunder, the Lender shall directly deposit the proceeds of such Loan into the Cash Collateral Account. On the date that any repayment or prepayment of principal of Loans is required to be made hereunder (including, without limitation, pursuant to any notice of prepayment delivered in accordance with Section 2.06(a)), the Lender shall withdraw funds held in the Cash Collateral Account in an amount equal to 100% of the aggregate principal amount of Loans to be so repaid or prepaid and shall apply such funds to the repayment or prepayment of such principal. Additionally, in connection with any prepayment or repayment in full of all Obligations (other than unasserted contingent indemnification obligations) under the Loan Documents, and provided that the Commitment has terminated or is cancelled, the application of such funds shall be deemed to occur immediately upon delivery of the Borrower's notice of such repayment or prepayment to the Lender in accordance with this Agreement, notwithstanding anything to the contrary in this Agreement.

Section 2.14 Application of Amounts from the Cash Collateral Account. If the Lender removes any amount on deposit in the Cash Collateral Account for the payment of any Obligations that are due and payable hereunder or under any other Loan Document, unless the Lender elects otherwise in its discretion and states such election in writing, such amounts shall be deemed applied (a) *first*, to the payment of fees and expenses due to the Lender and/or its Affiliates, (b) *second*, to the payment of interest on the Loans, (c) *third*, to the payment of the principal amount of the Loans and (d) *fourth*, to the payment of any other Obligation that is due and payable.

ARTICLE III
CONDITIONS PRECEDENT

Section 3.01 Conditions Precedent to Closing Date. This Agreement and the Commitment shall be effective on the date (the "Closing Date") on which each of the following conditions precedent shall have been satisfied or expressly waived by the Lender:

(1) **Credit Agreement**. The Lender shall have received this Agreement duly executed by each of the parties hereto;

(2) **Cash Collateral Agreement**. The Lender shall have received the Cash Collateral Agreement, duly executed by the Borrower;

(3) **No Default or Event of Default**. After giving effect to this Agreement, no Default or Event of Default shall have occurred and be continuing;

(4) **Closing Fee**. The Borrower shall have paid a cash fee to the Arranger in accordance with the terms of the Fee Letter;

(5) **Costs and Expenses**. The Borrower shall have paid all costs and invoiced out-of-pocket expenses of the Lender in connection with the execution and delivery of the documents and instruments described in this Section 3.01, including, without limitation, the reasonable fees and out-of-pocket expenses of counsel for the Lender;

(6) **Secretary's Certificate of the Borrower**. A certificate of the Secretary or an Assistant Secretary of the Borrower certifying (A) the names and true signatures of each officer of the Borrower who has been authorized to execute and deliver this Agreement and any other Loan Document or other document required to be executed and delivered by or on behalf of the Borrower under this Agreement, (B) that the attached copies of the certificate of incorporation and by-laws of the Borrower have not been amended except as set forth therein and remain in full force and effect and (C) the attached copy of resolutions of the Board of Directors of the Borrower approving and authorizing the execution, delivery and performance of this Agreement and the other Loan Documents to which it is a party;

(7) **Good Standing Certificate of the Borrower**. A currently dated certificate of good standing for the Borrower issued by the Secretary of State of the State of Delaware;

(8) **Opinion of Counsel**. A favorable opinion of Cahill Gordon & Reindel LLP, counsel for the Borrower, in form satisfactory to Lender;

(9) **Note**. The Lender shall have received a Note payable to the Lender duly executed by the Borrower; and

(10) **Other Documents**. The Lender shall have received such other documents as the Lender or its counsel may reasonably request.

Section 3.02 Conditions Precedent to Borrowing of Loans. The obligation of the Lender to make each Loan shall be subject to the satisfaction (or express waiver by the Lender) of the following additional conditions precedent:

(1) **Borrowing Request**. The Lender shall have received a borrowing request duly executed by the Borrower and meeting the requirements set forth in Section 2.02, substantially in the form of the certificate attached hereto as Exhibit B;

(2) **Officer's Certificate**. The following statements shall be true and the Lender shall have received a certificate, substantially in the form of the certificate attached hereto as Exhibit B, signed by the chief financial officer of the Borrower, dated the date of such Loan, stating that:

(a) The representations and warranties contained in Article IV of this Agreement are correct in all material respects on and as of the date of such Loan as though made on and as of such date except to the extent that any such representation or warranty is stated to relate solely to an earlier date, in which case such representation or warranty is correct in all material respects as of such earlier date;

(b) No Default or Event of Default has occurred and is continuing, or would result from such Loan; and

(c) Both before and after giving effect to such Borrowing, the Borrower will be Solvent; and

(3) **Cash Collateral Account**. The funds held in the Cash Collateral Account, excluding any interest income thereon, after giving effect to the funding of the net proceeds of the proposed Borrowing, will equal no less than 100% of the aggregate principal amount of the outstanding Loans.

(4) **Other Documents**. The Lender shall have received such other documents as the Lender or its counsel may reasonably request.

ARTICLE IV
REPRESENTATIONS AND WARRANTIES

The Borrower represents and warrants that:

Section 4.01 Incorporation, Formation, Good Standing, and Due Qualification. The Borrower and each Subsidiary is (in the case of a corporation) a corporation duly incorporated or (in the case of a limited partnership) a limited partnership duly formed or (in the case of a limited liability company) a limited liability company duly formed, validly existing, and in good standing under the laws of the jurisdiction of its incorporation or formation; has the power and authority to own its assets and to transact the business in which it is now engaged or proposed to be engaged; and is duly qualified and in good standing under the laws of each other jurisdiction in which such qualification is required, except where the failure to be so qualified could not reasonably be expected to result in a material adverse effect on the financial condition of the Borrower.

Section 4.02 Power and Authority. The execution, delivery and performance by the Borrower of the Loan Documents have been duly authorized by all necessary corporate action and do not and will not (1) require any consent or approval of the stockholders of the Borrower; (2) contravene the Borrower's charter or bylaws; (3) violate, in any material respect, any provision of any law, rule, regulation (including, without limitation, Regulations U and X of the Board of Governors of the Federal Reserve System), order, writ, judgment, injunction, decree, determination, or award presently in effect having applicability to the Borrower; (4) result in a breach of or constitute a default under any indenture

or loan or credit agreement or any other material agreement, lease, or instrument to which the Borrower is a party or by which it or its properties may be bound or affected; (5) result in, or require, the creation or imposition of any Lien, upon or with respect to any of the properties now owned or hereafter acquired by the Borrower, other than Liens securing the Obligations; and (6) cause the Borrower to be in default, in any material respect, under any such law, rule, regulation, order, writ, judgment, injunction, decree, determination, or award or any such indenture, agreement, lease or instrument.

Section 4.03 Legally Enforceable Agreement. This Agreement is and each of the other Loan Documents when delivered under this Agreement will be legal, valid, and binding obligations of the Borrower enforceable against the Borrower in accordance with their respective terms, except to the extent that such enforcement may be limited by applicable bankruptcy, insolvency, and other similar laws affecting creditors' rights generally.

Section 4.04 Financial Statements. The consolidated balance sheet of the Borrower and its Subsidiaries as at September 30, 2010, and the consolidated statements of operations, cash flow and changes to stockholders' equity of the Borrower and its Subsidiaries for the fiscal year ended September 30, 2010, are complete and correct and fairly present as at such date the financial condition of the Borrower and its Subsidiaries and the results of their operations for the periods covered by such statements, all in accordance with GAAP consistently applied, and since September 30, 2010, there has been no material adverse change in the condition (financial or otherwise), business, or operations of the Borrower and its Subsidiaries. There are no liabilities of the Borrower or any Subsidiary, fixed or contingent, which are material but are not reflected in the financial statements or in the notes thereto, other than liabilities arising in the ordinary course of business since September 30, 2010. No information, exhibit, or report furnished by the Borrower to the Lender in connection with the negotiation of this Agreement, taken together, contained any material misstatement of fact or omitted to state a material fact or any fact necessary to make the statements contained therein not materially misleading.

Section 4.05 Labor Disputes and Acts of God. Neither the business nor the properties of the Borrower or any Subsidiary are affected by any fire, explosion, accident, strike, lockout, or other labor dispute, drought, storm, hail, earthquake, embargo, act of God or of the public enemy, or other casualty (whether or not covered by insurance), materially and adversely affecting such business or properties or the operation of the Borrower or such Subsidiary.

Section 4.06 Other Agreements. Neither the Borrower nor any Significant Subsidiary is a party to any indenture, loan, or credit agreement, or to any lease or other agreement or instrument or subject to any charter, corporate or other restriction which could reasonably be expected to have a material adverse effect on the business, properties, assets, operations, or conditions, financial or otherwise, of the Borrower or any Significant Subsidiary, or the ability of the Borrower to carry out its obligations under the Loan Documents. Neither the Borrower nor any Significant Subsidiary is in default in any material respect in the performance, observance, or fulfillment of any of the obligations, covenants, or conditions contained in any agreement or instrument material to its business to which it is a party.

Section 4.07 Litigation. Except as disclosed in the SEC Reports or reflected in or reserved for in the financial statements referred to in Section 4.04, there is no pending or, to the knowledge of the Borrower, threatened action or proceeding against or affecting the Borrower or any Significant Subsidiary before any court, governmental agency, or arbitrator, which could reasonably be expected, in any one case or in the aggregate, to materially adversely affect the financial condition, operations, properties, or business of the Borrower or any Significant Subsidiary or the ability of the Borrower to perform its obligations under the Loan Documents.

Section 4.08 No Defaults on Outstanding Judgments or Orders. Except for judgments with respect to which the uninsured liability of the Borrower and each Significant Subsidiary does not exceed $10,000,000 in the aggregate for all such judgments, (a) the Borrower and each Significant Subsidiary have satisfied all judgments, and (b) neither the Borrower nor any Significant Subsidiary is in default with respect to any judgment, writ, injunction, decree, ruling or order of any court, arbitrator, or federal, state, municipal, or other governmental authority, commission, board, bureau, agency, or instrumentality, domestic or foreign.

Section 4.09 Ownership and Liens. The Borrower and each Subsidiary have title to, or valid leasehold interests in, all of their respective properties and assets, real and personal, including the properties and assets and leasehold interests reflected in the financial statements referred to in Section 4.04 (other than any properties or assets disposed of in the ordinary course of business), and none of the properties and assets owned by the Borrower or any Subsidiary and none of their leasehold interests is subject to any Lien, except such as may be permitted pursuant to Section 6.02.

Section 4.10 Subsidiaries and Ownership of Stock. Set forth in Schedule I hereto is a complete and accurate list, as of the date hereof, of the Subsidiaries of the Borrower, showing the jurisdiction of incorporation or formation of each and showing the percentage of the Borrower's ownership of the outstanding stock or partnership interest or membership interest of each Subsidiary. All of the outstanding capital stock of each such corporate Subsidiary has been validly issued, is fully paid and nonassessable, and, to the extent owned by the Borrower or any of its Subsidiaries, is owned by the Borrower or such Subsidiaries free and clear of all Liens (other than Liens permitted by Section 6.02). The limited partnership agreement of each such limited partnership Subsidiary is in full force and effect.

Section 4.11 ERISA. The Borrower and each Subsidiary are in compliance in all material respects with all applicable provisions of ERISA. Neither a Reportable Event nor a Prohibited Transaction has occurred and is continuing with respect to any Plan; no notice of intent to terminate a Plan has been filed, nor has any Plan been terminated; no circumstances exist which constitute grounds entitling the PBGC to institute proceedings to terminate, or appoint a trustee to administer, a Plan, nor has the PBGC instituted any such proceedings; neither the Borrower nor any Commonly Controlled Entity has completely or partially withdrawn from a Multiemployer Plan under circumstances that could subject the Borrower or any Subsidiary to material withdrawal liability; the Borrower and each Commonly Controlled Entity have met their minimum funding requirements under ERISA with respect to all of their Plans and the present value of all vested benefits under each Plan does not materially exceed the fair market value of all Plan assets allocable to such benefits, as determined on the most recent valuation date of the Plan and in accordance with the provisions of ERISA; and neither the Borrower nor any Commonly Controlled Entity has incurred any material liability to the PBGC under ERISA.

Section 4.12 Operation of Business. The Borrower and each Subsidiary possess all material licenses, permits, franchises, patents, copyrights, trademarks, and trade names, or rights thereto, to conduct their respective businesses substantially as now conducted and as presently proposed to be conducted and the Borrower and each of its Subsidiaries are not in violation of any valid rights of others with respect to any of the foregoing where the failure to possess such licenses, permits, franchises, patents, copyrights, trademarks, trade names or rights thereto or the violation of the valid rights of others with respect thereto could reasonably be expected to, in any one case or in the aggregate, adversely affect in any material respect the financial condition, operations, properties, or business of the Borrower or any Significant Subsidiary or the ability of the Borrower to perform its obligation under the Loan Documents.

Section 4.13 Taxes. All federal and state income tax liabilities or income tax obligations, and all other material income tax liabilities or material income tax obligations, of the Borrower and each

Subsidiary have been paid or have been accrued by or reserved for by the Borrower. The Borrower constitutes the parent of an affiliated group of corporations for purposes of filing a consolidated United States federal income tax return.

Section 4.14 Laws; Environment. Except as disclosed in the SEC Reports, (a) the Borrower and each Subsidiary have duly complied, and their businesses, operations, assets, equipment, property, leaseholds, or other facilities are in compliance, in all material respects, with the provisions of all federal, state, and local statutes, laws, codes, and ordinances and all rules and regulations promulgated thereunder (including without limitation those relating to the environment, health and safety), except where the failure to so comply could not reasonably be expected to, in any one case or in the aggregate, adversely affect in any material respect the financial condition, operations, properties or business of the Borrower or any Subsidiary or the ability of the Borrower to perform its obligations under the Loan Documents; (b) the Borrower and each Subsidiary have been issued and will maintain all required federal, state, and local permits, licenses, certificates, and approvals relating to (1) air emissions; (2) discharges to surface water or groundwater; (3) noise emissions; (4) solid or liquid waste disposal; (5) the use, generation, storage, transportation, or disposal of toxic or hazardous substances or hazardous wastes (intended hereby and hereafter to include any and all such materials listed in any federal, state, or local law, code, or ordinance and all rules and regulations promulgated thereunder as hazardous); or (6) other environmental, health or safety matters, to the extent for any of the foregoing that failure to maintain the same could reasonably be expected to, in any one case or in the aggregate, adversely affect in any material respect the financial condition, operations, properties, or business of the Borrower or any Significant Subsidiary or the ability of the Borrower to perform its obligations under the Loan Documents; (c) neither the Borrower nor any Subsidiary has received notice of, or has actual knowledge of any violations of any federal, state, or local environmental, health, or safety laws, codes or ordinances or any rules or regulations promulgated thereunder with respect to its businesses, operations, assets, equipment, property, leaseholds, or other facilities, which violation could reasonably be expected to, in any one case or in the aggregate, adversely affect in any material respect the financial condition, operations, properties, or business of the Borrower or any Significant Subsidiary or the ability of the Borrower to perform its obligations under the Loan Documents; (d) except in accordance with a valid governmental permit, license, certificate or approval, there has been no material emission, spill, release, or discharge into or upon (1) the air; (2) soils, or any improvements located thereon; (3) surface water or groundwater; or (4) the sewer, septic system or waste treatment, storage or disposal system servicing the premises, of any toxic or hazardous substances or hazardous wastes at or from the premises, in each case related to the premises of the Borrower and each Subsidiary; and accordingly the premises of the Borrower and each Subsidiary have not been adversely affected, in any material respect, by any toxic or hazardous substances or wastes; (e) there has been no complaint, order, directive, claim, citation, or notice by any governmental authority or any person or entity with respect to material violations of law or material damages by reason of Borrower's or any Subsidiary's (1) air emissions; (2) spills, releases, or discharges to soils or improvements located thereon, surface water, groundwater or the sewer, septic system or waste treatment, storage or disposal systems servicing the premises; (3) noise emissions; (4) solid or liquid waste disposal; (5) use, generation, storage, transportation, or disposal of toxic or hazardous substances or hazardous waste; or (6) other environmental, health or safety matters affecting the Borrower or any Subsidiary or its business, operations, assets, equipment, property, leaseholds, or other facilities; and (f) neither the Borrower nor any Subsidiary has any material indebtedness, obligation, or liability, absolute or contingent, matured or not matured, with respect to the storage, treatment, cleanup, or disposal of any solid wastes, hazardous wastes, or other toxic or hazardous substances (including without limitation any such indebtedness, obligation, or liability with respect to any current regulation, law, or statute regarding such storage, treatment, cleanup, or disposal).

Section 4.15 Investment Company Act. Neither the Borrower nor any Subsidiary thereof is an "investment company" or a company "controlled" by an "investment company," within the meaning of the Investment Company Act of 1940, as amended.

Section 4.16 OFAC. The Borrower is not (and will not be) a person with whom the Lender is restricted from doing business under regulations of the Office of Foreign Asset Control ("OFAC") of the Department of the Treasury of the United States of America (including, those Persons named on OFAC's Specially Designated and Blocked Persons list) or under any statute, executive order (including, the September 24, 2001 Executive Order Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism), or other governmental action and is not and shall not engage in any dealings or transactions or otherwise be associated with such persons. In addition, the Borrower hereby agrees to provide the Lender with any additional information that the Lender deems necessary from time to time in order to ensure compliance with all applicable Laws concerning money laundering and similar activities.

Section 4.17 Accuracy of Information. The representations and warranties by the Borrower contained herein or in any other Loan Document or made hereunder or in any other Loan Document and the certificates, schedules, exhibits, reports or other documents provided or to be provided by the Borrower in connection with the transactions contemplated hereby or thereby (including, without limitation, the negotiation of and compliance with the Loan Documents), when taken together as a whole, do not contain and will not contain a misstatement of a material fact or omit to state a material fact required to be stated therein in order to make the statements contained therein, in the light of the circumstances under which made, not materially misleading at the time such statements were made or are deemed made.

Section 4.18 Security Documents. The Cash Collateral Agreement is effective until release thereof permitted under this Agreement to create, in favor of the Lender, a legal, valid and enforceable and fully perfected Lien on all right, title and interest of the Borrower in the Cash Collateral Account and all other Collateral described in the Cash Collateral Agreement and the proceeds thereof, as security for the Obligations, in each case prior and superior in right to any other Person.

ARTICLE V
AFFIRMATIVE COVENANTS

So long as the Loans shall remain unpaid or the Lender shall have any requirement to make a Loan under this Agreement, the Borrower will:

Section 5.01 Maintenance of Existence. Preserve and maintain, and cause each Subsidiary to preserve and maintain (except for a Subsidiary that (i) ceases to maintain its existence solely as a result of an Internal Reorganization or (ii) is sold or merged in a transaction in accordance with (or not subject to the terms of) Sections 6.04), its corporate, limited partnership or limited liability company existence and good standing in the jurisdiction of its incorporation or formation and qualify and remain qualified to transact business in each jurisdiction in which such qualification is required except where the failure to so qualify to transact business could not reasonably be expected to affect in any material respect the financial condition, operations, properties or business of the Borrower or any Subsidiary.

Section 5.02 Maintenance of Records. Keep and cause each Subsidiary to keep, adequate records and books of account, in which complete entries will be made in accordance with GAAP consistently applied, reflecting all financial transactions of the Borrower and its Subsidiaries.

Section 5.03 Maintenance of Properties. Maintain, keep, and preserve, and cause each Subsidiary to maintain, keep, and preserve, all of its properties (tangible and intangible) necessary or useful in the proper conduct of its business in good working order and condition, ordinary wear and tear excepted.

Section 5.04 Conduct of Business. Continue, and cause each Subsidiary to continue (except in the case of a Subsidiary that ceases to engage in business solely as a result of an Internal Reorganization), to engage in a business of the same general type and in the same manner as conducted by it on the date of this Agreement.

Section 5.05 Maintenance of Insurance. Maintain, and cause each Subsidiary to maintain, insurance with financially sound reputable insurance companies or associations (or, in the case of insurance for construction warranties and builder default protection for buyers of housing units from the Borrower or any of its Subsidiaries) in such amounts and covering such risks as are usually carried by companies engaged in the same or a similar business and similarly situated, which insurance may provide for reasonable deductibility from coverage thereof.

Section 5.06 Compliance with Laws. Comply, and cause each Subsidiary to comply, in all material respects with all applicable laws, rules, regulations, and orders, the noncompliance with which could not reasonably be expected to, in any one case or in the aggregate, adversely affect in any material respect the financial condition, operations, properties or business of the Borrower or any Subsidiary or the ability of the Borrower to perform its obligations under the Loan Documents, and such compliance to include, without limitation, paying before the same become delinquent all taxes, assessments and governmental charges imposed upon it or upon its property, other than any such taxes, assessments and charges being contested by the Borrower in good faith which will not have a material adverse effect on the financial condition of the Borrower.

Section 5.07 Right of Inspection. At any reasonable time and from time to time, permit the Lender or any agent or representative thereof to examine and make copies of and abstracts from the records and books of account of, and visit the properties of, the Borrower and any Subsidiary, and to discuss the affairs, finances, and accounts of the Borrower and any Subsidiary with any of their respective officers and directors and the Borrower's independent accountants.

Section 5.08 Reporting Requirements. Furnish to the Lender:

(1) **Quarterly financial statements**. As soon as available and in any event within fifty (50) days after the end of each of the first three quarters of each fiscal year of the Borrower, an unaudited condensed consolidated balance sheet of the Borrower and its Subsidiaries as of the end of such quarter, unaudited condensed consolidated statements of operations and cash flow of the Borrower and its Subsidiaries for the period commencing at the end of the previous fiscal year and ending with the end of such quarter, and unaudited condensed consolidated statements of changes in stockholders' equity of the Borrower and its Subsidiaries for the portion of the fiscal year ended with the last day of such quarter, all in reasonable detail and stating in comparative form the respective figures for the corresponding date and period in the previous fiscal year and all prepared in accordance with GAAP consistently applied and certified by the chief financial officer of the Borrower (subject to year-end adjustments); the timely filing by the Borrower of the Borrower's quarterly 10-Q report with the Securities and Exchange Commission shall satisfy the foregoing requirements.

(2) **Annual financial statements**. As soon as available and in any event within ninety-five (95) days after the end of each fiscal year of the Borrower, a consolidated balance

sheet of the Borrower and its Subsidiaries as of the end of such fiscal year, consolidated statements of operations and cash flow of the Borrower and its Subsidiaries for such fiscal year, and consolidated statements of changes in stockholders' equity of the Borrower and its Subsidiaries for such fiscal year, all in reasonable detail and stating in comparative form the respective figures for the corresponding date and period in the prior fiscal year and all prepared in accordance with GAAP consistently applied and accompanied by an opinion thereon acceptable to the Lender by Deloitte & Touche or other independent accountants selected by the Borrower and acceptable to the Lender; the timely filing by the Borrower of the Borrower's annual 10-K report with the Securities and Exchange Commission shall satisfy the foregoing requirements.

(3) **Management letters**. Promptly upon receipt thereof, copies of any reports submitted to the Borrower or any Subsidiary by independent certified public accountants in connection with examination of the financial statements of the Borrower or any Subsidiary made by such accountants.

(4) **Compliance certificate**. Commencing with the fiscal quarters ending December 31, 2010, within fifty (50) days after the end of each of the first three quarters, and within ninety-five (95) days after the end of each fourth quarter, of each fiscal year of the Borrower, a certificate of the President or chief financial officer of the Borrower certifying that, to the best of his knowledge, no Default or Event of Default has occurred and is continuing, or if a Default or Event of Default has occurred and is continuing, a statement as to the nature thereof and the action which is proposed to be taken with respect thereto.

(5) **Notice of litigation**. Promptly after the commencement thereof, notice of all actions, suits, and proceedings before any court or governmental department, commission, board, bureau, agency, or instrumentality, domestic or foreign, affecting the Borrower or any Subsidiary which, if determined adversely to the Borrower or such Subsidiary, would reasonably be expected to result in a judgment against the Borrower or such Subsidiary in excess of $10,000,000 (to the extent not covered by insurance) or would reasonably be expected to have a material adverse effect on the financial condition, properties, or operations of the Borrower or such Subsidiary.

(6) **Notice of Defaults and Events of Default**. As soon as possible and in any event within (x) two (2) days after the occurrence of an Event of Default under Section 7.01(4), (5), (7) or (9) and (y) ten (10) days after the occurrence of each Default or other Event of Default, a written notice setting forth the details of such Default or Event of Default and the action which is proposed to be taken by the Borrower with respect thereto.

(7) **ERISA reports**. As soon as possible, and in any event within thirty (30) days after the Borrower knows or has reason to know that any circumstances exist that constitute grounds entitling the PBGC to institute proceedings to terminate a Plan subject to ERISA with respect to the Borrower or any Commonly Controlled Entity, and promptly but in any event within two (2) Business Days of receipt by the Borrower or any Commonly Controlled Entity of notice that the PBGC intends to terminate a Plan or appoint a trustee to administer the same, and promptly but in any event within five (5) Business Days of the receipt of notice concerning the imposition of withdrawal liability in excess of $50,000 with respect to the Borrower or any Commonly Controlled Entity, the Borrower will deliver to the Lender a certificate of the chief financial officer of the Borrower setting forth all relevant details and the action which the Borrower proposes to take with respect thereto.

(8) **Proxy statements, Etc**. Promptly after the sending or filing thereof, copies of all proxy statements, financial statements, and reports which the Borrower or any Subsidiary sends

to its stockholders, and copies of all regular, periodic, and special reports, and all registration statements which the Borrower or any Subsidiary files with the Securities and Exchange Commission or any governmental authority which may be substituted therefor, or with any national securities exchange.

(9) **Notice of Put Date**. Not more than twenty (20) Business Days, and not less than ten (10) Business Days, prior to the thirtieth (30th) day preceding each Put Date, the Borrower shall provide to the Lender a written notice of the approaching Put Date and the deadline for the exercising of the Lender's rights under Section 2.06(d). Failure to give such notice shall not, in any event, constitute a Default or an Event of Default hereunder, but (i) the applicable deadline for delivering written notice of an election pursuant to Section 2.06(d) shall be extended by the number of days such notice is delinquent pursuant to this clause (9), until such notice is given and (ii) the Lender, in delivering such election notice, may specify a date for prepayment of the Loans which is later than the Put Date but no more than thirty (30) days after the date of such election notice.

(10) **General information**. Such other information respecting the condition or operations, financial or otherwise, of the Borrower or any Subsidiary as the Lender may from time to time reasonably request.

Section 5.09 Use of Proceeds. Use the proceeds of the Loans solely as provided in Section 2.08.

Section 5.10 Taxes. Pay and cause each Subsidiary to pay when due all taxes, assessments and governmental charges and levies upon it or its income, profits or property, except those which are being contested in good faith by appropriate proceedings and with respect to which adequate reserves have been set aside.

ARTICLE VI
NEGATIVE COVENANTS

So long as the Loans shall remain unpaid or the Lender shall have any requirement to make a Loan under this Agreement, the Borrower agrees as follows:

Section 6.01 Limitations on Additional Indebtedness.

(a) The Borrower shall not, and shall not cause or permit any of its Restricted Subsidiaries, directly or indirectly, to, Incur any Indebtedness including Acquired Indebtedness; provided that the Borrower and the Restricted Subsidiaries may Incur Indebtedness, including Acquired Indebtedness, if, after giving effect thereto and the application of the proceeds therefrom, either (i) the Borrower's Consolidated Fixed Charge Coverage Ratio on the date thereof would be at least 2.0 to 1.0 or (ii) the ratio of Adjusted Indebtedness of the Borrower and the Restricted Subsidiaries to Adjusted Consolidated Tangible Net Worth is less than 7.5 to 1.

(b) Notwithstanding the foregoing, Section 6.01(a) shall not prevent:

(i) the Borrower or any Restricted Subsidiary from Incurring (A) Refinancing Indebtedness or (B) Non-Recourse Indebtedness;

(ii) the Borrower from Incurring (A) Indebtedness under this Agreement or any of the other Loan Documents or (B) Indebtedness under other cash collateralized loan agreements not to exceed $137,500,000;

(iii) the Borrower or any Restricted Subsidiary from Incurring Indebtedness under Credit Facilities not to exceed the greater of $250.0 million and 15.0% of Consolidated Tangible Assets of the Borrower;

(iv) the Borrower and its Restricted Subsidiaries from Incurring Indebtedness under any deposits made to secure performance of tenders, bids, leases, statutory obligations, surety and appeal bonds, progress statements, government contracts and other obligations of like nature (exclusive of the obligation for the payment of borrowed money);

(v) any Restricted Subsidiary from guaranteeing Indebtedness of the Borrower or any other Restricted Subsidiary, or the Borrower from guaranteeing Indebtedness of any Restricted Subsidiary, in each case permitted to be Incurred hereunder (other than Non-Recourse Indebtedness);

(vi) (a) any Restricted Subsidiary from Incurring Indebtedness owing to the Borrower or any other Restricted Subsidiary that is a Wholly-Owned Subsidiary; provided that such Indebtedness shall only be permitted pursuant to this clause (vi)(a) for so long as the Person to whom such Indebtedness is owing is the Borrower or a Restricted Subsidiary that is a Wholly-Owned Subsidiary and (b) the Borrower from Incurring Indebtedness owing to any Restricted Subsidiary that is a Wholly-Owned Subsidiary; provided that (I) such Indebtedness is subordinated to the Obligations, and (II) such Indebtedness shall only be permitted pursuant to this clause (vi)(b) for so long as the Person to whom such Indebtedness is owing is a Restricted Subsidiary that is a Wholly-Owned Subsidiary;

(vii) the Borrower and any Restricted Subsidiary from Incurring Indebtedness under Capitalized Lease Obligations or purchase money obligations, in each case Incurred for the purpose of acquiring or financing all or any part of the purchase price or cost of construction or improvement of property or equipment used in the business of the Borrower or such Restricted Subsidiary, as the case may be, in an aggregate amount at any time outstanding not to exceed $50.0 million;

(viii) the Borrower or any Restricted Subsidiary from Incurring obligations for, pledge of assets in respect of, and guaranties of, bond financings of political subdivisions or enterprises thereof in the ordinary course of business;

(ix) the Borrower or any Restricted Subsidiary from incurring Indebtedness owed to a seller of entitled land, lots under development or finished lots under the terms of which the Borrower or such Restricted Subsidiary, as obligor, is required to make a payment upon the future sale of such land or lots; and

(x) the Borrower or any Restricted Subsidiary from Incurring Indebtedness in an aggregate principal amount at any time outstanding not to exceed $100.0 million.

(c) The Borrower shall not, directly or indirectly, in any event Incur any Indebtedness that purports to be by its terms (or by the terms of any agreement governing such Indebtedness) subordinated to any other Indebtedness of the Borrower unless such Indebtedness is also by its terms (or by the terms of any agreement governing such Indebtedness) made expressly subordinated to the Obligations to the same extent and in the same manner as such Indebtedness is subordinated to such other Indebtedness of the Borrower.

(d) For purposes of determining compliance with this Section 6.01 hereof, in the event an item of Indebtedness meets the criteria of more than one of the types of Indebtedness described in the above clauses of this Section 6.01, the Borrower, in its sole discretion, shall classify such item of Indebtedness in any manner that complies with this Section 6.01 and may from time to time reclassify such item of Indebtedness in any manner in which such item could be Incurred at the time of such reclassification.

Section 6.02 Limitations on Secured Indebtedness.

(a) Notwithstanding any Indebtedness that may be incurred under Section 6.01, the Borrower shall not, and shall not permit any of its Restricted Subsidiaries to, create, incur, assume or guarantee any Secured Indebtedness unless the Obligations are equally and ratably secured with (or on a senior basis to, if the Secured Indebtedness is subordinated Indebtedness) the Secured Indebtedness. Notwithstanding the foregoing, this Section 6.02(a) shall not prohibit the creation, incurrence, assumption or guarantee of Secured Indebtedness that is secured by:

(i) Liens on model homes, homes held for sale, homes that are under contract for sale, or any option, contract or other agreement to sell an asset;

(ii) Liens on property acquired by the Borrower or a Restricted Subsidiary and Liens on property of a Person existing at the time such Person is merged with or into or consolidated with the Borrower or any Restricted Subsidiary or becomes a Restricted Subsidiary; provided that in each case such Liens (a) were in existence prior to the contemplation of such acquisition, merger or consolidation and (b) do not extend to any asset other than those of the Person merged with or into or consolidated with the Borrower or the Restricted Subsidiary or the property acquired by the Borrower or the Restricted Subsidiary;

(iii) Liens arising out of conditional sale, title retention, consignment or similar arrangements for the sale of goods entered into by the Borrower or any of its Subsidiaries in the ordinary course of business;

(iv) purchase money mortgages (including, without limitation, Capitalized Lease Obligations and purchase money security interests);

(v) Liens on cash or Cash Equivalents securing, and not exceeding the amount of, Indebtedness (and related obligations) incurred pursuant to Section 6.01(b)(ii); or

(vi) Liens on property or assets of any Restricted Subsidiary securing Indebtedness of such Restricted Subsidiary owing to the Borrower or one or more Restricted Subsidiaries.

Secured Indebtedness permitted pursuant to clauses (i) through (vi) of this Section 6.02(a) includes any amendment, restatement, supplement, renewal, replacement, extension or refunding in whole or in part of Secured Indebtedness permitted at the time of the original incurrence thereof.

(b) Any Lien created for the benefit of the Lender pursuant to paragraph (a) of this Section 6.02 shall provide by its terms that such Lien shall be automatically and unconditionally released and discharged upon the release and discharge of the Lien securing such other obligations.

(c) Notwithstanding anything to the contrary in this Section 6.02, the Borrower and its Restricted Subsidiaries may create, incur, assume or guarantee Secured Indebtedness, without equally or ratably securing the Obligations, if immediately thereafter the aggregate principal amount of all Secured Indebtedness outstanding (excluding (a) Secured Indebtedness permitted under clauses (i) through (vi) of paragraph (a) of this Section 6.02 and (b) any Secured Indebtedness in relation to which the Obligations have been equally and ratably secured) as of the date of determination would not exceed the greater of (i) $700.0 million and (ii) 40% of Consolidated Tangible Assets.

(d) Notwithstanding anything to the contrary in this Agreement, the Borrower shall not, and shall not permit any of its Restricted Subsidiaries to, create, incur, assume or suffer to exist any Liens on all or any part of the Collateral.

Section 6.03 Limitations on Restricted Payments.

(a) The Borrower shall not, and shall not cause or permit any of its Restricted Subsidiaries to, make any Restricted Payment, directly or indirectly, after the date hereof if at the time of such Restricted Payment:

(i) the amount of such proposed Restricted Payment (the amount of such Restricted Payment, if other than in cash, shall be determined in good faith by a majority of the disinterested members of the Board of Directors of the Borrower), when added to the aggregate amount of all Restricted Payments (excluding Restricted Payments permitted by paragraph (b) of this Section 6.03) declared or made after the Closing Date exceeds the sum of:

(A) $200.0 million, *plus*

(B) 50% of the Borrower's Consolidated Net Income accrued during the period (taken as a single period) commencing on the first day of the fiscal quarter in which the Covenant Trigger Date occurs and ending on the last day of the fiscal quarter immediately preceding the fiscal quarter in which the Restricted Payment is to occur (or, if such aggregate Consolidated Net Income is a deficit, minus 100% of such aggregate deficit); provided, that for purposes of this calculation, if a Covenant Trigger Date occurs as the result of the Borrower achieving the Net Income Threshold, the Covenant Trigger Date will be deemed to have occurred as of the first day of the second fiscal quarter included in calculating such Net Income Threshold, *plus*

(C) the net cash proceeds derived from the issuance and sale of Capital Stock of the Borrower and its Restricted Subsidiaries (or any capital contribution to the Borrower or a Restricted Subsidiary) that is not Disqualified Stock (other than a sale to, or a contribution by, a Subsidiary of the Borrower) after the Closing Date, *plus*

(D) 100% of the principal amount of, or, if issued at a discount, the accreted value of, any Indebtedness of the Borrower or a Restricted Subsidiary which is issued (other than to a Subsidiary of the Borrower) after the Closing Date that is converted into or exchanged for Capital Stock of the Borrower that is not Disqualified Stock, *plus*

(E) 100% of the aggregate amounts received by the Borrower or any Restricted Subsidiary from the sale, disposition or liquidation (including by way of dividends) of any Investment (other than to any Subsidiary of the Borrower and other than to the extent sold, disposed of or liquidated with recourse to the Borrower or any of its Subsidiaries or to any of their respective properties or assets) but only to the extent (x)

not included in clause (B) above and (y) that the making of such Investment constituted a permitted Restricted Investment (to the extent the Investment was made after the Closing Date), *plus*

(F) 100% of the principal amount of, or if issued at a discount, the accreted value of, any Indebtedness or other obligation that is the subject of a guarantee by the Borrower which is released (other than due to a payment on such guarantee) after the Closing Date, but only to the extent that such guarantee constituted a permitted Restricted Payment, *plus*

(G) with respect to any Unrestricted Subsidiary that is redesignated as a Restricted Subsidiary in accordance with the definition of "Unrestricted Subsidiary" (so long as the designation of such Subsidiary as an Unrestricted Subsidiary was treated as a Restricted Payment made after the Closing Date, and only to the extent not included in clause (B) above), an amount equal to the lesser of (x) the proportionate interest of the Borrower or a Restricted Subsidiary in an amount equal to the excess of (I) the total assets of such Subsidiary, valued on an aggregate basis at the lesser of Book Value and Fair Market Value thereof, over (II) the total liabilities of such Subsidiary, determined in accordance with GAAP, and (y) the amount of the Restricted Payment deemed to be made upon such Subsidiary's designation as an Unrestricted Subsidiary; or

(ii) the Borrower would be unable to incur $1.00 of additional Indebtedness under the Consolidated Fixed Charge Coverage Ratio contained in Section 6.01 hereof; or

(iii) a Default or Event of Default has occurred and is continuing or occurs as a consequence thereof.

(b) Notwithstanding the foregoing, this Section 6.03 shall not prohibit:

(i) the payment of any dividend within sixty (60) days after the date of declaration thereof if the payment thereof would have complied with the limitations hereof on the date of declaration;

(ii) the purchase, repayment, redemption, repurchase, defeasance or other acquisition or retirement of shares of the Borrower's Capital Stock or the Borrower's or a Restricted Subsidiary's Indebtedness for, or out of the net proceeds of a substantially concurrent sale (other than a sale to a Subsidiary of the Borrower) of, other shares of its Capital Stock (other than Disqualified Stock), provided that the proceeds of any such sale shall be excluded in any computation made under Section 6.03(a)(i)(C) above;

(iii) the purchase, repayment, redemption, repurchase, defeasance or other acquisition or retirement for value of Indebtedness, including premium, if any, with the proceeds of Refinancing Indebtedness; or

(iv) other Restricted Payments made after the Closing Date in an amount not to exceed $50.0 million in the aggregate.

Section 6.04 Limitations on Mergers and Consolidations. The Borrower shall not consolidate or merge with or into, or sell, lease, convey or otherwise dispose of all or substantially all of its assets (including, without limitation, by way of liquidation or dissolution), or assign any of its obligations under the Loan Documents (as an entirety or substantially in one transaction or series of related transactions), to any Person (in each case other than with the Borrower or another Restricted Subsidiary that is a Wholly-Owned Subsidiary) unless:

(i) the Person formed by or surviving such consolidation or merger (if other than the Borrower), or to which such sale, lease, conveyance or other disposition or assignment shall be made (collectively, the "Successor"), is a solvent corporation or other legal entity organized and existing under the laws of the United States or any state thereof or the District of Columbia, and the Successor assumes all of the Obligations of the Borrower under the Loan Documents; and

(ii) immediately after giving effect to such transaction, no Default or Event of Default has occurred and is continuing.

Clauses (i) and (ii) of this Section 6.04 will not apply to any transaction the purpose of which is to change the state of organization of the Borrower.

ARTICLE VII
EVENTS OF DEFAULT

Section 7.01 Events of Default. If any of the following events shall occur:

(1) The Borrower shall fail to pay (a) the principal of the Note as and when due and payable or (b) interest on the Note within five (5) Business Days after the same is due and payable;

(2) Any representation or warranty made or deemed made by the Borrower in any Loan Document or which is contained in any certificate, document, opinion, or financial or other statement furnished at any time under or in connection with this Agreement shall prove to have been incorrect, incomplete, or misleading in any material respect on or as of the date made or deemed made;

(3) The Borrower shall fail to perform or observe any term, covenant, or agreement contained in Article V or VI hereof, and such failure shall continue for a period of thirty (30) consecutive days after delivery of written notice thereof from the Lender to the Borrower;

(4) the acceleration of any Indebtedness (other than Non-Recourse Indebtedness) of the Borrower that has an outstanding principal amount of $25.0 million or more in the aggregate;

(5) the failure by the Borrower to make any principal or interest payment in respect of Indebtedness (other than Non-Recourse Indebtedness) of the Borrower with an outstanding aggregate amount of $25.0 million or more within five (5) days of such principal or interest payment becoming due and payable (after giving effect to any applicable grace period set forth in the documents governing such Indebtedness); provided, that if such failure to pay shall be remedied, waived or extended, then the Event of Default hereunder shall be deemed likewise to be remedied, waived or extended without further action by the Borrower;

(6) A final judgment or judgments that exceed $25.0 million or more in the aggregate, for the payment of money, having been entered by a court or courts of competent jurisdiction against the Borrower and such judgment or judgments is not satisfied, stayed, annulled or rescinded within sixty (60) days of being entered;

(7) The Borrower pursuant to or within the meaning of any Bankruptcy Law:

(A) commences a voluntary case;

(B) consents to the entry of an order for relief against it in an involuntary case;

(C) consents to the appointment of a Custodian of it or for all or substantially all of its property; or

(D) makes a general assignment for the benefit of its creditors;

(8) A court of competent jurisdiction enters an order or decree under any Bankruptcy Law that:

(A) is for relief against the Borrower as debtor in an involuntary case;

(B) appoints a Custodian of the Borrower or a Custodian for all or substantially all of the property of the Borrower; or

(C) orders the liquidation of the Borrower and the order or decree remains unstayed and in effect for sixty (60) days;

(9) Except with respect to releases of Liens permitted under this Agreement, any of the Security Documents shall cease, for any reason, to be in full force and effect, or the Borrower or any Affiliate of the Borrower shall so assert, or any Lien created by any of the Security Documents shall cease to be enforceable and of the same effect and priority purported to be created thereby;

(10) The Borrower shall default in the observance or performance of any term, covenant or agreement contained in any Security Document and such default shall continue unremedied for thirty (30) consecutive days after the delivery of notice thereof from the Lender to the Borrower;

then the following provisions shall apply:

(i) if any Event of Default described in Section 7.01(7) or (8) occurs, the obligations of the Lender to make Loans hereunder shall automatically terminate and the Obligations shall immediately become due and payable without any election or action on the part of the Lender. If any other Event of Default occurs, the Lender may terminate or suspend the Obligations of the Lender to make Loans hereunder or declare the Obligations to be due and payable, whereupon the Obligations shall become immediately due and payable, without presentment, demand, protest or notice of any kind, all of which the Borrower hereby expressly waives.

(ii) At any time while an Event of Default is continuing, the Lender may, from time to time, apply funds in the Cash Collateral Account to the payment of the Obligations and any other amounts as shall from time to time have become due and payable by the Borrower to the Lender under the Loan Documents.

(iii) At any time while any Event of Default is continuing, neither the Borrower nor any Person claiming on behalf of or through the Borrower shall have any right to withdraw any of

the funds held in the Cash Collateral Account. After all of the Obligations have been indefeasibly paid in full and the Commitment has been terminated, any funds remaining in the Cash Collateral Account shall be returned by the Lender to the Borrower or paid to whomever may be legally entitled thereto at such time.

(iv) If within thirty (30) days after acceleration of the maturity of the Obligations or termination of the obligations of the Lender to make Loans hereunder as a result of any Event of Default (other than any Event of Default as described in Section 7.01(7) or (8)) and before any judgment or decree for the payment of the Obligations due shall have been obtained or entered, the Lender (in its sole discretion) may, by notice to the Borrower, rescind and annul such acceleration and/or termination.

(v) Upon the occurrence and during the continuance of any Event of Default, the Lender may exercise any and all remedies provided under any of the Security Documents or otherwise provided by law.

Section 7.02 Set-Off. In addition to the rights provided to the Lender under the Security Documents, upon the occurrence and during the continuance of any Event of Default, the Lender is hereby authorized at any time and from time to time, without notice to the Borrower (any such notice being expressly waived by the Borrower), to set off and apply any and all deposits (general or special, time or demand, provisional or final) at any time held and other indebtedness at any time owing by the Lender to or for the credit or the account of the Borrower against any and all of the obligations of the Borrower now or hereafter existing under this Agreement or the Note held by the Lender or any other Loan Document, irrespective of whether or not the Lender shall have made any demand under this Agreement or the Note held by the Lender or such other Loan Document and although such obligations may be unmatured. The Lender agrees promptly to notify the Borrower after any such set-off and application, provided that the failure to give such notice shall not affect the validity of such set-off and application. The rights of the Lender under this Section 7.02 are in addition to other rights and remedies (including, without limitation, other rights of set-off) which the Lender may have.

ARTICLE VIII
MISCELLANEOUS

Section 8.01 Amendments, Etc. No amendment, modification, termination, or waiver of any provision of any Loan Document to which the Borrower is a party, nor consent to any departure by the Borrower from any Loan Document to which it is a party, shall in any event be effective unless the same shall be in writing and signed by the Lender and the Borrower, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

Section 8.02 Notices, Etc.

(a) All notices, demands, requests, consents and other communications provided for in this Agreement shall be given in writing, or by any telecommunication device capable of creating a written record (including electronic mail), and addressed to the party to be notified at its address for notices set forth on its signature page to this Agreement, or at such other address as shall be notified in writing.

(b) All notices, demands, requests, consents and other communications described in Section 8.02(a) shall be effective (i) if delivered by hand, including any overnight courier service, upon personal delivery, (ii) if delivered by mail, when deposited in the mails, and (iii) if delivered by electronic mail or any other telecommunication device, when transmitted to an electronic mail address (or by another means of electronic delivery) as provided in Section 8.02(a); provided, however, that notices and communications to the Lender pursuant to Article II shall not be effective until received by the Lender.

(c) Notwithstanding Sections 8.02(a) and (b) (unless the Lender requests that the provisions of Sections 8.02(a) and (b) be followed) and any other provision in this Agreement or any other Loan Document providing for the delivery of any Approved Electronic Communication by any other means, the Borrower shall deliver all Approved Electronic Communications to the Lender by properly transmitting such Approved Electronic Communications in an electronic/soft medium in a format acceptable to the Lender to marni.mcmanus@citi.com, timicka.c.anderson@citi.com and adriene.jackson@citi.com or such other electronic mail address (or similar means of electronic delivery) as the Lender may notify to the Borrower. Nothing in this clause (c) shall prejudice the right of the Lender to deliver any Approved Electronic Communication to the Borrower in any manner authorized in this Agreement or to request that the Borrower effect delivery in such manner.

Section 8.03 No Waiver. No failure or delay on the part of the Lender in exercising any right, power, or remedy hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any such right, power, or remedy preclude any other or further exercise thereof or the exercise of any other right, power, or remedy hereunder. The making of a Loan notwithstanding, the existence of a Default or Event of Default shall not constitute any waiver or acquiescence of such Default or Event of Default, and the making of any Loan notwithstanding any failure or inability to satisfy the conditions precedent to such Loan shall not constitute any waiver or acquiescence with respect to such conditions precedent with respect to any subsequent Loans. The rights and remedies provided herein are cumulative, and are not exclusive of any other rights, powers, privileges, or remedies, now or hereafter existing, at law, in equity or otherwise.

Section 8.04 Costs, Expenses, and Taxes.

(a) Subject to the terms of the Fee Letter, the Borrower agrees to reimburse the Lender for any reasonable costs, internal charges and out-of-pocket expenses (including reasonable fees and time charges of attorneys for the Lender, which attorneys may be employees of the Lender) paid or incurred by the Lender in connection with the preparation, negotiation, execution, delivery, review, amendment, modification and administration of the Loan Documents. The Borrower also agrees to reimburse the Lender for any reasonable costs, internal charges and out-of-pocket expenses (including attorneys' fees and time charges of attorneys for the Lender which attorneys may be employees of the Lender) paid or incurred by the Lender or the Arranger in connection with the collection of the Obligations and enforcement of the Loan Documents, including during any workout or restructuring in respect of the Loan Documents.

(b) The Borrower shall pay any and all stamp and other taxes and fees payable or determined to be payable in connection with the execution, delivery, filing, and recording of any of the Loan Documents and the other documents to be delivered under any such Loan Documents, and agrees to hold the Lender harmless from and against any and all liabilities with respect to or resulting from any delay in paying or failing to pay such taxes and fees.

(c) The Lender represents and warrants to the Borrower that, at the date of this Agreement, (i) its Lending Office is entitled to receive payments of principal, interest, and fees hereunder without deduction or withholding for or on account of any taxes imposed by the United States or any political subdivision thereof and (ii) it is permitted to take the actions described in the preceding sentence under the laws and any applicable double taxation treaties of the jurisdictions specified in the preceding sentence.

(d) This Section 8.04 shall survive termination of this Agreement.

Section 8.05 Integration. This Agreement and the Loan Documents contain the entire agreement between the parties relating to the subject matter hereof and supersede all oral statements and prior writings with respect thereto.

Section 8.06 Indemnity. The Borrower hereby agrees to defend, indemnify, and hold the Lender and each of its Affiliates, and each of their respective directors, officers, employees, agents and advisors (each an "Indemnified Party") harmless from and against all claims, damages, judgments, penalties, costs, and expenses (including reasonable attorney fees and court costs now or hereafter arising from the aforesaid enforcement of this clause) arising directly or indirectly from the activities of the Borrower and its Subsidiaries, its predecessors in interest, or third parties with whom it has a contractual relationship, in each case relating to or arising out of the Loan Documents or the transactions contemplated thereby, or arising directly or indirectly from the violation of any environmental protection, health, or safety law, whether such claims are asserted by any governmental agency or any other person, other than claims, damages, judgments, penalties, costs and expenses arising as a result of any Indemnified Party's willful misconduct or gross negligence as determined by a court of competent jurisdiction by a final and nonappealable judgment. This indemnity shall survive termination of this Agreement.

Section 8.07 CHOICE OF LAW. THE LOAN DOCUMENTS SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO PRINCIPLES OF CONFLICT OF LAW (OTHER THAN SECTION 5-1401 OF THE GENERAL OBLIGATIONS LAW OF THE STATE OF NEW YORK).

Section 8.08 Severability of Provisions. Any provision of any Loan Document which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions of such Loan Document or affecting the validity or enforceability of such provision in any other jurisdiction.

Section 8.09 Counterparts. This Agreement may be executed in any number of counterparts and by the different parties to this Agreement in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same Agreement. Delivery of an executed counterpart of a signature page to this Agreement by facsimile or other electronic image shall be effective as delivery of a manually executed counterpart of this Agreement.

Section 8.10 Headings. Article and Section headings in the Loan Documents are included in such Loan Documents for the convenience of reference only and shall not constitute a part of the applicable Loan Documents for any other purpose.

Section 8.11 CONSENT TO JURISDICTION.

(a) ANY LEGAL ACTION OR PROCEEDING WITH RESPECT TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT MAY BE BROUGHT IN THE COURTS OF THE STATE OF NEW YORK SITTING IN THE CITY AND COUNTY OF NEW YORK OR OF THE UNITED STATES OF AMERICA FOR THE SOUTHERN DISTRICT OF NEW YORK, AND, BY EXECUTION AND DELIVERY OF THIS AGREEMENT, THE BORROWER HEREBY ACCEPTS FOR ITSELF AND IN RESPECT OF ITS PROPERTY, GENERALLY AND UNCONDITIONALLY, THE JURISDICTION OF THE AFORESAID COURTS. THE PARTIES HERETO HEREBY IRREVOCABLY WAIVE ANY OBJECTION, INCLUDING ANY OBJECTION TO THE LAYING OF

VENUE OR BASED ON THE GROUNDS OF FORUM NON CONVENIENS, THAT ANY OF THEM MAY NOW OR HEREAFTER HAVE TO THE BRINGING OF ANY SUCH ACTION OR PROCEEDING IN SUCH RESPECTIVE JURISDICTIONS.

(b) THE BORROWER IRREVOCABLY CONSENTS TO THE SERVICE OF ANY AND ALL PROCESS IN SUCH ACTION OR PROCEEDING ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR ANY LOAN DOCUMENT BY THE MAILING (BY REGISTERED OR CERTIFIED MAIL, POSTAGE PREPAID) OF COPIES OF SUCH PROCESS TO AN APPOINTED PROCESS AGENT OR THE BORROWER AT ITS ADDRESS SPECIFIED IN SECTION 8.02. THE BORROWER 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 CONTAINED IN THIS SECTION 8.11 SHALL AFFECT THE RIGHT OF THE LENDER TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR COMMENCE LEGAL PROCEEDINGS OR OTHERWISE PROCEED AGAINST THE BORROWER IN ANY OTHER JURISDICTION.

Section 8.12 WAIVER OF JURY TRIAL. THE BORROWER AND THE LENDER HEREBY WAIVE TRIAL BY JURY IN ANY JUDICIAL ACTION OR PROCEEDING INVOLVING, DIRECTLY OR INDIRECTLY, ANY MATTER (WHETHER SOUNDING IN TORT, CONTRACT OR OTHERWISE) IN ANY WAY ARISING OUT OF, RELATED TO, OR CONNECTED WITH ANY LOAN DOCUMENT OR THE RELATIONSHIP ESTABLISHED THEREUNDER.

Section 8.13 Governmental Regulation. Anything contained in this Agreement to the contrary notwithstanding, the Lender shall not be obligated to extend credit to the Borrower in violation of any limitation or prohibition provided by any applicable statute or regulation.

Section 8.14 No Fiduciary Duty. The relationship between the Borrower and the Lender shall be solely that of borrower and lender. The Lender shall have no fiduciary responsibilities to the Borrower. The Lender undertakes no responsibility to the Borrower to review or inform the Borrower of any matter in connection with any phase of the Borrower's business or operations.

Section 8.15 Confidentiality. The Lender agrees to maintain the confidentiality of the Information (as defined below), except that the Information may be disclosed (a) to its respective Related Parties (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential), (b) to the extent requested by any regulatory authority purporting to have jurisdiction over it (including any self-regulatory authority, such as the National Association of Insurance Commissioners), (c) to the extent required by applicable laws or regulations or by any subpoena or similar legal process, (d) to any other party hereto, (e) in connection with the exercise of any remedies hereunder or under any other Loan Document, any action or proceeding relating to this Agreement or any other Loan Document, the enforcement of rights hereunder or thereunder or any litigation or proceeding to which the Lender or any of its Affiliates may be a party, (f) subject to an agreement containing provisions substantially the same as those of this Section 8.15, to (i) any actual or prospective party (or its managers, administrators, trustees, partners, directors, officers, employees, agents, advisors and other representatives) surety, reinsurer, guarantor or credit liquidity enhancer (or their advisors) to or in connection with any swap, derivative or other similar transaction under which payments are to be made by reference to the Obligations or to the Borrower and its obligations or to this Agreement or payments hereunder, (ii) to any rating agency when required by it, (iii) the CUSIP Service Bureau or any similar organization, (g) with the consent of the Borrower or (h) to the extent such Information (x) becomes publicly available other than as a result of a

breach of this Section 8.15 or (y) becomes available to the Lender or any of its Affiliates on a nonconfidential basis from a source other than the Borrower or any of its Subsidiaries. For purposes of this Section 8.15, "Information" means all information received from the Borrower or any of its Subsidiaries relating to the Borrower or any of its Subsidiaries or any of their respective businesses, other than any such information that is available to the Lender on a nonconfidential basis prior to disclosure by the Borrower or any of its Subsidiaries, provided that, in the case of information received from the Borrower or any of its Subsidiaries after the date hereof, such information shall be deemed confidential unless it is clearly identified at the time of delivery as not being confidential. Any Person required to maintain the confidentiality of Information as provided 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 to its own confidential information.

Section 8.16 USA Patriot Act Notification. The Lender, to the extent subject to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the "Act"), hereby notifies the Borrower that pursuant to the requirements of the Act, it is required to obtain, verify and record information that identifies the Borrower, which information includes the name and address of the Borrower and other information that will allow the Lender to identify the Borrower in accordance with the Act.

Section 8.17 Waiver of Consequential Damages, Etc. To the fullest extent permitted by applicable law, the no party hereto shall assert, and each such party hereby waives, any claim against all other parties hereto, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual 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 or thereby, the transactions contemplated hereby or thereby and the Loans or the use of the proceeds thereof.

Section 8.18 Successors and Assigns. The provisions of this Agreement and the other Loan Documents shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that (i) the Borrower may not assign or otherwise transfer any of its rights or obligations hereunder or under the other Loan Documents without the prior written consent of the Lender (and any attempted assignment or transfer by the Borrower without such consent shall be null and void) and (ii) the Lender may not assign or otherwise transfer its rights or obligations hereunder or under the other Loan Documents (other than by an assignment to an Affiliate of the Lender or by means of a participation) without the prior written consent of the Borrower, such consent not to be unreasonably withheld or delayed (and any attempted assignment or transfer by the Lender without such consent 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) any legal or equitable right, remedy or claim under or by reason of this Agreement.

Section 8.19 Pledge to Federal Reserve Bank. The 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 the Lender to a Federal Reserve Bank, and this Section shall not apply to any such pledge or assignment of a security interest; provided that no such pledge or assignment of a security interest shall release the Lender from any of its obligations hereunder or substitute any such pledgee or assignee for the Lender as a party hereto.

[remainder of page intentionally left blank; signature pages follow]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective officers thereunto duly authorized, as of the date first written.

BEAZER HOMES USA, INC.

By: /s/ Allan P. Merrill
Name: Allan P. Merrill
Title: Executive Vice President & Chief Financial Officer

Address for Notices

1000 Abernathy Road
Suite 1200
Atlanta, Georgia 30328
Attention: President
Tel: (770) 829-3700
Fax: (770) 481-0431

CITIBANK, N.A., as the Lender

By: /s/ Marni McManus
Name: Marni McManus
Title: Managing Director

Address for Notices

For matters relating to loan operations or payments:

Citibank, N.A.
1615 Brett Road, Building III
New Castle, DE 19720
Attn: Adrieane Jackson
Tel: (302) 323-5888
Fax: (212) 994-0847
Email: adriene.jackson@citi.com

For matters relating to the credit agreement:

Citibank, N.A.
388 Greenwich St.
32 Floor
New York, NY 10013
Attn: Marni McManus
Tel: (212) 816-7461
Fax: (646) 291-1183
Email: marni.mcmanus@citi.com

Schedule I

SUBSIDIARIES OF BORROWER

Wholly-Owned Subsidiaries

Subsidiary	State of Incorporation/Formation
Subsidiaries of Beazer Homes USA, Inc.	
Beazer Homes Holdings Corp.	Delaware
Beazer Mortgage Corporation	Delaware
Homebuilders Title Services, Inc.	Delaware
Homebuilders Title Services of Virginia, Inc.	Virginia
Security Title Insurance Company	Vermont
Beazer Homes Capital Trust I[1]	Delaware
Subsidiaries of Beazer Homes Holdings Corp.	
April Corporation	Colorado
Beazer Allied Companies Holdings, Inc.	Delaware
Beazer General Services, Inc.	Delaware
Beazer Homes Corp.	Tennessee
Beazer Homes Sales, Inc.	Delaware
Beazer Homes Texas Holdings, Inc.	Delaware
Beazer Realty Los Angeles, Inc.	Delaware
Beazer Realty Sacramento, Inc	Delaware
Beazer SPE, LLC	Georgia

[1] Beazer Homes Capital Trust I is a statutory trust that the Borrower is the beneficiary of but does not exercise control over.

Subsidiaries of Beazer Homes Corp.	
Arden Park Ventures, LLC	Florida
Beazer Clarksburg, LLC	Maryland
Beazer Commercial Holdings, LLC	Delaware
Beazer Homes Investments, LLC	Delaware
Beazer Homes Michigan, LLC	Delaware
Beazer Realty Corp.	Georgia
Beazer Realty, Inc	New Jersey
Beazer/Squires Realty, Inc.	North Carolina
Dove Barrington Development LLC	Delaware
Elysian Heights Potomia, LLC	Virginia
Ridings Development LLC	Delaware
Subsidiaries of Beazer Homes Investments, LLC	
Beazer Homes Indiana Holdings Corp.	Delaware
Beazer Realty Services, LLC	Delaware
Paragon Title, LLC	Indiana
Subsidiaries of Beazer Homes Texas, L.P.	
BH Procurement Services, LLC	Delaware
Subsidiaries of Beazer Clarksburg,LLC	
Clarksburg Arora, LLC	Maryland
Subsidiaries of Clarksburg Arora, LLC	
Clarksburg Skylark, LLC	Maryland

Indirect Wholly-Owned Subsidiaries

Subsidiary	State of Incorporation/ Formation	% Ownership
Beazer Homes Indiana, LLP	Indiana	Beazer Homes Investments, LLC – 98% Beazer Homes Indiana Holdings Corp. – 1% Beazer Homes Corp. – 1%
Beazer Homes Texas, L.P.	Delaware	Beazer Homes Texas Holdings, Inc. – 1% Beazer Homes Holdings Corp. – 99%
BH Building Products, LP	Delaware	Beazer Homes Texas, L.P. – 99% BH Procurement Services, LLC – 1%
Trinity Homes, LLC	Indiana	Beazer Homes Investments, LLC – 50% Beazer Homes Indiana LLP – 50%
United Home Insurance Company, A Risk Retention Group	Vermont	Beazer Homes Holdings Corp. – 26.50% Beazer Homes Texas Holdings, Inc. – 27.29% Beazer Homes Corp. – 46.22%

Exhibit A

FORM OF NOTE

$_____ [ ]

FOR VALUE RECEIVED, the undersigned, BEAZER HOMES USA, INC., a Delaware corporation (the "Borrower"), HEREBY PROMISES TO PAY to the order of CITIBANK, N.A. (the "Lender"), at the Lender's office located at 388 Greenwich St., New York, NY 10013 (or at such other office as the Lender may from time to time designate in writing), in lawful money of the United States and in immediately available funds, the principal amount of _____ Dollars ($_____) or the aggregate unpaid principal amount of all Loans made to the Borrower by the Lender pursuant to the Credit Agreement and outstanding on the Maturity Date, whichever is less, and to pay interest from the date of this Note, in like money, at said office for the account of the Lender's Lending Office, at the time and at a rate per annum as provided in the Credit Agreement. The Lender is hereby authorized by the Borrower, but is not required, to endorse on the schedule attached to this Note held by it the amount of each Loan and payment of principal amount received by the Lender for the account of its Lending Office on account of its Loans, which endorsement shall, in the absence of manifest error, be conclusive as to the outstanding balance of the Loans made by the Lender; provided, however, that the failure to make such notation with respect to any Loan or payment shall not limit or otherwise affect the obligations of the Borrower hereunder.

This Note is the Note referred to in, and is entitled to the benefits of, the Credit Agreement, dated as of November 16, 2010, between the Borrower and the Lender (which, as it may be amended, modified, renewed or extended from time to time, is herein called the "Credit Agreement"). Terms used herein which are defined in the Credit Agreement shall have their defined meanings when used herein. The Credit Agreement, among other things, contains provisions for acceleration of the maturity of this Note upon the happening of certain stated events and also for prepayments on account of principal hereof prior to the maturity of this Note upon the terms and conditions specified in the Credit Agreement.

The Borrower hereby agrees to pay all reasonable costs and expenses (including reasonable attorney's fees and expenses) paid or incurred by the holder of this Note in the collection of any principal or interest payable under this Note or the enforcement of this Note or any other Loan Documents.

This Note shall be governed by and construed in accordance with the laws of the State of New York, without regard to principles of conflict of law (other than Section 5-1401 of the General Obligations Law of the State of New York).

BEAZER HOMES USA, INC.

By: _____

Name:
Title:

SCHEDULE TO NOTE

Date Made or Paid	Amount of Principal Paid	Unpaid Principal Balance of Note	Name of Person Making Notation

Exhibit B

FORM OF CERTIFICATE FOR BORROWING

This Certificate is delivered pursuant to the Credit Agreement dated as of November 16, 2010 between Beazer Homes USA, Inc. and Citibank, N.A. (as amended, supplemented, or modified from time to time, the "Credit Agreement"). Unless otherwise defined herein, capitalized terms are used herein as defined in the Credit Agreement. This certification is delivered in connection with a notice requesting a Borrowing under Section 2.02 of the Credit Agreement.

The Borrower hereby requests a Borrowing of $[ ] under the Credit Agreement to be made on [ ], 201__.

The undersigned, in his/her capacity as [_____] of the Borrower, hereby certifies as follows:

1. The representations and warranties contained in Article IV of the Credit Agreement are correct in all material respects on and as of the date of such Borrowing as though made on and as of such date except to the extent that any such representation or warranty is stated to relate solely to an earlier date, in which case such representation or warranty is correct in all material respects as of such earlier date.

2. No Default or Event of Default has occurred and is continuing and would result from such Borrowing.

3. Both before and after giving effect to such Borrowing, the Borrower will be Solvent.

IN WITNESS WHEREOF, the undersigned has executed this Certificate as an officer of the Borrower, and not in the undersigned's individual capacity, as of the _____ day of _____, 201__.

By: _____
Name:
Title: [ ] of Beazer Homes USA, Inc.

Exhibit 10.2

Execution Version

CREDIT AGREEMENT

Dated as of November 16, 2010

BEAZER HOMES USA, INC.,

DEUTSCHE BANK AG CAYMAN ISLANDS BRANCH,
as Lender

and

DEUTSCHE BANK SECURITIES INC.,
as Lead Arranger and Bookrunner

$137,500,000 DELAYED DRAW TERM LOAN FACILITY

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LIST OF SCHEDULES AND EXHIBITS

CREDIT AGREEMENT dated as of November 16, 2010, between BEAZER HOMES USA, INC., a Delaware corporation (the "Borrower") and DEUTSCHE BANK AG CAYMAN ISLANDS BRANCH (the "Lender").

PRELIMINARY STATEMENTS

WHEREAS, the Borrower has requested that the Lender agree to extend credit to the Borrower, and the Lender has agreed to extend such credit to the Borrower, in an aggregate principal amount of up to $137,500,000 upon the terms and subject to the conditions set forth in this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, the parties hereto hereby agree as follows:

ARTICLE I
DEFINITIONS AND ACCOUNTING TERMS

Section 1.01 Defined Terms. As used in this Agreement, the following terms have the following meanings (terms defined in the singular shall have the same meaning when used in the plural and vice versa):

"Account Control Agreement" means the Account Control Agreement to be executed and delivered by Borrower in accordance with Section 3.01, in form mutually satisfactory to Lender and Borrower.

"Acquired Indebtedness" means Indebtedness of any Person and its Subsidiaries existing at the time such Person became a Subsidiary of the Borrower (or such Person is merged with or into the Borrower or one of the Borrower's Subsidiaries) or assumed in connection with the acquisition of assets from any such Person, including, without limitation, Indebtedness Incurred in connection with, or in contemplation of (i) such Person being merged with or into or becoming a Subsidiary of the Borrower or one of its Subsidiaries (but excluding Indebtedness of such Person which is extinguished, retired or repaid in connection with such Person being merged with or into or becoming a Subsidiary of the Borrower or one of its Subsidiaries) or (ii) such acquisition of assets from any such Person.

"Adjusted Consolidated Tangible Net Worth" of the Borrower means Consolidated Tangible Net Worth plus the amount of any Mandatory Convertible Notes.

"Adjusted Indebtedness" of the Borrower means the Borrower's Indebtedness minus the amount of any Mandatory Convertible Notes.

"Affiliate" of any Person means any other Person directly or indirectly controlling or controlled by, or under direct or indirect common control with, such Person. For purposes hereof, each executive officer and director of the Borrower and each Subsidiary of the Borrower will be an Affiliate of the Borrower. In addition, for purposes hereof, control of a Person means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise. Notwithstanding the foregoing, the term "Affiliate" will not include, with respect to the Borrower or any Restricted Subsidiary which is a Wholly-Owned Subsidiary of the Borrower, any Restricted Subsidiary which is a Wholly-Owned Subsidiary of the Borrower.

"Agreement" means this Credit Agreement, as amended, supplemented or otherwise modified from time to time.

"Alternate Base Rate" means, for any day, the sum of (a) a rate per annum equal to the greater of (i) the Base Rate in effect on such day and (ii) the Federal Funds Effective Rate in effect on such day plus 1/2 of 1% per annum, plus (b) 0.40%. Any change in the Alternate Base Rate due to a change in the Base Rate or the Federal Funds Effective Rate shall be effective from and including the effective date of such change in the Base Rate or the Federal Funds Effective Rate, respectively.

"Applicable Margin" means, as at any date of determination, 0.35%.

"Applicable Margin Portion" is defined in Section 2.04(a).

"Approved Electronic Communications" means each Communication that the Borrower is obligated to, or otherwise chooses to, provide to the Lender pursuant to any Loan Document or the transactions contemplated therein, including any financial statement, financial and other report, notice, request, certificate and other information material; provided, however, that, solely with respect to delivery of any such Communication by the Borrower to the Lender, "Approved Electronic Communications" shall exclude (i) any notice of borrowing, and any other notice, demand, communication, information, document and other material relating to a request for a new Borrowing, (ii) any notice of prepayment pursuant to Section 2.06 and any other notice relating to the payment of any principal or other amount due under any Loan Document prior to the scheduled date therefor, (iii) all notices of any Default or Event of Default and (iv) any notice, demand, communication, information, document and other material required to be delivered to satisfy any of the conditions set forth in Article III.

"Arranger" means Deutsche Bank Securities Inc.

"Asset Sale" for any Person means the sale, transfer, lease, conveyance or other disposition (including, without limitation, by merger, consolidation or sale and leaseback transaction, and whether by operation of law or otherwise) of any of that Person's assets (including, without limitation, the sale or other disposition of Capital Stock of any Subsidiary of such Person, whether by such Person or such Subsidiary), whether owned on the date hereof or subsequently acquired in one transaction or a series of related transactions, in which such Person and/or its Subsidiaries receive cash and/or other consideration (including, without limitation, the unconditional assumption of Indebtedness of such Person and/or its Subsidiaries) having an aggregate Fair Market Value of $5.0 million or more as to each such transaction or series of related transactions; provided, however, that none of the following shall constitute an Asset Sale:

(i) a transaction or series of related transactions that results in a Change of Control;

(ii) sales of homes or land in the ordinary course of business;

(iii) sales, leases, conveyances or other dispositions, including, without limitation, exchanges or swaps, of real estate or other assets, in each case in the ordinary course of business, for development or disposition of the Borrower's or any of its Subsidiaries' projects;

(iv) sales, leases, sale-leasebacks or other dispositions of amenities, model homes and other improvements at the Borrower's or its Subsidiaries' projects in the ordinary course of business;

(v) transactions between the Borrower and any of its Restricted Subsidiaries, or among such Restricted Subsidiaries;

(vi) a transaction involving the sale of Capital Stock of, or the disposition of assets in, an Unrestricted Subsidiary;

(vii) any exchange or swap of assets of the Borrower or any Restricted Subsidiary for assets (including Capital Stock of any Person that is or will be a Restricted Subsidiary following receipt thereof) that (i) are to be used by the Borrower or any Restricted Subsidiary in the ordinary course of business and (ii) have a Fair Market Value not less than the Fair Market Value of the assets exchanged or swapped;

(viii) any disposition of Cash Equivalents or obsolete or worn out equipment, in each case, in the ordinary course of business;

(ix) the sale or other disposition of assets no longer used or useful in the conduct of business of the Borrower or any of its Restricted Subsidiaries; and

(x) the making of any Restricted Payment or Permitted Investment that is permitted to be made, and is made, under Section 6.03 hereof.

"Bankruptcy Law" means title 11 of the United States Code, as amended, or any similar federal or state law for the relief of debtors.

"Base Rate" means the fluctuating rate of interest announced publicly by Deutsche Bank AG Cayman Islands Branch in New York, New York from time to time as its base rate.

"Board" means the Board of Governors of the Federal Reserve System of the United States of America.

"Book Value" means, with respect to any asset of the Borrower or any of its Subsidiaries, the book value thereof as reflected in the most recent consolidated financial statements of the Borrower filed with SEC (or if such asset has been acquired after the date of such financial statements, the then-current book value thereof as reasonably determined by the Borrower consistent with recent practices).

"Borrower" has the meaning assigned to such term in the opening paragraph of this Agreement.

"Borrowing" means a borrowing consisting of Loans made on the same day.

"Business Day" means (i) with respect to any Borrowing, payment or rate determination of Loans, a day (other than a Saturday or Sunday) on which banks generally are open in New York City for the conduct of substantially all of their commercial lending activities and on which dealings in United States dollars are carried on in the London interbank market and (ii) for all other purposes, a day (other than a Saturday or Sunday) on which banks generally are open in New York City for the conduct of substantially all of their commercial lending activities.

"Capital Stock" of any Person means any and all shares, rights to purchase, warrants or options (whether or not currently exercisable), participations, or other equivalents of or interests in (however designated and whether voting or non-voting) the equity (which includes, but is not limited to, common stock, preferred stock and partnership and joint venture interests) of such Person (excluding any debt securities that are convertible into, or exchangeable for, such equity).

"Capitalized Lease Obligations" of any Person means the obligations of such Person to pay rent or other amounts under a lease that is required to be capitalized for financial reporting purposes in accordance with GAAP, and the amount of such obligation will be the capitalized amount thereof determined in accordance with GAAP.

"Cash Collateral Account" means the Account (as such term is defined in the Security Agreement) maintained under the Security Agreement.

"Cash Equivalents" means any security or instrument that constitutes a cash equivalent under GAAP, including any of the following:

(i) direct obligations of the United States or any agency thereof or obligations guaranteed by the United States or any agency thereof, in each case maturing within one year of the date of acquisition thereof;

(ii) certificates of deposit, time deposits, bankers acceptances and other obligations placed with commercial banks organized under the laws of the United States of America or any state thereof, or branches or agencies of foreign banks licensed under the laws of the United States of America or any state thereof, having a short-term rating of not less than A- by Moody's or S&P at the time of acquisition, and having a maturity of not more than one year;

(iii) commercial paper rated at least P-1, A-1 or the equivalent thereof by Moody's or S&P, respectively, and in each case and maturing not more than one year from the date of the acquisition thereof;

(iv) repurchase agreements or money-market accounts which are fully secured by direct obligations of the United States or any agency thereof; and

(v) investments in money market funds (a) substantially all of the assets of which consist of investments described in the foregoing clauses (i) through (iv) or (b) which (1) have total net assets of at least $2.0 billion, (2) have investment objectives and policies that substantially conform with the Borrower's investment policy as in effect from time to time, (3) purchase only first-tier or U.S. government obligations as defined by Rule 2a-7 of the SEC promulgated under the Investment Company Act of 1940 and (4) otherwise comply with such Rule 2a-7.

"Change" is defined in Section 2.10.

"Change of Control" means any of the following:

(i) the sale, transfer, lease, conveyance or other disposition (in one transaction or a series of transactions) of all or substantially all of the Borrower's assets as an entirety or substantially as an entirety to any Person or "group" (within the meaning of Section 13(d)(3) of the Exchange Act); provided that a transaction where the holders of all classes of Common Equity of the Borrower immediately prior to such transaction own, directly or indirectly, 50% or more of the aggregate voting power of all classes of Common Equity of such Person or group immediately after such transaction will not be a Change of Control;

(ii) the acquisition by the Borrower and/or any of its Subsidiaries of 50% or more of the aggregate voting power of all classes of Common Equity of the Borrower in one transaction or a series of related transactions;

(iii) the liquidation or dissolution of the Borrower; provided that a liquidation or dissolution of the Borrower which is part of a transaction or series of related transactions that does not constitute a Change of Control under the "provided" clause of clause (i) above will not constitute a Change of Control under this clause (iii);

(iv) any transaction or a series of related transactions (as a result of a tender offer, merger, consolidation or otherwise) that results in, or that is in connection with, (a) any Person, including a "group" (within the meaning of Section 13(d)(3) of the Exchange Act) acquiring "beneficial ownership" (as defined in Rule 13d-3 under the Exchange Act), directly or indirectly, of 50% or more of the aggregate voting power of all classes of Common Equity of the Borrower or of any Person that possesses "beneficial ownership" (as defined in Rule 13d-3 under the Exchange Act), directly or indirectly, of 50% or more of the aggregate voting power of all classes of Common Equity of the Borrower or (b) less than 50% (measured by the aggregate voting power of all classes) of the Common Equity of the Borrower being registered under Section 12(b) or 12(g) of the Exchange Act;

(v) a majority of the Board of Directors of the Borrower not being comprised of Continuing Directors; or

(vii) a change of control shall occur as defined in the instrument governing any publicly traded debt securities of the Borrower which requires the Borrower to repay or repurchase such debt securities.

"Change of Control Payment Date" is defined in Section 2.06(b).

"Closing Date" is defined in Section 3.01.

"Code" means the Internal Revenue Code of 1986, as amended from time to time, and the regulations and published interpretations thereof.

"Collateral" means all property of the Borrower, now owned or hereafter acquired, upon which a Lien is purported to be created by any Security Document.

"Commitment" means the obligation of the Lender to make Loans in an aggregate principal amount not exceeding $137,500,000.

"Commitment Termination Date" means the earliest to occur of (i) June 14, 2011 (ii) the first date upon which the Lender shall have funded Loans in respect of two (2) separate Borrowings (including the Borrowing on the Closing Date), (iii) the date upon which a Change of Control occurs and (iv) the date on which the Lender's obligation to fund Loans hereunder has terminated pursuant to Section 7.01.

"Common Equity" of any Person means all Capital Stock of such Person that is generally entitled to (i) vote in the election of directors of such Person or (ii) if such Person is not a corporation, vote or otherwise participate in the selection of the governing body, partners, managers or others that will control the management and policies of such Person.

"Commonly Controlled Entity" means an entity, whether or not incorporated, which is under common control with the Borrower within the meaning of Section 414(b) or 414(c) of the Code.

"Communications" means each notice, demand, communication, information, document and other material provided for under this Agreement or under any other Loan Document or otherwise transmitted between the parties hereto relating this Agreement, the other Loan Documents, the Borrower or its Affiliates, or the transactions contemplated by this Agreement or the other Loan Documents including, without limitation, all Approved Electronic Communications.

"Consolidated Cash Flow Available for Fixed Charges" of the Borrower and its Restricted Subsidiaries means for any period, the sum of the amounts for such period of:

(i) Consolidated Net Income, plus

(ii) Consolidated Income Tax Expense (without regard to income tax expense or credits attributable to extraordinary and nonrecurring gains or losses on Asset Sales), plus

(iii) Consolidated Interest Expense, plus

(iv) all depreciation, and, without duplication, amortization (including, without limitation, capitalized interest amortized to cost of sales), plus

(v) all other non-cash items reducing Consolidated Net Income during such period, minus

all other non-cash items increasing Consolidated Net Income during such period; all as determined on a consolidated basis for the Borrower and its Restricted Subsidiaries in accordance with GAAP.

"Consolidated Fixed Charge Coverage Ratio" of the Borrower means, with respect to any determination date, the ratio of (i) Consolidated Cash Flow Available for Fixed Charges of the Borrower for the prior four full fiscal quarters for which financial results have been reported immediately preceding the determination date to (ii) the aggregate Consolidated Interest Incurred of the Borrower for the prior four full fiscal quarters for which financial results have been reported immediately preceding the determination date; provided that:

(1) with respect to any Indebtedness Incurred during, and remaining outstanding at the end of, such four full fiscal quarter period, such Indebtedness will be assumed to have been incurred as of the first day of such four full fiscal quarter period;

(2) with respect to Indebtedness repaid (other than a repayment of revolving credit obligations repaid solely out of operating cash flows) during such four full fiscal quarter period, such Indebtedness will be assumed to have been repaid on the first day of such four-full-fiscal-quarter period;

(3) with respect to the Incurrence of any Acquired Indebtedness, such Indebtedness and any proceeds therefrom will be assumed to have been Incurred and applied as of the first day of such four full fiscal quarter period, and the results of operations of any Person and any Subsidiary of such Person that, in connection with or in contemplation of such Incurrence, becomes a Subsidiary of the Borrower or is merged with or into the Borrower or one of the Borrower's Subsidiaries or whose assets are acquired, will be included, on a pro forma basis, in the calculation of the Consolidated Fixed Charge Coverage Ratio as if such transaction had occurred on the first day of such four full fiscal quarter period; and

(4) with respect to any other transaction pursuant to which any Person becomes a Subsidiary of the Borrower or is merged with or into the Borrower or one of the Borrower's Subsidiaries or pursuant to which any Person's assets are acquired, such Consolidated Fixed Charge Coverage Ratio shall be calculated on a pro forma basis as if such transaction had occurred on the first day of such four full fiscal quarter period, but only if such transaction would require a pro forma presentation in financial statements prepared pursuant to Rule 11-02 of Regulation S-X under the Securities Act.

"Consolidated Income Tax Expense" of the Borrower for any period means the income tax expense of the Borrower and its Restricted Subsidiaries for such period, determined on a consolidated basis in accordance with GAAP.

"Consolidated Interest Expense" of the Borrower for any period means the Interest Expense of the Borrower and its Restricted Subsidiaries for such period, determined on a consolidated basis in accordance with GAAP.

"Consolidated Interest Incurred" of the Borrower for any period means the Interest Incurred of the Borrower and its Restricted Subsidiaries for such period, determined on a consolidated basis in accordance with GAAP.

"Consolidated Net Income" of the Borrower for any period means the aggregate net income (or loss) of the Borrower and its Restricted Subsidiaries for such period, determined on a consolidated basis in accordance with GAAP; provided that there will be excluded from such net income (to the extent otherwise included therein), without duplication:

(i) the net income (or loss) of any Person (other than a Restricted Subsidiary) in which any Person (including, without limitation, an Unrestricted Subsidiary) other than the Borrower or any Restricted Subsidiary has an ownership interest, except to the extent that any such income has actually been received by the Borrower or any Restricted Subsidiary in the form of cash dividends or similar cash distributions during such period, or in any other form but converted to cash during such period;

(ii) except to the extent includable in Consolidated Net Income pursuant to the foregoing clause (i), the net income (or loss) of any Person that accrued prior to the date that (a) such Person becomes a Restricted Subsidiary or is merged with or into or consolidated with the Borrower or any of its Restricted Subsidiaries or (b) the assets of such Person are acquired by the Borrower or any of its Restricted Subsidiaries;

(iii) the net income of any Restricted Subsidiary to the extent that (but only so long as) the declaration or payment of dividends or similar distributions by such Restricted Subsidiary of that income is not permitted by operation of the terms of its charter or any agreement, instrument, judgment, decree, order, statute, rule or governmental regulation applicable to that Restricted Subsidiary during such period;

(iv) in the case of a successor to the Borrower by consolidation, merger or transfer of its assets, any earnings of the successor prior to such merger, consolidation or transfer of assets; and

(v) the gains (but not losses) realized during such period by the Borrower or any of its Restricted Subsidiaries resulting from (a) the acquisition of securities issued by the Borrower or extinguishment of Indebtedness of the Borrower or any of its Restricted Subsidiaries, (b) Asset Sales by the Borrower or any of its Restricted Subsidiaries and (c) other extraordinary items realized by the Borrower or any of its Restricted Subsidiaries.

Notwithstanding the foregoing, in calculating Consolidated Net Income, the Borrower will be entitled to take into consideration the tax benefits associated with any loss described in clause (v) of the preceding sentence, but only to the extent such tax benefits are actually recognized by the Borrower or any of its Restricted Subsidiaries during such period; provided, further, that there will be included in such net income, without duplication, the net income of any Unrestricted Subsidiary to the extent such net income is actually received by the Borrower or any of its Restricted Subsidiaries in the form of cash dividends or similar cash distributions during such period, or in any other form but converted to cash during such period.

"Consolidated Tangible Assets" of the Borrower as of any date means the total amount of assets of the Borrower and its Restricted Subsidiaries (less applicable reserves) on a consolidated basis at the end of the fiscal quarter immediately preceding such date, as determined in accordance with GAAP, less: (i) Intangible Assets and (ii) appropriate adjustments on account of minority interests of other Persons holding equity investments in Restricted Subsidiaries, in the case of each of clauses (i) and (ii) above, as reflected on the consolidated balance sheet of the Borrower and its Restricted Subsidiaries as of the end of the fiscal quarter immediately preceding such date.

"Consolidated Tangible Net Worth" of the Borrower as of any date means the stockholders' equity (including any Preferred Stock that is classified as equity under GAAP, other than Disqualified Stock) of the Borrower and its Restricted Subsidiaries on a consolidated basis at the end of the fiscal quarter immediately preceding such date, as determined in accordance with GAAP, plus any amount of unvested deferred compensation included, in accordance with GAAP, as an offset to stockholders' equity, less the amount of Intangible Assets reflected on the consolidated balance sheet of the Borrower and its Restricted Subsidiaries as of the end of the fiscal quarter immediately preceding such date.

"Continuing Director" means at any date a member of the Board of Directors of the Borrower who:

(i) was a member of the Board of Directors of the Borrower on the Closing Date; or

(ii) was nominated for election or elected to the Board of Directors of the Borrower with the affirmative vote of at least a majority of the directors who were Continuing Directors at the time of such nomination or election.

"Covenant Trigger Date" means the earlier of (i) 24 months from the Closing Date and (ii) the date that the Net Income Threshold is met.

"Credit Facilities" means, with respect to the Borrower or any of its Restricted Subsidiaries, one or more debt facilities or other financing arrangements (including, without limitation, commercial paper or letter of credit facilities or indentures) providing for revolving credit loans, term loans, letters of credit or other Indebtedness including any notes, mortgages, guarantees, collateral documents, instruments and agreements executed in connection therewith, and any amendments, supplements, modifications, extensions, renewals, restatements or refundings thereof and any indentures, credit facilities, letter of credit facilities or commercial paper facilities that replace, refund or refinance any part of the loans, notes, other credit facilities or commitments thereunder, including any such replacement, refunding or refinancing facility or indenture that increases the amount permitted to be borrowed thereunder or alters the maturity thereof (provided that such increase in borrowings is permitted by Section 6.01 hereof) or adds Restricted Subsidiaries as additional borrowers or guarantors thereunder and whether by the same or any other agent, lender or group of lenders.

"Custodian" means any receiver, trustee, assignee, liquidator or similar official under any Bankruptcy Law.

"Default" means any of the events specified in Section 7.01, whether or not any requirement for the giving of notice, the lapse of time, or both, or any other condition, has been satisfied.

"Disqualified Stock" means any Capital Stock 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 or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, or is redeemable at the option of the holder thereof, in whole or in part, on or prior to the Maturity Date; provided that any Capital Stock which would not constitute Disqualified Stock but for provisions thereof giving holders thereof the right to require the Borrower to repurchase or redeem such Capital Stock upon the occurrence of a change of control occurring prior to the Maturity Date will not constitute Disqualified Stock if the change of control provisions applicable to such Capital Stock are no more favorable to the holders of such Capital Stock than those contained in Section 2.06(b) hereof and such Capital Stock specifically provides that the Borrower will not repurchase or redeem (or be required to repurchase or redeem) any such Capital Stock pursuant to such provisions prior to the Borrower's prepayment of Loans pursuant to Section 2.06(b) hereof

"Disqualified Stock Dividend" of any Person means, for any dividend payable with regard to Disqualified Stock issued by such Person, the amount of such dividend multiplied by a fraction, the numerator of which is one and the denominator of which is one minus the maximum statutory combined federal, state and local income tax rate (expressed as a decimal number between 1 and 0) then applicable to such Person.

"Dollars" and the sign "$" mean lawful money of the United States of America.

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended from time to time, and the regulations and published interpretations thereof.

"Eurodollar Rate" means, with respect to a Loan for the relevant Interest Period, the sum of (a) the LIBO Rate applicable to such Interest Period plus (b) the Applicable Margin.

"Event of Default" means any of the events specified in Section 7.01, provided that any requirement for the giving of notice, the lapse of time, or both, or any other condition, has been satisfied.

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

"Existing Indebtedness" means all of the Indebtedness of the Borrower and its Subsidiaries that is outstanding on the date hereof.

"Facility" means the credit facility described in Section 2.01.

"Fair Market Value" means, with respect to any asset or property, the sale value that would be obtained in an arm's-length transaction between an informed and willing seller under no compulsion to sell and an informed and willing buyer under no compulsion to buy. Fair Market Value shall be determined by the Board of Directors of the Borrower acting in good faith and shall be evidenced by a board resolution (certified by the Secretary or Assistant Secretary of the Borrower) delivered to the Lender.

"Federal Funds Effective Rate" means, for each day, a fluctuating interest rate per annum equal to the weighted average of the rates on overnight Federal Funds transactions with members of the Federal Reserve System arranged by Federal Funds brokers, as published for such day (or, if such day is not a Business Day, for the immediately preceding Business Day) by the Federal Reserve Bank of New York, or, if such rate is not so published for any day which is a Business Day, the average of the quotations at approximately 11:00 A.M. New York City time on such day on such transactions received by the Lender from three Federal Funds brokers of recognized standing selected by the Lender in its sole discretion.

"Fee Letter" means that certain fee letter dated November 16, 2010 from Citigroup Global Markets Inc. and Deutsche Bank Securities Inc. to the Borrower and accepted by the Borrower.

"GAAP" means generally accepted accounting principles set forth in the opinions and interpretations of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and interpretations of the Financial Accounting Standards Board or in such other statements by such other entity as may be approved by a significant segment of the accounting profession of the United States, as in effect from time to time. At any time after the Closing Date, the Borrower may elect to apply IFRS accounting principles in lieu of GAAP and, upon any such election, references herein to GAAP shall thereafter be construed to mean IFRS (except as otherwise provided herein); provided that any such election, once made, shall be irrevocable; provided, further, any calculation or determination herein that requires the application of GAAP for periods that include fiscal quarters ended prior to the Borrower's election to apply IFRS shall remain as previously calculated or determined in accordance with GAAP. The Borrower shall give notice of any such election made in accordance with this definition to the Lender.

"Hedging Obligations" of any Person means the obligations of such Person pursuant to any interest rate swap agreement, foreign currency exchange agreement, interest rate collar agreement, option or futures contract or other similar agreement or arrangement relating to interest rates or foreign exchange rates.

"IFRS" means International Financial Reporting Standards.

"Incur" (and derivatives thereof) means to, directly or indirectly, create, incur, assume, guarantee, extend the maturity of, or otherwise become liable with respect to any Indebtedness; provided, however, that neither the accrual of interest (whether such interest is payable in cash or kind) nor the accretion of original issue discount shall be considered an Incurrence of Indebtedness.

"Indebtedness" of any Person at any date means, without duplication:

(i) all indebtedness of such Person for borrowed money (whether or not the recourse of the lender is to the whole of the assets of such Person or only to a portion thereof);

(ii) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments (including a purchase money obligation) given in connection with the acquisition of any businesses, properties or assets of any kind or with services incurred in connection with capital expenditures (other than any obligation to pay a contingent purchase price which, as of the date of incurrence thereof, is not required to be recorded as a liability in accordance with GAAP);

(iii) all fixed obligations of such Person in respect of letters of credit or other similar instruments or reimbursement obligations with respect thereto (other than standby letters of credit or similar instruments issued for the benefit of, or surety, performance, completion or payment bonds, earnest money notes or similar purpose undertakings or indemnifications issued by, such Person in the ordinary course of business);

(iv) all obligations of such Person with respect to Hedging Obligations (other than those that fix or cap the interest rate on variable rate Indebtedness otherwise permitted hereby or that fix the exchange rate in connection with Indebtedness denominated in a foreign currency and otherwise permitted hereby);

(v) all Capitalized Lease Obligations of such Person;

(vi) all Indebtedness of others secured by a Lien on any asset of such Person, whether or not such Indebtedness is assumed by such Person;

(vii) all Indebtedness of others guaranteed by, or otherwise the liability of, such Person to the extent of such guarantee or liability; and

(viii) all Disqualified Stock issued by such Person (the amount of Indebtedness represented by any Disqualified Stock will equal the greater of the voluntary or involuntary liquidation preference plus accrued and unpaid dividends);

provided, that Indebtedness shall not include accrued expenses, accounts payable, trade payables, liabilities related to inventory not owned, customer deposits or deferred income taxes arising in the ordinary course of business. The amount of Indebtedness of any Person at any date will be:

(a) the outstanding balance at such date of all unconditional obligations as described above;

(b) the maximum liability of such Person for any contingent obligations under clause (vii) above; and

(c) in the case of clause (vi) (if the Indebtedness referred to therein is not assumed by such Person), the lesser of the (1) Fair Market Value of all assets subject to a Lien securing the Indebtedness of others on the date that the Lien attaches and (2) amount of the Indebtedness secured.

"Indemnified Parties" is defined in Section 8.06.

"Intangible Assets" of the Borrower means all unamortized debt discount and expense, unamortized deferred charges, goodwill, patents, trademarks, service marks, trade names, copyrights and all other items which would be treated as intangibles on the consolidated balance sheet of the Borrower and its Restricted Subsidiaries prepared in accordance with GAAP.

"Interest Expense" of any Person for any period means, without duplication, the aggregate amount of (i) interest which, in conformity with GAAP, would be set opposite the caption "interest expense" or any like caption on an income statement for such Person (including, without limitation, imputed interest included on Capitalized Lease Obligations, all commissions, discounts and other fees and charges owed with respect to letters of credit securing financial obligations and bankers' acceptance financing, the net costs associated with Hedging Obligations, amortization of other financing

fees and expenses, the interest portion of any deferred payment obligation, amortization of discount or premium, if any, and all other non-cash interest expense other than interest and other charges amortized to cost of sales) and includes, with respect to the Borrower and its Restricted Subsidiaries, without duplication (including duplication of the foregoing items), all interest amortized to cost of sales for such period, and (ii) the amount of Disqualified Stock Dividends recognized by the Borrower on any Disqualified Stock whether or not paid during such period.

"Interest Incurred" of any Person for any period means, without duplication, the aggregate amount of (i) interest which, in conformity with GAAP, would be set opposite the caption "interest expense" or any like caption on an income statement for such Person (including, without limitation, imputed interest included on Capitalized Lease Obligations, all commissions, discounts and other fees and charges owed with respect to letters of credit securing financial obligations and bankers' acceptance financing, the net costs associated with Hedging Obligations, amortization of other financing fees and expenses, the interest portion of any deferred payment obligation, amortization of discount or premium, if any, and all other non-cash interest expense other than interest and other charges amortized to cost of sales) and includes, with respect to the Borrower and its Restricted Subsidiaries, without duplication (including duplication of the foregoing items), all interest capitalized for such period, all interest attributable to discontinued operations for such period to the extent not set forth on the income statement under the caption "interest expense" or any like caption, and all interest actually paid by the Borrower or a Restricted Subsidiary under any guarantee of Indebtedness (including, without limitation, a guarantee of principal, interest or any combination thereof) of any other Person during such period and (ii) the amount of Disqualified Stock Dividends recognized by the Borrower on any Disqualified Stock whether or not declared during such period.

"Interest Period" means, with respect to any Loan, the period commencing on the date of such Loan and ending on the numerically corresponding day in the calendar month that is three months thereafter; provided, that (i) if any Interest Period would end on a day other than a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless such next succeeding Business Day would fall in the next calendar month, in which case such Interest Period shall end on the next preceding Business Day and (ii) any Interest Period pertaining to a Loan that commences on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the last calendar month of such Interest Period) shall end on the last Business Day of the last calendar month of such Interest Period. For purposes hereof, the date of a Loan initially shall be the date on which such Loan is made and thereafter shall be the effective date of the most recent continuation of such Loan.

"Internal Reorganization" means any reorganization between or among the Borrower and any Subsidiary or Subsidiaries or between or among any Subsidiary and one or more other Subsidiaries or any combination thereof by way of liquidations, mergers, consolidations, conveyances, assignments, sales, transfers and other dispositions of all or substantially all of the assets of a Subsidiary (whether in one transaction or in a series of transactions); provided that (a) the Borrower shall preserve and maintain its status as a validly existing corporation and (b) all assets, liabilities, obligations and guarantees of any Subsidiary party to such reorganization will continue to be held by such Subsidiary or be assumed by the Borrower or a Wholly-Owned Subsidiary of the Borrower.

"Investments" of any Person means all (i) investments by such Person in any other Person in the form of loans, advances or capital contributions, (ii) guarantees of Indebtedness or other obligations of any other Person by such Person, (iii) purchases (or other acquisitions for consideration) by such Person of Indebtedness, Capital Stock or other securities of any other Person and (iv) other items that would be classified as investments on a balance sheet of such Person determined in accordance with GAAP. For all purposes hereof, the amount of any such Investment shall be the fair market value thereof

(with the fair market value of each Investment being measured at the time made and without giving effect to subsequent changes in value). The making of any payment in accordance with the terms of a guarantee or other contingent obligation permitted hereunder shall not be considered an Investment.

"Lender" has the meaning assigned to such term in the opening paragraph of this Agreement.

"Lending Office" means the lending office of the Lender (or of an affiliate of the Lender) heretofore designated in writing by the Lender to the Borrower or such other office or branch of the Lender (or of an affiliate of the Lender) as the Lender may from time to time specify to the Borrower as the office or branch at which its Loans are to be made and maintained.

"LIBO Rate" means, with respect to any Loan for any Interest Period, the rate appearing on Reuters Screen LIBOR01 Page as the three-month LIBO rate, at approximately 11:00 a.m., London time, two Business Days prior to the commencement of an Interest Period, or on any successor or substitute page of such service, or any successor to or substitute for such service, providing rate quotations comparable to those currently provided on such page of such service, as determined by the Lender from time to time for purposes of providing quotations of interest rates applicable to dollar deposits in the London interbank market for such period. In the event that such rate is not available at such time for any reason, then the "LIBO Rate" with respect to such Loan for such Interest Period shall be the rate at which three month dollar deposits of $5,000,000 are offered by the principal London office of Deutsche Bank A.G. in immediately available funds in the London interbank market at approximately 11:00 a.m., London time, two Business Days prior to the commencement of an Interest Period.

"LIBO Rate Portion" is defined in Section 2.04(a).

"Lien" means, with respect to any asset, any mortgage, lien, pledge, charge, security interest or other similar encumbrance of any kind upon or in respect of such asset, whether or not filed, recorded or otherwise perfected under applicable law (including, without limitation, any conditional sale or other title retention agreement).

"Loan" means a Loan made pursuant to Section 2.01 and any continuation thereof.

"Loan Documents" means this Agreement, the Note, the Security Documents and any and all documents delivered hereunder or pursuant hereto.

"Mandatory Convertible Notes" means any Indebtedness of a Person, the principal amount of which is payable at maturity solely in Capital Stock of such Person (provided that a requirement to pay accrued, but unpaid interest on such Indebtedness in cash at maturity or a requirement to pay cash fees, expenses or premiums as a result of the acceleration of payment, early redemption or otherwise with respect to such Indebtedness shall not disqualify such Indebtedness as Mandatory Convertible Notes).

"Material Subsidiary" means any Subsidiary of the Borrower which accounted for five percent or more of the Consolidated Tangible Assets or Consolidated Cash Flow Available for Fixed Charges of the Borrower on a consolidated basis for the fiscal year ending immediately prior to any Default or Event of Default.

"Maturity Date" means November 16, 2017.

"Moody's" means Moody's Investors Service, Inc.

"Multiemployer Plan" means a plan described in Section 4001(a)(3) of ERISA in respect of which the Borrower, a Subsidiary or a Commonly Controlled Entity is an "employer" as defined in Section 3(5) of ERISA.

"Net Income Threshold" means Consolidated Net Income of greater than $0.01 for any two consecutive fiscal quarters ended on or after the Closing Date.

"Non-Recourse Indebtedness" with respect to any Person means Indebtedness of such Person for which (i) the sole legal recourse for collection of principal and interest on such Indebtedness is against the specific property identified in the instruments evidencing or securing such Indebtedness and such property was acquired (directly or indirectly, including through the purchase of Capital Stock of the Person owning such property) with the proceeds of such Indebtedness or such Indebtedness was Incurred within 90 days after the acquisition (directly or indirectly, including through the purchase of Capital Stock of the Person owning such property) of such property and (ii) no other assets of such Person may be realized upon in collection of principal or interest on such Indebtedness. Indebtedness which is otherwise Non-Recourse Indebtedness will not lose its character as Non-Recourse Indebtedness because there is recourse to the borrower, any guarantor or any other Person for (a) environmental warranties and indemnities, (b) indemnities for and liabilities arising from fraud, misrepresentation, misapplication or non-payment of rents, profits, insurance and condemnation proceeds and other sums actually received by the borrower from secured assets to be paid to the lender, waste and mechanics' liens or (c) in the case of the borrower thereof only, other obligations in respect of such Indebtedness that are payable solely as a result of a voluntary bankruptcy filing (or similar filing or action) by such borrower.

"Note" means a promissory note in substantially the form of Exhibit A hereto, executed and delivered by the Borrower, payable to the order of the Lender in the amount of the Commitment, including any amendment, modification, restatement, continuation or replacement of such promissory note.

"Obligations" means (a) the due and punctual payment of principal of and interest on the Loans and the Note and (b) the due and punctual payment of fees, expenses, reimbursements, indemnifications and other present and future monetary obligations of the Borrower to the Lender or any indemnified party, in each case arising under the Loan Documents.

"PBGC" means the Pension Benefit Guaranty Corporation or any entity succeeding to any or all of its functions under ERISA.

"Permitted Investments" of any Person means any Investments of such Person that are not Restricted Investments.

"Person" means an individual, partnership, corporation, business trust, joint stock company, trust, limited liability company, unincorporated association, joint venture, governmental authority, or other entity of whatever nature.

"Plan" means any pension plan which is covered by Title IV of ERISA and in respect of which (a) the Borrower or a Subsidiary or a Commonly Controlled Entity is an "employer" as defined in Section 3(5) of ERISA and (b) the Borrower or a Subsidiary has any material liability; provided, however, that the term "Plan" shall not include any Multiemployer Plan.

"Preferred Stock" of any Person means all Capital Stock of such Person which has a preference in liquidation or with respect to the payment of dividends.

"Prohibited Transaction" means any transaction set forth in Section 406 of ERISA or Section 4975 of the Code that could subject the Borrower or any Subsidiary to any material liability.

"Put Date" is defined in Section 2.06(d).

"Quarterly Payment Date" means January 31, 2011 and the last day of each April, July, October and January thereafter.

"Refinancing Indebtedness" means Indebtedness that refunds, refinances or extends any Existing Indebtedness or other Indebtedness permitted to be incurred by the Borrower or its Restricted Subsidiaries pursuant to the terms hereof, but only to the extent that:

(i) the Refinancing Indebtedness is subordinated in right of payment to the Loans to the same extent as the Indebtedness being refunded, refinanced or extended, if at all;

(ii) the Refinancing Indebtedness is scheduled to mature either (a) no earlier than the Indebtedness being refunded, refinanced or extended, or (b) after the Maturity Date;

(iii) the portion, if any, of the Refinancing Indebtedness that is scheduled to mature on or prior to the Maturity Date has a Weighted Average Life to Maturity at the time such Refinancing Indebtedness is Incurred that is equal to or greater than the Weighted Average Life to Maturity of the portion of the Indebtedness being refunded, refinanced or extended that is scheduled to mature on or prior to the Maturity Date;

(iv) such Refinancing Indebtedness is in an aggregate amount that is equal to or less than the aggregate amount then outstanding (including accrued interest) under the Indebtedness being refunded, refinanced or extended plus an amount necessary to pay any reasonable fees and expenses, including premiums and defeasance costs, related to such refinancing;

(v) such Refinancing Indebtedness is Incurred by the same Person that initially Incurred the Indebtedness being refunded, refinanced or extended, except that the Borrower may Incur Refinancing Indebtedness to refund, refinance or extend Indebtedness of any Restricted Subsidiary; and

(vi) such Refinancing Indebtedness is Incurred within 180 days before or after the Indebtedness being refunded, refinanced or extended is so refunded, refinanced or extended; provided, however, that if all of the indentures for the debt securities of the Borrower and its Subsidiaries that have an exception for the incurrence of refinancing indebtedness that permits such refinancing indebtedness to be incurred more than 180 days after the Indebtedness being refunded, refinanced or extended is so refunded, refinanced or extended, then the foregoing 180-day period shall be deemed extended to the shortest corresponding period permitted in such indentures.

"Regulation D" means Regulation D of the Board of Governors of the Federal Reserve System as from time to time in effect and any successor thereto or other regulation or official interpretation of said Board of Governors relating to reserve requirements applicable to member banks of the Federal Reserve System.

"Regulation U" means Regulation U of the Board of Governors of the Federal Reserve System as from time to time in effect and any successor or other regulation or official interpretation of said Board of Governors relating to the extension of credit by banks for the purpose of purchasing or carrying margin stocks applicable to member banks of the Federal Reserve System.

"Regulation X" means Regulation X of the Board of Governors of the Federal Reserve System as from time to time in effect and any successor or other regulation or official interpretation of said Board of Governors relating to the extension of credit by foreign lenders for the purpose of purchasing or carrying margin stock (as defined therein).

"Related Parties" means, with respect to any Person, such Person's Affiliates and such Person's and such Person's Affiliates respective managers, administrators, trustees, partners, directors, officers, employees, agents, fund managers and advisors.

"Reportable Event" means any of the events set forth in Section 4043 of ERISA with respect to a Plan (excluding any such event with respect to which the PBGC has waived the 30-day notice requirement).

"Restricted Investment" means any Investment in joint ventures or Unrestricted Subsidiaries having an aggregate fair market value (with the fair market value of each Investment being measured at the time made and without giving effect to subsequent changes in value), taken together with all other Investments made pursuant to this definition that are at the time outstanding, net of any amounts paid to the Borrower or any Restricted Subsidiary as a return of, or on, such Investments, not to exceed five percent of Consolidated Tangible Assets.

"Restricted Payment" means any of the following:

(i) the declaration of any dividend or the making of any other payment or distribution of cash, securities or other property or assets in respect of the Capital Stock of the Borrower or any Restricted Subsidiary (other than (a) dividends, payments or distributions payable solely in Capital Stock (other than Disqualified Stock) of the Borrower or a Restricted Subsidiary and (b) in the case of a Restricted Subsidiary, dividends, payments or distributions payable to the Borrower or to another Restricted Subsidiary and *pro rata* dividends, payments or distributions payable to minority stockholders of such Restricted Subsidiary);

(ii) the purchase, redemption, retirement or other acquisition for value of any Capital Stock of the Borrower or any Restricted Subsidiary (other than Capital Stock held by the Borrower or a Restricted Subsidiary);

(iii) any Restricted Investment; and

(iv) any principal payment, redemption, repurchase, defeasance or other acquisition or retirement of any Subordinated Indebtedness (other than (a) Indebtedness permitted under Section 6.01(b)(vi) hereof or (b) the payment, redemption, repurchase, defeasance or other acquisition or retirement of such Indebtedness in anticipation of satisfying a sinking fund obligation, principal installment or final maturity, in each case due within one year of the date of such payment, redemption, repurchase, defeasance or other acquisition or retirement);

provided, however, that Restricted Payments will not include any purchase, redemption, retirement or other acquisition for value of Indebtedness or Capital Stock of the Borrower or a Restricted Subsidiary if the consideration therefor consists solely of Capital Stock (other than Disqualified Stock) of the Borrower or a Restricted Subsidiary.

"Restricted Subsidiary" means each of the Subsidiaries of the Borrower which is not an Unrestricted Subsidiary.

"Risk-Based Capital Guidelines" is defined in Section 2.10.

"S&P" means Standard & Poor's Rating Services.

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

"SEC Reports" means the Borrower's annual report on Form 10-K for the fiscal year ended September 30, 2010 and all quarterly reports on Form 10-Q and current reports on Form 8-K filed with the SEC subsequent to the date such annual report was filed with the SEC.

"Secured Indebtedness" means any Indebtedness which is secured by (1) a Lien on any property of the Borrower or any Restricted Subsidiary or (2) a Lien on shares of stock owned directly or indirectly by the Borrower or a Restricted Subsidiary in a corporation or on equity interests owned by the Borrower or a Restricted Subsidiary in a partnership or other entity not organized as a corporation or in the Borrower's rights or the rights of a Restricted Subsidiary in respect of Indebtedness of a corporation, partnership or other entity in which the Borrower or a Restricted Subsidiary has an equity interest; provided that "Secured Indebtedness" shall not include Non-Recourse Indebtedness. The securing in the foregoing manner of any such Indebtedness which immediately prior thereto was not Secured Indebtedness shall be deemed to be the creation of Secured Indebtedness at the time security is given.

"Securities Act" means the Securities Act of 1933, as amended from time to time.

"Security Agreement" means the Security Agreement to be executed and delivered by the Borrower in accordance with Section 3.01, in form mutually satisfactory to Lender and Borrower.

"Security Documents" means the collective reference to the Security Agreement, the Account Control Agreement, the Standing Instruction Letter and all other security documents hereafter delivered to the Lender granting a Lien on any property of any Person to secure the Obligations of the Borrower under any Loan Document.

"Significant Subsidiary" means, at any date of determination thereof, any Subsidiary that (together with its Subsidiaries) accounts for five percent (5%) or more of the Consolidated Tangible Assets as of the last day of the most recent fiscal quarter then ended and five percent (5%) or more of the consolidated net revenues for the twelve-month period ending on the last day of the most recent fiscal quarter then ended, in each case of the Borrower and its Subsidiaries taken as a whole. Such percentage shall be determined on the basis of financial reports that shall be available not later than 25 days (or, in the case of the last fiscal quarter of the fiscal year, 35 days) following the end of such fiscal quarter.

"Solvent" means, with respect to any date, that on such date (A) the present fair saleable value of the assets of the Borrower is not less than the total amount required to pay the probable liabilities of the Borrower on its total existing debts and liabilities (including contingent liabilities) as they become absolute and matured, (B) the Borrower is able to pay its debts and other liabilities, contingent obligations and commitments as they mature and become due in the normal course of business and (C) the Borrower is not incurring debts or liabilities beyond its ability to pay as such debts and liabilities mature. In computing the amount of any contingent liabilities at any time, it is intended that such liabilities will be computed at the amount that, in the light of all the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability.

"Standing Instruction Letter" means the Standing Instruction Letter to be executed and delivered by the Borrower in accordance with Section 3.01, in form mutually satisfactory to Lender and Borrower.

"Subordinated Indebtedness" means any Indebtedness which is subordinated in right of payment to Obligations.

"Subsidiary" means, as to the Borrower, in the case of a corporation, a corporation of which shares of stock having ordinary voting power (other than stock having such power only by reason of the happening of a contingency) to elect a majority of the board of directors or other managers of such corporation are at the time owned, or the management of which is otherwise controlled, directly, or indirectly through one or more intermediaries, or both, by the Borrower, or in the case of an entity which is not a corporation, the activities of which are controlled directly, or indirectly through one or more intermediaries, or both, by the Borrower.

"Successor" is defined in Section 6.04.

"Taxes" means any and all present or future taxes, duties, levies, imposts, deductions, charges or withholdings, and any and all liabilities with respect to the foregoing, imposed by the United States, but excluding, in the case of the Lender or its Lending Office, (a) taxes imposed on or measured by its overall net income, and franchise taxes imposed on it, by (i) the jurisdiction under the laws of which the Lender is incorporated or organized or (ii) the jurisdiction in which the Lender's principal executive office or the Lender's Lending Office is located and (b) taxes that are in effect and would apply at the time of the Closing Date.

"Unrestricted Cash" of a Person means the cash of such Person that would not be identified as "restricted" on a balance sheet of such Person prepared in accordance with GAAP, except to the extent such cash is identified as "restricted" as a result of the Liens pursuant to the Security Documents.

"Unrestricted Subsidiary" means United Home Insurance Corporation, a Vermont corporation, Security Title Insurance Company, Inc., a Vermont corporation, and, to the extent considered a Subsidiary of the Borrower, Beazer Homes Capital Trust I, and each of the Subsidiaries of the Borrower (including any newly formed or acquired Subsidiary) so designated by a resolution adopted by the Board of Directors of the Borrower as provided below and provided that:

(i) neither the Borrower nor any of its other Subsidiaries (other than Unrestricted Subsidiaries) (a) provides any direct or indirect credit support for any Indebtedness of such Subsidiary (including any undertaking, agreement or instrument evidencing such Indebtedness) or (b) is directly or indirectly liable for any Indebtedness of such Subsidiary;

(ii) the creditors with respect to Indebtedness for borrowed money of such Subsidiary have agreed in writing that they have no recourse, direct or indirect, to the Borrower or any other Subsidiary of the Borrower (other than Unrestricted Subsidiaries), including, without limitation, recourse with respect to the payment of principal or interest on any Indebtedness of such Subsidiary; and

(iii) no default with respect to any Indebtedness of such Subsidiary (including any right which the holders thereof may have to take enforcement action against such Subsidiary) would permit (upon notice, lapse of time or both) any holder of any other Indebtedness of the Borrower and of its other Subsidiaries (other than other Unrestricted Subsidiaries), to declare a default on such other Indebtedness or cause the payment thereof to be accelerated or payable prior to its stated maturity.

The Board of Directors of the Borrower, or a committee thereof, may designate an Unrestricted Subsidiary to be a Restricted Subsidiary; provided that:

(i) any such redesignation will be deemed to be an Incurrence by the Borrower and its Restricted Subsidiaries of the Indebtedness (if any) of such redesignated Subsidiary for purposes of Section 6.01 hereof as of the date of such redesignation;

(ii) immediately after giving effect to such redesignation and the Incurrence of any such additional Indebtedness, the Borrower and its Restricted Subsidiaries could incur $1.00 of additional Indebtedness under the Consolidated Fixed Charge Coverage Ratio contained in Section 6.01 hereof; and

(iii) the Liens on the property and assets of such Unrestricted Subsidiary could then be incurred in accordance with Section 6.02 hereof as of the date of such redesignation.

Subject to the foregoing, the Board of Directors of the Borrower also may designate any Restricted Subsidiary to be an Unrestricted Subsidiary; provided that:

(i) all previous Investments by the Borrower and its Restricted Subsidiaries in such Restricted Subsidiary (net of any returns previously paid on such Investments) will be deemed to be Restricted Payments at the time of such designation and will reduce the amount available for Restricted Payments under Section 6.03 hereof;

(ii) immediately after giving effect to such designation and reduction of amounts available for Restricted Payments under Section 6.03 hereof, either (a) the Borrower and its Restricted Subsidiaries could incur $1.00 of additional Indebtedness under the Consolidated Fixed Charge Coverage Ratio contained in Section 6.01 hereof or (b) the Consolidated Fixed Charge Coverage Ratio for the Borrower and its Restricted Subsidiaries would be greater than such ratio immediately prior to such designation, in each case on a pro forma basis taking into account such designation; and

(iii) no Default or Event of Default shall have occurred or be continuing.

Any such designation or redesignation by the Board of Directors of the Borrower will be evidenced to the Lender by the filing with the Lender of a certified copy of the resolution of the Board of Directors of the Borrower giving effect to such designation or redesignation and an Officers' Certificate certifying that such designation or redesignation complied with the foregoing conditions and setting forth the underlying calculations.

"Weighted Average Life to Maturity" means, when applied to any Indebtedness or portion thereof, at any date, the number of years obtained by dividing (i) the sum of the products obtained by multiplying (a) the amount of each then remaining installment, sinking fund, serial maturity or other required payment of principal, including, without limitation, payment at final maturity, in respect thereof, by (b) 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 sum of all such payments described in clause (a) above.

"Wholly-Owned Subsidiary" of any Person means (i) a Subsidiary, of which one hundred percent (100%) of the outstanding Common Equity (except for directors' qualifying shares or certain

minority interests owned by other Persons solely due to local law requirements that there be more than one stockholder, but which interest is not in excess of what is required for such purpose) is owned directly by such Person or through one or more other Wholly-Owned Subsidiaries of such Person, or (ii) any entity other than a corporation in which such Person, directly or indirectly, owns all of the outstanding Common Equity of such entity.

Section 1.02 Accounting Terms. All accounting terms not specifically defined herein shall be construed in accordance with GAAP.

Section 1.03 Rules of Construction.

(a) The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined.

(b) Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms.

(c) The words “include”, “includes” and “including” shall be deemed to be followed by the phrase “without limitation”.

(d) The word “will” shall be construed to have the same meaning and effect as the word “shall”.

(e) 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 from time to time amended, 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 assigns (subject to any restrictions on such assignments set forth herein), (iii) the words “herein”, “hereof” and “hereunder”, and words of similar import shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, (iv) all references herein to Articles, Sections, Schedules and Exhibits shall be construed to refer to Articles and Sections of, and Schedules and Exhibits to, this Agreement, (v) the words “asset” and “property” shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, and (vi) any reference to any law, rule or regulation shall be construed to mean that law, rule or regulation as amended and in effect from time to time.

(f) Each covenant in this Agreement shall be given independent effect, and the fact that any act or omission may be permitted by one covenant and prohibited or restricted by any other covenant (whether or not dealing with the same or similar events) shall not be construed as creating any ambiguity, conflict or other basis to consider any matter other than the express terms hereof in determining the meaning or construction of such covenants and the enforcement thereof in accordance with their respective terms.

(g) This Agreement is being entered into by and between competent and sophisticated parties who are experienced in business matters and represented by legal counsel and other advisors, and has been reviewed by the parties and their legal counsel and other advisors. Therefore, any ambiguous language in this Agreement will not be construed against any particular party as the drafter of the language.

ARTICLE II
AMOUNTS AND TERMS OF THE LOANS

Section 2.01 The Facility.

(a) Upon the terms and conditions set forth in this Agreement and in reliance upon the representations and warranties of the Borrower herein set forth, the Lender agrees to make (a) a Loan to the Borrower on the Closing Date in the principal amount of $16,295,500 and (b) a Loan to the Borrower after the Closing Date and prior to the Commitment Termination Date in a principal amount not to exceed $121,204,500; provided that, in no event may the aggregate principal amount of all outstanding Loans exceed $137,500,000. Each Loan will be funded directly to the Cash Collateral Account.

(b) All Obligations shall be due and payable by the Borrower on the Maturity Date unless such Obligations shall sooner become due and payable pursuant to Section 7.01 or as otherwise provided in this Agreement.

(c) Each Borrowing which shall not utilize the Commitment in full shall be in an amount not less than $1,000,000. No more than two (2) Borrowings may be requested under this Agreement (including the Borrowing on the Closing Date). Once repaid, Loans may not be reborrowed. Loans shall be made and maintained at the Lender's Lending Office.

Section 2.02 Notice and manner of Borrowing. The Borrower shall give the Lender notice of any Loans under this Agreement at least three (3) Business Days before each Loan, specifying: (1) the date of such Loan and (2) the amount of such Loan. All notices given by the Borrower under this Section 2.02 shall be irrevocable and shall be given not later than 11:00 A.M. New York City time on the day specified above for such notice. In the event such notice from the Borrower is received after 11:00 A.M. New York City time, it shall be treated as if received on the next succeeding Business Day. On the date of such Loans and upon fulfillment of the applicable conditions set forth in Article III, the Lender will make such Loans available to the Borrower by depositing the amount thereof to the Cash Collateral Account.

Section 2.03 Automatic Continuations. Each Loan shall be automatically continued at the end of each Interest Period with a new Interest Period commencing on such date of continuation.

Section 2.04 Interest.

(a) The Borrower shall pay interest to the Lender on the outstanding and unpaid principal amount of each Loan at a rate per annum for the Interest Period applicable to such Loan equal to the Eurodollar Rate for such Interest Period. Each interest payment shall be divided into the portion attributable to the LIBO Rate minus 0.05% (the "LIBO Rate Portion") and a portion attributable to the Applicable Margin plus 0.05% (the "Applicable Margin Portion"). The Applicable Margin Portion shall be paid directly by the Borrower to the Lender as set forth below. The Lender will apply income on the Cash Collateral Account to the payment of the LIBO Rate Portion; provided that, the Lender may, at its option, at any time that an Event of Default under Section 7.01(1), (7) or (8) hereof has occurred and is continuing, cease such application of income on the Cash Collateral Account to the payment of the LIBO Rate Portion.

(b) Interest on each Loan accruing interest at the LIBO Rate shall be calculated on the basis of a year of 360 days for the actual number of days elapsed. Interest on each Loan accruing interest calculated on the basis of the Base Rate shall be calculated on the basis of a year of 365 or 366 days (as appropriate) for the actual number of days elapsed and interest on each Loan calculated based on the Federal Funds Effective Rate shall be calculated on the basis of a year of 360 days for the actual number of days elapsed.

(c) Interest on the Loans shall be paid (in an amount set forth in a statement delivered by the Lender to the Borrower; provided, however, that the failure of the Lender to deliver such statement shall not limit or otherwise affect the obligations of the Borrower hereunder) in immediately available funds to the Lender at its Lending Office (either directly by the Borrower or through withdrawals from the Cash Collateral Account as described in clause (a) above) as follows:

(1) For each Loan, on the last day of the Interest Period with respect thereto; and

(2) If not sooner paid, then on the Maturity Date or such earlier date as the Loans may be due or declared due hereunder.

(d) Any amount payable hereunder that is not paid when due (at maturity, by acceleration, or otherwise) shall bear interest thereafter until paid in full, payable on demand, at a rate per annum equal to the Alternate Base Rate in effect from time to time as interest accrues, plus two percent (2%) per annum.

(e) The Lender shall determine each LIBO Rate and shall give prompt notice to the Borrower of the applicable interest rate determined by the Lender pursuant to the terms of this Agreement.

Section 2.05 Note. All Loans shall be evidenced by, and repaid with interest in accordance with, a single Note of the Borrower in substantially the form of Exhibit A hereto, duly completed, dated the date of this Agreement and payable to the Lender for the account of its Lending Office, such Note to represent the obligation of the Borrower to repay the Loans made by the Lender. The Lender is hereby authorized by the Borrower, but the Lender shall not be required, to endorse on the schedule attached to the Note held by it the amount of the Loans and each continuation and payment of principal amount received by the Lender for the account of its Lending Office on account of its Loans, which endorsement shall, in the absence of manifest error, be conclusive as to the outstanding balance of the Loans made by the Lender; provided, however, that the failure to make such notation with respect to any Loan or continuation or payment shall not limit or otherwise affect the obligations of the Borrower under this Agreement or the Note held by the Lender. All Loans shall be repaid on the Maturity Date.

Section 2.06 Prepayments.

(a) The Borrower may, upon at least three (3) Business Days' prior notice to the Lender, prepay (including, without limitation, all amounts payable pursuant to the terms of Section 2.11), the Loans in whole or in part with accrued interest to the date of such prepayment on the amount prepaid, provided that (1) each partial payment shall be in a principal amount of not less than One Million Dollars ($1,000,000); and (2) Loans may be prepaid only on the last day of the Interest Period for such Loans; provided, however, that such prepayment may be made on any other Business Day if the Borrower pays at the time of such prepayment all amounts due pursuant to Section 2.11.

(b) Within fifteen (15) days following a Change of Control, the Borrower shall notify the Lender in writing of such Change of Control. The Lender shall have the right to require the Borrower to prepay all or any portion of the Loans on the date that is forty-five (45) days following the occurrence of a Change of Control (each, a "Change of Control Payment Date"), by giving the Borrower written notice of such election no later than ten (10) days prior to the Change of Control Payment Date. The Borrower shall prepay, the elected portion of the Loans at 100% of the principal amount thereof, together with accrued interest to the date of such prepayment on the amount prepaid. The Borrower shall make such payment to the Lender on the Change of Control Payment Date.

(c) If, as a result of the application of funds held in the Cash Collateral Account to Obligations other than principal or the LIBO Rate Portion of interest in accordance with the Loan Documents, the amount of funds held in the Cash Collateral Account at any time is less than 100% of the aggregate principal amount of the Loans outstanding at such time, then the Borrower shall within two (2) Business Days thereafter either, at the Borrower's option, prepay the Loans and/or deposit Unrestricted Cash into the Cash Collateral Account in an aggregate amount equal to any such shortfall. Any failure to prepay the Loan or deposit sufficient Unrestricted Cash will be deemed to constitute a failure to pay principal on the second (2nd) Business Day following the date upon which the Borrower's prepayment obligation and/or deposit obligation first arises.

(d) The Lender shall have the right to require the Borrower to prepay all or any portion of the Loans on November 16, 2012 or November 14, 2014 (each, a "Put Date"), by giving the Borrower written notice of such election no later than thirty (30) days prior to the applicable Put Date. If the Borrower receives any such election notices, the Borrower shall prepay, the elected portion of the Loans at 100% of the principal amount thereof, together with accrued interest to the date of such prepayment on the amount prepaid. The Borrower shall make such payment to the Lender on the applicable Put Date.

Section 2.07 Method of Payment. The Borrower shall make each payment under this Agreement and under the Note not later than noon New York City time on the date when due in lawful money of the United States to the Lender in immediately available funds. The Borrower hereby authorizes the Lender, if and to the extent payment is not made when due under this Agreement or under the Note, to charge from time to time against the Cash Collateral Account any amount as due. Whenever any payment to be made under this Agreement or under the Note shall be stated to be due on a day other than a Business Day, such payment shall be made on the next succeeding Business Day, and such extension of time shall be included in the computation of the payment of interest; provided that if the result of such extension would be to extend such payment into another calendar month, such payment shall be made on the immediately preceding Business Day.

Section 2.08 Use of Proceeds. The proceeds of the Loans hereunder shall initially be deposited into the Cash Collateral Account and, upon release from the Cash Collateral Account in accordance with this Agreement and the Security Documents, shall be used by the Borrower for working capital and general corporate purposes of the Borrower and its Subsidiaries to the extent permitted in this Agreement. The Borrower will not, directly or indirectly, use any part of such proceeds for the purpose of purchasing or carrying any margin stock within the meaning of Regulation U or to extend credit to any Person for the purpose of purchasing or carrying any such margin stock, or for any purpose which violates, or is inconsistent with, Regulation X.

Section 2.09 Yield Protection. If any law or any governmental or quasi-governmental rule, regulation, policy, guideline or directive (whether or not having the force of law), or any interpretation thereof, or the compliance of the Lender therewith:

(i) subjects the Lender or its Lending Office to any tax, duty, charge or withholding on or from payments due from the Borrower (excluding federal taxation of the overall net income of the Lender or its Lending Office), or changes the basis of taxation of payments to the Lender in respect of its Loans or other amounts due it hereunder, or

(ii) imposes or increases or deems applicable any reserve, assessment, insurance charge, special deposit or similar requirement against assets of, deposits with or for the account of, or credit extended by, the Lender or its Lending Office (other than reserves and assessments taken into account in determining the interest rate applicable to the Loans), or

(iii) imposes any other condition the result of which is to increase the cost to the Lender or its Lending Office of making, funding or maintaining loans or reduces any amount receivable by the Lender or its Lending Office in connection with loans, or requires the Lender or its Lending Office to make any payment calculated by reference to the amount of loans held, letters of credit issued or interest received by it, by an amount deemed material by the Lender,

then, within fifteen (15) days of demand by the Lender, the Borrower shall pay the Lender that portion of such increased expense incurred or reduction in an amount received which the Lender reasonably determines is attributable to making, funding and maintaining its Loans and its Commitment.

Section 2.10 Changes in Capital Adequacy Regulations. If the Lender determines the amount of capital required or expected to be maintained by the Lender, its Lending Office or any corporation controlling the Lender is increased as a result of a Change, then, within ten (10) days of demand by the Lender, the Borrower shall pay the Lender the amount necessary to compensate for any shortfall in the rate of return on the portion of such increased capital which the Lender determines is attributable to this Agreement, the Loans or its obligation to make the Loans hereunder (after taking into account the Lender's policies as to capital adequacy); provided, however, that the Lender shall impose such cost upon the Borrower only if the Lender is generally imposing such cost on its other borrowers having similar credit arrangements. "Change" means (i) any change after the date of this Agreement in the Risk-Based Capital Guidelines or (ii) any adoption of or change in any other law, governmental or quasi-governmental rule, regulation, policy, guideline, interpretation, or directive (whether or not having the force of law) after the date of this Agreement which affects the amount of capital required or expected to be maintained by the Lender or its Lending Office or any corporation controlling the Lender. "Risk-Based Capital Guidelines" means (i) the risk-based capital guidelines in effect in the United States on the date of this Agreement, including transition rules, and (ii) the corresponding capital regulations promulgated by regulatory authorities outside the United States implementing the July 1988 report of the Basel Committee on Banking Regulation and Supervisory Practices Entitled "International Convergence of Capital Measurements and Capital Standards," including transition rules, and any amendments to such regulations adopted prior to the date of this Agreement.

Section 2.11 Funding Indemnification. If any payment of a Loan occurs on a date which is not the last day of the applicable Interest Period, whether because of acceleration, prepayment or otherwise, or a Loan is not made on the date specified by the Borrower for any reason other than default by the Lender, the Borrower will indemnify the Lender for any loss or cost incurred by it resulting therefrom, including, without limitation, any loss or cost in liquidating or employing deposits required to fund or maintain such Loan (including, without limitation, the Cash Collateral Account).

Section 2.12 Lender Statements; Survival of Indemnity. To the extent reasonably possible, the Lender shall designate an alternate Lending Office with respect to its Loans to reduce any liability of the Borrower to the Lender under Sections 2.09 and 2.10 or to avoid the unavailability of Loans. The Lender shall deliver a written statement of the Lender as to the amount due, if any, under Section 2.09, 2.10 or 2.11. Such written statement shall set forth in reasonable detail the calculations upon which the Lender determined such amount and shall be final, conclusive and binding on the Borrower in the absence of manifest error. Determination of amounts payable under such Sections in connection with a Loan shall be calculated as though the Lender funded such Loan through the purchase of a deposit of the type and

maturity corresponding to the deposit used as a reference in determining the Eurodollar Rate applicable to such Loan, whether in fact that is the case or not. Unless otherwise provided herein, the amount specified in the written statement shall be payable on demand after receipt by the Borrower of the written statement. The obligations of the Borrower under Sections 2.09, 2.10 and 2.11 shall survive payment of the Obligations and termination of this Agreement.

Section 2.13 Cash Collateral Account. On the date of the borrowing of each Loan hereunder, the Lender shall directly deposit the proceeds of such Loan into the Cash Collateral Account. On the date that any repayment or prepayment of principal of Loans is required to be made hereunder (including, without limitation, pursuant to any notice of prepayment delivered in accordance with Section 2.06(a)), the Lender shall withdraw funds held in the Cash Collateral Account in an amount equal to 100% of the aggregate principal amount of Loans to be so repaid or prepaid and shall apply such funds to the repayment or prepayment of such principal. Additionally, in connection with any prepayment or repayment in full of all Obligations (other than unasserted contingent indemnification obligations) under the Loan Documents, and provided that the Commitment has terminated or is cancelled, the application of such funds shall be deemed to occur immediately upon delivery of the Borrower's notice of such repayment or prepayment to the Lender in accordance with this Agreement, notwithstanding anything to the contrary in this Agreement.

Section 2.14 Application of Amounts from the Cash Collateral Account. If the Lender removes any amount on deposit in the Cash Collateral Account for the payment of any Obligations that are due and payable hereunder or under any other Loan Document, unless the Lender elects otherwise in its discretion and states such election in writing, such amounts shall be deemed applied (a) *first*, to the payment of fees and expenses due to the Lender and/or its Affiliates, (b) *second*, to the payment of interest on the Loans, (c) *third*, to the payment of the principal amount of the Loans and (d) *fourth*, to the payment of any other Obligation that is due and payable.

ARTICLE III
CONDITIONS PRECEDENT

Section 3.01 Conditions Precedent to Closing Date. This Agreement and the Commitment shall be effective on the date (the "Closing Date") on which each of the following conditions precedent shall have been satisfied or expressly waived by the Lender:

(1) **Credit Agreement**. The Lender shall have received this Agreement duly executed by each of the parties hereto;

(2) **Security Documents**. The Lender shall have received each of the Security Agreement, the Account Control Agreement and the Standing Instruction Letter, duly executed by the Borrower;

(3) **No Default or Event of Default**. After giving effect to this Agreement, no Default or Event of Default shall have occurred and be continuing;

(4) **Closing Fee**. The Borrower shall have paid a cash fee to the Arranger in accordance with the terms of the Fee Letter;

(5) **Costs and Expenses**. The Borrower shall have paid all costs and invoiced out-of-pocket expenses of the Lender in connection with the execution and delivery of the documents and instruments described in this Section 3.01, including, without limitation, the reasonable fees and out-of-pocket expenses of counsel for the Lender;

(6) **Secretary's Certificate of the Borrower**. A certificate of the Secretary or an Assistant Secretary of the Borrower certifying (A) the names and true signatures of each officer of the Borrower who has been authorized to execute and deliver this Agreement and any other Loan Document or other document required to be executed and delivered by or on behalf of the Borrower under this Agreement, (B) that the attached copies of the certificate of incorporation and by-laws of the Borrower have not been amended except as set forth therein and remain in full force and effect and (C) the attached copy of resolutions of the Board of Directors of the Borrower approving and authorizing the execution, delivery and performance of this Agreement and the other Loan Documents to which it is a party;

(7) **Good Standing Certificate of the Borrower**. A currently dated certificate of good standing for the Borrower issued by the Secretary of State of the State of Delaware;

(8) **Opinion of Counsel**. A favorable opinion of Cahill Gordon & Reindel LLP, counsel for the Borrower, in form satisfactory to Lender;

(9) **Note**. The Lender shall have received a Note payable to the Lender duly executed by the Borrower; and

(10) **Other Documents**. The Lender shall have received such other documents as the Lender or its counsel may reasonably request.

Section 3.02 Conditions Precedent to Borrowing of Loans. The obligation of the Lender to make each Loan shall be subject to the satisfaction (or express waiver by the Lender) of the following additional conditions precedent:

(1) **Borrowing Request**. The Lender shall have received a borrowing request duly executed by the Borrower and meeting the requirements set forth in Section 2.02, substantially in the form of the certificate attached hereto as Exhibit B;

(2) **Officer's Certificate**. The following statements shall be true and the Lender shall have received a certificate, substantially in the form of the certificate attached hereto as Exhibit B, signed by the chief financial officer of the Borrower, dated the date of such Loan, stating that:

(a) The representations and warranties contained in Article IV of this Agreement are correct in all material respects on and as of the date of such Loan as though made on and as of such date except to the extent that any such representation or warranty is stated to relate solely to an earlier date, in which case such representation or warranty is correct in all material respects as of such earlier date;

(b) No Default or Event of Default has occurred and is continuing, or would result from such Loan; and

(c) Both before and after giving effect to such Borrowing, the Borrower will be Solvent; and

(3) **Cash Collateral Account**. The funds held in the Cash Collateral Account, excluding any interest income thereon, after giving effect to the funding of the net proceeds of the proposed Borrowing, will equal no less than 100% of the aggregate principal amount of the outstanding Loans.

(4) **Other Documents**. The Lender shall have received such other documents as the Lender or its counsel may reasonably request.

ARTICLE IV
REPRESENTATIONS AND WARRANTIES

The Borrower represents and warrants that:

Section 4.01 Incorporation, Formation, Good Standing, and Due Qualification. The Borrower and each Subsidiary is (in the case of a corporation) a corporation duly incorporated or (in the case of a limited partnership) a limited partnership duly formed or (in the case of a limited liability company) a limited liability company duly formed, validly existing, and in good standing under the laws of the jurisdiction of its incorporation or formation; has the power and authority to own its assets and to transact the business in which it is now engaged or proposed to be engaged; and is duly qualified and in good standing under the laws of each other jurisdiction in which such qualification is required, except where the failure to be so qualified could not reasonably be expected to result in a material adverse effect on the financial condition of the Borrower.

Section 4.02 Power and Authority. The execution, delivery and performance by the Borrower of the Loan Documents have been duly authorized by all necessary corporate action and do not and will not (1) require any consent or approval of the stockholders of the Borrower; (2) contravene the Borrower's charter or bylaws; (3) violate, in any material respect, any provision of any law, rule, regulation (including, without limitation, Regulations U and X of the Board of Governors of the Federal Reserve System), order, writ, judgment, injunction, decree, determination, or award presently in effect having applicability to the Borrower; (4) result in a breach of or constitute a default under any indenture or loan or credit agreement or any other material agreement, lease, or instrument to which the Borrower is a party or by which it or its properties may be bound or affected; (5) result in, or require, the creation or imposition of any Lien, upon or with respect to any of the properties now owned or hereafter acquired by the Borrower, other than Liens securing the Obligations; and (6) cause the Borrower to be in default, in any material respect, under any such law, rule, regulation, order, writ, judgment, injunction, decree, determination, or award or any such indenture, agreement, lease or instrument.

Section 4.03 Legally Enforceable Agreement. This Agreement is and each of the other Loan Documents when delivered under this Agreement will be legal, valid, and binding obligations of the Borrower enforceable against the Borrower in accordance with their respective terms, except to the extent that such enforcement may be limited by applicable bankruptcy, insolvency, and other similar laws affecting creditors' rights generally.

Section 4.04 Financial Statements. The consolidated balance sheet of the Borrower and its Subsidiaries as at September 30, 2010, and the consolidated statements of operations, cash flow and changes to stockholders' equity of the Borrower and its Subsidiaries for the fiscal year ended September 30, 2010, are complete and correct and fairly present as at such date the financial condition of the Borrower and its Subsidiaries and the results of their operations for the periods covered by such statements, all in accordance with GAAP consistently applied, and since September 30, 2010, there has been no material adverse change in the condition (financial or otherwise), business, or operations of the Borrower and its Subsidiaries. There are no liabilities of the Borrower or any Subsidiary, fixed or contingent, which are material but are not reflected in the financial statements or in the notes thereto, other than liabilities arising in the ordinary course of business since September 30, 2010. No information, exhibit, or report furnished by the Borrower to the Lender in connection with the negotiation of this Agreement, taken together, contained any material misstatement of fact or omitted to state a material fact or any fact necessary to make the statements contained therein not materially misleading.

Section 4.05 Labor Disputes and Acts of God. Neither the business nor the properties of the Borrower or any Subsidiary are affected by any fire, explosion, accident, strike, lockout, or other labor dispute, drought, storm, hail, earthquake, embargo, act of God or of the public enemy, or other casualty (whether or not covered by insurance), materially and adversely affecting such business or properties or the operation of the Borrower or such Subsidiary.

Section 4.06 Other Agreements. Neither the Borrower nor any Significant Subsidiary is a party to any indenture, loan, or credit agreement, or to any lease or other agreement or instrument or subject to any charter, corporate or other restriction which could reasonably be expected to have a material adverse effect on the business, properties, assets, operations, or conditions, financial or otherwise, of the Borrower or any Significant Subsidiary, or the ability of the Borrower to carry out its obligations under the Loan Documents. Neither the Borrower nor any Significant Subsidiary is in default in any material respect in the performance, observance, or fulfillment of any of the obligations, covenants, or conditions contained in any agreement or instrument material to its business to which it is a party.

Section 4.07 Litigation. Except as disclosed in the SEC Reports or reflected in or reserved for in the financial statements referred to in Section 4.04, there is no pending or, to the knowledge of the Borrower, threatened action or proceeding against or affecting the Borrower or any Significant Subsidiary before any court, governmental agency, or arbitrator, which could reasonably be expected, in any one case or in the aggregate, to materially adversely affect the financial condition, operations, properties, or business of the Borrower or any Significant Subsidiary or the ability of the Borrower to perform its obligations under the Loan Documents.

Section 4.08 No Defaults on Outstanding Judgments or Orders. Except for judgments with respect to which the uninsured liability of the Borrower and each Significant Subsidiary does not exceed $10,000,000 in the aggregate for all such judgments, (a) the Borrower and each Significant Subsidiary have satisfied all judgments, and (b) neither the Borrower nor any Significant Subsidiary is in default with respect to any judgment, writ, injunction, decree, ruling or order of any court, arbitrator, or federal, state, municipal, or other governmental authority, commission, board, bureau, agency, or instrumentality, domestic or foreign.

Section 4.09 Ownership and Liens. The Borrower and each Subsidiary have title to, or valid leasehold interests in, all of their respective properties and assets, real and personal, including the properties and assets and leasehold interests reflected in the financial statements referred to in Section 4.04 (other than any properties or assets disposed of in the ordinary course of business), and none of the properties and assets owned by the Borrower or any Subsidiary and none of their leasehold interests is subject to any Lien, except such as may be permitted pursuant to Section 6.02.

Section 4.10 Subsidiaries and Ownership of Stock. Set forth in Schedule I hereto is a complete and accurate list, as of the date hereof, of the Subsidiaries of the Borrower, showing the jurisdiction of incorporation or formation of each and showing the percentage of the Borrower's ownership of the outstanding stock or partnership interest or membership interest of each Subsidiary. All of the outstanding capital stock of each such corporate Subsidiary has been validly issued, is fully paid and nonassessable, and, to the extent owned by the Borrower or any of its Subsidiaries, is owned by the Borrower or such Subsidiaries free and clear of all Liens (other than Liens permitted by Section 6.02). The limited partnership agreement of each such limited partnership Subsidiary is in full force and effect.

Section 4.11 ERISA. The Borrower and each Subsidiary are in compliance in all material respects with all applicable provisions of ERISA. Neither a Reportable Event nor a Prohibited Transaction has occurred and is continuing with respect to any Plan; no notice of intent to terminate a Plan has been filed, nor has any Plan been terminated; no circumstances exist which constitute grounds

entitling the PBGC to institute proceedings to terminate, or appoint a trustee to administer, a Plan, nor has the PBGC instituted any such proceedings; neither the Borrower nor any Commonly Controlled Entity has completely or partially withdrawn from a Multiemployer Plan under circumstances that could subject the Borrower or any Subsidiary to material withdrawal liability; the Borrower and each Commonly Controlled Entity have met their minimum funding requirements under ERISA with respect to all of their Plans and the present value of all vested benefits under each Plan does not materially exceed the fair market value of all Plan assets allocable to such benefits, as determined on the most recent valuation date of the Plan and in accordance with the provisions of ERISA; and neither the Borrower nor any Commonly Controlled Entity has incurred any material liability to the PBGC under ERISA.

Section 4.12 Operation of Business. The Borrower and each Subsidiary possess all material licenses, permits, franchises, patents, copyrights, trademarks, and trade names, or rights thereto, to conduct their respective businesses substantially as now conducted and as presently proposed to be conducted and the Borrower and each of its Subsidiaries are not in violation of any valid rights of others with respect to any of the foregoing where the failure to possess such licenses, permits, franchises, patents, copyrights, trademarks, trade names or rights thereto or the violation of the valid rights of others with respect thereto could reasonably be expected to, in any one case or in the aggregate, adversely affect in any material respect the financial condition, operations, properties, or business of the Borrower or any Significant Subsidiary or the ability of the Borrower to perform its obligation under the Loan Documents.

Section 4.13 Taxes. All federal and state income tax liabilities or income tax obligations, and all other material income tax liabilities or material income tax obligations, of the Borrower and each Subsidiary have been paid or have been accrued by or reserved for by the Borrower. The Borrower constitutes the parent of an affiliated group of corporations for purposes of filing a consolidated United States federal income tax return.

Section 4.14 Laws; Environment. Except as disclosed in the SEC Reports, (a) the Borrower and each Subsidiary have duly complied, and their businesses, operations, assets, equipment, property, leaseholds, or other facilities are in compliance, in all material respects, with the provisions of all federal, state, and local statutes, laws, codes, and ordinances and all rules and regulations promulgated thereunder (including without limitation those relating to the environment, health and safety), except where the failure to so comply could not reasonably be expected to, in any one case or in the aggregate, adversely affect in any material respect the financial condition, operations, properties or business of the Borrower or any Subsidiary or the ability of the Borrower to perform its obligations under the Loan Documents; (b) the Borrower and each Subsidiary have been issued and will maintain all required federal, state, and local permits, licenses, certificates, and approvals relating to (1) air emissions; (2) discharges to surface water or groundwater; (3) noise emissions; (4) solid or liquid waste disposal; (5) the use, generation, storage, transportation, or disposal of toxic or hazardous substances or hazardous wastes (intended hereby and hereafter to include any and all such materials listed in any federal, state, or local law, code, or ordinance and all rules and regulations promulgated thereunder as hazardous); or (6) other environmental, health or safety matters, to the extent for any of the foregoing that failure to maintain the same could reasonably be expected to, in any one case or in the aggregate, adversely affect in any material respect the financial condition, operations, properties, or business of the Borrower or any Significant Subsidiary or the ability of the Borrower to perform its obligations under the Loan Documents; (c) neither the Borrower nor any Subsidiary has received notice of, or has actual knowledge of any violations of any federal, state, or local environmental, health, or safety laws, codes or ordinances or any rules or regulations promulgated thereunder with respect to its businesses, operations, assets, equipment, property, leaseholds, or other facilities, which violation could reasonably be expected to, in any one case or in the aggregate, adversely affect in any material respect the financial condition, operations, properties, or business of the Borrower or any Significant Subsidiary or the ability of the Borrower to perform its obligations under the Loan

Documents; (d) except in accordance with a valid governmental permit, license, certificate or approval, there has been no material emission, spill, release, or discharge into or upon (1) the air; (2) soils, or any improvements located thereon; (3) surface water or groundwater; or (4) the sewer, septic system or waste treatment, storage or disposal system servicing the premises, of any toxic or hazardous substances or hazardous wastes at or from the premises, in each case related to the premises of the Borrower and each Subsidiary; and accordingly the premises of the Borrower and each Subsidiary have not been adversely affected, in any material respect, by any toxic or hazardous substances or wastes; (e) there has been no complaint, order, directive, claim, citation, or notice by any governmental authority or any person or entity with respect to material violations of law or material damages by reason of Borrower's or any Subsidiary's (1) air emissions; (2) spills, releases, or discharges to soils or improvements located thereon, surface water, groundwater or the sewer, septic system or waste treatment, storage or disposal systems servicing the premises; (3) noise emissions; (4) solid or liquid waste disposal; (5) use, generation, storage, transportation, or disposal of toxic or hazardous substances or hazardous waste; or (6) other environmental, health or safety matters affecting the Borrower or any Subsidiary or its business, operations, assets, equipment, property, leaseholds, or other facilities; and (f) neither the Borrower nor any Subsidiary has any material indebtedness, obligation, or liability, absolute or contingent, matured or not matured, with respect to the storage, treatment, cleanup, or disposal of any solid wastes, hazardous wastes, or other toxic or hazardous substances (including without limitation any such indebtedness, obligation, or liability with respect to any current regulation, law, or statute regarding such storage, treatment, cleanup, or disposal).

Section 4.15 Investment Company Act. Neither the Borrower nor any Subsidiary thereof is an "investment company" or a company "controlled" by an "investment company," within the meaning of the Investment Company Act of 1940, as amended.

Section 4.16 OFAC. The Borrower is not (and will not be) a person with whom the Lender is restricted from doing business under regulations of the Office of Foreign Asset Control ("OFAC") of the Department of the Treasury of the United States of America (including, those Persons named on OFAC's Specially Designated and Blocked Persons list) or under any statute, executive order (including, the September 24, 2001 Executive Order Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism), or other governmental action and is not and shall not engage in any dealings or transactions or otherwise be associated with such persons. In addition, the Borrower hereby agrees to provide the Lender with any additional information that the Lender deems necessary from time to time in order to ensure compliance with all applicable Laws concerning money laundering and similar activities.

Section 4.17 Accuracy of Information. The representations and warranties by the Borrower contained herein or in any other Loan Document or made hereunder or in any other Loan Document and the certificates, schedules, exhibits, reports or other documents provided or to be provided by the Borrower in connection with the transactions contemplated hereby or thereby (including, without limitation, the negotiation of and compliance with the Loan Documents), when taken together as a whole, do not contain and will not contain a misstatement of a material fact or omit to state a material fact required to be stated therein in order to make the statements contained therein, in the light of the circumstances under which made, not materially misleading at the time such statements were made or are deemed made.

Section 4.18 Security Documents. The Security Agreement and the Account Control Agreement are effective until release thereof permitted under this Agreement to create, in favor of the Lender, a legal, valid and enforceable and fully perfected Lien on all right, title and interest of the Borrower in the Cash Collateral Account and all other Collateral described in the Security Agreement and the Account Control Agreement and the proceeds thereof, as security for the Obligations, in each case prior and superior in right to any other Person.

ARTICLE V
AFFIRMATIVE COVENANTS

So long as the Loans shall remain unpaid or the Lender shall have any requirement to make a Loan under this Agreement, the Borrower will:

Section 5.01 Maintenance of Existence. Preserve and maintain, and cause each Subsidiary to preserve and maintain (except for a Subsidiary that (i) ceases to maintain its existence solely as a result of an Internal Reorganization or (ii) is sold or merged in a transaction in accordance with (or not subject to the terms of) Sections 6.04), its corporate, limited partnership or limited liability company existence and good standing in the jurisdiction of its incorporation or formation and qualify and remain qualified to transact business in each jurisdiction in which such qualification is required except where the failure to so qualify to transact business could not reasonably be expected to affect in any material respect the financial condition, operations, properties or business of the Borrower or any Subsidiary.

Section 5.02 Maintenance of Records. Keep and cause each Subsidiary to keep, adequate records and books of account, in which complete entries will be made in accordance with GAAP consistently applied, reflecting all financial transactions of the Borrower and its Subsidiaries.

Section 5.03 Maintenance of Properties. Maintain, keep, and preserve, and cause each Subsidiary to maintain, keep, and preserve, all of its properties (tangible and intangible) necessary or useful in the proper conduct of its business in good working order and condition, ordinary wear and tear excepted.

Section 5.04 Conduct of Business. Continue, and cause each Subsidiary to continue (except in the case of a Subsidiary that ceases to engage in business solely as a result of an Internal Reorganization), to engage in a business of the same general type and in the same manner as conducted by it on the date of this Agreement.

Section 5.05 Maintenance of Insurance. Maintain, and cause each Subsidiary to maintain, insurance with financially sound reputable insurance companies or associations (or, in the case of insurance for construction warranties and builder default protection for buyers of housing units from the Borrower or any of its Subsidiaries) in such amounts and covering such risks as are usually carried by companies engaged in the same or a similar business and similarly situated, which insurance may provide for reasonable deductibility from coverage thereof.

Section 5.06 Compliance with Laws. Comply, and cause each Subsidiary to comply, in all material respects with all applicable laws, rules, regulations, and orders, the noncompliance with which could not reasonably be expected to, in any one case or in the aggregate, adversely affect in any material respect the financial condition, operations, properties or business of the Borrower or any Subsidiary or the ability of the Borrower to perform its obligations under the Loan Documents, and such compliance to include, without limitation, paying before the same become delinquent all taxes, assessments and governmental charges imposed upon it or upon its property, other than any such taxes, assessments and charges being contested by the Borrower in good faith which will not have a material adverse effect on the financial condition of the Borrower.

Section 5.07 Right of Inspection. At any reasonable time and from time to time, permit the Lender or any agent or representative thereof to examine and make copies of and abstracts from the

records and books of account of, and visit the properties of, the Borrower and any Subsidiary, and to discuss the affairs, finances, and accounts of the Borrower and any Subsidiary with any of their respective officers and directors and the Borrower's independent accountants.

Section 5.08 Reporting Requirements. Furnish to the Lender:

(1) **Quarterly financial statements**. As soon as available and in any event within fifty (50) days after the end of each of the first three quarters of each fiscal year of the Borrower, an unaudited condensed consolidated balance sheet of the Borrower and its Subsidiaries as of the end of such quarter, unaudited condensed consolidated statements of operations and cash flow of the Borrower and its Subsidiaries for the period commencing at the end of the previous fiscal year and ending with the end of such quarter, and unaudited condensed consolidated statements of changes in stockholders' equity of the Borrower and its Subsidiaries for the portion of the fiscal year ended with the last day of such quarter, all in reasonable detail and stating in comparative form the respective figures for the corresponding date and period in the previous fiscal year and all prepared in accordance with GAAP consistently applied and certified by the chief financial officer of the Borrower (subject to year-end adjustments); the timely filing by the Borrower of the Borrower's quarterly 10-Q report with the Securities and Exchange Commission shall satisfy the foregoing requirements.

(2) **Annual financial statements**. As soon as available and in any event within ninety-five (95) days after the end of each fiscal year of the Borrower, a consolidated balance sheet of the Borrower and its Subsidiaries as of the end of such fiscal year, consolidated statements of operations and cash flow of the Borrower and its Subsidiaries for such fiscal year, and consolidated statements of changes in stockholders' equity of the Borrower and its Subsidiaries for such fiscal year, all in reasonable detail and stating in comparative form the respective figures for the corresponding date and period in the prior fiscal year and all prepared in accordance with GAAP consistently applied and accompanied by an opinion thereon acceptable to the Lender by Deloitte & Touche or other independent accountants selected by the Borrower and acceptable to the Lender; the timely filing by the Borrower of the Borrower's annual 10-K report with the Securities and Exchange Commission shall satisfy the foregoing requirements.

(3) **Management letters**. Promptly upon receipt thereof, copies of any reports submitted to the Borrower or any Subsidiary by independent certified public accountants in connection with examination of the financial statements of the Borrower or any Subsidiary made by such accountants.

(4) **Compliance certificate**. Commencing with the fiscal quarters ending December 31, 2010, within fifty (50) days after the end of each of the first three quarters, and within ninety-five (95) days after the end of each fourth quarter, of each fiscal year of the Borrower, a certificate of the President or chief financial officer of the Borrower certifying that, to the best of his knowledge, no Default or Event of Default has occurred and is continuing, or if a Default or Event of Default has occurred and is continuing, a statement as to the nature thereof and the action which is proposed to be taken with respect thereto.

(5) **Notice of litigation**. Promptly after the commencement thereof, notice of all actions, suits, and proceedings before any court or governmental department, commission, board, bureau, agency, or instrumentality, domestic or foreign, affecting the Borrower or any Subsidiary which, if determined adversely to the Borrower or such Subsidiary, would reasonably be expected to result in a judgment against the Borrower or such Subsidiary in excess of $10,000,000 (to the extent not covered by insurance) or would reasonably be expected to have a material adverse effect on the financial condition, properties, or operations of the Borrower or such Subsidiary.

(6) **Notice of Defaults and Events of Default**. As soon as possible and in any event within (x) two (2) days after the occurrence of an Event of Default under Section 7.01(4), (5), (7) or (9) and (y) ten (10) days after the occurrence of each Default or other Event of Default, a written notice setting forth the details of such Default or Event of Default and the action which is proposed to be taken by the Borrower with respect thereto.

(7) **ERISA reports**. As soon as possible, and in any event within thirty (30) days after the Borrower knows or has reason to know that any circumstances exist that constitute grounds entitling the PBGC to institute proceedings to terminate a Plan subject to ERISA with respect to the Borrower or any Commonly Controlled Entity, and promptly but in any event within two (2) Business Days of receipt by the Borrower or any Commonly Controlled Entity of notice that the PBGC intends to terminate a Plan or appoint a trustee to administer the same, and promptly but in any event within five (5) Business Days of the receipt of notice concerning the imposition of withdrawal liability in excess of $50,000 with respect to the Borrower or any Commonly Controlled Entity, the Borrower will deliver to the Lender a certificate of the chief financial officer of the Borrower setting forth all relevant details and the action which the Borrower proposes to take with respect thereto.

(8) **Proxy statements, Etc**. Promptly after the sending or filing thereof, copies of all proxy statements, financial statements, and reports which the Borrower or any Subsidiary sends to its stockholders, and copies of all regular, periodic, and special reports, and all registration statements which the Borrower or any Subsidiary files with the Securities and Exchange Commission or any governmental authority which may be substituted therefor, or with any national securities exchange.

(9) **Notice of Put Date**. Not more than twenty (20) Business Days, and not less than ten (10) Business Days, prior to the thirtieth (30th) day preceding each Put Date, the Borrower shall provide to the Lender a written notice of the approaching Put Date and the deadline for the exercising of the Lender's rights under Section 2.06(d). Failure to give such notice shall not, in any event, constitute a Default or an Event of Default hereunder, but (i) the applicable deadline for delivering written notice of an election pursuant to Section 2.06(d) shall be extended by the number of days such notice is delinquent pursuant to this clause (9), until such notice is given and (ii) the Lender, in delivering such election notice, may specify a date for prepayment of the Loans which is later than the Put Date but no more than thirty (30) days after the date of such election notice.

(10) **General information**. Such other information respecting the condition or operations, financial or otherwise, of the Borrower or any Subsidiary as the Lender may from time to time reasonably request.

Section 5.09 Use of Proceeds. Use the proceeds of the Loans solely as provided in Section 2.08.

Section 5.10 Taxes. Pay and cause each Subsidiary to pay when due all taxes, assessments and governmental charges and levies upon it or its income, profits or property, except those which are being contested in good faith by appropriate proceedings and with respect to which adequate reserves have been set aside.

ARTICLE VI
NEGATIVE COVENANTS

So long as the Loans shall remain unpaid or the Lender shall have any requirement to make a Loan under this Agreement, the Borrower agrees as follows:

Section 6.01 Limitations on Additional Indebtedness.

(a) The Borrower shall not, and shall not cause or permit any of its Restricted Subsidiaries, directly or indirectly, to, Incur any Indebtedness including Acquired Indebtedness; provided that the Borrower and the Restricted Subsidiaries may Incur Indebtedness, including Acquired Indebtedness, if, after giving effect thereto and the application of the proceeds therefrom, either (i) the Borrower's Consolidated Fixed Charge Coverage Ratio on the date thereof would be at least 2.0 to 1.0 or (ii) the ratio of Adjusted Indebtedness of the Borrower and the Restricted Subsidiaries to Adjusted Consolidated Tangible Net Worth is less than 7.5 to 1.

(b) Notwithstanding the foregoing, Section 6.01(a) shall not prevent:

(i) the Borrower or any Restricted Subsidiary from Incurring (A) Refinancing Indebtedness or (B) Non-Recourse Indebtedness;

(ii) the Borrower from Incurring (A) Indebtedness under this Agreement or any of the other Loan Documents or (B) Indebtedness under other cash collateralized loan agreements not to exceed $137,500,000;

(iii) the Borrower or any Restricted Subsidiary from Incurring Indebtedness under Credit Facilities not to exceed the greater of $250.0 million and 15.0% of Consolidated Tangible Assets of the Borrower;

(iv) the Borrower and its Restricted Subsidiaries from Incurring Indebtedness under any deposits made to secure performance of tenders, bids, leases, statutory obligations, surety and appeal bonds, progress statements, government contracts and other obligations of like nature (exclusive of the obligation for the payment of borrowed money);

(v) any Restricted Subsidiary from guaranteeing Indebtedness of the Borrower or any other Restricted Subsidiary, or the Borrower from guaranteeing Indebtedness of any Restricted Subsidiary, in each case permitted to be Incurred hereunder (other than Non-Recourse Indebtedness);

(vi) (a) any Restricted Subsidiary from Incurring Indebtedness owing to the Borrower or any other Restricted Subsidiary that is a Wholly-Owned Subsidiary; provided that such Indebtedness shall only be permitted pursuant to this clause (vi)(a) for so long as the Person to whom such Indebtedness is owing is the Borrower or a Restricted Subsidiary that is a Wholly-Owned Subsidiary and (b) the Borrower from Incurring Indebtedness owing to any Restricted Subsidiary that is a Wholly-Owned Subsidiary; provided that (I) such Indebtedness is subordinated to the Obligations, and (II) such Indebtedness shall only be permitted pursuant to this clause (vi)(b) for so long as the Person to whom such Indebtedness is owing is a Restricted Subsidiary that is a Wholly-Owned Subsidiary;

(vii) the Borrower and any Restricted Subsidiary from Incurring Indebtedness under Capitalized Lease Obligations or purchase money obligations, in each case Incurred for the

purpose of acquiring or financing all or any part of the purchase price or cost of construction or improvement of property or equipment used in the business of the Borrower or such Restricted Subsidiary, as the case may be, in an aggregate amount at any time outstanding not to exceed $50.0 million;

(viii) the Borrower or any Restricted Subsidiary from Incurring obligations for, pledge of assets in respect of, and guaranties of, bond financings of political subdivisions or enterprises thereof in the ordinary course of business;

(ix) the Borrower or any Restricted Subsidiary from incurring Indebtedness owed to a seller of entitled land, lots under development or finished lots under the terms of which the Borrower or such Restricted Subsidiary, as obligor, is required to make a payment upon the future sale of such land or lots; and

(x) the Borrower or any Restricted Subsidiary from Incurring Indebtedness in an aggregate principal amount at any time outstanding not to exceed $100.0 million.

(c) The Borrower shall not, directly or indirectly, in any event Incur any Indebtedness that purports to be by its terms (or by the terms of any agreement governing such Indebtedness) subordinated to any other Indebtedness of the Borrower unless such Indebtedness is also by its terms (or by the terms of any agreement governing such Indebtedness) made expressly subordinated to the Obligations to the same extent and in the same manner as such Indebtedness is subordinated to such other Indebtedness of the Borrower.

(d) For purposes of determining compliance with this Section 6.01 hereof, in the event an item of Indebtedness meets the criteria of more than one of the types of Indebtedness described in the above clauses of this Section 6.01, the Borrower, in its sole discretion, shall classify such item of Indebtedness in any manner that complies with this Section 6.01 and may from time to time reclassify such item of Indebtedness in any manner in which such item could be Incurred at the time of such reclassification.

Section 6.02 Limitations on Secured Indebtedness.

(a) Notwithstanding any Indebtedness that may be incurred under Section 6.01, the Borrower shall not, and shall not permit any of its Restricted Subsidiaries to, create, incur, assume or guarantee any Secured Indebtedness unless the Obligations are equally and ratably secured with (or on a senior basis to, if the Secured Indebtedness is subordinated Indebtedness) the Secured Indebtedness. Notwithstanding the foregoing, this Section 6.02(a) shall not prohibit the creation, incurrence, assumption or guarantee of Secured Indebtedness that is secured by:

(i) Liens on model homes, homes held for sale, homes that are under contract for sale, or any option, contract or other agreement to sell an asset;

(ii) Liens on property acquired by the Borrower or a Restricted Subsidiary and Liens on property of a Person existing at the time such Person is merged with or into or consolidated with the Borrower or any Restricted Subsidiary or becomes a Restricted Subsidiary; provided that in each case such Liens (a) were in existence prior to the contemplation of such acquisition, merger or consolidation and (b) do not extend to any asset other than those of the Person merged with or into or consolidated with the Borrower or the Restricted Subsidiary or the property acquired by the Borrower or the Restricted Subsidiary;

(iii) Liens arising out of conditional sale, title retention, consignment or similar arrangements for the sale of goods entered into by the Borrower or any of its Subsidiaries in the ordinary course of business;

(iv) purchase money mortgages (including, without limitation, Capitalized Lease Obligations and purchase money security interests);

(v) Liens on cash or Cash Equivalents securing, and not exceeding the amount of, Indebtedness (and related obligations) incurred pursuant to Section 6.01(b)(ii); or

(vi) Liens on property or assets of any Restricted Subsidiary securing Indebtedness of such Restricted Subsidiary owing to the Borrower or one or more Restricted Subsidiaries.

Secured Indebtedness permitted pursuant to clauses (i) through (vi) of this Section 6.02(a) includes any amendment, restatement, supplement, renewal, replacement, extension or refunding in whole or in part of Secured Indebtedness permitted at the time of the original incurrence thereof.

(b) Any Lien created for the benefit of the Lender pursuant to paragraph (a) of this Section 6.02 shall provide by its terms that such Lien shall be automatically and unconditionally released and discharged upon the release and discharge of the Lien securing such other obligations.

(c) Notwithstanding anything to the contrary in this Section 6.02, the Borrower and its Restricted Subsidiaries may create, incur, assume or guarantee Secured Indebtedness, without equally or ratably securing the Obligations, if immediately thereafter the aggregate principal amount of all Secured Indebtedness outstanding (excluding (a) Secured Indebtedness permitted under clauses (i) through (vi) of paragraph (a) of this Section 6.02 and (b) any Secured Indebtedness in relation to which the Obligations have been equally and ratably secured) as of the date of determination would not exceed the greater of (i) $700.0 million and (ii) 40% of Consolidated Tangible Assets.

(d) Notwithstanding anything to the contrary in this Agreement, the Borrower shall not, and shall not permit any of its Restricted Subsidiaries to, create, incur, assume or suffer to exist any Liens on all or any part of the Collateral.

Section 6.03 Limitations on Restricted Payments.

(a) The Borrower shall not, and shall not cause or permit any of its Restricted Subsidiaries to, make any Restricted Payment, directly or indirectly, after the date hereof if at the time of such Restricted Payment:

(i) the amount of such proposed Restricted Payment (the amount of such Restricted Payment, if other than in cash, shall be determined in good faith by a majority of the disinterested members of the Board of Directors of the Borrower), when added to the aggregate amount of all Restricted Payments (excluding Restricted Payments permitted by paragraph (b) of this Section 6.03) declared or made after the Closing Date exceeds the sum of:

(A) $200.0 million, *plus*

(B) 50% of the Borrower's Consolidated Net Income accrued during the period (taken as a single period) commencing on the first day of the fiscal quarter in which the Covenant Trigger Date occurs and ending on the last day of the fiscal quarter immediately preceding the fiscal quarter in which the Restricted Payment is to occur (or,

if such aggregate Consolidated Net Income is a deficit, minus 100% of such aggregate deficit); provided, that for purposes of this calculation, if a Covenant Trigger Date occurs as the result of the Borrower achieving the Net Income Threshold, the Covenant Trigger Date will be deemed to have occurred as of the first day of the second fiscal quarter included in calculating such Net Income Threshold, *plus*

(C) the net cash proceeds derived from the issuance and sale of Capital Stock of the Borrower and its Restricted Subsidiaries (or any capital contribution to the Borrower or a Restricted Subsidiary) that is not Disqualified Stock (other than a sale to, or a contribution by, a Subsidiary of the Borrower) after the Closing Date, *plus*

(D) 100% of the principal amount of, or, if issued at a discount, the accreted value of, any Indebtedness of the Borrower or a Restricted Subsidiary which is issued (other than to a Subsidiary of the Borrower) after the Closing Date that is converted into or exchanged for Capital Stock of the Borrower that is not Disqualified Stock, *plus*

(E) 100% of the aggregate amounts received by the Borrower or any Restricted Subsidiary from the sale, disposition or liquidation (including by way of dividends) of any Investment (other than to any Subsidiary of the Borrower and other than to the extent sold, disposed of or liquidated with recourse to the Borrower or any of its Subsidiaries or to any of their respective properties or assets) but only to the extent (x) not included in clause (B) above and (y) that the making of such Investment constituted a permitted Restricted Investment (to the extent the Investment was made after the Closing Date), *plus*

(F) 100% of the principal amount of, or if issued at a discount, the accreted value of, any Indebtedness or other obligation that is the subject of a guarantee by the Borrower which is released (other than due to a payment on such guarantee) after the Closing Date, but only to the extent that such guarantee constituted a permitted Restricted Payment, *plus*

(G) with respect to any Unrestricted Subsidiary that is redesignated as a Restricted Subsidiary in accordance with the definition of "Unrestricted Subsidiary" (so long as the designation of such Subsidiary as an Unrestricted Subsidiary was treated as a Restricted Payment made after the Closing Date, and only to the extent not included in clause (B) above), an amount equal to the lesser of (x) the proportionate interest of the Borrower or a Restricted Subsidiary in an amount equal to the excess of (I) the total assets of such Subsidiary, valued on an aggregate basis at the lesser of Book Value and Fair Market Value thereof, over (II) the total liabilities of such Subsidiary, determined in accordance with GAAP, and (y) the amount of the Restricted Payment deemed to be made upon such Subsidiary's designation as an Unrestricted Subsidiary; or

(ii) the Borrower would be unable to incur $1.00 of additional Indebtedness under the Consolidated Fixed Charge Coverage Ratio contained in Section 6.01 hereof; or

(iii) a Default or Event of Default has occurred and is continuing or occurs as a consequence thereof.

(b) Notwithstanding the foregoing, this Section 6.03 shall not prohibit:

(i) the payment of any dividend within sixty (60) days after the date of declaration thereof if the payment thereof would have complied with the limitations hereof on the date of declaration;

(ii) the purchase, repayment, redemption, repurchase, defeasance or other acquisition or retirement of shares of the Borrower's Capital Stock or the Borrower's or a Restricted Subsidiary's Indebtedness for, or out of the net proceeds of a substantially concurrent sale (other than a sale to a Subsidiary of the Borrower) of, other shares of its Capital Stock (other than Disqualified Stock), provided that the proceeds of any such sale shall be excluded in any computation made under Section 6.03(a)(i)(C) above;

(iii) the purchase, repayment, redemption, repurchase, defeasance or other acquisition or retirement for value of Indebtedness, including premium, if any, with the proceeds of Refinancing Indebtedness; or

(iv) other Restricted Payments made after the Closing Date in an amount not to exceed $50.0 million in the aggregate.

Section 6.04 Limitations on Mergers and Consolidations. The Borrower shall not consolidate or merge with or into, or sell, lease, convey or otherwise dispose of all or substantially all of its assets (including, without limitation, by way of liquidation or dissolution), or assign any of its obligations under the Loan Documents (as an entirety or substantially in one transaction or series of related transactions), to any Person (in each case other than with the Borrower or another Restricted Subsidiary that is a Wholly-Owned Subsidiary) unless:

(i) the Person formed by or surviving such consolidation or merger (if other than the Borrower), or to which such sale, lease, conveyance or other disposition or assignment shall be made (collectively, the "Successor"), is a solvent corporation or other legal entity organized and existing under the laws of the United States or any state thereof or the District of Columbia, and the Successor assumes all of the Obligations of the Borrower under the Loan Documents; and

(ii) immediately after giving effect to such transaction, no Default or Event of Default has occurred and is continuing.

Clauses (i) and (ii) of this Section 6.04 will not apply to any transaction the purpose of which is to change the state of organization of the Borrower.

ARTICLE VII
EVENTS OF DEFAULT

Section 7.01 Events of Default. If any of the following events shall occur:

(1) The Borrower shall fail to pay (a) the principal of the Note as and when due and payable or (b) interest on the Note within five (5) Business Days after the same is due and payable;

(2) Any representation or warranty made or deemed made by the Borrower in any Loan Document or which is contained in any certificate, document, opinion, or financial or other statement furnished at any time under or in connection with this Agreement shall prove to have been incorrect, incomplete, or misleading in any material respect on or as of the date made or deemed made;

(3) The Borrower shall fail to perform or observe any term, covenant, or agreement contained in Article V or VI hereof, and such failure shall continue for a period of thirty (30) consecutive days after delivery of written notice thereof from the Lender to the Borrower;

(4) the acceleration of any Indebtedness (other than Non-Recourse Indebtedness) of the Borrower that has an outstanding principal amount of $25.0 million or more in the aggregate;

(5) the failure by the Borrower to make any principal or interest payment in respect of Indebtedness (other than Non-Recourse Indebtedness) of the Borrower with an outstanding aggregate amount of $25.0 million or more within five (5) days of such principal or interest payment becoming due and payable (after giving effect to any applicable grace period set forth in the documents governing such Indebtedness); provided, that if such failure to pay shall be remedied, waived or extended, then the Event of Default hereunder shall be deemed likewise to be remedied, waived or extended without further action by the Borrower;

(6) A final judgment or judgments that exceed $25.0 million or more in the aggregate, for the payment of money, having been entered by a court or courts of competent jurisdiction against the Borrower and such judgment or judgments is not satisfied, stayed, annulled or rescinded within sixty (60) days of being entered;

(7) The Borrower pursuant to or within the meaning of any Bankruptcy Law:

(A) commences a voluntary case;

(B) consents to the entry of an order for relief against it in an involuntary case;

(C) consents to the appointment of a Custodian of it or for all or substantially all of its property; or

(D) makes a general assignment for the benefit of its creditors;

(8) A court of competent jurisdiction enters an order or decree under any Bankruptcy Law that:

(A) is for relief against the Borrower as debtor in an involuntary case;

(B) appoints a Custodian of the Borrower or a Custodian for all or substantially all of the property of the Borrower; or

(C) orders the liquidation of the Borrower and the order or decree remains unstayed and in effect for sixty (60) days;

(9) Except with respect to releases of Liens permitted under this Agreement, any of the Security Documents shall cease, for any reason, to be in full force and effect, or the Borrower or any Affiliate of the Borrower shall so assert, or any Lien created by any of the Security Documents shall cease to be enforceable and of the same effect and priority purported to be created thereby;

(10) The Borrower shall default in the observance or performance of any term, covenant or agreement contained in any Security Document and such default shall continue unremedied for thirty (30) consecutive days after the delivery of notice thereof from the Lender to the Borrower;

then the following provisions shall apply:

(i) if any Event of Default described in Section 7.01(7) or (8) occurs, the obligations of the Lender to make Loans hereunder shall automatically terminate and the Obligations shall immediately become due and payable without any election or action on the part of the Lender. If any other Event of Default occurs, the Lender may terminate or suspend the Obligations of the Lender to make Loans hereunder or declare the Obligations to be due and payable, whereupon the Obligations shall become immediately due and payable, without presentment, demand, protest or notice of any kind, all of which the Borrower hereby expressly waives.

(ii) At any time while an Event of Default is continuing, the Lender may, from time to time, apply funds in the Cash Collateral Account to the payment of the Obligations and any other amounts as shall from time to time have become due and payable by the Borrower to the Lender under the Loan Documents.

(iii) At any time while any Event of Default is continuing, neither the Borrower nor any Person claiming on behalf of or through the Borrower shall have any right to withdraw any of the funds held in the Cash Collateral Account. After all of the Obligations have been indefeasibly paid in full and the Commitment has been terminated, any funds remaining in the Cash Collateral Account shall be returned by the Lender to the Borrower or paid to whomever may be legally entitled thereto at such time.

(iv) If within thirty (30) days after acceleration of the maturity of the Obligations or termination of the obligations of the Lender to make Loans hereunder as a result of any Event of Default (other than any Event of Default as described in Section 7.01(7) or (8)) and before any judgment or decree for the payment of the Obligations due shall have been obtained or entered, the Lender (in its sole discretion) may, by notice to the Borrower, rescind and annul such acceleration and/or termination.

(v) Upon the occurrence and during the continuance of any Event of Default, the Lender may exercise any and all remedies provided under any of the Security Documents or otherwise provided by law.

Section 7.02 Set-Off. In addition to the rights provided to the Lender under the Security Documents, upon the occurrence and during the continuance of any Event of Default, the Lender is hereby authorized at any time and from time to time, without notice to the Borrower (any such notice being expressly waived by the Borrower), to set off and apply any and all deposits (general or special, time or demand, provisional or final) at any time held and other indebtedness at any time owing by the Lender to or for the credit or the account of the Borrower against any and all of the obligations of the Borrower now or hereafter existing under this Agreement or the Note held by the Lender or any other Loan Document, irrespective of whether or not the Lender shall have made any demand under this Agreement or the Note held by the Lender or such other Loan Document and although such obligations may be unmatured. The Lender agrees promptly to notify the Borrower after any such set-off and application, provided that the failure to give such notice shall not affect the validity of such set-off and application. The rights of the Lender under this Section 7.02 are in addition to other rights and remedies (including, without limitation, other rights of set-off) which the Lender may have.

ARTICLE VIII
MISCELLANEOUS

Section 8.01 Amendments, Etc. No amendment, modification, termination, or waiver of any provision of any Loan Document to which the Borrower is a party, nor consent to any departure by the Borrower from any Loan Document to which it is a party, shall in any event be effective unless the same shall be in writing and signed by the Lender and the Borrower, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

Section 8.02 Notices, Etc.

(a) All notices, demands, requests, consents and other communications provided for in this Agreement shall be given in writing, or by any telecommunication device capable of creating a written record (including electronic mail), and addressed to the party to be notified at its address for notices set forth on its signature page to this Agreement, or at such other address as shall be notified in writing.

(b) All notices, demands, requests, consents and other communications described in Section 8.02(a) shall be effective (i) if delivered by hand, including any overnight courier service, upon personal delivery, (ii) if delivered by mail, when deposited in the mails, and (iii) if delivered by electronic mail or any other telecommunication device, when transmitted to an electronic mail address (or by another means of electronic delivery) as provided in Section 8.02(a); provided, however, that notices and communications to the Lender pursuant to Article II shall not be effective until received by the Lender.

(c) Notwithstanding Sections 8.02(a) and (b) (unless the Lender requests that the provisions of Sections 8.02(a) and (b) be followed) and any other provision in this Agreement or any other Loan Document providing for the delivery of any Approved Electronic Communication by any other means, the Borrower shall deliver all Approved Electronic Communications to the Lender by properly transmitting such Approved Electronic Communications in an electronic/soft medium in a format acceptable to the Lender to loan.admin-NY@db.com and ed.herko@db.com or such other electronic mail address (or similar means of electronic delivery) as the Lender may notify to the Borrower. Nothing in this clause (c) shall prejudice the right of the Lender to deliver any Approved Electronic Communication to the Borrower in any manner authorized in this Agreement or to request that the Borrower effect delivery in such manner.

Section 8.03 No Waiver. No failure or delay on the part of the Lender in exercising any right, power, or remedy hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any such right, power, or remedy preclude any other or further exercise thereof or the exercise of any other right, power, or remedy hereunder. The making of a Loan notwithstanding, the existence of a Default or Event of Default shall not constitute any waiver or acquiescence of such Default or Event of Default, and the making of any Loan notwithstanding any failure or inability to satisfy the conditions precedent to such Loan shall not constitute any waiver or acquiescence with respect to such conditions precedent with respect to any subsequent Loans. The rights and remedies provided herein are cumulative, and are not exclusive of any other rights, powers, privileges, or remedies, now or hereafter existing, at law, in equity or otherwise.

Section 8.04 Costs, Expenses, and Taxes.

(a) Subject to the terms of the Fee Letter, the Borrower agrees to reimburse the Lender for any reasonable costs, internal charges and out-of-pocket expenses (including reasonable fees and time charges of attorneys for the Lender, which attorneys may be employees of the Lender) paid or

incurred by the Lender in connection with the preparation, negotiation, execution, delivery, review, amendment, modification and administration of the Loan Documents. The Borrower also agrees to reimburse the Lender for any reasonable costs, internal charges and out-of-pocket expenses (including attorneys' fees and time charges of attorneys for the Lender which attorneys may be employees of the Lender) paid or incurred by the Lender or the Arranger in connection with the collection of the Obligations and enforcement of the Loan Documents, including during any workout or restructuring in respect of the Loan Documents.

(b) The Borrower shall pay any and all stamp and other taxes and fees payable or determined to be payable in connection with the execution, delivery, filing, and recording of any of the Loan Documents and the other documents to be delivered under any such Loan Documents, and agrees to hold the Lender harmless from and against any and all liabilities with respect to or resulting from any delay in paying or failing to pay such taxes and fees.

(c) The Lender represents and warrants to the Borrower that, at the date of this Agreement, (i) its Lending Office is entitled to receive payments of principal, interest, and fees hereunder without deduction or withholding for or on account of any taxes imposed by the United States or any political subdivision thereof and (ii) it is permitted to take the actions described in the preceding sentence under the laws and any applicable double taxation treaties of the jurisdictions specified in the preceding sentence.

(d) This Section 8.04 shall survive termination of this Agreement.

Section 8.05 Integration. This Agreement and the Loan Documents contain the entire agreement between the parties relating to the subject matter hereof and supersede all oral statements and prior writings with respect thereto.

Section 8.06 Indemnity. The Borrower hereby agrees to defend, indemnify, and hold the Lender and each of its Affiliates, and each of their respective directors, officers, employees, agents and advisors (each an "Indemnified Party") harmless from and against all claims, damages, judgments, penalties, costs, and expenses (including reasonable attorney fees and court costs now or hereafter arising from the aforesaid enforcement of this clause) arising directly or indirectly from the activities of the Borrower and its Subsidiaries, its predecessors in interest, or third parties with whom it has a contractual relationship, in each case relating to or arising out of the Loan Documents or the transactions contemplated thereby, or arising directly or indirectly from the violation of any environmental protection, health, or safety law, whether such claims are asserted by any governmental agency or any other person, other than claims, damages, judgments, penalties, costs and expenses arising as a result of any Indemnified Party's willful misconduct or gross negligence as determined by a court of competent jurisdiction by a final and nonappealable judgment. This indemnity shall survive termination of this Agreement.

Section 8.07 CHOICE OF LAW. THE LOAN DOCUMENTS SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO PRINCIPLES OF CONFLICT OF LAW (OTHER THAN SECTION 5-1401 OF THE GENERAL OBLIGATIONS LAW OF THE STATE OF NEW YORK).

Section 8.08 Severability of Provisions. Any provision of any Loan Document which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions of such Loan Document or affecting the validity or enforceability of such provision in any other jurisdiction.

Section 8.09 Counterparts. This Agreement may be executed in any number of counterparts and by the different parties to this Agreement in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same Agreement. Delivery of an executed counterpart of a signature page to this Agreement by facsimile or other electronic image shall be effective as delivery of a manually executed counterpart of this Agreement.

Section 8.10 Headings. Article and Section headings in the Loan Documents are included in such Loan Documents for the convenience of reference only and shall not constitute a part of the applicable Loan Documents for any other purpose.

Section 8.11 CONSENT TO JURISDICTION.

(a) ANY LEGAL ACTION OR PROCEEDING WITH RESPECT TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT MAY BE BROUGHT IN THE COURTS OF THE STATE OF NEW YORK SITTING IN THE CITY AND COUNTY OF NEW YORK OR OF THE UNITED STATES OF AMERICA FOR THE SOUTHERN DISTRICT OF NEW YORK, AND, BY EXECUTION AND DELIVERY OF THIS AGREEMENT, THE BORROWER HEREBY ACCEPTS FOR ITSELF AND IN RESPECT OF ITS PROPERTY, GENERALLY AND UNCONDITIONALLY, THE JURISDICTION OF THE AFORESAID COURTS. THE PARTIES HERETO HEREBY IRREVOCABLY WAIVE ANY OBJECTION, INCLUDING ANY OBJECTION TO THE LAYING OF VENUE OR BASED ON THE GROUNDS OF FORUM NON CONVENIENS, THAT ANY OF THEM MAY NOW OR HEREAFTER HAVE TO THE BRINGING OF ANY SUCH ACTION OR PROCEEDING IN SUCH RESPECTIVE JURISDICTIONS.

(b) THE BORROWER IRREVOCABLY CONSENTS TO THE SERVICE OF ANY AND ALL PROCESS IN SUCH ACTION OR PROCEEDING ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR ANY LOAN DOCUMENT BY THE MAILING (BY REGISTERED OR CERTIFIED MAIL, POSTAGE PREPAID) OF COPIES OF SUCH PROCESS TO AN APPOINTED PROCESS AGENT OR THE BORROWER AT ITS ADDRESS SPECIFIED IN SECTION 8.02. THE BORROWER 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 CONTAINED IN THIS SECTION 8.11 SHALL AFFECT THE RIGHT OF THE LENDER TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR COMMENCE LEGAL PROCEEDINGS OR OTHERWISE PROCEED AGAINST THE BORROWER IN ANY OTHER JURISDICTION.

Section 8.12 WAIVER OF JURY TRIAL. THE BORROWER AND THE LENDER HEREBY WAIVE TRIAL BY JURY IN ANY JUDICIAL ACTION OR PROCEEDING INVOLVING, DIRECTLY OR INDIRECTLY, ANY MATTER (WHETHER SOUNDING IN TORT, CONTRACT OR OTHERWISE) IN ANY WAY ARISING OUT OF, RELATED TO, OR CONNECTED WITH ANY LOAN DOCUMENT OR THE RELATIONSHIP ESTABLISHED THEREUNDER.

Section 8.13 Governmental Regulation. Anything contained in this Agreement to the contrary notwithstanding, the Lender shall not be obligated to extend credit to the Borrower in violation of any limitation or prohibition provided by any applicable statute or regulation.

Section 8.14 No Fiduciary Duty. The relationship between the Borrower and the Lender shall be solely that of borrower and lender. The Lender shall have no fiduciary responsibilities to the Borrower. The Lender undertakes no responsibility to the Borrower to review or inform the Borrower of any matter in connection with any phase of the Borrower’s business or operations.

Section 8.15 Confidentiality. The Lender agrees to maintain the confidentiality of the Information (as defined below), except that the Information may be disclosed (a) to its respective Related Parties (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential), (b) to the extent requested by any regulatory authority purporting to have jurisdiction over it (including any self-regulatory authority, such as the National Association of Insurance Commissioners), (c) to the extent required by applicable laws or regulations or by any subpoena or similar legal process, (d) to any other party hereto, (e) in connection with the exercise of any remedies hereunder or under any other Loan Document, any action or proceeding relating to this Agreement or any other Loan Document, the enforcement of rights hereunder or thereunder or any litigation or proceeding to which the Lender or any of its Affiliates may be a party, (f) subject to an agreement containing provisions substantially the same as those of this Section 8.15, to (i) any actual or prospective party (or its managers, administrators, trustees, partners, directors, officers, employees, agents, advisors and other representatives) surety, reinsurer, guarantor or credit liquidity enhancer (or their advisors) to or in connection with any swap, derivative or other similar transaction under which payments are to be made by reference to the Obligations or to the Borrower and its obligations or to this Agreement or payments hereunder, (ii) to any rating agency when required by it, (iii) the CUSIP Service Bureau or any similar organization, (g) with the consent of the Borrower or (h) to the extent such Information (x) becomes publicly available other than as a result of a breach of this Section 8.15 or (y) becomes available to the Lender or any of its Affiliates on a nonconfidential basis from a source other than the Borrower or any of its Subsidiaries. For purposes of this Section 8.15, "Information" means all information received from the Borrower or any of its Subsidiaries relating to the Borrower or any of its Subsidiaries or any of their respective businesses, other than any such information that is available to the Lender on a nonconfidential basis prior to disclosure by the Borrower or any of its Subsidiaries, provided that, in the case of information received from the Borrower or any of its Subsidiaries after the date hereof, such information shall be deemed confidential unless it is clearly identified at the time of delivery as not being confidential. Any Person required to maintain the confidentiality of Information as provided 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 to its own confidential information.

Section 8.16 USA Patriot Act Notification. The Lender, to the extent subject to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the "Act"), hereby notifies the Borrower that pursuant to the requirements of the Act, it is required to obtain, verify and record information that identifies the Borrower, which information includes the name and address of the Borrower and other information that will allow the Lender to identify the Borrower in accordance with the Act.

Section 8.17 Waiver of Consequential Damages, Etc. To the fullest extent permitted by applicable law, the no party hereto shall assert, and each such party hereby waives, any claim against all other parties hereto, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual 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 or thereby, the transactions contemplated hereby or thereby and the Loans or the use of the proceeds thereof.

Section 8.18 Successors and Assigns. The provisions of this Agreement and the other Loan Documents shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that (i) the Borrower may not assign or otherwise transfer

any of its rights or obligations hereunder or under the other Loan Documents without the prior written consent of the Lender (and any attempted assignment or transfer by the Borrower without such consent shall be null and void) and (ii) the Lender may not assign or otherwise transfer its rights or obligations hereunder or under the other Loan Documents (other than by an assignment to an Affiliate of the Lender or by means of a participation) without the prior written consent of the Borrower, such consent not to be unreasonably withheld or delayed (and any attempted assignment or transfer by the Lender without such consent 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) any legal or equitable right, remedy or claim under or by reason of this Agreement.

Section 8.19 Pledge to Federal Reserve Bank. The 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 the Lender to a Federal Reserve Bank, and this Section shall not apply to any such pledge or assignment of a security interest; provided that no such pledge or assignment of a security interest shall release the Lender from any of its obligations hereunder or substitute any such pledgee or assignee for the Lender as a party hereto.

[remainder of page intentionally left blank; signature pages follow]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective officers thereunto duly authorized, as of the date first written.

BEAZER HOMES USA, INC.

By: /s/ Allan P. Merrill

Name: Allan P. Merrill
Title: Executive Vice President and Chief Financial Officer

Address for Notices

1000 Abernathy Road
Suite 1200
Atlanta, Georgia 30328
Attention: President
Tel: (770) 829-3700
Fax: (770) 481-0431

DEUTSCHE BANK AG CAYMAN ISLANDS BRANCH, as the Lender

By: /s/ Frederick W. Laird
Name: Frederick W. Laird
Title: Managing Director

By: /s/ Edward D. Herko
Name: Edward D. Herko
Title: Vice President

Address for Notices

For matters relating to loan operations or payments:

Deutsche Bank AG Cayman Islands Branch
c/o DB Services New Jersey, Inc.
5022 Gate Parkway Suite 100
Jacksonville, FL 32256
Attn: Lee Joyner
Tel: (904) 527-6438
Fax: (866) 240-3622
E-mail: loan.admin-NY@db.com

For matters relating to the credit agreement:

Deutsche Bank AG Cayman Islands Branch
c/o Deutsche Bank
60 Wall Street
New York, NY 10005
Attn: Edward D. Herko
Tel: 212-250-4823
Fax: 646-374-3821
E-mail: ed.herko@db.com

Schedule I

SUBSIDIARIES OF BORROWER

Wholly-Owned Subsidiaries

Subsidiary	State of Incorporation/Formation
Subsidiaries of Beazer Homes USA, Inc.	
Beazer Homes Holdings Corp.	Delaware
Beazer Mortgage Corporation	Delaware
Homebuilders Title Services, Inc.	Delaware
Homebuilders Title Services of Virginia, Inc.	Virginia
Security Title Insurance Company	Vermont
Beazer Homes Capital Trust I[1]	Delaware
Subsidiaries of Beazer Homes Holdings Corp.	
April Corporation	Colorado
Beazer Allied Companies Holdings, Inc.	Delaware
Beazer General Services, Inc.	Delaware
Beazer Homes Corp.	Tennessee
Beazer Homes Sales, Inc.	Delaware
Beazer Homes Texas Holdings, Inc.	Delaware
Beazer Realty Los Angeles, Inc.	Delaware
Beazer Realty Sacramento, Inc	Delaware
Beazer SPE, LLC	Georgia

[1] Beazer Homes Capital Trust I is a statutory trust that the Borrower is the beneficiary of but does not exercise control over.

Subsidiaries of Beazer Homes Corp.	
Arden Park Ventures, LLC	Florida
Beazer Clarksburg, LLC	Maryland
Beazer Commercial Holdings, LLC	Delaware
Beazer Homes Investments, LLC	Delaware
Beazer Homes Michigan, LLC	Delaware
Beazer Realty Corp.	Georgia
Beazer Realty, Inc	New Jersey
Beazer/Squires Realty, Inc.	North Carolina
Dove Barrington Development LLC	Delaware
Elysian Heights Potomia, LLC	Virginia
Ridings Development LLC	Delaware
Subsidiaries of Beazer Homes Investments, LLC	
Beazer Homes Indiana Holdings Corp.	Delaware
Beazer Realty Services, LLC	Delaware
Paragon Title, LLC	Indiana
Subsidiaries of Beazer Homes Texas, L.P.	
BH Procurement Services, LLC	Delaware
Subsidiaries of Beazer Clarksburg, LLC	
Clarksburg Arora, LLC	Maryland
Subsidiaries of Clarksburg Arora, LLC	
Clarksburg Skylark, LLC	Maryland

Indirect Wholly-Owned Subsidiaries

Subsidiary	State of Incorporation/ Formation	% Ownership
Beazer Homes Indiana, LLP	Indiana	Beazer Homes Investments, LLC –98% Beazer Homes Indiana Holdings Corp. – 1% Beazer Homes Corp. – 1%
Beazer Homes Texas, L.P.	Delaware	Beazer Homes Texas Holdings, Inc. – 1% Beazer Homes Holdings Corp. – 99%
BH Building Products, LP	Delaware	Beazer Homes Texas, L.P. – 99% BH Procurement Services, LLC – 1%
Trinity Homes, LLC	Indiana	Beazer Homes Investments, LLC – 50% Beazer Homes Indiana LLP – 50%
United Home Insurance Company, A Risk Retention Group	Vermont	Beazer Homes Holdings Corp. – 26.50% Beazer Homes Texas Holdings, Inc. – 27.29% Beazer Homes Corp. – 46.22%

Exhibit A

FORM OF NOTE

$ _____ [ ]

FOR VALUE RECEIVED, the undersigned, BEAZER HOMES USA, INC., a Delaware corporation (the "Borrower"), HEREBY PROMISES TO PAY to the order of DEUTSCHE BANK AG CAYMAN ISLANDS BRANCH (the "Lender"), at the Lender's office located at Boundary Hall, Cricket Square PO Box 1984 Grand Cayman KY1-1104, Cayman Islands (or at such other office as the Lender may from time to time designate in writing), in lawful money of the United States and in immediately available funds, the principal amount of _____ Dollars ($_____) or the aggregate unpaid principal amount of all Loans made to the Borrower by the Lender pursuant to the Credit Agreement and outstanding on the Maturity Date, whichever is less, and to pay interest from the date of this Note, in like money, at said office for the account of the Lender's Lending Office, at the time and at a rate per annum as provided in the Credit Agreement. The Lender is hereby authorized by the Borrower, but is not required, to endorse on the schedule attached to this Note held by it the amount of each Loan and each continuation, and payment of principal amount received by the Lender for the account of its Lending Office on account of its Loans, which endorsement shall, in the absence of manifest error, be conclusive as to the outstanding balance of the Loans made by the Lender; provided, however, that the failure to make such notation with respect to any Loan or continuation or payment shall not limit or otherwise affect the obligations of the Borrower hereunder.

This Note is the Note referred to in, and is entitled to the benefits of, the Credit Agreement, dated as of November 16, 2010, between the Borrower and the Lender (which, as it may be amended, modified, renewed or extended from time to time, is herein called the "Credit Agreement"). Terms used herein which are defined in the Credit Agreement shall have their defined meanings when used herein. The Credit Agreement, among other things, contains provisions for acceleration of the maturity of this Note upon the happening of certain stated events and also for prepayments on account of principal hereof prior to the maturity of this Note upon the terms and conditions specified in the Credit Agreement.

The Borrower hereby agrees to pay all reasonable costs and expenses (including reasonable attorney's fees and expenses) paid or incurred by the holder of this Note in the collection of any principal or interest payable under this Note or the enforcement of this Note or any other Loan Documents.

This Note shall be governed by and construed in accordance with the laws of the State of New York, without regard to principles of conflict of law (other than Section 5-1401 of the General Obligations Law of the State of New York).

BEAZER HOMES USA, INC.

By: _____

Name:
Title:

SCHEDULE TO NOTE

Date Made or Paid	Amount of Principal Paid	Unpaid Principal Balance of Note	Name of Person Making Notation

Exhibit B

FORM OF CERTIFICATE FOR BORROWING

This Certificate is delivered pursuant to the Credit Agreement dated as of November 16, 2010 between Beazer Homes USA, Inc. and Deutsche Bank AG Cayman Islands Branch (as amended, supplemented, or modified from time to time, the "Credit Agreement"). Unless otherwise defined herein, capitalized terms are used herein as defined in the Credit Agreement. This certification is delivered in connection with a notice requesting a Borrowing under Section 2.02 of the Credit Agreement.

The Borrower hereby requests a Borrowing of $[ ] under the Credit Agreement to be made on [ ], 201__.

The undersigned, in his/her capacity as [_____] of the Borrower, hereby certifies as follows:

1. The representations and warranties contained in Article IV of the Credit Agreement are correct in all material respects on and as of the date of such Borrowing as though made on and as of such date except to the extent that any such representation or warranty is stated to relate solely to an earlier date, in which case such representation or warranty is correct in all material respects as of such earlier date.

2. No Default or Event of Default has occurred and is continuing and would result from such Borrowing.

3. Both before and after giving effect to such Borrowing, the Borrower will be Solvent.

IN WITNESS WHEREOF, the undersigned has executed this Certificate as an officer of the Borrower, and not in the undersigned's individual capacity, as of the __ day of _____, 201__.

By: _____
Name:
Title: [ ] of Beazer Homes USA, Inc.