

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

FORM 8-K

CURRENT REPORT

PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

Date of Report (Date of earliest event reported): September 11, 2019

**APOLLO MEDICAL HOLDINGS, INC.**

(Exact name of registrant as specified in its charter)

Delaware  
(State or Other Jurisdiction  
of Incorporation)

001-37392  
(Commission File  
Number)

95-4472349  
(I.R.S. Employer  
Identification Number)

1668 S. Garfield Avenue, 2nd Floor, Alhambra, CA 91801  
(Address of principal executive offices) (zip code)

(626) 282-0288  
(Registrant's telephone number, including area code)

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

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

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

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

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock	AMEH	Nasdaq Capital Market

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (17 CFR §230.405) or Rule 12b-2 of the Securities Exchange Act of 1934 (17 CFR §240.12b-2). Emerging growth company

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

## EXPLANATORY NOTE

On May 13, 2019, Apollo Medical Holdings, Inc., a Delaware corporation (the “Company”) filed a Current Report on Form 8-K regarding events triggering disclosure under Items 1.01, 2.03, 3.02 and 3.03 of Form 8-K (the “May 13, 2019 Current Report”). On August 29, 2019, the Company filed a Current Report on Form 8-K updating information in the May 13, 2019 Current Report as it relates to amendments to the agreements and related changes triggering disclosure under Items 1.01, 2.03, 3.02 and 3.03 of Form 8-K (the “August 29, 2019 Current Report”). In addition to providing disclosure required by Item 1.01 related to a newly-established term loan and revolving credit facility and entry into those certain agreements that were executed on the closing date of the transactions described in those earlier Current Reports, this Current Report on Form 8-K updates information previously provided in the May 13, 2019 Current Report and the August 29, 2019 Current Report. Terms not defined in this Current Report on Form 8-K are defined in the May 13, 2019 Current Report or the August 29, 2019 Current Report.

### **Item 1.01 Entry into a Material Definitive Agreement**

#### **Secured Credit Agreement**

As contemplated in the May 13, 2019 Current Report and the Company’s definitive proxy statement for its August 27, 2019 special meeting of stockholders, which was filed with the SEC on July 31, 2019 (the “Proxy Statement”), on September 11, 2019, Apollo Medical Holdings, Inc. (the “Company”) entered into a secured credit agreement (the “Credit Agreement”) with SunTrust Bank, in its capacity as administrative agent for the lenders (in such capacity, the “Agent”), as a lender, an issuer of letters of credit and as swingline lender, and Preferred Bank, JPMorgan Chase Bank, N.A., MUFG Union Bank, N.A., Royal Bank of Canada, Fifth Third Bank and City National Bank, as lenders (the “Lenders”). In connection with the closing of the Credit Agreement, the Company, its subsidiary, Network Medical Management, Inc. (“NMM”), and the Agent entered into a Guaranty and Security Agreement (the “Guaranty and Security Agreement”), pursuant to which, among other things, NMM guaranteed the obligations of the Company under the Credit Agreement.

The Credit Agreement provides for a five-year revolving credit facility to the Company of \$100,000,000, which includes a letter of credit subfacility of up to \$25,000,000. The Credit Agreement also provides for a term loan of \$190,000,000. The unpaid principal amount of the term loan is payable in quarterly installments on the last day of each fiscal quarter commencing on December 31, 2019. The principal payment for each of the first eight fiscal quarters is \$2,375,000, for the following eight fiscal quarters is \$3,562,000 and for the following three fiscal quarters is \$4,750,000. The remaining principal payment on the term loan is due on September 11, 2024.

The proceeds of the term loan and up to \$60,000,000 of the revolving credit facility may be used to (i) finance a portion of the \$545,000,000 loan made by the Company to AP-AMH Medical Corporation, a California professional medical corporation (“AP-AMH”), concurrently with the closing of the Credit Agreement (the “AP-AMH Loan”) as described in the May 13, 2019 Current Report and the August 29, 2019 Current Report, (ii) refinance certain indebtedness of the Company and its subsidiaries and, indirectly, Allied Physicians of California, a Professional Medical Corporation, a California professional medical corporation (“APC”), (iii) pay transaction costs and expenses arising in connection with the Credit Agreement, the AP-AMH Loan and certain other related transactions and (iv) provide for working capital, capital expenditures and other general corporate purposes. The remainder of the revolving credit facility will be used to finance future acquisitions and investments and to provide for working capital needs, capital expenditures and other general corporate purposes.

The Company is required to pay an annual facility fee of 0.20 percent to 0.35 percent on the available commitments under the Credit Agreement, regardless of usage, with the applicable fee determined on a quarterly basis based on the Company’s leverage ratio. The Company is also required to pay customary fees as specified in a separate fee agreement between the Company and SunTrust Robinson Humphrey, Inc., the lead arranger of the Credit Agreement.

Amounts borrowed under the Credit Agreement will bear interest at an annual rate equal to either, at the Company’s option, (a) the rate for Eurocurrency deposits for the corresponding deposits of U.S. dollars appearing on Reuters LIBOR01screen page (“LIBOR”), adjusted for any reserve requirement in effect, plus a spread of from 2.00 to 3.00 percent, as determined on a quarterly basis based on the Company’s leverage ratio, or (b) a base rate, plus a spread of 1.00 percent to 2.00 percent, as determined on a quarterly basis based on the Company’s leverage ratio. The base rate is defined in a manner such that it will not be less than LIBOR. The Company will pay fees for standby letters of credit at an annual rate equal to 2.00 percent to 3.00 percent, as determined on a quarterly basis based on the Company’s leverage ratio, plus facing fees and standard fees payable to the issuing bank on the respective letter of credit. Loans outstanding under the Credit Agreement may be prepaid at any time without penalty, except for LIBOR breakage costs and expenses. If LIBOR ceases to be reported, the Credit Agreement requires the Company and the Agent to endeavor to establish a commercially reasonable alternative rate of interest and until they are able to do so, all borrowings must be at the base rate.

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The Credit Agreement requires the Company and its subsidiaries to comply with various affirmative covenants, including, without limitation, furnishing updated financial and other information, preserving existence and entitlements, maintaining properties and insurance, complying with laws, maintaining books and records, requiring any new domestic subsidiary meeting a materiality threshold specified in the Credit Agreement to become a guarantor thereunder and paying obligations. The Credit Agreement requires the Company and its subsidiaries to comply with, and to use commercially reasonable efforts to the extent permitted by law to cause certain material associated practices of the Company, including APC, to comply with, restrictions on liens, indebtedness and investments (including restrictions on acquisitions by the Company), subject to specified exceptions. The Credit Agreement also contains various other negative covenants binding the Company and its subsidiaries, including, without limitation, restrictions on fundamental changes, dividends and distributions, sales and leasebacks, transactions with affiliates, burdensome agreements, use of proceeds, maintenance of business, amendments of organizational documents, accounting changes and prepayments and modifications of subordinated debt.

The Credit Agreement requires the Company to comply with two key financial ratios, each calculated on a consolidated basis. The Company must maintain a maximum consolidated leverage ratio of not greater than 3.75 to 1.00 as of the last day of each fiscal quarter. The maximum consolidated leverage ratio decreases by 0.25 each year, until it is reduced to 3.00 to 1.00 for each fiscal quarter ending after September 30, 2022. The Company must maintain a minimum consolidated interest coverage ratio of not less than 3.25 to 1.00 as of the last day of each fiscal quarter.

Pursuant to the Guaranty and Security Agreement, the Company and NMM have granted the Lenders a security interest in all of their assets, including, without limitation, all stock and other equity issued by their subsidiaries (including NMM) and all rights with respect to the AP-AMH Loan. The Guaranty and Security Agreement requires the Company and NMM to comply with various affirmative and negative covenants, including, without limitation, covenants relating to maintaining perfected security interests, providing information and documentation to the Agent, complying with contractual obligations relating to the collateral, restricting the sale and issuance of securities by their respective subsidiaries and providing the Agent access to the collateral.

The Credit Agreement contains events of default, including, without limitation, failure to make a payment when due, default on various covenants in the Credit Agreement, breach of representations or warranties, cross-default on other material indebtedness, bankruptcy or insolvency, occurrence of certain judgments and certain events under the Employee Retirement Income Security Act of 1974 aggregating more than \$10,000,000, invalidity of the loan documents, any lien under the Guaranty and Security Agreement ceasing to be valid and perfected, any change in control, as defined in the Credit Agreement, an event of default under the AP-AMH Loan, failure by APC to pay dividends in cash for any period of two consecutive fiscal quarters, failure by AP-AMH to pay cash interest to the Company, or if any modification is made to the Certificate of Determination or the Special Purpose Shareholder Agreement that directly or indirectly restricts, conditions, impairs, reduces or otherwise limits the payment of the Series A Preferred dividend by APC to AP-AMH. In addition, it will constitute an event of default under the Credit Agreement if APC uses all or any portion of the consideration received by APC from AP-AMH on account of AP-AMH's purchase of Series A Preferred Stock for any purpose other than certain specific approved uses described in the following sentence, unless not less than 50.01% of all holders of common stock of APC at such time approve such use; provided that APC may use up to \$50,000,000 in the aggregate of such consideration for any purpose without any requirement to obtain such approval of the holders of common stock of APC. The approved uses include (i) any permitted investment, (ii) any dividend or distribution to the holders of the common stock of APC, (iii) any repurchase of common stock of APC, (iv) paying taxes relating to or arising from certain assets and transactions, or (v) funding losses, deficits or working capital support on account of certain non-healthcare assets in an amount not to exceed \$125,000,000. If any event of default occurs and is continuing under the Credit Agreement, the Lenders may terminate their commitments, and may require the Company and its guarantors to repay outstanding debt and/or to provide a cash deposit as additional security for outstanding letters of credit. In addition, the Agent, on behalf of the Lenders, may pursue remedies under the Guaranty and Security Agreement, including, without limitation, transferring pledged securities of the Company's subsidiaries in the name of the Agent and exercising all rights with respect thereto (including the right to vote and to receive dividends), collect on pledged accounts, instruments and other receivables (including the AP-AMH Loan), and all other rights provided by law or under the loan documents and the AP-AMH Loan.

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In the ordinary course of business, certain of the Lenders under the Credit Agreement and their affiliates have provided to the Company and its subsidiaries and the associated practices, and may in the future provide, (i) investment banking, commercial banking (including pursuant to certain existing business loan and credit agreements being terminated in connection with entering into the Credit Agreement), cash management, foreign exchange or other financial services, and (ii) services as a bond trustee and other trust and fiduciary services, for which they have received compensation and may receive compensation in the future.

The foregoing summary of the material terms of the Credit Agreement and the Guaranty and Security Agreement are qualified in its entirety by reference to the Credit Agreement and the Guaranty and Security Agreement, copies of which are filed as Exhibits 10.1 and 10.2 to this Current Report on Form 8-K and are incorporated herein by reference.

#### **Agreements Entered into at the Closing of the APC Transactions**

(1) Security Agreement

As contemplated in the description of the APC Transactions set forth in the May 13, 2019 Current Report and the Proxy Statement, on September 11, 2019, in connection with the AP-AMH Loan, the Company and AP-AMH entered into the Security Agreement under the terms of which AP-AMH granted the Company a first priority security interest in the designated collateral to secure AP-AMH's payment and performance under the Loan Agreement.

(2) Voting and Registration Rights Agreement

On September 11, 2019, the Company and APC entered into the Voting and Registration Rights Agreement initially summarized in the May 13, 2019 Current Report. In the August 29, 2019 Current Report, in connection with the disclosure that the Company and APC had entered into the First Amendment to Stock Purchase Agreement and filing of such amended agreement as an exhibit, a revised form of Voting and Registration Rights Agreement was attached thereto. As set forth in the August 29, 2019 Current Report and as had previously been described in the Proxy Statement, the Company and APC agreed to change the manner in which the shares of the Company's common stock owned by APC would be voted. Pursuant to the Voting and Registration Rights Agreement, APC is eligible to vote its shares up to 9.99% of the then-outstanding shares. APC will be required to grant its proxy to the Company's management to vote any shares of the Company's voting securities in excess of 9.99%, and management will vote those shares in the same proportion as all other votes cast on the matters voted thereon. The Voting and Registration Rights Agreement executed on September 11, 2019 did not deviate from the agreement as amended by the First Amendment to the Stock Purchase Agreement.

The foregoing summaries of the material terms of the Security Agreement and the Voting and Registration Rights Agreement are qualified in their entirety by reference to the Security Agreement and the Voting and Registration Rights Agreement, copies of which are filed as Exhibits 10.7 and 10.9, respectively, to this Current Report on Form 8-K and are incorporated herein by reference.

The information contained in Item 8.01 of this Current Report on Form 8-K with respect to the amended agreements entered into by the Company and/or its affiliated entities in connection with the closing of the APC Transactions is incorporated by reference into this Item 1.01.

#### **Item 1.02 Termination of a Material Definitive Agreement**

On or about September 11, 2019, the Business Loan Agreement, dated as of June 14, 2018, between NMM and Preferred Bank, as amended, and the Line of Credit Agreement, dated as of September 5, 2018, between NMM and Preferred Bank, as amended, terminated in connection with entering into the Credit Agreement. Preferred Bank is a Lender under the Credit Agreement. Certain letters of credit issued by Preferred Bank under the Line of Credit Agreement survived termination of that agreement and have become letters of credit issued under the Credit Agreement.

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

The information contained in Item 1.01 and Item 8.01 of this Current Report on Form 8-K is incorporated by reference into this Item 2.03.

#### **Item 3.02 Unregistered Sales of Equity Securities**

At the September 11, 2019 closing of the APC Transactions, as more fully described in Item 8.01, below, the Company issued to APC a total of 15,015,015 shares of its authorized and unissued common stock for aggregate purchase consideration of \$300,000,000, the per share price of \$19.98 having been determined at the time of execution of the Stock Purchase Agreement on May 10, 2019. The consideration for the shares was paid through an offset against \$300,000,000 of the purchase price paid by AP-AMH for its purchase of APC Series A Preferred Stock. The transaction was exempt from the registration requirements of the Securities Act of 1933, as amended, pursuant to Section 4(a)(2) thereof and Rule 506(b) of Regulation D promulgated thereunder, applicable to transactions by an issuer not involving any public offering.

#### **Item 3.03 Material Modification of Rights of Security Holders**

The information contained in Item 1.01 and Item 8.01 of this Current Report on Form 8-K is incorporated by reference into this Item 3.03.

#### **Item 7.01 Regulation FD Disclosure**

On September 11, 2019, the Company issued a press release announcing the closing of its \$290,000,000 credit facility and the series of interrelated transactions with two of its affiliates, AP-AMH and APC, the summary details of which are set forth in Item 1.01 and Item 8.01 of this Current Report on Form 8-K.

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## Item 8.01 Other Events

### A. Amendment to APC's Business Loan Agreement with Preferred Bank

On September 10, 2019, APC entered into a Change in Terms Agreement with Preferred Bank (the "Change in Terms Agreement") amending the Business Loan Agreement, dated as of April 7, 2017, between APC and Preferred Bank, as amended (the "APC Business Loan Agreement"). The Change in Terms Agreement reduced the principal amount outstanding under the APC Business Loan Agreement from \$43,800,000 to \$4,105,016, which reduced amount represented the aggregate amount of APC's existing standby letters of credit as of September 10, 2019. The Change in Terms Agreement further limited the purpose of the indebtedness under the APC Business Loan Agreement to the issuance of standby letters of credit, and added as a permitted lien the security interest in all of its assets granted by APC in favor of NMM under a Security Agreement dated on or about September 11, 2019 securing APC's obligations to NMM under, and as required pursuant to, that certain Management Services Agreement dated as of July 1, 1999, as amended.

### B. Closing of the Transactions among the Company and Certain Affiliated Entities

On September 11, 2019, the Company, AP-AMH, APC and NMM concurrently closed the series of inter-connected transactions previously described in the May 13, 2019 Current Report, the August 29, 2019 Current Report and the Proxy Statement (the "APC Transactions"). The closing included the following events:

- The Company loaned AP-AMH \$545,000,000 pursuant to a ten-year secured loan agreement. The loan bears interest at a rate of 10% per annum simple interest, is not prepayable (except in certain limited circumstances), requires quarterly payments of interest only in arrears and is secured by a first priority security interest in all of AP-AMH's assets, including the shares of APC Series A Preferred Stock to be acquired by AP-AMH. To the extent that AP-AMH is unable to make any interest payment when due because it has received dividends on the APC Series A Preferred Stock insufficient to pay in full such interest payment, then the outstanding principal amount of the loan will be increased by the amount of any such accrued but unpaid interest, and any such increased principal amounts will bear interest at the rate of 10.75% per annum simple interest.
  - AP-AMH purchased 1,000,000 shares of APC Series A Preferred Stock for total aggregate consideration of \$545,000,000 in a private placement. Under the terms of the APC Certificate of Determination of Preferences of Series A Preferred Stock (the "Certificate of Determination"), AP-AMH is entitled to receive preferential, cumulative dividends that accrue on a daily basis and that are equal to the sum of (i) APC's net income from Healthcare Services (as defined in the Certificate of Determination), plus (ii) any dividends received by APC from certain of APC's affiliated entities, less (iii) any Retained Amounts (as defined in the Certificate of Determination).
  - APC purchased 15,015,015 shares of the Company's common stock for total consideration of \$300,000,000 in a private placement. In connection therewith, the Company granted APC certain registration rights with respect to the Company's common stock that APC purchased, and APC agreed that APC votes in excess of 9.99% of the Company's then outstanding shares will be voted by proxy given to the Company's management, and that those proxy holders will cast the excess votes in the same proportion as all other votes cast on any specific proposal coming before the Company's stockholders.
  - The Company licensed to AP-AMH the right to use certain tradenames for certain specified purposes for a fee equal to a percentage of the aggregate gross revenues of AP-AMH. The license fee is payable out of any Series A Preferred Stock dividends received by AP-AMH from APC.
  - Through its subsidiary, NMM, the Company will provide certain administrative services to AP-AMH for a fee equal to a percentage of the aggregate gross revenues of AP-AMH. The administrative fee also is payable out of any APC Series A Preferred Stock dividends received by AP-AMH from APC.
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### C. Certain Amendments to APC Transactions Agreements

In connection with closing the APC Transactions, the Company and/or its affiliated entities entered into the Second Amendment to Series A Preferred Stock Purchase Agreement, Second Amendment to Loan Agreement, First Amendment to Special Purpose Shareholder Agreement, First Amendment to Tradename Licensing Agreement and First Amendment to Administrative Services Agreement. Each of these amendments, while not material to the Company, document clarifications of certain terms of the original agreements discussed in some detail in the Proxy Statement, including the following:

- With respect to the Second Amendment to the Series A Preferred Stock Purchase Agreement and the Second Amendment to the Loan Agreement, the definition of “Excluded Assets” in APC’s Certificate of Determination has been clarified;
- With respect to the First Amendment to the Special Purpose Shareholder Agreement, the text of the executed Certificate of Determination (Exhibit 10.8 hereto) replaced the original Exhibit A; and
- With respect to the First Amendment to the Tradename Licensing Agreement and the First Amendment to the Administrative Services Agreement, the respective amendments provided clarity regarding the treatment of any unpaid tradename license fee or administrative fee, respectively, in the event AP-AMH were to receive Series A Dividends insufficient to pay the full tradename license fee or the administrative fee to the Company when due and specified the applicable percentages used in calculating the applicable fees.

Copies of these amended agreements are filed as exhibits to this Current Report on Form 8-K as Exhibits 10.3, 10.4, 10.5, 10.6 and 10.10, respectively, and APC’s Certificate of Determination is filed as Exhibit 10.8, all of which are incorporated herein by reference.

### Item 9.01 Financial Statements and Exhibits

(d) Exhibits

<u>Exhibit</u>	<u>Description</u>
<u>10.1</u>	<u><a href="#">Credit Agreement dated as of September 11, 2019, by and among Apollo Medical Holdings, Inc., as Borrower, the Lenders from time to time party thereto, and SunTrust Bank, in its capacity as administrative agent for the Lenders, as issuing bank and as swingline lender</a></u>
<u>10.2</u>	<u><a href="#">Guaranty and Security Agreement dated as of September 11, 2019, by and among Apollo Medical Holdings, Inc., as Borrower, and Network Medical Management, Inc., as Guarantor, in favor of SunTrust Bank, as administrative agent for the Secured Parties</a></u>
<u>10.3</u>	<u><a href="#">Second Amendment to Series A Stock Purchase Agreement dated as of September 9, 2019, by and between Allied Physicians of California, a Professional Medical Corporation and AP-AMH Medical Corporation, a California professional medical corporation</a></u>
<u>10.4</u>	<u><a href="#">First Amendment to Special Purpose Shareholder Agreement, dated as of September 11, 2019, by and between Allied Physicians of California, a Professional Medical Corporation and AP-AMH Medical Corporation, a California professional medical corporation</a></u>
<u>10.5</u>	<u><a href="#">First Amendment to Tradename Licensing Agreement, dated as of September 10, 2019, by and between Apollo Medical Holdings, Inc., a Delaware corporation, and AP-AMH Medical Corporation, a California professional medical corporation</a></u>
<u>10.6</u>	<u><a href="#">First Amendment to Administrative Services Agreement, dated as of September 10, 2019, by and between Network Medical Management, Inc., a California corporation, and AP-AMH Medical Corporation, a California professional medical corporation</a></u>
<u>10.7</u>	<u><a href="#">Security Agreement, dated as of September 11, 2019, by and between Apollo Medical Holdings, Inc., a Delaware corporation, and AP-AMH Medical Corporation, a California professional medical corporation</a></u>
<u>10.8</u>	<u><a href="#">Certificate of Determination of Preferences of Series A Preferred Stock of Allied Physicians of California, a Professional Medical Corporation</a></u>
<u>10.9</u>	<u><a href="#">Voting and Registration Rights Agreement, dated as of September 11, 2019, by and between Apollo Medical Holdings, Inc., a Delaware corporation, and Allied Physicians of California, a Professional Medical Corporation</a></u>
<u>10.10</u>	<u><a href="#">Second Amendment to Loan Agreement, dated September 11, 2019, by and between Apollo Medical Holdings, Inc., a Delaware corporation, and AP-AMH Medical Corporation, a California professional medical corporation</a></u>
<u>99.1</u>	<u><a href="#">Press release of Apollo Medical Holdings, Inc., dated September 11, 2019*</a></u>

\* This exhibit shall not be deemed “filed” for purposes of Section 18 of the Securities Exchange Act of 1934, as amended, nor shall it be deemed incorporated by reference in any filing under the Securities Act of 1933, as amended, except as shall be expressly set forth by specific reference in such filing.

**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.

**APOLLO MEDICAL HOLDINGS, INC.**

Dated: September 12, 2019

By: /s/ Thomas S. Lam, M.D.

Name: Thomas S. Lam, M.D.

Title: Chief Executive Officer

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**CREDIT AGREEMENT**

**dated as of September 11, 2019**

**among**

**APOLLO MEDICAL HOLDINGS, INC.**  
as Borrower

**THE LENDERS FROM TIME TO TIME PARTY HERETO**

and

**SUNTRUST BANK**  
as Administrative Agent

**SUNTRUST ROBINSON HUMPHREY, INC.**

**JPMORGAN CHASE BANK, N.A.**

**PREFERRED BANK**

**MUFG UNION BANK, N.A.**

**AND**

**ROYAL BANK OF CANADA**

as Joint Lead Arrangers

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## CREDIT AGREEMENT

This CREDIT AGREEMENT (this “Credit Agreement”) is made and entered into as of September 11, 2019, by and among APOLLO MEDICAL HOLDINGS, INC., a Delaware corporation (the “Borrower”), those several banks and other financial institutions and lenders from time to time party hereto (the “Lenders”), and SUNTRUST BANK, in its capacity as administrative agent for the Lenders (the “Administrative Agent”), as issuing bank (the “Issuing Bank”) and as swingline lender (the “Swingline Lender”).

### WITNESSETH:

**WHEREAS**, the Borrower has requested that the Lenders (a) establish a \$100,000,000 revolving credit facility in favor of, and (b) make term loans in an aggregate principal amount equal to \$190,000,000 to, the Borrower; and

**WHEREAS**, subject to the terms and conditions of this Agreement, the Lenders, the Issuing Bank and the Swingline Lender, to the extent of their respective Commitments as defined herein, are willing severally to establish the requested revolving credit facility, letter of credit subfacility and swingline subfacility in favor of and severally to make the term loans to the Borrower;

**NOW, THEREFORE**, in consideration of the premises and the mutual covenants herein contained, the Borrower, the Lenders, the Administrative Agent, the Issuing Bank and the Swingline Lender agree as follows:

## ARTICLE I

### DEFINITIONS: CONSTRUCTION

**Section 1.1 Definitions.** In addition to the other terms defined herein, the following terms used herein shall have the meanings herein specified (to be equally applicable to both the singular and plural forms of the terms defined):

“Acquisition” shall mean (a) any Investment by the Borrower or any of its Subsidiaries in any other Person organized in the United States (with substantially all of the assets of such Person and its Subsidiaries located in the United States), pursuant to which such Person shall become a Subsidiary of the Borrower or any of its Subsidiaries or shall be merged with the Borrower or any of its Subsidiaries or (b) any acquisition by the Borrower or any of its Subsidiaries of the assets of any Person (other than a Subsidiary of the Borrower) that constitute all or substantially all of the assets of such Person or a division or business unit of such Person, whether through purchase, merger or other business combination or transaction (and all or substantially all of such assets, division or business unit are located in the United States).

“Additional Lender” shall have the meaning set forth in Section 2.23.

“Adjusted LIBO Rate” shall mean, with respect to each Interest Period for a Eurodollar Loan, (i) the rate *per annum* equal to the London interbank offered rate for deposits in Dollars appearing on Reuters screen page LIBOR 01 (or on any successor or substitute page of such service or any successor to such service, or such other commercially available source providing such quotations as may be designated by the Administrative Agent from time to time) at approximately 11:00 A.M. (London time) two (2) Business Days prior to the first day of such Interest Period, with a maturity comparable to such Interest Period (provided that if such rate is less than zero, such rate shall be deemed to be zero), divided by (ii) a percentage equal to 100% minus the then stated maximum rate of all reserve requirements (including any marginal, emergency, supplemental, special or other reserves and without benefit of credits for proration, exceptions or offsets that may be available from time to time) expressed as a decimal (rounded upward to the next 1/100th of 1%) applicable to any member bank of the Federal Reserve System in respect of Eurocurrency liabilities as defined in Regulation D (or any successor category of liabilities under Regulation D); provided that if the rate referred to in clause (i) above is not available at any such time for any reason, then the rate referred to in clause (i) shall instead be the interest rate *per annum*, as determined by the Administrative Agent, to be the arithmetic average of the rates *per annum* at which deposits in Dollars in an amount equal to the amount of such Eurodollar Loan are offered by major banks in the London interbank market to the Administrative Agent at approximately 11:00 A.M. (London time), two (2) Business Days prior to the first day of such Interest Period. For purposes of this Agreement, the Adjusted LIBO Rate will not be less than zero percent (0%).

“Administrative Agent” shall mean SunTrust Bank, in its capacity as administrative agent under any of the Loan Documents, or any successor administrative agent.

“Administrative Questionnaire” shall mean, with respect to each Lender, an administrative questionnaire in the form provided by the Administrative Agent and submitted to the Administrative Agent duly completed by such Lender.

“Administrative Services Agreement” shall mean that certain Administrative Services Agreement, dated as of May 10, 2019 and effective as of September 11, 2019, between NMM and AP-AMH.

“Affiliate” shall mean, with respect to any Person, another Person that directly, or indirectly through one or more intermediaries, Controls, is Controlled by, or is under common Control with, the specified Person. For the purposes of this definition, “Control” shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ability to exercise voting power, by control or otherwise. The terms “Controlling” and “Controlled” have meanings correlative thereto. Associated Practices shall be deemed not to be an Affiliate of any Loan Party or any Subsidiary thereof.

“Aggregate Revolving Commitment Amount” shall mean the aggregate principal amount of the Aggregate Revolving Commitments from time to time. On the Closing Date, the Aggregate Revolving Commitment Amount is \$100,000,000.

“Aggregate Revolving Commitments” shall mean, collectively, all Revolving Commitments of all Lenders at any time outstanding.

“Alpha Care” shall mean Alpha Care Medical Group, Inc., a California professional corporation.

“Anti-Corruption Laws” shall mean all laws, rules and regulations of any jurisdiction applicable to the Borrower or its Subsidiaries concerning or relating to bribery or corruption.

“APC” shall mean Allied Physicians of California, a Professional Medical Corporation, a California professional medical corporation, doing business as Allied Pacific IPA.

“APC Approved Use” shall mean, collectively, (i) any Permitted Investment, (ii) any dividend or distribution to the holders of the common Capital Stock of APC, (iii) any repurchase of common Capital Stock of APC from the holders thereof, (iv) to pay any Taxes relating to or arising from any of the Excluded Assets or Related Transactions, or (v) to fund losses, deficits or working capital support on account of the Excluded Assets in an amount not to exceed \$125,000,000.

“APC Excluded Asset Account” has the meaning in the defined term “APC Excluded Assets”.

“APC Excluded Assets” shall mean the “Excluded Assets” as defined in the Certificate of Determination (as in effect on the Closing Date);provided that net cash proceeds received by APC in connection with the Related Transactions (including cash proceeds from the sale or assignment of Capital Stock of the Borrower by APC following the Closing Date) shall be included in “APC Excluded Assets” so long as held by APC and deposited in a segregated identifiable deposit account (the “APC Excluded Asset Account”).

“APC Non-Recourse Indebtedness” shall mean Indebtedness incurred by APC for which the holder of such Indebtedness has no recourse, directly or indirectly, to the Borrower, APC or any of their respective Subsidiaries or to any property (except as provided in the last sentence of this definition) of the Borrower, APC or any of their respective Subsidiaries in respect of all or any portion of such Indebtedness, and for which none of the Borrower, APC or any of their respective Subsidiaries are directly or indirectly liable for such Indebtedness. Notwithstanding the foregoing, Indebtedness of APC shall be “APC Non-Recourse Indebtedness” if the holder of such Indebtedness has recourse that is limited solely to one or more of the APC Excluded Assets in which a Lien has been granted therein by APC pursuant to Section 7.2(h).

“APC Performance Incentive Plan” shall mean the portion of APC’s net income from healthcare services in excess of the “Series A Preferred Dividend”, if any, that APC’s shareholders are entitled to retain pursuant to the Certificate of Determination.

“APC Shareholder Agreement” shall mean that certain Special Purpose Shareholder Agreement of Allied Physicians of California, a Professional Medical Corporation dated as of May 10, 2019 as in effect as of September 11, 2019.

“Applicable ECF Percentage” shall mean, as of any date of determination, (a) 50% if the Consolidated Total Net Leverage Ratio is greater than or equal to 2.25:1.00 as of such date, (b) 25% if the Consolidated Total Net Leverage Ratio is less than 2.25:1.00 and greater than or equal to 1.75:1.00 as of such date, and (c) 0% if the Consolidated Total Net Leverage Ratio is less than 1.75:1.00 as of such date.

“Applicable Lending Office” shall mean, for each Lender and for each Type of Loan, the “Lending Office” of such Lender (or an Affiliate of such Lender) designated for such Type of Loan in the Administrative Questionnaire submitted by such Lender or such other office of such Lender (or such Affiliate of such Lender) as such Lender may from time to time specify to the Administrative Agent and the Borrower as the office by which its Loans of such Type are to be made and maintained.

“Applicable Margin” shall mean, as of any date, with respect to interest on all Loans (including all Term Loans and all Revolving Loans) outstanding on such date, or the letter of credit fee, as the case may be, the percentage *per annum* determined by reference to the applicable Consolidated Total Net Leverage Ratio in effect on such date as set forth on Schedule I; provided that a change in the Applicable Margin resulting from a change in the Consolidated Total Net Leverage Ratio shall be effective on the second Business Day after which the Borrower delivers each of the financial statements required by Section 5.1(a) and (b) and the Compliance Certificate required by Section 5.1(c); provided, further, that if at any time the Borrower shall have failed to deliver such financial statements and such Compliance Certificate when so required, the Applicable Margin shall be at Pricing Level I as set forth on Schedule I until such time as such financial statements and Compliance Certificate are delivered, at which time the Applicable Margin shall be determined as provided above. Notwithstanding the foregoing, the Applicable Margin from the Closing Date until the date by which the financial statements and Compliance Certificate for the Fiscal Quarter ending December 31, 2019 are required to be delivered shall be at Pricing Level III as set forth on Schedule I. In the event that any financial statement or Compliance Certificate delivered hereunder is shown to be inaccurate (regardless of whether this Agreement or the Commitments are in effect when such inaccuracy is discovered), and such inaccuracy, if corrected, would have led to the application of a higher Applicable Margin based upon the pricing grid set forth on Schedule I (the “Accurate Applicable Margin”) for any period that such financial statement or Compliance Certificate covered, then (i) the Borrower shall immediately deliver to the Administrative Agent a correct financial statement or Compliance Certificate, as the case may be, for such period, (ii) the Applicable Margin shall be adjusted such that after giving effect to the corrected financial statement or Compliance Certificate, as the case may be, the Applicable Margin shall be reset to the Accurate Applicable Margin based upon the pricing grid set forth on Schedule I for such period and (iii) the Borrower shall immediately pay to the Administrative Agent, for the account of the Lenders, the accrued additional interest owing as a result of such Accurate Applicable Margin for such period. The provisions of this definition shall not limit the rights of the Administrative Agent and the Lenders with respect to Section 2.13(c) or Article VIII.



“Applicable Percentage” shall mean, as of any date, with respect to the Commitment Fee as of such date, the percentage *per annum* determined by reference to the Consolidated Total Net Leverage Ratio in effect on such date as set forth on Schedule I; provided that a change in the Applicable Percentage resulting from a change in the Consolidated Total Net Leverage Ratio shall be effective on the second Business Day after which the Borrower delivers each of the financial statements required by Section 5.1(a) and (b) and the Compliance Certificate required by Section 5.1(c); provided, further, that if at any time the Borrower shall have failed to deliver such financial statements and such Compliance Certificate when so required, the Applicable Percentage shall be at Pricing Level I as set forth on Schedule I until such time as such financial statements and Compliance Certificate are delivered, at which time the Applicable Percentage shall be determined as provided above. Notwithstanding the foregoing, the Applicable Percentage for the Commitment Fee from the Closing Date until the date by which the financial statements and Compliance Certificate for the Fiscal Quarter ending December 31, 2019 are required to be delivered shall be at Pricing Level III as set forth on Schedule I. In the event that any financial statement or Compliance Certificate delivered hereunder is shown to be inaccurate (regardless of whether this Agreement or the Commitments are in effect when such inaccuracy is discovered), and such inaccuracy, if corrected, would have led to the application of a higher Applicable Percentage based upon the pricing grid set forth on Schedule I (the “Accurate Applicable Percentage”) for any period that such financial statement or Compliance Certificate covered, then (i) the Borrower shall immediately deliver to the Administrative Agent a correct financial statement or Compliance Certificate, as the case may be, for such period, (ii) the Applicable Percentage shall be adjusted such that after giving effect to the corrected financial statement or Compliance Certificate, as the case may be, the Applicable Percentage shall be reset to the Accurate Applicable Percentage based upon the pricing grid set forth on Schedule I for such period and (iii) the Borrower shall immediately pay to the Administrative Agent, for the account of the Lenders, the accrued additional Commitment Fee owing as a result of such Accurate Applicable Percentage for such period. The provisions of this definition shall not limit the rights of the Administrative Agent and the Lenders with respect to Section 2.13(c) or Article VIII.

“Approved Entity” shall mean (i) AP-AMH or (ii) another entity with an executive officer of the Borrower serving as a “nominee shareholder” (including where the officer as a licensed physician, rather than the Borrower, serves as the shareholder of such entity on behalf of the Borrower or a Subsidiary of the Borrower in order to achieve certain corporate, regulatory and/or accounting treatment) and where such officer derives no direct financial benefit from such status.

“Approved Fund” shall mean any Person (other than a natural Person) that is (or will be) engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of its business and that is administered or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that administers or manages a Lender.

“AP-AMH” shall mean AP-AMH Medical Corporation, a California professional medical corporation.

“AP-AMH Loan” shall mean that certain \$545,000,000 loan made on the Closing Date by the Borrower to AP-AMH.

“AP-AMH Loan Documents” shall mean (a) that certain Loan Agreement, dated as of the Closing Date, by and between the Borrower and AP-AMH, as amended from time to time in accordance with the terms hereof and (b) that certain Security Agreement, dated as of the Closing Date, by AP-AMH in favor of the Borrower, as amended from time to time in accordance with the terms hereof.

“Arrangers” shall mean SunTrust Robinson Humphrey, Inc., JPMorgan Chase Bank, N.A., Preferred Bank, MUFG Union Bank, N.A. and Royal Bank of Canada, in their capacities as joint lead arrangers.

“Assignment and Acceptance” means an assignment and acceptance entered into by a Lender and an Eligible Assignee (with the consent of any party whose consent is required by Section 10.4(b)) and accepted by the Administrative Agent, in substantially the form of Exhibit A attached hereto or any other form approved by the Administrative Agent.

“Associated Practice” shall mean each professional entity or other Person (other than any Loan Party or Subsidiary thereof) that is (i) party to a Management Services Agreement with a Loan Party or (ii) an entity with an executive officer of the Borrower serving as a “nominee shareholder” (where the officer as a licensed physician, rather than the Borrower, serves as the shareholder of such entity on behalf of the Borrower, a Subsidiary of the Borrower or APC in order to achieve certain corporate, regulatory and/or accounting treatment) and where such officer derives no direct financial benefit from such status. Each Associated Practice that exists as of the Closing Date is described on Schedule 1.1(a).

“Associated Practice Documents” shall mean, collectively, the Management Services Agreements, the Administrative Services Agreement and the Transfer Restriction Agreements, in each case as the same may now or hereafter be in existence and be amended, restated, supplemented or otherwise modified from time to time to the extent not prohibited by this Agreement. Each Associated Practice Document that exists as of the Closing Date is described on Schedule 1.1(b).

“Availability Period” means the period from the Closing Date to but excluding the Revolving Commitment Termination Date.

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

“Bail-In Legislation” means, with respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union, the implementing law for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule.

“Bank Product Obligations” mean, collectively, all obligations and other liabilities of any Loan Party to any Bank Product Provider arising with respect to any Bank Products.

“Bank Product Provider” means any Person that, at the time it provides any Bank Product to any Loan Party, (i) is a Lender or an Affiliate of a Lender and (ii) except when the Bank Product Provider is SunTrust Bank and its Affiliates, has provided prior written notice to the Administrative Agent which has been acknowledged by the Borrower of (x) the existence of such Bank Product, (y) the maximum dollar amount of obligations arising thereunder (the “Bank Product Amount”) and (z) the methodology to be used by such parties in determining the obligations under such Bank Product from time to time. In no event shall any Bank Product Provider acting in such capacity be deemed a Lender for purposes hereof to the extent of and as to Bank Products except that each reference to the term “Lender” in Article IX and Section 10.3(b) shall be deemed to include such Bank Product Provider and in no event shall the approval of any such person in its capacity as Bank Product Provider be required in connection with the release or termination of any security interest or Lien of the Administrative Agent. The Bank Product Amount may be changed from time to time upon written notice to the Administrative Agent by the applicable Bank Product Provider. No Bank Product Amount may be established at any time that a Default or Event of Default exists.

“Bank Products” means any of the following services provided to any Loan Party by any Bank Product Provider: (a) any treasury or other cash management services, including deposit accounts, automated clearing house (ACH) origination and other funds transfer, depository (including cash vault and check deposit), zero balance accounts and sweeps, return items processing, controlled disbursement accounts, positive pay, lockboxes and lockbox accounts, account reconciliation and information reporting, payables outsourcing, payroll processing, trade finance services, investment accounts and securities accounts, and (b) card services, including credit cards (including purchasing cards and commercial cards), prepaid cards, including payroll, stored value and gift cards, merchant services processing, and debit card services.

“Base Rate” means for any day a rate *per annum* equal to the highest of (i) the rate of interest which the Administrative Agent announces from time to time as its prime lending rate, as in effect from time to time (the “Prime Rate”), (ii) the Federal Funds Rate, as in effect from time to time, plus 0.50%, (iii) the Adjusted LIBO Rate determined on a daily basis for an Interest Period of one (1) month, plus 1.00% (any changes in such rates to be effective as of the date of any change in such rate), and (iv) zero percent (0.00%). The Administrative Agent’s prime lending rate is a reference rate and does not necessarily represent the lowest or best rate actually charged to any customer. The Administrative Agent may make commercial loans or other loans at rates of interest at, above, or below the Administrative Agent’s prime lending rate. Any change in the Base Rate due to a change in the Prime Rate, the Federal Funds Rate, or the Adjusted LIBO Rate will be effective from and including the effective date of such change in the Prime Rate, the Federal Funds Rate, or the Adjusted LIBO Rate.

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

“Beneficial Ownership Regulation” means 31 C.F.R. § 1010.230.

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

“Borrower” shall have the meaning set forth in the introductory paragraph hereof.

“Borrowing” shall mean a borrowing consisting of (i) any Loans of the same Type and Class made, converted or continued on the same date and, in the case of Eurodollar Loans, as to which a single Interest Period is in effect or (ii) a Swingline Loan.

“Business Day” shall mean any day other than (i) a Saturday, Sunday or other day on which commercial banks in Atlanta, Georgia or New York are authorized or required by law to close and (ii) if such day relates to a Borrowing of, a payment or prepayment of principal or interest on, a conversion of or into, or an Interest Period for, a Eurodollar Loan or a notice with respect to any of the foregoing, any such day that is also a day on which dealings in Dollar deposits are not conducted by and between banks in the London interbank market.

“Capital Expenditures” shall mean, for any period, without duplication, (i) the additions to property, plant and equipment and other capital expenditures of the Borrower and its Subsidiaries that are (or would be) set forth on a consolidated statement of cash flows of the Borrower for such period prepared in accordance with GAAP and (ii) Capital Lease Obligations incurred by the Borrower and its Subsidiaries during such period.

“Capital Lease Obligations” of any Person shall mean all obligations of such Person to pay rent or other amounts under any lease (or other arrangement conveying the right to use) of real or personal property, or a combination thereof, which obligations are required to be classified and accounted for as capital leases on a balance sheet of such Person under GAAP, and the amount of such obligations shall be the capitalized amount thereof determined in accordance with GAAP; provided that any lease that is accounted for by any Person as an operating lease as of December 31, 2018 and any lease entered into after December 31, 2018 that would have been accounted for as an operating lease if such lease had been in effect on December 31, 2018 shall be accounted for as an operating lease and not as a Capital Lease Obligation.

“Capital Stock” shall mean all shares, options, warrants, general or limited partnership interests, membership interests or other equivalents (regardless of how designated) of or in a corporation, partnership, limited liability company or equivalent entity whether voting or nonvoting, including common stock, preferred stock or any other “equity security” (as such term is defined in Rule 3a11-1 of the General Rules and Regulations promulgated by the Securities and Exchange Commission under the Exchange Act).

“Cash Collateralize” shall mean, to pledge and deposit with or deliver to the Administrative Agent, for the benefit of an Issuing Bank or Swingline Lender (as applicable) and the Lenders, as collateral for L/C Obligations, Obligations in respect of Swingline Loans, or obligations of Lenders to fund participations in respect of either thereof (as the context may require), cash or deposit account balances or, if the applicable Issuing Bank or Swingline Lender benefitting from such collateral shall agree in its sole discretion, other credit support, in each case pursuant to documentation in form and substance satisfactory to (a) the Administrative Agent and (b) the applicable Issuing Bank or the Swingline Lender (as applicable). “Cash Collateral” shall have a meaning correlative to the foregoing and shall include the proceeds of such cash collateral and other credit support.

“Certificate of Determination” shall mean that certain Certificate of Determination of Preferences of Series A Preferred Stock of Allied Physicians of California, a Professional Medical Corporation dated as of May 10, 2019 as in effect as of September 11, 2019.

“Change in Control” means the occurrence of one or more of the following events: (i) the acquisition of ownership, directly or indirectly, beneficially or of record, by any Person (other than APC) or “group” (within the meaning of the Exchange Act and the rules of the Securities and Exchange Commission thereunder as in effect on the date hereof) of 35% or more of the outstanding shares of the Capital Stock of the Borrower entitled to vote generally for the election of members of the board of directors of the Borrower, (ii) during any period of 24 consecutive months, a majority of the members of the board of directors or other equivalent governing body of the Borrower cease to be composed of individuals who are Continuing Directors or (iii) the Borrower ceases to own, directly or indirectly, and control 100% (other than directors’ qualifying shares) of the Capital Stock of each Subsidiary Loan Party.

“Change in Law” shall mean the occurrence, after the Closing Date, of any of the following: (i) the adoption or taking effect of any law, rule, regulation or treaty, (ii) any change in any law, rule, regulation or treaty, or in the administration, interpretation, implementation or application thereof by any Governmental Authority, or (iii) the making or issuance of any request, rule, guideline or directive (whether or not having the force of law) of any Governmental Authority; provided that notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives in connection therewith and (y) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to be a “Change in Law”, regardless of the date enacted, adopted or issued.

“Class”, when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are Revolving Loans, Swingline Loans or Term Loans and when used in reference to any Commitment, refers to whether such Commitment is a Revolving Commitment, a Swingline Commitment or a Term Loan Commitment.

“Closing Date” shall mean the date on which the conditions precedent set forth in Section 3.1 and Section 3.2 have been satisfied or waived in accordance with Section 10.2.

“Closing Date Collateral Assignments” shall mean, collectively, (a) each collateral assignment of Associated Practice Documents made on the Closing Date by the applicable Loan Party in favor of the Administrative Agent pursuant to which such Loan Party has collaterally assigned in favor of the Administrative Agent, on behalf of the Secured Parties, all of its rights under the applicable Associated Practice Documents and (b) a collateral assignment made on the Closing Date by the Borrower in favor of the Administrative Agent pursuant to which the Borrower has collaterally assigned in favor of the Administrative Agent, on behalf of the Secured Parties, all of its rights under the applicable AP-AMH Loan Documents, (c) a collateral assignment of the Tradename Licensing Agreement made on the Closing Date by the Borrower in favor of the Administrative Agent pursuant to which the Borrower has collaterally assigned in favor of the Administrative Agent, on behalf of the Secured Parties, all of its rights under the Tradename Licensing Agreement, in each case in form an substance satisfactory to the Administrative Agent.

“CMS” shall mean the U.S. Centers for Medicare & Medicaid Services.

“Code” shall mean the Internal Revenue Code of 1986, as amended and in effect from time to time.

“Collateral” shall mean all tangible and intangible property, real and personal, of any Loan Party that is or purports to be the subject of a Lien to the Administrative Agent to secure the whole or any part of the Obligations or any Guarantee thereof, and shall include, without limitation, all casualty insurance proceeds and condemnation awards with respect to any of the foregoing.

“Collateral Assignments” shall mean, collectively, (a) each Closing Date Collateral Assignment and (b) any other collateral assignment of Associated Practice Documents made after the Closing Date as required pursuant to Sections 5.16 or 7.12, (c) any collateral assignment of a seller’s representations, warranties, covenants and indemnities made after the Closing Date as required in connection with any Permitted Acquisition or other Acquisition and (d) any collateral assignment of loan documents and other agreements as may be required in connection with any Future Approved Entity Investment.

“Collateral Documents” shall mean, collectively, the Guaranty and Security Agreement, any Real Estate Documents, the Control Account Agreements, the Collateral Assignments, the Perfection Certificate, all Copyright Security Agreements, all Patent Security Agreements, all Trademark Security Agreements and all other instruments and agreements now or hereafter securing or perfecting the Liens securing the whole or any part of the Obligations or any Guarantee thereof, all UCC financing statements, fixture filings and stock powers, and all other documents, instruments, agreements and certificates executed and delivered by any Loan Party to the Administrative Agent and the Lenders in connection with the foregoing.

“Commitment” shall mean a Revolving Commitment, a Swingline Commitment or a Term Loan Commitment or any combination thereof (as the context shall permit or require).

“Commodity Exchange Act” shall mean the Commodity Exchange Act (7 U.S.C. § 1 et seq.), as amended and in effect from time to time, and any successor statute.

“Compliance Certificate” shall mean a certificate from the principal executive officer or the principal financial officer of the Borrower in the form of, and containing the certifications set forth in, the certificate attached hereto as Exhibit 5.1(c).

“Consolidated EBITDA” shall mean, for the Borrower and its Subsidiaries for any period, determined on a consolidated basis (including, for the avoidance of doubt, all Associated Practices in accordance with Section 1.3(b)), an amount equal to the sum of:

(i) Consolidated Net Income for such period,

plus

(ii) to the extent reducing Consolidated Net Income for such period, and without duplication,

(A) Consolidated Interest Expense,

(B) income tax expense determined on a consolidated basis in accordance with GAAP,

(C) depreciation and amortization determined on a consolidated basis in accordance with GAAP,

(D) transaction costs and expenses incurred in connection with the Related Transactions and any Permitted Acquisition or Future Approved Entity Investment permitted hereunder that was consummated during such period,

(E) unusual, one-time or non-recurring charges and expenses, including restructuring charges, integration costs, retention, recruiting and relocation expenses and expenses arising from severance of employees or management and other non-recurring expenses not otherwise added back to Consolidated EBITDA, in each case incurred during such period, as certified by a Responsible Officer of the Borrower and acceptable to the Administrative Agent in its sole discretion; provided that the aggregate amount added back pursuant to this clause (E) for any period shall not exceed fifteen percent (15%) of Consolidated EBITDA for such period (calculated before giving effect to such add-back); and

(F) all other non-cash charges acceptable to the Administrative Agent in its sole discretion determined on a consolidated basis in accordance with GAAP, in each case for such period; provided that non-cash charges that are of the same type as those set forth and added-back in the lenders' presentation dated August 14, 2019 shall be deemed to be acceptable to the Administrative Agent,

less

(iii) to the extent increasing Consolidated Net Income for such period, and without duplication,

(A) unusual, one-time or non-recurring gains,

(B) non-cash gains, excluding any non-cash gains that represent the reversal of any accrual of, or cash reserve for, anticipated cash items in any prior period (other than any such accruals or cash reserves that have been added back to Consolidated Net Income in calculating Consolidated EBITDA in accordance with this definition);

(C) any Consolidated EBITDA representing the net income of any Person (other than the Borrower and its Subsidiaries) that is required to be consolidated in the financial statements of the Borrower and its Subsidiaries multiplied by the percentage of such Person's Capital Stock that is owned by a third party that is wholly unaffiliated with the Borrower and its Subsidiaries; and

(D) any Consolidated EBITDA representing any net income that is attributable to the owners of APC's Capital Stock pursuant to the APC Performance Incentive Plan;

provided that for purposes of calculating compliance with the financial covenants set forth in Article VI, to the extent that during such period an Acquisition was consummated (including any Acquisition by an Associated Practice, Permitted Acquisition by a Loan Party or other Acquisition approved in writing by the Required Lenders), or any sale, transfer or other disposition of any Person, business, property or assets (which shall be deemed to include any Associated Practice that ceased to be an Associated Practice during such period) occurred, Consolidated EBITDA shall be calculated on a Pro Forma Basis with respect to such Person, Associated Practice, business, property or assets so acquired or disposed of; provided, further that no payments or other amounts received by the Borrower or any Subsidiary from CMS pursuant to the "NextGen ACO shared savings program" shall be treated as unusual, one-time or non-recurring income or gains for purposes of calculating Consolidated EBITDA.

Notwithstanding the foregoing, Consolidated EBITDA for the Fiscal Quarters ended September 30, 2018, December 31, 2018, March 31, 2019 and June 30, 2019, shall be \$34,391,797, \$17,320,520, \$14,452,259 and \$18,926,213, respectively.

“Consolidated Excess Cash Flow” shall mean, without duplication, with respect to any Fiscal Year of the Borrower and its Subsidiaries, Consolidated Net Income, plus (a) depreciation, amortization, income taxes and Consolidated Interest Expense to the extent deducted in determining Consolidated Net Income, plus decreases or minus increases (as the case may be) in (b) Working Capital, minus (c) Unfinanced Cash Capital Expenditures during such Fiscal Year, minus (d) interest expense paid in cash and scheduled principal payments paid in cash in respect of Consolidated Total Net Debt (excluding prepayments of Revolving Loans and Swingline Loans), plus (in the case of gains) or minus (in the case of losses) (e) extraordinary gains or losses which are cash items not included in the calculation of Consolidated Net Income minus (f) income taxes paid in cash, except to the extent such income taxes were deducted from Consolidated Excess Cash Flow for a prior Fiscal Year as a reserve, minus (g) the income attributable to any Person (other than the Borrower and its Subsidiaries) that was consolidated in the financial statements of the Borrower and its Subsidiaries multiplied by the percentage of such Person’s Capital Stock that is owned by a third party that is wholly unaffiliated with the Borrower and its Subsidiaries, minus (h) payments made (or deemed to be made) to the owners of APC’s Capital Stock pursuant to the APC Performance Incentive Plan.

“Consolidated Interest Coverage Ratio” shall mean, as of any date, the ratio of (i) Consolidated EBITDA for the four consecutive Fiscal Quarters ending on or immediately prior to such date for which financial statements are required to have been delivered under this Agreement to (ii) Consolidated Interest Expense for the four consecutive Fiscal Quarters ending on or immediately prior to such date for which financial statements are required to have been delivered under this Agreement.

“Consolidated Interest Expense” shall mean, for the Borrower and its Subsidiaries for any period, determined on a consolidated basis in accordance with GAAP, the sum of (i) total interest expense, including, without limitation, the interest component of any payments in respect of Capital Lease Obligations, capitalized or expensed during such period (whether or not actually paid during such period) plus (ii) the net amount payable or expensed or deducted in calculating Consolidated Net Income (or minus the net amount receivable) with respect to Hedging Transactions during such period (whether or not actually paid or received during such period); provided that for each period ending prior to the first anniversary of the Closing Date, the amounts under clauses (i) and (ii) of this definition shall be measured from the Closing Date through the last day of such period, divided by the number of days in such period, and multiplied by 365.

“Consolidated Lease Expense” shall mean, for the Borrower and its Subsidiaries for any period, the aggregate amount of fixed and contingent rentals expensed with respect to leases of real and personal property (excluding Capital Lease Obligations) for such period determined on a consolidated basis in accordance with GAAP.

“Consolidated Net Income” shall mean, for the Borrower and its Subsidiaries for any period, the net income (or loss) of the Borrower and its Subsidiaries for such period determined on a consolidated basis in accordance with GAAP (including, for the avoidance of doubt, all Associated Practices in accordance with Section 1.3(b)), but excluding therefrom (to the extent otherwise included therein):

- (i) any extraordinary gains or losses (as determined by reference to GAAP immediately prior to giving effect to FASB’s Accounting Standards Update No. 2015-01);
- (ii) any gains attributable to write-ups of assets or the sale of assets (other than the sale of inventory in the ordinary course of business);
- (iii) other than with respect to any Associated Practice, the net income of any Person (other than a Subsidiary) in which the Borrower or any of its Subsidiaries has a joint interest with a third party or a minority interest, except to the extent such net income is actually paid in cash to the Borrower or any of its Subsidiaries by dividend or other distribution during such period;



(iv) the income of any Subsidiary that is not a Loan Party to the extent that the declaration or payment of dividends or similar distributions by such Subsidiary of that income is not at the time permitted by operation of the terms of its charter or any agreement, instrument, judgment, decree, order, statute, rule or governmental regulation applicable to such Subsidiary; and

(v) any income (or loss) of any Person accrued prior to the date it becomes a Subsidiary or is merged into or consolidated with the Borrower or any Subsidiary or the date that such Person's assets are acquired by the Borrower or any Subsidiary

; provided that any payments or other amounts received by the Borrower or any Subsidiary from CMS pursuant to the "NextGen ACO shared savings program" shall be treated as income for purposes of calculating Consolidated Net Income.

"Consolidated Total Assets" means the consolidated total assets of the Borrower and its Subsidiaries determined in accordance with GAAP as of the date of the financial statements most recently delivered pursuant to Section 5.1.

"Consolidated Total Net Debt" shall mean, as of any date, (i) all Indebtedness of the Borrower and its Subsidiaries measured on a consolidated basis as of such date, but excluding Indebtedness of the type described in subsection (xi) of the definition thereof minus (ii) the amount of Qualified Cash as of such date in an amount not to exceed \$25,000,000.

"Consolidated Total Net Leverage Ratio" shall mean, as of any date, the ratio of (i) Consolidated Total Net Debt as of such date to (ii) Consolidated EBITDA for the four consecutive Fiscal Quarters ending on or immediately prior to such date for which financial statements are required to have been delivered under this Agreement.

"Continuing Director" shall mean, with respect to any period, any individuals (A) who were members of the board of directors or other equivalent governing body of the Borrower on the first day of such period, (B) whose election or nomination to that board or equivalent governing body was approved by individuals referred to in clause (A) above constituting at the time of such election or nomination at least a majority of that board or equivalent governing body, or (C) whose election or nomination to that board or other equivalent governing body was approved by individuals referred to in clauses (A) and (B) above constituting at the time of such election or nomination at least a majority of that board or equivalent governing body.

"Contractual Obligation" of any Person shall mean any provision of any security issued by such Person or of any agreement, instrument or undertaking under which such Person is obligated or by which it or any of the property in which it has an interest is bound.

"Control Account Agreement" shall mean any tri-party agreement by and among a Loan Party, the Administrative Agent and a depository bank or securities intermediary at which such Loan Party maintains a Controlled Account, in each case in form and substance satisfactory to the Administrative Agent.

"Controlled Account" shall have the meaning set forth in Section 5.11.

"Copyright" shall have the meaning assigned to such term in the Guaranty and Security Agreement.

“Copyright Security Agreement” shall mean any Copyright Security Agreement executed by a Loan Party owning registered Copyrights or applications for Copyrights in favor of the Administrative Agent for the benefit of the Secured Parties, both on the Closing Date and thereafter.

“Covenant Holiday” shall have the meaning set forth in Section 6.1.

“Current Assets” shall mean, with respect to any Person, all current assets of such Person as of any date of determination calculated in accordance with GAAP, but excluding cash, cash equivalents and debts due from Affiliates.

“Current Liabilities” shall mean, with respect to any Person, all liabilities of such Person that should, in accordance with GAAP, be classified as current liabilities as of any date of determination, and in any event including all Indebtedness payable on demand or within one year from such date of determination without any option on the part of the obligor to extend or renew beyond such year and all accruals for federal or other taxes based on or measured by income and payable within such year, but excluding the current portion of long-term debt required to be paid within one year and the aggregate outstanding principal balance of the Revolving Loans and the Swingline Loans.

“Debtor Relief Laws” means the Bankruptcy Code of the United States of America, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief Laws of the United States or other applicable jurisdictions from time to time in effect.

“Default” shall mean any condition or event that, with the giving of notice or the lapse of time or both, would constitute an Event of Default.

“Default Interest” shall have the meaning set forth in Section 2.13(c).

“Defaulting Lender” shall mean, subject to Section 2.26(c), any Lender that (a) has failed to (i) fund all or any portion of its Loans within two (2) Business Days of the date such Loans were required to be funded hereunder unless such Lender notifies the Administrative Agent and the Borrower in writing that such failure is the result of such Lender’s determination that one or more conditions precedent to funding (each of which conditions precedent, together with any applicable default, shall be specifically identified in such writing) has not been satisfied, or (ii) pay to the Administrative Agent, any Issuing Bank, any Swingline Lender or any other Lender any other amount required to be paid by it hereunder (including in respect of its participation in Letters of Credit or Swingline Loans) within two (2) Business Days of the date when due, (b) has notified the Borrower, the Administrative Agent or any Issuing Bank or Swingline Lender in writing that it does not intend to comply with its funding obligations hereunder, or has made a public statement to that effect (unless such writing or public statement relates to such Lender’s obligation to fund a Loan hereunder and states that such position is based on such Lender’s determination that a condition precedent to funding (which condition precedent, together with any applicable default, shall be specifically identified in such writing or public statement) cannot be satisfied), (c) has failed, within three (3) Business Days after written request by the Administrative Agent or the Borrower, to confirm in writing to the Administrative Agent and the Borrower that it will comply with its prospective funding obligations hereunder (provided that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon receipt of such written confirmation by the Administrative Agent and the Borrower), or (d) has, or has a direct or indirect parent company that has, (i) become the subject of a proceeding under any Debtor Relief Law, (ii) had appointed for it a receiver, custodian, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or assets, including the Federal Deposit Insurance Corporation or any other state or federal regulatory authority acting in such a capacity or (iii) become the subject of a Bail-in Action; provided that a Lender shall not be a Defaulting Lender solely by virtue of the ownership or acquisition of any equity interest in that Lender or any direct or indirect parent company thereof by a Governmental Authority so long as such ownership interest does not result in or provide such Lender with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Lender (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Lender. Any determination by the Administrative Agent that a Lender is a Defaulting Lender under clauses (a) through (d) above shall be conclusive and binding absent manifest error, and such Lender shall be deemed to be a Defaulting Lender (subject to Section 2.26(b)) upon delivery of written notice of such determination to the Borrower, each Issuing Bank, each Swingline Lender and each Lender.

“Dollar(s)” and the sign “\$” shall mean lawful money of the United States.

“Domestic Subsidiary” shall mean each Subsidiary of the Borrower that is organized under the laws of the United States or any state or district thereof.

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

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

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

“Eligible Assignee” shall mean any Person that meets the requirements to be an assignee under Section 10.4 (subject to such consents, if any, as may be required under Section 10.4(b)(iii)).

“Environmental Indemnity” shall mean each environmental indemnity made by each Loan Party with Real Estate required to be pledged as Collateral in favor of the Administrative Agent for the benefit of the Secured Parties, in each case in form and substance satisfactory to the Administrative Agent.

“Environmental Laws” shall mean all applicable laws, rules, regulations, codes, ordinances, orders, decrees, judgments, injunctions, notices or binding agreements issued, promulgated or entered into by or with any Governmental Authority relating in any way to the environment, preservation or reclamation of natural resources, the management, Release or threatened Release of any Hazardous Material or to health and safety matters concerning exposure to Hazardous Materials.

“Environmental Liability” shall mean any liability, contingent or otherwise (including any liability for damages, costs of environmental investigation and remediation, costs of administrative oversight, fines, natural resource damages, penalties or indemnities), of the Borrower or any of its Subsidiaries directly or indirectly resulting from or based upon (i) any actual or alleged violation of any Environmental Law, (ii) the generation, use, handling, transportation, storage, treatment or disposal of any Hazardous Materials, (iii) any actual or alleged exposure to any Hazardous Materials, (iv) the Release or threatened Release of any Hazardous Materials or (v) any contract, agreement or other consensual arrangement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

“ERISA” shall mean the Employee Retirement Income Security Act of 1974, as amended from time to time, and any successor statute and the regulations promulgated and rulings issued thereunder.

“ERISA Affiliate” shall mean any person that for purposes of Title I or Title IV of ERISA or Section 412 of the Code would be deemed at any relevant time to be a “single employer” or otherwise aggregated with the Borrower or any of its Subsidiaries under Section 414(b), (c), (m) or (o) of the Code or Section 4001 of ERISA.

“ERISA Event” shall mean (i) any “reportable event” as defined in Section 4043 of ERISA with respect to a Plan (other than an event as to which the PBGC has waived under subsection .22, .23, .25, .27 or .28 of PBGC Regulation Section 4043 the requirement of Section 4043(a) of ERISA that it be notified of such event); (ii) any failure to make a required contribution to any Plan that would result in the imposition of a lien or other encumbrance or the provision of security under Section 430 of the Code or Section 303 or 4068 of ERISA, or the arising of such a lien or encumbrance, there being or arising any “unpaid minimum required contribution” or “accumulated funding deficiency” (as defined or otherwise set forth in Section 4971 of the Code or Part 3 of Subtitle B of Title 1 of ERISA), whether or not waived, or any filing of any request for or receipt of a minimum funding waiver under Section 412 of the Code or Section 303 of ERISA with respect to any Plan or Multiemployer Plan, or that such filing may be made, or any determination that any Plan is, or is expected to be, in at-risk status under Title IV of ERISA; (iii) any incurrence by the Borrower, any of its Subsidiaries or any of their respective ERISA Affiliates of any liability under Title IV of ERISA with respect to any Plan or Multiemployer Plan (other than for premiums due and not delinquent under Section 4007 of ERISA); (iv) any institution of proceedings, or the occurrence of an event or condition which would reasonably be expected to constitute grounds for the institution of proceedings by the PBGC, under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Plan; (v) any incurrence by the Borrower, any of its Subsidiaries or any of their respective ERISA Affiliates of any liability with respect to the withdrawal or partial withdrawal from any Plan or Multiemployer Plan, or the receipt by the Borrower, any of its Subsidiaries or any of their respective ERISA Affiliates of any notice that a Multiemployer Plan is in endangered or critical status under Section 305 of ERISA; (vi) any receipt by the Borrower, any of its Subsidiaries or any of their respective ERISA Affiliates of any notice, or any receipt by any Multiemployer Plan from the Borrower, any of its Subsidiaries or any of their respective ERISA Affiliates of any notice, concerning the imposition of Withdrawal Liability or a determination that a Multiemployer Plan is, or is expected to be, insolvent or in reorganization, within the meaning of Title IV of ERISA; (vii) engaging in a non-exempt prohibited transaction within the meaning of Section 4975 of the Code or Section 406 of ERISA; or (viii) any filing of a notice of intent to terminate any Plan if such termination would require material additional contributions in order to be considered a standard termination within the meaning of Section 4041(b) of ERISA, any filing under Section 4041(c) of ERISA of a notice of intent to terminate any Plan, or the termination of any Plan under Section 4041(c) of ERISA.

“EU Bail-In Legislation Schedule” means the EU Bail-In Legislation Schedule published by the Loan Market Association (or any successor Person), as in effect from time to time.

“Eurodollar”, when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, bears interest at a rate determined by reference to the Adjusted LIBO Rate.

“Event of Default” shall have the meaning set forth in Section 8.1.

“Exchange Act” shall mean the Securities Exchange Act of 1934, as amended and in effect from time to time.

“Excluded Accounts” shall mean, collectively, (a) any zero-balance accounts, (b) any payroll, withholding tax and other fiduciary or escrow accounts, in each case solely to the extent such accounts contain only amounts designated for payment of payroll, withholding tax and other fiduciary or escrow liabilities, (c) refund accounts, solely to the extent such accounts contain amounts designated for refunds to patients, Governmental Authorities or Third Party Payors; (d) third party administrator accounts, solely to the extent such accounts contain amounts related to the administration of payment and collections for physicians (other than management fees relating to such administration); (e) accounts containing payments from CMS that have not yet been applied to claims; (f) any accounts owned exclusively by Excluded Subsidiaries; and (g) any other accounts as long as the aggregate monthly average daily balance for all such Loan Parties in all such other accounts does not exceed \$500,000 at any time.

“Excluded Property” shall mean, collectively:

- (i) any fee-owned real property which has a fair market value of less than \$7,500,000 and any leasehold real property;
- (ii) commercial tort claims reasonably expected to result in recovery of less than \$1,000,000 individually;
- (iii) any governmental or regulatory licenses, to the extent that, and for so long as, the grant (or perfection) of a security interest therein, or the assignment thereof, is prohibited or restricted thereby or under applicable law or would require a governmental consent that has not been obtained after the Borrower’s use of commercially reasonable efforts to obtain such consent (in each case, after giving effect to the applicable anti-assignment provisions of the Uniform Commercial Code or similar applicable laws that would have a similar effect); provided that nothing in this clause (iii) shall prohibit the pledge or grant of security in the proceeds of such licenses;
- (iv) any particular asset (including the Capital Stock of any direct Subsidiary held by the Borrower or any Guarantor) or right under contract to the extent that, and for so long as, the pledge thereof or a security interest therein (A) is prohibited or restricted by applicable law, including any regulation applicable to the Loan Parties’ line of business, or (B) would violate the terms of any agreement (including, without limitation, any purchase money security interest or similar arrangement permitted by the loan documentation) that is legally binding on the Borrower or any Guarantor or any Regulated Entity (in each case, after giving effect to the applicable anti-assignment provisions of the Uniform Commercial Code or similar applicable laws that would have a similar effect); provided that nothing in this clause (iv) shall prohibit the pledge or grant of security in the proceeds of such assets or rights to such proceeds;
- (v) any margin stock;
- (vi) any intent-to-use trademark application prior to the filing of a “Statement of Use”, “Amendment to Allege Use” or similar filing with respect thereto, solely to the extent, if any, that, and solely during the period, if any, in which the grant of a security interest therein would impair the validity or enforceability of such intent-to-use trademark application under applicable law;
- (vii) any motor vehicles, aircraft and other similar assets subject to certificates of title or ownership (except to the extent a security interest therein can be perfected by the filing of a UCC financing statement);

(viii) any Excluded Accounts; and

(ix) any other assets if, and for so long as, in the reasonable judgment of the Administrative Agent (in consultation with the Borrower), the cost or burden of creating or perfecting a pledge or security interest in such assets is excessive in relation of the benefits afforded to the Lenders.

“Excluded Subsidiary” shall mean any: (a) Subsidiary of the Borrower with respect to which the provision of a guaranty by such Subsidiary would result in material adverse tax consequences, as reasonably determined by the Borrower in consultation with the Administrative Agent; (b) Subsidiary of the Borrower that is a captive insurance subsidiary; (c) not-for-profit Subsidiary of the Borrower; (d) Subsidiary of the Borrower that is a special purpose entity; (e) Subsidiary of the Borrower that is prohibited by applicable laws or contractual obligation (other than with any Affiliate of any Loan Party) from guaranteeing the Obligations or with respect to which any consent, approval, license or authorization from any Governmental Authority would be required for the provision of any such guarantee in each case so long as the Administrative Agent shall have received a certification from a Responsible Officer of the Borrower as to the existence of such applicable law or required consent, approval, license or authorization upon the Administrative Agent’s request for such a certificate, provided, that (i) in the case of such guarantee being prohibited due to a contractual obligation, such contractual obligation shall have been in place on the Closing Date or, if later, at the time such Subsidiary became a Subsidiary, and shall not have been created or amended in contemplation of or in connection with such Person becoming a Subsidiary, and (ii) to the extent any such prohibition is capable of being overcome or eliminated, the Loan Parties shall use commercially reasonable efforts for a period not to exceed ninety (90) days to overcome or eliminate any such prohibition and each such Subsidiary shall cease to be an Excluded Subsidiary if such prohibition shall cease to exist or apply; and (f) any Immaterial Subsidiary. For the avoidance of doubt, it is understood and agreed that APA ACO, Inc. shall be deemed to be an Excluded Subsidiary pursuant to clause (e) of the foregoing definition for so long as the Borrower, in consultation with its healthcare counsel, reasonably determines there to be prohibition under applicable law; provided that the Collateral shall include a pledge of 100% of the Capital Stock of APA ACO, Inc. so long as such pledge does not result in an “assignment” or “change in control” (in each case as such term is defined by CMS) under the Next Generation ACO Model Participation Agreement dated December 15, 2016 and is not otherwise “Excluded Property” pursuant to clause (iv) of the definition thereof (and it being understood and agreed that the Administrative Agent shall receive CMS’ consent prior to exercising any remedies with respect to the pledge described in this proviso).

“Excluded Swap Obligation” shall mean, with respect to any Guarantor, any Swap Obligation if, and to the extent that, all or a portion of the Guarantee of such Guarantor of, or the grant by such Guarantor of a security interest to secure, such Swap Obligation (or any Guarantee thereof) is or becomes illegal under the Commodity Exchange Act or any rule, regulation or order of the Commodity Futures Trading Commission (or the application or official interpretation of any thereof) by virtue of such Guarantor’s failure for any reason to constitute an “eligible contract participant” as defined in the Commodity Exchange Act at the time the Guarantee of such Guarantor becomes effective with respect to such related Swap Obligation. If a Swap Obligation arises under a master agreement governing more than one swap, such exclusion shall apply only to the portion of such Swap Obligation that is attributable to swaps for which such Guarantee or security interest is or becomes illegal.

“Excluded Taxes” shall mean any of the following Taxes imposed on or with respect to a Recipient or required to be withheld or deducted from a payment to a Recipient, (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes, and branch profits Taxes, in each case, (i) imposed as a result of such Recipient being organized under the laws of, or having its principal office or, in the case of any Lender, its applicable lending office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are Other Connection Taxes, (b) in the case of a Lender, U.S. federal withholding Taxes imposed on amounts payable to or for the account of such Lender with respect to an applicable interest in a Loan or Commitment pursuant to a law in effect on the date on which (i) such Lender acquires such interest in the Loan or Commitment (other than pursuant to an assignment request by the Borrower under Section 2.25) or (ii) such Lender changes its lending office, except in each case to the extent that, pursuant to Section 2.20, amounts with respect to such Taxes were payable either to such Lender’s assignor immediately before such Lender became a party hereto or to such Lender immediately before it changed its lending office, (c) Taxes attributable to such Recipient’s failure to comply with Section 2.20 and (d) any U.S. federal withholding Taxes imposed under FATCA.

“Existing Credit Agreements” shall mean, collectively, (i) that certain Business Loan Agreement, dated as of June 14, 2018, between NMM and Preferred Bank, as amended, (ii) that certain Line of Credit Agreement, dated as of September 5, 2018, between NMM and Preferred Bank, as amended, and (iii) that certain Business Loan Agreement, dated as of April 7, 2017, between APC and Preferred Bank, as amended.

“Existing Lenders” shall mean all lenders parties to the Existing Credit Agreement on the Closing Date.

“Existing Letters of Credit” means the letters of credit issued and outstanding under the Existing Credit Agreement as set forth on Schedule 2.22.

“FATCA” shall mean Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof and any agreements entered into pursuant to Section 1471(b) (1) of the Code.

“Federal Funds Rate” shall mean, for any day, the rate *per annum* (rounded upwards, if necessary, to the next 1/100 of 1%) equal to the weighted average of the rates on overnight Federal funds transactions with member banks of the Federal Reserve System, as published by the Federal Reserve Bank of New York on the next succeeding Business Day or, if such rate is not so published for any Business Day, the Federal Funds Rate for such day shall be the average (rounded upwards, if necessary, to the next 1/100 of 1%) of the quotations for such day on such transactions received by the Administrative Agent from three Federal funds brokers of recognized standing selected by the Administrative Agent. For purposes of this Agreement, the Federal Funds Rate shall not be less than zero percent (0%).

“Fee Letter” shall mean that certain fee letter, dated as of August 14, 2019 executed by SunTrust Robinson Humphrey, Inc. and consented to by the Borrower.

“Fiscal Quarter” shall mean any fiscal quarter of the Borrower.

“Fiscal Year” shall mean any fiscal year of the Borrower.

“Flood Insurance Laws” shall mean, collectively, (i) the National Flood Insurance Reform Act of 1994 (which comprehensively revised the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973), as now or hereafter in effect or any successor statute thereto, (ii) the Flood Insurance Reform Act of 2004, as now or hereafter in effect or any successor statute thereto and (iii) the Biggert –Waters Flood Insurance Reform Act of 2012, as now or hereafter in effect or any successor statute thereto.

“Foreign Lender” shall mean (a) if the Borrower is a U.S. Person, a Lender that is not a U.S. Person, and (b) if the Borrower is not a U.S. Person, a Lender that is resident or organized under the laws of a jurisdiction other than that in which the Borrower is resident for tax purposes.

“Foreign Subsidiary” shall mean each Subsidiary of the Borrower that is organized under the laws of a jurisdiction other than one of the fifty states of the United States or the District of Columbia.

“Future Approved Entity Investment” shall mean any secured loan made by the Borrower to an Approved Entity after the Closing Date with terms and structure substantially similar to the AP-AMH Loan (other than the total debt amount, loan term and interest rate); provided that it is understood and agreed that the underlying use of proceeds and collateral securing any such loan may differ from the use of proceeds and collateral securing the AP-AMH Loan made on the Closing Date so long as the conditions set forth in Section 7.4 to any such Future Approved Entity Investment are satisfied.

“GAAP” shall mean generally accepted accounting principles in the United States applied on a consistent basis and subject to the terms of Section 1.3.

“Governmental Authority” shall mean the government of the United States or any other nation, or any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including any supra-national bodies such as the European Union or the European Central Bank), it being understood and agreed that the foregoing definition shall include any agency, branch or other governmental body charged with the responsibility and/or vested with the authority to administer and/or enforce any Healthcare Laws, including any Medicare or Medicaid contractors, intermediaries or carriers.

“Governmental Authorization” means any permit, license, authorization, certification, registration, approval, plan, directive, consent order or consent decree of or from any Governmental Authority.

“Guarantee” of or by any Person (the “guarantor”) shall mean any obligation, contingent or otherwise, of the guarantor guaranteeing or having the economic effect of guaranteeing any Indebtedness or other obligation of any other Person (the “primary obligor”) in any manner, whether directly or indirectly and including any obligation, direct or indirect, of the guarantor (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation or to purchase (or to advance or supply funds for the purchase of) any security for the payment thereof, (ii) to purchase or lease property, securities or services for the purpose of assuring the owner of such Indebtedness or other obligation of the payment thereof, (iii) to maintain working capital, equity capital or any other financial statement condition or liquidity of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other obligation or (iv) as an account party in respect of any letter of credit or letter of guaranty issued in support of such Indebtedness or obligation; provided that the term “Guarantee” shall not include endorsements for collection or deposit in the ordinary course of business. The amount of any Guarantee shall be deemed to be an amount equal to the stated or determinable amount of the primary obligation in respect of which such Guarantee is made or, if not so stated or determinable, the maximum reasonably anticipated liability in respect thereof (assuming such Person is required to perform thereunder) as determined by such Person in good faith. The term “Guarantee” used as a verb has a corresponding meaning.

“Guarantor” shall mean each of the Subsidiary Loan Parties.



“Guaranty and Security Agreement” shall mean the Guaranty and Security Agreement, dated as of the date hereof and substantially in the form of Exhibit B, made by the Loan Parties in favor of the Administrative Agent for the benefit of the Secured Parties.

“Hazardous Materials” shall mean all explosive or radioactive substances or wastes and all hazardous or toxic substances, wastes or other pollutants, including petroleum or petroleum distillates, asbestos or asbestos containing materials, polychlorinated biphenyls, radon gas, infectious or medical wastes and all other substances or wastes of any nature regulated pursuant to any Environmental Law.

“Healthcare Laws” means all applicable federal and state healthcare Laws relating to the provision of clinical care or management, leasing, or provision of goods and services to medical clinics or medical practices that provide medical services, including, without limitation, (a) all fraud and abuse Laws (including, without limitation, the following statutes, as amended, modified or supplemented from time to time and any successor statutes thereto and regulations promulgated from time to time thereunder: (i) the federal Anti-Kickback Statute (42 U.S.C. § 1320a-7b(b)); (ii) the civil False Claims Act (31 U.S.C. § 3729 et seq.); Sections 1320a-7, 1320a-7a and 1320a-7b of Title 42 of the United States Code; (iii) the Emergency Medical Treatment and Labor Act (42 U.S.C. § 1395dd), Sections 1320a-7 and 1320a-71 of Title 42 of the United States Code; and (iv) the Ethics in Patient Referrals Act (42 U.S.C. § 1395nn); (b) the Health Insurance Portability and Accountability Act of 1996, as amended by the HITECH Act, and as otherwise may be amended from time to time; (c) (i) Medicare and the regulations promulgated thereunder, (ii) Medicaid and the regulations promulgated thereunder, (iii) TRICARE (10 U.S.C. Section 1071 et seq.) or (iv) other analogous state or federal programs; (d) the Health Information Technology for Economic and Clinical Health Act provisions of the American Recovery and Reinvestment Act of 2009, Pub. Law No. 111-5 and its implementing regulations 42 C.F.R. §§ 412, 413, 422 and 495; (e) quality, safety and accreditation standards and requirements of all applicable state laws or regulatory bodies; (f) requirements of Law relating to the ownership or operation of a healthcare facility or business, or assets used in connection therewith and restrictions on the corporate practice of medicine, corporate practice of nursing, professional fee-splitting, office-based medical procedures, anesthesia requirements and the provision of management or administrative services to medical practices; (g) requirements of Law relating to the billing or submission of claims, collection of accounts, underwriting the cost of, or provision of management or administrative services in connection with, any and all of the foregoing.

“Healthcare Permits” means all material and applicable healthcare related licenses, permits, approvals, registrations, certifications, accreditations, contracts, consents, qualifications and authorizations necessary for the lawful conduct of each of the Borrower’s, its Subsidiaries’ and the Associated Practices’ respective businesses pursuant to all applicable Healthcare Laws.

“Hedge Termination Value” shall mean, in respect of any one or more Hedging Transactions, after taking into account the effect of any legally enforceable netting agreement relating to such Hedging Transactions, (a) for any date on or after the date such Hedging Transactions have been closed out and termination value(s) determined in accordance therewith, such termination value(s) and (b) for any date prior to the date referenced in clause (a), the amount(s) determined as the mark-to-market value(s) for such Hedging Transactions, as determined based upon one or more mid-market or other readily available quotations provided by any recognized dealer in such Hedging Transactions (which may include a Lender or any Affiliate of a Lender).

“Hedging Obligations” of any Person shall mean any and all obligations of such Person, whether absolute or contingent and howsoever and whensoever created, arising, evidenced or acquired under (i) any and all Hedging Transactions, (ii) any and all cancellations, buy backs, reversals, terminations or assignments of any Hedging Transactions and (iii) any and all renewals, extensions and modifications of any Hedging Transactions and any and all substitutions for any Hedging Transactions.

“Hedging Transaction” of any Person shall mean (a) any transaction (including an agreement with respect to any such transaction) now existing or hereafter entered into by such Person that is a rate swap transaction, swap option, basis swap, forward rate transaction, commodity swap, commodity option, equity or equity index swap or option, bond option, interest rate option, foreign exchange transaction, cap transaction, floor transaction, collar transaction, currency swap transaction, cross-currency rate swap transaction, currency option, spot transaction, credit protection transaction, credit swap, credit default swap, credit default option, total return swap, credit spread transaction, repurchase transaction, reverse repurchase transaction, buy/sell-back transaction, securities lending transaction, or any other similar transaction (including any option with respect to any of these transactions) or any combination thereof, whether or not any such transaction is governed by or subject to any master agreement, and (b) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement, or any other master agreement (any such master agreement, together with any related schedules, a “Master Agreement”), including any such obligations or liabilities under any Master Agreement.

“HIPAA” means, collectively, (a) the Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. §§ 1320d-1320d-8, as amended by the HITECH Act, and any regulations adopted thereunder; and (b) the Health Information Technology for Economic and Clinical Health Act (Title XIII of the American Recovery and Reinvestment Act of 2009 in each case with respect to the laws described in clauses (a) and (b) of this definition, as the same may be amended, modified or supplemented from time to time, any successor statutes thereto, any and all rules or regulations promulgated from time to time thereunder.

“Historical Financial Statements” shall mean copies of (a) the internally prepared quarterly financial statements of the Borrower and its Subsidiaries on a consolidated basis for the Fiscal Quarter ended June 30, 2019 and (b) the audited consolidated financial statements for the Borrower and its Subsidiaries for the Fiscal Years ended December 31, 2017 and December 31, 2018, in each case from BDO USA, LLP.

“Immaterial Subsidiary” shall mean, on any date of determination, any Subsidiary of the Borrower that, together with its Subsidiaries, (i) generated less than 5.0% of revenue of the Borrower and its Subsidiaries for the most recent four (4) consecutive Fiscal Quarter period for which financial statements have been delivered (or are required to have been delivered) pursuant to Section 5.1(b) and (ii) has total assets (including Capital Stock in other Subsidiaries and excluding investments that are eliminated in consolidation) of less than 5.0% of Consolidated Total Assets as reflected in the financial statements most recently delivered pursuant to Section 5.1(b). For the avoidance of doubt, as of the Closing Date, Allied Physicians ACO, LLC, APCN-ACO, Inc., 99 Medical Equipment, Healthcare Supplies & Wheelchair Center, ApolloMed Accountable Care Organization, Inc., Apollo Medical Management, Inc., ApolloMed Laboratories, Inc., ApolloMed Imaging, Inc., Apollo Care Connect, Inc., Pulmonary Critical Care Management, Inc., Verdugo Medical Management, Inc., Apollo Palliative Services LLC, Best Choice Hospice Care, LLC, Holistic Care Home Health Agency, Inc., Allied Pacific Hospice LLC and Concourse Diagnostic and Surgery Center, LLC shall each be an Immaterial Subsidiary; provided that each of the foregoing shall at all times be subject to the thresholds in the foregoing definition and the thresholds and covenants set forth in Section 5.12.

“Increasing Lender” shall have the meaning set forth in Section 2.23.

“Incremental Commitment” shall have the meaning set forth in Section 2.23.

“Incremental Revolving Commitment” shall have the meaning set forth in Section 2.23.

“Incremental Term Loan” shall have the meaning set forth in Section 2.23.

“Indebtedness” of any Person shall mean, without duplication, (i) all obligations of such Person for borrowed money, (ii) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments, (iii) all obligations of such Person in respect of the deferred purchase price of property or services (other than trade payables and management fees incurred in the ordinary course of business; provided that, for purposes of Section 8.1(g), trade payables and management fees overdue by more than 120 days shall be included in this definition except to the extent that any of such trade payables are being disputed in good faith and by appropriate measures), (iv) all obligations of such Person under any conditional sale or other title retention agreement(s) relating to property acquired by such Person, (v) all Capital Lease Obligations of such Person, (vi) all obligations, contingent or otherwise, of such Person in respect of letters of credit, acceptances or similar extensions of credit, (vii) all Guarantees of such Person of the type of Indebtedness described in clauses (i) through (vi) above, (viii) all Indebtedness of a third party secured by any Lien on property owned by such Person, whether or not such Indebtedness has been assumed by such Person, (ix) all obligations of such Person, contingent or otherwise, to purchase, redeem, retire or otherwise acquire for value any Capital Stock of such Person, (x) all Off-Balance Sheet Liabilities and (xi) all net Hedging Obligations. For all purposes hereof, the Indebtedness of any Person shall include the Indebtedness of any partnership or joint venture (other than a joint venture that is itself a corporation or limited liability company or the foreign equivalent thereof) in which such Person is a general partner or a joint venturer, unless such Indebtedness is expressly made non-recourse to such Person. The amount of any net obligation under any Hedging Transaction on any date shall be deemed to be the Swap Termination Value thereof as of such date. The amount of Indebtedness of any Person for purposes of clause (viii) that is expressly made nonrecourse or limited-recourse (limited solely to the assets securing such Indebtedness) to such Person shall be deemed to be equal to the lesser of (a) the aggregate unpaid amount of such Indebtedness and (b) the fair market value of the property encumbered thereby as determined by such Person in good faith; provided that none of the following shall constitute Indebtedness of any Person: (x) obligations or liabilities of any Person for unissued equity shares, deferred revenue, deferred or subordinated management fees, deferred taxes or other similar accrued or deferred expenses (other than deferred purchase price payments of any kind as set forth above), in each case arising in the ordinary course of business, (y) “incurred but not reported” liabilities and (z) obligations or liabilities of any Person to CMS owed in the ordinary course of business, but any such obligations or liabilities under this clause (z) shall constitute Indebtedness if overdue by more than 10 Business Days (other than to the extent contested in good faith).

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

“Interest Period” shall mean with respect to any Eurodollar Borrowing, a period of one, two, three or six months; provided that:

(x) the initial Interest Period for such Borrowing shall commence on the date of such Borrowing (including the date of any conversion from a Borrowing of another Type), and each Interest Period occurring thereafter in respect of such Borrowing shall commence on the day on which the next preceding Interest Period expires;

(xi) if any Interest Period would otherwise end on a day other than a Business Day, such Interest Period shall be extended to the next succeeding Business Day, unless such Business Day falls in another calendar month, in which case such Interest Period would end on the immediately preceding Business Day;

(xii) any Interest Period which begins on the last Business Day of a calendar month or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period shall end on the last Business Day of such calendar month;

(xiii) each principal installment of the Term Loans shall have an Interest Period ending on each installment payment date and the remaining principal balance (if any) of the Term Loans shall have an Interest Period determined as set forth above; and

(xiv) no Interest Period may extend beyond the Revolving Commitment Termination Date, unless on the Revolving Commitment Termination Date the aggregate outstanding principal amount of Term Loans is equal to or greater than the aggregate principal amount of Eurodollar Loans with Interest Periods expiring after such date, and no Interest Period may extend beyond the Maturity Date.

“Investment Consideration” shall mean, collectively, (A) the aggregate purchase consideration for an Acquisition and all other payments (but excluding any related acquisition fees, costs and expenses incurred in connection with any Acquisition), directly or indirectly, by any Person in exchange for, or as part of, or in connection with, an Acquisition, whether paid in cash or cash equivalents or by exchange of equity interests or of any property or by the assumption of Indebtedness of the target, business unit or asset group acquired or proposed to be acquired in any such Acquisition or otherwise and whether payable prior to, as of the consummation of, or after any such Acquisition, including any earn-outs and deferred payment obligations (whether contingent or otherwise), (B) the aggregate amount of all loans made by the Borrower to an Approved Entity in the case of any Future Approved Entity Investment and (C) the aggregate amount of all loans made by the Borrower to any Subsidiary or Associated Practice to fund Permitted Acquisitions or other Investments; provided, that Investment Consideration shall not include (a) any consideration or payment paid by the Borrower or any of its Subsidiaries (i) with the net cash proceeds from any substantially concurrent issuance of Capital Stock of the Borrower to its shareholders and/or (ii) in the form of Capital Stock of the Borrower and (b) cash and cash equivalents acquired by the Borrower or any of its Subsidiaries as part of the applicable Investment.

“Investments” shall have the meaning set forth in Section 7.4.

“IRS” shall mean the United States Internal Revenue Service.

“Issuing Banks” shall mean SunTrust Bank in its capacity as the issuer of Letters of Credit pursuant to Section 2.22 together with any other Lender as the Borrower may from time to time select as an Issuing Bank hereunder pursuant to Section 2.22; provided that such Lender has agreed to be an Issuing Bank.

“Knowledge” of Borrower shall mean the actual knowledge of any of the Borrower’s Responsible Officers.

“LC Commitment” shall mean that portion of the Aggregate Revolving Commitments that may be used by the Borrower for the issuance of Letters of Credit in an aggregate face amount not to exceed \$25,000,000.

“LC Disbursement” shall mean a payment made by any Issuing Bank pursuant to a Letter of Credit.

“LC Documents” shall mean all applications, agreements and instruments relating to the Letters of Credit but excluding the Letters of Credit.

“LC Exposure” shall mean, at any time, the sum of (i) the aggregate undrawn amount of all outstanding Letters of Credit at such time plus (ii) the aggregate amount of all LC Disbursements that have not been reimbursed by or on behalf of the Borrower at such time. The LC Exposure of any Lender shall be its Pro Rata Share of the total LC Exposure at such time. Unless otherwise specified herein, the amount of a Letter of Credit at any time shall be deemed to be the stated amount of such Letter of Credit in effect at such time; provided, that with respect to any Letter of Credit that, by its terms or any document related thereto, provides for one or more automatic increases in the stated amount thereof, the amount of such Letter of Credit shall be deemed to be the maximum stated amount of such Letter of Credit after giving effect to all such increases, whether or not such maximum stated amount is in effect at such time.

“Lender-Related Hedge Provider” means any Person that, at the time it enters into a Hedging Transaction with any Loan Party, (i) is a Lender or an Affiliate of a Lender and (ii) except when the Lender-Related Hedge Provider is SunTrust Bank or any of its Affiliates, has provided prior written notice to the Administrative Agent which has been acknowledged by the Borrower of (x) the existence of such Hedging Transaction and (y) the methodology to be used by such parties in determining the obligations under such Hedging Transaction from time to time. In no event shall any Lender-Related Hedge Provider acting in such capacity be deemed a Lender for purposes hereof to the extent of and as to Hedging Obligations except that each reference to the term “Lender” in Article IX and Section 10.3(b) shall be deemed to include such Lender-Related Hedge Provider. In no event shall the approval of any such Person in its capacity as Lender-Related Hedge Provider be required in connection with the release or termination of any security interest or Lien of the Administrative Agent.

“Lenders” shall have the meaning set forth in the introductory paragraph hereof and shall include, where appropriate, the Swingline Lender, each Increasing Lender and each Additional Lender that joins this Agreement pursuant to Section 2.23.

“Letter of Credit” shall mean any stand-by letter of credit issued pursuant to Section 2.22 by any Issuing Bank for the account of the Borrower pursuant to the LC Commitment and any Existing Letter of Credit.

“Lien” shall mean any mortgage, pledge, security interest, lien (statutory or otherwise), charge, encumbrance, hypothecation, assignment, deposit arrangement, or other arrangement having the practical effect of any of the foregoing or any preference, priority or other security agreement or preferential arrangement of any kind or nature whatsoever (including any conditional sale or other title retention agreement and any capital lease having the same economic effect as any of the foregoing).

“Loan Documents” shall mean, collectively, this Agreement, the Collateral Documents, the LC Documents, the Fee Letter, all Notices of Revolving Borrowing, all Notices of Swingline Borrowing, all Notices of Conversion/Continuation, all Compliance Certificates, any promissory notes issued hereunder and any and all other instruments, agreements, documents and writings executed in connection with any of the foregoing.

“Loan Parties” shall mean the Borrower and the Subsidiary Loan Parties.

“Loans” shall mean all Revolving Loans, Swingline Loans and Term Loans in the aggregate or any of them, as the context shall require, and shall include, where appropriate, any loan made pursuant to Section 2.23.

“Management Services Agreements” shall mean, collectively, each management services agreement between an Associated Practice and a Loan Party, and any other similar services agreements, including administrative services agreements, between the Borrower or its Subsidiaries and Associated Practices pursuant to which the Borrower or such Subsidiaries provide non-clinical management services to such Associated Practices, which such agreements shall be in form and substance reasonably satisfactory to Administrative Agent.

“Material Adverse Effect” shall mean, with respect to any event, act, condition or occurrence of whatever nature (including any adverse determination in any litigation, arbitration, or governmental investigation or proceeding), whether singularly or in conjunction with any other event or events, act or acts, condition or conditions, occurrence or occurrences whether or not related, resulting in a material adverse change in, or a material adverse effect on, (i) the business, results of operations, financial condition, assets, liabilities or prospects of the Borrower and its Subsidiaries taken as a whole, (ii) the ability of the Loan Parties to perform any of their respective obligations under the Loan Documents, (iii) the rights and remedies of the Administrative Agent, the Issuing Banks, the Swingline Lender or the Lenders under any of the Loan Documents or (iv) the legality, validity or enforceability of any of the Loan Documents.

“Material Agreements” shall mean (i) all agreements, indentures or notes governing the terms of any Material Indebtedness, (ii) the Related Transaction Documents, (iii) the NMM-APC Management Services Agreement and (iv) each other agreement, document, contract, indenture and instrument pursuant to which (A) any Loan Party or any of its Subsidiaries are obligated to make payments in any twelve month period of \$5,000,000 or more, (B) any Loan Party or any of its Subsidiaries expects to receive revenue in any twelve month period of \$5,000,000 or more and (C) a default, breach or termination thereof could reasonably be expected to result in a Material Adverse Effect.

“Material Associated Practice” shall mean, collectively, (i) any Associated Practice and (ii) any ambulatory surgery center (including, for the avoidance of doubt, Concourse Diagnostic and Surgery Center, LLC), in each case of the foregoing clauses (i) and (ii), solely to the extent that the accounts of any such Person would be required to be consolidated with those of the Borrower in the Borrower’s consolidated financial statements if such financial statements were prepared in accordance with GAAP.

“Material Indebtedness” shall mean any Indebtedness (other than the Loans and the Letters of Credit) of the Borrower or any of its Subsidiaries individually or in an aggregate committed or outstanding principal amount exceeding the Threshold Amount. For purposes of determining the amount of attributed Indebtedness from Hedging Obligations, the “principal amount” of any Hedging Obligations at any time shall be the Net Mark-to-Market Exposure of such Hedging Obligations.

“Maturity Date” shall mean, with respect to the Term Loans, the earlier of (i) September 11, 2024 and (ii) the date on which the principal amount of all outstanding Term Loans have been declared or automatically have become due and payable (whether by acceleration or otherwise).

“Moody’s” shall mean Moody’s Investors Service, Inc.

“Mortgaged Property” shall mean, collectively, the Real Estate subject to the Mortgages, including, but not limited to, any Real Estate for which a Mortgage is required to be delivered after the date hereof pursuant to Section 5.13.

“Mortgages” shall mean, collectively, each mortgage, deed of trust, trust deed, security deed, debenture, deed of immovable hypothec, deed to secure debt or other real estate security documents delivered by any Loan Party to the Administrative Agent from time to time, all in form and substance satisfactory to the Administrative Agent, as the same may be amended, amended and restated, extended, supplemented, substituted or otherwise modified from time to time.

“Multiemployer Plan” shall mean any “multiemployer plan” as defined in Section 4001(a)(3) of ERISA, which is contributed to by (or to which there is or may be an obligation to contribute of) the Borrower, any of its Subsidiaries or an ERISA Affiliate, and each such plan for the five-year period immediately following the latest date on which the Borrower, any of its Subsidiaries or an ERISA Affiliate contributed to or had an obligation to contribute to such plan.

“Net Mark-to-Market Exposure” of any Person shall mean, as of any date of determination with respect to any Hedging Obligation, the excess (if any) of all unrealized losses over all unrealized profits of such Person arising from such Hedging Obligation. “Unrealized losses” shall mean the fair market value of the cost to such Person of replacing the Hedging Transaction giving rise to such Hedging Obligation as of the date of determination (assuming such Hedging Transaction were to be terminated as of that date), and “unrealized profits” shall mean the fair market value of the gain to such Person of replacing such Hedging Transaction as of the date of determination (assuming such Hedging Transaction were to be terminated as of that date).

“NMM” shall mean Network Medical Management, Inc., a California corporation.

“Non-Defaulting Lender” shall mean, at any time, a Lender that is not a Defaulting Lender.

“Non-U.S. Plan” shall mean any plan, fund (including, without limitation, any superannuation fund) or other similar program established, contributed to (regardless of whether through direct contributions or through employee withholding) or maintained outside the United States by the Borrower or one or more of its Subsidiaries primarily for the benefit of employees of the Borrower or such Subsidiaries residing outside the United States, which plan, fund or other similar program provides, or results in, retirement income, a deferral of income in contemplation of retirement, or payments to be made upon termination of employment, and which plan is not subject to ERISA or the Code.

“Notice of Borrowing” shall mean a Notice of Revolving Borrowing, a Notice of Swingline Borrowing, or the initial notice of borrowing to be delivered on or prior to the Closing Date in connection with all Loans to be funded on the Closing Date, as the context may require.

“Notice of Conversion/Continuation” shall have the meaning set forth in Section 2.7(b).

“Notice of Revolving Borrowing” shall have the meaning set forth in Section 2.3.

“Notice of Swingline Borrowing” shall have the meaning set forth in Section 2.4.

“Obligations” shall mean (a) all amounts owing by the Loan Parties to the Administrative Agent, the Issuing Banks, any Lender (including the Swingline Lender) or the Arrangers pursuant to or in connection with this Agreement or any other Loan Document or otherwise with respect to any Commitment, Loan or Letter of Credit including, without limitation, all principal, interest (including any interest accruing after the filing of any petition in bankruptcy or the commencement of any insolvency, reorganization or like proceeding relating to the Borrower, whether or not a claim for post-filing or post-petition interest is allowed in such proceeding), reimbursement obligations, fees, expenses, indemnification and reimbursement payments, costs and expenses (including all fees and expenses of counsel to the Administrative Agent, the Issuing Banks and any Lender (including the Swingline Lender) incurred pursuant to this Agreement or any other Loan Document), whether direct or indirect, absolute or contingent, liquidated or unliquidated, now existing or hereafter arising hereunder or thereunder, (b) all Hedging Obligations owed by any Loan Party to any Lender-Related Hedge Provider, and (c) all Bank Product Obligations, together with all renewals, extensions, modifications or refinancings of any of the foregoing; provided, however, that with respect to any Guarantor, the Obligations shall not include any Excluded Swap Obligations.

“OFAC” shall mean the U.S. Department of the Treasury’s Office of Foreign Assets Control.

“Off-Balance Sheet Liabilities” of any Person shall mean (i) any repurchase obligation or liability of such Person with respect to accounts or notes receivable sold by such Person, (ii) any liability of such Person under any sale and leaseback transactions that do not create a liability on the balance sheet of such Person, (iii) any Synthetic Lease Obligation or (iv) any obligation arising with respect to any other transaction which is the functional equivalent of or takes the place of borrowing but which does not constitute a liability on the balance sheet of such Person other than, in the case of this clause (iv), any operating lease, including, for the avoidance of doubt, any other lease referred to in the proviso of the definition of “Capital Lease Obligations”.

“OSHA” shall mean the Occupational Safety and Health Act of 1970, as amended from time to time, and any successor statute.

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

“Other Taxes” shall mean all present or future stamp, court or documentary, intangible, recording, filing or similar Taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, any Loan Document, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment (other than an assignment made pursuant to Section 2.25).

“Parent Company” shall mean, with respect to a Lender, the “bank holding company” as defined in Regulation Y, if any, of such Lender, and/or any Person owning, beneficially or of record, directly or indirectly, a majority of the shares of such Lender.

“Participant” shall have the meaning set forth in Section 10.4(d).

“Participant Register” shall have the meaning set forth in Section 10.4(d).

“Patent” shall have the meaning assigned to such term in the Guaranty and Security Agreement.

“Patent Security Agreement” shall mean any Patent Security Agreement executed by a Loan Party owning Patents or licenses of Patents in favor of the Administrative Agent for the benefit of the Secured Parties, both on the Closing Date and thereafter.

“Patriot Act” means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Pub. L. 107-56.

“Payment Office” shall mean the office of the Administrative Agent located at 303 Peachtree Street, N.E., Atlanta, Georgia 30308, or such other location as to which the Administrative Agent shall have given written notice to the Borrower and the Lenders.



“PBGC” shall mean the U.S. Pension Benefit Guaranty Corporation referred to and defined in ERISA, and any successor entity performing similar functions.

“Perfection Certificate” shall have the meaning assigned to such term in the Guaranty and Security Agreement.

“Permitted Acquisition” shall mean any Acquisition by a Loan Party that occurs when the following conditions have been satisfied:

(i) before and after giving effect to such Acquisition, no Default or Event of Default has occurred and is continuing or would result therefrom, and all representations and warranties of each Loan Party set forth in the Loan Documents shall be and remain true and correct in all material respects;

(ii) before and after giving effect to such Acquisition, on a Pro Forma Basis, the Borrower is in compliance with each of the covenants set forth in Article VI, measuring Consolidated Total Net Debt for purposes of Section 6.1 as of the date of such Acquisition and otherwise recomputing the covenants set forth in Article VI as of the last day of the most recently ended Fiscal Quarter for which financial statements are required to have been delivered pursuant to Section 5.1(b) as if such Acquisition had occurred, and, solely in the case of any such Acquisition in which the Investment Consideration is greater than \$25,000,000, the Borrower shall have delivered to the Administrative Agent a *pro forma* Compliance Certificate signed by a Responsible Officer certifying to the foregoing at least 5 days prior to the date of the consummation of such Acquisition; provided that solely in the case of any Acquisition for which the Investment Consideration is greater than \$75,000,000, for purposes of determining such *pro forma* compliance under Section 6.1, the Consolidated Total Net Leverage Ratio shall be deemed to be the lesser of (A) the otherwise applicable Consolidated Total Net Leverage Ratio specified in the grid in Section 6.1 (without giving effect to any increase thereunder due to an existing Covenant Holiday) plus 0.50:1.00 and (B) 4.00:1.00;

(iii) at least 5 days prior to the date of the consummation of any such Acquisition in which the Investment Consideration is greater than \$40,000,000, the Borrower shall have delivered to the Administrative Agent notice of such Acquisition, together with historical financial information and analysis with respect to the Person whose stock or assets are being acquired and copies of the acquisition agreement and related documents (including financial information and analysis, environmental assessments and reports, opinions, certificates and lien searches) and information reasonably requested by the Administrative Agent;

(iv) such Acquisition is consensual and approved by the board of directors (or the equivalent thereof) of the Person whose stock or assets are being acquired;

(v) the Person or assets being acquired is in the same type of business conducted by the Borrower and its Subsidiaries on the date hereof or any business reasonably related thereto;

(vi) such Acquisition is consummated in compliance with all Requirements of Law, and all consents and approvals from any Governmental Authority or other Person required in connection with such Acquisition have been obtained;

(vii) before and after giving effect to such Acquisition and any Indebtedness incurred in connection therewith, each Loan Party is Solvent;

(viii) the Borrower shall have executed and delivered, or caused its Subsidiaries to execute and deliver, all guarantees, Collateral Documents and other related documents required under Section 5.12; and

(ix) solely with respect to any such Acquisition in which the Investment Consideration is greater than \$25,000,000, the Borrower has delivered to the Administrative Agent a certificate executed by a Responsible Officer certifying that each of the conditions set forth above has been satisfied.

“Permitted Encumbrances” shall mean:

(i) Liens imposed by law for taxes not yet due or which are being contested in good faith by appropriate proceedings diligently conducted and with respect to which adequate reserves are being maintained in accordance with GAAP;

(ii) statutory Liens of landlords, carriers, warehousemen, mechanics, materialmen and other Liens imposed by law in the ordinary course of business for amounts not yet due or which are being contested in good faith by appropriate proceedings diligently conducted and with respect to which adequate reserves are being maintained in accordance with GAAP;

(iii) pledges and deposits made in the ordinary course of business in compliance with workers’ compensation, unemployment insurance and other social security laws or regulations;

(iv) deposits to secure the performance of bids, trade contracts, leases, statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature, in each case in the ordinary course of business;

(v) judgment and attachment liens not giving rise to an Event of Default or Liens created by or existing from any litigation or legal proceeding that are currently being contested in good faith by appropriate proceedings diligently conducted and with respect to which adequate reserves are being maintained in accordance with GAAP;

(vi) customary rights of set-off, revocation, refund or chargeback under deposit agreements or under the Uniform Commercial Code or common law of banks or other financial institutions where the Borrower or any of its Subsidiaries maintains deposits (other than deposits intended as cash collateral) in the ordinary course of business;

(vii) easements, zoning restrictions, rights-of-way and similar encumbrances on real property imposed by law or arising in the ordinary course of business that do not secure any monetary obligations and do not materially detract from the value of the affected property or materially interfere with the ordinary conduct of business of the Borrower and its Subsidiaries taken as a whole;

(viii) (x) Liens solely on any cash earnest money deposits made by the Borrower or any of its Subsidiaries and (y) restrictions on transfers of assets that are subject to sale or transfer pursuant to purchase and sale arrangements, in each case, in connection with any letter of intent or purchase and sale agreement permitted hereunder;

(ix) in the case of any non-wholly owned Subsidiary or joint venture, any put and call arrangements or restrictions on disposition related to its Capital Stock set forth in its organizational documents or any related joint venture or similar agreement;

(x) licenses and sublicenses of intellectual property granted by the Borrower or any of its Subsidiaries in the ordinary course of business and not interfering in any material respect with the ordinary conduct of business of the Borrower or any of its Subsidiaries or pursuant to the Tradename Licensing Agreement;

(xi) leases or subleases granted in the ordinary course of business to others not interfering in any material respect with the business of the Borrower or any of its Subsidiaries and any interest or title of a lessor under any lease not in violation of this Agreement;

(xii) Liens arising from the rights of lessors under leases (including financing statements regarding property subject to lease) not in violation of the requirements of this Agreement, provided that such Liens are only in respect of the property subject to, and secure only, the obligations under the respective lease (and any other lease with the same or an affiliated lessor);

(xiii) purported Liens evidenced by the filing of precautionary Uniform Commercial Code financing statements relating solely to operating leases of personal property entered into in the ordinary course of business;

(xiv) Liens (i) in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods or (ii) on specific items of inventory or other goods and proceeds thereof of any Person securing such Person's obligations in respect of bankers' acceptances or letters of credit issued or created for the account of such person to facilitate the purchase, shipment or storage of such inventory or goods in the ordinary course of business;

(xv) Liens on insurance premium refunds and insurance proceeds granted in favor of insurance companies (or their financing affiliates) in connection with the financing of insurance premiums;

(xvi) rights of consignors of goods, whether or not perfected by the filing of a financing statement under the Uniform Commercial Code; and

(xvii) Liens in favor of CMS on moneys paid by CMS pursuant to contractual arrangements between such Persons;

provided that the term "Permitted Encumbrances" shall not include any Lien securing Indebtedness.

"Permitted Investments" shall mean:

(i) direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the United States (or by any agency thereof to the extent such obligations are backed by the full faith and credit of the United States), in each case maturing within one year from the date of acquisition thereof;

(ii) commercial paper having the highest rating, at the time of acquisition thereof, of S&P or Moody's and in either case maturing within six months from the date of acquisition thereof;

(iii) certificates of deposit, bankers' acceptances and time deposits maturing within 180 days of the date of acquisition thereof issued or guaranteed by or placed with, and money market deposit accounts issued or offered by, any domestic office of any commercial bank organized under the laws of the United States or any state thereof which has a combined capital and surplus and undivided profits of not less than \$500,000,000;

(iv) fully collateralized repurchase agreements with a term of not more than 30 days for securities described in clause (i) above and entered into with a financial institution satisfying the criteria described in clause (iii) above;

(v) mutual funds investing solely in any one or more of the Permitted Investments described in clauses (i) through (iv) above; and

(vi) any similar investments approved in good faith by the board of directors of the Borrower as constituting cash equivalents.

"Permitted Third Party Bank" shall mean Lender with whom any Loan Party maintains a Controlled Account and with whom a Control Account Agreement has been executed.

"Person" shall mean any natural Person, corporation, limited liability company, trust, joint venture, association, company, partnership, Governmental Authority or other entity.

"Physician Shareholder Agreement" shall mean that certain Physician Shareholder Agreement, dated as of May 10, 2019 and effective as of September 11, 2019, granted and delivered by Thomas Lam, M.D., in his capacity as the sole shareholder of AP-AMH, in favor of NMM and the Borrower.

"Plan" shall mean any "employee benefit plan" as defined in Section 3 of ERISA (other than a Multiemployer Plan) maintained or contributed to by the Borrower or any ERISA Affiliate or to which the Borrower or any ERISA Affiliate has or may have an obligation to contribute, and each such plan that is subject to Title IV of ERISA for the five-year period immediately following the latest date on which the Borrower or any ERISA Affiliate maintained, contributed to or had an obligation to contribute to (or is deemed under Section 4069 of ERISA to have maintained or contributed to or to have had an obligation to contribute to, or otherwise to have liability with respect to) such plan.

"Platform" means Debt Domain, Intralinks, Syndtrak or a substantially similar electronic transmission system.

"Pro Forma Basis" shall mean, (i) with respect to any Person, business, property or asset acquired in a Permitted Acquisition or other Acquisition permitted hereunder or otherwise approved in writing by the Required Lenders, the inclusion as "Consolidated EBITDA" of the Consolidated EBITDA for such Person, business, property or asset as if such Acquisition had been consummated on the first day of the applicable period, based on historical results accounted for in accordance with GAAP, and (ii) with respect to any Person, business, property or asset sold, transferred or otherwise disposed of (including any prior Associated Practice that ceased to be an Associated Practice during the applicable period), the exclusion from "Consolidated EBITDA" of the portion of Consolidated EBITDA for such Person, business, property or asset so disposed of during such period as if such disposition had been consummated on the first day of the applicable period, in accordance with GAAP.

“Pro Rata Share” shall mean (i) with respect to any Class of Commitment or Loan of any Lender at any time, a percentage, the numerator of which shall be such Lender’s Commitment of such Class (or if such Commitment has been terminated or expired or the Loans have been declared to be due and payable, such Lender’s Revolving Credit Exposure or Term Loan, as applicable), and the denominator of which shall be the sum of all Commitments of such Class of all Lenders (or if such Commitments have been terminated or expired or the Loans have been declared to be due and payable, all Revolving Credit Exposure or Term Loans, as applicable, of all Lenders) and (ii) with respect to all Classes of Commitments and Loans of any Lender at any time, the numerator of which shall be the sum of such Lender’s Revolving Commitment (or if such Revolving Commitment has been terminated or expired or the Loans have been declared to be due and payable, such Lender’s Revolving Credit Exposure) and Term Loan and the denominator of which shall be the sum of all Lenders’ Revolving Commitments (or if such Revolving Commitments have been terminated or expired or the Loans have been declared to be due and payable, all Revolving Credit Exposure of all Lenders funded under such Commitments) and Term Loans.

“PTE” means a prohibited transaction class exemption issued by the U.S. Department of Labor, as any such exemption may be amended from time to time.

“Qualified Cash” shall mean the aggregate amount of the Loan Parties’ unrestricted cash or cash equivalents in Controlled Accounts in which the Administrative Agent has a first priority perfected Lien; provided that all cash that is reserved to satisfy the “incurred but not reported” liabilities shall be deemed not to be Qualified Cash provided further that, solely for the first forty-five (45) days after the Closing Date (or such later date as the Administrative Agent may reasonably agree in writing), all unrestricted cash or cash equivalents shall be deemed to be Qualified Cash irrespective of whether or not a Control Account Agreement is in place.

“Real Estate” shall mean all real property owned or leased by the Borrower and its Subsidiaries.

“Real Estate Documents” shall mean, collectively, (i) Mortgages covering all Real Estate owned by the Loan Parties, duly executed by each applicable Loan Party, together with (A) title insurance policies, current as-built ALTA/ACSM Land Title surveys certified to the Administrative Agent, zoning letters, building permits and certificates of occupancy, in each case relating to such Real Estate and satisfactory in form and substance to the Administrative Agent, (B) (x) Life of Loan” Federal Emergency Management Agency Standard Flood Hazard determinations, (y) notices, in the form required under the Flood Insurance Laws, about special flood hazard area status and flood disaster assistance duly executed by each Loan Party, and (z) if any improved real property encumbered by any Mortgage is located in a special flood hazard area, a policy of flood insurance that is on terms satisfactory to the Administrative Agent, (C) evidence that counterparts of such Mortgages have been recorded in all places to the extent necessary or desirable, in the judgment of the Administrative Agent, to create a valid and enforceable first priority Lien (subject to Permitted Encumbrances) on such Real Estate in favor of the Administrative Agent for the benefit of the Secured Parties (or in favor of such other trustee as may be required or desired under local law), (D) an opinion of counsel in each state in which such Real Estate is located in form and substance and from counsel satisfactory to the Administrative Agent, (E) a duly executed Environmental Indemnity with respect thereto, (F) Phase I Environmental Site Assessment Reports, consistent with American Society of Testing and Materials (ASTM) Standard E 1527-05, and applicable state requirements, on all of the owned Real Estate, dated no more than six (6) months prior to the Closing Date (or date of the applicable Mortgage if provided post-closing), prepared by environmental engineers satisfactory to the Administrative Agent, all in form and substance satisfactory to the Administrative Agent, and such environmental review and audit reports, including Phase II reports, with respect to the Real Estate of any Loan Party as the Administrative Agent shall have requested, in each case together with letters executed by the environmental firms preparing such environmental reports, in form and substance satisfactory to the Administrative Agent, authorizing the Administrative Agent and the Lenders to rely on such reports, and the Administrative Agent shall be satisfied with the contents of all such environmental reports and (G) such other reports, documents, instruments and agreements as the Administrative Agent shall request, each in form and substance satisfactory to Administrative Agent.

“Recipient” shall mean, as applicable, (a) the Administrative Agent, (b) any Lender and (c) the Issuing Banks.

“Regulated Entities” shall mean, collectively, (a) APA ACO, Inc. and (b) any Subsidiary with a health care service plan license issued by the California Department of Managed Health Care for the provision of, or the arranging, payment, or reimbursement for the provision of, health care services to subscribers or enrollees of another full service or specialized health care service plan under a contract or other arrangement whereby the person assumes both professional and institutional risk but does not directly market, solicit, or sell health care service plan contracts.

“Regulation D” shall mean Regulation D of the Board of Governors of the Federal Reserve System, as the same may be in effect from time to time, and any successor regulations.

“Regulation T” shall mean Regulation T of the Board of Governors of the Federal Reserve System, as the same may be in effect from time to time, and any successor regulations.

“Regulation U” shall mean Regulation U of the Board of Governors of the Federal Reserve System, as the same may be in effect from time to time, and any successor regulations.

“Regulation X” shall mean Regulation X of the Board of Governors of the Federal Reserve System, as the same may be in effect from time to time, and any successor regulations.

“Regulation Y” shall mean Regulation Y of the Board of Governors of the Federal Reserve System, as the same may be in effect from time to time, and any successor regulations.

“Related Parties” shall mean, with respect to any specified Person, such Person’s Affiliates and the respective managers, administrators, trustees, partners, directors, officers, employees, agents, advisors or other representatives of such Person and such Person’s Affiliates.

“Related Transaction Documents” shall mean the Loan Documents, the AP-AMH Loan Documents, the Tradename Licensing Agreement, the Administrative Services Agreement, and all other agreements or instruments executed in connection with the Related Transactions.

“Related Transactions” shall mean, collectively, each of the following:

- (a) the execution, delivery and performance by the Loan Parties of the Loan Documents to which they are a party and the making of the initial Loans on the Closing Date;
- (b) the repayment of the existing Indebtedness under the Existing Credit Agreement (other than the Existing Letters of Credit);
- (c) the execution and delivery of and performance under (1) the AP-AMH Loan Documents (including the funding of the AP-AMH Loan thereunder), (2) the Tradename Licensing Agreement and (3) the Administrative Services Agreement;
- (d) the consummation of the acquisition by AP-AMH of the Series A Preferred Stock for consideration in an amount equal to \$545,000,000 pursuant to the Series A Preferred SPA;

(e) the consummation of the acquisition by APC of 15,000,000 shares of common Capital Stock of the Borrower for consideration in an amount equal to \$300,000,000 as set forth in that certain Stock Purchase Agreement, dated May 10, 2019 and effective as of September 11, 2019, by and between APC and the Borrower; and

(f) the payment of all fees, costs and expenses associated with all of the foregoing.

“Release” shall mean any release, spill, emission, leaking, dumping, injection, pouring, deposit, disposal, discharge, dispersal, leaching or migration into the environment (including ambient air, surface water, groundwater, land surface or subsurface strata) or within any building, structure, facility or fixture.

“Required Lenders” shall mean, at any time, Lenders holding more than 50% of the aggregate outstanding Revolving Commitments and Term Loans at such time or, if the Lenders have no Commitments outstanding, then Lenders holding more than 50% of the aggregate outstanding Revolving Credit Exposure and Term Loans of the Lenders at such time; provided that to the extent that any Lender is a Defaulting Lender, such Defaulting Lender and all of its Revolving Commitments, Revolving Credit Exposure and Term Loans shall be excluded for purposes of determining Required Lenders.

“Required Revolving Lenders” shall mean, at any time, Lenders holding more than 50% of the aggregate outstanding Revolving Commitments at such time or, if the Lenders have no Revolving Commitments outstanding, then Lenders holding more than 50% of the aggregate Revolving Credit Exposure; provided that to the extent that any Lender is a Defaulting Lender, such Defaulting Lender and all of its Revolving Commitments and Revolving Credit Exposure shall be excluded for purposes of determining Required Revolving Lenders.

“Requirement of Law” for any Person shall mean the articles or certificate of incorporation, bylaws, partnership certificate and agreement, or limited liability company certificate of organization and agreement, as the case may be, and other organizational and governing documents of such Person, and any law, treaty, rule or regulation, or determination of a Governmental Authority, in each case applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject, including all Healthcare Laws.

“Responsible Officer” shall mean (x) with respect to certifying compliance with the financial covenants set forth in Article VI, any of the chief financial officer, the treasurer or the vice president of finance of the Borrower and (y) with respect to all other provisions, any of the executive chairman, the president, the chief executive officer, the chief operating officer, the chief financial officer, the treasurer or the vice president of finance of the Borrower or such other representative of the Borrower as may be designated in writing by any one of the foregoing with the consent of the Administrative Agent.

“Restricted Payment” shall mean, for any Person,

- (a) any dividend or other distribution, direct or indirect, on account of any shares of any class of Capital Stock of such Person;
- (b) any redemption, retirement, sinking fund or similar payment, purchase or other acquisition for value, direct or indirect, of any shares of any class of Capital Stock of such Person now or hereafter outstanding;
- (c) any payment made to retire, or to obtain the surrender of, any outstanding warrants, options or other rights to acquire shares of any class of Capital Stock of such Person now or hereafter outstanding; and

(d) any payment on account of Indebtedness that is subordinated to the Obligations.

“Revolving Commitment” shall mean, with respect to each Lender, the commitment of such Lender to make Revolving Loans to the Borrower and to acquire participations in Letters of Credit and Swingline Loans in an aggregate principal amount not exceeding the amount set forth with respect to such Lender on Schedule II, as such schedule may be amended pursuant to Section 2.23, or, in the case of a Person becoming a Lender after the Closing Date, the amount of the assigned “Revolving Commitment” as provided in the Assignment and Acceptance executed by such Person as an assignee, or the joinder executed by such Person, in each case as such commitment may subsequently be increased or decreased pursuant to the terms hereof.

“Revolving Commitment Termination Date” shall mean the earliest of (i) September 11, 2024, (ii) the date on which the Revolving Commitments are terminated pursuant to Section 2.8 and (iii) the date on which all amounts outstanding under this Agreement have been declared or have automatically become due and payable (whether by acceleration or otherwise).

“Revolving Credit Exposure” shall mean, with respect to any Lender at any time, the sum of the outstanding principal amount of such Lender’s Revolving Loans, LC Exposure and Swingline Exposure.

“Revolving Loan” shall mean a loan made by a Lender (other than the Swingline Lender) to the Borrower under its Revolving Commitment, which may either be a Base Rate Loan or a Eurodollar Loan.

“S&P” means Standard & Poor’s Rating Agency Group.

“Sanctioned Country” shall mean, at any time, a country, region or territory that is, or whose government is, the subject or target of any Sanctions including, without limitation, Venezuela, Crimea, Cuba, Iran, North Korea, Sudan and Syria.

“Sanctioned Person” shall mean, at any time, (a) any Person that is the subject or target of any Sanctions, (b) any Person located, organized, operating or resident in a Sanctioned Country or (c) any Person owned or controlled by any such Person.

“Sanctions” shall mean economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by (a) the U.S. government, including those administered by OFAC or the U.S. Department of State, (b) the United Nations Security Council, the European Union or Her Majesty’s Treasury of the United Kingdom or (c) any other relevant sanctions authority.

“Screen Rate” shall mean the rate specified in clause (i) of the definition of Adjusted LIBO Rate.

“Series A Preferred Dividend” shall mean the dividends to be issued by APC to AP-AMH on account of the Series A Preferred Stock pursuant to the Certificate of Determination.

“Series A Preferred SPA” shall mean that certain Series A Preferred Stock Purchase Agreement dated as of May 10, 2019 and effective as of September 11, 2019, by and between APC and AP-AMH.

“Series A Preferred Stock” shall mean the 1,000,000 shares of Series A Preferred Capital Stock issued by APC and purchased by AP-AMH in connection with the Series A Preferred SPA.

“Secured Parties” shall mean the Administrative Agent, the Lenders, the Issuing Banks, the Lender-Related Hedge Providers and the Bank Product Providers.



“Solvent” shall mean, with respect to any Person on a particular date, that on such date (a) the fair value of the property of such Person is greater than the total amount of liabilities, including subordinated and contingent liabilities, of such Person; (b) the present fair saleable value of the assets of such Person is not less than the amount that will be required to pay the probable liability of such Person on its debts and liabilities, including subordinated and contingent liabilities as they become absolute and matured; (c) such Person does not intend to, and does not believe that it will, incur debts or liabilities beyond such Person’s ability to pay as such debts and liabilities mature; and (d) such Person is not engaged in a business or transaction, and is not about to engage in a business or transaction, for which such Person’s property would constitute an unreasonably small capital. The amount of contingent liabilities (such as litigation, guaranties and pension plan liabilities) at any time shall be computed as the amount that, in light of all the facts and circumstances existing at the time, represents the amount that would reasonably be expected to become an actual or matured liability.

“Subsidiary” shall mean, with respect to any Person (the “parent”) at any date, any corporation, partnership, joint venture, limited liability company, association or other entity the accounts of which would be consolidated with those of the parent in the parent’s consolidated financial statements if such financial statements were prepared in accordance with GAAP as of such date, as well as any other corporation, partnership, joint venture, limited liability company, association or other entity (i) of which securities or other ownership interests representing more than 50% of the equity or more than 50% of the ordinary voting power or, in the case of a partnership, more than 50% of the general partnership interests are, as of such date, owned, controlled or held, or (ii) that is, as of such date, otherwise controlled, by the parent or one or more subsidiaries of the parent or by the parent and one or more subsidiaries of the parent. Unless otherwise indicated, all references to “Subsidiary” hereunder shall mean a Subsidiary of the Borrower. Notwithstanding anything to the contrary contained herein, the Associated Practices will be deemed not to be Subsidiaries of the Borrower (except as described in Section 1.3(b)).

“Subsidiary Loan Party” shall mean any Subsidiary that executes or becomes a party to the Guaranty and Security Agreement.

“Swap Obligation” shall mean, with respect to any Guarantor, any obligation to pay or perform under any agreement, contract or transaction that constitutes a “swap” within the meaning of section 1a(47) of the Commodity Exchange Act.

“Swap Termination Value” means, in respect of any one or more Hedging Transactions, after taking into account the effect of any legally enforceable netting agreement relating to such Hedging Transactions, (a) for any date on or after the date such Hedging Transactions have been closed out and termination value(s) determined in accordance therewith, such termination value(s), and (b) for any date prior to the date referenced in clause (a), the amount(s) determined as the mark-to-market value(s) for such Hedging Transactions, as determined based upon one or more mid-market or other readily available quotations provided by any recognized dealer in such Hedging Transactions (which may include a Lender or any Affiliate of a Lender).

“Swingline Commitment” shall mean the commitment of the Swingline Lender to make Swingline Loans in an aggregate principal amount at any time outstanding not to exceed \$5,000,000.

“Swingline Exposure” shall mean, with respect to each Lender, the principal amount of the Swingline Loans in which such Lender is legally obligated either to make a Base Rate Loan or to purchase a participation in accordance with Section 2.4, which shall equal such Lender’s Pro Rata Share of all outstanding Swingline Loans.

“Swingline Lender” shall mean SunTrust Bank.

“Swingline Loan” shall mean a loan made to the Borrower by the Swingline Lender under the Swingline Commitment.

“Synthetic Lease” shall mean a lease transaction under which the parties intend that (i) the lease will be treated as an “operating lease” by the lessee pursuant to Accounting Standards Codification Sections 840-10 and 840-20, as amended, and Accounting Standards Codification Section 842 and (ii) the lessee will be entitled to various tax and other benefits ordinarily available to owners (as opposed to lessees) of like property.

“Synthetic Lease Obligations” shall mean, with respect to any Person, the sum of (i) all remaining rental obligations of such Person as lessee under Synthetic Leases which are attributable to principal and, without duplication, (ii) all rental and purchase price payment obligations of such Person under such Synthetic Leases assuming such Person exercises the option to purchase the lease property at the end of the lease term.

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

“Term Loan” shall mean a term loan made by a Lender to the Borrower pursuant to Section 2.5 or Section 2.23.

“Term Loan Commitment” shall mean, with respect to each Lender, the obligation of such Lender to make a Term Loan hereunder on the Closing Date, in a principal amount not exceeding the amount set forth with respect to such Lender on Schedule II. The aggregate principal amount of all Lenders’ Term Loan Commitments as of the Closing Date is \$190,000,000.

“Third Party Payor” means Medicare, Medicaid, TRICARE, state government insurers, public or private insurers (including Blue Cross and/or Blue Shield) and any other Person which presently or in the future maintains a healthcare payment or reimbursement program.

“Third Party Payor Programs” shall mean all payment or reimbursement programs, sponsored or maintained by any Third Party Payor, in which the Loan Parties or any of their respective Subsidiaries or any Associated Practice participates.

“Threshold Amount” shall mean \$10,000,000.

“Trademark” shall have the meaning assigned to such term in the Guaranty and Security Agreement.

“Trademark Security Agreement” shall mean any Trademark Security Agreement executed by a Loan Party owning registered Trademarks or applications for Trademarks in favor of the Administrative Agent for the benefit of the Secured Parties, both on the Closing Date and thereafter.

“Tradenam e Licensing Agreement” shall mean that certain Tradenam e Licensing Agreement dated as of May 20, 2019, between the Borrower and AP-AMH.

“Transfer Restriction Agreement” shall mean each physician shareholder agreement (including, for the avoidance of doubt, the Physician Shareholder Agreement), membership interest transfer restriction agreement, stock transfer restriction agreement, continuity agreement or other similar agreement between the applicable Loan Party, the applicable Associated Practice and the applicable equity holder(s) of such Associated Practice, in each case, in form and substance reasonably satisfactory to Administrative Agent or similar provisions in any Management Services Agreement, in each case except for such changes required by any change in law (including Healthcare Laws and state corporate laws), in each case, as the same may be amended, restated, supplemented or otherwise modified from time to time in accordance with the terms hereof.

“Type”, when used in reference to a Loan or a Borrowing, refers to whether the rate of interest on such Loan, or on the Loans comprising such Borrowing, is determined by reference to the Adjusted LIBO Rate or the Base Rate.

“Unfinanced Cash Capital Expenditures” shall mean, for any period, the amount of Capital Expenditures made by the Borrower and its Subsidiaries during such period in cash, but excluding any such Capital Expenditures financed with Indebtedness permitted under Section 7.1(c) or that constitute reinvestment of proceeds as permitted under Section 2.12(a).

“Unfunded Pension Liability” of any Plan shall mean the amount, if any, by which the value of the accumulated plan benefits under the Plan, determined on a plan termination basis in accordance with actuarial assumptions at such time consistent with those prescribed by the PBGC for purposes of Section 4044 of ERISA, exceeds the fair market value of all Plan assets allocable to such liabilities under Title IV of ERISA (excluding any accrued but unpaid contributions).

“Uniform Commercial Code” or “UCC” shall mean the Uniform Commercial Code as in effect from time to time in the State of New York.

“United States” or “U.S.” shall mean the United States of America.

“U.S. Person” shall mean any Person that is a “United States person” as defined in Section 7701(a)(30) of the Code.

“U.S. Tax Compliance Certificate” shall have the meaning set forth in Section 2.20(g)(ii).

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

“Withholding Agent” shall mean the Borrower, any other Loan Party or the Administrative Agent, as applicable.

“Working Capital” shall mean the average of the Current Assets less the Current Liabilities for the first three months of each Fiscal Year compared to the average of the Current Assets less the Current Liabilities for the last three months of such Fiscal Year; provided that increases or decreases in Working Capital shall be calculated without regard to any changes in current assets or current liabilities as a result of any reclassification in accordance with GAAP of assets or liabilities, as applicable, between current and noncurrent.

“Write-Down and Conversion Powers” shall mean, with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule.

**Section 1.2**      **Classifications of Loans and Borrowings.** For purposes of this Agreement, Loans may be classified and referred to by Class (e.g. “Revolving Loan” or “Term Loan”) or by Type (e.g. “Eurodollar Loan” or “Base Rate Loan”) or by Class and Type (e.g. “Revolving Eurodollar Loan”). Borrowings also may be classified and referred to by Class (e.g. “Revolving Borrowing”) or by Type (e.g. “Eurodollar Borrowing”) or by Class and Type (e.g. “Revolving Eurodollar Borrowing”).

**Section 1.3**      **Accounting Terms and Determination.**

(a)            Unless otherwise defined or specified herein, all accounting terms used herein shall be interpreted, all accounting determinations hereunder shall be made, and all financial statements required to be delivered hereunder shall be prepared, in accordance with GAAP as in effect from time to time, applied on a basis consistent with the most recent audited consolidated financial statements of the Borrower delivered pursuant to Section 5.1(a) (or, if no such financial statements have been delivered, on a basis consistent with the audited consolidated financial statements of the Borrower last publicly filed); provided that if the Borrower notifies the Administrative Agent that the Borrower wishes to amend any covenant in Article VI to eliminate the effect of any change in GAAP on the operation of such covenant (or if the Administrative Agent notifies the Borrower that the Required Lenders wish to amend Article VI for such purpose), then the Borrower’s compliance with such covenant shall be determined on the basis of GAAP in effect immediately before the relevant change in GAAP became effective, until either such notice is withdrawn or such covenant is amended in a manner satisfactory to the Borrower and the Required Lenders. Notwithstanding any other provision contained herein, (i) all terms of an accounting or financial nature used herein shall be construed, and all computations of amounts and ratios referred to herein shall be made, without giving effect to any election under Accounting Standards Codification Section 825-10 (or any other Financial Accounting Standard having a similar result or effect including ASU 2015-03, and any other related treatment for debt discounts and premiums, such as original issue discount) to value any Indebtedness or other liabilities of any Loan Party or any Subsidiary of any Loan Party at “fair value”, as defined therein and (ii) for purposes of this Agreement, any lease that was accounted for by any Person as an operating lease as of December 31, 2018 and any lease entered into after December 31, 2018 that would have been accounted for as an operating lease if such lease had been in effect on December 31, 2018 shall be accounted for as an operating lease consistent with GAAP as in effect on December 31, 2018.

(b)            Notwithstanding anything to the contrary contained in this Agreement or any other Loan Document, the consolidated financial results or performance of the Borrower and its Subsidiaries shall include the financial results or performance of the Associated Practices to the extent required under GAAP.

**Section 1.4 Terms Generally.** The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include”, “includes” and “including” shall be deemed to be followed by the phrase “without limitation”. The words “other” and “otherwise” shall not be construed ejusdem generis with any foregoing words where a wider construction is possible. The word “will” shall be construed to have the same meaning and effect as the word “shall”. In the computation of periods of time from a specified date to a later specified date, the word “from” means “from and including” and the word “to” means “to but excluding”. Unless the context requires otherwise (i) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as it was originally executed or as it may from time to time be amended, restated, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein), (ii) any reference herein to any Person shall be construed to include such Person’s successors and permitted assigns, (iii) the words “hereof”, “herein” and “hereunder” and words of similar import shall be construed to refer to this Agreement as a whole and not to any particular provision hereof, (iv) all references to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles, Sections, Exhibits and Schedules to this Agreement, (v) any definition of or reference to any law shall include all statutory and regulatory provisions consolidating, amending, or interpreting any such law and any reference to or definition of any law or regulation, unless otherwise specified, shall refer to such law or regulation as amended, modified or supplemented from time to time, (vi) 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, including cash, securities, accounts and contract rights and (vii) all references to a specific time shall be construed to refer to the time in the city and state of the Administrative Agent’s principal office, unless otherwise indicated. Unless otherwise expressly provided herein, all references to dollar amounts shall mean Dollars. In determining whether any individual event, act, condition or occurrence of the foregoing types could reasonably be expected to result in a Material Adverse Effect, notwithstanding that a particular event, act, condition or occurrence does not itself have such effect, a Material Adverse Effect shall be deemed to have occurred if the cumulative effect of such event, act, condition or occurrence and all other such events, acts, conditions or occurrences of the foregoing types which have occurred could reasonably be expected to result in a Material Adverse Effect. Any reference herein to a merger, transfer, consolidation, amalgamation, assignment, sale or disposition or similar term, shall be deemed to apply to a division of or by a limited liability company, or an allocation of assets to a series of a limited liability company (or the unwinding of such a division or allocation), as if it were a merger, transfer, consolidation, amalgamation, assignment, sale or disposition, or similar term, as applicable, to, of or with a separate Person. Any division of a limited liability company shall constitute a separate Person hereunder (and each division of any limited liability company that is a Subsidiary, joint venture or any other like term shall also constitute such a Person or entity).

## ARTICLE II

### AMOUNT AND TERMS OF THE COMMITMENTS

**Section 2.1 General Description of Facilities.** Subject to and upon the terms and conditions herein set forth, (i) the Lenders hereby establish in favor of the Borrower a revolving credit facility pursuant to which each Lender severally agrees (to the extent of such Lender’s Revolving Commitment) to make Revolving Loans to the Borrower in accordance with Section 2.2; (ii) each Issuing Bank may issue Letters of Credit in accordance with Section 2.22; (iii) the Swingline Lender may make Swingline Loans in accordance with Section 2.4; (iv) each Lender agrees to purchase a participation interest in the Letters of Credit and the Swingline Loans pursuant to the terms and conditions hereof; provided that in no event shall the aggregate principal amount of all outstanding Revolving Loans, Swingline Loans and outstanding LC Exposure exceed the Aggregate Revolving Commitment Amount in effect from time to time; and (v) each Lender severally agrees to make a Term Loan to the Borrower in a principal amount equal to such Lender’s Term Loan Commitment on the Closing Date.

**Section 2.2 Revolving Loans.** Subject to the terms and conditions set forth herein, each Lender severally agrees to make Revolving Loans, ratably in proportion to its Pro Rata Share of the Aggregate Revolving Commitments, to the Borrower, from time to time during the Availability Period, in an aggregate principal amount outstanding at any time that will not result in (a) such Lender’s Revolving Credit Exposure exceeding such Lender’s Revolving Commitment or (b) the aggregate Revolving Credit Exposures of all Lenders exceeding the Aggregate Revolving Commitment Amount. During the Availability Period, the Borrower shall be entitled to borrow, prepay and reborrow Revolving Loans in accordance with the terms and conditions of this Agreement; provided that the Borrower may not borrow or reborrow should there exist a Default or Event of Default.

**Section 2.3 Procedure for Revolving Borrowings.** The Borrower shall give the Administrative Agent written notice (or telephonic notice promptly confirmed in writing) of each Revolving Borrowing, substantially in the form of Exhibit 2.3 attached hereto (a “Notice of Revolving Borrowing”), (x) prior to 12:00 p.m. one (1) Business Day prior to the requested date of each Base Rate Borrowing (other than with respect to the Closing Date, for which such request shall be required to be provided no later than 12:00 p.m. on the Closing Date) and (y) prior to 11:00 a.m. three (3) Business Days prior to the requested date of each Eurodollar Borrowing (other than with respect to the Closing Date, for which such request shall be provided prior to 5:00 p.m. three (3) Business Days prior to the Closing Date). Each Notice of Revolving Borrowing shall be irrevocable and shall specify (i) the aggregate principal amount of such Borrowing, (ii) the date of such Borrowing (which shall be a Business Day), (iii) the Type of such Revolving Loan comprising such Borrowing and (iv) in the case of a Eurodollar Borrowing, the duration of the initial Interest Period applicable thereto (subject to the provisions of the definition of Interest Period). Each Revolving Borrowing shall consist entirely of Base Rate Loans or Eurodollar Loans, as the Borrower may request. The aggregate principal amount of each Eurodollar Borrowing shall not be less than \$2,000,000 or a larger multiple of \$500,000, and the aggregate principal amount of each Base Rate Borrowing shall not be less than \$1,000,000 or a larger multiple of \$100,000; provided that Base Rate Loans made pursuant to Section 2.4 or Section 2.22(d) may be made in lesser amounts as provided therein. At no time shall the total number of Eurodollar Borrowings outstanding at any time exceed four (4). Promptly following the receipt of a Notice of Revolving Borrowing in accordance herewith, the Administrative Agent shall advise each Lender of the details thereof and the amount of such Lender’s Revolving Loan to be made as part of the requested Revolving Borrowing.

**Section 2.4 Swingline Commitment.**

(a) Subject to the terms and conditions set forth herein, the Swingline Lender may, in its sole discretion, make Swingline Loans to the Borrower, from time to time during the Availability Period, in an aggregate principal amount outstanding at any time not to exceed the lesser of (i) the Swingline Commitment then in effect and (ii) the difference between the Aggregate Revolving Commitment Amount and the aggregate Revolving Credit Exposures of all Lenders; provided that the Swingline Lender shall not be required to make a Swingline Loan to refinance an outstanding Swingline Loan. The Borrower shall be entitled to borrow, repay and reborrow Swingline Loans in accordance with the terms and conditions of this Agreement.

(b) The Borrower shall give the Administrative Agent written notice (or telephonic notice promptly confirmed in writing) of each Swingline Borrowing, substantially in the form of Exhibit 2.4 attached hereto (a “Notice of Swingline Borrowing”), prior to 10:00 a.m. on the requested date of each Swingline Borrowing. Each Notice of Swingline Borrowing shall be irrevocable and shall specify (i) the principal amount of such Swingline Borrowing, (ii) the date of such Swingline Borrowing (which shall be a Business Day) and (iii) the account of the Borrower to which the proceeds of such Swingline Borrowing should be credited. The Administrative Agent will promptly advise the Swingline Lender of each Notice of Swingline Borrowing. The aggregate principal amount of each Swingline Loan shall not be less than \$100,000 or a larger multiple of \$50,000, or such other minimum amounts agreed to by the Swingline Lender and the Borrower. The Swingline Lender will make the proceeds of each Swingline Loan available to the Borrower in Dollars in immediately available funds at the account specified by the Borrower in the applicable Notice of Swingline Borrowing not later than 1:00 p.m. on the requested date of such Swingline Borrowing.

(c) The Swingline Lender, at any time and from time to time in its sole discretion, may, but in no event no less frequently than once each calendar week shall, on behalf of the Borrower (which hereby irrevocably authorizes and directs the Swingline Lender to act on its behalf), give a Notice of Revolving Borrowing to the Administrative Agent requesting the Lenders (including the Swingline Lender) to make Base Rate Loans in an amount equal to the unpaid principal amount of any Swingline Loan. Each Lender will make the proceeds of its Base Rate Loan included in such Borrowing available to the Administrative Agent for the account of the Swingline Lender in accordance with Section 2.6, which will be used solely for the repayment of such Swingline Loan.

(d) If for any reason a Base Rate Borrowing may not be (as determined in the sole discretion of the Administrative Agent), or is not, made in accordance with the foregoing provisions, then each Lender (other than the Swingline Lender) shall purchase an undivided participating interest in such Swingline Loan in an amount equal to its Pro Rata Share thereof on the date that such Base Rate Borrowing should have occurred. On the date of such required purchase, each Lender shall promptly transfer, in immediately available funds, the amount of its participating interest to the Administrative Agent for the account of the Swingline Lender.

(e) Each Lender's obligation to make a Base Rate Loan pursuant to subsection (c) of this Section or to purchase participating interests pursuant to subsection (d) of this Section shall be absolute and unconditional and shall not be affected by any circumstance, including, without limitation, (i) any set-off, counterclaim, recoupment, defense or other right that such Lender or any other Person may have or claim against the Swingline Lender, the Borrower or any other Person for any reason whatsoever, (ii) the existence of a Default or an Event of Default or the termination of any Lender's Revolving Commitment, (iii) the existence (or alleged existence) of any event or condition which has had or could reasonably be expected to have a Material Adverse Effect, (iv) any breach of this Agreement or any other Loan Document by any Loan Party, the Administrative Agent or any Lender or (v) any other circumstance, happening or event whatsoever, whether or not similar to any of the foregoing. If such amount is not in fact made available to the Swingline Lender by any Lender, the Swingline Lender shall be entitled to recover such amount on demand from such Lender, together with accrued interest thereon for each day from the date of demand thereof (x) at the Federal Funds Rate until the second Business Day after such demand and (y) at the Base Rate at all times thereafter. Until such time as such Lender makes its required payment, the Swingline Lender shall be deemed to continue to have outstanding Swingline Loans in the amount of the unpaid participation for all purposes of the Loan Documents. In addition, such Lender shall be deemed to have assigned any and all payments made of principal and interest on its Loans and any other amounts due to it hereunder to the Swingline Lender to fund the amount of such Lender's participation interest in such Swingline Loans that such Lender failed to fund pursuant to this Section, until such amount has been purchased in full.

**Section 2.5 Term Loan Commitments.** Subject to the terms and conditions set forth herein, each Lender severally agrees to make a single term loan to the Borrower on the Closing Date in a principal amount equal to the Term Loan Commitment of such Lender. The Term Loans may be, from time to time, Base Rate Loans or Eurodollar Loans or a combination thereof; provided that on the Closing Date all Term Loans shall be (i) a Base Rate Loan or (ii) a Eurodollar Loan (provided, in the case of this clause (ii), the Borrower must notify the Administrative Agent prior to 5:00 p.m. on the third (3<sup>rd</sup>) Business Day immediately preceding the Closing Date, which, for the avoidance of doubt, may be provided by e-mail). The execution and delivery of this Agreement by the Borrower and the satisfaction of all conditions precedent pursuant to Section 3.1 shall be deemed to constitute the Borrower's request to borrow the Term Loans on the Closing Date.

**Section 2.6 Funding of Borrowings.**

(a) Each Lender will make available each Loan to be made by it hereunder on the proposed date thereof by wire transfer in immediately available funds by 11:00 a.m. to the Administrative Agent at the Payment Office; provided that the Swingline Loans will be made as set forth in Section 2.4. The Administrative Agent will make such Loans available to the Borrower by promptly crediting the amounts that it receives, in like funds by the close of business on such proposed date, to an account maintained by the Borrower with the Administrative Agent or, at the Borrower's option, by effecting a wire transfer of such amounts to an account designated by the Borrower to the Administrative Agent.

(b) Unless the Administrative Agent shall have been notified by any Lender prior to 5:00 p.m. one (1) Business Day prior to the date of a Borrowing in which such Lender is to participate that such Lender will not make available to the Administrative Agent such Lender's share of such Borrowing, the Administrative Agent may assume that such Lender has made such amount available to the Administrative Agent on such date, and the Administrative Agent, in reliance on such assumption, may make available to the Borrower on such date a corresponding amount. If such corresponding amount is not in fact made available to the Administrative Agent by such Lender on the date of such Borrowing, the Administrative Agent shall be entitled to recover such corresponding amount on demand from such Lender together with interest (x) at the Federal Funds Rate until the second Business Day after such demand and (y) at the Base Rate at all times thereafter. If such Lender does not pay such corresponding amount forthwith upon the Administrative Agent's demand therefor, the Administrative Agent shall promptly notify the Borrower, and the Borrower shall immediately pay such corresponding amount to the Administrative Agent together with interest at the rate specified for such Borrowing. Nothing in this subsection shall be deemed to relieve any Lender from its obligation to fund its Pro Rata Share of any Borrowing hereunder or to prejudice any rights which the Borrower may have against any Lender as a result of any default by such Lender hereunder.

(c) All Revolving Borrowings shall be made by the Lenders on the basis of their respective Pro Rata Shares. No Lender shall be responsible for any default by any other Lender in its obligations hereunder, and each Lender shall be obligated to make its Loans provided to be made by it hereunder, regardless of the failure of any other Lender to make its Loans hereunder.

**Section 2.7 Interest Elections.**

(a) Each Borrowing initially shall be of the Type specified in the applicable Notice of Borrowing. Thereafter, the Borrower may elect to convert such Borrowing into a different Type or to continue such Borrowing, all as provided in this Section. The Borrower may elect different options with respect to different portions of the affected Borrowing, in which case each such portion shall be allocated ratably among the Lenders holding Loans comprising such Borrowing, and the Loans comprising each such portion shall be considered a separate Borrowing.

(b) To make an election pursuant to this Section, the Borrower shall give the Administrative Agent written notice (or telephonic notice promptly confirmed in writing) of each Borrowing that is to be converted or continued, as the case may be, substantially in the form of Exhibit 2.7 attached hereto (a "Notice of Conversion/Continuation") (x) prior to 10:00 a.m. one (1) Business Day prior to the requested date of a conversion into a Base Rate Borrowing and (y) prior to 11:00 a.m. three (3) Business Days prior to a continuation of or conversion into a Eurodollar Borrowing. Each such Notice of Conversion/Continuation shall be irrevocable and shall specify (i) the Borrowing to which such Notice of Conversion/Continuation applies and, if different options are being elected with respect to different portions thereof, the portions thereof that are to be allocated to each resulting Borrowing (in which case the information to be specified pursuant to clauses (iii) and (iv) shall be specified for each resulting Borrowing), (ii) the effective date of the election made pursuant to such Notice of Conversion/Continuation, which shall be a Business Day, (iii) whether the resulting Borrowing is to be a Base Rate Borrowing or a Eurodollar Borrowing, and (iv) if the resulting Borrowing is to be a Eurodollar Borrowing, the Interest Period applicable thereto after giving effect to such election, which shall be a period contemplated by the definition of "Interest Period". If any such Notice of Conversion/Continuation requests a Eurodollar Borrowing but does not specify an Interest Period, the Borrower shall be deemed to have selected an Interest Period of one month. The principal amount of any resulting Borrowing shall satisfy the minimum borrowing amount for Eurodollar Borrowings and Base Rate Borrowings set forth in Section 2.3.



(c) If, on the expiration of any Interest Period in respect of any Eurodollar Borrowing, the Borrower shall have failed to deliver a Notice of Conversion/Continuation, then, unless such Borrowing is repaid as provided herein, the Borrower shall be deemed to have elected to convert such Borrowing to a Base Rate Borrowing. No Borrowing may be converted into, or continued as, a Eurodollar Borrowing if a Default or an Event of Default exists, unless the Administrative Agent and each of the Lenders shall have otherwise consented in writing. No conversion of any Eurodollar Loan shall be permitted except on the last day of the Interest Period in respect thereof.

(d) Upon receipt of any Notice of Conversion/Continuation, the Administrative Agent shall promptly notify each Lender of the details thereof and of such Lender's portion of each resulting Borrowing.

**Section 2.8 Optional Reduction and Termination of Commitments.**

(a) Unless previously terminated, all Revolving Commitments, Swingline Commitments and LC Commitments shall terminate on the Revolving Commitment Termination Date. The Term Loan Commitments shall terminate on the Closing Date upon the making of the Term Loans pursuant to Section 2.5.

(b) Upon at least three (3) Business Days' prior written notice (or telephonic notice promptly confirmed in writing) to the Administrative Agent (which notice shall be irrevocable), the Borrower may reduce the Aggregate Revolving Commitments in part or terminate the Aggregate Revolving Commitments in whole; provided that (i) any partial reduction shall apply to reduce proportionately and permanently the Revolving Commitment of each Lender, (ii) any partial reduction pursuant to this Section shall be in an amount of at least \$5,000,000 and any larger multiple of \$1,000,000, and (iii) no such reduction shall be permitted which would reduce the Aggregate Revolving Commitment Amount to an amount less than the aggregate outstanding Revolving Credit Exposure of all Lenders. Any such reduction in the Aggregate Revolving Commitment Amount below the principal amount of the Swingline Commitment and the LC Commitment shall result in a dollar-for-dollar reduction in the Swingline Commitment and the LC Commitment.

(c) With the written approval of the Administrative Agent, the Borrower may terminate (on a non-ratable basis) the unused amount of the Revolving Commitment of a Defaulting Lender, and in such event the provisions of Section 2.26 will apply to all amounts thereafter paid by the Borrower for the account of any such Defaulting Lender under this Agreement (whether on account of principal, interest, fees, indemnity or other amounts); provided that such termination will not be deemed to be a waiver or release of any claim that the Borrower, the Administrative Agent, the Issuing Banks, the Swingline Lender or any other Lender may have against such Defaulting Lender.

**Section 2.9 Repayment of Loans.**

(a) The outstanding principal amount of all Revolving Loans and Swingline Loans shall be due and payable (together with accrued and unpaid interest thereon) on the Revolving Commitment Termination Date.

(b) The Borrower unconditionally promises to pay to the Administrative Agent for the account of each Lender the then unpaid principal amount of the Term Loan of such Lender in installments payable on the dates set forth below, with each such installment being in the aggregate principal amount for all Lenders set forth opposite such date below (and on such other date(s) and in such other amounts as may be required from time to time pursuant to this Agreement):

Installment Date	Principal Amount
December 31, 2019	\$ 2,375,000
March 31, 2020	\$ 2,375,000
June 30, 2020	\$ 2,375,000
September 30, 2020	\$ 2,375,000
December 31, 2020	\$ 2,375,000
March 31, 2021	\$ 2,375,000
June 30, 2021	\$ 2,375,000
September 30, 2021	\$ 2,375,000
December 31, 2021	\$ 3,562,500
March 31, 2022	\$ 3,562,500
June 30, 2022	\$ 3,562,500
September 30, 2022	\$ 3,562,500
December 31, 2022	\$ 3,562,500
March 31, 2023	\$ 3,562,500
June 30, 2023	\$ 3,562,500
September 30, 2023	\$ 3,562,500
December 31, 2023	\$ 4,750,000
March 31, 2024	\$ 4,750,000
June 30, 2024	\$ 4,750,000
Maturity Date of Term Loan	Remaining Principal Balance of Term Loan

provided that, to the extent not previously paid, the aggregate unpaid principal balance of the Term Loans shall be due and payable on the Maturity Date.

**Section 2.10 Evidence of Indebtedness.**

(a) Each Lender shall maintain in accordance with its usual practice appropriate records evidencing the Indebtedness of the Borrower to such Lender resulting from each Loan made by such Lender from time to time, including the amounts of principal and interest payable thereon and paid to such Lender from time to time under this Agreement. The Administrative Agent shall maintain appropriate records in which shall be recorded (i) the Revolving Commitment and the Term Loan Commitment of each Lender, (ii) the amount of each Loan made hereunder by each Lender, the Class and Type thereof and, in the case of each Eurodollar Loan, the Interest Period applicable thereto, (iii) the date of any continuation of any Loan pursuant to Section 2.7, (iv) the date of any conversion of all or a portion of any Loan to another Type pursuant to Section 2.7, (v) the date and amount of any principal or interest due and payable or to become due and payable from the Borrower to each Lender hereunder in respect of the Loans and (vi) both the date and amount of any sum received by the Administrative Agent hereunder from the Borrower in respect of the Loans and each Lender's Pro Rata Share thereof. The entries made in such records shall be *prima facie* evidence of the existence and amounts of the obligations of the Borrower therein recorded; provided that the failure or delay of any Lender or the Administrative Agent in maintaining or making entries into any such record or any error therein shall not in any manner affect the obligation of the Borrower to repay the Loans (both principal and unpaid accrued interest) of such Lender in accordance with the terms of this Agreement.

(b) This Agreement evidences the obligation of the Borrower to repay the Loans and is being executed as a “noteless” credit agreement. However, at the request of any Lender (including the Swingline Lender) at any time, the Borrower agrees that it will prepare, execute and deliver to such Lender a promissory note payable to the order of such Lender (or, if requested by such Lender, to such Lender and its registered assigns) and in a form approved by the Administrative Agent. Thereafter, the Loans evidenced by such promissory note and interest thereon shall at all times (including after assignment permitted hereunder) be represented by one or more promissory notes in such form payable to the order of the payee named therein (or, if such promissory note is a registered note, to such payee and its registered assigns).

**Section 2.11 Optional Prepayments.** The Borrower shall have the right at any time and from time to time to prepay any Borrowing, in whole or in part, without premium or penalty, by giving written notice (or telephonic notice promptly confirmed in writing) to the Administrative Agent no later than (i) in the case of any prepayment of any Eurodollar Borrowing, 11:00 a.m. not less than three (3) Business Days prior to the date of such prepayment, (ii) in the case of any prepayment of any Base Rate Borrowing, not less than one (1) Business Day prior to the date of such prepayment, and (iii) in the case of any prepayment of any Swingline Borrowing, prior to 11:00 a.m. on the date of such prepayment. Each such notice shall be irrevocable and shall specify the proposed date of such prepayment and the principal amount of each Borrowing or portion thereof to be prepaid. Upon receipt of any such notice, the Administrative Agent shall promptly notify each affected Lender of the contents thereof and of such Lender’s Pro Rata Share of any such prepayment. If such notice is given, the aggregate amount specified in such notice shall be due and payable on the date designated in such notice, together with accrued interest to such date on the amount so prepaid in accordance with Section 2.13(d); provided that if a Eurodollar Borrowing is prepaid on a date other than the last day of an Interest Period applicable thereto, the Borrower shall also pay all amounts required pursuant to Section 2.19. Each partial prepayment of any Loan shall be in an amount that would be permitted in the case of an advance of a Revolving Borrowing of the same Type pursuant to Section 2.2 or, in the case of a Swingline Loan, pursuant to Section 2.4. Each prepayment of a Borrowing shall be applied ratably to the Loans comprising such Borrowing and, in the case of a prepayment of a Term Loan Borrowing, to principal installments as may be directed by the Borrower (and in the absence of any such direction, in the inverse order of maturity).

**Section 2.12 Mandatory Prepayments.**

(a) Immediately upon receipt by the Borrower or any of its Subsidiaries of any proceeds in an aggregate amount exceeding \$500,000 in any Fiscal Year from (A) any sale or disposition by the Borrower or any of its Subsidiaries of any of its assets, or (B) any casualty insurance policies or eminent domain, condemnation or similar proceedings, the Borrower shall prepay the Obligations in an amount equal to all such excess proceeds, net of commissions and other reasonable and customary transaction costs, fees and expenses properly attributable to such transaction and payable by the Borrower in connection therewith (in each case, paid to non-Affiliates); provided that the Borrower shall not be required to prepay the Obligations (i) with respect to proceeds from the sales of inventory in the ordinary course of business, and (ii) so long as no Default or Event of Default shall have occurred and be continuing at the time of the receipt of proceeds pursuant to this subsection (a) or at the proposed time of the reinvestment of such proceeds, the Borrower shall have the option, upon written notice to the Administrative Agent, directly or (x) in the case of proceeds received by a Loan Party, through one or more of its Subsidiaries that is a Loan Party or (y) in the case of proceeds received by a Subsidiary that is not a Loan Party, through one or more of its Subsidiaries, to reinvest such proceeds within three hundred sixty-five (365) days of receipt thereof in assets of the general type used in the business of the Borrower and its Subsidiaries so long as such proceeds received by a Loan Party are held in Controlled Accounts at SunTrust Bank or other accounts subject to Control Account Agreements until reinvested; provided that any funds are committed to be reinvested during the initial three hundred sixty-five (365) days after the receipt of such proceeds but the reinvestment has not yet occurred by the end of such period, the Borrower and its Subsidiaries shall have an additional one hundred eighty (180) day period to consummate such reinvestment; provided, further, that if any such proceeds have not been reinvested at the end of such additional period, the Borrower shall promptly prepay the Obligations as required by this Section 2.12(a). Any such prepayment shall be applied in accordance with subsection (d) of this Section.

(b) No later than the Business Day following the date of receipt by the Borrower or any of its Subsidiaries of any proceeds from any issuance of Indebtedness by the Borrower or any of its Subsidiaries, the Borrower shall prepay the Obligations in an amount equal to all such proceeds, net of underwriting discounts and commissions and other reasonable and customary transaction costs, fees and expenses properly attributable to such transaction and payable by the Borrower in connection therewith (in each case, paid to non-Affiliates); provided that the Borrower shall not be required to prepay the Obligations with respect to proceeds of Indebtedness permitted under Section 7.1. Any such prepayment shall be applied in accordance with subsection (d) of this Section.

(c) Commencing with the Fiscal Year ending December 31, 2020, no later than five (5) Business Days after the date on which the Borrower's annual audited financial statements for such Fiscal Year are required to be delivered pursuant to Section 5.1(a), the Borrower shall prepay the Obligations in an amount equal to (i) the Applicable ECF Percentage multiplied by Consolidated Excess Cash Flow minus (ii) voluntary repayments of the Loans (to the extent such repayment is not financed with the proceeds of Indebtedness) pursuant to Section 2.11 (excluding repayments of Revolving Loans except to the extent the Revolving Commitments are permanently reduced in connection with such repayments) actually made during the applicable Fiscal Year or prior to the date that such prepayment is due and payable in respect of the then-existing Fiscal Year (but without duplication of any voluntary prepayment applied to reduce Consolidated Excess Cash Flow in any other Fiscal Year). Any such prepayment shall be applied in accordance with subsection (d) of this Section. Any such prepayment shall be accompanied by a certificate signed by a Responsible Officer certifying in reasonable detail the manner in which Consolidated Excess Cash Flow and the resulting prepayment were calculated, which certificate shall be in form and substance reasonably satisfactory to the Administrative Agent.

(d) Any prepayments made by the Borrower pursuant to subsection (a), (b) or (c) of this Section shall be applied as follows: first, to the Administrative Agent's fees and reimbursable expenses then due and payable pursuant to any of the Loan Documents; second, to the principal balance of the Term Loans, until the same shall have been paid in full, *pro rata* to the Lenders based on their Pro Rata Shares of the Term Loans, and applied to installments of the Term Loans in the inverse order of maturity; third, to the principal balance of the Swingline Loans, until the same shall have been paid in full, to the Swingline Lender; fourth, to the principal balance of the Revolving Loans, until the same shall have been paid in full, *pro rata* to the Lenders based on their respective Revolving Commitments; and fifth, to Cash Collateralize the Letters of Credit in an amount in cash equal to the LC Exposure as of such date plus any accrued and unpaid fees thereon. The Revolving Commitments of the Lenders shall not be permanently reduced by the amount of any prepayments made pursuant to clauses second through fifth above, unless an Event of Default has occurred and is continuing and the Required Revolving Lenders so request.

(e) If at any time the aggregate Revolving Credit Exposure of all Lenders exceeds the Aggregate Revolving Commitment Amount, as reduced pursuant to Section 2.8 or otherwise, the Borrower shall immediately repay the Swingline Loans and the Revolving Loans in an amount equal to such excess, together with all accrued and unpaid interest on such excess amount and any amounts due under Section 2.19. Each prepayment shall be applied as follows: first, to the Swingline Loans to the full extent thereof; second, to the Base Rate Loans to the full extent thereof; and third, to the Eurodollar Loans to the full extent thereof. If, after giving effect to prepayment of all Swingline Loans and Revolving Loans, the aggregate Revolving Credit Exposure of all Lenders exceeds the Aggregate Revolving Commitment Amount, the Borrower shall Cash Collateralize its reimbursement obligations with respect to all Letters of Credit in an amount equal to such excess plus any accrued and unpaid fees thereon.

**Section 2.13     Interest on Loans.**

(a)       The Borrower shall pay interest on (i) each Base Rate Loan at the Base Rate plus the Applicable Margin in effect from time to time and (ii) each Eurodollar Loan at the Adjusted LIBO Rate for the applicable Interest Period in effect for such Loan plus the Applicable Margin in effect from time to time.

(b)       The Borrower shall pay interest on each Swingline Loan at the Base Rate plus the Applicable Margin in effect from time to time.

(c)       Notwithstanding subsections (a) and (b) of this Section, at the request of the Required Lenders if an Event of Default has occurred and is continuing, and automatically after acceleration or with respect to any Event of Default due to Sections 8.1(a), (h) or (i), the Borrower shall pay interest (“Default Interest”) with respect to all Eurodollar Loans at the rate *per annum* equal to 200 basis points above the otherwise applicable interest rate for such Eurodollar Loans for the then-current Interest Period until the last day of such Interest Period, and thereafter, and with respect to all Base Rate Loans and all other Obligations hereunder (other than Loans), at the rate *per annum* equal to 200 basis points above the otherwise applicable interest rate for Base Rate Loans.

(d)       Interest on the principal amount of all Loans shall accrue from and including the date such Loans are made to but excluding the date of any repayment thereof. Interest on all outstanding Base Rate Loans and Swingline Loans shall be payable quarterly in arrears on the last Business Day of each March, June, September and December and on the Revolving Commitment Termination Date or the Maturity Date, as the case may be. Interest on all outstanding Eurodollar Loans shall be payable on the last day of each Interest Period applicable thereto, and, in the case of any Eurodollar Loans having an Interest Period in excess of three months, on each day which occurs every three months after the initial date of such Interest Period, and on the Revolving Commitment Termination Date or the Maturity Date, as the case may be. Interest on any Loan which is converted into a Loan of another Type or which is repaid or prepaid shall be payable on the date of such conversion or on the date of any such repayment or prepayment (on the amount repaid or prepaid) thereof. All Default Interest shall be payable on demand.

(e)       The Administrative Agent shall determine each interest rate applicable to the Loans hereunder and shall promptly notify the Borrower and the Lenders of such rate in writing (or by telephone, promptly confirmed in writing). Any such determination shall be conclusive and binding for all purposes, absent manifest error.

**Section 2.14     Fees.**

(a)       The Borrower shall pay to the Administrative Agent for its own account fees in the amounts and at the times previously agreed upon in writing by the Borrower and the Administrative Agent.

(b)       The Borrower agrees to pay to the Administrative Agent for the account of each Lender a commitment fee (the “Commitment Fee”), which shall accrue at the Applicable Percentage *per annum* (determined daily in accordance with Schedule I) on the daily amount of the unused Revolving Commitment of such Lender during the Availability Period. For purposes of computing the Commitment Fee, the Revolving Commitment of each Lender shall be deemed used to the extent of the outstanding Revolving Loans and LC Exposure, but not Swingline Exposure, of such Lender.

(c) The Borrower agrees to pay (i) to the Administrative Agent, for the account of each Lender, a letter of credit fee with respect to its participation in each Letter of Credit, which shall accrue at a rate *per annum* equal to the Applicable Margin for Eurodollar Loans then in effect on the average daily amount of such Lender's LC Exposure attributable to such Letter of Credit during the period from and including the date of issuance of such Letter of Credit to but excluding the date on which such Letter of Credit expires or is drawn in full (including, without limitation, any LC Exposure that remains outstanding after the Revolving Commitment Termination Date) and (ii) to each Issuing Bank for its own account a fronting fee, which shall accrue at the rate set forth in the Fee Letter on the average daily amount of the LC Exposure (excluding any portion thereof attributable to unreimbursed LC Disbursements) during the Availability Period (or until the date that such Letter of Credit is irrevocably cancelled, whichever is later), as well as such Issuing Bank's standard fees with respect to issuance, amendment, renewal or extension of any Letter of Credit or processing of drawings thereunder. Notwithstanding the foregoing, if the interest rate on the Loans is increased to the rate for Default Interest pursuant to Section 2.13(c) (as a result of an election by the Required Lenders or otherwise in accordance with the terms thereof), the rate *per annum* used to calculate the letter of credit fee pursuant to clause (i) above shall automatically be increased by 200 basis points.

(d) The Borrower shall pay on the Closing Date to the Administrative Agent and its affiliates all fees in the Fee Letter that are due and payable on the Closing Date.

(e) Accrued fees under subsections (b) and (c) of this Section shall be payable quarterly in arrears on the last day of each March, June, September and December, commencing with the first payment due (on a prorated basis) on September 30, 2019, and on the Revolving Commitment Termination Date (and, if later, the date the Loans and LC Exposure shall be repaid in their entirety); provided that any such fees accruing after the Revolving Commitment Termination Date shall be payable on demand.

**Section 2.15      Computation of Interest and Fees.**

Interest hereunder based on the Administrative Agent's prime lending rate shall be computed on the basis of a year of 365 days (or 366 days in a leap year) and paid for the actual number of days elapsed (including the first day but excluding the last day). All other interest and all fees hereunder shall be computed on the basis of a year of 360 days and paid for the actual number of days elapsed (including the first day but excluding the last day). Each determination by the Administrative Agent of an interest rate or fee hereunder shall be made in good faith and, except for manifest error, shall be final, conclusive and binding for all purposes.

**Section 2.16      Inability to Determine Interest Rates.**

(a) If, prior to the commencement of any Interest Period for any Eurodollar Borrowing:

(i) the Administrative Agent shall have determined (which determination shall be conclusive and binding upon the Borrower) that, by reason of circumstances affecting the relevant interbank market, adequate and reasonable means do not exist for ascertaining the Adjusted LIBO Rate (including, without limitation, because the Screen Rate is not available or published on a current basis) for such Interest Period, or

(ii) the Administrative Agent shall have received notice from the Required Lenders that the Adjusted LIBO Rate for such Interest Period will not adequately and fairly reflect the cost to such Lenders of making, funding or maintaining their Eurodollar Loans for such Interest Period,

then the Administrative Agent shall give written notice thereof (or telephonic notice, promptly confirmed in writing) to the Borrower and to the Lenders as soon as practicable thereafter. Until the Administrative Agent shall notify the Borrower and the Lenders that the circumstances giving rise to such notice no longer exist, (i) the obligations of the Lenders to make Eurodollar Revolving Loans or to continue or convert outstanding Loans as or into Eurodollar Loans shall be suspended and (ii) all such affected Loans shall be converted into Base Rate Loans on the last day of the then current Interest Period applicable thereto unless the Borrower prepays such Loans in accordance with this Agreement. Unless the Borrower notifies the Administrative Agent at least one (1) Business Day before the date of any Eurodollar Borrowing for which a Notice of Revolving Borrowing has previously been given that it elects not to borrow, continue or convert to a Eurodollar Borrowing on such date, then such Revolving Borrowing shall be made as, continued as or converted into a Base Rate Borrowing.

(b) If at any time the Administrative Agent determines (which determination shall be conclusive absent manifest error) that (i) the circumstances set forth in clause (a)(i) above have arisen and such circumstances are unlikely to be temporary or (ii) the circumstances set forth in clause (a)(i) above have not arisen but the supervisor for the administrator of the Screen Rate or a Governmental Authority having jurisdiction over the Administrative Agent has made a public statement identifying a specific date after which the Screen Rate shall no longer be used for determining interest rates for loans, then the Administrative Agent and the Borrower shall endeavor to establish a commercially reasonable alternative rate of interest to the Screen Rate that gives due consideration to the then prevailing and broadly established and recognized market convention for determining a rate of interest for syndicated loans in the United States at such time, and shall enter into an amendment to this Agreement to reflect such alternate rate of interest and such other related changes to this Agreement as may be applicable (but for the avoidance of doubt, such related changes shall not include a reduction of the Applicable Margin). Notwithstanding anything to the contrary in Section 10.2, such amendment shall become effective without any further action or consent of any other party to this Agreement so long as the Administrative Agent shall not have received, within five (5) Business Days of the date notice of such alternate rate of interest is provided to the Lenders, a written notice from the Required Lenders stating that such Required Lenders object to such amendment. Until an alternate rate of interest shall be determined in accordance with this clause (b) (but, in the case of the circumstances described in clause (ii) of the first sentence of this Section 2.16(b), only to the extent the Screen Rate for the applicable currency and/or such Interest Period is not available or published at such time on a current basis), (x) any Notice of Conversion/Continuation that requests the conversion of any Borrowing to, or continuation of any Borrowing as, a Eurodollar Borrowing shall be ineffective, and (y) if any Notice of Revolving Borrowing requests a Eurodollar Borrowing, such Borrowing shall be made as a Base Rate Borrowing; provided, that, if such alternate rate of interest shall be less than zero, such rate shall be deemed to be zero for the purposes of this Agreement.

**Section 2.17 Illegality.** If any Change in Law shall make it unlawful or impossible for any Lender to perform any of its obligations hereunder or to make, maintain or fund any Eurodollar Loan and such Lender shall so notify the Administrative Agent, the Administrative Agent shall promptly give notice thereof to the Borrower and the other Lenders, whereupon until such Lender notifies the Administrative Agent and the Borrower that the circumstances giving rise to such suspension no longer exist, the obligation of such Lender to make Eurodollar Revolving Loans, or to continue or convert outstanding Loans as or into Eurodollar Loans, shall be suspended. In the case of the making of a Eurodollar Borrowing, such Lender's Revolving Loan shall be made as a Base Rate Loan as part of the same Revolving Borrowing for the same Interest Period and, if the affected Eurodollar Loan is then outstanding, such Loan shall be converted to a Base Rate Loan either (i) on the last day of the then current Interest Period applicable to such Eurodollar Loan if such Lender may lawfully continue to maintain such Loan to such date or (ii) immediately if such Lender shall determine that it may not lawfully continue to maintain such Eurodollar Loan to such date. Notwithstanding the foregoing, the affected Lender shall, prior to giving such notice to the Administrative Agent, use reasonable efforts to designate a different Applicable Lending Office if such designation would avoid the need for giving such notice and if such designation would not otherwise be disadvantageous to such Lender in the good faith exercise of its discretion.

**Section 2.18 Increased Costs.**

(a) If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit or similar requirement that is not otherwise included in the determination of the Adjusted LIBO Rate hereunder against assets of, deposits with or for the account of, or credit extended by, any Lender (except any such reserve requirement reflected in the Adjusted LIBO Rate) or any Issuing Bank; or

(ii) subject any Recipient to any Taxes (other than (A) Indemnified Taxes and (B) Taxes described in clauses (b) through (d) of the definition of Excluded Taxes; or

(iii) impose on any Lender, any Issuing Bank or the eurodollar interbank market any other condition affecting this Agreement or any Eurodollar Loans made by such Lender or any Letter of Credit or any participation therein;

and the result of any of the foregoing is to increase the cost to such Lender of making, converting into, continuing or maintaining a Eurodollar Loan or to increase the cost to such Lender or such Issuing Bank of participating in or issuing any Letter of Credit or to reduce the amount received or receivable by such Lender or such Issuing Bank hereunder (whether of principal, interest or any other amount),

then, from time to time, such Lender or such Issuing Bank may provide the Borrower (with a copy thereof to the Administrative Agent) with written notice and demand (including the calculation of all applicable amounts) with respect to such increased costs or reduced amounts, and within five (5) Business Days after receipt of such notice and demand and calculation, the Borrower shall pay to such Lender or such Issuing Bank, as the case may be, such additional amounts as will compensate such Lender or such Issuing Bank for any such increased costs incurred or reduction suffered.

(b) If any Lender or any Issuing Bank shall have determined that on or after the Closing Date any Change in Law regarding capital or liquidity ratios or requirements has or would have the effect of reducing the rate of return on such Lender's or such Issuing Bank's capital (or on the capital of the Parent Company of such Lender or such Issuing Bank) as a consequence of its obligations hereunder or under or in respect of any Letter of Credit to a level below that which such Lender, such Issuing Bank or such Parent Company could have achieved but for such Change in Law (taking into consideration such Lender's or such Issuing Bank's policies or the policies of such Parent Company with respect to capital adequacy and liquidity), then, from time to time, such Lender or such Issuing Bank may provide the Borrower (with a copy thereof to the Administrative Agent) with written notice and demand (including the calculation of all applicable amounts) with respect to such reduced amounts, and within five (5) Business Days after receipt of such notice and demand and calculation the Borrower shall pay to such Lender or such Issuing Bank, as the case may be, such additional amounts as will compensate such Lender, such Issuing Bank or such Parent Company for any such reduction suffered.



(c) A certificate of such Lender or such Issuing Bank setting forth the amount or amounts necessary to compensate such Lender, such Issuing Bank or the Parent Company of such Lender or such Issuing Bank, as the case may be, specified in subsection (a) or (b) of this Section shall be delivered to the Borrower (with a copy to the Administrative Agent) and shall be conclusive, absent manifest error.

(d) Failure or delay on the part of any Lender or any Issuing Bank to demand compensation pursuant to this Section shall not constitute a waiver of such Lender's or such Issuing Bank's right to demand such compensation.

**Section 2.19 Funding Indemnity.** In the event of (a) the payment of any principal of a Eurodollar Loan other than on the last day of the Interest Period applicable thereto (including as a result of an Event of Default), (b) the conversion or continuation of a Eurodollar Loan other than on the last day of the Interest Period applicable thereto, or (c) the failure by the Borrower to borrow, prepay, convert or continue any Eurodollar Loan on the date specified in any applicable notice (regardless of whether such notice is withdrawn or revoked), then, in any such event, the Borrower shall compensate each Lender, within five (5) Business Days after written demand from such Lender, for any loss, cost or expense attributable to such event. In the case of a Eurodollar Loan, such loss, cost or expense shall be deemed to include an amount determined by such Lender to be the excess, if any, of (A) the amount of interest that would have accrued on the principal amount of such Eurodollar Loan if such event had not occurred at the Adjusted LIBO Rate applicable to such Eurodollar Loan for the period from the date of such event to the last day of the then current Interest Period therefor (or, in the case of a failure to borrow, convert or continue, for the period that would have been the Interest Period for such Eurodollar Loan) over (B) the amount of interest that would accrue on the principal amount of such Eurodollar Loan for the same period if the Adjusted LIBO Rate were set on the date such Eurodollar Loan was prepaid or converted or the date on which the Borrower failed to borrow, convert or continue such Eurodollar Loan. A certificate as to any additional amount payable under this Section submitted to the Borrower by any Lender (with a copy to the Administrative Agent) shall be conclusive, absent manifest error.

**Section 2.20 Taxes.**

(a) **Defined Terms.** For purposes of this Section 2.20, the term "Lender" includes Issuing Bank and the term "applicable law" includes FATCA.

(b) **Payments Free of Taxes.** Any and all payments by or on account of any obligation of any Loan Party under any Loan Document shall be made without deduction or withholding for any Taxes, except as required by applicable law. If any applicable law (as determined in the good faith discretion of an applicable Withholding Agent) requires the deduction or withholding of any Tax from any such payment by a Withholding Agent, then the applicable Withholding Agent shall be entitled to make such deduction or withholding and shall timely pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with applicable law and, if such Tax is an Indemnified Tax, then the sum payable by the applicable Loan Party shall be increased as necessary so that after such deduction or withholding has been made (including such deductions and withholdings applicable to additional sums payable under this Section) the applicable Recipient receives an amount equal to the sum it would have received had no such deduction or withholding been made.

(c) Payment of Other Taxes by the Borrower. The Borrower shall timely pay to the relevant Governmental Authority in accordance with applicable law, or at the option of the Administrative Agent timely reimburse it for the payment of, any Other Taxes.

(d) Indemnification by the Borrower. The Borrower shall indemnify each Recipient, within 10 days after demand therefor, for the full amount of any Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section) payable or paid by such Recipient or required to be withheld or deducted from a payment to such Recipient and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to the Borrower by a Lender (with a copy to the Administrative Agent), or by the Administrative Agent on its own behalf or on behalf of a Lender, shall be conclusive absent manifest error.

(e) Indemnification by the Lenders. Each Lender shall severally indemnify the Administrative Agent, within 10 days after demand therefor, for (i) any Indemnified Taxes attributable to such Lender (but only to the extent that the Borrower has not already indemnified the Administrative Agent for such Indemnified Taxes and without limiting the obligation of the Borrower to do so), (ii) any Taxes attributable to such Lender's failure to comply with the provisions of Section 10.4(d) relating to the maintenance of a Participant Register and (iii) any Excluded Taxes attributable to such Lender, in each case, that are payable or paid by the Administrative Agent in connection with any Loan Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under any Loan Document or otherwise payable by the Administrative Agent to the Lender from any other source against any amount due to the Administrative Agent under this paragraph (e).

(f) Evidence of Payments. As soon as practicable after any payment of Taxes by the Borrower or any other Loan Party to a Governmental Authority pursuant to this Section 2.20, the Borrower or other Loan Party shall deliver to the Administrative Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(g) Status of Lenders.

(i) Any Lender that is entitled to an exemption from or reduction of withholding Tax with respect to payments made under any Loan Document shall deliver to the Borrower and the Administrative Agent, at the time or times reasonably requested by the Borrower or the Administrative Agent, such properly completed and executed documentation reasonably requested by the Borrower or the Administrative Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender, if reasonably requested by the Borrower or the Administrative Agent, shall deliver such other documentation prescribed by applicable law or reasonably requested by the Borrower or the Administrative Agent as will enable the Borrower or the Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation set forth in Section 2.20(g)(ii)(A), (ii)(B) and (ii)(D) below) shall not be required if in the Lender's reasonable judgment such completion, execution or submission would subject such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender.

(ii) Without limiting the generality of the foregoing,

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

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

(i) in the case of a Foreign Lender claiming the benefits of an income tax treaty to which the United States is a party (x) with respect to payments of interest under any Loan Document, executed originals of IRS Form W-8BEN or IRS Form W-8BEN-E establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the “interest” article of such tax treaty and (y) with respect to any other applicable payments under any Loan Document, IRS Form W-8BEN or IRS Form W-8BEN-E establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the “business profits” or “other income” article of such tax treaty;

(ii) executed originals of IRS Form W-8ECI;

(iii) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate substantially in the form of Exhibit 2.20A to the effect that such Foreign Lender is not a “bank” within the meaning of Section 881(c)(3)(A) of the Code, a “10 percent shareholder” of the Borrower within the meaning of Section 881(c)(3)(B) of the Code, or a “controlled foreign corporation” described in Section 881(c)(3)(C) of the Code (a “U.S. Tax Compliance Certificate”) and (y) executed originals of IRS Form W-8BEN or IRS Form W-8BEN-E; or

(iv) to the extent a Foreign Lender is not the beneficial owner, executed originals of IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BEN or IRS Form W-8BEN-E, a U.S. Tax Compliance Certificate substantially in the form of Exhibit 2.20B or Exhibit 2.20C, IRS Form W-9, and/or other certification documents from each beneficial owner, as applicable; provided that if the Foreign Lender is a partnership and one or more direct or indirect partners of such Foreign Lender are claiming the portfolio interest exemption, such Foreign Lender may provide a U.S. Tax Compliance Certificate substantially in the form of Exhibit 2.20D on behalf of each such direct and indirect partner;

(C) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), executed originals of any other form prescribed by applicable law as a basis for claiming exemption from or a reduction in U.S. federal withholding Tax, duly completed, together with such supplementary documentation as may be prescribed by applicable law to permit the Borrower or the Administrative Agent to determine the withholding or deduction required to be made; and

(D) if a payment made to a Lender under any Loan Document would be subject to U.S. federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Borrower and the Administrative Agent at the time or times prescribed by law and at such time or times reasonably requested by the Borrower or the Administrative Agent such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Borrower or the Administrative Agent as may be necessary for the Borrower and the Administrative Agent to comply with their obligations under FATCA and to determine that such Lender has complied with such Lender's obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this clause (D), "FATCA" shall include any amendments made to FATCA after the Closing Date.

Each Lender agrees that if any form or certification it previously delivered expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify the Borrower and the Administrative Agent in writing of its legal inability to do so.

(h) Treatment of Certain Refunds. If any party determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified pursuant to this Section 2.20 (including by the payment of additional amounts pursuant to this Section 2.20), it shall pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under this Section with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) of such indemnified party and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund). Such indemnifying party, upon the request of such indemnified party, shall repay to such indemnified party the amount paid over pursuant to this paragraph (h) (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) in the event that such indemnified party is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this paragraph (h), in no event will the indemnified party be required to pay any amount to an indemnifying party pursuant to this paragraph (h) the payment of which would place the indemnified party in a less favorable net after-Tax position than the indemnified party would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. This paragraph shall not be construed to require any indemnified party to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to the indemnifying party or any other Person.

(i) Survival. Each party's obligations under this Section 2.20 shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all obligations under any Loan Document.

**Section 2.21      Payments Generally; Pro Rata Treatment; Sharing of Set-offs.**

(a) The Borrower shall make each payment required to be made by it hereunder (whether of principal, interest, fees or reimbursement of LC Disbursements, or of amounts payable under Section 2.18, 2.19 or 2.20, or otherwise) prior to 12:00 noon on the date when due, in immediately available funds, free and clear of any defenses, rights of set-off, counterclaim, or withholding or deduction of taxes. Any amounts received after such time on any date may, in the discretion of the Administrative Agent, be deemed to have been received on the next succeeding Business Day for purposes of calculating interest thereon. All such payments shall be made to the Administrative Agent at the Payment Office, except payments to be made directly to the applicable Issuing Bank or the Swingline Lender as expressly provided herein and except that payments pursuant to Sections 2.18, 2.19, 2.20 and 10.3 shall be made directly to the Persons entitled thereto. The Administrative Agent shall distribute any such payments received by it for the account of any other Person to the appropriate recipient promptly following receipt thereof. If any payment hereunder shall be due on a day that is not a Business Day, the date for payment shall be extended to the next succeeding Business Day, and, in the case of any payment accruing interest, interest thereon shall be made payable for the period of such extension. All payments hereunder shall be made in Dollars.

(b) If at any time insufficient funds are received by and available to the Administrative Agent to pay fully all amounts of principal, unreimbursed LC Disbursements, interest and fees then due hereunder, such funds shall be applied as follows: first, to all fees and reimbursable expenses of the Administrative Agent then due and payable pursuant to any of the Loan Documents; second, to all reimbursable expenses of the Lenders and all fees and reimbursable expenses of the Issuing Banks then due and payable pursuant to any of the Loan Documents, *pro rata* to the Lenders and the Issuing Banks based on their respective *pro rata* shares of such fees and expenses; third, to all interest and fees then due and payable hereunder, *pro rata* to the Lenders based on their respective *pro rata* shares of such interest and fees; and fourth, to all principal of the Loans and unreimbursed LC Disbursements then due and payable hereunder, *pro rata* to the parties entitled thereto based on their respective *pro rata* shares of such principal and unreimbursed LC Disbursements.

(c) If any Lender shall, by exercising any right of set-off or counterclaim or otherwise, obtain payment in respect of any principal of or interest on any of its Loans or participations in LC Disbursements or Swingline Loans that would result in such Lender receiving payment of a greater proportion of the aggregate amount of its Revolving Credit Exposure, Term Loans and accrued interest and fees thereon than the proportion received by any other Lender with respect to its Revolving Credit Exposure or Term Loans, then the Lender receiving such greater proportion shall purchase (for cash at face value) participations in the Revolving Credit Exposure and Term Loans of other Lenders to the extent necessary so that the benefit of all such payments shall be shared by the Lenders ratably in accordance with the aggregate amount of principal of and accrued interest on their respective Revolving Credit Exposure and Term Loans; provided that (i) if any such participations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations shall be rescinded and the purchase price restored to the extent of such recovery, without interest, and (ii) the provisions of this subsection shall not be construed to apply to any payment made by the Borrower pursuant to and in accordance with the express terms of this Agreement (including the application of funds arising from the existence of a Defaulting Lender) or any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Revolving Credit Exposure or Term Loans to any assignee or participant, other than to the Borrower or any Subsidiary or Affiliate thereof (as to which the provisions of this subsection shall apply). The Borrower consents to the foregoing and agrees, to the extent it may effectively do so under applicable law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against the Borrower rights of set-off and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of the Borrower in the amount of such participation.

(d) Unless the Administrative Agent shall have received notice from the Borrower prior to the date on which any payment is due to the Administrative Agent for the account of the Lenders or the Issuing Banks hereunder that the Borrower will not make such payment, the Administrative Agent may assume that the Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Lenders or the Issuing Banks, as the case may be, the amount or amounts due. In such event, if the Borrower has not in fact made such payment, then each of the Lenders or the Issuing Banks, as the case may be, severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender or such Issuing Bank with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at the greater of the Federal Funds Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.

**Section 2.22    Letters of Credit.**

(a) During the Availability Period, each Issuing Bank, in reliance upon the agreements of the other Lenders pursuant to subsections (d) and (e) of this Section, may, in its sole discretion, issue, at the request of the Borrower, Letters of Credit for the account of the Borrower on the terms and conditions hereinafter set forth; provided that (i) each Letter of Credit shall expire on the earlier of (A) the date one year after the date of issuance of such Letter of Credit (or, in the case of any renewal or extension thereof, one year after such renewal or extension) and (B) the date that is five (5) Business Days prior to the Revolving Commitment Termination Date; (ii) each Letter of Credit shall be in a stated amount to be mutually agreed between the Borrower and the applicable Issuing Bank; and (iii) the Borrower may not request any Letter of Credit if, after giving effect to such issuance, (A) the aggregate LC Exposure would exceed the LC Commitment or (B) the aggregate Revolving Credit Exposure of all Lenders would exceed the Aggregate Revolving Commitment Amount and (iv) the Borrower shall not request, and no Issuing Bank shall have an obligation to issue, any Letter of Credit the proceeds of which would be made available to any Person (AA) to fund any activity or business of or with any Sanctioned Person or in any Sanctioned Countries, that, at the time of such funding, is the subject of any Sanctions or (BB) in any manner that would result in a violation of any Sanctions by any party to this Agreement. The Borrower hereby acknowledges and agrees that the Existing Letters of Credit are deemed to be issued by Preferred Bank, as an Issuing Bank hereunder, for the account of the Borrower. Each Lender shall be deemed to, and hereby irrevocably and unconditionally agrees to, purchase from the applicable Issuing Bank without recourse a participation in each Letter of Credit equal to such Lender's Pro Rata Share of the aggregate amount available to be drawn under such Letter of Credit (i) on the Closing Date with respect to all Existing Letters of Credit and (ii) on the date of issuance with respect to all other Letters of Credit. Each issuance of a Letter of Credit shall be deemed to utilize the Revolving Commitment of each Lender by an amount equal to the amount of such participation.

(b) To request the issuance of a Letter of Credit (or any amendment, renewal or extension of an outstanding Letter of Credit), the Borrower shall give the applicable Issuing Bank and the Administrative Agent irrevocable written notice at least three (3) Business Days prior to the requested date of such issuance specifying the date (which shall be a Business Day) such Letter of Credit is to be issued (or amended, renewed or extended, as the case may be), the expiration date of such Letter of Credit, the amount of such Letter of Credit, the name and address of the beneficiary thereof and such other information as shall be necessary to prepare, amend, renew or extend such Letter of Credit. In addition to the satisfaction of the conditions in Article III, the issuance of such Letter of Credit (or any amendment which increases the amount of such Letter of Credit) will be subject to the further conditions that such Letter of Credit shall be in such form and contain such terms as the applicable Issuing Bank shall approve and that the Borrower shall have executed and delivered any additional applications, agreements and instruments relating to such Letter of Credit as the applicable Issuing Bank shall reasonably require; provided that in the event of any conflict between such applications, agreements or instruments and this Agreement, the terms of this Agreement shall control.

(c) At least two (2) Business Days prior to the issuance of any Letter of Credit, the applicable Issuing Bank will confirm with the Administrative Agent (by telephone or in writing) that the Administrative Agent has received such notice, and, if not, the applicable Issuing Bank will provide the Administrative Agent with a copy thereof. Unless the applicable Issuing Bank has received notice from the Administrative Agent, on or before the Business Day immediately preceding the date the applicable Issuing Bank is to issue the requested Letter of Credit, directing the applicable Issuing Bank not to issue the Letter of Credit because such issuance is not then permitted hereunder because of the limitations set forth in subsection (a) of this Section or that one or more conditions specified in Article III are not then satisfied, then, subject to the terms and conditions hereof, the applicable Issuing Bank shall, on the requested date, issue such Letter of Credit in accordance with such Issuing Bank's usual and customary business practices.

(d) Each Issuing Bank shall examine all documents purporting to represent a demand for payment under a Letter of Credit promptly following its receipt thereof. Each Issuing Bank shall notify the Borrower and the Administrative Agent of such demand for payment and whether such Issuing Bank has made or will make a LC Disbursement thereunder; provided that any failure to give or delay in giving such notice shall not relieve the Borrower of its obligation to reimburse such Issuing Bank and the Lenders with respect to such LC Disbursement. The Borrower shall be irrevocably and unconditionally obligated to reimburse the applicable Issuing Bank for any LC Disbursements paid by such Issuing Bank in respect of such drawing, without presentment, demand or other formalities of any kind. Unless the Borrower shall have notified the applicable Issuing Bank and the Administrative Agent prior to 11:00 a.m. on the Business Day immediately prior to the date on which such drawing is honored that the Borrower intends to reimburse such Issuing Bank for the amount of such drawing in funds other than from the proceeds of Revolving Loans, the Borrower shall be deemed to have timely given a Notice of Revolving Borrowing to the Administrative Agent requesting the Lenders to make a Base Rate Borrowing on the date on which such drawing is honored in an exact amount due to such Issuing Bank; provided that for purposes solely of such Borrowing, the conditions precedent set forth in Section 3.2 hereof shall not be applicable. The Administrative Agent shall notify the Lenders of such Borrowing in accordance with Section 2.3, and each Lender shall make the proceeds of its Base Rate Loan included in such Borrowing available to the Administrative Agent for the account of the applicable Issuing Bank in accordance with Section 2.6. The proceeds of such Borrowing shall be applied directly by the Administrative Agent to reimburse the applicable Issuing Bank for such LC Disbursement.

(e) If for any reason a Base Rate Borrowing may not be (as determined in the sole discretion of the Administrative Agent), or is not, made in accordance with the foregoing provisions, then each Lender (other than the applicable Issuing Bank) shall be obligated to fund the participation that such Lender purchased pursuant to subsection (a) of this Section in an amount equal to its Pro Rata Share of such LC Disbursement on and as of the date which such Base Rate Borrowing should have occurred. Each Lender's obligation to fund its participation shall be absolute and unconditional and shall not be affected by any circumstance, including, without limitation, (i) any set-off, counterclaim, recoupment, defense or other right that such Lender or any other Person may have against the applicable Issuing Bank or any other Person for any reason whatsoever, (ii) the existence of a Default or an Event of Default or the termination of the Aggregate Revolving Commitments, (iii) any adverse change in the condition (financial or otherwise) of the Borrower or any of its Subsidiaries, (iv) any breach of this Agreement by the Borrower or any other Lender, (v) any amendment, renewal or extension of any Letter of Credit or (vi) any other circumstance, happening or event whatsoever, whether or not similar to any of the foregoing. On the date that such participation is required to be funded, each Lender shall promptly transfer, in immediately available funds, the amount of its participation to the Administrative Agent for the account of the applicable Issuing Bank. Whenever, at any time after the applicable Issuing Bank has received from any such Lender the funds for its participation in a LC Disbursement, such Issuing Bank (or the Administrative Agent on its behalf) receives any payment on account thereof, the Administrative Agent or such Issuing Bank, as the case may be, will distribute to such Lender its Pro Rata Share of such payment; provided that if such payment is required to be returned for any reason to the Borrower or to a trustee, receiver, liquidator, custodian or similar official in any bankruptcy proceeding, such Lender will return to the Administrative Agent or such Issuing Bank any portion thereof previously distributed by the Administrative Agent or such Issuing Bank to it.

(f) To the extent that any Lender shall fail to pay any amount required to be paid pursuant to subsection (d) or (e) of this Section on the due date therefor, such Lender shall pay interest to the applicable Issuing Bank (through the Administrative Agent) on such amount from such due date to the date such payment is made at a rate *per annum* equal to the Federal Funds Rate; provided that if such Lender shall fail to make such payment to the applicable Issuing Bank within three (3) Business Days of such due date, then, retroactively to the due date, such Lender shall be obligated to pay interest on such amount at the Base Rate.

(g) If any Event of Default shall occur and be continuing, on the Business Day that the Borrower receives notice from the Administrative Agent or the Required Lenders demanding that its reimbursement obligations with respect to the Letters of Credit be Cash Collateralized pursuant to this subsection, the Borrower shall deposit in an account with the Administrative Agent, in the name of the Administrative Agent and for the benefit of the Issuing Banks (as applicable) and the Lenders, an amount in cash equal to 105% of the aggregate LC Exposure of all Lenders as of such date plus any accrued and unpaid fees thereon; provided that such obligation to Cash Collateralize the reimbursement obligations of the Borrower with respect to the Letters of Credit shall become effective immediately, and such deposit shall become immediately due and payable, without demand or notice of any kind, upon the occurrence of any Event of Default with respect to the Borrower described in Section 8.1(h) or (i). Such deposit shall be held by the Administrative Agent as collateral for the payment and performance of the obligations of the Borrower under this Agreement. The Administrative Agent shall have exclusive dominion and control, including the exclusive right of withdrawal, over such account. The Borrower agrees to execute any documents and/or certificates to effectuate the intent of this subsection. Other than any interest earned on the investment of such deposits, which investments shall be made at the option and sole discretion of the Administrative Agent and at the Borrower's risk and expense, such deposits shall not bear interest. Interest and profits, if any, on such investments shall accumulate in such account. Moneys in such account shall be applied by the Administrative Agent to reimburse each Issuing Bank for LC Disbursements for which it had not been reimbursed and, to the extent not so applied, shall be held for the satisfaction of the reimbursement obligations of the Borrower for the LC Exposure at such time or, if the maturity of the Loans has been accelerated, with the consent of the Required Lenders, be applied to satisfy other obligations of the Borrower under this Agreement and the other Loan Documents. If the Borrower is required to Cash Collateralize its reimbursement obligations with respect to the Letters of Credit as a result of the occurrence of an Event of Default, such cash collateral so posted (to the extent not so applied as aforesaid) shall be returned to the Borrower within three (3) Business Days after all Events of Default have been cured or waived.



(h) Upon the request of any Lender, but no more frequently than quarterly, each Issuing Bank shall deliver (through the Administrative Agent) to each Lender and the Borrower a report describing the aggregate Letters of Credit then outstanding. Upon the request of any Lender from time to time, each Issuing Bank shall deliver to such Lender any other information reasonably requested by such Lender with respect to each Letter of Credit then outstanding.

(i) The Borrower's obligation to reimburse LC Disbursements hereunder shall be absolute, unconditional and irrevocable and shall be performed strictly in accordance with the terms of this Agreement under all circumstances whatsoever and irrespective of any of the following circumstances:

(i) any lack of validity or enforceability of any Letter of Credit or this Agreement;

(ii) the existence of any claim, set-off, defense or other right which the Borrower or any Subsidiary or Affiliate of the Borrower may have at any time against a beneficiary or any transferee of any Letter of Credit (or any Persons or entities for whom any such beneficiary or transferee may be acting), any Lender (including any Issuing Bank) or any other Person, whether in connection with this Agreement or the Letter of Credit or any document related hereto or thereto or any unrelated transaction;

(iii) any draft or other document presented under a Letter of Credit proving to be forged, fraudulent or invalid in any respect or any statement therein being untrue or inaccurate in any respect;

(iv) payment by the applicable Issuing Bank under a Letter of Credit against presentation of a draft or other document to such Issuing Bank that does not comply with the terms of such Letter of Credit;

(v) any other event or circumstance whatsoever, whether or not similar to any of the foregoing, that might, but for the provisions of this Section, constitute a legal or equitable discharge of, or provide a right of set-off against, the Borrower's obligations hereunder; or

(vi) the existence of a Default or an Event of Default.

Neither the Administrative Agent, any Issuing Bank, any Lender nor any Related Party of any of the foregoing shall have any liability or responsibility by reason of or in connection with the issuance or transfer of any Letter of Credit or any payment or failure to make any payment thereunder (irrespective of any of the circumstances referred to above), or any error, omission, interruption, loss or delay in transmission or delivery of any draft, notice or other communication under or relating to any Letter of Credit (including any document required to make a drawing thereunder), any error in interpretation of technical terms or any consequence arising from causes beyond the control of the Issuing Banks; provided that the foregoing shall not be construed to excuse any Issuing Banks from liability to the Borrower to the extent of any actual direct damages (as opposed to special, indirect (including claims for lost profits or other consequential damages), or punitive damages, claims in respect of which are hereby waived by the Borrower to the extent permitted by applicable law) suffered by the Borrower that are caused by such Issuing Bank's failure to exercise due care when determining whether drafts or other documents presented under a Letter of Credit comply with the terms thereof. The parties hereto expressly agree that, in the absence of gross negligence or willful misconduct on the part of any Issuing Bank (as finally determined by a court of competent jurisdiction), such Issuing Bank shall be deemed to have exercised due care in each such determination. In furtherance of the foregoing and without limiting the generality thereof, the parties agree that, with respect to documents presented that appear on their face to be in substantial compliance with the terms of a Letter of Credit, each Issuing Bank may, in its sole discretion, either accept and make payment upon such documents without responsibility for further investigation, regardless of any notice or information to the contrary, or refuse to accept and make payment upon such documents if such documents are not in strict compliance with the terms of such Letter of Credit.

(j) Unless otherwise expressly agreed by the applicable Issuing Bank and the Borrower when a Letter of Credit is issued and subject to applicable laws, (i) each standby Letter of Credit shall be governed by the "International Standby Practices 1998" (ISP98) (or such later revision as may be published by the Institute of International Banking Law & Practice on any date any Letter of Credit may be issued), (ii) each documentary Letter of Credit shall be governed by the Uniform Customs and Practices for Documentary Credits (2007 Revision), International Chamber of Commerce Publication No. 600 (or such later revision as may be published by the International Chamber of Commerce on any date any Letter of Credit may be issued) and (iii) the Borrower shall specify the foregoing in each letter of credit application submitted for the issuance of a Letter of Credit.

**Section 2.23 Increase of Commitments; Additional Lenders.**

(a) From time to time after the Closing Date and in accordance with this Section, the Borrower and one or more Increasing Lenders or Additional Lenders (each as defined below) may enter into an agreement to increase the aggregate Revolving Commitments and/or the aggregate Term Loan Commitments hereunder (each such increase, an "Incremental Commitment") so long as the following conditions are satisfied:

(i) the aggregate principal amount of (A) all such Incremental Commitments made pursuant to this Section shall not exceed the greater of (I) \$80,000,000 and (II) an unlimited amount so long as the Consolidated Total Net Leverage Ratio is less than 2.90:1.00 calculated on a pro forma basis after giving effect to the incurrence of such Incremental Commitments (and assuming the aggregate amount of such Incremental Commitments, including all Incremental Revolving Commitments, have been fully funded) and the use of the proceeds thereof (the principal amount of each such Incremental Commitment, the "Incremental Commitment Amount") and (B) all Incremental Revolving Commitments (as defined below) made pursuant to this Section shall not exceed \$50,000,000;

(ii) the Borrower shall execute and deliver such documents and instruments and take such other actions as may be reasonably required by the Administrative Agent in connection with and at the time of any such proposed increase;

(iii) at the time of and immediately after giving effect to any such proposed increase, no Default or Event of Default shall exist, all representations and warranties of each Loan Party set forth in the Loan Documents shall be true and correct in all material respects (other than those representations and warranties that are expressly qualified by a Material Adverse Effect or other materiality, in which case such representations and warranties shall be true and correct in all respects), and, since December 31, 2018, there shall have been no change which has had or could reasonably be expected to have a Material Adverse Effect;

(iv) (x) any incremental Term Loans made pursuant to this Section (the "Incremental Term Loans") shall have a maturity date no earlier than the Maturity Date and shall have a Weighted Average Life to Maturity no shorter than that of the Term Loans made pursuant to Section 2.5, and (y) any incremental Revolving Commitments provided pursuant to this Section (the "Incremental Revolving Commitments") shall have terms that are identical to the existing Revolving Commitments (except for the amount thereof) and the Revolving Loans;

(v) the Borrower and its Subsidiaries shall be in pro forma compliance with each of the financial covenants set forth in Article VI as of the most recently ended Fiscal Quarter for which financial statements are required to have been delivered, calculated as if all such Incremental Term Loans had been made and all such Incremental Revolving Commitments had been established (and fully funded) as of the first day of the relevant period for testing compliance;

(vi) if the Initial Yield applicable to any such Incremental Term Loans exceeds by more than 0.50% *per annum* the sum of the Applicable Margin then in effect for existing Eurodollar Term Loans plus one fourth of the Up-Front Fees paid in respect of the existing Term Loans (the "Existing Yield"), then the Applicable Margin of all existing Loans shall increase by an amount equal to the difference between the Initial Yield and the Existing Yield;

(vii) any collateral securing any such Incremental Commitments (and Incremental Term Loans) shall also secure all other Obligations on *apari passu* basis; and

(viii) all other terms and conditions with respect to any such Incremental Commitments (and Incremental Term Loans) shall be reasonably satisfactory to the Administrative Agent.

(b) The Borrower shall provide at least 30 days' written notice to the Administrative Agent (who shall promptly provide a copy of such notice to each Lender) of any proposal to establish an Incremental Commitment. The Borrower may also, but is not required to, specify any fees offered to those Lenders (the "Increasing Lenders") that agree to increase the principal amount of their Revolving Commitments and/or their Term Loan Commitments, which fees may be variable based upon the amount by which any such Lender is willing to increase the principal amount of its Revolving Commitment and/or its Term Loan Commitment, as applicable. Each Increasing Lender shall as soon as practicable, and in any case within 15 days following receipt of such notice, specify in a written notice to the Borrower and the Administrative Agent the amount of such proposed Incremental Commitment that it is willing to provide. No Lender (or any successor thereto) shall have any obligation, express or implied, to offer to increase the aggregate principal amount of its Revolving Commitment and/or its Term Loan Commitment, and any decision by a Lender to increase its Revolving Commitment and/or its Term Loan Commitment shall be made in its sole discretion independently from any other Lender. Only the consent of each Increasing Lender shall be required for an increase in the aggregate principal amount of the Revolving Commitments and/or the Term Loan Commitments, as applicable, pursuant to this Section. No Lender which declines to increase the principal amount of its Revolving Commitment and/or its Term Loan Commitment may be replaced with respect to its existing Revolving Commitment and/or its Term Loans, as applicable, as a result thereof without such Lender's consent. If any Lender shall fail to notify the Borrower and the Administrative Agent in writing about whether it will increase its Revolving Commitment and/or its Term Loan Commitment within 15 days after receipt of such notice, such Lender shall be deemed to have declined to increase its Revolving Commitment and/or its Term Loan Commitment, as applicable. The Borrower may in its sole discretion accept some or all of the offered amounts, reject the offered amounts entirely (in which case the proposed Incremental Commitment shall be deemed withdrawn and of no force or effect) or designate new lenders that are acceptable to the Administrative Agent (such approval not to be unreasonably withheld) and otherwise permitted under Section 10.4(b) as additional Lenders hereunder in accordance with this Section (the "Additional Lenders"), which Additional Lenders may assume all or a portion of such Incremental Commitment. The Borrower and the Administrative Agent shall have discretion jointly to adjust the allocation of such Incremental Revolving Commitments and/or such Incremental Term Loans among the Increasing Lenders and the Additional Lenders. The sum of the increase in the Revolving Commitments and the Term Loan Commitments of the Increasing Lenders plus the Revolving Commitments and the Term Loan Commitments of the Additional Lenders shall not in the aggregate exceed the unsubscribed amount of the Incremental Commitment Amount.

(c) Subject to subsections (a) and (b) of this Section, any increase requested by the Borrower shall be effective upon delivery to the Administrative Agent of each of the following documents:

(i) an originally executed copy of an instrument of joinder, in form and substance reasonably acceptable to the Administrative Agent, executed by the Borrower, by each Additional Lender and by each Increasing Lender, setting forth the new Revolving Commitments and/or new Term Loan Commitments, as applicable, of such Lenders and setting forth the agreement of each Additional Lender to become a party to this Agreement and to be bound by all of the terms and provisions hereof;

(ii) such evidence of appropriate corporate authorization on the part of the Borrower with respect to such Incremental Commitment and such opinions of counsel for the Borrower with respect to such Incremental Commitment as the Administrative Agent may reasonably request;

(iii) a certificate of the Borrower signed by a Responsible Officer, in form and substance reasonably acceptable to the Administrative Agent, certifying that each of the conditions in subsection (a) of this Section has been satisfied and each of the conditions set forth in Section 3.2 have been satisfied;

(iv) to the extent requested by any Additional Lender or any Increasing Lender, executed promissory notes evidencing such Incremental Revolving Commitments and/or such Incremental Term Loans, issued by the Borrower in accordance with Section 2.10; and

(v) any other certificates or documents that the Administrative Agent shall reasonably request, in form and substance reasonably satisfactory to the Administrative Agent.

Upon the effectiveness of any such Incremental Commitment, the Commitments and Pro Rata Share of each Lender will be adjusted to give effect to the Incremental Revolving Commitments and/or the Incremental Term Loans, as applicable, and Schedule II shall automatically be deemed amended accordingly.

(d) If any Incremental Term Loans are to have terms that are different from the Term Loans outstanding immediately prior to such incurrence (any such Incremental Term Loans, the “Non-Conforming Credit Extensions”), all such terms shall be as set forth in a separate assumption agreement among the Borrower, the Lenders providing such Incremental Term Loans and the Administrative Agent, the execution and delivery of which agreement shall be a condition to the effectiveness of the Non-Conforming Credit Extensions. The scheduled principal payments on the Term Loans to be made pursuant to Section 2.9 shall be ratably increased after the making of any Incremental Term Loans (other than Term Loans that are Non-Conforming Credit Extensions) under this Section by the aggregate principal amount of such Incremental Term Loans. After the incurrence of any Non-Conforming Credit Extensions that are Term Loans, all optional prepayments of Term Loans shall be allocated ratably between the then-outstanding Term Loans and such Non-Conforming Credit Extensions. If the Borrower incurs Incremental Revolving Commitments under this Section, the Borrower shall, after such time, repay and incur Revolving Loans ratably as between the Incremental Revolving Commitments and the Revolving Commitments outstanding immediately prior to such incurrence. Notwithstanding anything to the contrary in Section 10.2, the Administrative Agent is expressly permitted to amend the Loan Documents to the extent necessary to give effect to any increase pursuant to this Section and mechanical changes necessary or advisable in connection therewith (including amendments to implement the requirements in the preceding two sentences, amendments to ensure *pro rata* allocations of Eurodollar Loans and Base Rate Loans between Loans incurred pursuant to this Section and Loans outstanding immediately prior to any such incurrence and amendments to implement ratable participation in Letters of Credit).

(e) For purposes of this Section, the following terms shall have the meanings specified below:

(i) “Initial Yield” shall mean, with respect to Incremental Term Loans, the amount (as determined by the Administrative Agent) equal to the sum of (A) the margin above the Adjusted LIBO Rate on such Incremental Term Loans (including as margin the effect of any “LIBO rate floor” applicable on the date of the calculation), plus (B) (x) the amount of any Up-Front Fees on such Incremental Term Loans (including any fee or discount received by the Lenders in connection with the initial extension thereof), divided by (y) the lesser of (I) the Weighted Average Life to Maturity of such Incremental Term Loans and (II) four.

(ii) “Up-Front Fees” shall mean the amount of any fees or discounts received by the Lenders in connection with the making of Loans or extensions of credit, expressed as a percentage of such Loan or extension of credit. For the avoidance of doubt, “Up-Front Fees” shall not include any arrangement fee paid to the arranger(s) thereof.

(iii) “Weighted Average Life to Maturity” shall mean, when applied to any Indebtedness at any date, the number of years obtained by dividing (i) the sum of the products obtained by multiplying (x) the amount of each then remaining installment, sinking fund, serial maturity or other required payments of principal, including payment at final maturity, in respect thereof, by (y) the number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment by (ii) the then outstanding principal amount of such Indebtedness.

**Section 2.24 Mitigation of Obligations.** If any Lender requests compensation under Section 2.18, or if the Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.20, then such Lender shall use reasonable efforts to designate a different lending office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the sole judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable under Section 2.18 or Section 2.20, as the case may be, in the future and (ii) would not subject such Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender. The Borrower hereby agrees to pay all costs and expenses incurred by any Lender in connection with such designation or assignment.

**Section 2.25 Replacement of Lenders.** If (a) any Lender requests compensation under Section 2.18, or if the Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.20, (b) any Lender is a Defaulting Lender, or (c) in connection with any proposed amendment, modification, termination, waiver or consent with respect to any of the provisions hereof as contemplated by Section 10.2(b), the consent of Required Lenders shall have been obtained but the consent of one or more of such other Lenders (each a “Non-Consenting Lender”) whose consent is required shall not have been obtained, then the Borrower may, at its sole expense and effort, upon notice to such Lender and the Administrative Agent, require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions set forth in Section 10.4(b)), all of its interests, rights (other than its existing rights to payments pursuant to Section 2.18 or 2.20, as applicable) and obligations under this Agreement to an assignee that shall assume such obligations (which assignee may be another Lender) (a “Replacement Lender”); provided that (i) the Borrower shall have received the prior written consent of the Administrative Agent, which consent shall not be unreasonably withheld, (ii) such Lender shall have received payment of an amount equal to the outstanding principal amount of all Loans owed to it, accrued interest thereon, accrued fees and all other amounts payable to it hereunder from the assignee (in the case of such outstanding principal and accrued interest) and from the Borrower (in the case of all other amounts), (iii) in the case of a claim for compensation under Section 2.18 or payments required to be made pursuant to Section 2.20, such assignment will result in a reduction in such compensation or payments, and (iv) in the case of a Non-Consenting Lender, each Replacement Lender shall consent, at the time of such assignment, to each matter in respect of which such terminated Lender was a Non-Consenting Lender. A Lender shall not be required to make any such assignment and delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Borrower to require such assignment and delegation cease to apply.

**Section 2.26 Defaulting Lenders**

(a) Cash Collateral

(i) At any time that there shall exist a Defaulting Lender, within one Business Day following the written request of the Administrative Agent or the applicable Issuing Bank (with a copy to the Administrative Agent) the Borrower shall Cash Collateralize such Issuing Bank’s LC Exposure with respect to such Defaulting Lender (determined after giving effect to Section 2.26(b)(iv) and any Cash Collateral provided by such Defaulting Lender) in an amount not less than 105% of such Issuing Bank’s LC Exposure with respect to such Defaulting Lender.

(ii) The Borrower, and to the extent provided by any Defaulting Lender, such Defaulting Lender, hereby grants to the Administrative Agent, for the benefit of each Issuing Bank, and agrees to maintain, a first priority security interest in all such Cash Collateral as security for the Defaulting Lenders’ obligation to fund participations in respect of Letters of Credit, to be applied pursuant to clause (iii) below. If at any time the Administrative Agent determines that Cash Collateral is subject to any right or claim of any Person other than the Administrative Agent and the applicable Issuing Bank as herein provided, or that the total amount of such Cash Collateral is less than the minimum amount required pursuant to clause (i) above, the Borrower will, promptly upon demand by the Administrative Agent, pay or provide to the Administrative Agent additional Cash Collateral in an amount sufficient to eliminate such deficiency (after giving effect to any Cash Collateral provided by the Defaulting Lender).

(iii) Notwithstanding anything to the contrary contained in this Agreement, Cash Collateral provided under this Section 2.26(a) or Section 2.26(b) in respect of Letters of Credit shall be applied to the satisfaction of the Defaulting Lender’s obligation to fund participations in respect of Letters of Credit or LC Disbursements (including, as to Cash Collateral provided by a Defaulting Lender, any interest accrued on such obligation) for which the Cash Collateral was so provided, prior to any other application of such property as may otherwise be provided for herein.

(iv) Cash Collateral (or the appropriate portion thereof) provided to reduce any Issuing Bank's LC Exposure shall no longer be required to be held as Cash Collateral pursuant to this Section 2.26(a) following (A) the elimination of the applicable LC Exposure (including by the termination of Defaulting Lender status of the applicable Lender), or (ii) the determination by the Administrative Agent and such Issuing Bank that there exists excess Cash Collateral; provided that, subject to Section 2.26(b) through (d) the Person providing Cash Collateral and the applicable Issuing Bank may agree that Cash Collateral shall be held to support future anticipated LC Exposure or other obligations and provided further that to the extent that such Cash Collateral was provided by the Borrower, such Cash Collateral shall remain subject to the security interest granted pursuant to the Loan Documents.

(b) Defaulting Lender Adjustments. Notwithstanding anything to the contrary contained in this Agreement, if any Lender becomes a Defaulting Lender, then, until such time as such Lender is no longer a Defaulting Lender, to the extent permitted by applicable law:

(i) Such Defaulting Lender's right to approve or disapprove any amendment, waiver or consent with respect to this Agreement shall be restricted as set forth in the definition of Required Lenders and in Section 10.2.

(ii) Any payment of principal, interest, fees or other amounts received by the Administrative Agent for the account of such Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Article VIII or otherwise) or received by the Administrative Agent from a Defaulting Lender pursuant to Section 10.7 shall be applied at such time or times as may be determined by the Administrative Agent as follows: first, to the payment of any amounts owing by such Defaulting Lender to the Administrative Agent hereunder; second, to the payment on a pro rata basis of any amounts owing by such Defaulting Lender to the Issuing Banks or Swingline Lender hereunder; third, to Cash Collateralize each Issuing Bank's LC Exposure with respect to such Defaulting Lender in accordance with Section 2.26(a); fourth, as the Borrower may request (so long as no Default or Event of Default exists), to the funding of any Loan in respect of which such Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by the Administrative Agent; fifth, if so determined by the Administrative Agent and the Borrower, to be held in a deposit account and released pro rata in order to (x) satisfy such Defaulting Lender's potential future funding obligations with respect to Loans under this Agreement and (y) Cash Collateralize the Issuing Banks' future LC Exposure with respect to such Defaulting Lender with respect to future Letters of Credit issued under this Agreement, in accordance with Section 2.26(a); sixth, to the payment of any amounts owing to the Lenders, the Issuing Banks or Swingline Lender as a result of any judgment of a court of competent jurisdiction obtained by any Lender, any Issuing Bank or Swingline Lender against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; seventh, so long as no Default or Event of Default exists, to the payment of any amounts owing to the Borrower as a result of any judgment of a court of competent jurisdiction obtained by the Borrower against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; and eighth, to such Defaulting Lender or as otherwise directed by a court of competent jurisdiction; provided that if (x) such payment is a payment of the principal amount of any Loans or LC Disbursements in respect of which such Defaulting Lender has not fully funded its appropriate share, and (y) such Loans were made or the related Letters of Credit were issued at a time when the conditions set forth in Section 3.2 were satisfied or waived, such payment shall be applied solely to pay the Loans of, and LC Disbursements owed to, all Non-Defaulting Lenders on a pro rata basis prior to being applied to the payment of any Loans of, or LC Disbursements owed to, such Defaulting Lender until such time as all Loans and funded and unfunded participations in L/C Obligations and Swingline Loans are held by the Lenders pro rata in accordance with the Commitments under the applicable Facility without giving effect to sub-section (iv) below. Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender or to post Cash Collateral pursuant to this Section 2.26(b)(ii) shall be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto.

(iii) (A) No Defaulting Lender shall be entitled to receive any Commitment Fee pursuant to Section 2.14(b) for any period during which that Lender is a Defaulting Lender (and the Borrower shall not be required to pay any such fee that otherwise would have been required to have been paid to that Defaulting Lender).

(B) Each Defaulting Lender shall be entitled to receive letter of credit fees pursuant to Section 2.14(c) for any period during which that Lender is a Defaulting Lender only to the extent allocable to that portion of its LC Exposure for which it has provided Cash Collateral pursuant to Section 2.26(a).

(C) With respect to any letter of credit fee not required to be paid to any Defaulting Lender pursuant to clause (A) or (B) above, the Borrower shall (x) pay to each Non-Defaulting Lender that portion of any such fee otherwise payable to such Defaulting Lender with respect to such Defaulting Lender's participation in Letters of Credit or Swingline Loans that has been reallocated to such Non-Defaulting Lender pursuant to clause (iv) below, (y) pay to each Issuing Bank and Swingline Lender, as applicable, the amount of any such fee otherwise payable to such Defaulting Lender to the extent allocable to such Issuing Bank's LC Exposure or Swingline Lender's Swingline Exposure with respect to such Defaulting Lender, and (z) not be required to pay the remaining amount of any such fee.

(iv) All or any part of such Defaulting Lender's participation in Letters of Credit and Swingline Loans shall be reallocated among the Non-Defaulting Lenders in accordance with their respective Pro Rata Shares of the Revolving Commitments (calculated without regard to such Defaulting Lender's Revolving Commitment) but only to the extent that (x) the conditions set forth in Section 3.2 are satisfied at the time of such reallocation (and, unless the Borrower shall have otherwise notified the Administrative Agent at such time, the Borrower shall be deemed to have represented and warranted that such conditions are satisfied at such time), and (y) such reallocation does not cause the aggregate Revolving Credit Exposure of any Non-Defaulting Lender to exceed such Non-Defaulting Lender's Revolving Commitment. Subject to Section 10.18, no reallocation hereunder shall constitute a waiver or release of any claim of any party hereunder against a Defaulting Lender arising from that Lender having become a Defaulting Lender, including any claim of a Non-Defaulting Lender as a result of such Non-Defaulting Lender's increased exposure following such reallocation.

(v) If the reallocation described in clause (iv) above cannot, or can only partially, be effected, the Borrower shall, without prejudice to any right or remedy available to it hereunder or under law, (x) first, prepay Swingline Loans in an amount equal to the Swingline Lender's Swingline Exposure with respect to such Defaulting Lender and (y) second, Cash Collateralize the Issuing Banks' LC Exposure with respect to such Defaulting Lender in accordance with the procedures set forth in Section 2.26(a).



(c) Defaulting Lender Cure. If the Borrower, the Administrative Agent, Swingline Lender and the Issuing Banks agree in writing that a Lender is no longer a Defaulting Lender, the Administrative Agent will so notify the parties hereto, whereupon as of the effective date specified in such notice and subject to any conditions set forth therein (which may include arrangements with respect to any Cash Collateral), that Lender will, to the extent applicable, purchase at par that portion of outstanding Loans of the other Lenders or take such other actions as the Administrative Agent may determine to be necessary to cause the Loans and funded and unfunded participations in Letters of Credit and Swingline Loans to be held pro rata by the Lenders in accordance with the applicable Commitments (without giving effect to Section 2.26(b)(iv)), whereupon such Lender will cease to be a Defaulting Lender; provided that no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of the Borrower while that Lender was a Defaulting Lender; and provided, further, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender.

(d) New Swingline Loans/Letters of Credit. So long as any Lender is a Defaulting Lender, (i) the Swingline Lender shall not be required to fund any Swingline Loans unless it is satisfied that it will have no Swingline Exposure after giving effect to such Swingline Loan and (ii) no Issuing Bank shall be required to issue, extend, renew or increase any Letter of Credit unless it is satisfied that it will have no LC Exposure after giving effect thereto.

### ARTICLE III

#### CONDITIONS PRECEDENT TO LOANS AND LETTERS OF CREDIT

**Section 3.1** Conditions to Effectiveness. The obligations of the Lenders (including the Swingline Lender) to make Loans and the obligation of the Issuing Banks to issue any Letters of Credit hereunder shall not become effective until the date on which each of the following conditions is satisfied (or waived in accordance with Section 10.2):

(a) The Administrative Agent shall have received payment of all fees, expenses and other amounts due and payable on or prior to the Closing Date, including, without limitation, all fees payable pursuant to the Fee Letter and reimbursement or payment of all out-of-pocket expenses of the Administrative Agent, SunTrust Robinson Humphrey, Inc. and their Affiliates (including reasonable fees, charges and disbursements of counsel to the Administrative Agent) required to be reimbursed or paid by the Borrower hereunder, under any other Loan Document and under any agreement with the Administrative Agent or the Arrangers.

(b) The Administrative Agent (or its counsel) shall have received the following, each to be in form and substance satisfactory to the Administrative Agent:

(i) a counterpart of this Agreement signed by or on behalf of each party hereto or written evidence satisfactory to the Administrative Agent (which may include facsimile transmission of a signed signature page of this Agreement) that such party has signed a counterpart of this Agreement;

(ii) a certificate of the Secretary or Assistant Secretary of each Loan Party in the form of Exhibit 3.1(b)(ii), attaching and certifying copies of its bylaws, or partnership agreement or limited liability company agreement, and of the resolutions of its board of directors or other equivalent governing body, or comparable organizational documents and authorizations, authorizing the execution, delivery and performance of the Loan Documents to which it is a party and certifying the name, title and true signature of each officer of such Loan Party executing the Loan Documents to which it is a party;

(iii) certified copies of the articles or certificate of incorporation (subject to Section 5.17), certificate of organization or limited partnership, or other registered organizational documents of each Loan Party, together with certificates of good standing or existence, as may be available from the Secretary of State of the jurisdiction of organization of such Loan Party (and each other jurisdiction where such Loan Party is required to be qualified to do business as a foreign corporation solely to the extent that the failure to be so qualified as a foreign corporation in such other jurisdiction could result in a Material Adverse Effect);

(iv) a favorable written opinion of (A) Tin Kin Lee Law Offices, counsel to the Loan Parties, addressed to the Administrative Agent, each Issuing Bank and each of the Lenders, and covering such matters relating to the Loan Parties, the Loan Documents and the transactions contemplated therein as the Administrative Agent shall reasonably request (which opinions will expressly permit reliance by permitted successors and assigns of the Administrative Agent, the Issuing Banks and the Lenders), (B) Bryan Cave LLP, addressed to the Administrative Agent, each Issuing Bank and each of the Lenders, and covering certain matters relating to the Investment Company Act of 1940, as amended and (C) Tin Kin Lee Law Offices, counsel to AP-AMH, addressed to the Administrative Agent, each Issuing Bank and each of the Lenders, and covering such matters relating to AP-AMH, the AP-AMH Loan Documents and the transactions contemplated therein as the Administrative Agent shall reasonably request (which opinions will expressly permit reliance by permitted successors and assigns of the Administrative Agent, the Issuing Banks and the Lenders);

(v) a certificate in the form of Exhibit 3.1(b)(v), dated the Closing Date and signed by a Responsible Officer, certifying that after giving effect to the funding of the Term Loans and any initial Revolving Borrowing, (x) no Default or Event of Default exists, (y) all representations and warranties of each Loan Party set forth in the Loan Documents are true and correct and (z) since the date of the financial statements of the Borrower described in Section 4.4, there shall have been no change which has had or could reasonably be expected to have a Material Adverse Effect;

(vi) a duly executed Notice of Borrowing for the Term Loans and any initial Revolving Borrowing, together with a report setting forth the sources and uses of the proceeds thereof;

(vii) certified copies of all consents, approvals, authorizations, registrations and filings and orders required or advisable to be made or obtained under any Requirement of Law, or by any Contractual Obligation of any Loan Party in connection with the execution, delivery, performance, validity and enforceability of the Loan Documents and Related Transaction Documents or any of the transactions contemplated thereby, and such consents, approvals, authorizations, registrations, filings and orders shall be in full force and effect and all applicable waiting periods shall have expired, and no investigation or inquiry by any governmental authority regarding the Commitments or any transaction being financed with the proceeds thereof shall be ongoing;

(viii) copies of the Historical Financial Statements;

(ix) financial projections of the Borrower and its Subsidiaries (to be made on *apro forma* basis after giving effect to the consummation of the Related Transactions) for the Fiscal Quarters ending September 30, 2019 and December 31, 2019, and for each Fiscal Year ending thereafter (through the Fiscal Year ending December 31, 2023);

(x) a duly completed and executed Compliance Certificate, including calculations of the financial covenants set forth in Article VI hereof as of June 30, 2019, calculated on a *pro forma* basis as if the Term Loans and any initial Revolving Borrowing had been funded as of the first day of the relevant period for testing compliance (and setting forth in reasonable detail such calculations);

(xi) a certificate, dated the Closing Date and signed by the chief financial officer of each Loan Party, confirming that each Loan Party is Solvent before and after giving effect to the funding of the Term Loans and any initial Revolving Borrowing and the consummation of the transactions contemplated to occur on the Closing Date;

(xii) the Guaranty and Security Agreement, duly executed by the Borrower and each of its Subsidiaries (other than any Excluded Subsidiary), together with (A) UCC financing statements and other applicable documents under the laws of all necessary or appropriate jurisdictions with respect to the perfection of the Liens granted under the Guaranty and Security Agreement, as requested by the Administrative Agent in order to perfect such Liens, duly authorized by the Loan Parties, (B) copies of favorable UCC, tax, judgment and fixture lien search reports in all necessary or appropriate jurisdictions and under all legal and trade names of the Loan Parties, as requested by the Administrative Agent, indicating that there are no prior Liens on any of the Collateral other than Permitted Encumbrances and Liens to be released on the Closing Date, (C) a Perfection Certificate, duly completed and executed by the Borrower, (D) duly executed Patent Security Agreements, Trademark Security Agreements and Copyright Security Agreements, (E) subject to Section 5.17 (if applicable), original certificates evidencing all issued and outstanding shares of Capital Stock of all Subsidiaries owned directly by any Loan Party (or, if the pledge of all of the voting Capital Stock of any Foreign Subsidiary would result in materially adverse tax consequences, limited to 65% of the issued and outstanding voting Capital Stock of such Foreign Subsidiary and 100% of the issued and outstanding non-voting Capital Stock of such Foreign Subsidiary, as applicable) and (F) subject to Section 5.17 (if applicable), stock or membership interest powers or other appropriate instruments of transfer executed in blank;

(xiii) copies of duly executed payoff letters, in form and substance satisfactory to the Administrative Agent, executed by each of the Existing Lenders or the administrative agent thereof, together with (a) UCC-3 or other appropriate termination statements, in form and substance satisfactory to the Administrative Agent, releasing all liens of the Existing Lenders upon any of the personal property of the Borrower and its Subsidiaries, (b) cancellations and releases, in form and substance satisfactory to the Administrative Agent, releasing all liens of the Existing Lenders upon any of the real property of the Borrower and its Subsidiaries, and (c) any other releases, terminations or other documents reasonably required by the Administrative Agent to evidence the payoff of Indebtedness owed to the Existing Lenders;

(xiv) at least five (5) days prior to the date of this Agreement, all documentation and other information required by bank regulatory authorities or reasonably requested by the Administrative Agent or any Lender under or in respect of applicable “know your customer” and anti-money laundering legal requirements including the Patriot Act and, if the Borrower qualifies as a “legal entity customer” under the Beneficial Ownership Regulation, a Beneficial Ownership Certification in relation to Borrower;

(xv) certified copies of all Material Agreements (including, for the avoidance of doubt, the Associated Practice Documents);

(xvi) certificates of insurance, in form and detail acceptable to the Administrative Agent, describing the types and amounts of insurance (property and liability) maintained by any of the Loan Parties, in each case naming the Administrative Agent as loss payee or additional insured, as the case may be, together with a lender's loss payable endorsement in form and substance satisfactory to the Administrative Agent;

(xvii) the Closing Date Collateral Assignments;

(xviii) evidence that the Borrower shall have filed a UCC-1 financing statement to perfect its security interest in the collateral securing the AP-AMH Loan, and such UCC-1 financing statement shall name the Administrative Agent as an "additional secured party";

(xix) a duly executed Transfer Restriction Agreement granted and delivered by Thomas Lam, M.D., in his capacity as the sole shareholder of APC-LSMA Designated Shareholder Medical Corporation, in favor of NMM and the Borrower; and

(xx) a second amendment to the Management Services Agreement in order to relinquish control over the account that receives payment from Third Party Payor Programs.

(c) All conditions precedent to the consummation of the Related Transactions, other than the funding of the Loans, shall have been satisfied, and the Related Transactions shall be consummated simultaneously with the closing and funding of the Loans in accordance with the terms of the Related Transaction Documents, without alteration, amendment or other change, supplement or modification of the Related Transaction Documents except for waivers of conditions that are not material or adverse to the Lenders or as otherwise approved in writing by the Required Lenders. The Administrative Agent (or its counsel) shall have received certified copies of the Related Transaction Documents, each in form and substance satisfactory to the Administrative Agent and the Arranger.

Without limiting the generality of the provisions of this Section, for purposes of determining compliance with the conditions specified in this Section, each Lender that has signed this Agreement shall be deemed to have consented to, approved of, accepted or been satisfied with each document or other matter required thereunder to be consented to, approved by or acceptable or satisfactory to a Lender unless the Administrative Agent shall have received notice from such Lender prior to the proposed Closing Date specifying its objection thereto.

**Section 3.2 Conditions to Each Credit Event.** The obligation of each Lender to make a Loan on the occasion of any Borrowing and of each Issuing Bank to issue, amend, renew or extend any Letter of Credit is subject to Section 2.26(c) and the satisfaction of the following conditions:

(a) at the time of and immediately after giving effect to such Borrowing or the issuance, amendment, renewal or extension of such Letter of Credit, as applicable, no Default or Event of Default shall exist;

(b) at the time of and immediately after giving effect to such Borrowing or the issuance, amendment, renewal or extension of such Letter of Credit, as applicable, all representations and warranties of each Loan Party set forth in the Loan Documents shall be true and correct in all material respects (other than those representations and warranties that are expressly qualified by a Material Adverse Effect or other materiality, in which case such representations and warranties shall be true and correct in all respects);

(c) since the date of the most recent financial statements delivered by the Borrower pursuant to Section 5.1(a), there shall have been no change which has had or could reasonably be expected to have a Material Adverse Effect;

(d) the Borrower shall have delivered the required Notice of Borrowing together with a report setting forth the sources and uses of the proceeds hereof (if applicable); and

(e) the Administrative Agent shall have received such other documents, certificates, information or legal opinions as the Administrative Agent or the Required Lenders may reasonably request, all in form and substance reasonably satisfactory to the Administrative Agent or the Required Lenders.

Each Borrowing and each issuance, amendment, renewal or extension of any Letter of Credit shall be deemed to constitute a representation and warranty by the Borrower on the date thereof as to the matters specified in subsections (a), (b) and (c) of this Section.

**Section 3.3** **Delivery of Documents.** All of the Loan Documents, certificates, legal opinions and other documents and papers referred to in this Article, unless otherwise specified, shall be delivered to the Administrative Agent for the account of each of the Lenders and in sufficient counterparts or copies for each of the Lenders and shall be in form and substance satisfactory in all respects to the Administrative Agent.

## ARTICLE IV

### **REPRESENTATIONS AND WARRANTIES**

The Borrower represents and warrants, both before and after giving effect to the Related Transactions, to the Administrative Agent, each Lender and each Issuing Bank as follows (provided, however, that any representation and warranty made with respect to any Associated Practice by the Borrower pursuant to this Article IV shall be deemed to be made subject to the Knowledge of the Borrower and it being further acknowledged and agreed that each such representation and warranty is made (i) only to the extent that there is an express reference to an Associated Practice in such representation and warranty and (ii) by the Borrower and not any Associated Practice):

**Section 4.1** **Existence; Power.** The Borrower, each of its Subsidiaries and each Associated Practice (i) is duly organized, validly existing and in good standing as a corporation, partnership or limited liability company under the laws of the jurisdiction of its organization, (ii) has all requisite power and authority to carry on its business as now conducted and (iii) is duly qualified to do business, and is in good standing, in each jurisdiction where such qualification is required, except where a failure to be so qualified could not reasonably be expected to result in a Material Adverse Effect. The Borrower and each of its Subsidiaries has all requisite power and authority to execute, deliver and perform its obligations under the Loan Documents to which it is a party.

**Section 4.2** **Organizational Power; Authorization.** The execution, delivery and performance by each Loan Party of the Loan Documents and the other Related Transaction Documents to which it is a party are within such Loan Party's organizational powers and have been duly authorized by all necessary organizational and, if required, shareholder, partner or member action. This Agreement has been duly executed and delivered by the Borrower and constitutes, and each other Loan Document and Related Transaction Document to which any Loan Party is a party, when executed and delivered by such Loan Party, will constitute, valid and binding obligations of the Borrower or such Loan Party (as the case may be), enforceable against it in accordance with their respective terms, except as may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and by general principles of equity.

**Section 4.3 Governmental Approvals; No Conflicts.** The execution, delivery and performance by each Loan Party of the Loan Documents and the other Related Transaction Documents to which it is a party (a) do not require any consent or approval of, registration or filing with, or any action by, any Governmental Authority, except those as have been obtained or made and are in full force and effect and except for filings necessary to perfect or maintain perfection of the Liens created under the Loan Documents, (b) will not violate any Requirement of Law applicable to the Borrower or any of its Subsidiaries or any judgment, order or ruling of any Governmental Authority, (c) will not violate or result in a default under any Contractual Obligation of the Borrower or any of its Subsidiaries or any of its assets or give rise to a right thereunder to require any payment to be made by the Borrower or any of its Subsidiaries and (d) will not result in the creation or imposition of any Lien on any asset of the Borrower or any of its Subsidiaries, except Liens (if any) created under the Loan Documents. Each of the Borrower's, its Subsidiaries' and Associated Practices' employees and contractors providing professional medical services to patients is, and has at all times been, while servicing in such capacity under employment of or contract with the Borrower, any other Loan Party or any Associated Practices, (i) duly licensed and certified (as and where required) by each regulatory body having jurisdiction over services rendered by such Person and (ii) eligible (as and where required) to participate in Third Party Payor Programs, except to the extent that such failure to be licensed, certified or eligible, as the case may be, would not reasonably be expected to have a Material Adverse Effect, either individually or in the aggregate.

**Section 4.4 Financial Statements.** The Borrower has furnished the Historical Financial Statements to the Administrative Agent. The Historical Financial Statements fairly present the consolidated financial condition of the Borrower and its Subsidiaries as of such dates and the consolidated results of operations for such periods in conformity with GAAP consistently applied, subject to year-end audit adjustments and the absence of footnotes in the case of the quarterly statements. Since December 31, 2018, there have been no changes with respect to the Borrower and its Subsidiaries which have had or could reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect.

**Section 4.5 Litigation and Environmental Matters.**

(a) No litigation, investigation or proceeding of or before any arbitrators or Governmental Authorities is pending against or, to the Knowledge of the Borrower, threatened against or affecting the Borrower, any of its Subsidiaries or any Associated Practice (i) as to which there is a reasonable possibility of an adverse determination that could reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect or (ii) which in any manner draws into question the validity or enforceability of this Agreement or any other Loan Document or Related Transaction Document.

(b) Except for the matters set forth on Schedule 4.5, none of the Borrower, any of its Subsidiaries or any Associated Practice (i) has failed to comply with any Environmental Law or to obtain, maintain or comply with any permit, license or other approval required under any Environmental Law, (ii) has become subject to any Environmental Liability, (iii) has received notice of any claim with respect to any Environmental Liability or (iv) knows of any basis for any Environmental Liability.

**Section 4.6 Compliance with Laws and Agreements.** The Borrower, each of its Subsidiaries and each Associated Practice is in compliance with (a) all Requirements of Law and all judgments, decrees and orders of any Governmental Authority and (b) all indentures, agreements or other instruments binding upon it or its properties, except where non-compliance, either individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

**Section 4.7 Investment Company Act.** Neither the Borrower nor any of its Subsidiaries is (a) an “investment company” or is “controlled” by an “investment company”, as such terms are defined in, or subject to regulation under, the Investment Company Act of 1940, as amended and in effect from time to time, or (b) other than in the case of any Regulated Entity, otherwise subject to any other regulatory scheme limiting its ability to borrow money or requiring any approval or consent from, or registration or filing with, any Governmental Authority in connection therewith.

**Section 4.8 Taxes.** The Borrower, its Subsidiaries, the Associated Practices and each other Person for whose taxes the Borrower, any of its Subsidiaries or any Associated Practice could become liable have timely filed or caused to be filed all Federal income tax returns and all other material tax returns that are required to be filed by them, and have paid all taxes shown to be due and payable on such returns or on any assessments made against it or its property and all other taxes, fees or other charges imposed on it or any of its property by any Governmental Authority, except where the same are currently being contested in good faith by appropriate proceedings and for which the Borrower, such Subsidiary or such Associated Practice, as the case may be, has set aside on its books adequate reserves in accordance with GAAP. The charges, accruals and reserves on the books of the Borrower, its Subsidiaries and the Associated Practices in respect of such taxes are adequate, and no tax liabilities that could be materially in excess of the amount so provided are anticipated. None of the Borrower, its Subsidiaries or the Associated Practices has any obligation to pay or has any liability with respect to the Seller’s or any of its Affiliates’ tax liability.

**Section 4.9 Margin Regulations.** None of the proceeds of any of the Loans or Letters of Credit will be used, directly or indirectly, for “purchasing” or “carrying” any “margin stock” within the respective meanings of each of such terms under Regulation U or for any purpose that violates the provisions of Regulation T, Regulation U or Regulation X. Neither the Borrower nor any of its Subsidiaries is engaged principally, or as one of its important activities, in the business of extending credit for the purpose of purchasing or carrying “margin stock”.

**Section 4.10 ERISA.** Each Plan is in substantial compliance in form and operation with its terms and with ERISA and the Code (including, without limitation, the Code provisions compliance with which is necessary for any intended favorable tax treatment) and all other applicable laws and regulations. Each Plan (and each related trust, if any) which is intended to be qualified under Section 401(a) of the Code has received a favorable determination letter from the IRS to the effect that it meets the requirements of Sections 401(a) and 501(a) of the Code covering all applicable tax law changes, or is comprised of a master or prototype plan that has received a favorable opinion letter from the IRS, and nothing has occurred since the date of such determination that would adversely affect such determination (or, in the case of a Plan with no determination, nothing has occurred that would adversely affect the issuance of a favorable determination letter or otherwise adversely affect such qualification). No ERISA Event has occurred or is reasonably expected to occur. There exists no Unfunded Pension Liability with respect to any Plan. None of the Borrower, any of its Subsidiaries or any ERISA Affiliate is making or accruing an obligation to make contributions, or has, within any of the five calendar years immediately preceding the date this assurance is given or deemed given, made or accrued an obligation to make, contributions to any Multiemployer Plan. There are no actions, suits or claims pending against or involving a Plan (other than routine claims for benefits) or, to the Knowledge of the Borrower, any of its Subsidiaries or any ERISA Affiliate, threatened, which would reasonably be expected to be asserted successfully against any Plan and, if so asserted successfully, would reasonably be expected either singly or in the aggregate to result in liability to the Borrower or any of its Subsidiaries. The Borrower, each of its Subsidiaries and each ERISA Affiliate have made all contributions to or under each Plan and Multiemployer Plan required by law within the applicable time limits prescribed thereby, by the terms of such Plan or Multiemployer Plan, respectively, or by any contract or agreement requiring contributions to a Plan or Multiemployer Plan. No Plan which is subject to Section 412 of the Code or Section 302 of ERISA has applied for or received an extension of any amortization period within the meaning of Section 412 of the Code or Section 303 or 304 of ERISA. None of the Borrower, any of its Subsidiaries or any ERISA Affiliate have ceased operations at a facility so as to become subject to the provisions of Section 4068(a) of ERISA, withdrawn as a substantial employer so as to become subject to the provisions of Section 4063 of ERISA or ceased making contributions to any Plan subject to Section 4064(a) of ERISA to which it made contributions. Each Non-U.S. Plan has been maintained in compliance with its terms and with the requirements of any and all applicable laws, statutes, rules, regulations and orders and has been maintained, where required, in good standing with applicable regulatory authorities, except as would not reasonably be expected to result in liability to the Borrower or any of its Subsidiaries. All contributions required to be made with respect to a Non-U.S. Plan have been timely made. Neither the Borrower nor any of its Subsidiaries has incurred any obligation in connection with the termination of, or withdrawal from, any Non-U.S. Plan. The present value of the accrued benefit liabilities (whether or not vested) under each Non-U.S. Plan, determined as of the end of the Borrower’s most recently ended fiscal year on the basis of reasonable actuarial assumptions, did not exceed the current value of the assets of such Non-U.S. Plan allocable to such benefit liabilities.

**Section 4.11    Ownership of Property; Insurance.**

(a)        Each of the Borrower and its Subsidiaries has good title to, or valid leasehold interests in, all of its real and personal property material to the operation of its business, including all such properties reflected in the most recent audited Historical Financial Statements or purported to have been acquired by the Borrower or any of its Subsidiaries after said date (except as sold or otherwise disposed of in the ordinary course of business), in each case free and clear of Liens prohibited by this Agreement. All leases that individually or in the aggregate are material to the business or operations of the Borrower and its Subsidiaries are valid and subsisting and are in full force.

(b)        Each of the Borrower, its Subsidiaries and the Associated Practices, as the case may be, owns, or is licensed or otherwise has the right to use, all patents, trademarks, service marks, trade names, copyrights and other intellectual property material to its business, and the use thereof by the Borrower, its Subsidiaries and the Associated Practices, as the case may be, does not infringe in any material respect on the rights of any other Person.

(c)        The properties of the Borrower and its Subsidiaries are insured with financially sound and reputable insurance companies which are not Affiliates of the Borrower, in such amounts with such deductibles and covering such risks as are customarily carried by companies engaged in similar businesses and owning similar properties in localities where the Borrower or any applicable Subsidiary operates.

(d)        As of the Closing Date, neither the Borrower nor any of its Subsidiaries owns any Real Estate.



**Section 4.12**     **Disclosure.**

(a)       The Borrower has disclosed to the Lenders all agreements, instruments, and corporate or other restrictions to which the Borrower, each of its Subsidiaries and each Associated Practice is subject, and all other matters known to any of them, that, either individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect. Neither the lender presentation nor any of the reports (including, without limitation, all reports that the Borrower is required to file with the Securities and Exchange Commission), financial statements, certificates or other information furnished by or on behalf of the Borrower to the Administrative Agent or any Lender in connection with the negotiation or syndication of this Agreement or any other Loan Document or delivered hereunder or thereunder (as modified or supplemented by any other information so furnished) contains any material misstatement of fact or omits to state any material fact necessary to make the statements therein, taken as a whole in light of the circumstances under which they were made, not misleading; provided that, with respect to projected financial information, the Borrower represents only that such information was prepared in good faith based upon assumptions believed to be reasonable at the time.

(b)       As of the Closing Date, the information included in the Beneficial Ownership Certification is true and correct in all respects.

**Section 4.13**     **Labor Relations.** There are no strikes, lockouts or other material labor disputes or grievances against the Borrower, any of its Subsidiaries or any Associated Practice, or, to the Borrower's Knowledge, threatened against or affecting the Borrower, any of its Subsidiaries or any Associated Practice, and no significant unfair labor practice charges or grievances are pending against the Borrower, any of its Subsidiaries or any Associated Practice, or, to the Borrower's Knowledge, threatened against any of them before any Governmental Authority. All payments due from the Borrower, any of its Subsidiaries or any Associated Practice pursuant to the provisions of any collective bargaining agreement have been paid or accrued as a liability on the books of the Borrower, any such Subsidiary or any such Associated Practice, except where the failure to do so could not reasonably be expected to have a Material Adverse Effect.

**Section 4.14**     **Subsidiaries.** Schedule 4.14 sets forth the name of, the ownership interest of the applicable Loan Party in, the jurisdiction of incorporation or organization of, and the type of each Subsidiary of the Borrower and the other Loan Parties and identifies each Subsidiary that is a Subsidiary Loan Party, in each case as of the Closing Date.

**Section 4.15**     **Solvency.** After giving effect to the execution and delivery of the Loan Documents and the other Related Transaction Documents, the making of the Loans under this Agreement and the consummation of the other Related Transactions, each Loan Party is Solvent.

**Section 4.16**     **Deposit and Disbursement Accounts.** Schedule 4.16 lists all banks and other financial institutions at which any Loan Party maintains deposit accounts, lockbox accounts, disbursement accounts, investment accounts or other similar accounts as of the Closing Date, and such Schedule correctly identifies the name, address and telephone number of each financial institution, the name in which the account is held, the type of the account, and the complete account number therefor.

**Section 4.17**     **Collateral Documents.**

(a)       The Guaranty and Security Agreement is effective to create in favor of the Administrative Agent for the ratable benefit of the Secured Parties a legal, valid and enforceable security interest in the Collateral (as defined therein), and when UCC financing statements in appropriate form are filed in the offices specified on Schedule 3 to the Guaranty and Security Agreement, the Liens created under the Guaranty and Security Agreement shall constitute a fully perfected Lien (to the extent that such Lien may be perfected by the filing of a UCC financing statement) on, and security interest in, all right, title and interest of the grantors thereunder in such Collateral, in each case prior and superior in right to any other Person, other than with respect to Liens expressly permitted by Section 7.2 which are prior as a matter of law. When the certificates evidencing all Capital Stock pledged pursuant to the Guaranty and Security Agreement are delivered to the Administrative Agent, together with appropriate stock powers or other similar instruments of transfer duly executed in blank, the Liens in such Capital Stock shall be fully perfected first priority security interests, perfected by "control" as defined in the UCC.

(b) When the filings in subsection (a) of this Section are made and when, if applicable, the Patent Security Agreements and the Trademark Security Agreements are filed in the United States Patent and Trademark Office and the Copyright Security Agreements are filed in the United States Copyright Office, the Liens created by Guaranty and Security Agreement shall constitute a fully perfected Lien on, and security interest in, all right, title and interest of the Loan Parties in the Patents, Trademarks and Copyrights, if any, in which a security interest may be perfected by filing, recording or registering a security agreement, financing statement or analogous document in the United States Patent and Trademark Office or the United States Copyright Office, as applicable, in each case prior and superior in right to any other Person.

(c) Each Mortgage, when duly executed and delivered by the relevant Loan Party, will be effective to create in favor of the Administrative Agent for the ratable benefit of the Secured Parties a legal, valid and enforceable Lien on all of such Loan Party's right, title and interest in and to the Real Estate of such Loan Party covered thereby and the proceeds thereof, and when such Mortgage is filed in the real estate records where the respective Mortgaged Property is located, such Mortgage shall constitute a fully perfected Lien on, and security interest in, all right, title and interest of such Loan Party in such Real Estate and the proceeds thereof, in each case prior and superior in right to any other Person, other than with respect to Liens expressly permitted by Section 7.2 which are prior as a matter of law.

(d) No Mortgage encumbers improved real property that is located in an area that has been identified by the Secretary of Housing and Urban Development as an area having special flood hazards and in which flood insurance has been made available under the National Flood Insurance Act of 1968, except to the extent that the applicable Loan Party maintains flood insurance with respect to such improved real property in compliance with the requirements of Section 5.8.

**Section 4.18 Associated Practice Documents; Related Transaction Documents.** The Borrower, its Subsidiaries and, to the Borrower's Knowledge, each other party to the Associated Practice Documents and Related Transaction Documents has duly taken all necessary organizational action to authorize the execution, delivery and performance of the Associated Practice Documents and the Related Transaction Documents and the consummation of transactions contemplated by each of the foregoing.

**Section 4.19 Material Agreements.** As of the Closing Date, all Material Agreements of the Borrower and its Subsidiaries are described on Schedule 4.19, and each such Material Agreement is in full force and effect. The Borrower does not have any Knowledge of any pending amendments or threatened termination of any of the Material Agreements. As of the Closing Date, the Borrower has delivered to the Administrative Agent a true, complete and correct copy of each Material Agreement (including all schedules, exhibits, amendments, supplements, modifications, assignments and all other documents delivered pursuant thereto or in connection therewith).

**Section 4.20 Sanctions and Anti-Corruption Laws.**

(a) None of the Borrower or any of its Subsidiaries or any of their respective directors, officers, employees, agents or affiliates is a Sanctioned Person.

(b) Borrower, its Subsidiaries and their respective directors, officers and employees and, to the Knowledge of the Borrower, the agents of the Borrower and its Subsidiaries, are in compliance with applicable Anti-Corruption Laws and applicable Sanctions. The Borrower and its Subsidiaries have instituted and maintain policies and procedures designed to promote and achieve continued compliance therewith.

**Section 4.21** **EEA Financial Institutions.** Neither the Borrower nor any Subsidiary is an EEA Financial Institution.

**Section 4.22** **Healthcare Matters.** Except as set forth on Schedule 4.22.

(a) The Borrower, each of its Subsidiaries and each Associated Practice is in compliance with the requirements of all applicable Healthcare Laws, except in such instances in which the failure to comply therewith could not reasonably be expected to have a Material Adverse Effect. To the Knowledge of the Borrower, there is no action pending against, received by or threatened against the Borrower, its Subsidiaries or any Associated Practice which relates in any way to a violation of any Healthcare Law, except for such violations which could not reasonably be expected to have a Material Adverse Effect. As of the Closing Date, none of the Borrower, its Subsidiaries or any Associated Practice is a party to any corporate integrity agreements or has any ongoing reporting obligations pursuant to any settlement agreement entered into with any Governmental Authority.

(b) To the Knowledge of the Borrower, all Persons employed by or engaged as an independent contractor by the Borrower, its Subsidiaries and any Associated Practice possesses all licenses, permits and authorizations that are required by any Governmental Authority or Requirement of Law to permit such Person to provide the services they provide for such Loan Party, its Subsidiaries and each Associated Practice except to the extent the failure to do so could not reasonably be expected to have a Material Adverse Effect.

**Section 4.23** **Use of Proceeds.** Each Borrowing and each request for a Letter of Credit hereunder will be used solely for the purposes permitted hereunder.

## ARTICLE V

### **AFFIRMATIVE COVENANTS**

Until the Commitments have expired or been terminated and all Obligations have been paid in full and all Letters of Credit shall have expired or terminated, in each case without any pending draw, or all such Letters of Credit shall have been cash collateralized to the satisfaction of each Issuing Bank, and all LC Disbursements shall have been reimbursed, the Borrower covenants and agrees with the Lenders that:

**Section 5.1** **Financial Statements and Other Information.** The Borrower will deliver to the Administrative Agent and each Lender:

(a) as soon as available and in any event within 90 days after the end of each Fiscal Year of the Borrower, a copy of the annual audited report for such Fiscal Year for the Borrower, containing a consolidated balance sheet of the Borrower as of the end of such Fiscal Year and the related consolidated statements of income, stockholders' equity and cash flows (together with all footnotes thereto) of the Borrower for such Fiscal Year, setting forth in each case in comparative form the figures for the previous Fiscal Year, all in reasonable detail and together with a report by BDO USA, LLP or other independent public accountants of nationally recognized standing (without a "going concern" qualification, exception or explanation and without any qualification or exception as to the scope of such audit) stating that such financial statements present fairly in all material respects the financial condition and the results of operations of the Borrower for such Fiscal Year on a consolidated basis in accordance with GAAP and that the examination by such accountants in connection with such consolidated financial statements has been made in accordance with generally accepted auditing standards;

(b) as soon as available and in any event within 45 days after the end of each Fiscal Quarter of the Borrower, an unaudited consolidated balance sheet of the Borrower as of the end of such Fiscal Quarter and the related unaudited consolidated statements of income and cash flows of the Borrower for such Fiscal Quarter and the then elapsed portion of such Fiscal Year, setting forth in each case in comparative form the figures for the corresponding Fiscal Quarter and the corresponding portion of the Borrower's previous Fiscal Year;

(c) concurrently with the delivery of the financial statements referred to in subsections (a) and (b) of this Section (other than the financial statements for the fourth Fiscal Quarter of each Fiscal Year delivered pursuant to subsection (b) of this Section), a Compliance Certificate signed by the principal executive officer or the principal financial officer of the Borrower (i) certifying as to whether there exists a Default or Event of Default on the date of such certificate and, if a Default or an Event of Default then exists, specifying the details thereof and the action which the Borrower has taken or proposes to take with respect thereto, (ii) setting forth in reasonable detail calculations demonstrating compliance with the financial covenants set forth in Article VI, (iii) specifying any change in the identity of the Subsidiaries as of the end of such Fiscal Year or Fiscal Quarter from the Subsidiaries identified to the Lenders on the Closing Date or as of the most recent Fiscal Year or Fiscal Quarter, as the case may be, (iv) setting forth the balance of funds then on deposit in APC Excluded Asset Account, together with a summary statement from the Borrower of the amount and use of any funds withdrawn from the APC Excluded Asset Account following the delivery of the prior Compliance Certificate (or, in the case of the first Compliance Certificate delivered after the Closing Date, since the Closing Date) and (v) stating whether any change in GAAP or the application thereof has occurred since the date of the mostly recently delivered audited financial statements of the Borrower and its Subsidiaries, and, if any change has occurred, specifying the effect of such change on the financial statements accompanying such Compliance Certificate;

(d) as soon as available and in any event within 30 days after the end of the calendar year, forecasts and a pro forma budget for the succeeding Fiscal Year, containing an income statement, balance sheet and statement of cash flow;

(e) promptly after the same become publicly available, copies of all periodic and other reports, proxy statements and other materials filed with the Securities and Exchange Commission, or any Governmental Authority succeeding to any or all functions of said Commission, or with any national securities exchange, or distributed by the Borrower to its shareholders generally, as the case may be;

(f) as soon as available and in any event within 90 days after the end of each Fiscal Year of the Borrower, a SOC 1 Report (Type II) issued in accordance with the Statement on Standards for Attestations Engagements No. 16 (or the successor thereto) from BDO USA, LLP or other independent public accountants of nationally recognized standing (and the Borrower shall correct any material deficiencies identified therein as soon as reasonably practicable);

(g) promptly following any request therefor, (i) such other information regarding the results of operations, business affairs and financial condition of the Borrower or any of its Subsidiaries as the Administrative Agent or any Lender may reasonably request and (ii) information and documentation reasonably requested by the Administrative Agent or any Lender for purposes of compliance with applicable "know your customer" requirements under the Patriot Act or other applicable anti-money laundering laws.

So long as the Borrower is required to file periodic reports under Section 13(a) or Section 15(d) of the Exchange Act, the Borrower may satisfy its obligation to deliver the financial statements and periodic and other reports, proxy statements and other materials referred to in clauses (a), (b) and (c) above by delivering a notice of filing of such financial statements and periodic and other reports, proxy statements and other materials by electronic mail to such e-mail addresses as the Administrative Agent shall have provided to the Borrower from time to time.

The Borrower hereby acknowledges that (a) the Administrative Agent and/or the Arrangers will make available to the Lenders and each Issuing Bank materials and/or information provided by or on behalf of the Borrower hereunder (collectively, "Borrower Materials") by posting the Borrower Materials on the Platform and (b) certain of the Lenders (each, a "Public Lender") may have personnel who do not wish to receive material non-public information with respect to the Borrower or its Affiliates, or the respective securities of any of the foregoing, and who may be engaged in investment and other market-related activities with respect to such Persons' securities. The Borrower hereby agrees that it will use commercially reasonable efforts to identify that portion of the Borrower Materials that may be distributed to Public Lenders and that (w) all such Borrower Materials shall be clearly and conspicuously marked "PUBLIC" which, at a minimum, shall mean that the word "PUBLIC" shall appear prominently on the first page thereof; (x) by marking Borrower Materials "PUBLIC", the Borrower shall be deemed to have authorized the Administrative Agent, the Arrangers, the Issuing Banks and the Lenders to treat such Borrower Materials as not containing any material non-public information (although it may be sensitive and proprietary) with respect to the Borrower or its securities for purposes of United States Federal and state securities laws (provided, however, that to the extent such Borrower Materials constitute confidential information, they shall be treated as set forth in Section 10.12); (y) all Borrower Materials marked "PUBLIC" are permitted to be made available through a portion of the Platform designated "Public Side Information"; and (z) the Administrative Agent and the Arrangers shall be entitled to treat any Borrower Materials that are not marked "PUBLIC" as being suitable only for posting on a portion of the Platform not designated "Public Side Information".

**Section 5.2      Notices of Material Events.**

(a)            The Borrower will furnish to the Administrative Agent and each Lender prompt (and, in any event, not later than three (3) Business Days after a Responsible Officer becomes aware thereof, other than in the case of clause (iv) below) written notice of the following:

(i)            the occurrence of any Default or Event of Default;

(ii)           the filing or commencement of, or any material development in, any action, suit or proceeding by or before any arbitrator or Governmental Authority against or, to the Knowledge of the Borrower, affecting the Borrower, any of its Subsidiaries or, to the Knowledge of the Borrower, any Associated Practice that could reasonably be expected to result in a Material Adverse Effect (including, without limitation, any of the foregoing that (x) seeks injunctive or similar relief or (y) alleges potential or actual violations of any Healthcare Law by the Borrower, any of its Subsidiaries or, to the Knowledge of the Borrower, any Associated Practice and, in either case);

(iii) the occurrence of any event or any other development by which the Borrower, any of its Subsidiaries or, to the Knowledge of the Borrower, any Associated Practice (A) fails to comply with any Environmental Law or to obtain, maintain or comply with any permit, license or other approval required under any Environmental Law, (B) becomes subject to any Environmental Liability, (C) receives notice of any claim with respect to any Environmental Liability, or (D) becomes aware of any basis for any Environmental Liability, in each case which, either individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect;

(iv) promptly and in any event within 15 days after the Borrower, any of its Subsidiaries, any Associated Practice or any ERISA Affiliate (A) knows or has reason to know that any ERISA Event has occurred, a certificate of the chief financial officer of the Borrower describing such ERISA Event and the action, if any, proposed to be taken with respect to such ERISA Event and a copy of any notice filed with the PBGC or the IRS pertaining to such ERISA Event and any notices received by the Borrower, such Subsidiary or such ERISA Affiliate from the PBGC or any other governmental agency with respect thereto, and (B) becoming aware (1) that there has been an increase in Unfunded Pension Liabilities (not taking into account Plans with negative Unfunded Pension Liabilities) since the date the representations hereunder are given or deemed given, or from any prior notice, as applicable, (2) of the existence of any Withdrawal Liability, (3) of the adoption of, or the commencement of contributions to, any Plan subject to Section 412 of the Code by the Borrower, any of its Subsidiaries or any ERISA Affiliate, or (4) of the adoption of any amendment to a Plan subject to Section 412 of the Code which results in a material increase in contribution obligations of the Borrower, any of its Subsidiaries or any ERISA Affiliate, a detailed written description thereof from the chief financial officer of the Borrower;

(v) any breach or non-performance of, or any default under, any Associated Practice Document by any Loan Party or, any of its respective Subsidiaries or to Borrower's Knowledge, any Associated Practices, or any violation of, or non-compliance with, any Requirement of Law, which would reasonably be expected to result, either individually or in the aggregate, in a Material Adverse Effect, including a description of such breach, non-performance, default, violation or non-compliance and the steps, if any, such Loan Party, such Subsidiary or such Associated Practice has taken, is taking or proposes to take in respect thereof;

(vi) the occurrence of any default or event of default, or the receipt by the Borrower or any of its Subsidiaries of any written notice of an alleged default or event of default, with respect to any Material Indebtedness of the Borrower or any of its Subsidiaries;

(vii) any material amendment or modification to any Material Agreement (together with a copy thereof), and prompt notice of any termination, expiration or loss of any Material Agreement that, individually or in the aggregate, could reasonably be expected to result in a reduction in revenue or Consolidated EBITDA of the Loan Parties of 10% or more on a consolidated basis from the prior Fiscal Year;

(viii) any change in the information provided in the Beneficial Ownership Certification that would result in a change to the list of beneficial owners identified in parts (c) and (d) of such certification;

(ix) (A) receipt by the Borrower, any of its Subsidiaries or, to the Knowledge of the Borrower, any Associated Practice of any notification, through letter or otherwise, of a potential investigation relating to submission of claims to Third Party Payor Programs by the Borrower, any of its Subsidiaries or any Associated Practice (other than any additional data requests and audits, inspections and investigations, that, in each case, are in the ordinary course of business and would not reasonably be expected to have a Material Adverse Effect); (B) the voluntary disclosure by the Borrower, any of its Subsidiaries or, to the Knowledge of the Borrower, any Associated Practice to the Office of the Inspector General of the United States Department of Health and Human Services, a Medicare fiscal intermediary, any Governmental Authority or any state's Medicaid program of a potential material overpayment matter involving the submission of claims to such payor; or (C) receipt by the Borrower, any of its Subsidiaries or, to the Knowledge of the Borrower, any Associated Practice of any notice from a Governmental Authority that the Borrower, any of its Subsidiaries or any Associated Practice is subject to a civil or criminal investigation, inquiry or audit involving and/or related to its compliance with Healthcare Laws which, if adversely determined, would reasonably be expected to have a Material Adverse Effect; and

(x) receipt by the Borrower, any of its Subsidiaries or, to the Knowledge of the Borrower, any Associated Practice from any Governmental Authority of the imposition of any forfeiture or the designation of a hearing that could result in the expiration, termination, revocation, impairment or suspension of any Healthcare Permit that would reasonably be expected to have a Material Adverse Effect;

(xi) any material defaults or termination received from any Material Associated Practice, or given by any Loan Party to any Associated Practice, under any Associated Practice Document; and

(xii) any other development that results in, or could reasonably be expected to result in, a Material Adverse Effect.

(b) The Borrower will furnish to the Administrative Agent and each Lender the following:

(i) promptly and in any event at least 30 days prior thereto, notice of any change (i) in any Loan Party's legal name, (ii) in any Loan Party's chief executive office, its principal place of business, any office in which it maintains books or records or any office or facility at which Collateral owned by it is located (including the establishment of any such new office or facility), (iii) in any Loan Party's identity or legal structure, (iv) in any Loan Party's federal taxpayer identification number or organizational number or (v) in any Loan Party's jurisdiction of organization; and

(ii) as soon as available and in any event within 30 days after receipt thereof, a copy of any environmental report or site assessment obtained by or for the Borrower or any of its Subsidiaries after the Closing Date on any Real Estate.

Each notice or other document delivered under this Section shall be accompanied by a written statement of a Responsible Officer setting forth the details of the event or development requiring such notice or other document and any action taken or proposed to be taken with respect thereto.

**Section 5.3 Existence: Conduct of Business.** The Borrower will, and will cause each of its Subsidiaries to, do or cause to be done all things necessary to preserve, renew and maintain in full force and effect its legal existence and its respective rights, licenses, permits, privileges, franchises, patents, copyrights, trademarks and trade names material to the conduct of its business; provided that nothing in this Section shall prohibit any merger, consolidation, liquidation or dissolution permitted under Section 7.3.

**Section 5.4 Compliance with Laws.** The Borrower will, and will cause each of its Subsidiaries to (and, to the extent permitted by applicable law, cause the Material Associated Practices to), comply with all laws, rules, regulations and requirements of any Governmental Authority applicable to its business and properties, including, without limitation, all Healthcare Laws, Environmental Laws, ERISA and OSHA, except where the failure to do so, either individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect. The Borrower will maintain in effect and enforce policies and procedures designed to promote and achieve compliance by the Borrower, its Subsidiaries, the Material Associated Practices and their respective directors, officers, employees and agents with applicable Anti-Corruption Laws and applicable Sanctions.

**Section 5.5 Payment of Obligations.** The Borrower will, and will cause each of its Subsidiaries to, pay and discharge at or before maturity all of its obligations and liabilities (including, without limitation, all taxes, assessments and other governmental charges, levies and all other claims that could result in a statutory Lien) before the same shall become delinquent or in default, except where (a) the validity or amount thereof is being contested in good faith by appropriate proceedings and the Borrower or such Subsidiary has set aside on its books adequate reserves with respect thereto in accordance with GAAP or (b) the failure to make any such payment could not reasonably be expected to result in a Material Adverse Effect.

**Section 5.6 Books and Records.** The Borrower will, and will cause each of its Subsidiaries to (and, to the extent permitted by applicable law, cause the Material Associated Practices to), keep proper books of record and account in which full, true and correct entries shall be made of all dealings and transactions in relation to its business and activities to the extent necessary to prepare the consolidated financial statements of the Borrower in conformity with GAAP.

**Section 5.7 Visitation and Inspection; Lender Meetings**

(a) The Borrower will, and will cause each of its Subsidiaries to (and, to the extent permitted by applicable law, cause the Material Associated Practices to), permit any representative of the Administrative Agent or any Lender to visit and inspect its properties (excluding the APC Excluded Assets), to examine its books and records and to make copies and take extracts therefrom, and to discuss its affairs, finances and accounts with any of its officers and with its independent certified public accountants, all at such reasonable times and as often as the Administrative Agent or any Lender may reasonably request after reasonable prior notice to the Borrower; provided that if an Event of Default has occurred and is continuing, no prior notice shall be required.

(b) The Borrower will participate in annual meetings with the Administrative Agent and the Lenders to be held at the Borrower's corporate offices (or at such other location as may be agreed to by the Borrower and the Administrative Agent, including via conference call) at such time as may be reasonably agreed to by the Borrower and the Administrative Agent. The Borrower will provide reasonable advance notice and an invitation to the Administrative Agent and the Lenders to each earnings call, if any. It is understood and agreed that the Borrower's establishment of earnings calls on an annual or more frequent basis to which the Administrative Agent and the Lenders are invited shall relinquish its obligations to participate in annual meetings with the Administrative Agent and the Lenders.

**Section 5.8 Maintenance of Properties; Insurance.** The Borrower will, and will cause each of its Subsidiaries to (and, to the extent permitted by applicable law, cause the Material Associated Practices to), (a) keep and maintain all property material to the conduct of its business in good working order and condition, ordinary wear and tear excepted, (b) maintain with financially sound and reputable insurance companies which are not Affiliates of the Borrower (i) insurance with respect to its properties and business, and the properties and business of its Subsidiaries and the Associated Practices, against loss or damage of the kinds customarily insured against by companies in the same or similar businesses operating in the same or similar locations (including, in any event, flood insurance as described in the definition of and required by the Real Estate Documents) and (ii) all insurance required to be maintained pursuant to the Collateral Documents, and will, upon request of the Administrative Agent, furnish to each Lender at reasonable intervals a certificate of a Responsible Officer setting forth the nature and extent of all insurance maintained by the Borrower, its Subsidiaries and the Material Associated Practices in accordance with this Section, and (c) solely with respect to any such insurance held by the Borrower and/ its Subsidiaries, at all times shall name the Administrative Agent as additional insured on all liability policies of the Borrower and its Subsidiaries and as lender loss payee (pursuant to a loss payee endorsement approved by the Administrative Agent) on all casualty and property insurance policies of the Borrower and its Subsidiaries; provided, that (except with respect to third-party liability insurance) this Section 5.8 shall not apply to any APC Excluded Assets.



**Section 5.9**      **Use of Proceeds; Margin Regulations.**

(a)      The Borrower will use the proceeds of all Loans funded on the Closing Date to (i) finance a portion of the AP-AMH Loan, (ii) refinance certain Indebtedness of the Borrower and its Subsidiaries (and, indirectly, APC), (iii) pay transaction costs and expenses arising in connection with the Related Transactions and (iv) provide for working capital, capital expenditures and other general corporate purposes; provided that it is understood and agreed that no greater than \$60,000,000 in Revolving Loans shall be borrowed on the Closing Date (exclusive of any LC Exposure incurred on the Closing Date due to the roll-over of the Existing Letters of Credit).

(b)      The Borrower will use the proceeds of the Revolving Loans after the Closing Date to (i) finance future Permitted Acquisitions and Investments (in each case, solely to the extent permitted hereunder) and (ii) provide for working capital needs, capital expenditures, and for other general corporate purposes.

(c)      All Letters of Credit will be used for general corporate purposes.

(d)      Notwithstanding anything to the contrary contained herein, no part of the proceeds of any Loan will be used, whether directly or indirectly, for any purpose that would violate any rule or regulation of the Board of Governors of the Federal Reserve System, including Regulation T, Regulation U or Regulation X.

**Section 5.10**      **Casualty and Condemnation.** The Borrower (a) will furnish to the Administrative Agent and the Lenders prompt written notice of any casualty or other insured damage to any material portion of any Collateral or the commencement of any action or proceeding for the taking of any material portion of any Collateral or any part thereof or interest therein under power of eminent domain or by condemnation or similar proceeding and (b) will ensure that the net cash proceeds of any such event (whether in the form of insurance proceeds, condemnation awards or otherwise) are collected and applied in accordance with the applicable provisions of this Agreement and the Collateral Documents.

**Section 5.11**      **Cash Management.** The Borrower shall, and shall cause its Subsidiaries to maintain all cash management and treasury business with SunTrust Bank or a Permitted Third Party Bank, including, without limitation, all deposit accounts, disbursement accounts, investment accounts and lockbox accounts (other than Excluded Accounts) (each such deposit account, disbursement account, investment account and lockbox account, a "Controlled Account"); each Controlled Account shall be a cash collateral account, with all cash, checks and other similar items of payment in such account securing payment of the Obligations, and in which the Borrower and each of its Subsidiaries shall have granted a first priority Lien to the Administrative Agent, on behalf of the Secured Parties, perfected either automatically under the UCC (with respect to Controlled Accounts at SunTrust Bank) or subject to Control Account Agreements.

**Section 5.12 Additional Subsidiaries and Collateral.**

(a) In the event that, subsequent to the Closing Date, any Person becomes a Subsidiary (other than an Excluded Subsidiary), whether pursuant to formation, Acquisition or otherwise, (x) the Borrower shall promptly notify the Administrative Agent and the Lenders thereof and (y) within 30 days after such Person becomes a Subsidiary, the Borrower shall cause such Subsidiary (i) to become a new Guarantor and to grant Liens in favor of the Administrative Agent in all of its personal property by executing and delivering to the Administrative Agent a supplement to the Guaranty and Security Agreement in form and substance reasonably satisfactory to the Administrative Agent, executing and delivering a Copyright Security Agreement, Patent Security Agreement and Trademark Security Agreement, as applicable, and authorizing and delivering, at the request of the Administrative Agent, such UCC financing statements or similar instruments required by the Administrative Agent to perfect the Liens in favor of the Administrative Agent and granted under any of the Loan Documents, (ii) to grant Liens in favor of the Administrative Agent in all fee ownership interests in all Real Estate with a fair market value in excess of \$7,500,000 by executing and delivering to the Administrative Agent such Real Estate Documents as the Administrative Agent shall require, and (iii) to deliver all such other documentation (including, without limitation, certified organizational documents, resolutions, lien searches, title insurance policies, surveys, environmental reports and legal opinions) and to take all such other actions as such Subsidiary would have been required to deliver and take pursuant to Section 3.1 if such Subsidiary had been a Loan Party on the Closing Date or that such Subsidiary would be required to deliver pursuant to Section 5.13 with respect to any Real Estate. In addition, within 45 days after the date any Person becomes a Subsidiary, the Borrower shall, or shall cause the applicable Loan Party to (i) pledge all of the Capital Stock of such Subsidiary to the Administrative Agent as security for the Obligations by executing and delivering a supplement to the Guaranty and Security Agreement in form and substance satisfactory to the Administrative Agent, and (ii) deliver the original certificates evidencing such pledged Capital Stock to the Administrative Agent, together with appropriate powers executed in blank.

(b) If, at any time and from time to time after the Closing Date, Subsidiaries that are not Guarantors solely because they do not meet the thresholds set forth in the definition of "Immaterial Subsidiary" comprise in the aggregate more than 5.0% of Consolidated Total Assets or more than 5.0% of Consolidated EBITDA, in each case, as of the end of the most recently ended Fiscal Quarter for which financial statements have been delivered (or were required to be delivered) pursuant to Section 5.1(b), then the Borrower shall, not later than five (5) Business Days after the date by which financial statements for such Fiscal Quarter are required to be delivered pursuant to this Agreement (or such longer period as the Administrative Agent may agree in its reasonable discretion), (i) designate in writing to the Administrative Agent one or more of such Subsidiaries as no longer being an "Immaterial Subsidiary" (to the extent that, as a result of such designation, the remaining Immaterial Subsidiaries constitute less than each of the thresholds set forth in this subsection (d) in the aggregate) and (ii) comply with the provisions of subsection (a) of this Section applicable to each such Subsidiary (subject to the time periods set forth in this Section 5.12 which shall run from the date that any Subsidiary is so designated as no longer being an Immaterial Subsidiary hereunder).

(c) The Borrower agrees that, following the delivery of any Collateral Documents required to be executed and delivered by this Section, the Administrative Agent shall have a valid and enforceable, first priority perfected Lien on the property required to be pledged pursuant to subsections (a) and (b) of this Section (to the extent that such Lien can be perfected by execution, delivery and/or recording of the Collateral Documents or UCC financing statements, or possession of such Collateral), free and clear of all Liens other than Liens expressly permitted by Section 7.2. All actions to be taken pursuant to this Section shall be at the expense of the Borrower or the applicable Loan Party, and shall be taken to the reasonable satisfaction of the Administrative Agent.

**Section 5.13     Additional Real Estate: Leased Locations.**

(a) To the extent otherwise permitted hereunder, if any Loan Party proposes to acquire a fee ownership interest in Real Estate after the Closing Date having a fair market value in excess of \$7,500,000 as of the date of the acquisition thereof, it shall at the time of such acquisition provide to the Administrative Agent Real Estate Documents in regard to such Real Estate.

**Section 5.14     Further Assurances.** The Borrower will, and will cause each other Loan Party to, execute any and all further documents, financing statements, agreements and instruments, and take all such further actions (including the filing and recording of financing statements, fixture filings, Mortgages and other documents), which may be required under any applicable law, or which the Administrative Agent or the Required Lenders may reasonably request, to effectuate the transactions contemplated by the Loan Documents or to grant, preserve, protect or perfect the Liens created by the Collateral Documents or the validity or priority of any such Lien, all at the expense of the Loan Parties. The Borrower also agrees to provide to the Administrative Agent, from time to time upon request, evidence reasonably satisfactory to the Administrative Agent as to the perfection and priority of the Liens created or intended to be created by the Collateral Documents.

**Section 5.15     Healthcare Matters.** The Borrower will, and will cause each of its Subsidiaries to (and, to the extent permitted by applicable law, cause the Associated Practices to), (i) comply in all material respects with all applicable Healthcare Laws relating to the operation of its business, (ii) obtain, maintain and timely renew all material Healthcare Permits required in the proper conduct of its business, (iii) keep and maintain all records required to be maintained by any Governmental Authority or under any Healthcare Law, and (iv) maintain a corporate and health care regulatory compliance program that addresses the requirements of Healthcare Laws, except where the failure to comply, obtain, keep and maintain could not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect.

**Section 5.16     Associated Practice Documents.**

(a) The Borrower will, and will cause each of its Subsidiaries to, enforce all of its rights under each Associated Practice Document, in each case, where the failure to do so could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, subject to limitations, in the reasonable judgment of Borrower, in consultation with its healthcare counsel, under applicable laws; provided that any management fees payable under any Associated Practice Document may be subordinated and/or the payment of such management fees may be deferred, in each case, to the extent that the Borrower in good faith deems it advisable in order to satisfy any regulation by any Governmental Authority having jurisdiction over the parties to such Associated Practice Document.

(b) The Borrower will, and will cause each of its Subsidiaries to, deliver and collaterally assign to the Administrative Agent each Associated Practice Document entered into after the Closing Date, for the benefit of the Secured Parties, pursuant to a Collateral Assignment, subject to any limitations under applicable law, to be delivered to the Administrative Agent within 21 days after the applicable Associated Practice Document is entered into.

**Section 5.17 Post-Closing Obligations.** The Borrower shall satisfy the requirements set forth on Schedule 5.17 and deliver to the Administrative Agent satisfactory evidence of the same, on or before the date specified for such requirement (or such later date as may be agreed in writing to by the Administrative Agent in its sole discretion).

## ARTICLE VI

### FINANCIAL COVENANTS

Until the Commitments have expired or been terminated and all Obligations have been paid in full and all Letters of Credit shall have expired or terminated, in each case without any pending draw, or all such Letters of Credit shall have been cash collateralized to the satisfaction of each Issuing Bank, and all LC Disbursements shall have been reimbursed, the Borrower covenants and agrees with the Lenders that:

**Section 6.1 Consolidated Total Net Leverage Ratio.** The Borrower will maintain, as of the end of each Fiscal Quarter, commencing with the Fiscal Quarter ending on December 31, 2019, a Consolidated Total Net Leverage Ratio of not greater than:

<u>Fiscal Quarter</u>	<u>Consolidated Total Net Leverage Ratio</u>
Each Fiscal Quarter ending on or prior to September 30, 2020	3.75:1.00
Each Fiscal Quarter ending after September 30, 2020 and on or prior to September 30, 2021	3.50:1.00
Each Fiscal Quarter ending after September 30, 2021 and on or prior to September 30, 2022	3.25:1.00
Each Fiscal Quarter ending after September 30, 2022	3.00:1.00

; provided that (A) for any Fiscal Quarter ending after September 30, 2019 but on or prior to September 30, 2020 during which a Loan Party has consummated a Permitted Acquisition or Future Approved Entity Investment permitted hereunder in which the Investment Consideration payable in connection with such Permitted Acquisition or Future Approved Entity Investment was greater than \$75,000,000 (an "Initial Trigger Quarter"), the Consolidated Total Net Leverage Ratio for the Initial Trigger Quarter and the next succeeding Fiscal Quarter may be increased by 0.25:1.00 to the otherwise applicable Consolidated Total Net Leverage Ratio for each such Fiscal Quarter specified in the grid above and (B) for any Fiscal Quarter ending after September 30, 2020 during which a Loan Party has consummated a Permitted Acquisition or Future Approved Entity Investment permitted hereunder in which the Investment Consideration payable in connection with such Permitted Acquisition or Future Approved Entity Investment was greater than \$75,000,000 (a "Full Trigger Quarter"), the Consolidated Total Net Leverage Ratio (i) for the Full Trigger Quarter and the next succeeding Fiscal Quarter may be increased by 0.50:1.00 to the otherwise applicable Consolidated Total Net Leverage Ratio for each such Fiscal Quarter specified in the grid above and (ii) for the next two succeeding Fiscal Quarters (commencing, for the avoidance of doubt, immediately after the Fiscal Quarters described in clause (B)(i)) may be increased by 0.25:1.00 to the otherwise applicable Consolidated Total Net Leverage Ratio for each such Fiscal Quarter specified in the grid above (each of the foregoing under clauses (A) and (B), a "Covenant Holiday"). For the avoidance of doubt, the Consolidated Total Net Leverage Ratio shall revert to the applicable ratio level specified in the grid above no later than the end of the second Fiscal Quarter after any such Initial Trigger Quarter and the fourth Fiscal Quarter after any Full Trigger Quarter. After the completion of any Covenant Holiday, no subsequent new Initial Trigger Quarter or Full Trigger Quarter shall be permitted to occur for purposes of this Section 6.1 unless and until the Borrower shall demonstrate compliance with the Consolidated Total Net Leverage Ratio specified in the grid above as of the end of at least one Fiscal Quarter after any such Covenant Holiday's completion.

**Section 6.2 Consolidated Interest Coverage Ratio.** The Borrower will maintain, as of the end of each Fiscal Quarter, commencing with the Fiscal Quarter ending on December 31, 2019, a Consolidated Interest Coverage Ratio of not less than 3.25:1.00.

## ARTICLE VII

### NEGATIVE COVENANTS

Until the Commitments have expired or been terminated and all Obligations have been paid in full and all Letters of Credit shall have expired or terminated, in each case without any pending draw, or all such Letters of Credit shall have been cash collateralized to the satisfaction of each Issuing Bank, and all LC Disbursements shall have been reimbursed, the Borrower covenants and agrees with the Lenders that:

**Section 7.1 Indebtedness and Preferred Equity.** The Borrower will not, and will not permit any of its Subsidiaries to and, to the extent permitted by applicable law, the Borrower will use commercially reasonable efforts to cause the Material Associated Practices not to, create, incur, assume or suffer to exist any Indebtedness, except:

(a) Indebtedness created pursuant to the Loan Documents;

(b) Indebtedness existing on the Closing Date and set forth on Schedule 7.1 and extensions, renewals and replacements of any such Indebtedness that do not increase the outstanding principal amount thereof (immediately prior to giving effect to such extension, renewal or replacement) or shorten the maturity or the weighted average life thereof;

(c) Indebtedness of the Borrower, any of its Subsidiaries or any Material Associated Practice incurred to finance the acquisition, construction or improvement of any fixed or capital assets, including Capital Lease Obligations, and any Indebtedness assumed in connection with the acquisition of any such assets or secured by a Lien on any such assets prior to the acquisition thereof (provided that such Indebtedness is incurred prior to or within 90 days after such acquisition or the completion of such construction or improvements), and extensions, renewals or replacements of any such Indebtedness that do not increase the outstanding principal amount thereof (immediately prior to giving effect to such extension, renewal or replacement) or shorten the maturity or the weighted average life thereof; provided that the aggregate principal amount of such Indebtedness does not exceed \$25,000,000 at any time outstanding;

(d) Indebtedness of the Borrower owing to any Subsidiary and of any Subsidiary owing to the Borrower or any other Subsidiary; provided that any such Indebtedness that is owed by or to a Subsidiary that is not a Subsidiary Loan Party shall be subject to Section 7.4;

(e) Guarantees by the Borrower of Indebtedness of any Subsidiary and by any Subsidiary of Indebtedness of the Borrower or any other Subsidiary; provided that Guarantees by any Loan Party of Indebtedness of any Subsidiary that is not a Subsidiary Loan Party shall be subject to Section 7.4;

(f) Indebtedness of any Person which becomes a Subsidiary or Material Associated Practice after the date of this Agreement; provided that (i) such Indebtedness exists at the time that such Person becomes a Subsidiary and is not created in contemplation of or in connection with such Person becoming a Subsidiary, and (ii) the aggregate principal amount of such Indebtedness permitted hereunder shall not exceed \$15,000,000 at any time outstanding;

(g) Indebtedness consisting of Investments to the extent permitted by Section 7.4(j), (k), (l), or (m);

(h) Indebtedness of any Associated Practice to a Loan Party or a Material Associated Practice;

(i) Hedging Obligations permitted by Section 7.10;

(j) unsecured Indebtedness arising from agreements of the Borrower, any of its Subsidiaries or any Material Associated Practice providing for indemnification, adjustment of purchase price, working capital adjustments or other deferred purchase price consideration (including earn-out obligations), in each case, whether or not evidenced by a note and/or whether contingent or otherwise, and incurred or assumed in connection with any Permitted Acquisition or any Investment permitted under this Agreement (any such obligations, "Deferred Acquisition Obligations") so long as the aggregate amount of such Indebtedness does not at any time exceed \$20,000,000;

(k) Indebtedness incurred in favor of insurance companies (or their financing affiliates) in connection with the financing of insurance premiums in the ordinary course of business;

(l) Indebtedness in respect of netting services, overdraft protections and otherwise in connection with deposit accounts to the extent incurred in the ordinary course of business;

(m) obligations in respect of surety, stay, customs and appeal bonds, bid or performance bonds and performance and completion guaranties and obligations of a like nature (including letters of credit-related thereto), worker's compensation claims, health, disability or other employee benefits or property, casualty or liability insurance or self-insurance obligations, trade contracts, governmental contracts and leases, in each case incurred in the ordinary course of business and not in connection with the borrowing of money;

(n) to the extent constituting Indebtedness, deposits and advance payments received from customers in the ordinary course of business consistent with past practices;

(o) to the extent constituting Indebtedness, bonus or other deferred compensation arrangements with respect to officers, directors, employees or consultants of the Borrower, any of its Subsidiaries or any Material Associated Practice solely in their capacities as such that is paid in the ordinary course of business and consistent with past practices;

(p) non-cash accruals of interest, accretion or amortization of original issue discount and/or pay-in-kind interest with respect to Indebtedness otherwise permitted under this Section 7.1;

- (q) Indebtedness of any Regulated Entity owing to any Loan Party;
- (r) so long as no Event of Default has occurred and is continuing at the time of the incurrence thereof, APC Non-Recourse Indebtedness;
- (s) Indebtedness pursuant to the AP-AMH Loan Documents; and
- (t) other unsecured Indebtedness of the Borrower, any of its Subsidiaries or any Material Associated Practice in an aggregate principal amount not to exceed \$20,000,000 at any time outstanding.

The Borrower will not, and will not permit any Subsidiary to, issue any preferred stock or other preferred equity interest that (i) matures or is mandatorily redeemable pursuant to a sinking fund obligation or otherwise, (ii) is or may become redeemable or repurchaseable by the Borrower or such Subsidiary at the option of the holder thereof, in whole or in part, or (iii) is convertible or exchangeable at the option of the holder thereof for Indebtedness or preferred stock or any other preferred equity interest described in this paragraph, on or prior to, in the case of clause (i), (ii) or (iii), the first anniversary of the Revolving Commitment Termination Date.

**Section 7.2 Liens; Negative Pledge.** The Borrower will not, and will not permit any of its Subsidiaries to and, to the extent permitted by applicable law, the Borrower will use commercially reasonable efforts to cause the Material Associated Practices not to, create, incur, assume or suffer to exist any Lien on any of its assets or property now owned or hereafter acquired, except:

(a) Liens securing the Obligations; provided that no Liens may secure Hedging Obligations or Bank Product Obligations without securing all other Obligations on a basis at least pari passu with such Hedging Obligations or Bank Product Obligations and subject to the priority of payments set forth in Section 2.21 and Section 8.2;

(b) Permitted Encumbrances;

(c) Liens on any property or asset of the Borrower, any of its Subsidiaries or any Material Associated Practice existing on the date hereof and set forth on Schedule 7.2; provided that such Liens shall not apply to any other property or asset of such Person;

(d) purchase money Liens upon or in any fixed or capital assets to secure the purchase price or the cost of construction or improvement of such fixed or capital assets or to secure Indebtedness incurred solely for the purpose of financing the acquisition, construction or improvement of such fixed or capital assets (including Liens securing any Capital Lease Obligations); provided that (i) such Lien secures Indebtedness permitted by Section 7.1(c), (ii) such Lien attaches to such asset concurrently or within 90 days after the acquisition or the completion of the construction or improvements thereof, (iii) such Lien does not extend to any other asset, and (iv) the Indebtedness secured thereby does not exceed the cost of acquiring, constructing or improving such fixed or capital assets;

(e) any Lien (x) existing on any asset of any Person at the time such Person becomes a Subsidiary of the Borrower, (y) existing on any asset of any Person at the time such Person is merged with or into the Borrower or any of its Subsidiaries, or (z) existing on any asset prior to the acquisition thereof by the Borrower, any of its Subsidiaries or any Material Associated Practice, as the case may be; provided that (i) any such Lien was not created in the contemplation of any of the foregoing and (ii) any such Lien secures only those obligations which it secures on the date that such Person becomes a Subsidiary or Material Associated Practice, as the case may be, or the date of such merger or the date of such acquisition;

(f) extensions, renewals, or replacements of any Lien referred to in subsections (b) through (e) of this Section; provided that the principal amount of the Indebtedness secured thereby is not increased and that any such extension, renewal or replacement is limited to the assets originally encumbered thereby;

(g) Liens granted by any Material Associated Practice in favor of any Loan Party securing such Material Associated Practice's obligations to such Loan Party pursuant to any Associated Practice Documents;

(h) Liens granted by APC on APC Excluded Assets to secure APC Non-Recourse Indebtedness;

(i) Liens granted pursuant to the AP-AMH Loan Documents; and

(j) other Liens not specifically listed above securing other obligations in an aggregate amount not to exceed \$10,000,000 at any time outstanding;

provided that notwithstanding anything to the contrary contained herein, at no time shall any Lien in favor of any Person (other than the Lien in favor of the Administrative Agent created under the Loan Documents) be permitted on any Collateral consisting of the Borrower's interests and rights under (A) the AP-AMH Loan Documents or (B) any other similarly structured Investment by any Loan Party (including any Future Approved Entity Investment) permitted hereunder.

Notwithstanding anything to the contrary contained herein, at no time shall any Lien in favor of any Person be permitted on any Real Estate (other than with respect to Liens (1) of the type set forth in clauses (i), (ii), (v) and (vii) of the definition of "Permitted Encumbrance", (2) on any APC Excluded Assets and (3) securing the Obligations).

### **Section 7.3      Fundamental Changes.**

(a) The Borrower will not, and will not permit any of its Subsidiaries to, merge into or consolidate into any other Person, or permit any other Person to merge into or consolidate with it, or sell, lease, transfer or otherwise dispose of (in a single transaction or a series of transactions) all or substantially all of its assets (in each case, whether now owned or hereafter acquired) or all or substantially all of the stock of any of its Subsidiaries (in each case, whether now owned or hereafter acquired) or liquidate or dissolve; provided that if, at the time thereof and immediately after giving effect thereto, no Default or Event of Default shall have occurred and be continuing:

(i) the Borrower or any Subsidiary may merge with a Person if the Borrower (or such Subsidiary if the Borrower is not a party to such merger) is the surviving Person,

(ii) any Subsidiary may merge into another Subsidiary, provided that if any party to such merger is a Subsidiary Loan Party, a Subsidiary Loan Party shall be the surviving Person,

(iii) any Subsidiary may sell, transfer, lease or otherwise dispose of all or substantially all of its assets to the Borrower or to a Subsidiary Loan Party, and



(iv) any Subsidiary (other than a Subsidiary Loan Party) may liquidate or dissolve if the Borrower determines in good faith that such liquidation or dissolution is in the best interests of the Borrower and is not materially disadvantageous to the Lenders;

provided, further, that any such merger involving a Person that is not a wholly owned Subsidiary immediately prior to such merger shall not be permitted unless also permitted by Section 7.4.

(b) The Borrower will not, and will not permit any of its Subsidiaries to, engage in any business other than businesses of the type conducted by the Borrower and its Subsidiaries on the date hereof and businesses reasonably related or ancillary thereto.

**Section 7.4 Investments, Loans.** The Borrower will not, and will not permit any of its Subsidiaries to and, to the extent permitted by applicable law, the Borrower will use commercially reasonable efforts to cause the Material Associated Practices not to, purchase, hold or acquire (including pursuant to any merger with any Person that was not a wholly owned Subsidiary prior to such merger) any Capital Stock, evidence of Indebtedness or other securities (including any option, warrant, or other right to acquire any of the foregoing) of, make or permit to exist any capital contributions, loans or advances to, Guarantee any obligations of, or make or permit to exist any investment or any other interest in, any other Person, or purchase or otherwise acquire (in one transaction or a series of transactions) all or substantially all of the assets of a Person, or any assets of any other Person that constitute a business unit or division of any other Person, or create or form any Subsidiary (all of the foregoing being collectively called "Investments"), except:

(a) Investments (other than Permitted Investments) existing on the date hereof and set forth on Schedule 7.4 (including Investments in Subsidiaries);

(b) Permitted Investments;

(c) Guarantees by the Borrower and its Subsidiaries constituting Indebtedness permitted by Section 7.1 (other than APC Non-Recourse Indebtedness); provided that the aggregate principal amount of Indebtedness of Subsidiaries that are not Subsidiary Loan Parties that is Guaranteed by any Loan Party shall be subject to the limitation set forth in subsection (d) of this Section;

(d) Investments made by the Borrower in or to any Subsidiary and by any Subsidiary to the Borrower or in or to another Subsidiary provided that the aggregate amount of Investments by the Loan Parties in or to, and Guarantees by the Loan Parties of Indebtedness of, any Subsidiary that is not a Subsidiary Loan Party (including all such Investments and Guarantees existing on the Closing Date) shall not exceed \$20,000,000 at any time outstanding;

(e) loans or advances to employees, officers or directors of the Borrower or any of its Subsidiaries in the ordinary course of business for travel, relocation and related expenses; provided that the aggregate amount of all such loans and advances does not exceed \$2,500,000 at any time outstanding;

(f) Hedging Transactions permitted by Section 7.10;

(g) loans to Associated Practices pursuant to any Associated Practice Documents;

(h) the AP-AMH Loan Documents;

(i) Permitted Acquisitions;

(j) Future Approved Entity Investments in an aggregate amount not to exceed \$150,000,000 so long as (i) the Approved Entity substantially concurrently uses all of the proceeds of the Future Approved Entity Investment to acquire Capital Stock in or all or substantially all of the assets of APC or another Material Associated Practice pursuant to which the net economic benefit of such acquisition is wholly transferred to such Approved Entity through such Approved Entity's ownership of the Capital Stock in or assets of APC or such other Material Associated Practice, (ii) the Administrative Agent receives collateral security in respect of such Investment that is substantially similar (and no less favorable to the Administrative Agent, including, for the avoidance of doubt, a Collateral Assignment and designation as an "additional secured party") to the AP-AMH Loan, (iii) before and after giving effect to any such Future Approved Entity Investment, no Default or Event of Default has occurred and is continuing and (iv) the Borrower shall have delivered to the Administrative Agent a *pro forma* Compliance Certificate signed by a Responsible Officer at least 5 days prior to the date of the consummation of such Future Approved Entity Investment demonstrating that on a Pro Forma Basis after giving effect to any such Future Approved Entity Investment, the Borrower is in compliance with each of the covenants set forth in Article VI, measuring Consolidated Total Net Debt for purposes of Section 6.1 as of the date of such Future Approved Entity Investment and otherwise recomputing the covenants set forth in Article VI as of the last day of the most recently ended Fiscal Quarter for which financial statements are required to have been delivered pursuant to Section 5.1(b) as if such Future Approved Entity Investment had occurred; provided that solely in the case of any Future Approved Entity Investment for which the Investment Consideration is greater than \$75,000,000, for purposes of determining *pro forma* compliance with Section 6.1, the Consolidated Total Net Leverage Ratio shall be deemed to be the lesser of (A) the otherwise applicable Consolidated Total Net Leverage Ratio specified in the grid in Section 6.1 (without giving effect to any increase thereunder due to a Covenant Holiday) plus 0.50:1.00 and (B) 4.00:1.00;

(k) Investments from the Borrower to AP-AMH to fund loans or capital contributions by AP-AMH to APC pursuant to Section 1.2(c) of the APC Shareholder Agreement so long as the aggregate amount funded does not exceed \$15,000,000 at any time outstanding; provided that, notwithstanding the foregoing cap, additional Investments may be made under this clause (k) so long (i) before and after giving effect to any such Investment, no Default or Event of Default has occurred and is continuing and (ii) the Borrower has delivered to the Administrative Agent a *pro forma* Compliance Certificate signed by a Responsible Officer demonstrating that the Consolidated Total Net Leverage Ratio is less than 2.00:1.00, measuring Consolidated Total Net Debt for purposes thereof as of the date of any such Investment and otherwise recomputing such calculation of the Consolidated Total Net Leverage Ratio in accordance with Section 6.1 as of the last day of the most recently ended Fiscal Quarter for which financial statements are required to have been delivered pursuant to Section 5.1(b) as if such Investment had occurred;

(l) Investments by (x) any Loan Party in or to one or more Associated Practices and (y) an Associated Practice in or to one or more other Associated Practices in an aggregate amount (collectively between clauses (x) and (y)) not to exceed \$30,000,000 (exclusive of other Investments permitted in this Section 7.4) at any time outstanding so long as (i) before and after giving effect to any such Investment, no Default or Event of Default has occurred and is continuing and (ii) the Borrower shall have delivered to the Administrative Agent a *pro forma* Compliance Certificate signed by a Responsible Officer at least 5 days prior to the date of the consummation of such Investment demonstrating that on a Pro Forma Basis after giving effect to any such Investment, the Borrower is in compliance with each of the covenants set forth in Article VI, measuring Consolidated Total Net Debt for purposes of Section 6.1 as of the date of such Investment and otherwise recomputing such covenants as of the last day of the most recently ended Fiscal Quarter for which financial statements are required to have been delivered pursuant to Section 5.1(b) as if such Investment had occurred); provided, that, to the extent the proceeds of an Investment permitted pursuant to clause (x) immediately above are used substantially concurrently to make an Investment under clause (y) immediately above, such Investments will be deemed to be a single Investment for purposes of the \$30,000,000 limitation under this clause (l);

- (m) Investments by a Material Associated Practice in or to another Material Associated Practice;
- (n) Investments by APC using any of the APC Excluded Assets (including to fund the purchase of assets that, upon the consummation of such purchase, become APC Excluded Assets);
- (o) the purchase by AP-AMH of Series A Preferred Stock of APC on the Closing Date;
- (p) the purchase by APC on the Closing Date of common Capital Stock of the Borrower in connection with the Related Transactions;
- (q) the acquisition by APC of Capital Stock of the Borrower using excess revenue not required to be distributed to the holders of its Series A Preferred Stock pursuant to the Certificate of Determination;
- (r) the acquisition by APC of Capital Stock of the Borrower without consideration (to include, for example, receipt of Capital Stock of the Borrower as a result of a stock split);
- (s) Investments by APC or a Material Associated Practice in the Borrower in connection with a Future Approved Entity Investment; and
- (t) other Investments which do not exceed \$10,000,000 in the aggregate amount at any time outstanding.

For purposes of determining the amount of any Investment outstanding for purposes of this Section 7.4, such amount shall be deemed to be the amount of such Investment when made, purchased or acquired less any amount realized in respect of such Investment upon the sale, collection or return of capital (not to exceed the original amount invested). For the avoidance of doubt, any deferral of or subordination of management fees payable under any Associated Practice Document that is in good faith deemed advisable by the Borrower in order to satisfy any regulation by any Governmental Authority having jurisdiction over the parties to such Associated Practice Documents shall not constitute an Investment. Notwithstanding anything to the contrary in this Credit Agreement, the exercise by any Loan Party of its rights under any Transfer Restriction Agreement shall not constitute an Investment.

**Section 7.5** **Restricted Payments.** The Borrower will not, and will not permit any of its Subsidiaries to, declare or make, or agree to pay or make, directly or indirectly, any Restricted Payment, except:

- (a) dividends payable by the Borrower solely in interests of any class of its common equity;
- (b) any Subsidiary of the Borrower may declare and pay dividends or make other distributions to the Borrower or any Guarantor;
- (c) Restricted Payments made by any Subsidiary to the Borrower or to another Subsidiary, on at least *pro rata* basis with any other shareholders if such Subsidiary is not wholly owned by the Borrower and other wholly owned Subsidiaries of the Borrower; and

(d) Restricted Payments in an amount not to exceed \$15,000,000 so long as (i) before and after giving effect to any such Restricted Payment, no Default or Event of Default has occurred and is continuing and (ii) the Borrower shall have delivered to the Administrative Agent a *pro forma* Compliance Certificate signed by a Responsible Officer demonstrating that on a pro forma basis after giving effect to any such Restricted Payment, the Borrower is in compliance with each of the covenants set forth in Article VI, measuring Consolidated Total Net Debt for purposes of Section 6.1 as of the date of any such Restricted Payment and otherwise recomputing the covenants set forth in Article VI as of the last day of the most recently ended Fiscal Quarter for which financial statements are required to have been delivered pursuant to Section 5.1(b) as if such Restricted Payment had occurred; and

(e) other Restricted Payments so long as (i) before and after giving effect to any such Restricted Payment, no Default or Event of Default has occurred and is continuing and (ii) the Borrower has delivered to the Administrative Agent a *pro forma* Compliance Certificate signed by a Responsible Officer demonstrating that the Consolidated Total Net Leverage Ratio is less than 1.50:1.00, measuring Consolidated Total Net Debt for purposes thereof as of the date of any such Restricted Payment and otherwise recomputing such calculation of the Consolidated Total Net Leverage Ratio in accordance with Section 6.1 as of the last day of the most recently ended Fiscal Quarter for which financial statements are required to have been delivered pursuant to Section 5.1(b) as if such Restricted Payment had occurred.

**Section 7.6** Sale of Assets. The Borrower will not, and will not permit any of its Subsidiaries to, convey, sell, lease, assign, transfer or otherwise dispose of any of its assets, business or property or, in the case of any Subsidiary, any shares of such Subsidiary's Capital Stock, in each case whether now owned or hereafter acquired, to any Person other than a Loan Party (or to qualify directors if required by applicable law), except:

(a) the sale or other disposition for fair market value of obsolete or worn out property or other property not necessary for operations disposed of in the ordinary course of business;

(b) the sale of inventory and Permitted Investments in the ordinary course of business;

(c) the disposition of equipment or real property to the extent that (i) such property is exchanged for credit against the purchase price of similar replacement property or (ii) the proceeds of such disposition are reasonably promptly applied to the purchase price of such replacement property;

(d) the non-exclusive license or sublicense of intellectual property in the ordinary course of business and not interfering in any material respect with the ordinary conduct of business of the Loan Parties or pursuant to the Tradename Licensing Agreement;

(e) the disposition of cash or cash equivalents in the ordinary course of business;

(f) the termination or assignment of leased office locations in the ordinary course of business;

(g) the disposition of accounts receivable in the ordinary course of business in connection with the collection or compromise thereof; and

(h) the sale or other disposition of such assets in an aggregate amount based on the fair market value of such assets not to exceed \$15,000,000 in any Fiscal Year.

**Section 7.7**      **Transactions with Affiliates**. The Borrower will not, and will not permit any of its Subsidiaries to, sell, lease or otherwise transfer any property or assets to, or purchase, lease or otherwise acquire any property or assets from, or otherwise engage in any other transactions with, any of its Affiliates, except:

- (a)      in the ordinary course of business at prices and on terms and conditions not less favorable to the Borrower or such Subsidiary than could be obtained on an arm's-length basis from unrelated third parties;
- (b)      transactions between or among the Borrower and any Subsidiary Loan Party not involving any other Affiliates;
- (c)      any transactions approved or permitted by the Borrower's "Related Party Transaction Policy" so long as such transaction is at prices and on terms and conditions not less favorable to the Borrower or such Subsidiary than could be obtained on an arm's-length basis from unrelated third parties;
- (d)      any transactions existing as of the date hereof and set forth on Schedule 7.7;
- (e)      cash or equity compensation payable to directors and officers of the Borrower or any of its Subsidiaries in the ordinary course of business or as otherwise approved by the Borrower's board of directors; and
- (f)      any Restricted Payment permitted by Section 7.5.

**Section 7.8**      **Restrictive Agreements**. The Borrower will not, and will not permit any of its Subsidiaries to, directly or indirectly, enter into, incur or permit to exist any agreement that prohibits, restricts or imposes any condition upon (a) the ability of the Borrower or any of its Subsidiaries to create, incur or permit any Lien upon any of its assets or properties, whether now owned or hereafter acquired, or (b) the ability of any of its Subsidiaries to pay dividends or other distributions with respect to its Capital Stock, to make or repay loans or advances to the Borrower or any other Subsidiary thereof, to Guarantee Indebtedness of the Borrower or any other Subsidiary thereof or to transfer any of its property or assets to the Borrower or any other Subsidiary thereof; provided that (i) the foregoing shall not apply to restrictions or conditions imposed by law or by this Agreement or any other Loan Document, (ii) the foregoing shall not apply to customary restrictions and conditions contained in agreements relating to the sale of a Subsidiary pending such sale, provided such restrictions and conditions apply only to the Subsidiary that is sold and such sale is permitted hereunder, (iii) clause (a) shall not apply to restrictions or conditions imposed by any agreement relating to secured Indebtedness permitted by this Agreement if such restrictions and conditions apply only to the property or assets securing such Indebtedness and (iv) clause (a) shall not apply to customary provisions in leases restricting the assignment thereof.

**Section 7.9**      **Sale and Leaseback Transactions**. The Borrower will not, and will not permit any of its Subsidiaries to, enter into any arrangement, directly or indirectly, whereby it shall sell or transfer any property, real or personal, used or useful in its business, whether now owned or hereinafter acquired, and thereafter rent or lease such property or other property that it intends to use for substantially the same purpose or purposes as the property sold or transferred.

**Section 7.10**      **Hedging Transactions**. The Borrower will not, and will not permit any of its Subsidiaries to, enter into any Hedging Transaction, other than Hedging Transactions entered into in the ordinary course of business to hedge or mitigate risks to which the Borrower or any of its Subsidiaries is exposed in the conduct of its business or the management of its liabilities. Solely for the avoidance of doubt, the Borrower acknowledges that a Hedging Transaction entered into for speculative purposes or of a speculative nature (which shall be deemed to include any Hedging Transaction under which the Borrower or any of its Subsidiaries is or may become obliged to make any payment (i) in connection with the purchase by any third party of any Capital Stock or any Indebtedness or (ii) as a result of changes in the market value of any Capital Stock or any Indebtedness) is not a Hedging Transaction entered into in the ordinary course of business to hedge or mitigate risks.

**Section 7.11 Amendment to Material Documents.** The Borrower will not, and will not permit any of its Subsidiaries to, amend, modify or waive any of its rights under (a) its certificate of incorporation, bylaws or other organizational documents, (b) any Material Agreements (other than (i) the AP-AMH Loan Documents or any other similar documents in connection with a Future Approved Entity Investment and (ii) any agreements between a Regulated Entity and any Third Party Payor) or (c) any Associated Practice Documents between APC and a Loan Party or Alpha Care and a Loan Party (other than as may be required by applicable law) or (d) any other Associated Practice Documents that account for in excess of 10% of the total revenue of the Borrower and its Subsidiaries (other than as may be required by applicable law), in each case if the effect of such amendment, modification or waiver would have an adverse effect in any material respect on the Lenders, the Administrative Agent, the Borrower or any of its Subsidiaries; provided, that any management fees payable under any Associated Practice Document may be subordinated and/or the payment of such management fees may be deferred, in each case, to the extent deemed by the Borrower in good faith to be advisable in order to satisfy any regulation by any Governmental Authority having jurisdiction over the parties to such Associated Practice Document. The Borrower will not, and will not permit any of its Subsidiaries to, amend, modify or waive any of its rights under the AP-AMH Loan Documents or any other similar documents in connection with a Future Approved Entity Investment other than to (A) increase the interest rate on any such loan or (B) extend the maturity date of any such loan.

**Section 7.12 Associated Practice Documents.** The Borrower will not, and will not permit any of its Subsidiaries to, enter into any Management Services Agreement with any Associated Practice after the Closing Date unless:

(a) Borrower shall have given Administrative Agent at least five (5) Business Days' prior written notice (or such lesser notice as Administrative Agent may agree in its sole discretion) of any Loan Party entering into such Management Services Agreement and Borrower shall have delivered to Administrative Agent a copy of the draft Management Services Agreement prior to its execution and delivery;

(b) the form of such Management Services Agreement shall be substantially similar to a form approved by Administrative Agent, which, in each case, shall provide that such Management Services Agreement is freely assignable or collaterally assignable to the Administrative Agent by such Loan Party, without any further consent of, or notice to, any other Person (including, without limitation, the Associated Practice party thereto); and

(c) such fully executed Management Services Agreement is delivered and collaterally assigned to Administrative Agent pursuant to a Collateral Assignment within fifteen (15) days following the execution of such Management Services Agreement.

Notwithstanding anything to the contrary in this Agreement, the Borrower and each other Loan Party shall be permitted to make such changes to the structure, contractual agreements, and other aspects of its relationship with any Associated Practice as it may deem in good faith in consultation with its healthcare counsel to be necessary to comply with applicable Requirements of Law or the Loan Documents.

**Section 7.13 Accounting Changes.** The Borrower will not, and will not permit any of its Subsidiaries to, make any significant change in accounting treatment or reporting practices, except as required by GAAP, or change the fiscal year of the Borrower or of any of its Subsidiaries, except to change the fiscal year of a Subsidiary to conform its fiscal year to that of the Borrower.

**Section 7.14 Sanctions and Anti-Corruption Laws.** The Borrower will not, and will not permit any Subsidiary to, request any Loan or Letter of Credit or, directly or indirectly, use the proceeds of any Loan or any Letter of Credit, or lend, contribute or otherwise make available such proceeds to any subsidiary, joint venture partner or other Person (i) to fund any activities or business of or with any Person, or in any country or territory, that, at the time of such funding, is, or whose government is, the subject of Sanctions, (ii) in any other manner that would result in a violation of Sanctions by any Person (including any Person participating in the Loans, whether as an Arranger, the Administrative Agent, any Lender (including a Swingline Lender), any Issuing Bank, underwriter, advisor, investor or otherwise), or (iii) in furtherance of an offer, payment, promise to pay or authorization of the payment or giving of money or anything else of value to any Person in violation of applicable Anti-Corruption Laws.

**Section 7.15 Lease Obligations.** The Borrower will not, and will not permit any of its Subsidiaries to, create or suffer to exist any obligations for the payment under operating leases or agreements to lease (but excluding any obligations under leases required to be classified as capital leases under GAAP having a term of five years or more) which would cause the present value of the direct or contingent liabilities of the Borrower and its Subsidiaries under such leases or agreements to lease, on a consolidated basis, to exceed \$15,000,000 in the aggregate in any Fiscal Year.

## ARTICLE VIII

### EVENTS OF DEFAULT

**Section 8.1 Events of Default.** If any of the following events (each, an “Event of Default”) shall occur:

(a) the Borrower shall fail to pay any principal of any Loan or of any reimbursement obligation in respect of any LC Disbursement, when and as the same shall become due and payable, whether at the due date thereof or at a date fixed for prepayment or otherwise; or

(b) the Borrower shall fail to pay any interest on any Loan or any fee or any other amount (other than an amount payable under subsection (a) of this Section or an amount related to a Bank Product Obligation) payable under this Agreement or any other Loan Document, when and as the same shall become due and payable, and such failure shall continue unremedied for a period of five (5) Business Days; or

(c) any representation or warranty made or deemed made by or on behalf of the Borrower or any of its Subsidiaries in or in connection with this Agreement or any other Loan Document (including the Schedules attached hereto and thereto), or in any amendments or modifications hereof or waivers hereunder, or in any certificate, report, financial statement or other document submitted to the Administrative Agent or the Lenders by any Loan Party or any representative of any Loan Party pursuant to or in connection with this Agreement or any other Loan Document shall prove to be incorrect in any material respect (other than any representation or warranty that is expressly qualified by a Material Adverse Effect or other materiality, in which case such representation or warranty shall prove to be incorrect in any respect) when made or deemed made or submitted; or

(d) the Borrower shall fail to observe or perform any covenant or agreement contained in Section 5.1, 5.2, or 5.3 (with respect to the Borrower's legal existence) or Article VI or VII; or

(e) any Loan Party shall fail to observe or perform any covenant or agreement contained in this Agreement (other than those referred to in subsections (a), (b) and (d) of this Section) or any other Loan Document or related to any Bank Product Obligation, and such failure shall remain unremedied for 30 days after the earlier of (i) any officer of the Borrower becomes aware of such failure, or (ii) notice thereof shall have been given to the Borrower by the Administrative Agent or any Lender; or

(f) (i) the Borrower or any of its Subsidiaries (whether as primary obligor or as guarantor or other surety) shall fail to pay any principal of, or premium or interest on, any Material Indebtedness (other than any Hedging Obligation) that is outstanding, when and as the same shall become due and payable (whether at scheduled maturity, required prepayment, acceleration, demand or otherwise), and such failure shall continue after the applicable grace period, if any, specified in the agreement or instrument evidencing or governing such Indebtedness; or any other event shall occur or condition shall exist under any agreement or instrument relating to any Material Indebtedness and shall continue after the applicable grace period, if any, specified in such agreement or instrument, if the effect of such event or condition is to accelerate, or permit the acceleration of, the maturity of such Indebtedness; or any Material Indebtedness shall be declared to be due and payable, or required to be prepaid or redeemed (other than by a regularly scheduled required prepayment or redemption), purchased or defeased, or any offer to prepay, redeem, purchase or defease such Indebtedness shall be required to be made, in each case prior to the stated maturity thereof or (ii) there occurs under any Hedging Transaction an Early Termination Date (as defined in such Hedge Transaction) resulting from (A) any event of default under such Hedging Transaction as to which the Borrower or any of its Subsidiaries is the Defaulting Party (as defined in such Hedging Transaction) and the Hedge Termination Value owed by the Borrower or such Subsidiary as a result thereof is greater than the Threshold Amount or (B) any Termination Event (as so defined) under such Hedging Transaction as to which the Borrower or any Subsidiary is an Affected Party (as so defined) and the Hedge Termination Value owed by the Borrower or such Subsidiary as a result thereof is greater than the Threshold Amount and is not paid; or

(g) the Borrower or any of its Subsidiaries shall (i) commence a voluntary case or other proceeding or file any petition seeking liquidation, reorganization or other relief under any federal, state or foreign bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a custodian, trustee, receiver, liquidator or other similar official of it or any substantial part of its property, (ii) consent to the institution of, or fail to contest in a timely and appropriate manner, any proceeding or petition described in subsection (i) of this Section, (iii) apply for or consent to the appointment of a custodian, trustee, receiver, liquidator or other similar official for the Borrower or any such Subsidiary or for a substantial part of its assets, (iv) file an answer admitting the material allegations of a petition filed against it in any such proceeding, (v) make a general assignment for the benefit of creditors, or (vi) take any action for the purpose of effecting any of the foregoing; or

(h) an involuntary proceeding shall be commenced or an involuntary petition shall be filed seeking (i) liquidation, reorganization or other relief in respect of the Borrower or any of its Subsidiaries or its debts, or any substantial part of its assets, under any federal, state or foreign bankruptcy, insolvency or other similar law now or hereafter in effect or (ii) the appointment of a custodian, trustee, receiver, liquidator or other similar official for the Borrower or any of its Subsidiaries or for a substantial part of its assets, and in any such case, such proceeding or petition shall remain undismissed for a period of 60 days or an order or decree approving or ordering any of the foregoing shall be entered; or



(i) the Borrower or any of its Subsidiaries shall become unable to pay, shall admit in writing its inability to pay, or shall fail to pay, its debts as they become due; or

(j) (i) an ERISA Event shall have occurred that, in the opinion of the Required Lenders, when taken together with other ERISA Events that have occurred, could reasonably be expected to result in liability to the Borrower and its Subsidiaries in an aggregate amount exceeding \$10,000,000, (ii) there is or arises an Unfunded Pension Liability (not taking into account Plans with negative Unfunded Pension Liability) in an aggregate amount exceeding \$10,000,000, or (iii) there is or arises any potential Withdrawal Liability in an aggregate amount exceeding \$10,000,000; or

(k) any judgment, order for the payment of money, writ, warrant of attachment or similar process involving an amount in excess of \$10,000,000 in the aggregate shall be rendered against the Borrower or any of its Subsidiaries, and either (i) enforcement proceedings shall have been commenced by any creditor upon such judgment or order or (ii) there shall be a period of 45 consecutive days during which a stay of enforcement of such judgment or order, by reason of a pending appeal or otherwise, shall not be in effect; or

(l) any non-monetary judgment or order shall be rendered against the Borrower or any of its Subsidiaries that could reasonably be expected, either individually or in the aggregate, to have a Material Adverse Effect, and there shall be a period of 30 consecutive days during which a stay of enforcement of such judgment or order, by reason of a pending appeal or otherwise, shall not be in effect; or

(m) a Change in Control shall occur or exist; or

(n) any provision of the Guaranty and Security Agreement or any other Collateral Document shall for any reason cease to be valid and binding on, or enforceable against, any Loan Party, or any Loan Party shall so state in writing, or any Loan Party shall seek to terminate its obligation under the Guaranty and Security Agreement or any other Collateral Document (other than the release of any guaranty or collateral to the extent permitted pursuant to [Section 9.11](#)); or

(o) any Lien purported to be created under any Collateral Document shall fail or cease to be, or shall be asserted by any Loan Party not to be, a valid and perfected Lien on any Collateral, with the priority required by the applicable Collateral Documents; or

(p) there shall occur (i) any revocation, suspension, termination, rescission, non-renewal or forfeiture or any similar final administrative action with respect to one or more Healthcare Permits or Third Party Payor Programs that could reasonably be expected, either individually or in the aggregate, to have a Material Adverse Effect or (ii) the Borrower or any of its Subsidiaries shall be named in any action, fully or partially unsealed, in which the United States has affirmatively intervened, alleging violation of the federal False Claims Act or any other applicable law and, in connection with such action, the Borrower shall have offered, agreed or paid to, or received a final judgment requiring payment to, any Governmental Authority for payment of any fine, penalty or overpayment in excess of \$25,000,000; or

(q) the occurrence of an "Event of Default" (as defined in the AP-AMH Loan Documents); or

(r) (i) APC shall fail to make any dividend in cash in respect of the Series A Preferred Stock issued to AP-AMH on the Closing Date for any period of two consecutive fiscal quarters or (ii) AP-AMH shall fail to pay any cash interest payment to the Borrower, and such failure under either of clauses (i) or (ii) shall continue unremedied for a period of five (5) Business Days; or

(s) any modification to the Certificate of Determination or APC Shareholder Agreement is effected that directly or indirectly restricts, conditions, impairs, reduces or otherwise limits the payment of the Series A Preferred Dividend by APC to AP-AMH; or

(t) APC shall use all or any portion of the consideration received by APC from AP-AMH in connection with the Related Transactions on account of AP-AMH's purchase of the Series A Preferred Stock (including the cash and Capital Stock of the Borrower and/or any proceeds from the sale or other disposition of such Capital Stock) for any purpose other than an APC Approved Use (each such other purpose, an "Other APC Use"), unless not less than 50.01% of all holders of common stock of APC at such time approve such Other APC Use; provided that the amount of "consideration received" by APC for purposes of this clause (t) shall be deemed to be \$545,000,000 less any amounts used to pay off any existing Indebtedness of APC on the Closing Date; provided further that notwithstanding the foregoing clause (t), APC may use up to \$50,000,000 in the aggregate of such consideration for any Other APC Use without any requirement to obtain such approval of the holders of common stock of APC;

then, and in every such event (other than an event with respect to the Borrower described in subsection (g) or (h) of this Section) and at any time thereafter during the continuance of such event, the Administrative Agent may, and upon the written request of the Required Lenders shall, by notice to the Borrower, take any or all of the following actions, at the same or different times: (i) terminate the Commitments, whereupon the Commitment of each Lender shall terminate immediately, (ii) declare the principal of and any accrued interest on the Loans, and all other Obligations owing hereunder, to be, whereupon the same shall become, due and payable immediately, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrower, (iii) exercise all remedies contained in any other Loan Document, and (iv) exercise any other remedies available at law or in equity; provided that, if an Event of Default specified in either subsection (g) or (h) shall occur, the Commitments shall automatically terminate and the principal of the Loans then outstanding, together with accrued interest thereon, and all fees and all other Obligations shall automatically become due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrower.

**Section 8.2** Application of Proceeds from Collateral. All proceeds from each sale of, or other realization upon, all or any part of the Collateral by any Secured Party after an Event of Default arises shall be applied as follows:

(a) first, to the reimbursable expenses of the Administrative Agent incurred in connection with such sale or other realization upon the Collateral, until the same shall have been paid in full;

(b) second, to the fees and other reimbursable expenses of the Administrative Agent, the Swingline Lender and the Issuing Banks then due and payable pursuant to any of the Loan Documents, until the same shall have been paid in full;

(c) third, to all reimbursable expenses, if any, of the Lenders then due and payable pursuant to any of the Loan Documents, until the same shall have been paid in full;

(d) fourth, to the fees and interest then due and payable under the terms of this Agreement, until the same shall have been paid in full;

(e) fifth, to the aggregate outstanding principal amount of the Loans, the LC Exposure, the Bank Product Obligations and the Net Mark-to-Market Exposure of the Hedging Obligations that constitute Obligations, until the same shall have been paid in full, allocated *pro rata* among the Secured Parties based on their respective *pro rata* shares of the aggregate amount of such Loans, LC Exposure, Bank Product Obligations and Net Mark-to-Market Exposure of such Hedging Obligations;

(f) sixth, to additional cash collateral for the aggregate amount of all outstanding Letters of Credit until the aggregate amount of all cash collateral held by the Administrative Agent pursuant to this Agreement is at least 105% of the LC Exposure after giving effect to the foregoing clause fifth; and

(g) seventh, to the extent any proceeds remain, to the Borrower or as otherwise provided by a court of competent jurisdiction.

All amounts allocated pursuant to the foregoing clauses third through fifth to the Lenders as a result of amounts owed to the Lenders under the Loan Documents shall be allocated among, and distributed to, the Lenders *pro rata* based on their respective Pro Rata Shares; provided that all amounts allocated to that portion of the LC Exposure comprised of the aggregate undrawn amount of all outstanding Letters of Credit pursuant to clauses fifth and sixth shall be distributed to the Administrative Agent, rather than to the Lenders, and held by the Administrative Agent in an account in the name of the Administrative Agent for the benefit of the Issuing Banks and the Lenders as cash collateral for the LC Exposure, such account to be administered in accordance with Section 2.22(g). All cash collateral for LC Exposure shall be applied to satisfy drawings under the Letters of Credit as they occur; if any amount remains on deposit on cash collateral after all letters of credit have either been fully drawn or expired, such remaining amount shall be applied to other Obligations, if any, in the order set forth above.

Notwithstanding the foregoing, (a) no amount received from any Guarantor (including any proceeds of any sale of, or other realization upon, all or any part of the Collateral owned by such Guarantor) shall be applied to any Excluded Swap Obligation of such Guarantor and (b) Bank Product Obligations and Hedging Obligations shall be excluded from the application described above if the Administrative Agent has not received written notice thereof, together with such supporting documentation as the Administrative Agent may request, from the Bank Product Provider or the Lender-Related Hedge Provider, as the case may be. Each Bank Product Provider or Lender-Related Hedge Provider that has given the notice contemplated by the preceding sentence shall, by such notice, be deemed to have acknowledged and accepted the appointment of the Administrative Agent pursuant to the terms of Article IX hereof for itself and its Affiliates as if a "Lender" party hereto.

## ARTICLE IX

### THE ADMINISTRATIVE AGENT

#### **Section 9.1 Appointment of the Administrative Agent.**

(a) Each Lender irrevocably appoints SunTrust Bank as the Administrative Agent and authorizes it to take such actions on its behalf and to exercise such powers as are delegated to the Administrative Agent under this Agreement and the other Loan Documents, together with all such actions and powers that are reasonably incidental thereto. The Administrative Agent may perform any of its duties hereunder or under the other Loan Documents by or through any one or more sub-agents or attorneys-in-fact appointed by the Administrative Agent. The Administrative Agent and any such sub-agent or attorney-in-fact may perform any and all of its duties and exercise its rights and powers through their respective Related Parties. The exculpatory provisions set forth in this Article shall apply to any such sub-agent, attorney-in-fact or Related Party and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as the Administrative Agent.

(b) Each Issuing Bank shall act on behalf of the Lenders with respect to any Letters of Credit issued by it and the documents associated therewith until such time and except for so long as the Administrative Agent may agree at the request of the Required Lenders to act for such Issuing Bank with respect thereto; provided that such Issuing Bank shall have all the benefits and immunities (i) provided to the Administrative Agent in this Article with respect to any acts taken or omissions suffered by such Issuing Bank in connection with Letters of Credit issued by it or proposed to be issued by it and the application and agreements for letters of credit pertaining to the Letters of Credit as fully as if the term “Administrative Agent” as used in this Article included such Issuing Bank with respect to such acts or omissions and (ii) as additionally provided in this Agreement with respect to such Issuing Bank.

(c) It is understood and agreed that the use of the term “agent” herein or in any other Loan Document (or any similar term) with reference to the Administrative Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable law. Instead such term is used as a matter of market custom and is intended to create or reflect only an administrative relationship between contracting parties.

**Section 9.2 Nature of Duties of the Administrative Agent.** The Administrative Agent shall not have any duties or obligations except those expressly set forth in this Agreement and the other Loan Documents. Without limiting the generality of the foregoing, (a) the Administrative Agent shall not be subject to any fiduciary or other implied duties, regardless of whether a Default or an Event of Default has occurred and is continuing, (b) the Administrative Agent shall not have any duty to take any discretionary action or exercise any discretionary powers, except those discretionary rights and powers expressly contemplated by the Loan Documents that the Administrative Agent is required to exercise in writing by the Required Lenders (or such other number or percentage of the Lenders as shall be necessary under the circumstances as provided in Section 10.2), provided that the Administrative Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose the Administrative Agent to liability or that is contrary to any Loan Document or applicable law, including for the avoidance of doubt any action that may be in violation of the automatic stay under any Debtor Relief Law or that may effect a forfeiture, modification or termination of property of a Defaulting Lender in violation of any Debtor Relief Law; and (c) except as expressly set forth in the Loan Documents, the Administrative Agent shall not have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Borrower or any of its Subsidiaries that is communicated to or obtained by the Administrative Agent or any of its Affiliates in any capacity. The Administrative Agent shall not be liable for any action taken or not taken by it, its sub-agents or its attorneys-in-fact with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary under the circumstances as provided in Section 10.2) or in the absence of its own gross negligence or willful misconduct as determined by a court of competent jurisdiction in a final non-appealable judgment. The Administrative Agent shall not be responsible for the negligence or misconduct of any sub-agents or attorneys-in-fact except to the extent that a court of competent jurisdiction determines in a final and nonappealable judgment that the Administrative Agent acted with gross negligence or willful misconduct in the selection of such sub-agents. The Administrative Agent shall not be deemed to have knowledge of any Default or Event of Default unless and until written notice thereof (which notice shall include an express reference to such event being a “Default” or “Event of Default” hereunder) is given to the Administrative Agent by the Borrower or any Lender, and the Administrative Agent shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with any Loan Document, (ii) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (iii) the performance or observance of any of the covenants, agreements, or other terms and conditions set forth in any Loan Document, (iv) the validity, enforceability, effectiveness or genuineness of any Loan Document or any other agreement, instrument or document, or (v) the satisfaction of any condition set forth in Article III or elsewhere in any Loan Document, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent. The Administrative Agent may consult with legal counsel (including counsel for the Borrower) concerning all matters pertaining to such duties.

**Section 9.3 Lack of Reliance on the Administrative Agent.** Each of the Lenders, the Swingline Lender and the Issuing Banks acknowledges that it has, independently and without reliance upon the Administrative Agent, any Issuing Bank or any other Lender and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each of the Lenders, the Swingline Lender and the Issuing Banks also acknowledges that it will, independently and without reliance upon the Administrative Agent, any Issuing Bank or any other Lender and based on such documents and information as it has deemed appropriate, continue to make its own decisions in taking or not taking any action under or based on this Agreement, any related agreement or any document furnished hereunder or thereunder. Each of the Lenders acknowledges and agrees that outside legal counsel to the Administrative Agent in connection with the preparation, negotiation, execution, delivery and administration (including any amendments, waivers and consents) of this Agreement and the other Loan Documents is acting solely as counsel to the Administrative Agent and is not acting as counsel to any Lender (other than the Administrative Agent and its Affiliates) in connection with this Agreement, the other Loan Documents or any of the transactions contemplated hereby or thereby.

**Section 9.4 Certain Rights of the Administrative Agent.** If the Administrative Agent shall request instructions from the Required Lenders with respect to any action or actions (including the failure to act) in connection with this Agreement, the Administrative Agent shall be entitled to refrain from such act or taking such act unless and until it shall have received instructions from such Lenders, and the Administrative Agent shall not incur liability to any Person by reason of so refraining. Without limiting the foregoing, no Lender shall have any right of action whatsoever against the Administrative Agent as a result of the Administrative Agent acting or refraining from acting hereunder in accordance with the instructions of the Required Lenders where required by the terms of this Agreement.

**Section 9.5 Reliance by the Administrative Agent.** The Administrative Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, posting or other distribution) believed by it to be genuine and to have been signed, sent or made by the proper Person. The Administrative Agent may also rely upon any statement made to it orally or by telephone and believed by it to be made by the proper Person and shall not incur any liability for relying thereon. The Administrative Agent may consult with legal counsel (including counsel for the Borrower), independent public accountants and other experts selected by it and shall not be liable for any action taken or not taken by it in accordance with the advice of such counsel, accountants or experts.

**Section 9.6 The Administrative Agent in its Individual Capacity.** The bank serving as the Administrative Agent shall have the same rights and powers under this Agreement and any other Loan Document in its capacity as a Lender as any other Lender and may exercise or refrain from exercising the same as though it were not the Administrative Agent; and the terms "Lenders", "Required Lenders", "Required Revolving Lenders", or any similar terms shall, unless the context clearly otherwise indicates, include the Administrative Agent in its individual capacity. The bank acting as the Administrative Agent and its Affiliates may accept deposits from, lend money to, and generally engage in any kind of business with the Borrower or any Subsidiary or Affiliate of the Borrower as if it were not the Administrative Agent hereunder.

**Section 9.7**      **Successor Administrative Agent.**

(a)      The Administrative Agent may resign at any time by giving notice thereof to the Lenders and the Borrower. Upon any such resignation, the Required Lenders shall have the right to appoint a successor Administrative Agent, subject to approval by the Borrower provided that no Default or Event of Default shall exist at such time. If no successor Administrative Agent shall have been so appointed, and shall have accepted such appointment within 30 days after the retiring Administrative Agent gives notice of resignation, then the retiring Administrative Agent may, on behalf of the Lenders, appoint a successor Administrative Agent which shall be a commercial bank organized under the laws of the United States or any state thereof or a bank which maintains an office in the United States.

(b)      Upon the acceptance of its appointment as the Administrative Agent hereunder by a successor, such successor Administrative Agent shall thereupon succeed to and become vested with all the rights, powers, privileges and duties of the retiring Administrative Agent, and the retiring Administrative Agent shall be discharged from its duties and obligations under this Agreement and the other Loan Documents. If, within 45 days after written notice is given of the retiring Administrative Agent's resignation under this Section, no successor Administrative Agent shall have been appointed and shall have accepted such appointment, then on such 45th day (i) the retiring Administrative Agent's resignation shall become effective, (ii) the retiring Administrative Agent shall thereupon be discharged from its duties and obligations under the Loan Documents and (iii) the Required Lenders shall thereafter perform all duties of the retiring Administrative Agent under the Loan Documents until such time as the Required Lenders appoint a successor Administrative Agent as provided above. After any retiring Administrative Agent's resignation hereunder, the provisions of this Article shall continue in effect for the benefit of such retiring Administrative Agent and its representatives and agents in respect of any actions taken or not taken by any of them while it was serving as the Administrative Agent.

(c)      In addition to the foregoing, if a Lender becomes, and during the period it remains, a Defaulting Lender, and if any Default has arisen from a failure of the Borrower to comply with Section 2.26(b), then the Issuing Banks and the Swingline Lender may, upon prior written notice to the Borrower and the Administrative Agent, resign as an Issuing Bank or as Swingline Lender, as the case may be, effective at the close of business Atlanta, Georgia time on a date specified in such notice (which date may not be less than five (5) Business Days after the date of such notice).

**Section 9.8**      **Withholding Tax.** To the extent required by any applicable law, the Administrative Agent may withhold from any interest payment to any Lender an amount equivalent to any applicable withholding tax. If the IRS or any authority of the United States or any other jurisdiction asserts a claim that the Administrative Agent did not properly withhold tax from amounts paid to or for the account of any Lender (because the appropriate form was not delivered or was not properly executed, or because such Lender failed to notify the Administrative Agent of a change in circumstances that rendered the exemption from, or reduction of, withholding tax ineffective, or for any other reason), such Lender shall indemnify the Administrative Agent (to the extent that the Administrative Agent has not already been reimbursed by the Borrower and without limiting the obligation of the Borrower to do so) fully for all amounts paid, directly or indirectly, by the Administrative Agent as tax or otherwise, including penalties and interest, together with all expenses incurred, including legal expenses, allocated staff costs and any out of pocket expenses.

**Section 9.9      The Administrative Agent May File Proofs of Claim.**

(a) In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceeding relative to any Loan Party, the Administrative Agent (irrespective of whether the principal of any Loan or any Revolving Credit Exposure shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on the Borrower) shall be entitled and empowered, by intervention in such proceeding or otherwise:

(i) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans or Revolving Credit Exposure and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders, the Issuing Banks and the Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders, the Issuing Banks and the Administrative Agent and its agents and counsel and all other amounts due the Lenders, the Issuing Banks and the Administrative Agent under Section 10.3) allowed in such judicial proceeding; and

(ii) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same.

(b) Any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender and each Issuing Bank to make such payments to the Administrative Agent and, if the Administrative Agent shall consent to the making of such payments directly to the Lenders and the Issuing Banks, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Administrative Agent and its agents and counsel, and any other amounts due the Administrative Agent under Section 10.3.

Nothing contained herein shall be deemed to authorize the Administrative Agent to authorize or consent to or accept or adopt on behalf of any Lender or any Issuing Bank any plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Lender or to authorize the Administrative Agent to vote in respect of the claim of any Lender in any such proceeding.

**Section 9.10      Authorization to Execute Other Loan Documents.** Each Lender hereby authorizes the Administrative Agent to execute on behalf of all Lenders all Loan Documents (including, without limitation, the Collateral Documents and any subordination agreements) other than this Agreement.

**Section 9.11      Collateral and Guaranty Matters.** The Lenders irrevocably authorize the Administrative Agent, at its option and in its discretion:

(a) to release any Lien on any property granted to or held by the Administrative Agent under any Loan Document (i) upon the termination of all Revolving Commitments, the Cash Collateralization of all reimbursement obligations with respect to Letters of Credit in an amount equal to 105% of the aggregate LC Exposure of all Lenders, and the payment in full of all Obligations (other than contingent indemnification obligations and such Cash Collateralized reimbursement obligations), (ii) that is sold or to be sold as part of or in connection with any sale permitted hereunder or under any other Loan Document, or (iii) if approved, authorized or ratified in writing in accordance with Section 10.2; and

(b) to release any Loan Party from its obligations under the applicable Collateral Documents if such Person ceases to be a Subsidiary as a result of a transaction permitted hereunder.

Upon request by the Administrative Agent at any time, the Required Lenders will confirm in writing the Administrative Agent's authority to release its interest in particular types or items of property, or to release any Loan Party from its obligations under the applicable Collateral Documents pursuant to this Section. In each case as specified in this Section, the Administrative Agent is authorized, at the Borrower's expense, to execute and deliver to the applicable Loan Party such documents as such Loan Party may reasonably request to evidence the release of such item of Collateral from the Liens granted under the applicable Collateral Documents, or to release such Loan Party from its obligations under the applicable Collateral Documents, in each case in accordance with the terms of the Loan Documents and this Section.

**Section 9.12 No Other Duties: Designation of Additional Agents.** None of the Lenders or other Persons identified on the facing page or signature pages of this Agreement as a “co-syndication agent”, “joint lead arranger” or “joint bookrunner” shall have any right, power, obligation, liability, responsibility or duty under this Agreement other than those applicable to all Lenders as such. Without limiting the foregoing, none of the Lenders or other Persons so identified shall have or be deemed to have any fiduciary relationship with any Lender. Each Lender acknowledges that it has not relied, and will not rely, on any of the Lenders or other Persons so identified in deciding to enter into this Agreement or in taking or not taking action hereunder.

**Section 9.13 Right to Realize on Collateral and Enforce Guarantee.** Anything contained in any of the Loan Documents to the contrary notwithstanding, the Borrower, the Administrative Agent and each Lender hereby agree that (i) no Lender shall have any right individually to realize upon any of the Collateral or to enforce the Collateral Documents, it being understood and agreed that all powers, rights and remedies hereunder and under the Collateral Documents may be exercised solely by the Administrative Agent, and (ii) in the event of a foreclosure by the Administrative Agent on any of the Collateral pursuant to a public or private sale or other disposition, the Administrative Agent or any Lender may be the purchaser or licensor of any or all of such Collateral at any such sale or other disposition and the Administrative Agent, as agent for and representative of the Lenders (but not any Lender or Lenders in its or their respective individual capacities unless the Required Lenders shall otherwise agree in writing), shall be entitled, for the purpose of bidding and making settlement or payment of the purchase price for all or any portion of the Collateral sold at any such public sale, to use and apply any of the Obligations as a credit on account of the purchase price for any collateral payable by the Administrative Agent at such sale or other disposition.

**Section 9.14 Secured Bank Product Obligations and Hedging Obligations.** No Bank Product Provider or Lender-Related Hedge Provider that obtains the benefits of Section 8.2, the Collateral Documents or any Collateral by virtue of the provisions hereof or of any other Loan Document shall have any right to notice of any action or to consent to, direct or object to any action hereunder or under any other Loan Document or otherwise in respect of the Collateral (including the release or impairment of any Collateral) other than in its capacity as a Lender and, in such case, only to the extent expressly provided in the Loan Documents. Notwithstanding any other provision of this Article to the contrary, the Administrative Agent shall not be required to verify the payment of, or that other satisfactory arrangements have been made with respect to, Bank Product Obligations and Hedging Obligations unless the Administrative Agent has received written notice of such Obligations, together with such supporting documentation as the Administrative Agent may request, from the applicable Bank Product Provider or Lender-Related Hedge Provider, as the case may be.



**ARTICLE X**

**MISCELLANEOUS**

**Section 10.1**    **Notices.**

(a)    **Written Notices.**

(i)    Except in the case of notices and other communications expressly permitted to be given by telephone, all notices and other communications to any party herein to be effective shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by facsimile, as follows:

To the Borrower:	Apollo Medical Holdings, Inc. 1668 S. Garfield Avenue, 2 <sup>nd</sup> Floor Alhambra, CA 91801 Attention: Eric Chin, CFO Email: Telephone Number:
With a copy to (for information purposes only):	Tin Kin Lee Law Offices 1811 Fair Oaks Ave. South Pasadena, California 91030 Attention: Tin Kin Lee, Esq. Email: Facsimile Number:
To the Administrative Agent:	3333 Peachtree Road Atlanta, GA 30326 Attention: Portfolio Manager – ApolloMed Facsimile Number: 404-926-5173
With copies to (for information purposes only):	3333 Peachtree Road Atlanta, GA 30326 Attention: Bill Monroe – ApolloMed Facsimile Number:
	and
	SunTrust Bank Agency Services 303 Peachtree Street, N.E. / 25th Floor Atlanta, Georgia 30308 Attention: Agency Services Manager Facsimile Number:
	and
	Alston & Bird LLP 1201 West Peachtree Street Atlanta, Georgia 30309 Attention: Rick D. Blumen, Esq. Facsimile Number: Email:
To the Issuing Banks:	SunTrust Bank Attn: Standby Letter of Credit Dept. 245 Peachtree Center Ave., 17th FL Atlanta, GA 30303 Telephone:  Preferred Bank 601 South Figueroa Street, 47th Floor Los Angeles, CA 90017

To the Swingline Lender:

SunTrust Bank  
Agency Services  
303 Peachtree Street, N.E. / 25th Floor  
Atlanta, Georgia 30308  
Attention: Agency Services Manager  
Facsimile Number:

To any other Lender:

the address set forth in the Administrative Questionnaire or the Assignment and Acceptance executed by such Lender

Any party hereto may change its address or facsimile number for notices and other communications hereunder by notice to the other parties hereto.

(ii) Any agreement of the Administrative Agent, any Issuing Bank or any Lender herein to receive certain notices by telephone or facsimile is solely for the convenience and at the request of the Borrower. The Administrative Agent, each Issuing Bank and each Lender shall be entitled to rely on the authority of any Person purporting to be a Person authorized by the Borrower to give such notice and the Administrative Agent, the Issuing Banks and the Lenders shall not have any liability to the Borrower or other Person on account of any action taken or not taken by the Administrative Agent, any Issuing Bank or any Lender in reliance upon such telephonic or facsimile notice. The obligation of the Borrower to repay the Loans and all other Obligations hereunder shall not be affected in any way or to any extent by any failure of the Administrative Agent, any Issuing Bank or any Lender to receive written confirmation of any telephonic or facsimile notice or the receipt by the Administrative Agent, any Issuing Bank or any Lender of a confirmation which is at variance with the terms understood by the Administrative Agent, such Issuing Bank and such Lender to be contained in any such telephonic or facsimile notice.

(b) Electronic Communications.

(i) Notices and other communications to the Lenders and the Issuing Banks hereunder may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites) pursuant to procedures approved by the Administrative Agent; provided that the foregoing shall not apply to notices to any Lender or any Issuing Bank if such Lender or such Issuing Bank, as applicable, has notified the Administrative Agent that it is incapable of receiving, or is unwilling to receive, notices by electronic communication. The Administrative Agent or the Borrower may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it; provided that approval of such procedures may be limited to particular notices or communications.

(ii) Unless the Administrative Agent otherwise prescribes, (A) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement) and (B) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing clause (A) of notification that such notice or communication is available and identifying the website address therefor; provided that, in the case of clauses (A) and (B) above, if such notice or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next Business Day for the recipient.

(iii) The Borrower agrees that the Administrative Agent may, but shall not be obligated to, make Communications (as defined below) available to the Issuing Banks and the other Lenders by posting the Communications on Debt Domain, Intralinks, Syndtrak, ClearPar or a substantially similar electronic system.

(iv) THE PLATFORM IS PROVIDED "AS IS" AND "AS AVAILABLE." NEITHER THE ADMINISTRATIVE AGENT NOR ANY OF ITS RELATED PARTIES WARRANT THE ACCURACY OR COMPLETENESS OF THE BORROWER MATERIALS OR THE ADEQUACY OF THE PLATFORM, AND EXPRESSLY DISCLAIM LIABILITY FOR ERRORS IN OR OMISSIONS IN THE COMMUNICATIONS (AS DEFINED BELOW) AND FROM THE BORROWER MATERIALS. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT OF THIRD PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS, IS MADE BY THE ADMINISTRATIVE AGENT OR ANY OF ITS RELATED PARTIES IN CONNECTION WITH THE BORROWER MATERIALS OR THE PLATFORM. In no event shall the Administrative Agent or any of its Related Parties have any liability to any Loan Party or any of their respective Subsidiaries, any Lender, any Issuing Bank or any other Person or entity for losses, claims, damages, liabilities or expenses of any kind, including, without limitation, direct or indirect, special, incidental or consequential damages, losses or expenses, whether or not based on strict liability (whether in tort, contract or otherwise), arising out of any Loan Party's or the Administrative Agent's transmission of Borrower Materials through the Internet, except to the extent that such losses, claims, damages, liabilities or expenses are determined by a court of competent jurisdiction by a final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of the Administrative Agent or such Related Party; provided, however, that in no event shall the Administrative Agent or any Related Party have any liability to any Loan Party or any of their respective Subsidiaries, any Lender, any Issuing Bank or any other Person for indirect, special, incidental, consequential or punitive damages (as opposed to direct or actual damages) arising out of any Loan Party's or the Administrative Agent's transmission of Communications. "Communications" means, collectively, any notice, demand, communication, information, document or other material provided by or on behalf of any Loan Party pursuant to any Loan Document or the transactions contemplated therein which is distributed by the Administrative Agent, any Lender or any Issuing Bank by means of electronic communications pursuant to this Section, including through the Platform.

(c) Telephonic Notices. Unless otherwise expressly provided herein, all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by facsimile or electronic mail as follows, and all notices and other communications expressly permitted hereunder to be given by telephone shall be made to the applicable telephone number, as follows:

(i) if to the Borrower, the Administrative Agent or an Issuing Bank, to the address, facsimile number, electronic mail address or telephone number specified for such Person in Section 10.1(a) or to such other address, facsimile number, electronic mail address or telephone number as shall be designated by such party in a notice to the other parties hereto, as provided in Section 10.1(d); and

(ii) if to any other Lender, to the address, facsimile number, electronic mail address or telephone number specified in its Administrative Questionnaire.

(d) All such notices and other communications sent to any party hereto in accordance with the provisions of this Agreement are made upon the earlier to occur of (i) actual receipt by the relevant party hereto and (ii) (A) if delivered by hand or by courier, when signed for by or on behalf of the relevant party hereto; (B) if delivered by mail, four (4) Business Days after deposit in the mails, postage prepaid; (C) if delivered by facsimile, when sent and receipt has been confirmed by telephone; and (D) if delivered by electronic mail, to the extent provided in clause (b) above and effective as provided in such clause; provided that notices and other communications to the Administrative Agent and an Issuing Bank pursuant to Article II shall not be effective until actually received by such Person. In no event shall a voice mail message be effective as a notice, communication or confirmation hereunder.

(e) Loan Documents may be transmitted and/or signed by facsimile or other electronic communication. The effectiveness of any such documents and signatures shall, subject to applicable Law, have the same force and effect as manually signed originals and shall be binding on all Loan Parties, the Agents and the Lenders.

## **Section 10.2 Waiver; Amendments.**

(a) No failure or delay by the Administrative Agent, any Issuing Bank or any Lender in exercising any right or power hereunder or under any other Loan Document, and no course of dealing between the Borrower and the Administrative Agent or any Lender, shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such right or power, preclude any other or further exercise thereof or the exercise of any other right or power hereunder or thereunder. The rights and remedies of the Administrative Agent, the Issuing Banks and the Lenders hereunder and under the other Loan Documents are cumulative and are not exclusive of any rights or remedies provided by law. No waiver of any provision of this Agreement or of any other Loan Document or consent to any departure by the Borrower therefrom shall in any event be effective unless the same shall be permitted by subsection (b) of this Section, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. Without limiting the generality of the foregoing, the making of a Loan or the issuance of a Letter of Credit shall not be construed as a waiver of any Default or Event of Default, regardless of whether the Administrative Agent, any Lender or any Issuing Bank may have had notice or knowledge of such Default or Event of Default at the time.

(b) No amendment or waiver of any provision of this Agreement or of the other Loan Documents (other than the Fee Letter), nor consent to any departure by the Borrower therefrom, shall in any event be effective unless the same shall be in writing and signed by the Borrower and the Required Lenders, or the Borrower and the Administrative Agent with the consent of the Required Lenders, and then such amendment, waiver or consent shall be effective only in the specific instance and for the specific purpose for which given; provided that, subject to Section 2.16(b), in addition to the consent of the Required Lenders, no amendment, waiver or consent shall:

- (i) increase the Commitment of any Lender without the written consent of such Lender;
- (ii) reduce the principal amount of any Loan or LC Disbursement or reduce the rate of interest thereon (it being agreed that the waiver of the Default Interest rate (or the imposition thereof) shall only require the consent of the Required Lenders), or reduce any fees or other amounts payable hereunder, without the written consent of each Lender affected thereby;
- (iii) postpone the date fixed for any payment (other than any mandatory prepayment) of any principal of, or interest on, any Loan or LC Disbursement or any fees or other amounts hereunder or reduce the amount of, waive or excuse any such payment, or postpone the scheduled date for the termination or reduction of any Commitment, without the written consent of each Lender affected thereby;
- (iv) alter, change or have the effect of changing the priority or pro rata treatment or the order of application of any payments (including, without limitation, any repayments or prepayments) under this Agreement (including, without limitation, pursuant to Section 2.21(b) or c or Section 8.2) or under any other Loan Documents, Liens, proceeds of Collateral or reductions in Commitments (including as a result in whole or in part of allowing the issuance or incurrence, pursuant to this Agreement or otherwise, of new loans or other indebtedness having any priority over any of the Obligations in respect of payments, Liens, Collateral or proceeds of Collateral, in exchange for any Obligations or otherwise), without the written consent of each Lender;
- (v) change any of the provisions of this subsection (b) or the definition of “Required Lenders” or “Required Revolving Lenders” or any other provision hereof specifying the number or percentage of Lenders which are required to waive, amend or modify any rights hereunder or make any determination or grant any consent hereunder, without the consent of each Lender;
- (vi) release all or substantially all of the guarantors, or limit the liability of such guarantors, under any guaranty agreement guaranteeing any of the Obligations, without the written consent of each Lender; or
- (vii) release all or substantially all collateral (if any) securing any of the Obligations, without the written consent of each Lender;

provided, further, that no such amendment, waiver or consent shall amend, modify or otherwise affect the rights, duties or obligations of the Administrative Agent, the Swingline Lender or any Issuing Bank without the prior written consent of such Person.

Notwithstanding anything to the contrary herein, no Defaulting Lender shall have any right to approve or disapprove any amendment, waiver or consent hereunder, except that the Commitment of such Lender may not be increased or extended, and amounts payable to such Lender hereunder may not be permanently reduced, without the consent of such Lender (other than reductions in fees and interest in which such reduction does not disproportionately affect such Lender). Notwithstanding anything contained herein to the contrary, this Agreement may be amended and restated without the consent of any Lender (but with the consent of the Borrower and the Administrative Agent) if, upon giving effect to such amendment and restatement, such Lender shall no longer be a party to this Agreement (as so amended and restated), the Commitments of such Lender shall have terminated (but such Lender shall continue to be entitled to the benefits of Sections 2.18, 2.19, 2.20 and 10.3), such Lender shall have no other commitment or other obligation hereunder and such Lender shall have been paid in full all principal, interest and other amounts owing to it or accrued for its account under this Agreement. Notwithstanding anything herein or otherwise to the contrary, any Event of Default occurring hereunder shall continue to exist (and shall be deemed to be continuing) until such time as such Event of Default is waived in writing in accordance with the terms of this Section notwithstanding (i) any attempted cure or other action taken by the Borrower or any other Person subsequent to the occurrence of such Event of Default or (ii) any action taken or omitted to be taken by the Administrative Agent or any Lender prior to or subsequent to the occurrence of such Event of Default (other than the granting of a waiver in writing in accordance with the terms of this Section).

Notwithstanding anything to the contrary herein, the Administrative Agent may, with the consent of the Borrower only, amend, modify or supplement any Loan Document to cure any obvious ambiguity, omission, mistake, defect or inconsistency.

**Section 10.3     Expenses; Indemnification.**

(a) The Borrower shall pay (i) all reasonable, out-of-pocket costs and expenses of the Administrative Agent and its Affiliates, including the reasonable fees, charges and disbursements of counsel for the Administrative Agent and its Affiliates, in connection with the syndication of the credit facilities provided for herein, the preparation and administration of the Loan Documents and any amendments, modifications or waivers thereof (whether or not the transactions contemplated in this Agreement or any other Loan Document shall be consummated), including the reasonable fees, charges and disbursements of counsel for the Administrative Agent and its Affiliates, (ii) all reasonable out-of-pocket expenses incurred by any Issuing Bank in connection with the issuance, amendment, renewal or extension of any Letter of Credit or any demand for payment thereunder and (iii) all out-of-pocket costs and expenses (including, without limitation, the reasonable fees, charges and disbursements of outside counsel and the allocated cost of inside counsel) incurred by the Administrative Agent, any Issuing Bank or any Lender in connection with the enforcement or protection of its rights in connection with this Agreement, including its rights under this Section, or in connection with the Loans made or any Letters of Credit issued hereunder, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of such Loans or Letters of Credit.

(b) The Borrower shall indemnify the Administrative Agent (and any sub-agent thereof), each Lender and each Issuing Bank, and each Related Party of any of the foregoing Persons (each such Person being called an "Indemnitee") against, and hold each Indemnitee harmless from, any and all losses, claims, damages, liabilities and related expenses (including the fees, charges and disbursements of any counsel for any Indemnitee), and shall indemnify and hold harmless each Indemnitee from all fees and time charges and disbursements for attorneys who may be employees of any Indemnitee, incurred by any Indemnitee or asserted against any Indemnitee by any third party or by the Borrower or any other Loan Party arising out of, in connection with, or as a result of (i) the execution or delivery of this Agreement, any other Loan Document, any other Related Transaction Document or any agreement or instrument contemplated hereby or thereby, the performance by the parties hereto of their respective obligations hereunder or thereunder or the consummation of the transactions contemplated hereby or thereby, (ii) any Loan or Letter of Credit or the use or proposed use of the proceeds therefrom (including any refusal by any Issuing Bank to honor a demand for payment under a Letter of Credit if the documents presented in connection with such demand do not strictly comply with the terms of such Letter of Credit), (iii) any actual or alleged presence or Release of Hazardous Materials on or from any property owned or operated by the Borrower or any of its Subsidiaries, or any Environmental Liability related in any way to the Borrower or any of its Subsidiaries, or (iv) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by a third party or by the Borrower or any other Loan Party, and regardless of whether any Indemnitee is a party thereto; provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses are determined by a court of competent jurisdiction by final and non-appealable judgment to have resulted from (x) the gross negligence or willful misconduct of such Indemnitee, (y) a claim brought by the Borrower or any other Loan Party against an Indemnitee for a breach in bad faith of such Indemnitee's obligations hereunder or under any other Loan Document or (z) disputes solely among Indemnitees, other than any claims arising out of or resulting from any act or omission on the part of the Borrower or its Affiliates.

(c) The Borrower shall pay, and hold the Administrative Agent, each Issuing Bank and each of the Lenders harmless from and against, any and all present and future stamp, documentary, and other similar taxes with respect to this Agreement and any other Loan Documents, any collateral described therein or any payments due thereunder, and save the Administrative Agent, each Issuing Bank and each Lender harmless from and against any and all liabilities with respect to or resulting from any delay or omission to pay such taxes.

(d) To the extent that the Borrower fails to pay any amount required to be paid to the Administrative Agent, any Issuing Bank or the Swingline Lender under subsection (a), (b) or hereof, each Lender severally agrees to pay to the Administrative Agent, the applicable Issuing Bank or the Swingline Lender, as the case may be, such Lender's *pro rata* share (in accordance with its respective Revolving Commitment (or Revolving Credit Exposure, as applicable) and Term Loan determined as of the time that the unreimbursed expense or indemnity payment is sought) of such unpaid amount; provided that the unreimbursed expense or indemnified payment, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the Administrative Agent, the applicable Issuing Bank or the Swingline Lender in its capacity as such.

(e) To the extent permitted by applicable law, the Borrower shall not assert, and hereby waives, any claim against any Indemnitee, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to actual or direct damages) arising out of, in connection with or as a result of this Agreement, any other Loan Document or any agreement or instrument contemplated hereby, the transactions contemplated therein, any Loan or any Letter of Credit or the use of proceeds thereof; provided that nothing in this clause (e) shall relieve the Borrower of any obligation it may have to indemnify any Indemnitee against special, indirect, consequential or punitive damages asserted against such Indemnitee by a third party.

(f) All amounts due under this Section shall be payable promptly after written demand therefor.

**Section 10.4 Successors and Assigns.**

(a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that the Borrower may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Administrative Agent and each Lender, and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an assignee in accordance with the provisions of subsection (b) of this Section, (ii) by way of participation in accordance with the provisions of subsection (d) of this Section or (iii) by way of pledge or assignment of a security interest subject to the restrictions of subsection (f) of this Section (and any other attempted assignment or transfer by any party hereto shall be null and void). Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants to the extent provided in subsection (d) of this Section and, to the extent expressly contemplated hereby, the Related Parties of each of the Administrative Agent and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) Any Lender may at any time assign to one or more assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitments, Loans and other Revolving Credit Exposure at the time owing to it); provided that any such assignment shall be subject to the following conditions:

(i) Minimum Amounts.

(A) in the case of an assignment of the entire remaining amount of the assigning Lender's Commitments, Loans and other Revolving Credit Exposure at the time owing to it or in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund, no minimum amount need be assigned; and

(B) in any case not described in subsection (b)(i)(A) of this Section, the aggregate amount of the Commitment (which for this purpose includes Loans and Revolving Credit Exposure outstanding thereunder) or, if the applicable Commitment is not then in effect, the principal outstanding balance of the Loans and Revolving Credit Exposure of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Acceptance with respect to such assignment is delivered to the Administrative Agent or, if "Trade Date" is specified in the Assignment and Acceptance, as of the Trade Date) shall not be less than \$1,000,000 with respect to Term Loans and \$5,000,000 with respect to Revolving Loans and in minimum increments of \$1,000,000, unless each of the Administrative Agent and, so long as no Event of Default has occurred and is continuing, the Borrower otherwise consents (each such consent not to be unreasonably withheld or delayed).

(ii) Proportionate Amounts. Each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement with respect to the Loans, other Revolving Credit Exposure or the Commitments assigned, except that this subsection (b)(ii) shall not prohibit any Lender from assigning all or a portion of its rights and obligations among separate Commitments on a non-*pro rata* basis.

(iii) Required Consents. No consent shall be required for any assignment except to the extent required by subsection (b)(i)(B) of this Section and, in addition:

(A) the consent of the Borrower (such consent not to be unreasonably withheld or delayed) shall be required unless (x) an Event of Default has occurred and is continuing at the time of such assignment or (y) such assignment is to a Lender, an Affiliate of such Lender or an Approved Fund of such Lender;

(B) the consent of the Administrative Agent (such consent not to be unreasonably withheld or delayed) shall be required unless such assignment is of a Term Loan to a Lender, an Affiliate of such Lender or an Approved Fund of such Lender; and



(C) the consent of each Issuing Bank (such consent not to be unreasonably withheld or delayed) shall be required for any assignment that increases the obligation of the assignee to participate in exposure under one or more Letters of Credit (whether or not then outstanding), and the consent of the Swingline Lender (such consent not to be unreasonably withheld or delayed) shall be required for any assignment in respect of the Revolving Commitments.

(iv) Assignment and Acceptance. The parties to each assignment shall deliver to the Administrative Agent (A) a duly executed Assignment and Acceptance, (B) a processing and recordation fee of \$3,500, (C) an Administrative Questionnaire unless the assignee is already a Lender and (D) the documents required under Section 2.20(e).

( v ) No Assignment to the certain Persons. No such assignment shall be made to (A) the Borrower or any of the Borrower's Affiliates or Subsidiaries or (B) to any Defaulting Lender or any of its Subsidiaries, or any Person who, upon becoming a Lender hereunder, would constitute any of the foregoing Persons described in this clause (B).

(vi) No Assignment to Natural Persons. No such assignment shall be made to a natural person.

(vii) Certain Additional Payments. In connection with any assignment of rights and obligations of any Defaulting Lender hereunder, no such assignment shall be effective unless and until, in addition to the other conditions thereto set forth herein, the parties to the assignment shall make such additional payments to the Administrative Agent in an aggregate amount sufficient, upon distribution thereof as appropriate (which may be outright payment, purchases by the assignee of participations or subparticipations, or other compensating actions, including funding, with the consent of the Borrower and the Administrative Agent, the applicable pro rata share of Loans previously requested but not funded by the Defaulting Lender, to each of which the applicable assignee and assignor hereby irrevocably consent), to (x) pay and satisfy in full all payment liabilities then owed by such Defaulting Lender to the Administrative Agent, each Issuing Bank, the Swingline Lender and each other Lender hereunder (and interest accrued thereon), and (y) acquire (and fund as appropriate) its full pro rata share of all Loans and participations in Letters of Credit and Swingline Loans. Notwithstanding the foregoing, in the event that any assignment of rights and obligations of any Defaulting Lender hereunder shall become effective under applicable law without compliance with the provisions of this paragraph, then the assignee of such interest shall be deemed to be a Defaulting Lender for all purposes of this Agreement until such compliance occurs.

Subject to acceptance and recording thereof by the Administrative Agent pursuant to subsection (c) of this Section, from and after the effective date specified in each Assignment and Acceptance, the assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Assignment and Acceptance, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Acceptance, be released from its obligations under this Agreement (and, in the case of an Assignment and Acceptance covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto) but shall continue to be entitled to the benefits of Sections 2.18, 2.19, 2.20 and 10.3 with respect to facts and circumstances occurring prior to the effective date of such assignment; provided that, except to the extent otherwise expressly agreed by the affected parties, no assignment by a Defaulting Lender will constitute a waiver or release of any claim of any party hereunder arising from such Lender's having been a Defaulting Lender. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this subsection shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with subsection (d) of this Section. If the consent of the Borrower to an assignment is required hereunder (including a consent to an assignment which does not meet the minimum assignment thresholds specified above), the Borrower shall be deemed to have given its consent unless it shall object thereto by written notice to the Administrative Agent within five (5) Business Days after notice thereof has actually been delivered by the assigning Lender (through the Administrative Agent) to the Borrower.

(c) The Administrative Agent, acting solely for this purpose as a non-fiduciary agent of the Borrower, shall maintain at one of its offices in Atlanta, Georgia a copy of each Assignment and Acceptance delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amount of the Loans and Revolving Credit Exposure owing to, each Lender pursuant to the terms hereof from time to time (the “Register”). Information contained in the Register with respect to any Lender shall be available for inspection by such Lender at any reasonable time and from time to time upon reasonable prior notice; information contained in the Register shall also be available for inspection by the Borrower at any reasonable time and from time to time upon reasonable prior notice. In establishing and maintaining the Register, the Administrative Agent shall serve as the Borrower’s agent solely for tax purposes and solely with respect to the actions described in this Section, and the Borrower hereby agrees that, to the extent SunTrust Bank serves in such capacity, SunTrust Bank and its officers, directors, employees, agents, sub-agents and affiliates shall constitute “Indemnitees”.

(d) Any Lender may at any time, without the consent of, or notice to, the Borrower, the Administrative Agent, the Swingline Lender or any Issuing Bank, sell participations to any Person (other than a natural person, the Borrower, or any of the Borrower’s Affiliates or Subsidiaries) (each, a “Participant”) in all or a portion of such Lender’s rights and/or obligations under this Agreement (including all or a portion of its Commitment and/or the Loans owing to it); provided that (i) such Lender’s obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (iii) the Borrower, the Administrative Agent, the Issuing Banks, the Swingline Lender and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender’s rights and obligations under this Agreement.

Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver with respect to the following to the extent affecting such Participant: (i) increase the Commitment of such Lender; (ii) reduce the principal amount of any Loan or LC Disbursement or reduce the rate of interest thereon, or reduce any fees payable hereunder; (iii) postpone the date fixed for any payment of any principal of, or interest on, any Loan or LC Disbursement or any fees hereunder or reduce the amount of, waive or excuse any such payment, or postpone the scheduled date for the termination or reduction of any Commitment; (iv) change Section 2.21(b) or (c) in a manner that would alter the *pro rata* sharing of payments required thereby; (v) change any of the provisions of Section 10.2(b) or the definition of “Required Lenders” or “Required Revolving Lenders” or any other provision hereof specifying the number or percentage of Lenders which are required to waive, amend or modify any rights hereunder or make any determination or grant any consent hereunder; (vi) release all or substantially all of the guarantors, or limit the liability of such guarantors, under any guaranty agreement guaranteeing any of the Obligations; or (vii) release all or substantially all collateral (if any) securing any of the Obligations. Subject to subsection (e) of this Section, the Borrower agrees that each Participant shall be entitled to the benefits of Sections 2.18, 2.19, and 2.20 to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to subsection (b) of this Section; provided that such Participant agrees to be subject to Section 2.24 as though it were a Lender. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 10.7 as though it were a Lender; provided that such Participant agrees to be subject to Section 2.21 as though it were a Lender.

Each Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of the Borrower, maintain a register in the United States on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each Participant's interest in the Loans or other obligations under the Loan Documents (the "Participant Register"). The entries in the Participant Register shall be conclusive, absent manifest error, and such Lender shall treat each person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. The Borrower and the Administrative Agent shall have inspection rights to such Participant Register (upon reasonable prior notice to the applicable Lender) solely for purposes of demonstrating that such Loans or other obligations under the Loan Documents are in "registered form" for purposes of the Code. For the avoidance of doubt, the Administrative Agent (in its capacity as Administrative Agent) shall have no responsibility for maintaining a Participant Register.

(e) A Participant shall not be entitled to receive any greater payment under Sections 2.18 and 2.20 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless the sale of the participation to such Participant is made with the Borrower's prior written consent. A Participant shall not be entitled to the benefits of Section 2.20 unless the Borrower is notified of the participation sold to such Participant and such Participant agrees, for the benefit of the Borrower, to comply with Section 2.20(g) and (h) as though it were a Lender.

(f) Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including, without limitation, any pledge or assignment to secure obligations to a Federal Reserve Bank; provided that no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

**Section 10.5 Governing Law; Jurisdiction; Consent to Service of Process.**

(a) This Agreement and the other Loan Documents and any claims, controversy, dispute or cause of action (whether in contract or tort or otherwise) based upon, arising out of or relating to this Agreement or any other Loan Document (except, as to any other Loan Document, as expressly set forth therein) and the transactions contemplated hereby and thereby shall be construed in accordance with and be governed by the law (without giving effect to the conflict of law principles thereof) of the State of New York.

(b) The Borrower hereby irrevocably and unconditionally submits, for itself and its property, to the exclusive jurisdiction of the United States District Court for the Southern District of New York, and of the Supreme Court of the State of New York sitting in New York County, Borough of Manhattan, and of any appellate court from any thereof, in any action or proceeding arising out of or relating to this Agreement or any other Loan Document or the transactions contemplated hereby or thereby, or for recognition or enforcement of any judgment, and each of the parties hereto hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in such District Court or New York state court or, to the extent permitted by applicable law, such appellate court. Each of the parties hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Agreement or any other Loan Document shall affect any right that the Administrative Agent, any Issuing Bank or any Lender may otherwise have to bring any action or proceeding relating to this Agreement or any other Loan Document against the Borrower or its properties in the courts of any jurisdiction.

(c) The Borrower irrevocably and unconditionally waives any objection which it may now or hereafter have to the laying of venue of any such suit, action or proceeding described in subsection (b) of this Section and brought in any court referred to in subsection (b) of this Section. Each of the parties hereto irrevocably waives, to the fullest extent permitted by applicable law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

(d) Each party to this Agreement irrevocably consents to the service of process in the manner provided for notices in Section 10.1. Nothing in this Agreement or in any other Loan Document will affect the right of any party hereto to serve process in any other manner permitted by law.

**Section 10.6 WAIVER OF JURY TRIAL.** EACH PARTY HERETO IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER, AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

**Section 10.7 Right of Set-off.** In addition to any rights now or hereafter granted under applicable law and not by way of limitation of any such rights, each Lender and each Issuing Bank shall have the right, at any time or from time to time upon the occurrence and during the continuance of an Event of Default, without prior notice to the Borrower, any such notice being expressly waived by the Borrower to the extent permitted by applicable law, to set off and apply against all deposits (general or special, time or demand, provisional or final) of the Borrower at any time held or other obligations at any time owing by such Lender and such Issuing Bank to or for the credit or the account of the Borrower against any and all Obligations held by such Lender or such Issuing Bank, as the case may be, irrespective of whether such Lender or such Issuing Bank shall have made demand hereunder and although such Obligations may be unmatured; provided that in the event that any Defaulting Lender shall exercise any such right of setoff, (x) all amounts so set off shall be paid over immediately to the Administrative Agent for further application in accordance with the provisions of Section 2.26(b) and, pending such payment, shall be segregated by such Defaulting Lender from its other funds and deemed held in trust for the benefit of the Administrative Agent, the Issuing Banks, and the Lenders, and (y) the Defaulting Lender shall provide promptly to the Administrative Agent a statement describing in reasonable detail the Obligations owing to such Defaulting Lender as to which it exercised such right of setoff. Each Lender and each Issuing Bank agrees promptly to notify the Administrative Agent and the Borrower after any such set-off and any application made by such Lender or such Issuing Bank, as the case may be; provided that the failure to give such notice shall not affect the validity of such set-off and application. Each Lender and each Issuing Bank agrees to apply all amounts collected from any such set-off to the Obligations before applying such amounts to any other Indebtedness or other obligations owed by the Borrower and any of its Subsidiaries to such Lender or such Issuing Bank.

**Section 10.8 Counterparts: Integration.** This Agreement may be executed by one or more of the parties to this Agreement on any number of separate counterparts, and all of said counterparts taken together shall be deemed to constitute one and the same instrument. This Agreement, the Fee Letter, the other Loan Documents, and any separate letter agreements relating to any fees payable to the Administrative Agent and its Affiliates constitute the entire agreement among the parties hereto and thereto and their affiliates regarding the subject matters hereof and thereof and supersede all prior agreements and understandings, oral or written, regarding such subject matters. Delivery of an executed counterpart to this Agreement or any other Loan Document by facsimile transmission or by electronic mail in pdf format shall be as effective as delivery of a manually executed counterpart hereof.

**Section 10.9** **Survival.** All covenants, agreements, representations and warranties made by the Borrower herein and in the certificates, reports, notices or other instruments delivered in connection with or pursuant to this Agreement shall be considered to have been relied upon by the other parties hereto and shall survive the execution and delivery of this Agreement and the other Loan Documents and the making of any Loans and issuance of any Letters of Credit, regardless of any investigation made by any such other party or on its behalf and notwithstanding that the Administrative Agent, any Issuing Bank or any Lender may have had notice or knowledge of any Default or incorrect representation or warranty at the time any credit is extended hereunder, and shall continue in full force and effect as long as the principal of or any accrued interest on any Loan or any fee or any other amount payable under this Agreement is outstanding and unpaid or any Letter of Credit is outstanding and so long as the Commitments have not expired or terminated. The provisions of Sections 2.18, 2.19, 2.20, and 10.3 and Article IX shall survive and remain in full force and effect regardless of the consummation of the transactions contemplated hereby, the repayment of the Loans, the expiration or termination of the Letters of Credit and the Commitments or the termination of this Agreement or any provision hereof. All representations and warranties made herein, in the Loan Documents in the certificates, reports, notices, and other documents delivered pursuant to this Agreement shall survive the execution and delivery of this Agreement and the other Loan Documents, and the making of the Loans and the issuance of the Letters of Credit.

**Section 10.10** **Severability.** Any provision of this Agreement or any other Loan Document held to be illegal, invalid or unenforceable in any jurisdiction, shall, as to such jurisdiction, be ineffective to the extent of such illegality, invalidity or unenforceability without affecting the legality, validity or enforceability of the remaining provisions hereof or thereof; and the illegality, invalidity or unenforceability of a particular provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

**Section 10.11** **Confidentiality.** Each of the Administrative Agent, the Issuing Banks and the Lenders agrees to maintain the confidentiality of any information received from the Borrower, any of its Subsidiaries or any Associated Practice relating to the Borrower, any of its Subsidiaries or any Associated Practice or any of their respective businesses, other than any such information that is available to the Administrative Agent, any Issuing Bank or any Lender on a non-confidential basis prior to disclosure by the Borrower, any of its Subsidiaries or any Associated Practice, except that such information may be disclosed (i) to any Related Party of the Administrative Agent, any Issuing Bank or any such Lender including, without limitation, accountants, legal counsel and other advisors, (ii) to the extent required by applicable laws or regulations or by any subpoena or similar legal process, (iii) to the extent requested by any regulatory agency or authority purporting to have jurisdiction over it (including any self-regulatory authority such as the National Association of Insurance Commissioners), (iv) to the extent that such information becomes publicly available other than as a result of a breach of this Section, or which becomes available to the Administrative Agent, any Issuing Bank, any Lender or any Related Party of any of the foregoing on a non-confidential basis from a source other than the Borrower, any of its Subsidiaries or any Associated Practice, (v) in connection with the exercise of any remedy hereunder or under any other Loan Documents or any suit, action or proceeding relating to this Agreement or any other Loan Documents or the enforcement of rights hereunder or thereunder, (vi) subject to execution by such Person of an agreement containing provisions substantially the same as those of this Section, to (A) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights or obligations under this Agreement, and, in each case, their respective financing sources, or (B) any actual or prospective party (or its Related Parties) to any swap or derivative or other transaction under which payments are to be made by reference to the Borrower and its obligations, this Agreement or payments hereunder, (vii) to any rating agency, (viii) to the CUSIP Service Bureau or any similar organization, or (ix) with the written consent of the Borrower. Any Person required to maintain the confidentiality of any information as provided for in this Section shall exercise the same degree of care to maintain the confidentiality of such information as such Person would accord its own confidential information. In the event of any conflict between the terms of this Section and those of any other Contractual Obligation entered into with any Loan Party (whether or not a Loan Document), the terms of this Section shall govern.

**Section 10.12 Interest Rate Limitation.** Notwithstanding anything herein to the contrary, if at any time the interest rate applicable to any Loan, together with all fees, charges and other amounts which may be treated as interest on such Loan under applicable law (collectively, the “Charges”), shall exceed the maximum lawful rate of interest (the “Maximum Rate”) which may be contracted for, charged, taken, received or reserved by a Lender holding such Loan in accordance with applicable law, the rate of interest payable in respect of such Loan hereunder, together with all Charges payable in respect thereof, shall be limited to the Maximum Rate and, to the extent lawful, the interest and Charges that would have been payable in respect of such Loan but were not payable as a result of the operation of this Section shall be cumulated and the interest and Charges payable to such Lender in respect of other Loans or periods shall be increased (but not above the Maximum Rate therefor) until such cumulated amount, together with interest thereon at the Federal Funds Rate to the date of repayment (to the extent permitted by applicable law), shall have been received by such Lender.

**Section 10.13 Waiver of Effect of Corporate Seal.** The Borrower represents and warrants that neither it nor any other Loan Party is required to affix its corporate seal to this Agreement or any other Loan Document pursuant to any Requirement of Law, agrees that this Agreement is delivered by the Borrower under seal and waives any shortening of the statute of limitations that may result from not affixing the corporate seal to this Agreement or such other Loan Documents.

**Section 10.14 Section 10.14. Patriot Act.** The Administrative Agent and each Lender hereby notifies the Loan Parties that, pursuant to (a) the requirements of the Patriot Act, it is required to obtain, verify and record information that identifies each Loan Party, which information includes the name and address of such Loan Party and other information that will allow such Lender or the Administrative Agent, as applicable, to identify such Loan Party in accordance with the Patriot Act and (b) the Beneficial Ownership Regulation, it is required to obtain a Beneficial Ownership Certification.

**Section 10.15 Section 10.15. No Advisory or Fiduciary Responsibility.** In connection with all aspects of each transaction contemplated hereby (including in connection with any amendment, waiver or other modification hereof or of any other Loan Document), the Borrower and each other Loan Party acknowledges and agrees and acknowledges its Affiliates’ understanding that (i) (A) the services regarding this Agreement provided by the Administrative Agent and/or the Lenders are arm’s-length commercial transactions between the Borrower, each other Loan Party and their respective Affiliates, on the one hand, and the Administrative Agent and the Lenders, on the other hand, (B) each of the Borrower and the other Loan Parties have consulted their own legal, accounting, regulatory and tax advisors to the extent they have deemed appropriate, and (C) the Borrower and each other Loan Party is capable of evaluating and understanding, and understands and accepts, the terms, risks and conditions of the transactions contemplated hereby and by the other Loan Documents; (ii) (A) each of the Administrative Agent and the Lenders is and has been acting solely as a principal and, except as expressly agreed in writing by the relevant parties, has not been, is not, and will not be acting as an advisor, agent or fiduciary for the Borrower, any other Loan Party or any of their respective Affiliates, or any other Person, and (B) neither the Administrative Agent nor any Lender has any obligation to the Borrower, any other Loan Party or any of their Affiliates with respect to the transaction contemplated hereby except those obligations expressly set forth herein and in the other Loan Documents; and (iii) the Administrative Agent, the Lenders and their respective Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Borrower, the other Loan Parties and their respective Affiliates, and each of the Administrative Agent and the Lenders has no obligation to disclose any of such interests to the Borrower, any other Loan Party or any of their respective Affiliates. To the fullest extent permitted by law, each of the Borrower and the other Loan Parties hereby waives and releases any claims that it may have against the Administrative Agent or any Lender with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transaction contemplated hereby.

**Section 10.16** **Location of Closing.** Each Lender and each Issuing Bank acknowledges and agrees that it has delivered, with the intent to be bound, its executed counterparts of this Agreement to the Administrative Agent, c/o Alston & Bird LLP, 90 Park Avenue, New York, NY 10016. The Borrower acknowledges and agrees that it has delivered, with the intent to be bound, its executed counterparts of this Agreement and each other Loan Document, together with all other documents, instruments, opinions, certificates and other items required under Section 3.1, to the Administrative Agent, c/o Alston & Bird LLP, 90 Park Avenue, New York, NY 10016. All parties agree that the closing of the transactions contemplated by this Agreement has occurred in New York.

**Section 10.17** **Independence of Covenants.** All covenants hereunder shall be given independent effect so that if a particular action or condition is not permitted by any of such covenants, the fact that it would be permitted by an exception to, or would otherwise be within the limitations of, another covenant shall not avoid the occurrence of a Default or an Event of Default if such action is taken or condition exists.

**Section 10.18** **Acknowledgement and Consent to Bail-In of EEA Financial Institutions.** Notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any EEA Financial Institution arising under any Loan Document, to the extent such liability is unsecured, may be subject to the write-down and conversion powers of an EEA Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

(a) the application of any Write-Down and Conversion Powers by an EEA Resolution Authority to any such liabilities arising hereunder which may be payable to it by any party hereto that is an EEA Financial Institution; and

(b) the effects of any Bail-in Action on any such liability, including, if applicable (i) a reduction in full or in part or cancellation of any such liability, (ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such EEA Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document or (iii) the variation of the terms of such liability in connection with the exercise of the write-down and conversion powers of any EEA Resolution Authority.

**Section 10.19** **Certain ERISA Matters.**

(a) Each Lender (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent and not, for the avoidance of doubt, to or for the benefit of the Borrower or any other Loan Party, that at least one of the following is and will be true:

(i) such Lender is not using “plan assets” (within the meaning of Section 3(42) of ERISA or otherwise) of one or more Benefit Plans with respect to such Lender’s entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments or this Agreement,

(ii) the transaction exemption set forth in one or more PTEs, such as PTE 84-14 (a class exemption for certain transactions determined by independent qualified professional asset managers), PTE 95-60 (a class exemption for certain transactions involving insurance company general accounts), PTE 90-1 (a class exemption for certain transactions involving insurance company pooled separate accounts), PTE 91-38 (a class exemption for certain transactions involving bank collective investment funds) or PTE 96-23 (a class exemption for certain transactions determined by in-house asset managers), is applicable with respect to such Lender’s entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement,

(iii) (A) such Lender is an investment fund managed by a “Qualified Professional Asset Manager” (within the meaning of Part VI of PTE 84-14), (B) such Qualified Professional Asset Manager made the investment decision on behalf of such Lender to enter into, participate in, administer and perform the Loans, the Letters of Credit, the Commitments and this Agreement, (C) the entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement satisfies the requirements of sub-sections (b) through (g) of Part I of PTE 8414 and (D) to the best knowledge of such Lender, the requirements of subsection (a) of Part I of PTE 84-14 are satisfied with respect to such Lender’s entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement, or

(iv) such other representation, warranty and covenant as may be agreed in writing between the Administrative Agent, in its sole discretion, and such Lender.

(b) In addition, unless either (1) sub-clause (i) in the immediately preceding clause (a) is true with respect to a Lender or (2) a Lender has provided another representation, warranty and covenant in accordance with sub-clause (iv) in the immediately preceding clause (a), such Lender further (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent and not, for the avoidance of doubt, to or for the benefit of the Borrower or any other Loan Party, that the Administrative Agent is not a fiduciary with respect to the assets of such Lender involved in such Lender’s entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement (including in connection with the reservation or exercise of any rights by the Administrative Agent under this Agreement, any Loan Document or any documents related hereto or thereto).

**Section 10.20 Acknowledgement Regarding Any Supported QFCs** To the extent that the Loan Documents provide support, through a guarantee or otherwise, for Hedging Obligations or any other agreement or instrument that is a QFC (such support, “QFC Credit Support” and each such QFC a “Supported QFC”), the parties acknowledge and agree as follows with respect to the resolution power of the Federal Deposit Insurance Corporation under the Federal Deposit Insurance Act and Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (together with the regulations promulgated thereunder, the “U.S. Special Resolution Regimes”) in respect of such Supported QFC and QFC Credit Support (with the provisions below applicable notwithstanding that the Loan Documents and any Supported QFC may in fact be stated to be governed by the laws of the State of New York and/or of the United States or any other state of the United States):



(a) In the event a Covered Entity that is party to a Supported QFC (each, a "Covered Party") becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer of such Supported QFC and the benefit of such QFC Credit Support (and any interest and obligation in or under such Supported QFC and such QFC Credit Support, and any rights in property securing such Supported QFC or such QFC Credit Support) from such Covered Party will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if the Supported QFC and such QFC Credit Support (and any such interest, obligation and rights in property) were governed by the laws of the United States or a state of the United States. In the event a Covered Party or a BHC Act Affiliate of a Covered Party becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights under the Loan Documents that might otherwise apply to such Supported QFC or any QFC Credit Support that may be exercised against such Covered Party are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if the Supported QFC and the Loan Documents were governed by the laws of the United States or a state of the United States. Without limitation of the foregoing, it is understood and agreed that rights and remedies of the parties with respect to a Defaulting Lender shall in no event affect the rights of any Covered Party with respect to a Supported QFC or any QFC Credit Support.

(b) As used in this Section 10.20, the following terms have the following meanings:

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

"Covered Entity" means any of the following:

(i) a "covered entity" as that term is defined in, and interpreted in accordance with, 12 C.F.R. §252.82(b);

(ii) a "covered bank" as that term is defined in, and interpreted in accordance with, 12 C.F.R. §47.3(b); or

(iii) a "covered FSI" as that term is defined in, and interpreted in accordance with, 12 C.F.R. §382.2(b).

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

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

*[Remainder of page intentionally blank; signature pages follow.]*

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the day and year first above written.

**APOLLO MEDICAL HOLDINGS, INC.**

By: /s/ Mitchell Kitayama  
Name: Mitchell Kitayama  
Title: Independent Committee Director

By: /s/ Eric Chin  
Name: Eric Chin  
Title: Chief Financial Officer

**SUNTRUST BANK**

as the Administrative Agent, as an Issuing Bank, as  
the Swingline Lender and as a Lender

By: /s/ Ben Cumming  
Name: Ben Cumming  
Title: Managing Director

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**JPMorgan Chase Bank, N.A.**  
as a Lender

By: /s/ Linda Secka  
Name: Linda Secka  
Title: Authorized Officer

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**Preferred Bank**  
as a Lender

By: /s/ Johnny Hsu  
Name: Johnny Hsu  
Title: Executive Vice President  
Deputy Chief Operating Officer

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**MUFG Union Bank, N.A.**  
as a Lender

By: /s/ LaRonda J. Fisher-Rogers  
Name: LaRonda J. Fisher-Rogers  
Title: Director

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**ROYAL BANK OF CANADA,**  
as a Lender

By: /s/ Steven T. Bachman  
Name: Steven T. Bachman  
Title: Authorized Signatory

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**Fifth Third Bank,**  
as a Lender

By: /s/ Thomas Avery  
Name: Thomas Avery  
Title: Director

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**City National Bank**  
as a Lender

By: /s/ Breck Fleming  
Name: Breck Fleming  
Title: Senior VP

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CREDIT AGREEMENT  
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**GUARANTY AND SECURITY AGREEMENT**

dated as of September 11, 2019

made by

**APOLLO MEDICAL HOLDINGS, INC.**  
as Borrower

and

**THE OTHER GRANTORS FROM TIME TO TIME PARTY HERETO**

in favor of

**SUNTRUST BANK**  
as Administrative Agent

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## GUARANTY AND SECURITY AGREEMENT

**THIS GUARANTY AND SECURITY AGREEMENT**, dated as of September 11, 2019, is made by **APOLLO MEDICAL HOLDINGS, INC.**, a Delaware corporation (the "**Borrower**"), and certain Subsidiaries of the Borrower identified on the signature pages hereto as "**Grantors**" (together with the Borrower and any other Subsidiary of the Borrower that becomes a party hereto from time to time after the date hereof, each, a "**Grantor**" and, collectively, the "**Grantors**"), in favor of **SUNTRUST BANK**, as administrative agent (in such capacity, together with its successors in such capacity, the "**Administrative Agent**") for the Secured Parties (as defined below).

**WHEREAS**, the Borrower is entering into that certain Credit Agreement, dated as of the date hereof, by and among the Borrower, the Lenders from time to time party thereto, the Issuing Banks and the Administrative Agent, providing for revolving credit and term loan facilities (as amended, restated, supplemented, replaced, increased, refinanced or otherwise modified from time to time, the "**Credit Agreement**"); and

**WHEREAS**, it is a condition precedent to the obligations of the Lenders, the Issuing Banks and the Administrative Agent under the Loan Documents that the Grantors are required to enter into this Agreement, pursuant to which the Grantors (other than the Borrower) shall guaranty all Obligations of the Borrower and the Grantors (including the Borrower) shall grant Liens on all of their personal property to the Administrative Agent, on behalf of the Secured Parties, to secure their respective Obligations;

**NOW, THEREFORE**, in consideration of the premises and to induce the Administrative Agent, the Lenders and the Issuing Banks to enter into the Credit Agreement and to induce the Lenders and the Issuing Banks to make their respective extensions of credit to the Borrower thereunder, each Grantor hereby agrees with the Administrative Agent, for the ratable benefit of the Secured Parties, as follows:

### **ARTICLE I**

#### **DEFINITIONS**

##### **Section 1.1      Definitions.**

(a) Each term defined above shall have the meaning set forth above for all purposes of this Agreement. Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings assigned to such terms in the Credit Agreement, and the terms "Account Debtor", "Accounts", "Chattel Paper", "Commercial Tort Claims", "Deposit Accounts", "Documents", "Electronic Chattel Paper", "Equipment", "Fixtures", "General Intangibles", "Goods", "Instruments", "Inventory", "Investment Property", "Letter-of-Credit Rights", "Payment Intangibles", "Proceeds", "Supporting Obligations", and "Tangible Chattel Paper" shall have the meanings assigned to such terms in the UCC as in effect on the date hereof.

(b) The following terms shall have the following meanings:

"**Agreement**" shall mean this Guaranty and Security Agreement, as amended, restated, supplemented or otherwise modified from time to time.

"**AP-AMH**" shall mean AP-AMH Medical Corporation, a California professional medical corporation.

“AP-AMH Loan Agreement” shall mean that certain Loan Agreement dated as of May 10, 2019 and effective as of September 11, 2019, as the same may be amended from time to time, between the Borrower and AP-AMH, together with any other instrument or agreement evidencing Indebtedness owing by AP-AMH to the Borrower from time to time.

“AP-AMH Loan Collateral” shall mean all rights, title and interest of the Borrower in and to the “Collateral” under and as defined in the AP-AMH Security Agreement (and shall include any other collateral security granted by AP-AMH to the Borrower under any other AP-AMH Loan Agreement).

“AP-AMH Loan Documents” shall mean the AP-AMH Loan Agreement, the AP-AMH Security Agreement and any agreements, instruments or documents ancillary thereto.

“AP-AMH Security Agreement” shall mean that certain Security Agreement dated as of the date hereof entered in by AP-AMH in favor of the Borrower, together with any other pledge, security or other agreement between AP-AMH and the Borrower (or by AP-AMH in favor of the Borrower) pursuant to which AP-AMH grants a security interest in favor of the Borrower in any assets or properties of AP-AMH to secure obligations owing to the Borrower.

“Collateral” shall have the meaning set forth in Section 3.1.

“Copyright Licenses” shall mean any and all present and future agreements providing for the granting of any right in or to Copyrights (whether the applicable Grantor is licensee or licensor thereunder), including, without limitation, any thereof referred to in Schedule 8.

“Copyrights” shall mean, collectively, with respect to each Grantor, all copyrights, whether registered or unregistered, owned by or assigned to such Grantor and all registrations and applications for the foregoing (whether by statutory or common law, whether established or registered in the United States, any State thereof, or any other country or any political subdivision thereof and, in each case, whether owned by or licensed to such Grantor), and all goodwill associated therewith, now existing or hereafter adopted or acquired, together with any and all (i) rights and privileges arising under applicable law with respect to such Grantor’s use of any copyrights, (ii) reissues, continuations, extensions and renewals thereof and amendments thereto, (iii) income, fees, royalties, damages and payments now and hereafter due and/or payable thereunder and with respect thereto, including damages, claims and payments for past, present or future infringements thereof, (iv) rights corresponding thereto throughout the world and (v) rights to sue for past, present or future infringements thereof, including, without limitation, any thereof referred to in Schedule 8.

“Excluded Property” shall have the meaning ascribed to such term in the Credit Agreement.

“Excluded Subsidiary” shall have the meaning ascribed to such term in the Credit Agreement.

“Guaranteed Obligations” shall have the meaning set forth in Section 2.1(a).

“Guarantors” shall mean, collectively, each Grantor other than the Borrower.

“IP License” shall mean, collectively, each Copyright License, Trademark License and Patent License.

“Issuers” shall mean, collectively, each issuer of a Pledged Security.

“Monetary Obligation” shall mean a monetary obligation secured by Goods or owed under a lease of Goods and includes a monetary obligation with respect to software used in Goods.

“Note” shall mean an instrument that evidences a promise to pay a Monetary Obligation and any other instrument within the description of “promissory note” as defined in Article 9 of the UCC.

“Patent Licenses” shall mean any and all present and future agreements providing for the granting of any right in or to Patents (whether the applicable Grantor is licensee or licensor thereunder), including, without limitation, any thereof referred to in Schedule 6.

“Patents” shall mean, collectively, with respect to each Grantor, all letters patent issued or assigned to, and all patent applications and registrations made by, such Grantor (whether established or registered or recorded in the United States, any State thereof or any other country or any political subdivision thereof and, in each case, whether owned by or licensed to such Grantor), and all goodwill associated therewith, now existing or hereafter adopted or acquired, together with any and all (i) rights and privileges arising under applicable law with respect to such Grantor’s use of any patents, (ii) inventions and improvements described and claimed therein, (iii) reissues, divisions, continuations, renewals, extensions and continuations-in-part thereof and amendments thereto, and rights to obtain any of the foregoing, (iv) income, fees, royalties, damages, claims and payments now or hereafter due and/or payable thereunder and with respect thereto including damages and payments for past, present or future infringements thereof, (v) rights corresponding thereto throughout the world and (vi) rights to sue for past, present or future infringements thereof, including, without limitation, any thereof referred to in Schedule 6.

“Pledged Certificated Stock” shall mean all certificated securities and any other Capital Stock or Stock Equivalent of any Person, in each case, other than Excluded Property, evidenced by a certificate, instrument or other similar document, in each case now owned or at any time hereafter acquired by any Grantor, and any dividend or distribution of cash, instruments or other property made on, in respect of or in exchange for the foregoing from time to time, including in each case those interests set forth on Schedule 2 to the extent such interests are certificated.

“Pledged Securities” shall mean, collectively, all Pledged Certificated Stock and all Pledged Uncertificated Stock.

“Pledged Uncertificated Stock” shall mean any Capital Stock or Stock Equivalent of any Person, other than Pledged Certificated Stock and Excluded Property, in each case now owned or at any time hereafter acquired by any Grantor, including all right, title and interest of any Grantor as a limited or general partner in any partnership or as a member of any limited liability company not constituting Pledged Certificated Stock, all right, title and interest of any Grantor in, to and under any organizational document of any partnership or limited liability company to which it is a party, and any dividend or distribution of cash, instruments or other property made on, in respect of or in exchange for the foregoing from time to time, including in each case those interests set forth on Schedule 2 to the extent such interests are not certificated.

“Qualified ECP Guarantor” shall mean, in respect of any Swap Obligation, each Loan Party that has total assets exceeding \$10,000,000 at the time the relevant Guarantee or grant of the relevant security interest becomes effective with respect to such Swap Obligation or such other person as constitutes an “eligible contract participant” under the Commodity Exchange Act or any regulations promulgated thereunder and can cause another Person to qualify as an “eligible contract participant” at such time by entering into a keepwell under Section 1a(18)(A)(v)(II) of the Commodity Exchange Act.

“Secured Obligations” shall have the meaning set forth in Section 3.1.

“Secured Parties” shall mean the Administrative Agent, the Lenders, the Issuing Banks, the Lender-Related Hedge Providers and the Bank Product Providers.

“Securities Act” shall mean the Securities Act of 1933, as amended and in effect from time to time.

“Specified Transaction Documents” shall mean the (i) AP-AMH Loan Documents, (ii) the Trademark Licensing Agreement, (iii) the Administrative Services Agreement, (iv) that certain Physician Shareholder Agreement dated as of May 10, 2019 executed and delivered by Thomas Lam, MD in favor of NMM and the Borrower, and for the benefit of AP-AMH, and (v) the Associated Practice Documents.

“Stock Equivalents” shall mean all securities convertible into or exchangeable for Capital Stock or any other Stock Equivalent and all warrants, options or other rights to purchase, subscribe for or otherwise acquire any Capital Stock or any other Stock Equivalent, whether or not presently convertible, exchangeable or exercisable.

“Trademark Licenses” shall mean any and all present and future agreements providing for the granting of any right in or to Trademarks (whether the applicable Grantor is licensee or licensor thereunder), including, without limitation, any thereof referred to in Schedule 7.

“Trademarks” shall mean, collectively, with respect to each Grantor, all trademarks, service marks, slogans, logos, certification marks, trade dress, uniform resource locations (URL’s), domain names, corporate names, trade names and other source or business identifiers, whether registered or unregistered, owned by or assigned to such Grantor and all registrations and applications for the foregoing (whether by statutory or common law, whether established or registered in the United States, any State thereof, or any other country or any political subdivision thereof and, in each case, whether owned by or licensed to such Grantor), and all goodwill associated therewith, now existing or hereafter adopted or acquired, together with any and all (i) rights and privileges arising under applicable law with respect to such Grantor’s use of any trademarks, (ii) reissues, continuations, extensions and renewals thereof and amendments thereto, (iii) income, fees, royalties, damages and payments now and hereafter due and/or payable thereunder and with respect thereto, including damages, claims and payments for past, present or future infringements thereof, (iv) rights corresponding thereto throughout the world and (v) rights to sue for past, present or future infringements thereof, including, without limitation, any thereof referred to in Schedule 7.

“UCC” shall mean the Uniform Commercial Code as in effect from time to time in the State of New York.

**Other Definitional Provisions; References.**(c) The definition of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include”, “includes” and “including” shall be deemed to be followed by the phrase “without limitation”. The word “will” shall be construed to have the same meaning and effect as the word “shall”. Unless the context requires otherwise (b) 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 or in the Credit Agreement), (c) any reference herein to any Person shall be construed to include such Person’s successors and assigns, (d) 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, (e) all references herein to Articles, Sections, Exhibits, Schedules and Annexes shall, unless otherwise stated, be construed to refer to Articles and Sections of, and Exhibits, Schedules and Annexes to, this Agreement and (f) 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, including cash, securities, accounts and contract rights. Where the context requires, terms relating to the Collateral or any part thereof, when used in relation to a Grantor, shall refer to such Grantor’s Collateral or the relevant part thereof.

## ARTICLE II

### GUARANTEE

#### Section 2.1 Guarantee.

(a) Each Guarantor unconditionally guarantees, jointly with the other Guarantors and severally, as a primary obligor and not merely as a surety, (i) the due and punctual payment of all Obligations of the Borrower and the other Loan Parties including, without limitation, (A) the principal of and premium, if any, and interest (including interest accruing during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding) on the Loans, when and as due, whether at maturity, by acceleration, upon one or more dates set for prepayment or otherwise, (B) each payment required to be made by the Borrower under the Credit Agreement in respect of any Letter of Credit, when and as due, including payments in respect of reimbursement or disbursements, interest thereon and obligations to provide cash collateral, and (C) all other monetary obligations, including fees, costs, expenses and indemnities, whether primary, secondary, direct, contingent, fixed or otherwise (including monetary obligations incurred during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding), of the Loan Parties to the Administrative Agent, the Lenders and the Issuing Banks under the Credit Agreement and the other Loan Documents; (ii) the due and punctual performance of all covenants, agreements, obligations and liabilities of the Loan Parties under or pursuant to the Credit Agreement and the other Loan Documents; (iii) the due and punctual payment of all Bank Product Obligations; and (iv) the due and punctual payment and performance of all Hedging Obligations that constitute Obligations with respect to such Guarantor (all the monetary and other obligations referred to in the preceding clauses (i) through (iv) being collectively called the "Guaranteed Obligations"); provided, however, that in no event shall "Guaranteed Obligations" of any Guarantor include any Excluded Swap Obligation of such Guarantor. Each Guarantor further agrees that the Guaranteed Obligations may be extended or renewed, in whole or in part, without notice to or further assent from such Guarantor, and that such Guarantor will remain bound upon its guarantee notwithstanding any extension or renewal of any Guaranteed Obligations.

(b) Each Guarantor further agrees that its guarantee constitutes a guarantee of payment when due and not of collection, and waives any right to require that any resort be had by the Administrative Agent or any Secured Party to any of the security held for payment of the Guaranteed Obligations or to any balance of any deposit account or credit on the books of the Administrative Agent or any Secured Party in favor of the Borrower or any other Guarantor.

(c) It is the intent of each Guarantor and the Administrative Agent that the maximum obligations of the Guarantors hereunder shall be, but not in excess of:



(i) in a case or proceeding commenced by or against any Guarantor under the provisions of Title 11 of the United States Code, 11 U.S.C. §§101 et seq., as amended and in effect from time to time (the "Bankruptcy Code"), on or within one year from the date on which any of the Guaranteed Obligations are incurred, the maximum amount which would not otherwise cause the Guaranteed Obligations (or any other obligations of such Guarantor owed to the Administrative Agent or the Secured Parties) to be avoidable or unenforceable against such Guarantor under (A) Section 548 of the Bankruptcy Code or (B) any state fraudulent transfer or fraudulent conveyance act or statute applied in any such case or proceeding by virtue of Section 544 of the Bankruptcy Code; or

(ii) in a case or proceeding commenced by or against any Guarantor under the Bankruptcy Code subsequent to one year from the date on which any of the Guaranteed Obligations are incurred, the maximum amount which would not otherwise cause the Guaranteed Obligations (or any other obligations of such Guarantor to the Administrative Agent or the Secured Parties) to be avoidable or unenforceable against such Guarantor under any state fraudulent transfer or fraudulent conveyance act or statute applied in any such case or proceeding by virtue of Section 544 of the Bankruptcy Code; or

(iii) in a case or proceeding commenced by or against any Guarantor under any law, statute or regulation other than the Bankruptcy Code (including, without limitation, any other bankruptcy, reorganization, arrangement, moratorium, readjustment of debt, dissolution, liquidation or similar debtor relief laws), the maximum amount which would not otherwise cause the Guaranteed Obligations (or any other obligations of such Guarantor to the Administrative Agent or the Secured Parties) to be avoidable or unenforceable against such Guarantor under such law, statute or regulation, including, without limitation, any state fraudulent transfer or fraudulent conveyance act or statute applied in any such case or proceeding.

(d) The substantive laws under which the possible avoidance or unenforceability of the Guaranteed Obligations (or any other obligations of such Guarantor to the Administrative Agent or the Secured Parties) as may be determined in any case or proceeding shall hereinafter be referred to as the "Avoidance Provisions". To the extent set forth in subsections (c)(i), (ii) and (iii) of this Section, but only to the extent that the Guaranteed Obligations would otherwise be subject to avoidance or found unenforceable under the Avoidance Provisions, if any Guarantor is not deemed to have received valuable consideration, fair value or reasonably equivalent value for the Guaranteed Obligations, or if the Guaranteed Obligations would render such Guarantor insolvent, or leave such Guarantor with an unreasonably small capital to conduct its business, or cause such Guarantor to have incurred debts (or to have intended to have incurred debts) beyond its ability to pay such debts as they mature, in each case as of the time any of the Guaranteed Obligations are deemed to have been incurred under the Avoidance Provisions and after giving effect to the contribution by such Guarantor, the maximum Guaranteed Obligations for which such Guarantor shall be liable hereunder shall be reduced to that amount which, after giving effect thereto, would not cause the Guaranteed Obligations (or any other obligations of such Guarantor to the Administrative Agent or the Secured Parties), as so reduced, to be subject to avoidance or unenforceability under the Avoidance Provisions.

(e) This Section is intended solely to preserve the rights of the Administrative Agent and the Secured Parties hereunder to the maximum extent that would not cause the Guaranteed Obligations of such Guarantor to be subject to avoidance or unenforceability under the Avoidance Provisions, and neither the Grantors nor any other Person shall have any right or claim under this Section as against the Administrative Agent or any Secured Party that would not otherwise be available to such Person under the Avoidance Provisions.

(f) Each Guarantor agrees that if the maturity of any of the Guaranteed Obligations is accelerated by bankruptcy or otherwise, such maturity shall also be deemed accelerated for the purpose of this guarantee without demand or notice to such Guarantor. The guarantee contained in this Article shall remain in full force and effect until all Guaranteed Obligations are irrevocably satisfied in full and all Commitments have been irrevocably terminated, notwithstanding that, from time to time during the term of the Credit Agreement, no Obligations may be outstanding.

**Section 2.2**      **Payments**

Each Guarantor hereby agrees and guarantees that payments hereunder will be paid to the Administrative Agent without set-off or counterclaim in U.S. dollars at the office of the Administrative Agent specified pursuant to the Credit Agreement.

**ARTICLE III**

**GRANT OF SECURITY INTEREST**

**Section 3.1**      **Grant of Security Interest**. Each Grantor hereby pledges, assigns and transfers to the Administrative Agent, and grants to the Administrative Agent, for the ratable benefit of the Secured Parties, a security interest in all of the following property now owned or at any time hereafter acquired by such Grantor or in which such Grantor now has or at any time in the future may acquire any right, title or interest and whether now existing or hereafter coming into existence (collectively, the "Collateral"), as collateral security for the prompt and complete payment and performance when due (whether at the stated maturity, by acceleration or otherwise) of the Obligations (collectively, the "Secured Obligations"):

- (a) all Accounts and Chattel Paper;
- (b) all Copyrights and Copyright Licenses;
- (c) all Commercial Tort Claims;
- (d) all contracts (including the Associated Practice Documents);
- (e) all Deposit Accounts;
- (f) all Documents;
- (g) all General Intangibles;
- (h) all Goods (including, without limitation, all Inventory, all Equipment and all Fixtures);
- (i) all Instruments;
- (j) all Investment Property;
- (k) all Letter-of-Credit Rights;
- (l) all Notes and all other intercompany obligations between the Loan Parties;
- (m) all Patents and Patent Licenses;
- (n) all Pledged Securities;

(o) all Trademarks and Trademark Licenses;

(p) all books and records, Supporting Obligations and related letters of credit or other claims and causes of action, in each case to the extent pertaining to the Collateral;

(q) without limiting the foregoing, (1) all AP-AMH Loan Collateral (and all collateral in connection with any Future Approved Entity Investment) and (2) all AP-AMH Loan Documents (and all loan documents in connection with any Future Approved Entity Investment) and the right to receive all distributions and payments thereunder including, without limitation, all monies due and to become due to the Borrower thereunder or in connection therewith, whether payable as principal, interest, fees, expenses, costs, indemnities, insurance recoveries, damages for the breach of any AP-AMH Loan Documents (or any loan documents in connection with any Future Approved Entity Investment) or any other agreement entered into in connection therewith, and all rights, remedies, powers, privileges and claims of the Borrower against any other party under or with respect to any AP-AMH Loan Documents (or any loan documents in connection with any Future Approved Entity Investment) or such other agreements (whether arising pursuant to the terms thereof or otherwise available to the Borrower at law or in equity), the right to enforce any AP-AMH Loan Documents (or any loan documents in connection with any Future Approved Entity Investment) or such other agreements and to give or withhold any or all consents, requests, notices, directions, approvals, extensions or waivers under or with respect to any AP-AMH Loan Documents (or any loan documents in connection with any Future Approved Entity Investment) or such other agreements or the obligations of any party thereunder; and

(r) to the extent not otherwise included, substitutions, replacements, accessions, products and other Proceeds (including, without limitation, insurance proceeds, licenses, royalties, income, payments, claims, damages and proceeds of suit) of any or all of the foregoing and all collateral security, guarantees and other Supporting Obligations given with respect to any of the foregoing;

provided that, notwithstanding the foregoing, no Lien or security interest is hereby granted on any Excluded Property, and, to the extent that any Collateral later becomes Excluded Property, the Lien granted hereunder will automatically be deemed to have been released; provided, further, that if and when any property shall cease to be Excluded Property, a Lien on and security interest in such property shall automatically be deemed granted therein.

**Section 3.2 Transfer of Pledged Securities.** Subject to Section 5.17 of the Credit Agreement, all certificates and instruments representing or evidencing the Pledged Certificated Stock shall be delivered to and held pursuant hereto by the Administrative Agent or a Person designated by the Administrative Agent and, in the case of an instrument or certificate in registered form, shall be duly indorsed to the Administrative Agent or in blank by an effective endorsement (whether on the certificate or instrument or on a separate writing), and accompanied by any required transfer tax stamps to effect the pledge of the Pledged Securities to the Administrative Agent; provided that, all Pledged Certificated Stock must be delivered or transferred in such manner, and each Grantor shall take all such further action as may be requested by the Administrative Agent, as to permit the Administrative Agent to be a “protected purchaser” to the extent of its security interest as provided in Section 8-303 of the UCC.

**Section 3.3 Grantors Remain Liable under Accounts, Chattel Paper and Payment Intangibles** Anything herein to the contrary notwithstanding, each Grantor shall remain liable under each of the Accounts, Chattel Paper and Payment Intangibles to observe and perform all of the conditions and obligations to be observed and performed by it thereunder, all in accordance with the terms of any agreement giving rise to each such Account, Chattel Paper or Payment Intangible. Neither the Administrative Agent nor any other Secured Party shall have any obligation or liability under any Account, Chattel Paper or Payment Intangible (or any agreement giving rise thereto) by reason of or arising out of this Agreement or the receipt by the Administrative Agent or any such other Secured Party of any payment relating to such Account, Chattel Paper or Payment Intangible pursuant hereto, nor shall the Administrative Agent or any other Secured Party be obligated in any manner to perform any of the obligations of any Grantor under or pursuant to any Account, Chattel Paper or Payment Intangible (or any agreement giving rise thereto) to make any payment, to make any inquiry as to the nature or the sufficiency of any payment received by it or as to the sufficiency of any performance by any party under any Account, Chattel Paper or Payment Intangible (or any agreement giving rise thereto), to present or file any claim, to take any action to enforce any performance or to collect the payment of any amounts which may have been assigned to it or to which it may be entitled at any time or times.

## ARTICLE IV

### ACKNOWLEDGMENTS, WAIVERS AND CONSENTS

#### **Section 4.1 Acknowledgments, Waivers and Consents.**

(a) Each Guarantor acknowledges and agrees that the obligations undertaken by it under this Agreement involve the guarantee of, and each Grantor acknowledges and agrees that the obligations undertaken by it under this Agreement involve the provision of collateral security for, Obligations of Persons other than such Grantor and that such Grantor's guarantee and provision of collateral security for the Secured Obligations are absolute, irrevocable and unconditional under any and all circumstances. In full recognition and furtherance of the foregoing, each Grantor understands and agrees, to the fullest extent permitted under applicable law and except as may otherwise be expressly and specifically provided in the Loan Documents, that each Grantor shall remain obligated hereunder (including, without limitation, with respect to each Guarantor the guarantee made by it herein and, with respect to each Grantor, the collateral security provided by such Grantor herein), and the enforceability and effectiveness of this Agreement and the liability of such Grantor, and the rights, remedies, powers and privileges of the Administrative Agent and the other Secured Parties under this Agreement and the other Loan Documents, shall not be affected, limited, reduced, discharged or terminated in any way:

(i) notwithstanding that, without any reservation of rights against any Grantor and without notice to or further assent by any Grantor, (A) any demand for payment of any of the Secured Obligations made by the Administrative Agent or any other Secured Party may be rescinded by the Administrative Agent or such other Secured Party and any of the Secured Obligations continued; (B) the Secured Obligations, the liability of any other Person upon or for any part thereof or any collateral security or guarantee therefor or right of offset with respect thereto may, from time to time, in whole or in part, be renewed, extended, amended, modified, accelerated, compromised, waived, surrendered or released by, or any indulgence or forbearance in respect thereof granted by, the Administrative Agent or any other Secured Party; (C) the Credit Agreement, the other Loan Documents and all other documents executed and delivered in connection therewith or in connection with Hedging Obligations and Bank Product Obligations included as Obligations may be amended, modified, supplemented or terminated, in whole or in part, as the Administrative Agent (or the Required Lenders, all Lenders, or the other parties thereto, as the case may be) may deem advisable from time to time; (D) the Borrower, any Guarantor or any other Person may from time to time accept or enter into new or additional agreements, security documents, guarantees or other instruments in addition to, in exchange for or relative to any Loan Document, all or any part of the Secured Obligations or any Collateral now or in the future serving as security for the Secured Obligations; (E) any collateral security, guarantee or right of offset at any time held by the Administrative Agent or any other Secured Party for the payment of the Secured Obligations may be sold, exchanged, waived, surrendered or released; and (F) any other event shall occur which constitutes a defense or release of sureties generally; and

(ii) regardless of, and each Grantor hereby expressly waives to the fullest extent permitted by law any defense now or in the future arising by reason of, (A) the illegality, invalidity or unenforceability of the Credit Agreement, any other Loan Document, any of the Secured Obligations or any other collateral security therefor or guarantee or right of offset with respect thereto at any time or from time to time held by the Administrative Agent or any other Secured Party; (B) any defense, set-off or counterclaim (other than a defense of payment or performance) which may at any time be available to or be asserted by any Grantor or any other Person against the Administrative Agent or any other Secured Party; (C) the insolvency, bankruptcy arrangement, reorganization, adjustment, composition, liquidation, disability, dissolution or lack of power of any Grantor or any other Person at any time liable for the payment of all or part of the Secured Obligations or the failure of the Administrative Agent or any other Secured Party to file or enforce a claim in bankruptcy or other proceeding with respect to any Person, or any sale, lease or transfer of any or all of the assets of any Grantor, or any changes in the shareholders of any Grantor; (D) the fact that any Collateral or Lien contemplated or intended to be given, created or granted as security for the repayment of the Secured Obligations shall not be properly perfected or created, or shall prove to be unenforceable or subordinate to any other Lien, it being recognized and agreed by each of the Grantors that it is not entering into this Agreement in reliance on, or in contemplation of the benefits of, the validity, enforceability, collectability or value of any of the Collateral for the Secured Obligations; (E) any failure of the Administrative Agent or any other Secured Party to marshal assets in favor of any Grantor or any other Person, to exhaust any collateral for all or any part of the Secured Obligations, to pursue or exhaust any right, remedy, power or privilege it may have against any Grantor or any other Person or to take any action whatsoever to mitigate or reduce any Grantor's liability under this Agreement or any other Loan Document; (F) any law which provides that the obligation of a surety or guarantor must neither be larger in amount nor in other respects more burdensome than that of the principal or which reduces a surety's or guarantor's obligation in proportion to the principal obligation; (G) the possibility that the Secured Obligations may at any time and from time to time exceed the aggregate liability of such Grantor under this Agreement; or (H) any other circumstance or act whatsoever, including any action or omission of the type described in subsection (a)(i) of this Section (with or without notice to or knowledge of any Grantor), which constitutes, or might be construed to constitute, an equitable or legal discharge or defense of the Borrower for the Obligations, or of such Guarantor under the guarantee contained in Article II, or with respect to the collateral security provided by such Grantor herein, or which might be available to a surety or guarantor, in bankruptcy or in any other instance.

(b) Each Grantor hereby waives to the extent permitted by law (i) except as expressly provided otherwise in any Loan Document, all notices to such Grantor, or to any other Person, including, but not limited to, notices of the acceptance of this Agreement, the guarantee contained in Article II or the provision of collateral security provided herein, or the creation, renewal, extension, modification or accrual of any Secured Obligations, or notice of or proof of reliance by the Administrative Agent or any other Secured Party upon the guarantee contained in Article II or upon the collateral security provided herein, or of default in the payment or performance of any of the Secured Obligations owed to the Administrative Agent or any other Secured Party and enforcement of any right or remedy with respect thereto, or notice of any other matters relating thereto; the Secured Obligations, and any of them, shall conclusively be deemed to have been created, contracted or incurred, or renewed, extended, amended or waived, in reliance upon the guarantee contained in Article II and the collateral security provided herein and no notice of creation of the Secured Obligations or any extension of credit already or hereafter contracted by or extended to the Borrower need be given to any Grantor, and all dealings between the Borrower and any of the Grantors, on the one hand, and the Administrative Agent and the other Secured Parties, on the other hand, likewise shall be conclusively presumed to have been had or consummated in reliance upon the guarantee contained in Article II and on the collateral security provided herein; (ii) diligence and demand of payment, presentment, protest, dishonor and notice of dishonor; (iii) any statute of limitations affecting any Grantor's liability hereunder or the enforcement thereof; (iv) all rights of revocation with respect to the Secured Obligations, the guarantee contained in Article II and the provision of collateral security herein; and (v) all principles or provisions of law which conflict with the terms of this Agreement and which can, as a matter of law, be waived.

(c) When making any demand hereunder or otherwise pursuing its rights and remedies hereunder against any Grantor, the Administrative Agent or any other Secured Party may, but shall be under no obligation to, join or make a similar demand on or otherwise pursue or exhaust such rights and remedies as it may have against the Borrower, any other Grantor or any other Person or against any collateral security or guarantee for the Secured Obligations or any right of offset with respect thereto, and any failure by the Administrative Agent or any other Secured Party to make any such demand, to pursue such other rights or remedies or to collect any payments from the Borrower, any other Grantor or any other Person or to realize upon any such collateral security or guarantee or to exercise any such right of offset, or any release of the Borrower, any other Grantor or any other Person or any such collateral security, guarantee or right of offset, shall not relieve any Grantor of any obligation or liability hereunder, and shall not impair or affect the rights and remedies, whether express, implied or available as a matter of law, of the Administrative Agent or any other Secured Party against any Grantor. For the purposes hereof, "demand" shall include the commencement and continuance of any legal proceedings. Neither the Administrative Agent nor any other Secured Party shall have any obligation to protect, secure, perfect or insure any Lien at any time held by it as security for the Secured Obligations or for the guarantee contained in Article II or any property subject thereto.

(d) Each of the Guarantors hereby acknowledges and affirms that it understands that to the extent the Secured Obligations are secured by Real Estate located in California, Guarantors shall be liable for the full amount of the liability hereunder notwithstanding the foreclosure on such Real Estate by trustee sale or any other reason impairing such Guarantor's right to proceed against any Loan Party. In accordance with Section 2856 of the California Code of Civil Procedure or any similar laws of any other applicable jurisdiction, each of the Guarantors hereby waives until such time as the Secured Obligations have been paid in full:

(i) all rights of subrogation, reimbursement, indemnification, and contribution and any other rights and defenses that are or may become available to the Guarantors by reason of Sections 2787 to 2855, inclusive, 2899, and 3433 of the California Code of Civil Procedure or any similar laws of any other applicable jurisdiction;

(ii) all rights and defenses that the Guarantors may have because the Secured Obligations are secured by Real Estate located in California, meaning, among other things, that: (A) Administrative Agent, the other Lenders, and the Bank Product Providers may collect from the Guarantors without first foreclosing on any real or personal property collateral pledged by the Borrower or any other Grantor, and (B) if Administrative Agent, on behalf of the Lenders, forecloses on any Real Estate collateral pledged by Borrowers or any other Grantor, (1) the amount of the Secured Obligations may be reduced only by the price for which that collateral is sold at the foreclosure sale, even if the collateral is worth more than the sale price, and (2) the Lenders may collect from the Guarantors even if, by foreclosing on the Real Estate collateral, Administrative Agent or the Lenders have destroyed or impaired any right the Guarantors may have to collect from any other Grantor, it being understood that this is an unconditional and irrevocable waiver of any rights and defenses the Guarantors may have because the Secured Obligations are secured by Real Estate (including any rights or defenses based upon Sections 580a, 580d, or 726 of the California Code of Civil Procedure or any similar laws of any other applicable jurisdiction); and

(iii) all rights and defenses arising out of an election of remedies by Administrative Agent, the other Lenders, and the Bank Product Providers, even though that election of remedies, such as a nonjudicial foreclosure with respect to security for the Secured Obligations, has destroyed Guarantors' rights of subrogation and reimbursement against any Grantor by the operation of Section 580d of the California Code of Civil Procedure or any similar laws of any other applicable jurisdiction or otherwise.

(e) Each of the Guarantors represents, warrants, and agrees that each of the waivers set forth above is made with full knowledge of its significance and consequences and that if any of such waivers are determined to be contrary to any applicable law or public policy, such waivers shall be effective to the maximum extent permitted by law.

NEITHER THE INCLUSION OF THIS SECTION 4.1, NOR ANY REFERENCE TO CALIFORNIA LAW CONTAINED HEREIN SHALL BE DEEMED TO AFFECT OR LIMIT IN ANY WAY THE PARTIES' CHOICE OF NEW YORK LAW OR VENUE.

**Section 4.2 No Subrogation, Contribution or Reimbursement.** Until all Secured Obligations are irrevocably satisfied in full and all commitments of each Secured Party under the Credit Agreement or any other Loan Document have been irrevocably terminated, notwithstanding any payment made by any Grantor hereunder or any set-off or application of funds of any Grantor by the Administrative Agent or any other Secured Party, no Grantor shall be entitled to be subrogated to any of the rights of the Administrative Agent or any other Secured Party against the Borrower or any other Grantor or any collateral security or guarantee or right of offset held by the Administrative Agent or any other Secured Party for the payment of the Secured Obligations, nor shall any Grantor seek or be entitled to seek any indemnity, exoneration, participation, contribution or reimbursement from the Borrower or any other Grantor in respect of payments made by such Grantor hereunder, and each Grantor hereby expressly waives, releases and agrees not to exercise any or all such rights of subrogation, reimbursement, indemnity and contribution. Each Grantor further agrees that to the extent that such waiver and release set forth herein is found by a court of competent jurisdiction to be void or voidable for any reason, any rights of subrogation, reimbursement, indemnity and contribution such Grantor may have against the Borrower or any other Grantor or against any collateral or security or guarantee or right of offset held by the Administrative Agent or any other Secured Party shall be junior and subordinate to any rights the Administrative Agent and the other Secured Parties may have against the Borrower and such Grantor and to all right, title and interest the Administrative Agent and the other Secured Parties may have in such collateral or security or guarantee or right of offset. The Administrative Agent, for the benefit of the Secured Parties, may use, sell or dispose of any item of Collateral or security as it sees fit without regard to any subrogation rights any Grantor may have, and upon any disposition or sale, any rights of subrogation any Grantor may have shall terminate.

## ARTICLE V

### **REPRESENTATIONS AND WARRANTIES**

To induce the Administrative Agent and the other Secured Parties to enter into the Credit Agreement and the other Loan Documents, to induce the Lenders and the Issuing Banks to make their respective extensions of credit to the Borrower thereunder and to induce the Lender-Related Hedge Providers and the Bank Product Providers to enter into Hedging Obligations and Bank Product Obligations with the Grantors, each Grantor represents and warrants to the Administrative Agent and each other Secured Party as follows:

**Section 5.1 Confirmation of Representations in Credit Agreement.** Each Grantor represents and warrants to the Secured Parties that the representations and warranties set forth in Article IV of the Credit Agreement as they relate to such Grantor (in its capacity as a Loan Party or a Subsidiary of the Borrower, as the case may be) or to the Loan Documents to which such Grantor is a party are true and correct in all material respects; provided that each reference in each such representation and warranty to the Borrower's knowledge shall, for the purposes of this Section, be deemed to be a reference to such Grantor's knowledge.

**Section 5.2** **Benefit to the Guarantors.** As of the Closing Date, the Borrower is a member of an affiliated group of companies that includes each Guarantor, and the Borrower and the Guarantors are engaged in related businesses permitted pursuant to Section 5.3 of the Credit Agreement. Each Guarantor is a Subsidiary of the Borrower, and the guaranty and surety obligations of each Guarantor pursuant to this Agreement reasonably may be expected to benefit, directly or indirectly, such Guarantor; and each Guarantor has determined that this Agreement is necessary and convenient to the conduct, promotion and attainment of the business of such Guarantor and the Borrower.

**Section 5.3** **First Priority Liens.** The Liens and security interests granted pursuant to this Agreement (a) upon completion of the filings and other actions specified on Schedule 3 (which, in the case of all filings and other documents referred to on said Schedule have been delivered to the Administrative Agent in completed and duly executed form) will constitute valid perfected Liens on, and security interests, in all of the Collateral in favor of the Administrative Agent, for the ratable benefit of the Secured Parties, as collateral security for such Grantor's obligations, enforceable in accordance with the terms hereof against all creditors of such Grantor and any Persons purporting to purchase any Collateral from such Grantor and (b) are prior to all other Liens on the Collateral in existence on the Closing Date, except for Permitted Encumbrances which may have priority over the Liens on the Collateral by operation of law. All filings, registrations and recordings necessary or appropriate to create, preserve, protect and perfect the security interests in favor of the Borrower in the AP-AMH Loan Collateral under the AP-AMH Security Agreement have been accomplished on the date hereof.

**Section 5.4** **Legal Name, Organizational Status, Chief Executive Office.** On the Closing Date, the correct legal name of such Grantor, such Grantor's jurisdiction of organization, organizational identification number, federal (and, if applicable, state) taxpayer identification number and the location of such Grantor's chief executive office or sole place of business are specified on Schedule 4.

**Section 5.5** **Prior Names, Prior Chief Executive Offices.** Schedule 5 correctly sets forth (a) all names and trade names that such Grantor has used in the last five years and (b) the chief executive office of such Grantor over the last five years (if different from that which is set forth in Section 5.4).

**Section 5.6** **Goods.** No portion of the Collateral constituting Goods with an aggregate value of \$1,000,000 or more is at any time in the possession of a bailee that has issued a negotiable or non-negotiable document covering such Collateral.

**Section 5.7** **Chattel Paper.** No Collateral constituting Chattel Paper or Instruments contains any statement therein to the effect that such Collateral has been assigned to an identified party other than the Administrative Agent, and the grant of a security interest in such Collateral in favor of the Administrative Agent hereunder does not violate the rights of any other Person as a secured party.

**Section 5.8** **Truth of Information: Accounts.** All information with respect to the Collateral set forth in any schedule, certificate or other writing at any time heretofore or hereafter furnished by such Grantor to the Administrative Agent or any other Secured Party, and all other written information heretofore or hereafter furnished by such Grantor to the Administrative Agent or any other Secured Party, is and will be true and correct in all material respects as of the date furnished. The amount represented by such Grantor to the Administrative Agent and the other Secured Parties from time to time as owing by each Account Debtor or by all Account Debtors in respect of the Accounts, Chattel Paper and Payment Intangibles will at such time be the correct amount actually owing by such Account Debtor or Account Debtors thereunder. The place where each Grantor keeps its records concerning the Accounts, Chattel Paper and Payment Intangibles comprising a portion of the Collateral is 1668 S. Garfield Ave., Alhambra CA 91801.



**Section 5.9** Reserved.

**Section 5.10** Copyrights, Patents and Trademarks. Schedule 6 correctly sets forth all Patents and Patent Licenses owned by such Grantor in its own name as of the Closing Date, Schedule 7 correctly sets forth all Trademarks and Trademark Licenses owned by such Grantor in its own name as of the Closing Date and Schedule 8 correctly sets forth all Copyrights and Copyright Licenses owned by such Grantor in its own name as of the Closing Date. To the best of each such Grantor's knowledge, each Copyright, Patent and Trademark is valid, subsisting, unexpired and enforceable and has not been abandoned. Except as set forth in Schedules 6, 7, or 8 (as applicable), none of such Patents, Trademarks and Copyrights is the subject of any licensing or franchise agreement. No holding, decision or judgment has been rendered by any Governmental Authority which would limit, cancel or question the validity of any Patent, Trademark or Copyright. No action or proceeding is pending (i) seeking to limit, cancel or question the validity of any Patent, Trademark or Copyright, or (ii) which, if adversely determined, would have a material adverse effect on the value of any Patent, Trademark or Copyright.

**Section 5.11** [Reserved].

**Section 5.12** Commercial Tort Claims. Schedule 9 correctly sets forth all Commercial Tort Claims of such Grantor in existence as of the Closing Date.

**ARTICLE VI**

**COVENANTS**

Each Grantor covenants and agrees with the Administrative Agent and the other Secured Parties that, from and after the date of this Agreement until the Secured Obligations shall have been paid in full, no Letter of Credit shall be outstanding and all Commitments shall have been terminated:

**Section 6.1** Covenants in Credit Agreement. In the case of each Guarantor, such Guarantor shall take, or shall refrain from taking, as the case may be, each action that is necessary to be taken or not taken, as the case may be, so that no Default or Event of Default is caused by the failure to take such action or to refrain from taking such action by such Guarantor or any of its Subsidiaries.

**Section 6.2** Maintenance of Perfected Security Interest; Further Documentation.

(a) Such Grantor shall maintain the security interest created by this Agreement as a perfected security interest having at least the priority described in Section 5.3 and shall defend such security interest against the claims and demands of all Persons whomsoever, except for Liens expressly permitted under Section 7.2 of the Credit Agreement.

(b) At any time and from time to time, upon the request of the Administrative Agent or any other Secured Party, and at the sole expense of such Grantor, such Grantor will promptly and duly give, execute, deliver, indorse, file or record any and all financing statements, continuation statements, amendments, notices (including, without limitation, notifications to financial institutions and any other Person), contracts, agreements, assignments, certificates, stock powers or other instruments, obtain any and all governmental approvals and consents and take or cause to be taken any and all steps or acts that may be necessary or advisable or as the Administrative Agent may reasonably request to create, perfect, establish the priority of, or to preserve the validity, perfection or priority of, the Liens granted by this Agreement or to enable the Administrative Agent or any other Secured Party to enforce its rights, remedies, powers and privileges under this Agreement with respect to such Liens or to otherwise obtain or preserve the full benefits of this Agreement and the rights, powers and privileges herein granted.

(c) Without limiting the obligations of the Grantors under subsection (b) of this Section, (i) upon the request of the Administrative Agent or any other Secured Party, such Grantor shall take or cause to be taken all actions (other than any actions required to be taken by the Administrative Agent) requested by the Administrative Agent to cause the Administrative Agent to (A) have “control” (within the meaning of Sections 9-104, 9-105, 9-106, and 9-107 of the UCC) over any Collateral constituting Deposit Accounts, Electronic Chattel Paper, Investment Property (including the Pledged Securities), or Letter-of-Credit Rights, including, without limitation, executing and delivering any agreements, in form and substance satisfactory to the Administrative Agent, with securities intermediaries, issuers or other Persons in order to establish “control”, and each Grantor shall promptly notify the Administrative Agent and the other Secured Parties of such Grantor’s acquisition of any such Collateral, and (B) be a “protected purchaser” (as defined in Section 8-303 of the UCC); (ii) with respect to Collateral other than certificated securities and Goods covered by a document in the possession of a Person other than such Grantor or the Administrative Agent, such Grantor shall obtain written acknowledgment that such Person holds possession for the Administrative Agent’s benefit; and (iii) with respect to any Collateral constituting Goods that are in the possession of a bailee, such Grantor shall provide prompt notice to the Administrative Agent and the other Secured Parties of any such Collateral then in the possession of such bailee, and such Grantor shall take or cause to be taken all actions (other than any actions required to be taken by the Administrative Agent or any other Secured Party) necessary or requested by the Administrative Agent to cause the Administrative Agent to have a perfected security interest in such Collateral under applicable law.

(d) In the case of any Grantor that is a limited liability company, such Grantor will not certificate its limited liability company interests or opt into Article 8 of the UCC without the prior written consent of the Administrative Agent.

(e) This Section and the obligations imposed on each Grantor by this Section shall be interpreted as broadly as possible in favor of the Administrative Agent and the other Secured Parties in order to effectuate the purpose and intent of this Agreement.

**Section 6.3 Maintenance of Records** Such Grantor will keep and maintain at its own cost and expense satisfactory and complete records of the Collateral, including, without limitation, a record of all payments received and all credits granted with respect to the Accounts comprising any part of the Collateral. For the Administrative Agent’s and the other Secured Parties’ further security, the Administrative Agent, for the ratable benefit of the Secured Parties, shall have a security interest in all of such Grantor’s books and records pertaining to the Collateral.

**Section 6.4 Right of Inspection** Upon request (with reasonable notice, unless an Event of Default has occurred and is continuing), the Administrative Agent and the other Secured Parties and their respective representatives shall at all reasonable times have full and free access during normal business hours to all the books, correspondence and records of such Grantor, and the Administrative Agent and the other Secured Parties and their respective representatives may examine the same, take extracts therefrom and make photocopies thereof and shall upon request (with reasonable notice, unless an Event of Default has occurred and is continuing) at all reasonable times during normal business hours also have the right to enter into and upon any premises where any of the Collateral (including, without limitation, Inventory or Equipment) is located for the purpose of inspecting the same, observing its use or otherwise protecting its interests therein, and such Grantor agrees to render to the Administrative Agent and the other Secured Parties and their respective representatives, at such Grantor’s sole cost and expense, such clerical and other assistance as may be reasonably requested with regard to any of the foregoing. The Administrative Agent and the other Secured Parties shall be bound by the provisions of Section 10.11 of the Credit Agreement with respect to information obtained pursuant to this Section.

**Section 6.5** **Further Identification of Collateral.** Such Grantor will furnish to the Administrative Agent and the other Secured Parties from time to time, at such Grantor's sole cost and expense, statements and schedules further identifying and describing the Collateral and such other reports in connection with the Collateral as the Administrative Agent may reasonably request, all in reasonable detail.

**Section 6.6** **Changes in Names, Locations.** Such Grantor recognizes that financing statements pertaining to the Collateral have been or may be filed where such Grantor is organized. Without limitation of any other covenant herein, such Grantor will not cause or permit (i) any change to be made in its legal name, identity or corporate, limited liability company, or limited partnership structure or (ii) any change to (A) the identity of any warehouseman, common carrier, other third party transporter, bailee or any agent or processor in possession or control of any Collateral or (B) such Grantor's jurisdiction of organization, unless such Grantor shall have first (1) notified the Administrative Agent and the other Secured Parties of such change at least 10 days prior to the date of such change, and (2) taken all action reasonably requested by the Administrative Agent or any other Secured Party for the purpose of maintaining the perfection and priority of the Administrative Agent's security interests under this Agreement, and unless such Grantor shall otherwise be in compliance with Section 7.3 of the Credit Agreement. In any notice furnished pursuant to this Section, such Grantor will expressly state in a conspicuous manner that the notice is required by this Agreement and contains facts that may require additional filings of financing statements or other notices for the purposes of continuing perfection of the Administrative Agent's security interest in the Collateral.

**Section 6.7** **Compliance with Contractual Obligations.** Such Grantor will perform and comply in all material respects with all of its contractual obligations relating to the Collateral. In addition, the Borrower will, within five (5) Business Days of receipt thereof, deliver to the Administrative Agent a copy of any notice or request that it receives from AP-AMH (or any other Approved Entity) with respect to any AP-AMH Loan Document (or any other document in connection with any Future Approved Entity Investment). The Borrower agrees that it will not consent to any action or inaction, waive any provision or requirement or approve the form of any document, certificate or instrument required with respect to any AP-AMH Loan Document (or any other document in connection with any Future Approved Entity Investment) without the Administrative Agent's prior written consent. The Borrower will promptly deliver to the Administrative Agent any AP-AMH Collateral (or any collateral in connection with any Future Approved Entity Investment) which is delivered to the Borrower or which the Borrower takes possession of pursuant to any AP-AMH Security Agreement (or any security agreement in connection with any Future Approved Entity Investment). For the avoidance of doubt, notwithstanding anything in this [Section 6.7](#) to the contrary, the AP-AMH Loan Documents (and any loan documents in connection with any Future Approved Entity Investment) may be amended to the extent expressly permitted by Section 7.11 of the Credit Agreement.

**Section 6.8** **Limitations on Dispositions of Collateral.** The Administrative Agent and the other Secured Parties do not authorize the Grantors to, and such Grantor agrees not to, sell, transfer, lease or otherwise dispose of any of the Collateral, or attempt, offer or contract to do so, except to the extent expressly permitted by the Credit Agreement.

**Section 6.9      Pledged Securities**

(a) If such Grantor shall become entitled to receive or shall receive any stock certificate or other instrument (including, without limitation, any certificate or instrument representing a dividend or a distribution in connection with any reclassification, increase or reduction of capital or any certificate or instrument issued in connection with any reorganization), option or rights in respect of the Capital Stock or other equity interests of any nature of any Issuer, whether in addition to, in substitution of, as a conversion of, or in exchange for, any shares (or such other interests) of the Pledged Securities, or otherwise in respect thereof, except as otherwise provided herein or in the Credit Agreement, such Grantor shall accept the same as the agent of the Administrative Agent and the other Secured Parties, hold the same in trust for the Administrative Agent and the other Secured Parties and deliver the same within five (5) Business Days to the Administrative Agent in the exact form received, duly indorsed by such Grantor to the Administrative Agent, if required, together with an undated stock power or other equivalent instrument of transfer acceptable to the Administrative Agent covering such certificate or instrument duly executed in blank by such Grantor and with, if the Administrative Agent so requests, signature guaranteed, to be held by the Administrative Agent, subject to the terms hereof, as additional collateral security for the Secured Obligations.

(b) Without the prior written consent of the Administrative Agent, such Grantor will not (i) unless otherwise permitted hereby, vote to enable, or take any other action to permit, any Issuer to issue any Capital Stock or other equity interests of any nature or to issue any other securities or interests convertible into or granting the right to purchase or exchange for any Capital Stock or other equity interests of any nature of any Issuer, (ii) sell, assign, transfer, exchange or otherwise dispose of, or grant any option with respect to, the Pledged Securities or Proceeds thereof (except pursuant to a transaction expressly permitted by the Credit Agreement), (iii) create, incur or permit to exist any Lien (except for Liens permitted by Section 7.2 of the Credit Agreement) or option in favor of, or any claim of any Person with respect to, any of the Pledged Securities or Proceeds thereof, or any interest therein, except for the security interests created by this Agreement or (iv) enter into any agreement or undertaking restricting the right or ability of such Grantor or the Administrative Agent to sell, assign or transfer any of the Pledged Securities or Proceeds thereof.

(c) In the case of each Grantor which is an Issuer, and each other Issuer that executes the Acknowledgment and Consent in the form of Annex IV (which the applicable Grantor shall use its commercially reasonable efforts to obtain from each such other Issuer), such Issuer agrees that (i) it will be bound by the terms of this Agreement relating to the Pledged Securities issued by it and will comply with such terms insofar as such terms are applicable to it, (ii) it will notify the Administrative Agent promptly in writing of the occurrence of any of the events described in subsection (a) of this Section with respect to the Pledged Securities issued by it and (iii) the terms of Section 7.1(c) and Section 7.5 shall apply to it, *mutatis mutandis*, with respect to all actions that may be required of it pursuant to Section 7.1(c) or Section 7.5 with respect to the Pledged Securities issued by it.

(d) Such Grantor shall furnish to the Administrative Agent such powers and other equivalent instruments of transfer as may be required by the Administrative Agent to assure the transferability of and the perfection of the security interest in the Pledged Securities when and as often as may be reasonably requested by the Administrative Agent.

(e) The Pledged Securities will constitute not less than 100% of the Capital Stock or other equity interests of the Issuer thereof owned by any Grantor, except Pledged Securities of any Foreign Subsidiary shall be limited to not more than 65% of the voting Capital Stock and 100% of the non-voting Capital Stock of such Foreign Subsidiary.

(f) If any Grantor acquires any Pledged Securities after executing this Agreement, it shall execute a Supplement to this Agreement in the form of Annex III with respect to such Pledged Securities and deliver such Supplement to the Administrative Agent promptly thereafter.

**Section 6.10** Limitations on Modifications, Waivers, Extensions of Agreements Giving Rise to Accounts. Other than to the extent expressly permitted by the Credit Agreement, such Grantor will not (i) amend, modify, terminate or waive any provision of any Chattel Paper, Instrument or any agreement giving rise to an Account or Payment Intangible comprising a portion of the Collateral, or (ii) fail to exercise promptly and diligently each and every right which it may have under any Chattel Paper, Instrument and each agreement giving rise to an Account or Payment Intangible comprising a portion of the Collateral (other than any right of termination), except where such action or failure to act, individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect.

**Section 6.11** Analysis of Accounts. The Administrative Agent shall have the right at any time and from time to time upon reasonable prior notice to make test verifications of the Accounts, Chattel Paper and Payment Intangibles comprising a portion of the Collateral in any manner and through any medium that it reasonably considers advisable, and each Grantor, at such Grantor's sole cost and expense, shall furnish all such assistance and information as the Administrative Agent may require in connection therewith. At any time and from time to time, upon the Administrative Agent's request and at the expense of each Grantor, such Grantor shall furnish to the Administrative Agent reports showing reconciliations, aging and test verifications of, and trial balances for, the Accounts, Chattel Paper and Payment Intangibles comprising a portion of the Collateral, and all original and other documents evidencing, and relating to, the agreements and transactions which gave rise to the Accounts, Chattel Paper and Payment Intangibles comprising a portion of the Collateral, including, without limitation, all original orders, invoices and shipping receipts.

**Section 6.12** Instruments and Tangible Chattel Paper. If any amount payable under or in connection with any of the Collateral shall be or become evidenced by any Instrument or Tangible Chattel Paper and the value of such Instruments and Tangible Chattel Paper in the aggregate is \$2,000,000 or more, other than checks payable under or in connection with any of the Collateral in the ordinary course of business, each such Instrument or Tangible Chattel Paper, shall be delivered to the Administrative Agent as soon as practicable, duly endorsed in a manner satisfactory to the Administrative Agent to be held as Collateral pursuant to this Agreement, or otherwise pledged to the Administrative Agent as Collateral in a manner sufficient to cause the Administrative Agent to have a first priority perfected security interest in such Collateral.

**Section 6.13** Copyrights, Patents and Trademarks

(a) Such Grantor (either itself or through licensees) will, except with respect to any Trademark that such Grantor shall reasonably determine is immaterial, (i) maintain as in the past the quality of services offered under such Trademark, (ii) maintain such Trademark in full force and effect, free from any claim of abandonment for non-use, (iii) employ such Trademark with the appropriate notice of registration, (iv) not adopt or use any mark which is confusingly similar or a colorable imitation of such Trademark unless the Administrative Agent, for the ratable benefit of the Secured Parties, shall obtain a perfected security interest in such mark pursuant to this Agreement, and (v) not (and not permit any licensee or sublicensee thereof to) do any act or knowingly omit to do any act whereby any Trademark may become invalidated.

(b) Such Grantor will not, except with respect to any Patent that such Grantor shall reasonably determine is immaterial, do any act, or omit to do any act, whereby any Patent may become abandoned or dedicated.

(c) Such Grantor will not, except with respect to any Copyright that such Grantor shall reasonably determine is immaterial, do any act, or omit to do any act, whereby any Copyright may become abandoned or dedicated.

(d) Such Grantor will notify the Administrative Agent and the other Secured Parties immediately if it knows, or has reason to know, that any application or registration relating to any Copyright, Patent or Trademark may become abandoned or dedicated, or of any adverse determination or development (including, without limitation, the institution of, or any such determination or development in, any proceeding in the United States Patent and Trademark Office, the United States Copyright Office or any court or tribunal in any country) regarding such Grantor's ownership of any Copyright, Patent or Trademark or its right to register the same or to keep and maintain the same.

(e) Whenever a Grantor, either by itself or through any agent, employee, licensee or designee, shall file an application for the registration of any Copyright, Patent or Trademark with the United States Copyright Office, the United States Patent and Trademark Office or any similar office or agency in any other country or any political subdivision thereof, such Grantor shall report such filing to the Administrative Agent and the other Secured Parties within ten (10) Business Days after the last day of the fiscal quarter in which such filing occurs. Upon request of the Administrative Agent, such Grantor shall execute and deliver an Intellectual Property Security Agreement substantially in the form of Annex II, and any and all other agreements, instruments, documents, and papers as the Administrative Agent may request to evidence the Administrative Agent's and the other Secured Parties' security interest in any Copyright, Patent or Trademark and the goodwill and General Intangibles of such Grantor relating thereto or represented thereby, and such Grantor hereby constitutes the Administrative Agent its attorney-in-fact to execute and file all such writings for the foregoing purposes, all acts of such attorney being hereby ratified and confirmed; such power being coupled with an interest is irrevocable until the Secured Obligations are paid in full and the Commitments are terminated.

(f) Such Grantor will take all reasonable and necessary steps, including, without limitation, in any proceeding before the United States Copyright Office, the United States Patent and Trademark Office, or any similar office or agency in any other country or any political subdivision thereof, to maintain and pursue each application (and to obtain the relevant registration) and to maintain each registration of the Copyrights, Patents and Trademarks, including, without limitation, filing of applications for renewal, affidavits of use and affidavits of incontestability.

(g) In the event that any Copyright, Patent or Trademark included in the Collateral is infringed, misappropriated or diluted by a third party, such Grantor shall promptly notify the Administrative Agent and the other Secured Parties after it learns thereof and shall, unless such Grantor shall reasonably determine that such Copyright, Patent or Trademark is immaterial to such Grantor which determination such Grantor shall promptly report to the Administrative Agent and the other Secured Parties, promptly sue for infringement, misappropriation or dilution, to seek injunctive relief where appropriate and to recover any and all damages for such infringement, misappropriation or dilution, or take such other actions as such Grantor shall reasonably deem appropriate under the circumstances to protect such Copyright, Patent or Trademark.

(h) Such Grantor shall maintain each material IP License.

**Section 6.14 Commercial Tort Claims.** If such Grantor shall at any time hold or acquire a Commercial Tort Claim that satisfies the requirements of the following sentence, such Grantor shall, within 30 days after such Commercial Tort Claim satisfies such requirements, notify the Administrative Agent and the other Secured Parties in a writing signed by such Grantor containing a brief description thereof, and granting to the Administrative Agent in such writing (for the benefit of the Secured Parties) a security interest therein and in the Proceeds thereof, all upon the terms of this Agreement, with such writing to be in form and substance reasonably satisfactory to the Administrative Agent. The provisions of the preceding sentence shall apply only to a Commercial Tort Claim that satisfies the following requirements: (i) the monetary value claimed by or payable to the relevant Grantor in connection with such Commercial Tort Claim shall exceed \$2,000,000, and (ii) either (A) such Grantor shall have filed a law suit or counterclaim or otherwise commenced legal proceedings (including, without limitation, arbitration proceedings) against the Person against whom such Commercial Tort Claim is made, or (B) such Grantor and the Person against whom such Commercial Tort Claim is asserted shall have entered into a settlement agreement with respect to such Commercial Tort Claim. In addition, to the extent that the existence of any Commercial Tort Claim held or acquired by any Grantor is disclosed by such Grantor in any public filing with the Securities Exchange Commission or any successor thereto or analogous Governmental Authority, or to the extent that the existence of any such Commercial Tort Claim is disclosed in any press release issued by any Grantor, then, upon the request of the Administrative Agent, the relevant Grantor shall, within 30 days after such request is made, transmit to the Administrative Agent and the other Secured Parties a writing signed by such Grantor containing a brief description of such Commercial Tort Claim and granting to the Administrative Agent in such writing (for the benefit of the Secured Parties) a security interest therein and in the Proceeds thereof, all upon the terms of this Agreement, with such writing to be in form and substance reasonably satisfactory to the Administrative Agent.

## ARTICLE VII

### **REMEDIAL PROVISIONS**

#### **Section 7.1 Pledged Securities.**

(a) Unless an Event of Default shall have occurred and be continuing and the Administrative Agent shall have given notice to the relevant Grantor of the Administrative Agent's intent to exercise its corresponding rights pursuant to subsection (b) of this Section, each Grantor shall be permitted to receive all cash dividends paid in respect of the Pledged Securities paid in the normal course of business of the relevant Issuer, to the extent permitted in the Credit Agreement, and to exercise all voting and corporate rights with respect to the Pledged Securities.

(b) If an Event of Default shall occur and be continuing, then at any time in the Administrative Agent's discretion, without notice, (i) the Administrative Agent shall have the right to receive any and all cash dividends, payments or other Proceeds paid in respect of the Pledged Securities and make application thereof to the Obligations in accordance with Section 2.12(d) of the Credit Agreement, and (ii) any or all of the Pledged Securities shall be registered in the name of the Administrative Agent or its nominee, and the Administrative Agent or its nominee may thereafter exercise (x) all voting, corporate and other rights pertaining to such Pledged Securities at any meeting of shareholders (or other equivalent body) of the relevant Issuer or Issuers or otherwise and (y) any and all rights of conversion, exchange and subscription and any other rights, privileges or options pertaining to such Pledged Securities as if it were the absolute owner thereof (including, without limitation, the right to exchange at its discretion any and all of the Pledged Securities upon the merger, consolidation, reorganization, recapitalization or other fundamental change in the organizational structure of any Issuer, or upon the exercise by any Grantor or the Administrative Agent of any right, privilege or option pertaining to such Pledged Securities, and in connection therewith, the right to deposit and deliver any and all of the Pledged Securities with any committee, depository, transfer agent, registrar or other designated agency upon such terms and conditions as the Administrative Agent may determine), all without liability except to account for property actually received by it, but the Administrative Agent shall have no duty to any Grantor to exercise any such right, privilege or option and shall not be responsible for any failure to do so or delay in so doing.

(c) Each Grantor hereby authorizes and instructs each Issuer of any Pledged Securities pledged by such Grantor hereunder (and each Issuer party hereto hereby agrees) to (i) comply with any instruction received by it from the Administrative Agent in writing (x) after an Event of Default has occurred and is continuing and (y) that is otherwise in accordance with the terms of this Agreement, without any other or further instructions from such Grantor, and each Grantor agrees that each Issuer shall be fully protected in so complying, and (ii) unless otherwise expressly permitted hereby, pay any dividends or other payments with respect to the Pledged Securities directly to the Administrative Agent.

(d) After the occurrence and during the continuation of an Event of Default, if the Issuer of any Pledged Securities is the subject of bankruptcy, insolvency, receivership, custodianship or other proceedings under the supervision of any Governmental Authority, then all rights of the Grantor in respect thereof to exercise the voting and other consensual rights which such Grantor would otherwise be entitled to exercise with respect to the Pledged Securities issued by such Issuer shall cease, and all such rights shall thereupon become vested in the Administrative Agent who shall thereupon have the sole right to exercise such voting and other consensual rights, but the Administrative Agent shall have no duty to exercise any such voting or other consensual rights and shall not be responsible for any failure to do so or delay in so doing.

**Section 7.2 Collections on Accounts.** The Administrative Agent hereby authorizes each Grantor to collect upon the Accounts, Instruments, Chattel Paper and Payment Intangibles subject to the Administrative Agent's direction and control, and the Administrative Agent may curtail or terminate said authority at any time after the occurrence and during the continuance of an Event of Default. Upon the request of the Administrative Agent, at any time after the occurrence and during the continuance of an Event of Default each Grantor shall notify the applicable Account Debtors that the applicable Accounts, Chattel Paper and Payment Intangibles have been assigned to the Administrative Agent for the ratable benefit of the Secured Parties and that payments in respect thereof shall be made directly to the Administrative Agent. The Administrative Agent may in its own name or in the name of others communicate with the applicable Account Debtors to verify with them to its satisfaction the existence, amount and terms of any applicable Accounts, Chattel Paper or Payment Intangibles.

**Section 7.3 Proceeds.** If required by the Administrative Agent at any time after the occurrence and during the continuance of an Event of Default, any payments of Accounts, Instruments, Chattel Paper and Payment Intangibles comprising a portion of the Collateral, when collected or received by each Grantor, and any other cash or non-cash Proceeds received by each Grantor upon the sale or other disposition of any Collateral, shall be forthwith (and, in any event, within two (2) Business Days) deposited by such Grantor in the exact form received, duly indorsed by such Grantor to the Administrative Agent in a special collateral account maintained by the Administrative Agent subject to withdrawal by the Administrative Agent for the ratable benefit of the Secured Parties only, as hereinafter provided, and, until so turned over, shall be held by such Grantor in trust for the Administrative Agent for the ratable benefit of the Secured Parties segregated from other funds of any such Grantor. Each deposit of any such Proceeds shall be accompanied by a report identifying in detail the nature and source of the payments included in the deposit. All Proceeds of the Collateral (including, without limitation, Proceeds constituting collections of Accounts, Chattel Paper, Instruments or Payment Intangibles comprising a portion of the Collateral) while held by the Administrative Agent (or by any Grantor in trust for the Administrative Agent for the ratable benefit of the Secured Parties) shall continue to be collateral security for all of the Secured Obligations and shall not constitute payment thereof until applied as hereinafter provided. At such intervals as may be agreed upon by each Grantor and the Administrative Agent, or, if an Event of Default shall have occurred and be continuing, at any time at the Administrative Agent's election, the Administrative Agent shall apply all or any part of the funds on deposit in said special collateral account on account of the Secured Obligations in the order set forth in Section 8.2 of the Credit Agreement, and any part of such funds which the Administrative Agent elects not so to apply and deems not required as collateral security for the Secured Obligations shall be paid over from time to time by the Administrative Agent to each Grantor or to whomsoever may be lawfully entitled to receive the same.



**Section 7.4      UCC and Other Remedies**

(a) If an Event of Default shall occur and be continuing, the Administrative Agent, on behalf of the Secured Parties, may exercise in its discretion, in addition to all other rights, remedies, powers and privileges granted to them in this Agreement, the other Loan Documents, and in any other instrument or agreement securing, evidencing or relating to the Secured Obligations (or, with respect to the AP-AMH Loan Collateral (or any collateral in connection with any Future Approved Entity Investment), the AP-AMH Security Agreement (or any security agreement in connection with any Future Approved Entity Investment)), all rights, remedies, powers and privileges of a secured party under the UCC (regardless of whether the UCC is in effect in the jurisdiction where such rights, remedies, powers or privileges are asserted) or any other applicable law or otherwise available at law or equity. Without limiting the generality of the foregoing, the Administrative Agent, without demand of performance or other demand, presentment, protest, advertisement or notice of any kind (except any notice required by law referred to below) to or upon any Grantor or any other Person (all and each of which demands, presentments, protests, advertisements and notices are hereby waived), may in such circumstances forthwith collect, receive, appropriate and realize upon the Collateral, or any part thereof, and/or may forthwith sell, lease, assign, give option or options to purchase, or otherwise dispose of and deliver the Collateral or any part thereof (or contract to do any of the foregoing), in one or more parcels at public or private sale or sales, at any exchange, broker's board or office of the Administrative Agent or any other Secured Party or elsewhere upon such terms and conditions as it may deem advisable and at such prices as it may deem best, for cash or on credit or for future delivery without assumption of any credit risk. The Administrative Agent or any other Secured Party shall have the right upon any such public sale or sales, and, to the extent permitted by law, upon any such private sale or sales, to purchase the whole or any part of the Collateral so sold, free of any right or equity of redemption in any Grantor, which right or equity is hereby waived and released. If an Event of Default shall occur and be continuing, each Grantor further agrees, at the Administrative Agent's request, to assemble the Collateral and make it available to the Administrative Agent at places which the Administrative Agent shall reasonably select, whether at such Grantor's premises or elsewhere. Any such sale or transfer by the Administrative Agent either to itself or to any other Person shall be absolutely free from any claim of right by any Grantor, including any equity or right of redemption, stay or appraisal which such Grantor has or may have under any rule of law, regulation or statute now existing or hereafter adopted. Upon any such sale or transfer, the Administrative Agent shall have the right to deliver, assign and transfer to the purchaser or transferee thereof the Collateral so sold or transferred. The Administrative Agent shall apply the net proceeds of any action taken by it pursuant to this Section, after deducting all reasonable costs and expenses of every kind incurred in connection therewith or incidental to the care or safekeeping of any of the Collateral or in any way relating to the Collateral or the rights of the Administrative Agent and the other Secured Parties hereunder, including, without limitation, reasonable attorneys' fees and disbursements, to the payment in whole or in part of the Obligations, in accordance with Section 8.2 of the Credit Agreement, and only after such application and after the payment by the Administrative Agent of any other amount required by any provision of law, including, without limitation, Section 9-615 of the UCC, need the Administrative Agent account for the surplus, if any, to any Grantor. To the extent permitted by applicable law, each Grantor waives all claims, damages and demands it may acquire against the Administrative Agent or any other Secured Party arising out of the exercise by them of any rights hereunder. If any notice of a proposed sale or other disposition of Collateral shall be required by law, such notice shall be deemed reasonable and proper if given at least 10 days before such sale or other disposition.

(b) In the event that the Administrative Agent elects not to sell the Collateral, the Administrative Agent retains its rights to dispose of or utilize the Collateral or any part or parts thereof in any manner authorized or permitted by law or in equity and to apply the proceeds of the same towards payment of the Secured Obligations. Each and every method of disposition of the Collateral described in this Agreement shall constitute disposition in a commercially reasonable manner. The Administrative Agent may appoint any Person as agent to perform any act or acts necessary or incident to any sale or transfer of the Collateral.

(c) Without limiting the foregoing, if an Event of Default shall occur and be continuing, for purposes of exercising the remedies that are set forth in this Section 7.4 that are available to a secured creditor under the UCC or that are otherwise available at law or in equity, at the request of the Administrative Agent, the Borrower hereby agrees and, hereby authorizes the Administrative Agent, to exercise any remedies that are available to the Borrower under any AP-AMH Loan Document (or any loan document in connection with any Future Approved Entity Investment) that may be available to the Borrower under the UCC or that may otherwise available to the Borrower at law or in equity with respect to the AP-AMH Loan Collateral (or collateral in connection with any Future Approved Entity Investment). Without further action, after the occurrence of an Event of Default, all claims, entitlements and other rights available to the Borrower in such regard shall inure to the Administrative Agent for the benefit of the Secured Parties.

(d) Upon the occurrence and during the continuance of an Event of Default, the Administrative Agent (or its designee) (i) may proceed to perform any and all obligations of any Grantor contained in any of the Specified Transaction Documents or any other contract, lease or other agreement and exercise any and all rights of any such Grantor therein contained as fully as such Grantor itself could (but without the Administrative Agent becoming liable thereunder for any obligations of such Grantor and without releasing such Grantor from its obligations thereunder), (ii) shall have (except to the extent specifically waived in each instance by the Administrative Agent) the exclusive right to exercise all voting, approval and consent rights of the Grantors (including the right to grant waivers) under and pertaining to the Specified Transaction Documents to which the Grantors are a party.

**Section 7.5 Private Sales of Pledged Securities** Each Grantor recognizes that the Administrative Agent may be unable to effect a public sale of any or all the Pledged Securities, by reason of certain prohibitions contained in the Securities Act and applicable state securities laws or otherwise, and may be compelled to resort to one or more private sales thereof to a restricted group of purchasers which will be obliged to agree, among other things, to acquire such securities for their own account for investment and not with a view to the distribution or resale thereof. Each Grantor acknowledges and agrees that any such private sale may result in prices and other terms less favorable than if such sale were a public sale and, notwithstanding such circumstances, agrees that any such private sale shall be deemed to have been made in a commercially reasonable manner. The Administrative Agent shall be under no obligation to delay a sale of any of the Pledged Securities for the period of time necessary to permit the Issuer thereof to register such securities for public sale under the Securities Act, or under applicable state securities laws, even if such Issuer would agree to do so. Each Grantor agrees to use its best efforts to do or cause to be done all such other acts as may reasonably be necessary to make such sale or sales of all or any portion of the Pledged Securities pursuant to this Section valid and binding and in compliance with any and all other applicable Requirements of Law. Each Grantor further agrees that a breach of any of the covenants contained in this Section will cause irreparable injury to the Administrative Agent and the other Secured Parties, that the Administrative Agent and the other Secured Parties have no adequate remedy at law in respect of such breach and, as a consequence, that each and every covenant contained in this Section shall be specifically enforceable against such Grantor, and such Grantor hereby waives and agrees not to assert any defenses against an action for specific performance of such covenants.

**Section 7.6** **Waiver: Deficiency.** Each Grantor waives and agrees not to assert any rights or privileges which it may acquire under the UCC or any other applicable law. Each Grantor shall remain liable for any deficiency if the proceeds of any sale or other disposition of the Collateral are insufficient to pay its Obligations or Guaranteed Obligations, as the case may be, and the fees and disbursements of any attorneys employed by the Administrative Agent or any other Secured Party to collect such deficiency.

**Section 7.7** **Non-Judicial Enforcement.** The Administrative Agent may enforce its rights hereunder without prior judicial process or judicial hearing, and, to the extent permitted by law, each Grantor expressly waives any and all legal rights which might otherwise require the Administrative Agent to enforce its rights by judicial process.

## ARTICLE VIII

### THE ADMINISTRATIVE AGENT

#### **Section 8.1** **The Administrative Agent's Appointment as Attorney-in-Fact**

Each Grantor hereby irrevocably constitutes and appoints the Administrative Agent and any officer or agent thereof, with full power of substitution, as its true and lawful attorney-in-fact with full irrevocable power and authority in the place and stead of such Grantor and in the name of such Grantor or in its own name, for the purpose of carrying out the terms of this Agreement, to take any and all reasonably appropriate action and to execute any and all documents and instruments which may be reasonably necessary or desirable to accomplish the purposes of this Agreement, and, without limiting the generality of the foregoing, each Grantor hereby gives the Administrative Agent the power and right, on behalf of such Grantor, without notice to or assent by such Grantor, to do any or all of the following:

(a) pay or discharge Taxes and Liens levied or placed on or threatened against the Collateral, effect any repairs or any insurance called for by the terms of this Agreement and pay all or any part of the premiums therefor and the costs thereof;

(b) execute, in connection with any sale provided for in Section 7.4 or Section 7.5, any endorsements, assignments or other instruments of conveyance or transfer with respect to the Collateral;

(c) (A) direct any party liable for any payment under any of the Collateral to make payment of any and all moneys due or to become due thereunder directly to the Administrative Agent or as the Administrative Agent shall direct; (B) take possession of and indorse and collect any checks, drafts, notes, acceptances or other instruments for the payment of moneys due under any Account, Instrument, General Intangible, Chattel Paper or Payment Intangible or with respect to any other Collateral, and to file any claim or to take any other action or proceeding in any court of law or equity or otherwise deemed appropriate by the Administrative Agent for the purpose of collecting any or all such moneys due under any Account, Instrument or General Intangible or with respect to any other Collateral whenever payable; (C) ask or demand for, collect, and receive payment of and receipt for any and all moneys, claims and other amounts due or to become due at any time in respect of or arising out of any Collateral; (D) sign and indorse any invoices, freight or express bills, bills of lading, storage or warehouse receipts, drafts against debtors, assignments, verifications, notices and other documents in connection with any of the Collateral; (E) receive, change the address for delivery, open and dispose of mail addressed to any Grantor, and execute, assign and indorse negotiable and other instruments for the payment of money, documents of title or other evidences of payment, shipment or storage for any form of Collateral on behalf of and in the name of any Grantor; (F) commence and prosecute any suits, actions or proceedings at law or in equity in any court of competent jurisdiction to collect the Collateral or any portion thereof and to enforce any other right in respect of any Collateral; (G) defend any suit, action or proceeding brought against such Grantor with respect to any Collateral; (H) settle, compromise or adjust any such suit, action or proceeding and, in connection therewith, give such discharges or releases as the Administrative Agent may deem appropriate; (I) assign any Patent or Trademark (along with the goodwill of the business to which any such Trademark pertains) throughout the world for such term or terms, on such conditions, and in such manner as the Administrative Agent shall in its sole discretion determine; and (J) generally, sell, transfer, pledge and make any agreement with respect to or otherwise deal with any of the Collateral as fully and completely as though the Administrative Agent were the absolute owner thereof for all purposes, and do, at the Administrative Agent's option and such Grantor's expense, at any time, or from time to time, all acts and things which the Administrative Agent deems necessary to protect, preserve or realize upon the Collateral and the Administrative Agent's and the other Secured Parties' security interests therein and to effect the intent of this Agreement, all as fully and effectively as such Grantor might do; and

(d) exercise the voting, consent, approval and other rights (whether economic, statutory, consensual or contractual) provided for in Section 7.4(d).

Anything in this Section 8.1 to the contrary notwithstanding, the Administrative Agent agrees that it will not exercise any rights under the power of attorney provided for in this subsection unless an Event of Default shall have occurred and be continuing. The Administrative Agent shall give the relevant Grantor notice of any action taken pursuant to this subsection when reasonably practicable; provided that the Administrative Agent shall have no liability for the failure to provide any such notice.

(e) If any Grantor fails to perform or comply with any of its agreements contained herein within the applicable grace periods, the Administrative Agent, at its option, but without any obligation so to do, may perform or comply, or otherwise cause performance or compliance, with such agreement.

(f) The expenses of the Administrative Agent incurred in connection with actions undertaken as provided in this Section, together with interest thereon at the rate for Default Interest from the date of payment by the Administrative Agent to the date reimbursed by the relevant Grantor, shall be payable by such Grantor to the Administrative Agent on demand.

(g) Each Grantor hereby ratifies all that said attorneys shall lawfully do or cause to be done by virtue hereof and in compliance herewith. All powers, authorizations and agencies contained in this Agreement are coupled with an interest and are irrevocable until this Agreement is terminated and the security interests created hereby are released.

**Section 8.2** **Duty of the Administrative Agent.** The Administrative Agent's sole duty with respect to the custody, safekeeping and physical preservation of the Collateral in its possession, under Section 9-207 of the UCC or otherwise, shall be to deal with it in the same manner as the Administrative Agent deals with similar property for its own account and shall be deemed to have exercised reasonable care in the custody and preservation of the Collateral in its possession if the Collateral is accorded treatment substantially equal to that which comparable secured parties accord comparable collateral. Neither the Administrative Agent, any other Secured Party nor any of their respective officers, directors, employees or agents shall be liable for failure to demand, collect or realize upon any of the Collateral or for any delay in doing so or shall be under any obligation to sell or otherwise dispose of any Collateral upon the request of any Grantor or any other Person or to take any other action whatsoever with regard to the Collateral or any part thereof. The powers conferred on the Administrative Agent and the other Secured Parties hereunder are solely to protect the Administrative Agent's and the other Secured Parties' interests in the Collateral and shall not impose any duty upon the Administrative Agent or any other Secured Party to exercise any such powers. The Administrative Agent and the other Secured Parties shall be accountable only for amounts that they actually receive as a result of the exercise of such powers, and neither they nor any of their officers, directors, employees or agents shall be responsible to any Grantor for any act or failure to act hereunder, except for their own gross negligence or willful misconduct as determined by a court of competent jurisdiction in a final and non-appealable judgment. To the fullest extent permitted by applicable law, the Administrative Agent shall be under no duty whatsoever to make or give any presentment, notice of dishonor, protest, demand for performance, notice of non-performance, notice of intent to accelerate, notice of acceleration, or other notice or demand in connection with any Collateral, or to take any steps necessary to preserve any rights against any Grantor or other Person or ascertaining or taking action with respect to calls, conversions, exchanges, maturities, tenders or other matters relative to any Collateral, whether or not it has or is deemed to have knowledge of such matters. Each Grantor, to the extent permitted by applicable law, waives any right of marshaling in respect of any and all Collateral, and waives any right to require the Administrative Agent or any other Secured Party to proceed against any Grantor or other Person, exhaust any Collateral or enforce any other remedy which the Administrative Agent or any other Secured Party now has or may hereafter have against any Grantor or other Person.

**Section 8.3**     **Filing of Financing Statements.** Pursuant to the UCC and any other applicable law, each Grantor authorizes the Administrative Agent, its counsel or its representative, at any time and from time to time, to file or record financing statements, continuation statements, amendments thereto and other filing or recording documents or instruments with respect to the Collateral without the signature of such Grantor in such form and in such offices as the Administrative Agent reasonably determines appropriate to perfect the security interests of the Administrative Agent under this Agreement. Additionally, each Grantor authorizes the Administrative Agent, its counsel or its representative, at any time and from time to time, to file or record such financing statements that describe the collateral covered thereby as “all assets of the Grantor”, “all personal property of the Grantor” or words of similar effect.

**Section 8.4**     **Authority of the Administrative Agent.** Each Grantor acknowledges that the rights and responsibilities of the Administrative Agent under this Agreement with respect to any action taken by the Administrative Agent or the exercise or non-exercise by the Administrative Agent of any option, voting right, request, judgment or other right or remedy provided for herein or resulting or arising out of this Agreement shall, as between the Administrative Agent and the other Secured Parties, be governed by the Credit Agreement and by such other agreements with respect thereto as may exist from time to time among them, but, as between the Administrative Agent and the Grantors, the Administrative Agent shall be conclusively presumed to be acting as agent for the Secured Parties with full and valid authority so to act or refrain from acting, and no Grantor shall be under any obligation, or entitlement, to make any inquiry respecting such authority.

## ARTICLE IX

### **SUBORDINATION OF INDEBTEDNESS**

**Section 9.1**     **Subordination of All Guarantor Claims.** As used herein, the term “Guarantor Claims” shall mean all debts and obligations of the Borrower or any other Grantor to any Grantor, whether such debts and obligations now exist or are hereafter incurred or arise, or whether the obligation of the debtor thereon be direct, contingent, primary, secondary, several, joint and several, or otherwise, and irrespective of whether such debts or obligations be evidenced by note, contract, open account, or otherwise, and irrespective of the Person or Persons in whose favor such debts or obligations may, at their inception, have been or may hereafter be created, or the manner in which they have been or may hereafter be acquired. After the occurrence and during the continuation of an Event of Default, no Grantor shall receive or collect, directly or indirectly, from any obligor in respect thereof any amount upon the Guarantor Claims.

**Section 9.2** **Claims in Bankruptcy.** In the event of receivership, bankruptcy, reorganization, arrangement, debtor's relief or other insolvency proceedings involving any Grantor, the Administrative Agent on behalf of the Secured Parties shall have the right to prove their claim in any proceeding, so as to establish their rights hereunder and receive directly from the receiver, trustee or other court custodian dividends and payments which would otherwise be payable upon Guarantor Claims. Each Grantor hereby assigns such dividends and payments to the Administrative Agent for the benefit of the Secured Parties for application against the Secured Obligations as provided under Section 8.2 of the Credit Agreement. Should the Administrative Agent or any other Secured Party receive, for application upon the Secured Obligations, any such dividend or payment which is otherwise payable to any Grantor, and which, as between such Grantor, shall constitute a credit upon the Guarantor Claims, then upon payment in full of the Secured Obligations and termination of all Commitments, the intended recipient shall become subrogated to the rights of the Administrative Agent and the other Secured Parties to the extent that such payments to the Administrative Agent and the other Secured Parties on the Guarantor Claims have contributed toward the liquidation of the Secured Obligations, and such subrogation shall be with respect to that proportion of the Secured Obligations which would have been unpaid if the Administrative Agent and the other Secured Parties had not received dividends or payments upon the Guarantor Claims.

**Section 9.3** **Payments Held in Trust.** In the event that, notwithstanding Section 9.1 and Section 9.2, any Grantor should receive any funds, payments, claims or distributions which are prohibited by such Sections, then it agrees (a) to hold in trust for the Administrative Agent and the other Secured Parties an amount equal to the amount of all funds, payments, claims or distributions so received, and (b) that it shall have absolutely no dominion over the amount of such funds, payments, claims or distributions except to pay them promptly to the Administrative Agent, for the benefit of the Secured Parties; and each Grantor covenants promptly to pay the same to the Administrative Agent.

**Section 9.4** **Liens Subordinate.** Each Grantor agrees that, until the Secured Obligations are paid in full and all Commitments have terminated, any Liens securing payment of the Guarantor Claims shall be and remain inferior and subordinate to any Liens securing payment of the Secured Obligations, regardless of whether such encumbrances in favor of such Grantor, the Administrative Agent or any other Secured Party presently exist or are hereafter created or attach. Without the prior written consent of the Administrative Agent, no Grantor, during the period in which any of the Secured Obligations are outstanding and all Commitments have terminated, shall (a) exercise or enforce any creditor's right it may have against any debtor in respect of the Guarantor Claims, or (b) foreclose, repossess, sequester or otherwise take steps or institute any action or proceeding (judicial or otherwise, including, without limitation, the commencement of or joinder in any liquidation, bankruptcy, rearrangement, debtor's relief or insolvency proceeding) to enforce any Lien held by it.

**Section 9.5** **Notation of Records.** Upon the request of the Administrative Agent, all promissory notes and all accounts receivable ledgers or other evidence of the Guarantor Claims accepted by or held by any Grantor shall contain a specific written notice thereon that the indebtedness evidenced thereby is subordinated under the terms of this Agreement.

## ARTICLE X

### MISCELLANEOUS

**Section 10.1** **Waiver**. No failure on the part of the Administrative Agent or any other Secured Party to exercise and no delay in exercising, and no course of dealing with respect to, any right, remedy, power or privilege under any of the Loan Documents shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege under any of the Loan Documents preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges provided herein are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law. The exercise by the Administrative Agent of any one or more of the rights, powers and remedies herein shall not be construed as a waiver of any other rights, powers and remedies, including, without limitation, any rights of set-off.

**Section 10.2** **Notices**. All notices and other communications provided for herein shall be given in the manner and subject to the terms of Section 10.1 of the Credit Agreement; provided that any such notice, request or demand to or upon any Guarantor shall be addressed to such Guarantor at its notice address set forth on Schedule 1.

**Section 10.3** **Payment of Expenses, Indemnities**. The terms of Section 10.3 of the Credit Agreement are incorporated herein by reference and shall be interpreted as if each reference to "Borrower" is replaced with "Grantors", mutatis mutandis, and the parties hereto agree to such terms.

**Section 10.4** **Amendments in Writing**. None of the terms or provisions of this Agreement may be waived, amended, supplemented or otherwise modified except in accordance with Section 10.2 of the Credit Agreement.

**Section 10.5** **Successors and Assigns**. This Agreement shall be binding upon the successors and assigns of each Grantor and shall inure to the benefit of the Administrative Agent and the other Secured Parties, the future holders of the Loans, and their respective successors and assigns; provided that no Grantor may assign, transfer or delegate any of its rights or Secured Obligations under this Agreement without the prior written consent of the Administrative Agent and the Lenders.

**Section 10.6** **Severability**. Any provision of this Agreement held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions hereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction.

**Section 10.7** **Counterparts**. This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument, and any of the parties hereto may execute this Agreement by signing any such counterpart. Delivery of an executed counterpart to this Agreement by facsimile transmission or by electronic mail in pdf format shall be as effective as delivery of a manually executed counterpart hereof.

**Section 10.8** **Survival**. The obligations of the parties under Section 10.3 shall survive the repayment of the Secured Obligations and the termination of the Credit Agreement, the Letters of Credit, the Commitments, the Hedging Obligations and the Bank Product Obligations. To the extent that any payments on the Secured Obligations or proceeds of any Collateral are subsequently invalidated, declared to be fraudulent or preferential, set aside or required to be repaid to a trustee, debtor in possession, receiver or other Person under any bankruptcy law, common law or equitable cause, then, to such extent, the Secured Obligations so satisfied shall be revived and continue as if such payment or proceeds had not been received and the Administrative Agent's and the other Secured Parties' Liens, security interests, rights, powers and remedies under this Agreement and each other applicable Collateral Document shall continue in full force and effect. In such event, each applicable Collateral Document shall be automatically reinstated and each Grantor shall take such action as may be reasonably requested by the Administrative Agent and the other Secured Parties to affect such reinstatement.

**Section 10.9 Captions.** Captions and section headings appearing herein are included solely for convenience of reference and are not intended to affect the interpretation of any provision of this Agreement.

**Section 10.10 No Oral Agreements.** The Loan Documents embody the entire agreement and understanding between the parties and supersede all other agreements and understandings between such parties relating to the subject matter hereof and thereof. The Loan Documents represent the final agreement between the parties and may not be contradicted by evidence of prior, contemporaneous or subsequent oral agreements of the parties. There are no unwritten oral agreements between the parties.

**Section 10.11 Governing Law: Submission to Jurisdiction.**

(a) This Agreement and the other Loan Documents and any claims, controversy, dispute or cause of action (whether in contract or tort or otherwise) based upon, arising out of or relating to this Agreement or any other Loan Document (except, as to any other Loan Document, as expressly set forth therein) and the transactions contemplated hereby and thereby shall be construed in accordance with and be governed by the law (without giving effect to the conflict of law principles thereof) of the State of New York.

(b) Each party to this Agreement hereby irrevocably and unconditionally submits, for itself and its property, to the exclusive jurisdiction of the United States District Court for the Southern District of New York, and of the Supreme Court of the State of New York sitting in New York County, Borough of Manhattan, and of any appellate court from any thereof, in any action or proceeding arising out of or relating to this Agreement or any other Loan Document or the transactions contemplated hereby or thereby, or for recognition or enforcement of any judgment, and each of the parties hereto hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in such District Court or state court or, to the extent permitted by applicable law, such appellate court. Each of the parties hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Agreement or any other Loan Document shall affect any right that the Administrative Agent, any Issuing Bank or any Lender may otherwise have to bring any action or proceeding relating to this Agreement or any other Loan Document against the Borrower or its properties in the courts of any jurisdiction.

(c) Each Grantor irrevocably and unconditionally waives any objection which it may now or hereafter have to the laying of venue of any such suit, action or proceeding described in subsection (b) of this Section and brought in any court referred to in subsection (b) of this Section. Each of the parties hereto irrevocably waives, to the fullest extent permitted by applicable law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

(d) Each party to this Agreement irrevocably consents to the service of process in the manner provided for notices in Section 10.2. Nothing in this Agreement or in any other Loan Document will affect the right of any party hereto to serve process in any other manner permitted by law.

**Section 10.12 WAIVER OF JURY TRIAL.**

(a) TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EACH PARTY HERETO IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER, AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.



(b) IN THE EVENT ANY LEGAL PROCEEDING IS FILED IN A COURT OF THE STATE OF CALIFORNIA (THE “COURT”) BY OR AGAINST ANY PARTY HERETO IN CONNECTION WITH ANY CLAIM AND THE WAIVER SET FORTH IN SECTION 10.12(a) ABOVE IS NOT ENFORCEABLE IN SUCH PROCEEDING (AND EACH PARTY TO SUCH ACTION DOES NOT SUBSEQUENTLY EFFECTIVELY WAIVE UNDER CALIFORNIA LAW ITS RIGHT TO A TRIAL BY JURY), THE PARTIES HERETO AGREE AS FOLLOWS:

(i) WITH THE EXCEPTION OF THE MATTERS SPECIFIED IN SUBCLAUSE (ii) BELOW, ANY CLAIM SHALL BE DETERMINED BY A GENERAL REFERENCE PROCEEDING IN ACCORDANCE WITH THE PROVISIONS OF CALIFORNIA CODE OF CIVIL PROCEDURE SECTIONS 638 THROUGH 645.1. THE PARTIES INTEND THIS GENERAL REFERENCE AGREEMENT TO BE SPECIFICALLY ENFORCEABLE. VENUE FOR THE REFERENCE PROCEEDING SHALL BE IN THE COUNTY OF LOS ANGELES, CALIFORNIA.

(ii) TO THE EXTENT PERMITTED BY APPLICABLE LAW, THE FOLLOWING MATTERS SHALL NOT BE SUBJECT TO A GENERAL REFERENCE PROCEEDING: (A) NON-JUDICIAL FORECLOSURE OF ANY SECURITY INTERESTS IN REAL OR PERSONAL PROPERTY, (B) EXERCISE OF SELF-HELP REMEDIES (INCLUDING SET-OFF OR RECOUPMENT), (C) APPOINTMENT OF A RECEIVER, AND (D) TEMPORARY, PROVISIONAL, OR ANCILLARY REMEDIES (INCLUDING WRITS OF ATTACHMENT, WRITS OF POSSESSION, TEMPORARY RESTRAINING ORDERS, OR PRELIMINARY INJUNCTIONS). THIS AGREEMENT DOES NOT LIMIT THE RIGHT OF ANY PARTY TO EXERCISE OR OPPOSE ANY OF THE RIGHTS AND REMEDIES DESCRIBED IN CLAUSES (A) THROUGH (D) AND ANY SUCH EXERCISE OR OPPOSITION DOES NOT WAIVE THE RIGHT OF ANY PARTY TO PARTICIPATE IN A REFERENCE PROCEEDING PURSUANT TO THIS AGREEMENT WITH RESPECT TO ANY OTHER MATTER.

(iii) UPON THE WRITTEN REQUEST OF ANY PARTY, THE PARTIES SHALL SELECT A SINGLE REFEREE, WHO SHALL BE A RETIRED JUDGE OR JUSTICE. IF THE PARTIES DO NOT AGREE UPON A REFEREE WITHIN TEN DAYS OF SUCH WRITTEN REQUEST, THEN, ANY PARTY SHALL HAVE THE RIGHT TO REQUEST THE COURT TO APPOINT A REFEREE PURSUANT TO CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 640(B). THE REFEREE SHALL BE APPOINTED TO SIT WITH ALL OF THE POWERS PROVIDED BY LAW. PENDING APPOINTMENT OF THE REFEREE, THE COURT SHALL HAVE THE POWER TO ISSUE TEMPORARY OR PROVISIONAL REMEDIES.

(iv) EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, THE REFEREE SHALL DETERMINE THE MANNER IN WHICH THE REFERENCE PROCEEDING IS CONDUCTED INCLUDING THE TIME AND PLACE OF HEARINGS, THE ORDER OF PRESENTATION OF EVIDENCE, AND ALL OTHER QUESTIONS THAT ARISE WITH RESPECT TO THE COURSE OF THE REFERENCE PROCEEDING. ALL PROCEEDINGS AND HEARINGS CONDUCTED BEFORE THE REFEREE, EXCEPT FOR TRIAL, SHALL BE CONDUCTED WITHOUT A COURT REPORTER, EXCEPT WHEN ANY PARTY SO REQUESTS A COURT REPORTER AND A TRANSCRIPT IS ORDERED, A COURT REPORTER SHALL BE USED AND THE REFEREE SHALL BE PROVIDED A COURTESY COPY OF THE TRANSCRIPT. THE PARTY MAKING SUCH REQUEST SHALL HAVE THE OBLIGATION TO ARRANGE FOR AND PAY THE COSTS OF THE COURT REPORTER, PROVIDED THAT SUCH COSTS, ALONG WITH THE REFEREE'S FEES, SHALL ULTIMATELY BE BORNE BY THE PARTY WHO DOES NOT PREVAIL, AS DETERMINED BY THE REFEREE.

(v) THE REFEREE MAY REQUIRE ONE OR MORE PREHEARING CONFERENCES. THE PARTIES HERETO SHALL BE ENTITLED TO DISCOVERY, AND THE REFEREE SHALL OVERSEE DISCOVERY IN ACCORDANCE WITH THE RULES OF DISCOVERY, AND SHALL ENFORCE ALL DISCOVERY ORDERS IN THE SAME MANNER AS ANY TRIAL COURT JUDGE IN PROCEEDINGS AT LAW IN THE STATE OF CALIFORNIA.

(vi) THE REFEREE SHALL APPLY THE RULES OF EVIDENCE APPLICABLE TO PROCEEDINGS AT LAW IN THE STATE OF CALIFORNIA AND SHALL DETERMINE ALL ISSUES IN ACCORDANCE WITH CALIFORNIA SUBSTANTIVE AND PROCEDURAL LAW. THE REFEREE SHALL BE EMPOWERED TO ENTER EQUITABLE AS WELL AS LEGAL RELIEF AND RULE ON ANY MOTION WHICH WOULD BE AUTHORIZED IN A TRIAL, INCLUDING MOTIONS FOR DEFAULT JUDGMENT OR SUMMARY JUDGMENT. THE REFEREE SHALL REPORT HIS OR HER DECISION, WHICH REPORT SHALL ALSO INCLUDE FINDINGS OF FACT AND CONCLUSIONS OF LAW. THE REFEREE SHALL ISSUE A DECISION AND PURSUANT TO CALIFORNIA CODE OF CIVIL PROCEDURE, SECTION 644, THE REFEREE'S DECISION SHALL BE ENTERED BY THE COURT AS A JUDGMENT IN THE SAME MANNER AS IF THE ACTION HAD BEEN TRIED BY THE COURT. THE FINAL JUDGMENT OR ORDER FROM ANY APPEALABLE DECISION OR ORDER ENTERED BY THE REFEREE SHALL BE FULLY APPEALABLE AS IF IT HAS BEEN ENTERED BY THE COURT.

(vii) NEITHER THE INCLUSION OF THIS SECTION 10.12, NOR ANY REFERENCE TO CALIFORNIA LAW CONTAINED HEREIN SHALL BE DEEMED TO AFFECT OR LIMIT IN ANY WAY THE PARTIES' CHOICE OF NEW YORK LAW OR VENUE.

**Section 10.13** **Acknowledgments.** Each Grantor hereby acknowledges that:

- (a) it has been advised by counsel in the negotiation, execution and delivery of this Agreement and the other Loan Documents to which it is a party;
- (b) neither the Administrative Agent nor any other Secured Party has any fiduciary relationship with or duty to any Grantor arising out of or in connection with this Agreement or any of the other Loan Documents, and the relationship between the Grantors, on the one hand, and the Administrative Agent and the other Secured Parties, on the other hand, in connection herewith or therewith is solely that of debtor and creditor; and
- (c) no joint venture is created hereby or by the other Loan Documents or otherwise exists by virtue of the transactions contemplated hereby among the Secured Parties or among the Grantors and the Lenders.

(d) Each of the parties hereto specifically agrees that it has a duty to read this Agreement and the other Loan Documents to which it is a party and agrees that it is charged with notice and knowledge of the terms of this Agreement and the other Loan Documents to which it is a party; that it has in fact read this Agreement and the other Loan Documents to which it is a party and is fully informed and has full notice and knowledge of the terms, conditions and effects of this Agreement and the other Loan Documents to which it is a party; that it has been represented by independent legal counsel of its choice throughout the negotiations preceding its execution of this Agreement and the other Loan Documents to which it is party; and has received the advice of its attorney in entering into this Agreement and the other Loan Documents to which it is a party; and that it recognizes that certain of the terms of this Agreement and other Loan Documents to which it is a party result in one party assuming the liability inherent in some aspects of the transaction and relieving the other party of its responsibility for such liability. Each Grantor agrees and covenants that it will not contest the validity or enforceability of any exculpatory provision of this Agreement or the other Loan Documents to which it is a party on the basis that such Grantor had no notice or knowledge of such provision or that the provision is not "conspicuous".

(e) Each Grantor warrants and agrees that each of the waivers and consents set forth in this Agreement are made voluntarily and unconditionally after consultation with outside legal counsel and with full knowledge of their significance and consequences, with the understanding that events giving rise to any defense or right waived may diminish, destroy or otherwise adversely affect rights which such Grantor otherwise may have against any other Grantor, the Administrative Agent, the other Secured Parties or any other Person or against any Collateral. If, notwithstanding the intent of the parties that the terms of this Agreement shall control in any and all circumstances, any such waivers or consents are determined to be unenforceable under applicable law, such waivers and consents shall be effective to the maximum extent permitted by law.

**Section 10.14** **Additional Grantors.** Each Person that is required to become a party to this Agreement pursuant to Section 5.12 of the Credit Agreement and is not a signatory hereto shall become a Grantor for all purposes of this Agreement upon execution and delivery by such Person of an Assumption Agreement in the form of Annex I.

**Section 10.15** **Set-Off.** Each Grantor agrees that, in addition to (and without limitation of) any right of set-off, bankers' lien or counterclaim a Secured Party may otherwise have, each Secured Party shall have the right and be entitled (after consultation with the Administrative Agent), at its option, to offset (i) balances held by it or by any of its Affiliates for account of any Grantor or any of its Subsidiaries at any of its offices, in dollars or in any other currency, and (ii) Obligations then due and payable to such Secured Party (or any Affiliate of such Secured Party), which are not paid when due, in which case it shall promptly notify the Borrower and the Administrative Agent thereof, provided that such Secured Party's failure to give such notice shall not affect the validity thereof.

**Section 10.16** **Releases.**

(a) **Release Upon Payment in Full.** The grant of the security interest hereunder and all of the rights, powers and remedies in connection herewith shall remain in full force and effect until the Administrative Agent has (i) retransferred and delivered all of the Collateral in its possession to the Grantors, and (ii) executed a written release or termination statement and reassigned to the Grantors without recourse or warranty any remaining Collateral and all rights conveyed hereby. Upon the payment in full in cash of the Secured Obligations and the termination of the Credit Agreement, the Letters of Credit and all Commitments, the Administrative Agent, at the written request and expense of the Borrower, will promptly release, reassign and transfer the Collateral to the Grantors, without recourse, representation, warranty or other assurance of any kind, and declare this Agreement to be of no further force or effect.

(b) Further Assurances. If any of the Collateral shall be sold, transferred or otherwise disposed of by any Grantor in a transaction permitted by the Credit Agreement (other than any sale, disposition or transfer by a Grantor to another Grantor), then the Administrative Agent, at the request and sole expense of such Grantor, shall promptly execute and deliver to such Grantor all releases or other documents reasonably necessary for the release of the Liens created hereby on such Collateral and the Capital Stock of such Grantor, made without recourse, representation, warranty or other assurance of any kind. At the request and sole expense of the Borrower, a Grantor shall be released from its obligations hereunder in the event that all the Capital Stock of such Grantor shall be sold, transferred or otherwise disposed of in a transaction expressly permitted by the Credit Agreement; provided that the Borrower shall have delivered to the Administrative Agent, at least 10 Business Days prior to the date of the proposed release, a written request for release identifying the relevant Grantor and the terms of the sale or other disposition in reasonable detail, including the price thereof and any expenses in connection therewith, together with a certification by the Borrower stating that such transaction is in compliance with the Credit Agreement and the other Loan Documents.

(c) Retention in Satisfaction. Except as may be expressly applicable pursuant to Section 9-620 of the UCC, no action taken or omission to act by the Administrative Agent or the other Secured Parties hereunder, including, without limitation, any exercise of voting or consensual rights or any other action taken or inaction, shall be deemed to constitute a retention of the Collateral in satisfaction of the Secured Obligations or otherwise to be in full satisfaction of the Secured Obligations, and the Secured Obligations shall remain in full force and effect, until the Administrative Agent and the other Secured Parties shall have applied payments (including, without limitation, collections from Collateral) towards the Secured Obligations in the full amount then outstanding or until such subsequent time as is provided in subsection (a) of this Section.

**Section 10.17** Reinstatement. The obligations of each Grantor under this Agreement (including, without limitation, with respect to the guarantee contained in Article II and the provision of collateral herein) shall continue to be effective, or be reinstated, as the case may be, if at any time payment, or any part thereof, of any of the Obligations is rescinded or must otherwise be restored or returned by the Administrative Agent or any other Secured Party upon the insolvency, bankruptcy, dissolution, liquidation or reorganization of the Borrower or any other Grantor, or upon or as a result of the appointment of a receiver, intervenor or conservator of, or trustee or similar officer for, the Borrower or any other Grantor or any substantial part of its property, or otherwise, all as though such payments had not been made.

**Section 10.18** Acceptance. Each Grantor hereby expressly waives notice of acceptance of this Agreement, acceptance on the part of the Administrative Agent and the other Secured Parties being conclusively presumed by their request for this Agreement and delivery of the same to the Administrative Agent.

## ARTICLE XI

### KEEPWELL

Each Qualified ECP Guarantor hereby jointly and severally absolutely, unconditionally and irrevocably undertakes to provide such funds or other support as may be needed from time to time by each other Loan Party to honor all of its obligations under this Agreement in respect of Swap Obligations (provided, however, that each Qualified ECP Guarantor shall only be liable under this Article XI for the maximum amount of such liability that can be hereby incurred without rendering its obligations under this Article XI, or otherwise under this Agreement, voidable under applicable law relating to fraudulent conveyance or fraudulent transfer, and not for any greater amount). The obligations of each Qualified ECP Guarantor under this Section shall remain in full force and effect until this Agreement has been terminated pursuant to Section 10.16(a). Each Qualified ECP Guarantor intends that this Article XI constitute, and this Article XI shall be deemed to constitute, a “keepwell, support, or other agreement” for the benefit of each other Loan Party for all purposes of Section 1a(18)(A)(v)(II) of the Commodity Exchange Act.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the day and year first above written.

**BORROWER:**

**APOLLO MEDICAL HOLDINGS, INC.**

By: /s/ Mitchell Kitayama  
Name: Mitchell Kitayama  
Title: Independent Committee Director

By: /s/ Eric Chin  
Name: Eric Chin  
Title: Chief Financial Officer

**GUARANTORS:**

**NETWORK MEDICAL MANAGEMENT, INC.**

By: /s/ Eric Chin  
Name: Eric Chin  
Title: Chief Financial Officer

APOLLO MEDICAL HOLDINGS, INC.  
GUARANTY AND SECURITY AGREEMENT  
SIGNATURE PAGE

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Acknowledged and Agreed to as of the date hereof:

**ADMINISTRATIVE AGENT:**

**SUNTRUST BANK**

By: /s/ Ben Cumming  
Name: Ben Cumming  
Title: Managing Director

APOLLO MEDICAL HOLDINGS, INC.  
GUARANTY AND SECURITY AGREEMENT  
SIGNATURE PAGE

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Notice Addresses

To each Guarantor:

1668 S. Garfield Ave., 2<sup>nd</sup> Floor  
Alhambra, CA 91801  
Attention: Eric Chin  
Email:

With a copy to (for informational purposes only):

Tin Kin Lee Law Offices  
1811 Fair Oaks Ave.  
South Pasadena, California 91030  
Attention: Tin Kin Lee, Esq.  
Fax:  
Email:

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Pledged Securities

<u>Owner</u>	<u>Issuer</u>	<u>Class of Capital Stock</u>	<u>No. of Shares</u>	<u>Certificated or Uncertificated</u>
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**Filings and Other Actions  
Required to Perfect Security Interests**

**Uniform Commercial Code Filings (UCC-1)**

<b>Grantor</b>	<b>Jurisdiction</b>
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**Fixture Filings**

<b>Owner</b>	<b>Address</b>	<b>Fixture Filing (Yes/No)</b>
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**Bailee Agreements**

<b>Bailee</b>	<b>Owner</b>	<b>Location</b>
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Annex I

Legal Name, Organizational Status, Chief Executive Office

<u>Legal Name</u>	<u>Jurisdiction of Organization</u>	<u>Tax ID#</u>	<u>Organizational #</u>	<u>Location of Office</u>
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Annex I

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**Prior Names and Prior Chief Executive Offices**

Annex I

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Patents and Patent Licenses

U.S. Patents

<u>Title</u>	<u>Patent</u>	<u>Patent No. and Date</u>	<u>Owner</u>	<u>Status / Next Deadline</u>
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Annex I

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Trademarks and Trademark Licenses

U.S. Trademarks

<u>Trademark</u>	<u>Class</u>	<u>Registration / Application No. and Date</u>	<u>Owner</u>	<u>Status / Next Deadline</u>
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Annex I

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Copyrights and Copyright Licenses

U.S. Copyrights

<u>Title</u>	<u>Registration No.</u>	<u>Claimant</u>	<u>Publication Date</u>	<u>Registration Date</u>
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Domain Names

<u>Domain Name</u>	<u>Registrant</u>	<u>Renewal Date</u>
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Annex I

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Commercial Tort Claims

Annex I

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**Form of Assumption Agreement**

**THIS ASSUMPTION AGREEMENT**, dated as of [\_\_\_\_\_] (this "Assumption Agreement"), is made by [NAME OF NEW SUBSIDIARY], a [state of incorporation] [corporation] (the "Additional Grantor"), in favor of SUNTRUST BANK, as administrative agent (in such capacity, the "Administrative Agent") for the Secured Parties (as defined in the Guaranty and Security Agreement referred to below). All capitalized terms not defined herein shall have the meanings assigned to them in the Guaranty and Security Agreement.

**WHEREAS, APOLLO MEDICAL HOLDINGS, INC.**, a Delaware corporation (the "Borrower"), the lenders from time to time party thereto, the issuing banks party thereto and the Administrative Agent have entered into a Credit Agreement, dated as of September 11, 2019 (as amended, restated, supplemented, replaced, increased, refinanced or otherwise modified from time to time, the "Credit Agreement");

**WHEREAS**, in connection with the Credit Agreement, the Borrower and certain of its Subsidiaries have entered into the Guaranty and Security Agreement, dated as of September 11, 2019 (as amended, restated, supplemented or otherwise modified from time to time, the "Guaranty and Security Agreement"), in favor of the Administrative Agent for the benefit of the Secured Parties;

**WHEREAS**, the Credit Agreement requires the Additional Grantor to become a party to the Guaranty and Security Agreement; and

**WHEREAS**, the Additional Grantor has agreed to execute and deliver this Assumption Agreement in order to become a party to the Guaranty and Security Agreement;

**NOW, THEREFORE**, it is agreed:

**SECTION 1. Guaranty and Security Agreement.** By executing and delivering this Assumption Agreement, the Additional Grantor, as provided in Section 10.14 of the Guaranty and Security Agreement, hereby becomes a party to the Guaranty and Security Agreement as a Grantor thereunder with the same force and effect as if originally named therein as a Grantor and, without limiting the generality of the foregoing, hereby expressly assumes all obligations and liabilities of a Grantor thereunder and expressly grants to the Administrative Agent, for the benefit of the Secured Parties, a security interest in all Collateral now owned or at any time hereafter acquired by such Additional Grantor to secure all of such Additional Grantor's obligations and liabilities thereunder. The information set forth in Schedule A hereto is hereby added to the information set forth in Schedules 1 through 9 to the Guaranty and Security Agreement. The Additional Grantor hereby represents and warrants that each of the representations and warranties contained in Article V of the Guaranty and Security Agreement is true and correct on and as of the date hereof (after giving effect to this Assumption Agreement) as if made on and as of such date.

**SECTION 2. Governing Law.** THIS ASSUMPTION AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

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IN WITNESS WHEREOF, the undersigned has caused this Assumption Agreement to be duly executed and delivered as of the date first above written.

*[NAME OF ADDITIONAL GRANTOR]*

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

Acknowledged and Agreed to as of the date hereof:

ADMINISTRATIVE AGENT:

SUNTRUST BANK

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

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Annex I

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**Supplement to Schedules of  
Guaranty and Security Agreement**

Annex I

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**Form of Intellectual Property Security Agreement**

**THIS [COPYRIGHT][PATENT][TRADEMARK] SECURITY AGREEMENT**, dated as of [\_\_\_\_\_] (this "Security Agreement"), is made by [NAME OF GRANTOR], a [state of incorporation] [corporation] (the "Grantor"), in favor of SUNTRUST BANK, as administrative agent (in such capacity, together with its successors and permitted assigns, the "Administrative Agent") for the Secured Parties (as defined in the Guaranty and Security Agreement referred to below).

**WHEREAS, APOLLO MEDICAL HOLDINGS, INC.**, a Delaware corporation (the "Borrower") (the "Borrower"), the lenders from time to time party thereto (the "Lenders"), the issuing banks party thereto and the Administrative Agent have entered into a Revolving Credit and Term Loan Agreement, dated as of September 11, 2019 (as amended, restated, supplemented, replaced, increased, refinanced or otherwise modified from time to time, the "Credit Agreement");

**WHEREAS**, in connection with the Credit Agreement, the [Borrower][Grantor] and certain of its Subsidiaries[, including the Grantor,] have entered into the Guaranty and Security Agreement, dated as of September 11, 2019 (as amended, restated, supplemented or otherwise modified from time to time, the "Guaranty and Security Agreement"), in favor of the Administrative Agent for the benefit of the Secured Parties; and

**WHEREAS**, the Guaranty and Security Agreement requires the Grantor to execute and deliver this Security Agreement;

**NOW, THEREFORE**, in consideration of the premises and in order to ensure compliance with the Credit Agreement, the Grantor hereby agrees as follows:

**SECTION 1. Defined Terms.** Capitalized terms used herein without definition are used as defined in the Guaranty and Security Agreement.

**SECTION 2. Grant of Security Interest in [Copyright][Patent][Trademark] Collateral.** The Grantor, as collateral security for the prompt and complete payment and performance when due (whether at stated maturity, by acceleration or otherwise) of the Secured Obligations of the Grantor, hereby mortgages, pledges and hypothecates to the Administrative Agent for the benefit of the Secured Parties, and grants to the Administrative Agent for the benefit of the Secured Parties a Lien on and security interest in, all of its right, title and interest in, to and under the following Collateral (the "[Copyright][Patent][Trademark] Collateral"):

all of its Copyrights and all Copyright Licenses providing for the grant by or to the Grantor of any right under any Copyright, including, without limitation, those referred to on Schedule I hereto;

all renewals, reversions and extensions of the foregoing; and

all income, royalties, proceeds and liabilities at any time due or payable or asserted under and with respect to any of the foregoing, including, without limitation, all rights to sue and recover at law or in equity for any past, present and future infringement, misappropriation, dilution, violation or other impairment thereof.]

[(i) all of its Patents and all Patent Licenses providing for the grant by or to the Grantor of any right under any Patent, including, without limitation, those referred to on Schedule I hereto;

all reissues, reexaminations, continuations, continuations-in-part, divisions, renewals and extensions of the foregoing; and

all income, royalties, proceeds and liabilities at any time due or payable or asserted under and with respect to any of the foregoing, including, without limitation, all rights to sue and recover at law or in equity for any past, present and future infringement, misappropriation, dilution, violation or other impairment thereof.]

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[(i) all of its Trademarks and all Trademark Licenses providing for the grant by or to the Grantor of any right under any Trademark, including, without limitation, those referred to on Schedule I hereto;

all renewals and extensions of the foregoing;

all goodwill of the business connected with the use of, and symbolized by, each such Trademark; and

all income, royalties, proceeds and liabilities at any time due or payable or asserted under and with respect to any of the foregoing, including, without limitation, all rights to sue and recover at law or in equity for any past, present and future infringement, misappropriation, dilution, violation or other impairment thereof.]

**SECTION 3.** Guaranty and Security Agreement. The security interest granted pursuant to this Security Agreement is granted in conjunction with the security interest granted to the Administrative Agent pursuant to the Guaranty and Security Agreement, and the Grantor hereby acknowledges and agrees that the rights and remedies of the Administrative Agent with respect to the security interest in the [Copyright][Patent][Trademark] Collateral made and granted hereby are more fully set forth in the Guaranty and Security Agreement, the terms and provisions of which are incorporated by reference herein as if fully set forth herein.

**SECTION 4.** Grantor Remains Liable. The Grantor hereby agrees that, anything herein to the contrary notwithstanding, the Grantor shall assume full and complete responsibility for the prosecution, defense, enforcement or any other necessary or desirable actions in connection with its [Copyrights][Patents][Trademarks] and [Copyright][Patent][Trademark] Licenses subject to a security interest hereunder.

**SECTION 5.** Counterparts. This Security Agreement may be executed in any number of counterparts and by different parties 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. Signature pages may be detached from multiple separate counterparts and attached to a single counterpart.

**SECTION 6.** Governing Law. This Security Agreement and the rights and obligations of the parties hereto shall be governed by, and construed and interpreted in accordance with, the law of the State of New York.

IN WITNESS WHEREOF, the Grantor has caused this [Copyright][Patent][Trademark] Security Agreement to be executed and delivered by its duly authorized officer as of the date first set forth above.

*[NAME OF GRANTOR]*

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

Acknowledged and Agreed to as of the date hereof:

**ADMINISTRATIVE AGENT:**

**SUNTRUST BANK**

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

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Annex II



[Copyrights][Patents][Trademarks] and [Copyright][Patent][Trademark] Licenses

I. REGISTERED [COPYRIGHTS][PATENTS][TRADEMARKS]

[Include registration number and date]

II. [COPYRIGHT][PATENT][TRADEMARK] APPLICATIONS

[Include application number and date]

III. [COPYRIGHT][PATENT][TRADEMARK] LICENSES

[Include complete legal description of agreement (name of agreement, parties and date)]

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Annex II

**Form of Supplement**

**THIS SUPPLEMENT TO GUARANTY AND SECURITY AGREEMENT**, dated as of [\_\_\_\_\_] (this "Supplement"), is made by [NAME OF GRANTOR], a [state of incorporation] [corporation] (the "Grantor"), in favor of SUNTRUST BANK, as administrative agent (in such capacity, the "Administrative Agent") for the Secured Parties (as defined in the Guaranty and Security Agreement referred to below). All capitalized terms not defined herein shall have the meanings assigned to them in the Guaranty and Security Agreement.

**WHEREAS, APOLLO MEDICAL HOLDINGS, INC.**, a Delaware corporation (the "Borrower"), the lenders from time to time parties thereto, the issuing banks party thereto and the Administrative Agent have entered into a Credit Agreement, dated as of September 11, 2019 (as amended, restated, supplemented, replaced, increased, refinanced or otherwise modified from time to time, the "Credit Agreement");

**WHEREAS**, in connection with the Credit Agreement, the [Borrower][Grantor] and certain of its Subsidiaries[, including the Grantor,] have entered into the Guaranty and Security Agreement, dated as of September 11, 2019 (as amended, restated, supplemented or otherwise modified from time to time, the "Guaranty and Security Agreement"), in favor of the Administrative Agent for the benefit of the Secured Parties; and

**WHEREAS**, it is a condition precedent to the continued extension of the Loans and the continued issuance of the Letters of Credit under the Credit Agreement that the Grantor grant to the Administrative Agent a security interest in all of its Additional Pledged Collateral (as defined below), and the Grantor wishes to fulfill said condition precedent;

**NOW, THEREFORE**, in consideration of the premises and in order to ensure compliance with the Credit Agreement, the Grantor hereby agrees as follows:

**SECTION 1.** Additional Pledge. As security for the payment and performance of the Secured Obligations, the Grantor hereby:

(a) pledges, hypothecates, assigns, charges, mortgages, delivers, sets over, conveys and transfers to the Administrative Agent, for the benefit of the Secured Parties, and grants to the Administrative Agent, for the benefit of the Secured Parties, a security interest in all of the Grantor's right, title and interest in and to:

(i) the shares of Capital Stock and Stock Equivalents more particularly described in Schedule I hereto and the certificates, if any, evidencing such shares (the "Additional Pledged Securities") and all cash, instruments and other property from time to time received, receivable or otherwise distributed in exchange for any and all of such Additional Pledged Securities; and

(ii) all other Collateral (as defined in the Guaranty and Security Agreement) relating to the Additional Pledged Securities (together with the items described in clause (i) above, the "Additional Pledged Collateral"); and

(b) delivers to the Administrative Agent, for the benefit of the Secured Parties, all of the Grantor's right, title and interest in and to the certificates and instruments, if any, evidencing the Additional Pledged Collateral, accompanied by instruments of transfer or assignment, duly executed in blank.

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**SECTION 2.** Representations and Warranties. The Grantor hereby (a) represents and warrants that it is the legal and beneficial owner of the Additional Pledged Collateral, free and clear of any lien, security interest, option or other charge or encumbrance except for the security interest created by the Guaranty and Security Agreement as supplemented by this Supplement; and (b) restates each representation and warranty set forth in Article 5 of the Guaranty and Security Agreement, as supplemented by this Supplement, as of the date hereof with respect to the Additional Pledged Collateral.

**SECTION 3.** Additional Pledged Collateral. By execution and delivery of this Supplement, the Additional Pledged Collateral shall become a part of the Collateral referred to in the Guaranty and Security Agreement and shall secure the Secured Obligations as if such Additional Pledged Collateral were Collateral on the Closing Date, and shall be subject to all of the terms and conditions governing Collateral under the Guaranty and Security Agreement. From and after the date hereof, Schedule 2 to the Guaranty and Security Agreement is hereby amended to add the Additional Pledged Collateral.

**SECTION 4.** Binding Effect. This Supplement shall become effective when it shall have been executed by the Grantor and thereafter shall be binding upon the Grantor and shall inure to the benefit of the Administrative Agent and the Secured Parties. Upon the effectiveness of this Supplement, this Supplement shall be deemed to be a part of and shall be subject to all of the terms and conditions of the Guaranty and Security Agreement. The Grantor shall not have the right to assign its rights hereunder or any interest herein without the prior written consent of the Lenders.

**SECTION 5.** Governing Law. THIS SUPPLEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAW (WITHOUT GIVING EFFECT TO THE CONFLICT OF LAW PRINCIPLES THEREOF) OF THE STATE OF NEW YORK.

**SECTION 6.** Execution in Counterparts. This Supplement may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

IN WITNESS WHEREOF, the Grantor has caused this Supplement to be duly executed and delivered by its duly authorized officer as of the date first above written.

*[NAME OF GRANTOR]*

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

Acknowledged and Agreed to as of the date hereof:

**ADMINISTRATIVE AGENT:**

**SUNTRUST BANK**

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

Additional Pledged Securities

Annex III

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**Form of Acknowledgment and Consent**

The undersigned hereby acknowledges receipt of a copy of the Guaranty and Security Agreement, dated as of September 11, 2019 (as amended, restated, supplemented or otherwise modified from time to time, the "Agreement"), made by **APOLLO MEDICAL HOLDINGS, INC.**, a Delaware corporation (the "Borrower") and the other Grantors parties thereto for the benefit of **SUNTRUST BANK**, as administrative agent (the "Administrative Agent"). The undersigned agrees for the benefit of the Administrative Agent and the Secured Parties defined therein as follows:

1. The undersigned will be bound by the terms of the Agreement relating to the Pledged Securities issued by the undersigned and will comply with such terms insofar as such terms are applicable to the undersigned.
2. The undersigned will notify the Administrative Agent promptly in writing of the occurrence of any of the events described in Section 6.9(a) of the Agreement with respect to the Pledged Securities issued by the undersigned.
3. The terms of Sections 7.1(c) and 7.5 of the Agreement shall apply to it, *mutatis mutandis*, with respect to all actions that may be required of it pursuant to Sections 7.1(c) or 7.5 of the Agreement with respect to the Pledged Securities issued by the undersigned.

***[NAME OF ISSUER]***

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

Address for Notices:  
[\_\_\_\_]  
[\_\_\_\_]  
Attention: [\_\_\_\_]  
Telecopy Number: [\_\_\_\_]

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**SECOND AMENDMENT TO  
SERIES A PREFERRED STOCK PURCHASE AGREEMENT**

This SECOND AMENDMENT TO SERIES A PREFERRED STOCK PURCHASE AGREEMENT (the “**Amendment**”) is made and entered into as of September 9, 2019, by and between Allied Physicians of California, a Professional Medical Corporation, a California corporation (the “**Company**” or “**Seller**”), and AP-AMH Medical Corporation, a California professional medical corporation (“**Buyer**”).

A. Seller and Buyer have previously entered into that certain Series A Preferred Stock Purchase Agreement dated as of May 10, 2019, as amended by that certain First Amendment to Series A Stock Purchase Agreement dated as of August 26, 2019 (together, the “**Preferred Stock Purchase Agreement**”).

B. Seller and Buyer desire to further amend the Preferred Stock Purchase Agreement as set forth herein.

NOW, THEREFORE, in consideration of the premises and of the mutual agreements, representations, warranties, provisions and covenants herein contained, the parties hereto, each intending to be bound hereby, agree as follows:

1 . **Definitions.** Capitalized terms used but not defined in this Amendment shall have the meanings given to such terms in the Preferred Stock Purchase Agreement.

2 . **Definition of Excluded Assets.** Exhibit A to the Preferred Stock Purchase Agreement is hereby amended by amending and restating the definition of “Excluded Assets” in Section 1 thereof to read in full as follows:

“Excluded Assets” means (i) assets received from the sale of shares of the Series A Preferred equal to the Series A Purchase Price, (ii) the assets of the Company that are not Healthcare Services Assets, including the Company’s equity interests in Universal Care, Inc., Apollo Medical Holdings, Inc., and any entity that is primarily engaged in the business of owning, leasing, developing or otherwise operating real estate, (iii) any assets acquired with the proceeds of the sale, assignment or other disposition of any of the assets described in clauses (i) or (ii), and (iv) any proceeds of the assets described in clauses (i), (ii) and (iii).

3. **Effect of Amendment.** Except as expressly amended by this Amendment, all of the terms of the Preferred Stock Purchase Agreement shall remain unchanged and in full force and effect. The provisions of Article X of the Preferred Stock Purchase Agreement are incorporated in this Amendment by this reference, *mutatis mutandis*.

**[Signatures appear on the following page.]**

IN WITNESS WHEREOF, this Amendment has been executed as of the date first above written.

BUYER:

AP-AMH MEDICAL CORPORATION

By: /s/ Thomas Lam  
Name: Thomas Lam, M.D.  
Title: Chief Executive Officer

SELLER:

ALLIED PHYSICIANS OF CALIFORNIA,  
A PROFESSIONAL MEDICAL CORPORATION

By: /s/ Terry Lee, M.D.  
Name: Terry Lee, M.D.  
Title: Independent Committee Director

**FIRST AMENDMENT TO  
SPECIAL PURPOSE SHAREHOLDER AGREEMENT**

**OF**

**ALLIED PHYSICIANS OF CALIFORNIA,  
A PROFESSIONAL MEDICAL CORPORATION**

This FIRST AMENDMENT TO SPECIAL PURPOSE SHAREHOLDER AGREEMENT (the “**Amendment**”) is made and entered into as of September 11, 2019, MEDICAL CORPORATION doing business as Allied Pacific of California IPA (the “**Corporation**”), and AP-AMH MEDICAL CORPORATION, a California professional medical corporation, the holder of the Series A Preferred Stock (the “**Series A Preferred Stockholder**”).

A. The Corporation and the Series A Preferred Stockholder have previously entered into that certain Special Purpose Shareholder Agreement dated as of May 10, 2019 (the “**Shareholder Agreement**”).

B. The Corporation and the Series A Preferred Stockholder desire to amend the Shareholder Agreement as set forth herein.

NOW, THEREFORE, in consideration of the premises and of the mutual agreements, representations, warranties, provisions and covenants herein contained, the parties hereto, each intending to be bound hereby, agree as follows:

1. **Definitions.** Capitalized terms used but not defined in this Amendment shall have the meanings given to such terms in the Shareholder Agreement.

2. **Recital A.** Recital A of the Shareholder Agreement is hereby amended and restated in its entirety as follows:

A. The Corporation will issue 1,000,000 shares of Series A Preferred Stock to the Series A Preferred Stockholder pursuant to the Certificate of Determination of Preferences of Series A Preferred Stock of Allied Physicians of California, A Professional Medical Corporation, dated September 11, 2019, a copy of which is attached as Exhibit A hereto (the “**Certificate of Determination**”).

3. **Exhibit A.** Exhibit A to the Shareholder Agreement is hereby amended and restated in its entirety as set forth on Attachment 1 to this Amendment.

4. **Effect of Amendment.** Except as expressly amended by this Amendment, all of the terms of the Shareholder Agreement shall remain unchanged and in full force and effect. The provisions of Article II of the Shareholder Agreement are incorporated in this Amendment by this reference, *mutatis mutandis*.

[Signatures appear on the following page.]

IN WITNESS WHEREOF, this Amendment has been executed as of the date first above written.

**“Corporation”:**

ALLIED PHYSICIANS OF CALIFORNIA, A PROFESSIONAL MEDICAL CORPORATION

By: /s/ Terry Lee, M.D.  
Name: Terry Lee, M.D.  
Title: Independent Committee Member

**“Series A Preferred Stockholder”:**

AP-AMH MEDICAL CORPORATION

By: /s/ Thomas Lam  
Name: Thomas Lam, M.D.  
Title: Chief Executive Officer



**FIRST AMENDMENT TO  
TRADENAME LICENSING AGREEMENT**

This FIRST AMENDMENT TO TRADENAME LICENSING AGREEMENT (this “**Amendment**”) is made and entered into as of September 10, 2019, by and between Apollo Medical Holdings, Inc., a Delaware corporation (“**Apollo**”), and AP-AMH Medical Corporation, a California professional medical corporation (“**AP-AMH**”).

- A. Apollo and AP-AMH have previously entered into that certain Tradename Licensing Agreement dated as of May 10, 2019 (the “**Agreement**”).
- B. Apollo and AP-AMH desire to amend the Agreement as set forth herein.

NOW, THEREFORE, in consideration of the premises and of the mutual agreements, representations, warranties, provisions and covenants herein contained, the parties hereto, each intending to be bound hereby, agree as follows:

1. **Definitions.** Capitalized terms used but not defined in this Amendment shall have the meanings given to such terms in the Agreement.

2. **Section 2.** The following is hereby added at the end of Section 2 of the Agreement:

“To the extent that AP-AMH is unable to pay any Tradename License Fee when due hereunder because it has received Series A Dividends in an amount insufficient (or because it has not received any Series A Dividends) to pay in full such Tradename License Fee, such unpaid Tradename License Fee(s) shall accrue and be paid upon receipt by AP-AMH of sufficient funds.”

3. **Section 3.3.1.** Section 3.3.1 of the Agreement is hereby amended and restated in its entirety as follows:

3.3.1 Immediately upon termination of the Tradename License, (i) AP-AMH shall cease using the name “Apollo Medical Associates” and every variation and portion of it, in every respect (including but not limited to signage), and AP-AMH shall not make any reference on its letterhead or other materials to its former or then current affiliation with Apollo or its former license or use of said name; and (ii) AP-AMH shall cause to be filed with the California Medical Board a cancellation of the fictitious name permit issued to AP-AMH for the name “Apollo Medical Associates,” which cancellation shall be in form and substance acceptable to Apollo.

4. **Schedule 1.** Schedule 1 to the Agreement (Tradename License Fee Percentage) is hereby amended and restated in its entirety as set forth in Exhibit A to this Amendment.

5. **Effect of Amendment.** Except as expressly amended by this Amendment, all of the terms of the Agreement shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, this Amendment has been executed as of the date first above written.

**“Apollo”**

APOLLO MEDICAL HOLDINGS, INC.

By: /s/ Mitchell Kitayama  
Mitchell Kitayama  
Independent Committee Director

By: /s/ Eric Chin  
Eric Chin  
Chief Financial Officer

**“AP-AMH”**

AP-AMH MEDICAL CORPORATION

By: /s/ Thomas Lam  
Thomas S. Lam, M.D.,  
Chief Executive Officer

Signature Page to  
**FIRST AMENDMENT TO TRADENAME LICENSING AGREEMENT**

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**FIRST AMENDMENT TO  
ADMINISTRATIVE SERVICES AGREEMENT**

This FIRST AMENDMENT TO ADMINISTRATIVE SERVICES AGREEMENT (this "**Amendment**") is made and entered into as of September 10, 2019, by and between Network Medical Management, Inc., a California corporation ("**Manager**"), and AP-AMH Medical Corporation, a California professional medical corporation ("**AP-AMH**").

- A. Manager and AP-AMH have previously entered into that certain Administrative Services Agreement dated as of May 10, 2019 (the "**Agreement**").
- B. Manager and AP-AMH desire to amend the Agreement as set forth herein.

NOW, THEREFORE, in consideration of the premises and of the mutual agreements, representations, warranties, provisions and covenants herein contained, the parties hereto, each intending to be bound hereby, agree as follows:

- 1. **Definitions.** Capitalized terms used but not defined in this Amendment shall have the meanings given to such terms in the Agreement.
- 2. **Section 2.1.** The following is hereby added at the end of Section 2.1 of the Agreement:

"To the extent that AP-AMH is unable to pay any Administrative Fee when due hereunder because it has received Series A Dividends in an amount insufficient (or because it has not received any Series A Dividends) to pay in full such Administrative Fee, such unpaid Administrative Fee(s) shall accrue and be paid upon receipt by AP-AMH of sufficient funds."

- 3 . **Schedule 1.** Schedule 1 to the Agreement (Administrative Fee Percentage) is hereby amended and restated in its entirety as set forth in Exhibit A to this Amendment.
- 4 . **Effect of Amendment.** Except as expressly amended by this Amendment, all of the terms of the Agreement shall remain unchanged and in full force and effect.

[Signatures appear on the following page.]

IN WITNESS WHEREOF, this Amendment has been executed as of the date first above written.

**“Manager”**

NETWORK MEDICAL MANAGEMENT, INC.

By: /s/ Eric Chin  
Eric Chin  
Chief Financial Officer

**“AP-AMH”**

AP-AMH MEDICAL CORPORATION

By: /s/ Thomas Lam  
Thomas S. Lam, M.D.,  
Chief Executive Officer

**Signature Page to  
FIRST AMENDMENT TO ADMINISTRATIVE SERVICES AGREEMENT**

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## SECURITY AGREEMENT

This **SECURITY AGREEMENT** (“**Agreement**”) dated and effective as of September 11, 2019, is entered into by AP-AMH Medical Corporation, a California professional medical corporation (“**Debtor**”), in favor of Apollo Medical Holdings, Inc., a Delaware corporation (“**Secured Party**”), with reference to the following facts:

A. Debtor and Secured Party have entered into that certain Loan Agreement dated as of May 10, 2019 (the “**Loan Agreement**”), pursuant to which Secured Party has made a loan to Borrower in the original principal amount of Five Hundred Forty Five Million Dollars (\$545,000,000), which loan is evidenced by that certain Secured Promissory Note, dated May 10, 2019, in the original principal amount of the Loan (the “**Note**”).

B. As security for payment and performance of the obligations of Debtor to Secured Party under the Loan Agreement, the Note and this Agreement, it is the intent of Debtor to grant to Secured Party and to create a security interest in Collateral (as defined below), as hereinafter provided.

In consideration of the above recitals, which are hereby incorporated into this Agreement, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Debtor hereby agrees as follows:

1. **Grant of Security Interest.** Debtor hereby creates and grants to Secured Party a security interest in the Collateral, as that term is defined in Section 2, to secure payment and performance by Debtor of the Obligations, as that term is defined in Section 3.

2. **Collateral.** The “**Collateral**” shall consist, collectively and severally, of all of Debtor’s right, title and interest in and to the assets of Debtor, whether now owned or hereafter acquired, including without limitation, all of Debtor’s right, title and interest in and to (i) all shares of Series A Preferred Stock (and any other securities) of Allied Physicians of California, a Professional Medical Corporation, a California corporation doing business as Allied Pacific Corporation (“**APC**”), now or hereafter owned by Debtor, together in each case with all certificates representing the same, (ii) all shares, securities, moneys or other property representing a dividend on or a distribution or return of capital on or in respect of the Pledged Shares, or resulting from a split-up, revision, reclassification or other like change of the Pledged Shares or otherwise received in exchange therefor, and any warrants, rights or options issued to the holders of, or otherwise in respect of, the Pledged Shares, (iii) all shares of any successor entity of any such merger or consolidation (collectively, the “**Pledged Shares**”), and (iv) (a) all Accounts, (b) all Equipment, Goods, Inventory and Fixtures, (c) all Documents, Instruments and Chattel Paper, (d) all Letters of Credit and Letter-of-Credit Rights, (e) all Securities Collateral, (f) all Investment Property, (g) all Intellectual Property Collateral, (h) all Commercial Tort Claims, (i) all General Intangibles, (j) all Money and Deposit Accounts, (k) all Supporting Obligations, (l) all books and records, customer lists, credit files, computer files, programs, printouts and other computer materials and records relating to the Collateral and any General Intangibles at any time evidencing or relating to any of the foregoing and (m) to the extent not covered by clauses (a) through (l) of this sentence all Proceeds and products of each of the foregoing and all accessions to, substitutions and replacements for, and rents, profits and products of, each of the foregoing, and any and all Proceeds of any insurance, indemnity, warranty or guaranty payable to such Debtor from time to time with respect to any of the foregoing (in each case as the foregoing capitalized terms in this clause (iv) are defined in the California Uniform Commercial Code).

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3. **Obligations.** The "**Obligations**" shall consist, collectively and severally, of any and all debts, obligations and liabilities of Debtor to Secured Party arising from, connected with or related to the Loan Agreement, the Note and this Agreement and all amendments, modifications, extensions or renewals of the Loan Agreement, the Note and this Agreement, whether now existing or hereafter arising, voluntary or involuntary, whether or not jointly owed with others, direct or indirect, absolute or contingent, liquidated or unliquidated, and whether or not from time to time decreased or extinguished and later increased, created or incurred.

4. **Additional Representations and Warranties.** In addition to any representations and warranties of Debtor or its affiliates in Loan Agreement and the Note, which are incorporated herein by this reference, Debtor hereby represents and warrants that: (a) except as heretofore disclosed to Secured Party in writing, Debtor is the sole owner of the Collateral (or, in the case of after-acquired Collateral, at the time Debtor acquires rights in the Collateral, will be the owner thereof) and no other person has (or, in the case of after-acquired Collateral, at the time Debtor acquires rights therein, will have) any right, title, claim or interest (by way of security interest or other lien or charge or otherwise) in, against or to the Collateral; and (b) all information heretofore, herein or hereafter supplied to Secured Party by or on behalf of Debtor with respect to the Collateral is, or will be when so supplied, true and correct.

5. **Covenants of Debtor.** Debtor hereby agrees:

a. to do all acts that may be necessary to maintain, preserve and protect the Collateral;

b. not to use any Collateral or permit any Collateral to be used unlawfully or in violation of any provision of the Loan Agreement, this Agreement or any applicable statute, regulation or ordinance or any policy of insurance covering Collateral;

c. to pay promptly when due all taxes, assessments, charges, encumbrances and liens now or hereafter imposed on or affecting any Collateral;

d. to notify Secured Party promptly of any change in Debtor's name or place of business, or, if Debtor has more than one (1) place of business, Debtor's primary place of business;

e. to procure, execute and deliver from time to time any financing statements and other writings reasonably deemed necessary or appropriate by Secured Party to perfect, maintain and protect its security interest hereunder and the priority thereof and, following an Event of Default (as defined below), to deliver promptly to Secured Party all originals of Collateral or proceeds consisting of chattel paper or instruments;

- f. to appear in and defend any action or proceeding which may affect its title to or Secured Party's interest in the Collateral;
- g. if Secured Party gives value to enable Debtor to acquire rights in or the use of any Collateral, to use such value for such purpose;
- h. to keep separate, accurate and complete records of the Collateral and to provide Secured Party with such records and such other reports and information relating to the Collateral as Secured Party may reasonably request from time to time;
- i. not to surrender or lose possession of (other than to Secured Party), sell, encumber, lease, rent, or otherwise dispose of or transfer any Collateral or right or interest therein, except to keep the Collateral free of all levies and security interests or other liens or charges except those created hereby and those approved in writing by Secured Party;
- j. following an Event of Default, to account fully for and promptly deliver to Secured Party, in the form received, all proceeds of the Collateral received, endorsed to Secured Party as appropriate, and until so delivered all proceeds shall be held by Debtor in trust for Secured Party, separate from all other property of Debtor and identified as the property of Secured Party;
- k. to keep the Collateral in good condition and repair;
- l. not to cause or permit any waste or unusual or unreasonable depreciation of the Collateral;
- m. at any reasonable time, on demand by Secured Party, to exhibit to and allow inspection by Secured Party (or persons designated by Secured Party) of the Collateral;
- n. to keep the Collateral at the location(s) set forth in Section 16 and not to remove the Collateral from such location(s) without the prior written consent of Secured Party;
- o. to comply with all laws, regulations and ordinances relating to the possession, operation, maintenance and control of the Collateral;
- p. if any of the Pledged Shares are received by Debtor, to forthwith (i) deliver to Secured Party the certificates or instruments representing or evidencing the same, duly endorsed in blank or accompanied by such instruments of assignment and transfer in such form and substance as Secured Party may reasonably request, all of which thereafter shall be held by Secured Party, pursuant to the terms of this Agreement, as part of the Collateral and (ii) take such other action as Secured Party may reasonably deem necessary or appropriate to duly record or otherwise perfect the security interest created hereunder in such Collateral; and

q. to insure the Collateral, with Secured Party named as loss payee, in form and amounts, with companies, and against risks and liabilities, reasonably required by Secured Party to protect the value of its security interest hereunder, and following an Event of Default: (a) to assign the policies to Secured Party, (b) to deliver them to Secured Party at its request, and (c) to cooperate with and assist Secured Party in making any claim thereunder, or in canceling the insurance, or in collecting and receiving payment of, and endorse any instrument in payment of loss or return premium or other refund or return, and apply such amounts received, at Secured Party's election, to replacement of Collateral or to the Obligations; provided that in no event shall Secured Party be deemed to have a security interest in insurance proceeds except to the extent solely arising from the Collateral, and if Secured Party receives any other insurance proceeds, it will deliver such proceeds to the Debtor.

6. **Authorized Action by Secured Party.** Debtor hereby irrevocably appoints Secured Party, effective on the occurrence and continuance of an Event of Default (as defined below), as its attorney-in-fact to do (but Secured Party shall not be obligated to do and shall incur no liability to Debtor or any third party for failure to do) any act which Debtor is obligated by this Agreement to do, and to (a) exercise such rights and powers as Debtor might exercise with respect to the Collateral, including, without limitation, the right to collect by legal proceedings or otherwise and endorse, receive and receipt for all dividends, interest, payments, proceeds and other sums and property now or hereafter payable on or on account of Collateral; (b) privileges or options pertaining to, or deposit, surrender, accept, hold or apply other property in exchange for, Collateral; (c) insure, process and preserve the Collateral; (d) transfer the Collateral to Secured Party's own name or the name of a nominee of Secured Party; and (e) make any compromise or settlement, and take any action it deems advisable, with respect to Collateral. Debtor agrees to reimburse Secured Party on demand for any costs and expenses, including, without limitation, attorneys' fees, Secured Party may incur while acting as Debtor's attorney-in-fact hereunder, all of which costs and expenses are included in the Obligations. It is further agreed that such care as Secured Party gives to the safekeeping of its own property of like kind shall constitute reasonable care of the Collateral when in Secured Party's possession; provided, however, that Secured Party shall not be required to make any presentment, demand or protest, or give any notice and need not take any action to preserve any rights against any prior party or any other person in connection with the Obligations or with respect to the Collateral.

7. **Pledged Shares.**

a. All Pledged Shares in which Debtor shall hereafter grant a security interest pursuant to this Agreement will be, duly authorized, validly existing, fully paid and non assessable, and none of such Pledged Shares are or will be subject to any contractual restriction, or any restriction under the charter, by laws, shareholders agreement or other organizational instrument of APC or any other issuer thereof, upon the transfer of such Pledged Shares (except for any such restriction contained herein or under such organizational instruments).

b. All certificates, agreements or instruments representing or evidencing the Pledged Shares in existence on the date hereof will have been delivered to Secured Party in a suitable form for transfer by delivery or accompanied by duly executed instruments of transfer or assignment in blank and (assuming continuing possession by Secured Party of all such Pledged Shares) Secured Party has a perfected first priority security interest therein.



c. So long as no Event of Default shall have occurred and be continuing, Debtor shall have the right to exercise all voting, consensual and other powers of ownership pertaining to the Pledged Shares for all purposes not inconsistent with the terms of the Loan Agreement, the Note, this Agreement, or any other instrument or agreement referred to herein or therein, provided that Debtor agrees that it will not vote the Pledged Shares in any manner that is inconsistent with the terms of the Loan Agreement, the Note, this Agreement or any such other instrument or agreement; and Secured Party shall execute and deliver to Debtor or cause to be executed and delivered to Debtor all such proxies, powers of attorney, dividend and other orders, and all such instruments, without recourse, as Debtor may reasonably request for the purpose of enabling Debtor to exercise the rights and powers that they are entitled to exercise pursuant to this Section 7(c).

d. Unless and until an Event of Default shall have occurred and be continuing, Debtor shall be entitled to receive and retain any dividends, distributions or proceeds on the Pledged Shares paid in cash out of earned surplus.

e. If an Event of Default shall have occurred and be continuing, whether or not Secured Party exercises any available right to declare any Obligations due and payable or seek or pursue any other relief or remedy available to them under applicable law or under the Loan Agreement, the Note, this Agreement or any other agreement relating to such Obligation, all dividends and other distributions on the Pledged Shares shall be paid directly to Secured Party and retained by it as part of the Collateral, subject to the terms of this Agreement, and, if Secured Party shall so request in writing, Debtor agrees to execute and deliver to Secured Party appropriate additional dividend, distribution and other orders and documents to that end, provided that if such Event of Default is cured, any such dividend or distribution theretofore paid to Secured Party shall, upon request of Debtor (except to the extent theretofore applied to the Obligations), be returned by Secured Party to Debtor.

f. Debtor hereby expressly authorizes and instructs each issuer of any Pledged Shares pledged hereunder to (i) comply with any instruction received by it from Secured Party in writing that (A) states that an Event of Default has occurred and is continuing and (B) is otherwise in accordance with the terms of this Agreement, without any other or further instructions from Debtor, and Debtor agrees that such issuer shall be fully protected in so complying and (ii) unless otherwise expressly permitted hereby, pay any dividend or other payment with respect to the Pledged Shares directly to Secured Party for the benefit of Secured Party.

g. Notwithstanding anything to the contrary in this Agreement, Lender shall take no action with respect to the Pledged Shares that would result in Debtor having an ineligible shareholder under the laws relating to the corporate practice of medicine in the State of California.

8. **Default and Remedies.**

a. Debtor shall be deemed in default under this Agreement if Debtor fails to comply with any of the provisions of Sections 5 or 7, or fails to comply with any provision required of Debtor or its affiliates under the Loan Agreement, the Note or this Agreement or commits an Event of Default thereunder, for ten (10) days after Debtor's receipt of written notice of any monetary default or fifteen (15) days after Debtor's receipt of written notice of any non-monetary default (an "**Event of Default**"); provided, however, that, if such failure is of such nature as to not be curable within said fifteen (15) day period, an Event of Default shall occur if the breaching or failing party shall have failed to commence curative action within the prescribed fifteen (15) day period and prosecuted the same with due diligence to completion thereafter but in no event beyond thirty (30) days after Debtor's receipt of the default notice. On the occurrence of any Event of Default, Secured Party may, at its option, after providing notice to Debtor, and in addition to all rights and remedies available to Secured Party and its affiliates under the Loan Agreement, the Note or this Agreement, do any one (1) or more of the following: (i) foreclose or otherwise enforce Secured Party's security interest in any manner permitted by law or provided in this Agreement, subject to the rights of senior lienholders; (ii) sell, lease or otherwise dispose of any Collateral at one (1) or more public or private sales, whether or not such Collateral is present at the place of sale, for cash or credit or future delivery, on such terms and in such manner as Secured Party may determine; (iii) recover from Debtor all costs and expenses, including, without limitation, reasonable attorneys' fees, incurred or paid by Secured Party in exercising any right, power or remedy provided by this Agreement or by law; (iv) require Debtor to assemble the Collateral and make it available to Secured Party at a place to be designated by Secured Party; (v) enter onto property where any Collateral is located and take possession thereof with or without judicial process; (vi) require Debtor to cause the Pledged Shares to be transferred of record into the name of Secured Party or its nominee; and (vii) prior to the disposition of the Collateral, store, process, repair or recondition it or otherwise prepare it for disposition in any manner and to the extent Secured Party deems appropriate and in connection with such preparation and disposition, without charge, use any trademark, service mark, trade name, copyright, patent or technical process used by Debtor.

b. Debtor recognizes that Secured Party may be compelled, at any time after the occurrence and during the continuance of an Event of Default, to conduct any sale of all or any part of the Pledged Shares without registering or qualifying such Pledged Shares under the Securities Act of 1933, as amended (the "**Securities Act**"), and/or any applicable state securities laws in effect at such time. Debtor acknowledges that any such private sales may, to the extent permitted by applicable law, be made in such manner and under such circumstances as Secured Party may deem necessary or advisable in its sole and absolute discretion, including at prices and on terms that might be less favorable than those obtainable through a public sale without such restrictions (including, without limitation, a public offering made pursuant to a registration statement under the Securities Act), and, notwithstanding such circumstances, agrees that any such sale shall not be deemed not to have been made in a commercially reasonable manner solely because it was conducted as a private sale, and agrees that Secured Party shall have no obligation to conduct any public sales and no obligation to delay the sale of any Pledged Shares for the period of time necessary to permit its registration for public sale under the Securities Act and applicable state securities laws, and shall not have any responsibility or liability as a result of its election so not to conduct any such public sales or delay the sale of any Pledged Shares, notwithstanding the possibility that a substantially higher price might be realized if the sale were deferred until after such registration. To the extent permitted by applicable law, Debtor hereby waives any claims against Secured Party arising by reason of the fact that the price at which any Pledged Shares may have been sold at any private sale was less than the price that might have been obtained at a public sale or was less than the aggregate amount of the Obligations, even if Secured Party accepts the first offer received and does not offer such Pledged Shares to more than one offeree. Debtor agrees that a breach of any of the covenants contained in this Section 8 will cause irreparable injury to Secured Party, that Secured Party has no adequate remedy at law in respect of such breach and, as a consequence, that each and every covenant contained in this Section 8 shall be specifically enforceable against Debtor.

9 . **Cumulative Rights.** The rights, powers and remedies of Secured Party and its affiliates under this Agreement shall be in addition to all rights, powers and remedies given to Secured Party by virtue of any statute or rule of law, the Loan Agreement, the Note or this Agreement or any other agreement, all of which rights, powers and remedies shall be cumulative and may be exercised successively or concurrently without impairing Secured Party's security interest in the Collateral.

10. **Waiver.** Any forbearance or failure to act or delay by Secured Party in exercising any right, power or remedy shall not preclude the further exercise thereof, and every right, power or remedy of Secured Party shall continue in full force and effect until such right, power or remedy is specifically waived in a writing executed by Secured Party. Debtor waives any right to require Secured Party to proceed against any person or to exhaust any Collateral or to pursue any remedy in Secured Party's power.

11. **Further Actions.** Debtor shall deliver promptly to Secured Party all certificates or instruments representing or evidencing any Collateral to be held as Collateral shall be in form suitable for transfer by delivery and shall be delivered together with undated appropriate endorsements or other necessary instruments of registration, transfer or assignment, duly executed and in form and substance satisfactory to Secured Party, and in each case together with such other instruments or documents as Secured Party may reasonably request.

12. **Binding on Successors.** All rights of Secured Party under this Agreement shall inure to the benefit of its successors and assigns, and all obligations of Debtor shall bind its heirs, executors, administrators, successors and assigns.

13. **Entire Agreement; Severability; Amendments.** This Agreement, together with the Loan Agreement and the Note, contains the entire agreement between Secured Party and Debtor relating to the matters described herein. If any of the provisions of this Agreement shall be held invalid or unenforceable, this Agreement shall be construed as if not containing those provisions and the rights and obligations of the parties hereto shall be construed and enforced accordingly. This Agreement may not be altered, amended, or modified, nor may any provision hereof be waived or noncompliance therewith consented to, except by means of a writing executed by Debtor and Secured Party. Any such alteration, amendment, modification, waiver, or consent shall be effective only to the extent specified therein and for the specific purpose for which given. No course of dealing and no delay or waiver of any right or default under this Agreement shall be deemed a waiver of any other, similar or dissimilar, right or default or otherwise prejudice the rights and remedies hereunder.

14. **References.** The singular includes the plural. If more than one executes this Agreement, the term Debtor shall be deemed to refer to each of the undersigned as well as to all of them, and their obligations and agreements hereunder shall be joint and several. If any of the undersigned is a married person, recourse may be had against his or her separate property for the Obligations.

15. **Choice of Law.** This Agreement shall be construed in accordance with and governed by the laws of the State of California, without regard to its choice of law provisions, and, where applicable and except as otherwise defined herein, terms used herein shall have the meanings given them in the California Uniform Commercial Code.

16. **Collateral Location; Records.** Debtor represents that the Collateral described in Section 2(a) is located at Secured Party's offices at 1668 S. Garfield Ave, 2nd Floor, Alhambra, CA 91801, and that Debtor's records regarding the Collateral are kept at 1668 S. Garfield Ave, 2nd Floor, Alhambra, CA 91801.

17. **Notices.** Any notice required or permitted to be give hereunder shall be given in accordance with the applicable provisions of the Loan Agreement.

*[Signatures appear on the following page.]*

**IN WITNESS WHEREOF**, this Security Agreement has been duly executed by Debtor and Secured Party on and as of the date first above written.

**DEBTOR:**

AP-AMH MEDICAL CORPORATION,  
a California professional medical corporation

By: /s/ Thomas Lam  
Thomas S. Lam, M.D.  
Chief Executive Officer

**SECURED PARTY:**

APOLLO MEDICAL HOLDINGS, INC.,  
a Delaware corporation

By: /s/ Eric Chin  
Eric Chin  
Chief Financial Officer

**CERTIFICATE OF DETERMINATION  
OF PREFERENCES OF  
SERIES A PREFERRED STOCK  
OF  
ALLIED PHYSICIANS OF CALIFORNIA,  
A PROFESSIONAL MEDICAL CORPORATION**

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Pursuant to Section 401 of the  
General Corporation Law of the State of California

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The undersigned, Thomas Lam, M.D., and Paul Liu, M.D., hereby certify that:

- A. They are the duly elected and acting Chief Executive Officer and the duly elected and acting Secretary, respectively, of Allied Physicians of California, a Professional Medical Corporation, a California corporation (the "Company").
- B. The authorized number of shares of the Preferred Stock of the Company is 1,000,000, none of which shares have been issued. The authorized number of shares of the Series A Preferred Stock is 1,000,000, none of which shares have been issued.
- C. Pursuant to the authority given by the Company's Articles of Incorporation, the Board of Directors of the Company (the "Board") has duly adopted the following recitals and resolutions:

**WHEREAS**, the Amended and Restated Articles of Incorporation of the Company authorize a class of Preferred Stock comprising 1,000,000 shares issuable from time to time in one or more series;

**WHEREAS**, the Board is authorized to fix or alter the rights, preferences, privileges and restrictions granted to or imposed upon any wholly unissued series of Preferred Stock, including but not limited to the dividend rights, dividend rates, conversion rights, voting rights, liquidation preferences and the number of shares constituting any such series and the designation thereof, or any of them; and

**WHEREAS**, the Company heretofore has not issued or designated any series of Preferred Stock, and it is the desire of the Board, pursuant to its authority as aforesaid, to fix the rights, preferences, privileges, restrictions and other matters relating to the Series A Preferred Stock and the number of shares constituting such series.

**NOW, THEREFORE, BE IT RESOLVED**, that the Board hereby provides for the issue of the first series of Preferred Stock consisting of 1,000,000 shares designated as "Series A Preferred Stock"; and

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**RESOLVED FURTHER**, that the Board hereby fixes the rights, privileges, preferences and restrictions and other matters relating to the Series A Preferred Stock (the "Series A Preferred") as follows:

**1. Certain Definitions.**

"Affiliate" means, with respect to any Person, any other Person that directly, or indirectly, through one or more intermediaries, Controls, is Controlled by or is under common Control with such specified Person. For the avoidance of doubt, APC-LSMA Designated Shareholder Medical Corporation is an Affiliate of the Company.

"Baseline Amount" means, as of the Effective Date, an amount equal to \$54,000,000, which amount shall pro-rated (as reasonably determined by the Board) in connection with the calculation of the Series A Dividend with respect to less than a full fiscal year of the Company, subject to adjustment as follows: Commencing on the first anniversary of the Effective Date, and on each succeeding anniversary of the Effective Date thereafter (each, an "Adjustment Date"), the Baseline Amount shall be increased, if applicable, by the same percentage increase (the "Percentage Increase") as the change in the CPI for the period of January 1 through December 31 of the immediately preceding calendar year, which percentage increase shall be determined by subtracting the CPI effective as of January 1 of the preceding calendar year (the "Base CPI") from the CPI effective as of December 31 of the preceding calendar year (the "Target CPI") to calculate the CPI point change (the "CPI Point Change"), and then dividing the CPI Point Change by the Base CPI and multiplying the result by 100. For the avoidance of doubt, if the Target CPI is the same or less than the Base CPI, then, the Baseline Amount will remain the same for the ensuing one (1) year period. As an illustration only, and not by way of limitation, assume that the Base CPI is 103 and the Target CPI is 106, and that the Baseline Amount prior to the Adjustment Date is \$54,000,000, then, the adjusted Baseline Amount is calculated as follows:

- $\text{CPI Point Change} = 106 \text{ [Target CPI]} \text{ minus } 103 \text{ [Base CPI]} = 3$
- $3 \text{ [CPI Point Change]} / 103 \text{ [Base CPI]} = 0.029$
- $0.029 \times 100 = 2.9\%$
- $\text{Adjusted Baseline Amount} = \$54,000,000 \times 1.029 = \$55,566,000$

"Business Day" means any day other than a Saturday, a Sunday or any other day on which commercial banks in Los Angeles, California are required or authorized to close.

"Common Stock" means the shares of common stock, without par value, of the Company.

"Control" means, as to any Person, the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by contract or otherwise (the terms "Controlled by," "Controlling" and "under common Control with" shall have correlative meanings).

“Cost of Healthcare Services” means the Company’s actual costs incurred on an accrual basis of providing Healthcare Services pursuant to the terms and conditions of the Payor Contracts, including the costs of primary care and specialty care providers, ancillary medical services, including setting aside a reasonable reserve for IBNR, management fees paid to management services organizations, professional liability and other insurance costs, professional liability claims (to the extent not covered by insurance), the repayment of indebtedness incurred to fund operating losses with respect to the provision of Healthcare Services, and general and administrative costs and expenses (including legal and accounting fees) allocated to the provision of such services in accordance with industry practice, but expressly excluding (i) discretionary bonuses paid by the Company to providers, (ii) non-cash items (e.g., non-cash allocations from equity method investments, depreciation and amortization expenses), and (iii) costs and expenses relating to or arising from the Excluded Assets.

“CPI” means the Consumer Price Index - All Urban Consumers (Los Angeles-Long Beach-Anaheim, CA area, Medical Care Services only: Base 1982-84 = 100) as published by the United States Department of Labor, Bureau of Labor Statistics or the successor index that most closely approximates such index. If such index is no longer published, the Company and the holders of the Series A Preferred shall attempt to agree upon a substitute index or formula, but if they are unable to so agree, then an arbitrator shall determine what substitute index or formula shall be used. The arbitration shall be conducted in accordance with the rules of the American Arbitration Association then prevailing by a single arbitrator in Los Angeles, California. Any decision or award resulting from such arbitration shall be final and binding upon the Company and the holders of the Series A Preferred and judgment thereon may be entered in any court of competent jurisdiction.

“Designated Entities” means any entity in which the Company presently or hereafter holds an equity interest, directly or beneficially, and that provides Healthcare Services or that supports the provision of Healthcare Services by the Company, including, without limitation, (i) APC-LSMA Designated Shareholder Medical Corporation, (ii) Accountable Health Care IPA, (iii) AHMC International Cancer Center, A Medical Corporation, (iv) Concourse Diagnostic Surgery Center, LLC, (v) David C. P. Chen M.D., Inc., (vi) La Salle Medical Associates, (vii) Maverick Medical Group, Inc., (viii) MediPortal LLC, (ix) Pacific Medical Imaging & Oncology Center, Inc., and (x) Pacific Ambulatory Surgery Center, LLC, but excluding any entity the interests of which constitute Excluded Assets.

“Dividend Receivables” means dividends, distributions and similar amounts paid by the Designated Entities to the Company and/or its Affiliates, in the Company’s capacity as a direct or beneficial equityholder of the Designated Entities.

“Effective Date” means the date on which any shares of Series A Preferred are first issued by the Company.

“Excluded Assets” means (i) assets received from the sale of shares of the Series A Preferred equal to the Series A Purchase Price, (ii) the assets of the Company that are not Healthcare Services Assets, including the Company’s equity interests in Universal Care, Inc., Apollo Medical Holdings, Inc., and any entity that is primarily engaged in the business of owning, leasing, developing or otherwise operating real estate, (iii) any assets acquired with the proceeds of the sale, assignment or other disposition of any of the assets described in clauses (i) or (ii), and (iv) any proceeds of the assets described in clauses (i), (ii) and (iii).



“Healthcare Services” means any medical or other healthcare-related services that the Company delivers or is responsible for delivering to patients through physicians, professional medical corporations, ancillary service providers, and other contracted providers engaged by the Company to provide such services, including any medical or other healthcare-related services with respect to which the Company is entitled to receive capitation payments, fee-for-service payments, risk pool settlements, incentive payments or other fees.

“Healthcare Services Assets” means (i) the assets of the Company that consist of or are dedicated exclusively to activities that generate Net Income from Healthcare Services or Dividend Receivables and (ii) other assets of the Company, to the extent such assets consist of or are dedicated in part to activities that generate Net Income from Healthcare Services or Dividend Receivables, in each case as reasonably determined by the Board.

“IBNR” means estimated claims for Healthcare Services provided by the Company, which claims have been incurred but not reported.

“IBNR Base Amount” means the Company’s estimated IBNR, as reported on the Company’s most recent financial survey report preceding the Effective Date filed by the Company with the California Department of Managed Health Care.

“IBNR Reconciliation Amount” means an amount equal to the IBNR Base Amount, less the actual amount paid after the Effective Date with respect to IBNR liabilities incurred by the Company on or prior to the Effective Date (based on actual claims paid after the Effective Date for Healthcare Services provided on or prior to the Effective Date), as reasonably determined by the Company as of the 12-month anniversary of the Effective Date.

“Incentive Agreements” means agreements and other arrangements between the Company and Payors providing for incentive, bonus or other payments to the Company based on, among other things, the quality of care or other performance criteria, HEDIS adjustments, enrollment incentives or kick payments.

“Liquidation Event” means any of the following: (i) a liquidation, dissolution or winding up of the affairs of the Company, either voluntary or involuntary, (ii) a Sale of the Company or (iii) the bankruptcy or insolvency of the Company.

“Net Income from Healthcare Services” means, with respect to any period of determination, and subject to Section 2(b), the Payor Contract Receivables for such period, less the corresponding Cost of Healthcare Services incurred, which amount shall be determined net of any taxes applicable to or based on the Payor Contract Receivables, and without the application of any tax benefits generated by or in connection with the Excluded Assets.

“Non-Affiliate” means any Person other than an Affiliate of the Company or of any holder of the Series A Preferred that owns, individually or together with its Affiliates, more than 25% of the issued and outstanding shares of the Series A Preferred.

“Payor Contracts” means agreements, including (i) capitation agreements, (ii) risk pool agreements, risk pool settlements and other shared risk arrangements, (iii) Incentive Agreements and (iv) other agreements and arrangements entered into between the Company and Payors, in each case pursuant to which the Company receives payments in exchange for or in connection with providing or arranging the delivery of Healthcare Services to patients, as specified in such agreements or arrangements.

“Payor Contract Receivables” means the net payments and other amounts received on an accrual basis by the Company for Healthcare Services provided after the Effective Date pursuant to the terms and conditions of the Payor Contracts.

“Payors” means health maintenance organizations, insurance companies, health plan sponsors, governmental programs, licensed health care service plans, hospitals and other providers, entities and organizations that provide payments and/or reimbursements to healthcare providers in connection with the provision of healthcare services to patients.

“Person” means an individual, a partnership, a corporation, a limited liability company, an association, a joint stock company, a trust, a joint venture, an unincorporated organization and a government or any branch, department, agency, political subdivision or official thereof.

“Retained Amounts” means, with respect to the calculation of the amount of the Series A Dividend payable in connection with any fiscal year of the Company, fifty percent (50%) of the aggregate amount of Net Income from Healthcare Services (but excluding Dividend Receivables) that exceeds the then-current Baseline Amount.

“Sale of the Company” means (a) the sale of all, or substantially all, of the Company’s consolidated assets to a Non-Affiliate in any single transaction or series of related transactions; (b) the sale of at least a majority of the outstanding Common Stock to a Non-Affiliate in any single transaction or series of related transactions; (c) any merger or consolidation of the Company with or into a Non-Affiliate, or (d) any reorganization, recapitalization or other similar transaction (including a stock sale) involving the Company, on the one hand, and a Non-Affiliate, on the other hand, unless, immediately after the completion of such transaction described in clause (c) or (d), Control of the Company is substantially unaffected or remains, directly or indirectly, in the same shareholders (or their Affiliates) that Controlled the Company immediately prior to such transaction.

“Series A Dividend Payment Date” means the last day of the Company’s first full fiscal quarter after the Effective Date, and the last day of each subsequent fiscal quarter in which any shares of the Series A Preferred are outstanding (unless such day is not a Business Day, in which event such dividends shall be payable on the next succeeding Business Day).

“Series A Purchase Price” means an amount equal to \$545,000,000.

“Series A Shareholders Agreement” means any agreement entered into at any time or from time to time between the Company and any of the holders of the shares of Series A Preferred in connection with the shares of Series A Preferred and the respective rights of the parties thereunder.

## 2. Dividend Rights.

(a) **Cumulative Dividend Calculation.** Holders of Series A Preferred shall be entitled to receive preferential, cumulative dividends, which dividends shall accumulate and accrue on a daily basis from and after the date of issuance of any particular share of Series A Preferred, in an amount equal to, with respect to any period of determination, (i) the sum of (A) Net Income from Healthcare Services and (B) Dividend Receivables, less (ii) the sum of any Retained Amounts (the "Series A Dividend"). For the avoidance of doubt, the amount of Net Income from Healthcare Services and the amount of Dividend Receivables, as each shall have been determined as provided herein with respect to any specified fiscal year of the Company, shall be payable in full to the holders of the Series A Preferred until such time as such holders have received an aggregate amount equal to the Baseline Amount, and for the balance of such fiscal year, the Series A Dividend amount determined pursuant to clause (i) of this Section 2(a) shall be reduced by the Retained Amount. Notwithstanding anything to the contrary set forth herein, all calculations hereunder relating to the Series A Preferred shall be made on an accrual basis in accordance with U.S. generally accepted accounting principles (GAAP), including, without limitation, the calculation of the Cost of Healthcare Services, Dividend Receivables, IBNR, IBNR Reconciliation Amount, Net Income from Healthcare Services, Payor Contract Receivables, Retained Amounts, and the Series A Dividend.

(b) **Adjustments to Net Income from Healthcare Services.** Notwithstanding anything to the contrary herein, Net Income from Healthcare Services shall be subject to the following adjustments:

(i) If a capitation payment under a Payor Contract is adjusted after the Effective Date with respect to Healthcare Services provided before the Effective Date, (A) any additional amounts received by the Company with respect to such adjustment shall be excluded from the calculation of Net Income from Healthcare Services for the period in which amount was received, and (B) any payment the Company is required to make with respect to such adjustment shall not be deemed to constitute a Cost of Healthcare Services or otherwise reduce the amount of Net Income from Healthcare Services for the period in which such amount was paid.

(ii) If, after the Effective Date, the Company receives a payment under an Incentive Agreement, which payment has been calculated in whole or in part with respect to Healthcare Services provided before the Effective Date, such payment, to the extent based on Healthcare Services provided before the Effective Date, shall be excluded from the calculation of Net Income from Healthcare Services.

(iii) If the IBNR Reconciliation Amount is a positive number, such amount shall be excluded from the calculation of Net Income from Healthcare Services for the period in which such amount was determined, and if the IBNR Reconciliation Amount is a negative number, such amount shall not be deemed to constitute a Cost of Healthcare Services or otherwise reduce the amount of Net Income from Healthcare Services for the period in which such amount was determined.

(c) **Dividend Payment Dates.** The accrued and unpaid portion of the Series A Dividend shall be payable in cash, out of funds legally available for the payment of dividends and whether or not declared by the Board, quarterly in arrears on each Series A Dividend Payment Date. If the full amount of the dividend for a particular period, as computed pursuant to Section 2(a), is not paid on the applicable payment date, then any such unpaid amount shall accrue and be paid as promptly as is legally permissible.

(d) **Restriction on Other Dividends.** The Company shall not declare, pay or set aside any dividends on shares of any other class or series of capital stock of the Company (other than dividends on shares of common stock payable in shares of common stock) unless the holders of Series A Preferred shall have received, immediately prior to or simultaneously with the payment of such other dividend, an amount equal to the aggregate Series A Dividend then accrued and unpaid.

**3. Voting Rights.**

(a) **General Limitation.** Except to the extent otherwise provided by law and/or in any Series A Shareholders Agreement, the shares of Series A Preferred shall have the right to vote only with respect to the matters expressly set forth herein. The shares of Series A Preferred shall not be entitled to vote for the election of directors.

(b) **Manner of Voting.** Solely in connection with the matters upon which the shares of Series A Preferred are entitled to vote, the holders thereof shall be entitled to one vote per each share held immediately after the close of business on the record date fixed for a meeting or the effective date of a written consent, and such holders shall have voting rights and powers equal to the voting rights and powers of the Common Stock and shall be entitled to notice of any shareholders' meeting in accordance with the Bylaws of the Company. Except as otherwise provided herein or in any Series A Shareholders Agreement or as required by law, the Series A Preferred shall vote together with the Common Stock at any annual or special meeting of the shareholders and not as a separate class, and may act by written consent together with and in the same manner as the Common Stock.

(c) **Separate Vote of Series A Preferred.** For so long as any shares of Series A Preferred remain outstanding, in addition to any other vote or consent required herein or in any Series A Shareholders Agreement or by law, the vote or written consent of the holders of at least a majority of the outstanding shares of Series A Preferred, voting as a separate class, shall be necessary for effecting or validating the following actions:

(i) Any action that alters or changes the voting powers or other special rights, preferences, privileges, qualifications, limitations or restrictions of the Series A Preferred;

(ii) Any increase or decrease (other than by conversion) in the authorized number of shares of the Series A Preferred;

(iii) Any Liquidation Event; and

(iv) Any authorization or any designation, whether by reclassification or otherwise, of any new class or series of capital stock or any other securities convertible into equity securities of the Company ranking on a parity with or senior to the Series A Preferred in rights of redemption, liquidation preference, voting or dividends, or any increase in the authorized or designated number of any such new class or series.

#### 4. Liquidation Rights.

(a) **Series A Liquidation Preference.** Upon any Liquidation Event, whether voluntary or involuntary, before any other distribution or payment shall be made to the holders of any shares of capital stock of the Company, the holders of the Series A Preferred shall be entitled to be paid, out of the assets or surplus funds of the Company legally available for distribution, their pro rata share of an amount equal to (i) all accrued and unpaid amounts of the Series A Dividend and (ii) the Series A Purchase Price (the "Series A Liquidation Preference").

(b) **Additional Series A Preference Distributions.** After the payment in full of the Series A Liquidation Preference, the remaining assets or surplus funds of the Company legally available for distribution, if any, in amount equal to the positive difference between the then-current fair value of the Healthcare Services Assets, as reasonably determined by the Board, and the Series A Liquidation Preference, shall be distributed ratably 90% to the holders of the Series A Preferred and 10% to the holders of the Common Stock (the "Additional Series A Preference Distribution").

(c) **Common Preference Distributions.** After the payment in full of the Additional Series A Preference Distribution, the remaining assets or surplus funds of the Company legally available for distribution, if any, shall be distributed ratably 90% to the holders of the Common Stock and 10% to the holders of the Series A Preferred, until the holders of the Series A Preferred shall have received under this Section 4(c) an aggregate amount equal to the amount received by the holders of the Common Stock under Section 4(b) (the "Common Preference Distribution").

(d) **Residual Distributions.** After the payment in full of the Series A Liquidation Preference, the Additional Series A Preference Distribution and the Common Preference Distribution, the remaining assets or surplus funds of the Company legally available for distribution, if any, shall be distributed ratably to the holders of the Common Stock.

(e) **Pro Rata Distributions.** If, upon any Liquidation Event, the assets or surplus funds of the Company shall be insufficient to make payment in full of any of the liquidation preferences set forth in Sections 4(a)-4(d) above, then such assets or surplus funds as are available shall be distributed ratably, in partial satisfaction of the applicable liquidation preference, among the holders of the shares of Series A Preferred and/or the shares of Common Stock, as the case may be, then outstanding, in proportion to the full amounts to which they would be otherwise respectively entitled.

#### 5. Miscellaneous.

(a) **Notices of Record Date.** Upon (i) any taking by the Company of a record of the holders of any class of securities for the purpose of determining the holders thereof who are entitled to receive any dividend or other distribution, or (ii) any Liquidation Event or other capital reorganization of the Company or any reclassification or recapitalization of the capital stock of the Company, the Company shall mail to each holder of Series A Preferred at least ten days prior to the record date specified therein (or such shorter period approved by a the holders of a majority of the outstanding Series A Preferred) a notice specifying (A) the date on which any such record is to be taken for the purpose of such dividend or distribution and a description of such dividend or distribution, (B) the date on which any such Liquidation Event or other capital reorganization of the Company or any reclassification or recapitalization of the capital stock of the Company is expected to become effective, and (C) the date, if any, that is to be fixed as to when the holders of record of Common Stock (or other securities) shall be entitled to exchange their shares of Common Stock (or other securities) for securities or other property deliverable upon such Liquidation Event or other capital reorganization of the Company or any reclassification or recapitalization of the capital stock of the Company.

(b) **Delivery of Notices.** Any notice required by the provisions of this Certificate of Determination shall be in writing and shall be deemed effectively given: (i) upon personal delivery to the party to be notified, (ii) when sent by confirmed electronic mail, (iii) when sent by facsimile during normal business hours of the recipient (and on the next business day if sent by facsimile outside of such normal business hours), (iv) seven days after having been sent by registered or certified mail, return receipt requested, postage prepaid, or (v) one day after deposit with a nationally recognized overnight courier, specifying next day delivery, with written verification of receipt. All notices shall be addressed to each holder of record at the address of such holder appearing on the books of the Company.

(c) **No Dilution or Impairment.** The Company will not, by amendment of its Articles of Incorporation or through any reorganization, transfer of assets, consolidation, merger, dissolution, issue or sale of securities or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of the Series A Preferred set forth herein, but will at all times in good faith assist in the carrying out of all such terms and in the taking of all such actions as may be necessary or appropriate in order to protect the rights of the holders of the Series A Preferred against dilution or other impairment.

(d) **No Reissuance of Series A Preferred.** No share or shares of Series A Preferred acquired by the Company by reason of redemption, purchase or otherwise shall be reissued.

**RESOLVED FURTHER,** that the President and Chief Executive Officer and the Secretary of the Company are hereby authorized and directed to execute, acknowledge, file and record a Certificate of Determination of Preferences of Series A Preferred Stock in accordance with the foregoing resolutions and provisions of the General Corporation Law of California.

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**IN WITNESS WHEREOF**, the undersigned President and Chief Executive Officer of the Company and Secretary of the Company each declares under penalty of perjury under the laws of the State of California that the matters set out in the foregoing Certificate are true and correct of his own knowledge.

Dated: September 11, 2019.

/s/ Thomas Lam  
Thomas Lam, M.D.,  
Chief Executive Officer

/s/ Paul Liu, M.D.  
Paul Liu, M.D.,  
Secretary

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## VOTING AND REGISTRATION RIGHTS AGREEMENT

**THIS VOTING AND REGISTRATION RIGHTS AGREEMENT** (this “Agreement”) is made and entered into as of September 11, 2019, by and among Apollo Medical Holdings, Inc., a Delaware corporation (the “Company”), and Allied Physicians of California, A Professional Medical Corporation (“Purchaser”).

## BACKGROUND STATEMENT

This Agreement is made pursuant to that certain Stock Purchase Agreement, dated as of May 10, 2019 between Company and Purchaser (the “Stock Purchase Agreement”).

## AGREEMENT

**NOW, THEREFORE**, in consideration of the mutual covenants contained in this Agreement, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and in order to induce Purchaser to enter into the Stock Purchase Agreement, the parties hereto hereby agree as follows:

1. **Defined Terms.** Capitalized terms used and not otherwise defined herein shall have the meanings given such terms in the Stock Purchase Agreement. As used in this Agreement, the following terms shall have the following respective meanings:

“Advice” shall have the meaning set forth in **Section 7(b)**.

“Affiliate” means, as to any Person, (i) any other Person which directly, or indirectly through one or more intermediaries, controls such Person or is consolidated with such Person in accordance with generally accepted accounting principles, (ii) any other Person which directly, or indirectly through one or more intermediaries, is controlled by or is under common control with such Person, or (iii) any other Person of which such Person owns, directly or indirectly, ten percent (10%) or more of the common stock or equivalent equity interests. As used herein, the term “control” means possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ownership of voting securities or otherwise.

“Agreement” shall have the meaning set forth in the Preamble.

“Allowable Grace Period” shall have the meaning set forth in **Section 2(d)**.

“Business Day” means any day of the year on which banks are open for business in Los Angeles, California.

“Commission” means the Securities and Exchange Commission.

“Company” shall have the meaning set forth in the Preamble.

“Effective Date” means the date that the Registration Statement filed pursuant to **Section 2(a)** is first declared effective by the Commission.

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“Effectiveness Period” shall have the meaning set forth in **Section 2(b)**.

“FINRA” shall have the meaning set forth in **Section 3(g)**.

“Grace Period” shall have the meaning set forth in **Section 2(d)**.

“Holder” or “Holders” means the holder or holders, as the case may be, from time to time of Registrable Securities.

“Indemnified Party” shall have the meaning set forth in **Section 5(c)**.

“Indemnifying Party” shall have the meaning set forth in **Section 5(c)**.

“Initial Registration Statement” means the initial Registration Statement filed pursuant to **Section 2(a)** of this Agreement.

“Losses” shall have the meaning set forth in **Section 5(a)**.

“New Registration Statement” shall have the meaning set forth in **Section 2(a)**.

“Proceeding” means an action, claim, suit, investigation or proceeding (including, without limitation, an investigation or partial proceeding, such as a deposition), whether commenced or threatened.

“Prospectus” means the prospectus included in a Registration Statement (including, without limitation, 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, with respect to the terms of the offering of any portion of the Registrable Securities covered by a Registration Statement, and all other amendments and supplements to the Prospectus, including post-effective amendments, and all material incorporated by reference or deemed to be incorporated by reference in such Prospectus.

“Registrable Securities” means any shares of Common Stock issued by the Company pursuant to the Stock Purchase Agreement and any additional shares of Common Stock or other equity securities of the Company issued by the Company in connection with a stock dividend, stock split, combination, exchange, reorganization, recapitalization or similar reclassification of the Company’s securities; provided, that, as to any particular Registrable Securities, such securities shall cease to constitute Registrable Securities when: (x) a registration statement with respect to the sale of such securities shall have become effective under the Securities Act and such securities shall have been disposed of thereunder; (y) such securities shall be able to be sold in satisfaction of all applicable conditions to the resale provisions of Rule 144 under the Securities Act (or any similar provision then in force); or (z) such securities shall have ceased to be issued and outstanding.

“Registration Statements” means any one or more registration statements of the Company filed under the Securities Act that covers the resale of any of the Registrable Securities pursuant to the provisions of this Agreement (including without limitation the Initial Registration Statement, the New Registration Statement and any Remainder Registration Statements), amendments and supplements to such Registration Statements, including post-effective amendments.

“Remainder Registration Statement” shall have the meaning set forth in **Section 2(a)**.

“Rule 144” means Rule 144 promulgated by the Commission pursuant to the Securities Act, as such Rule may be amended from time to time, or any similar rule or regulation hereafter adopted by the Commission having substantially the same effect as such Rule.

“Rule 415” means Rule 415 promulgated by the Commission pursuant to the Securities Act, as such Rule may be amended from time to time, or any similar rule or regulation hereafter adopted by the Commission having substantially the same effect as such Rule.

“Rule 424” means Rule 424 promulgated by the Commission pursuant to the Securities Act, as such Rule may be amended from time to time, or any similar rule or regulation hereafter adopted by the Commission having substantially the same effect as such Rule.

“SEC Guidance” means (i) any publicly-available guidance, comments or requirements of the Commission staff and (ii) the Securities Act.

“Selling Shareholder Questionnaire” means a questionnaire in the form adopted by the Company from time to time.

“Stock Purchase Agreement” shall have the meaning set forth in the Recitals.

“Trading Market” means the NASDAQ Capital Market or other exchange, trading market or quotation system on which the Common Stock is listed or quoted for trading on the date in question.

## 2. Registration.

(a) If at any time after the six (6) month anniversary of the date of this Agreement the Company receives a request from Holders of at least twenty-five percent (25%) of the Registrable Securities then outstanding, the Company shall prepare and file with the Commission a Registration Statement covering the resale of all of the Registrable Securities not already covered by an existing and effective Registration Statement for an offering to be made on a continuous basis pursuant to Rule 415 or, if Rule 415 is not available for offers and sales of the Registrable Securities, by such other means of distribution of Registrable Securities as the Company may reasonably determine (the “Initial Registration Statement”). The Initial Registration Statement shall be on Form S-3 (except if the Company is then ineligible to register for resale of the Registrable Securities on Form S-3, then the Initial Registration Statement shall be on Form S-1). Subject to such other limitations as specified in this Agreement, the Company shall have the right to include its equity securities that are not Registrable Securities, including a primary offering of equity securities by the Company for its own account or a secondary offering of equity securities owned by the Company’s directors and officers, in any such Registration Statement. Notwithstanding the registration obligations set forth in this **Section 2**, in the event the Commission informs the Company that all of the Registrable Securities cannot, as a result of the application of Rule 415, be registered for resale as a secondary offering on a single registration statement, the Company agrees to promptly (i) inform each of the Holders thereof and use its commercially reasonable efforts to file amendments to the Initial Registration Statement as required by the Commission, (ii) remove any and all securities that are not Registrable Securities from such Initial Registration Statement and/or (iii) withdraw the Initial Registration Statement and file a new registration statement (a “New Registration Statement”), in either case covering the maximum number of Registrable Securities permitted to be registered by the Commission, on Form S-3 or such other form available to the Company to register for resale the Registrable Securities as a secondary offering; provided, that prior to filing such amendment or New Registration Statement, the Company shall be obligated to use its commercially reasonable efforts to advocate with the Commission for the registration of all of the Registrable Securities in accordance with the SEC Guidance. In the event the Company amends the Initial Registration Statement or files a New Registration Statement, as the case may be, under clauses (i) or (ii) above, the Company will use its commercially reasonable efforts to file with the Commission, as promptly as allowed by Commission or SEC Guidance provided to the Company or to registrants of securities in general, one or more registration statements on Form S-3 or such other form available to the Company to register for resale those Registrable Securities that were not registered for resale on the Initial Registration Statement, as amended, or the New Registration Statement (the “Remainder Registration Statements”).

(b) The Company shall use its commercially reasonable efforts to cause each Registration Statement to be declared effective by the Commission as soon as practicable (and will continue to use commercially reasonable efforts thereafter if the applicable Registration Statement is not effective by such date), and shall use its commercially reasonable efforts to keep each Registration Statement continuously effective under the Securities Act until the earlier of (i) such time as all of the Registrable Securities covered by such Registration Statement have been publicly sold by the Holders or (ii) the date that all Registrable Securities covered by such Registration Statement may be sold by Holders under Rule 144, and without the requirement for the Company to be in compliance with the current public information requirements under Rule 144(c) (1) (or Rule 144(i)(2), if applicable), as determined by counsel to the Company pursuant to a written opinion letter to such effect, addressed and reasonably acceptable to the Company's transfer agent and the affected Holders (the "Effectiveness Period").

(c) Each Holder agrees to furnish to the Company a completed Selling Shareholder Questionnaire not more than seven (7) Trading Days following the date of the Company's written request therefor. At least five (5) Trading Days prior to the first anticipated filing date of a Registration Statement for any registration under this Agreement, the Company will notify each Holder of the information the Company requires from that Holder other than the information contained in the Selling Shareholder Questionnaire, if any, which shall be completed and delivered to the Company promptly upon request and, in any event, within three (3) Trading Days prior to the applicable anticipated filing date. Each Holder further agrees that it shall not be entitled to be named as a selling security holder in the Registration Statement or use the Prospectus for offers and resales of Registrable Securities at any time, unless such Holder has returned to the Company a completed and signed Selling Shareholder Questionnaire and a response to any requests for further information as described in the previous sentence. If a Holder of Registrable Securities returns a Selling Shareholder Questionnaire or a request for further information, in either case, after its respective deadline, the Company shall use its commercially reasonable efforts at the expense of the Holder who failed to return the Selling Shareholder Questionnaire or to respond for further information to take such actions as are required to name such Holder as a selling security holder in the Registration Statement or any pre-effective or post-effective amendment thereto and to include (to the extent not theretofore included) in the Registration Statement the Registrable Securities identified in such late Selling Shareholder Questionnaire or request for further information. Each Holder acknowledges and agrees that the information in the Selling Shareholder Questionnaire or request for further information as described in this **Section 2(e)** will be used by the Company in the preparation of the Registration Statement and hereby consents to the inclusion of such information in the Registration Statement.

(d) Notwithstanding anything to the contrary herein, at any time after the Registration Statement has been declared effective by the Commission, the Company may delay the disclosure of material non-public information concerning the Company if the disclosure of such information at the time is not, in the good faith judgment of the Company, in the best interests of the Company (such delay, a “Grace Period”); provided, the Company shall promptly (i) notify the Holders in writing of the existence of material non-public information giving rise to a Grace Period (provided that the Company shall not disclose the content of such material non-public information to the Holders) or the need to file a post-effective amendment, as applicable, and the date on which such Grace Period will begin, (ii) use commercially reasonable efforts to terminate a Grace Period as promptly as reasonably practicable, unless doing so would reasonably be expected to have a material adverse effect on the Company with respect to any proposal or plan of the Company to effect a merger, acquisition, disposition, financing, reorganization, recapitalization or similar transaction or any negotiations, discussions or pending proposals with respect thereto, and (iii) notify the Holders in writing of the date on which the Grace Period ends; provided, further, that no single Grace Period shall exceed ninety (90) consecutive days, and during any three hundred sixty-five (365) day period, the aggregate of all Grace Periods shall not exceed an aggregate of one hundred eighty (180) days (each Grace Period complying with this provision being an “Allowable Grace Period”). For purposes of determining the length of a Grace Period, the Grace Period shall be deemed to begin on and include the date the Holders receive the notice referred to in clause (i) above and shall end on and include the later of the date the Holders receive the notice referred to in clause (iii) above and the date referred to in such notice; provided, that no Grace Period shall be longer than an Allowable Grace Period.

### 3. Registration Procedures

In connection with the Company’s registration obligations hereunder:

(a) (i) the Company shall prepare and file with the Commission such amendments, including post-effective amendments and supplements, to each Registration Statement and the Prospectus used in connection therewith as may be necessary to keep such Registration Statement continuously effective as to the applicable Registrable Securities for its Effectiveness Period (except during an Allowable Grace Period); (ii) the Company shall cause the related Prospectus to be amended or supplemented by any required Prospectus supplement (subject to the terms of this Agreement), and, as so supplemented or amended, to be filed pursuant to Rule 424 (except during an Allowable Grace Period); (iii) the Company shall respond as promptly as reasonably practicable to any comments received from the Commission with respect to each Registration Statement or any amendment thereto; and (iv) the Company shall comply with the provisions of the Securities Act and the Exchange Act with respect to the disposition of all Registrable Securities covered by a Registration Statement until such time as all of such Registrable Securities shall have been disposed of (subject to the terms of this Agreement) in accordance with the intended methods of disposition by the Holders thereof as set forth in such Registration Statement as so amended or in such Prospectus as so supplemented; provided, that Purchaser shall be responsible for the delivery of the Prospectus to the Persons to whom such Purchaser sells any of the Registrable Securities (including in accordance with Rule 172 under the Securities Act), and Purchaser agrees (and shall cause each other Holder) to dispose of Registrable Securities in compliance with the plan of distribution described in the Registration Statement and otherwise in compliance with applicable federal and state securities laws. In the case of amendments and supplements to a Registration Statement which are required to be filed pursuant to this Agreement (including pursuant to this **Section 3(a)**) by reason of the Company filing a report on Form 10-K, Form 10-Q or Form 8-K or any analogous report under the Exchange Act, the Company shall have incorporated such report by reference into such Registration Statement, if applicable, or shall file such amendments or supplements with the Commission as soon as reasonably practicable after the Exchange Act report which created the requirement for the Company to amend or supplement such Registration Statement was filed.

(b) the Company shall use commercially reasonable efforts to avoid the issuance of, or, if issued, obtain the withdrawal of (i) any order suspending the effectiveness of a Registration Statement, or (ii) any suspension of the qualification (or exemption from qualification) of any of the Registrable Securities for sale in any jurisdiction, as soon as practicable.

(c) the Company shall, if requested by a Holder, furnish to such Holder, without charge, at least one conformed copy of each Registration Statement and each amendment thereto and all exhibits to the extent requested by such Holder promptly after the filing of such documents with the Commission; provided, that the Company may provide a link to, and shall have no obligation to provide a physical copy of, any such document that is available on the Commission's EDGAR or successor system.

(d) the Company shall, prior to any resale of Registrable Securities by a Holder, use its commercially reasonable efforts to register or qualify or cooperate with the selling Holders in connection with the registration or qualification (or exemption from the registration or qualification) of such Registrable Securities for the resale by the Holder under the securities or Blue Sky laws of such jurisdictions within the United States as any Holder reasonably requests in writing, to keep each registration or qualification (or exemption therefrom) effective during the Effectiveness Period and to do any and all other acts or things reasonably necessary to enable the disposition in such jurisdictions of the Registrable Securities covered by each Registration Statement; provided, that the Company shall not be required to qualify generally to do business in any jurisdiction where it is not then so qualified, subject the Company to any material tax in any such jurisdiction where it is not then so subject or file a general consent to service of process in any such jurisdiction.

(e) the Company shall, reasonably cooperate with the Holders to facilitate the timely preparation and delivery of certificates representing Registrable Securities to be delivered to a transferee pursuant to the Registration Statement, which certificates shall be free, to the extent permitted by the Stock Purchase Agreement and under law, of all restrictive legends, and to enable such Registrable Securities to be in such denominations and registered in such names as any such Holders may reasonably request. Certificates for Registrable Securities free from all restrictive legends may be transmitted by the transfer agent to a Holder by crediting the account of such Holder's prime broker with DTC as directed by such Holder.

(f) subject to **Section 2(c)**, the Company shall, following the occurrence of any event that the Company determines requires it to file a supplement or amendment to any Registration Statement, as promptly as reasonably practicable (taking into account the Company's good faith assessment of any adverse consequences to the Company and its shareholders of the premature disclosure of such event), prepare and file a supplement or amendment, including a post-effective amendment, to the affected Registration Statements or a supplement to the related Prospectus or any document incorporated or deemed to be incorporated therein by reference, and file any other required document so that, as thereafter delivered, no Registration Statement nor any Prospectus will 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 any Prospectus, form of prospectus or supplement thereto, in light of the circumstances under which they were made), not misleading.

(g) the Company may require each selling Holder to furnish to the Company a certified statement as to (i) the number of Securities beneficially owned by such Holder and any Affiliate thereof, (ii) any Financial Industry Regulatory Authority ("FINRA") affiliations, (iii) any natural persons who have the power to vote or dispose of the Common Stock and (iv) any other information as may be requested by the Commission, FINRA, any state securities commission or any other government or regulatory body with jurisdiction over the Company or its activities.

(h) the Company shall cooperate with any registered broker through which a Holder proposes to resell its Registrable Securities in effecting a filing with FINRA pursuant to FINRA Rule 5110 as requested by any such Holder and the Company shall pay the filing fee required for the first such filing (but not additional filings) within two (2) Business Days of the request therefore.

(i) as and when Form S-3 is available to the Company, the Company shall use its commercially reasonable efforts to maintain or achieve eligibility for use of Form S-3 (or any successor form thereto) for the registration of the resale of Registrable Securities.

(j) if, at any time after the six (6) month anniversary of the date of this Agreement, at least 85% in interest of the Holders so request by notice to the Company to sell Registrable Securities pursuant to an underwritten offering, the Company shall enter into a written underwriting agreement in customary form and substance with the managing underwriter(s) selected by such requesting Holders, provided that such managing underwriter(s), shall be reasonably acceptable to the Company, and shall take any and all such actions and furnish and provide all such information, documents and undertakings to such managing underwriter(s) in connection with such underwritten offering as is customary in connection with such underwritten offerings, and provided further, that the Company and Holders agree to be bound by such agreements and provisions as are customary in underwriting agreements of the type to be entered in connection with the sale of Registrable Securities contemplated by such underwritten offering.

(k) if the managing underwriter(s) of a proposed underwritten offering of Registrable Securities effected pursuant to **Section 2** advise the Holders requesting to sell Registrable Securities in such underwritten offering in writing that, in their opinion, the number of securities requested to be included in such offering exceeds the number which can be sold in such offering without being likely to have a significant adverse effect on the price, timing or distribution of the securities offered or the market for the securities offered, the securities to be included in such Registration Statement (i) first, shall be allocated, pro rata if necessary, among the Holders that have requested to sell Registrable Securities in such underwritten offering, (ii) second, and only if all the securities referred to in clause (i) have been included in such Registration Statement, shall be allocated to any shares that the Company has requested to sell in such underwritten offering; and (iii) third, and only if all the securities referred to in clauses (i) and (ii) have been included in such Registration Statement, shall be allocated pro rata among the officers and directors of the Company that have requested to sell in such underwritten offering.

(l) if the managing underwriter(s) of a proposed underwritten offering of securities effected pursuant to **Section 7(c)** advise the Company in writing that, in their opinion, the number of securities requested to be included in such offering exceeds the number which can be sold in such offering without being likely to have a significant adverse effect on the price, timing or distribution of the securities offered or the market for the securities offered, the securities to be included in such Registration Statement (i) first, shall be allocated to any shares that the Company has requested to sell in such underwritten offering, (ii) second, and only if all the securities referred to in clause (i) have been included in such Registration Statement, shall be allocated, pro rata if necessary, among Holders of Registrable Securities that have requested to sell in such underwritten offering, and (iii) third, and only if all the securities referred to in clauses (i) and (ii) have been included in such Registration Statement, shall be allocated pro rata among the holders of all other securities that have requested to sell in such underwritten offering.

4. Registration Expenses. All fees and expenses incident to the Company's performance of or compliance with its obligations under this Agreement shall be borne by the Company whether or not any Registrable Securities are sold pursuant to a Registration Statement. The fees and expenses referred to in the foregoing sentence shall include, without limitation, (i) all registration and filing fees (including, without limitation, fees and expenses (A) with respect to filings required to be made with the Commission and any Trading Market on which the Common Stock is then listed for trading, (B) with respect to compliance with applicable state securities or Blue Sky laws (including, without limitation, fees and disbursements of counsel for the Company in connection with Blue Sky qualifications or exemptions of the Registrable Securities and determination of the eligibility of the Registrable Securities for investment under the laws of such jurisdictions as requested by the Holders) and (C) if not previously paid by the Company in connection with an issuer filing, with respect to any filing that may be required to be made by any broker through which a Holder intends to make sales of Registrable Securities with FINRA pursuant to FINRA Rule 5110, so long as the broker is receiving no more than a customary brokerage commission in connection with such sale, (ii) printing expenses (including, without limitation, expenses of printing certificates for Registrable Securities and of printing prospectuses if the printing of prospectuses is reasonably requested by the Holders of a majority of the Registrable Securities included in the Registration Statement), (iii) messenger, telephone and delivery expenses of the Company, (iv) fees and disbursements of counsel for the Company, (v) Securities Act liability insurance, if the Company so desires such insurance, and (vi) fees and expenses of all other Persons retained by the Company in connection with the consummation of the transactions contemplated by this Agreement. In addition, the Company shall be responsible for all of its internal expenses incurred in connection with the consummation of the transactions contemplated by this Agreement (including, without limitation, all salaries and expenses of its officers and employees performing legal or accounting duties), the expense of any annual audit and the fees and expenses incurred in connection with the listing of the Registrable Securities on any securities exchange as required hereunder. In no event shall the Company be responsible for any underwriting, broker or similar fees, discounts or commissions or stock transfer taxes applicable to any Registered Securities registered by any Holder or any legal fees or other costs of the Holders. Within ten (10) Trading Days of written notice from the Company, the Holders shall reimburse the Company for all fees and expenses it incurs hereunder that are otherwise the responsibility of the Holders.

5. Indemnification.

(a) Indemnification by the Company. The Company shall, notwithstanding any termination of this Agreement, indemnify, defend and hold harmless each Holder, the officers, directors, agents, brokers, general partners, managing members, managers, Affiliates, employees and investment advisers of each of them, each Person who controls any such Holder (within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act) and the officers, directors, general partners, managing members, managers, agents, employees and investment advisers of each such controlling Person, to the fullest extent permitted by applicable law, from and against any and all losses, claims, damages, liabilities, costs (including, without limitation, reasonable costs of preparation and investigation and reasonable and documented attorneys' fees) and expenses (collectively, "Losses"), as incurred, that arise out of or are based upon (i) any untrue or alleged untrue statement of a material fact contained in any Registration Statement, any Prospectus or any form of prospectus or in any amendment or supplement thereto or in any preliminary prospectus, or arising out of or relating to any omission or alleged omission to state a material fact required to be stated therein or necessary to make the statements therein (in the case of any Prospectus or form of prospectus or supplement thereto, in light of the circumstances under which they were made) not misleading, or (ii) any violation or alleged violation by the Company of the Securities Act, the Exchange Act or any state securities law, or any rule or regulation thereunder, in connection with the performance of its obligations under this Agreement, except to the extent that such untrue statements, alleged untrue statements, omissions or alleged omissions are based solely upon information regarding such Holder furnished in writing to the Company by such Holder expressly for use therein, or to the extent that such information relates to such Holder or such Holder's proposed method of distribution of Registrable Securities, such Prospectus or such form of Prospectus or in any amendment or supplement thereto, related to the use by a Holder of an outdated or defective Prospectus after the Company has notified such Holder in writing or electronic mail that the Prospectus is outdated or defective and prior to the receipt by such Holder of the Advice contemplated and defined in **Section 7(b)** below, but only if and to the extent that following the receipt of the Advice the misstatement or omission giving rise to such Loss would have been corrected. The Company shall notify the Holders promptly of the institution, threat or assertion of any Proceeding arising from or in connection with the transactions contemplated by this Agreement of which the Company is aware. Such indemnity shall remain in full force and effect regardless of any investigation made by or on behalf of an Indemnified Party (as defined in **Section 5(c)**) and shall survive the transfer of the Registrable Securities by the Holders.



(b) Indemnification by Holders. Each Holder shall, severally and not jointly, indemnify and hold harmless the Company, its directors, officers, agents and employees, each Person who controls the Company (within the meaning of Section 15 of the Securities Act and Section 20 of the Exchange Act), and the directors, officers, agents or employees of such controlling Persons, to the fullest extent permitted by applicable law, from and against all Losses, as incurred, arising out of or are based upon any untrue or alleged untrue statement of a material fact contained in any Registration Statement, any Prospectus, or any form of prospectus, or in any amendment or supplement thereto or in any preliminary prospectus, or arising out of or relating to any omission or alleged omission of a material fact required to be stated therein or necessary to make the statements therein (in the case of any Prospectus, or any form of prospectus or supplement thereto, in light of the circumstances under which they were made) not misleading (i) to the extent that such untrue statements or omissions are based solely upon information regarding such Holder furnished in writing to the Company by such Holder expressly for use therein or (ii) to the extent that such information relates to such Holder or such Holder's proposed method of distribution of Registrable Securities, such Prospectus or such form of Prospectus or in any amendment or supplement thereto, to the extent related to the use by such Holder of an outdated or defective Prospectus after the Company has notified such Holder in writing that the Prospectus is outdated or defective and prior to the receipt by such Holder of the Advice contemplated in **Section 7(b)**, but only if and to the extent that following the receipt of the Advice the misstatement or omission giving rise to such Loss would have been corrected. In no event shall the liability of any selling Holder hereunder be greater in amount than the dollar amount of the net proceeds received by such Holder upon the sale of the Registrable Securities giving rise to such indemnification obligation.

(c) Conduct of Indemnification Proceedings. If any Proceeding shall be brought or asserted against any Person entitled to indemnity hereunder (an "Indemnified Party"), such Indemnified Party shall promptly notify the Person from whom indemnity is sought (the "Indemnifying Party") in writing, and the Indemnifying Party shall have the right to assume the defense thereof, including the employment of one counsel reasonably satisfactory to the Indemnified Party and the payment of all reasonable and documented fees and expenses incurred in connection with defense thereof; provided, that the failure of any Indemnified Party to give such written notice within a reasonable time of commencement of any such Proceeding shall not relieve the Indemnifying Party of its obligations or liabilities pursuant to this Agreement, except to the extent that it shall be finally determined by a court of competent jurisdiction (which determination is not subject to appeal or further review) that such failure shall have materially and adversely prejudiced the Indemnifying Party in its ability to defend such Proceeding.

An Indemnified Party shall have the right to employ separate counsel in any such Proceeding and to participate in the defense thereof, but the fees and expenses of such counsel shall be at the expense of such Indemnified Party or Parties unless: (1) the Indemnifying Party has agreed in writing to pay such fees and expenses; (2) the Indemnifying Party shall have failed promptly to assume the defense of such Proceeding and to employ counsel reasonably satisfactory to such Indemnified Party in any such Proceeding; or (3) the named parties to any such Proceeding (including any impleaded parties) include both such Indemnified Party and the Indemnifying Party, and such Indemnified Party shall have been advised by counsel that a conflict of interest exists if the same counsel were to represent such Indemnified Party and the Indemnifying Party; provided, that the Indemnifying Party shall not be liable for the fees and expenses of more than one separate firm of attorneys at any time for all Indemnified Parties. The Indemnifying Party shall not be liable for any settlement of any such Proceeding effected without its written consent, which consent shall not be unreasonably withheld, delayed or unreasonably conditioned. No Indemnifying Party shall, without the prior written consent of the Indemnified Party, effect any settlement of any pending Proceeding in respect of which any Indemnified Party is a 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.

Subject to the terms of this Agreement, all documented fees and expenses of the Indemnified Party (including reasonable fees and expenses to the extent incurred in connection with investigating or preparing to defend such Proceeding in a manner not inconsistent with this **Section 5(c)**) shall be paid to the Indemnified Party, as incurred, within twenty (20) Trading Days of written notice thereof to the Indemnifying Party; provided, that the Indemnified Party shall promptly reimburse the Indemnifying Party for that portion of such fees and expenses applicable to such actions for which such Indemnified Party is finally judicially determined to not be entitled to indemnification hereunder.

(d) Contribution. If a claim for indemnification under **Section 5(a)** or **5(b)** is unavailable to an Indemnified Party or insufficient to hold an Indemnified Party harmless for any Losses, then each Indemnifying Party, in lieu of indemnifying such Indemnified Party, shall contribute to the amount paid or payable by such Indemnified Party as a result of such Losses, in such proportion as is appropriate to reflect the relative fault of the Indemnifying Party and Indemnified Party in connection with the actions, statements or omissions that resulted in such Losses as well as any other relevant equitable considerations. The relative fault of such Indemnifying Party and Indemnified Party shall be determined by reference to, among other things, whether any action in question, including any untrue or alleged untrue statement of a material fact or omission or alleged omission of a material fact, has been taken or made by, or relates to information supplied by, such Indemnifying Party or Indemnified Party, and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such action, statement or omission. The amount paid or payable by a party as a result of any Losses shall be deemed to include, subject to the limitations set forth in this Agreement, any reasonable attorneys' or other reasonable fees or expenses incurred by such party in connection with any Proceeding to the extent such party would have been indemnified for such fees or expenses if the indemnification provided for in this **Section 5(d)** was available to such party in accordance with its terms.

The parties hereto agree that it would not be just and equitable if contribution pursuant to this **Section 5(d)** were determined by pro rata allocation or by any other method of allocation that does not take into account the equitable considerations referred to in the immediately preceding paragraph. Notwithstanding the provisions of this **Section 5(d)**, no Holder shall be required to contribute, in the aggregate, any amount in excess of the amount by which the net proceeds actually received by such Holder from the sale of the Registrable Securities subject to the Proceeding exceeds the amount of any damages that such Holder has otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any Person who was not guilty of such fraudulent misrepresentation.

6. Restrictions on Voting. Notwithstanding anything to the contrary in the Certificate of Incorporation of the Company or under applicable law, to the extent that Purchaser holds Registrable Securities that, together with any other voting securities of the Company, result in Purchaser having voting power in excess of nine and 99/100 percent (9.99%) of all voting securities of the Company, Purchaser shall appoint one or more individuals designated by the Company as its proxy and authorize and instruct such proxy holders to vote such voting securities with such excess voting power in the same proportion as all other votes cast on any specific proposal coming before the Company's stockholders.

7. Miscellaneous.

(a) Compliance. Each Holder covenants and agrees that it will comply with the prospectus delivery requirements of the Securities Act as applicable to it (unless an exemption therefrom is available) in connection with sales of Registrable Securities pursuant to the Registration Statement and shall sell the Registrable Securities only in accordance with a method of distribution described in the Registration Statement.

(b) Discontinued Disposition. By its acquisition of Registrable Securities, each Holder agrees that, during any Grace Period and upon receipt of a notice from the Company, such Holder will forthwith discontinue disposition of such Registrable Securities under a Registration Statement until it is advised in writing (the "Advice") by the Company that the use of the applicable Prospectus (as it may have been supplemented or amended) may be resumed. The Company may provide appropriate stop orders to enforce the provisions of this paragraph.

(c) Holder Piggyback Rights. If, at any time during the Effectiveness Period but in no event earlier than the six (6) month anniversary of the date of this Agreement, there is not an effective Registration Statement covering all of the Registrable Securities and the Company shall determine to prepare and file with the Commission a registration statement relating to an offering for its own account or the account of others under the Securities Act of any of its equity securities, other than on Form S-4 or Form S-8 (each as promulgated under the Securities Act) or their then equivalents relating to equity securities to be issued solely in connection with any acquisition of any entity or business or equity securities issuable in connection with the Company's stock option or other employee benefit plans, then the Company shall deliver to each Holder a written notice of such determination and, if within fifteen (15) days after the date of the delivery of such notice, at least 85% in interest of the Holders so request in writing, the Company shall include in such registration statement all or any part of such Registrable Securities such Holders request to be registered; provided, however, that the Company shall not be required to register any Registrable Securities pursuant to this **Section 7(c)** that are eligible for resale pursuant to Rule 144 (without volume restrictions or current public information requirements) promulgated by the Commission pursuant to the Securities Act or that are the subject of a then effective Registration Statement.

(d) Amendments and Waivers. The provisions of this Agreement, including the provisions of this sentence, may not be amended, modified or supplemented, or waived unless the same shall be in writing and signed by the Company and Holders holding at least two-thirds of the then outstanding Registrable Securities, provided that any party may give a waiver as to itself. 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 and that does not directly or indirectly affect the rights of other Holders may be given by Holders of all of the Registrable Securities to which such waiver or consent relates; provided, that the provisions of this sentence may not be amended, modified, or supplemented except in accordance with the provisions of the immediately preceding sentence. Notwithstanding the foregoing, if any such amendment, modification or waiver would adversely affect in any material respect any Holder or group of Holders who have comparable rights under this Agreement disproportionately to the other Holders having such comparable rights, such amendment, modification, or waiver shall also require the written consent of the Holder(s) so adversely affected.

(e) Notices. Any and all notices or other communications or deliveries required or permitted to be provided hereunder shall be delivered as set forth in the Stock Purchase Agreement.

(f) Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the successors and permitted assigns of each of the parties and shall inure to the benefit of each Holder. Nothing in this Agreement, express or implied, is intended to confer upon any party other than the parties hereto or their respective successors and assigns any rights, remedies, obligations, or liabilities under or by reason of this Agreement, except as expressly provided in this Agreement. The Company may not assign its rights (except by merger or in connection with another entity acquiring all or substantially all of the Company's assets) or obligations hereunder without the prior written consent of all the Holders of the then outstanding Registrable Securities. Notwithstanding anything in this Agreement to the contrary, Purchaser shall not transfer or assign any of the Registrable Securities, nor any of its rights hereunder, for a period of six (6) months following the date of this Agreement. Thereafter, Purchaser may (i) distribute any of the Registrable Securities to its shareholders, (ii) transfer or assign any of the Registrable Securities in any sale through underwriters, dealers or agents who sell such Registrable Securities on a national securities exchange, (iii) transfer or assign any of the Registrable Securities so long as (x) no transferee, after giving effect to such transfer or assignment, holds voting securities of the Company, including Registrable Securities, having voting power in excess of nine and 99/100 percent (9.99%) of all voting securities of the Company, or (y) a transferee otherwise enters into an agreement with the Company as a condition to any such transfer or assignment limiting the voting power of all voting securities of the Company, including Registrable Securities, held by such transferee, after giving effect to such transfer or assignment, to not more than nine and 99/100 percent (9.99%) of all voting securities of the Company, and (iv) assign its rights hereunder with respect to the Registrable Securities only to its shareholders who hold Registrable Securities.

(g) Execution and Counterparts. This Agreement may be executed in two or more 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 and shall become effective when counterparts have been signed by each party and delivered to the other party, it being understood that both parties need not sign the same counterpart. In the event that any signature is delivered by facsimile transmission or in electronic form, such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or electronic form were the original thereof.

(h) Governing Law. All questions concerning the construction, validity, enforcement and interpretation of this Agreement shall be determined in accordance with the provisions of the Stock Purchase Agreement.

(i) 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 good faith reasonable 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.

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

(k) Independent Nature of Holders' Obligations and Rights. If and to the extent there is more than one Holder under this Agreement, the obligations of each Holder hereunder shall be several and not joint with the obligations of any other Holder hereunder, and no Holder shall be responsible in any way for the performance of the obligations of any other Holder hereunder. Nothing contained herein or in any other agreement or document delivered at any closing, and no action taken by any Holder pursuant hereto or thereto, shall be deemed to constitute the Holders as a partnership, an association, a joint venture or any other kind of group or entity, or create a presumption that the Holders are in any way acting in concert or as a group or entity with respect to such obligations or the transactions contemplated by this Agreement or any other matters, and the Company acknowledges that the Holders are not acting in concert or as a group, and the Company shall not assert any such claim, with respect to such obligations or transactions. Each Holder shall be entitled to protect and enforce its rights, including without limitation the rights arising out of this Agreement, and it shall not be necessary for any other Holder to be joined as an additional party in any proceeding for such purpose. It is expressly understood and agreed that each provision contained in this Agreement is between the Company and a Holder, solely, and not between the Company and the Holders collectively and not between and among Holders.

(l) Legend. Each certificate, instrument, or book entry representing any Registrable Securities shall be notated by the Company with a legend reading substantially as follows:

“THE SHARES REPRESENTED HEREBY ARE SUBJECT TO A VOTING AND REGISTRATION RIGHTS AGREEMENT, AS MAY BE AMENDED FROM TIME TO TIME, (A COPY OF WHICH MAY BE OBTAINED UPON WRITTEN REQUEST FROM THE COMPANY), AND BY ACCEPTING ANY INTEREST IN SUCH SHARES THE PERSON ACCEPTING SUCH INTEREST SHALL BE DEEMED TO AGREE TO AND SHALL BECOME BOUND BY ALL THE PROVISIONS OF THAT VOTING AND REGISTRATION RIGHTS AGREEMENT, INCLUDING CERTAIN RESTRICTIONS ON VOTING AND OWNERSHIP SET FORTH THEREIN.”

The Company, by its execution of this Agreement, agrees that it will cause the certificates instruments, or book entry evidencing the Registrable Securities to be notated with the legend required by this **Section 7(l)**. The parties to this Agreement do hereby agree that the failure to cause the certificates, instruments, or book entry evidencing the Registrable Securities to be notated with the legend required by this **Section 7(l)** shall not affect the validity or enforcement of this Agreement.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be duly executed and delivered by their respective duly authorized officers as of the date first above written.

APOLLO MEDICAL HOLDINGS, INC.

By: /s/ Mitchell Kitayama  
Mitchell Kitayama  
Independent Committee Director

By: /s/ Eric Chin  
Eric Chin  
Chief Financial Officer

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK,  
SIGNATURE PAGES OF ALLIED PHYSICIANS OF CALIFORNIA, A PROFESSIONAL MEDICAL CORPORATION TO FOLLOW]

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*Voting and Registration Rights Agreement Signature Page (1 of 2)*

ALLIED PHYSICIANS OF CALIFORNIA,  
A PROFESSIONAL MEDICAL CORPORATION

By: /s/ Thomas Lam  
Name: Thomas Lam, M. D.  
Title: Chief Executive Officer

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ADDRESS FOR NOTICE

1668 S. Garfield Ave., 2nd Floor  
Alhambra, CA 91801

Attention: CEO



**SECOND AMENDMENT TO  
LOAN AGREEMENT**

This SECOND AMENDMENT TO LOAN AGREEMENT (the “**Amendment**”) is made and entered into as of September 11, 2019, by and between Apollo Medical Holdings, Inc., a Delaware corporation (“**Lender**”), and AP-AMH Medical Corporation, a California professional medical corporation (“**Borrower**”).

A. Lender and Borrower have previously entered into that certain Loan Agreement dated as of May 10, 2019, as amended by that certain First Amendment to Loan Agreement dated as of August 26, 2019 (together, the “**Loan Agreement**”).

B. Lender and Borrower desire to further amend the Loan Agreement as set forth herein.

NOW, THEREFORE, in consideration of the premises and of the mutual agreements, representations, warranties, provisions and covenants herein contained, the parties hereto, each intending to be bound hereby, agree as follows:

1. **Definitions.** Capitalized terms used but not defined in this Amendment shall have the meanings given to such terms in the Loan Agreement.

2. **Definition of Excluded Assets.** Exhibit B to the Loan Agreement is hereby amended by amending and restating the definition of “Excluded Assets” in Section 1 thereof to read in full as follows:

“Excluded Assets” means (i) assets received from the sale of shares of the Series A Preferred equal to the Series A Purchase Price, (ii) the assets of the Company that are not Healthcare Services Assets, including the Company’s equity interests in Universal Care, Inc., Apollo Medical Holdings, Inc., and any entity that is primarily engaged in the business of owning, leasing, developing or otherwise operating real estate, (iii) any assets acquired with the proceeds of the sale, assignment or other disposition of any of the assets described in clauses (i) or (ii), and (iv) any proceeds of the assets described in clauses (i), (ii) and (iii).

3. **Effect of Amendment.** Except as expressly amended by this Amendment, all of the terms of the Loan Agreement shall remain unchanged and in full force and effect. The provisions of Sections 6 through 15 of the Loan Agreement are incorporated in this Amendment by this reference, *mutatis mutandis*.

[Signatures appear on the following page.]

IN WITNESS WHEREOF, this Amendment has been executed as of the date first above written.

Borrower:  
AP-AMH MEDICAL CORPORATION

Lender:  
APOLLO MEDICAL HOLDINGS, INC.

By: /s/ Thomas Lam  
Thomas S. Lam, M.D.,  
Chief Executive Officer

By: /s/ Eric Chin  
Eric Chin,  
Chief Financial Officer

Address:  
1668 S. Garfield Ave., 2nd Floor  
Alhambra, CA 91801

By: /s/ Mitchell Kitayama  
Mitchell Kitayama,  
Independent Committee Director

Address:  
1668 S. Garfield Avenue, 2nd Floor  
Alhambra, CA 91801



**APOLLO MEDICAL HOLDINGS ANNOUNCES THE CLOSING OF ITS INAUGURAL \$290 MILLION SYNDICATED CREDIT FACILITY AND SERIES OF TRANSACTIONS WITH INDEPENDENT PRACTICE ASSOCIATION AND PROFESSIONAL MEDICAL CORPORATION**

*Alhambra, CA – (PR Newswire) – September 11, 2019* – Apollo Medical Holdings, Inc. (“ApolloMed” or the “Company”) (NASDAQ: AMEH) an integrated population health management company, today announced that it has closed a new credit facility. The new aggregate \$290 million credit facility consists of a \$190 million senior secured term loan and a \$100 million revolving credit facility, among other facilities, that will mature in 2024. The initial pricing of the term loan is LIBOR plus 2.50%. SunTrust Robinson Humphrey, Inc served as left lead arranger and SunTrust Bank is acting as administrative agent for the facility. Additionally, Preferred Bank, J.P. Morgan Chase, MUFG Union Bank, N.A., and Royal Bank of Canada served as joint lead arrangers and joint bookrunners for the syndicate. ApolloMed has also completed the series of transactions with two of its affiliates, AP-AMH Medical Corporation, a California professional medical corporation (“AP-AMH”), and Allied Physicians of California, a Professional Medical Corporation, a California professional medical corporation d.b.a. Allied Pacific of California IPA (“APC”).

“We are extremely excited to announce this new credit facility which enables us to complete our previously announced transaction with APC and provides an initial \$40 million of availability on our revolving credit facility as the potential dry powder to pursue future acquisitions of additional independent practice associations (“IPAs”) by leveraging our strong balance sheet to create additional shareholder value,” said Kenneth Sim, M.D., Executive Chairman of ApolloMed. “The closing of the APC transaction will immediately improve ApolloMed’s bottom line net income in 2019 and, we expect, in future years. Aggregated with our recent synergistic acquisitions of Accountable Health Care IPA and Alpha Care Medical Group, both immediately increasing our revenue in 2019 and, we expect in future years, our team is laser focused on both significant near-term and long-term growth opportunities. We believe the combination of these recent transactions solidifies our position as a best-in-class, patient-centered and physician-centric, value-based, integrated healthcare delivery system and management company. The overwhelming support of the debt capital markets evidenced by the participation of the top-tier lenders in our credit facility is a testament to the growing financial stability of our distinctive physician driven business model that is leading the healthcare industry in value-based care, by reducing the cost of healthcare while producing high quality outcomes.”

Initial funding from the new loan facility allows the Company to refinance its current outstanding debt and allows the Company to complete the series of agreements with two of its affiliates, AP-AMH, and APC. The transactions, all of which are interrelated and closed concurrently with the closing of the new credit facility, include the following:

- The Company is lending AP-AMH \$545,000,000 pursuant to a ten-year secured loan agreement. The loan will bear interest at a rate of 10% per annum simple interest.
- AP-AMH is purchasing \$545,000,000 of Series A Preferred Stock to be issued by APC to AP-AMH. Under the terms of the Series A Preferred Stock, AP-AMH is entitled to receive preferential, cumulative dividends that accrue on a daily basis and that are equal to the sum of (A) APC’s net income from healthcare services, plus (B) any dividends received by APC from certain of APC’s affiliated entities, less (C) any retained amounts.
- APC is purchasing \$300,000,000 of the Company’s common stock.
- The Company is licensing certain of its trademarks to AP-AMH for a fee equal to a percentage of the aggregate gross revenues of AP-AMH. The license fee is payable out of any Series A Preferred Stock dividends received by AP-AMH from APC.
- Through its subsidiary, the Company will provide certain administrative services to AP-AMH for a fee equal to a percentage of the aggregate gross revenues of AP-AMH. The administrative fee also is payable out of any APC Series A Preferred Stock dividends received by AP-AMH from APC.
- The net effect of the series of transactions announced today is a significant improvement in our net income in 2019 and, we expect, in future years.

**Note About Consolidated Entities**

The Company consolidates entities in which it has a controlling financial interest. The Company consolidates subsidiaries in which it holds, directly or indirectly, more than 50% of the voting rights, and variable interest entities (“VIEs”) in which the Company is the primary beneficiary. Noncontrolling interests represent equity ownership interests in the Company’s consolidated entities (including certain VIEs). The amount of net (loss) income attributable to noncontrolling interests is disclosed in the Company’s consolidated statements of income.

**About Apollo Medical Holdings, Inc.**

ApolloMed is a leading physician-centric integrated population health management company, which, together with its subsidiaries, including a Next Generation Accountable Care Organization (“NGACO”), and its affiliated IPAs and management services organizations (“MSOs”), are working to provide coordinated, outcomes-based high-quality medical care for patients, particularly senior patients and patients with multiple chronic conditions, in a cost-effective manner. ApolloMed focuses on addressing the healthcare needs of its patients by leveraging its integrated health management and healthcare delivery platform that includes Network Medical Management, Inc. (an MSO), Apollo Medical Management, Inc. (an MSO), ApolloMed Hospitalists, APA ACO, Inc. (the Company’s NGACO), APC (an IPA) and Apollo Care Connect, Inc. (the Company’s digital population health management platform). For more information, please visit [www.apollomed.net](http://www.apollomed.net).

**About Allied Physicians of California**

APC is an IPA that the Company has determined should be consolidated as a VIE with the Company’s financial statements under United States generally accepted accounting principles (U.S. GAAP). APC-LSMA has as its sole shareholder, Thomas Lam, M.D., Chief Executive Officer of the Company and Chief Executive Officer and Chief Financial Officer of APC, and is a consolidated VIE of APC. APC-LSMA acquired 100% capital stock of Alpha Care Medical Group on May 31, 2019 and the remaining 75% of Accountable Health Care IPA capital stock on August 30, 2019. Upon consummation of the acquisitions, both of these IPAs are consolidated VIEs of APC through APC-LSMA.

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## **Forward Looking Statements**

*This press release contains forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995, Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended, such as statements about the Company's acquisition strategy, integration of its acquired companies, continued growth and business outlook, ability to deliver sustainable long-term value, ability to respond to the changing environment, operational focus and strategic growth plans. Forward-looking statements reflect current views with respect to future events and financial performance and therefore cannot be guaranteed. Such statements are based on the current expectations and certain assumptions of the Company's management, and some or all of such expectations and assumptions may not materialize or may vary significantly from actual results. Actual results may also vary materially from forward-looking statements due to risks, uncertainties and other factors, known and unknown, including the risk factors described from time to time in the Company's reports to the SEC, including, without limitation, the risk factors discussed in the Company's Annual Report on Form 10-K filed with the SEC on March 18, 2019 and in the Company's Quarterly Report on Form 10-Q filed with the SEC on August 9, 2019.*

### **FOR MORE INFORMATION, PLEASE CONTACT:**

**Asher Dewhurst**  
(443) 213-0500  
[asher.dewhurst@westwicke.com](mailto:asher.dewhurst@westwicke.com)

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