

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

**FORM 10-Q**

(Mark One)

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

For the quarterly period ended September 30, 2022  
or

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

For the transition period from \_\_\_\_\_ to \_\_\_\_\_  
Commission File Number: 001-32678

**DCP MIDSTREAM, LP**

(Exact name of registrant as specified in its charter)

**Delaware**  
(State or other jurisdiction  
of incorporation or organization)  
**6900 E. Layton Ave, Suite 900**  
**Denver, Colorado**  
(Address of principal executive offices)

**03-0567133**  
(I.R.S. Employer  
Identification No.)

**80237**  
(Zip Code)

**(303) 595-3331**  
(Registrant's telephone number, including area code)

**None**  
(Former name, former address and former fiscal year, if changed since last report)

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 units representing limited partnership interests	DCP	New York Stock Exchange
7.875% Series B Fixed-to-Floating Rate Cumulative Redeemable Perpetual Preferred Units	DCP PRB	New York Stock Exchange
7.95% Series C Fixed-to-Floating Rate Cumulative Redeemable Perpetual Preferred Units	DCP PRC	New York Stock Exchange

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☒ No ☐

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files). Yes ☒ No ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company" and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer	<input checked="" type="checkbox"/>	Accelerated filer	<input type="checkbox"/>	Emerging growth company	<input type="checkbox"/>
Non-accelerated filer	<input type="checkbox"/>	Smaller reporting company	<input type="checkbox"/>		

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. ☐

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes ☐ No ☒

As of October 28, 2022, there were 208,396,558 common units representing limited partnership interests outstanding.

**DCP MIDSTREAM, LP**  
**FORM 10-Q FOR THE QUARTER ENDED SEPTEMBER 30, 2022**  
**TABLE OF CONTENTS**

<b>Item</b>	<b>Page</b>
<b>PART I. FINANCIAL INFORMATION</b>	
1 Financial Statements (unaudited):	
Condensed Consolidated Balance Sheets as of September 30, 2022 and December 31, 2021	<a href="#"><u>2</u></a>
Condensed Consolidated Statements of Operations for the Three and Nine Months Ended September 30, 2022 and 2021	<a href="#"><u>3</u></a>
Condensed Consolidated Statements of Comprehensive Income for the Three and Nine Months Ended September 30, 2022 and 2021	<a href="#"><u>4</u></a>
Condensed Consolidated Statements of Cash Flows for the Nine Months Ended September 30, 2022 and 2021	<a href="#"><u>5</u></a>
Condensed Consolidated Statement of Changes in Equity for the Nine Months Ended September 30, 2022	<a href="#"><u>6</u></a>
Condensed Consolidated Statement of Changes in Equity for the Nine Months Ended September 30, 2021	<a href="#"><u>7</u></a>
Notes to the Condensed Consolidated Financial Statements	<a href="#"><u>8</u></a>
2 Management's Discussion and Analysis of Financial Condition and Results of Operations	<a href="#"><u>28</u></a>
3 Quantitative and Qualitative Disclosures about Market Risk	<a href="#"><u>49</u></a>
4 Controls and Procedures	<a href="#"><u>52</u></a>
<b>PART II. OTHER INFORMATION</b>	
1 Legal Proceedings	<a href="#"><u>52</u></a>
1A Risk Factors	<a href="#"><u>52</u></a>
6 Exhibits	<a href="#"><u>53</u></a>
Signatures	<a href="#"><u>54</u></a>

## GLOSSARY OF TERMS

The following is a list of terms used in the industry and throughout this report:

ASC	accounting standards codification
ASU	accounting standards update
Bbl	barrel
Bbls/d	barrels per day
Bcf	billion cubic feet
Bcf/d	billion cubic feet per day
Btu	British thermal unit, a measurement of energy
Credit Agreement	Credit Agreement governing our Credit Facility
Credit Facility	Our \$1.4 billion unsecured revolving credit facility, maturing March 18, 2027
Fractionation	the process by which natural gas liquids are separated into individual components
GAAP	generally accepted accounting principles in the United States of America
MBbls	thousand barrels
MBbls/d	thousand barrels per day
MMBtu	million Btus
MMBtu/d	million Btus per day
MMcf	million cubic feet
MMcf/d	million cubic feet per day
NGLs	natural gas liquids
OPIS	Oil Price Information Service
SEC	U.S. Securities and Exchange Commission
Securitization Facility	\$350 million Accounts Receivable Securitization Facility, maturing August 12, 2024
SOFR	Secured Overnight Financing Rate
TBtu/d	trillion Btus per day
Throughput	the volume of product transported or passing through a pipeline or other facility

## CAUTIONARY STATEMENT ABOUT FORWARD-LOOKING STATEMENTS

Our reports, filings and other public announcements may from time to time contain statements that do not directly or exclusively relate to historical facts. Such statements are “forward-looking statements” within the meaning of the Private Securities Litigation Reform Act of 1995. You can typically identify forward-looking statements by the use of forward-looking words, such as “may,” “could,” “should,” “intend,” “assume,” “project,” “believe,” “anticipate,” “expect,” “estimate,” “potential,” “plan,” “forecast” and other similar words.

All statements that are not statements of historical facts, including, but not limited to, statements regarding our future financial position, business strategy, budgets, projected costs and plans and objectives of management for future operations, are forward-looking statements.

These forward-looking statements reflect our intentions, plans, expectations, assumptions and beliefs about future events and are subject to risks, uncertainties and other factors, many of which are outside our control. Important factors that could cause actual results to differ materially from the expectations expressed or implied in the forward-looking statements include known and unknown risks. Known risks and uncertainties include, but are not limited to, the risks set forth in Item 1A. “Risk Factors” in this Quarterly Report on Form 10-Q for the quarter ended September 30, 2022, and in our Annual Report on Form 10-K for the year ended December 31, 2021, including the following risks and uncertainties:

- the outcome of the non-binding, preliminary proposal made by Phillips 66 to acquire all of our issued and outstanding common units not already owned by DCP Midstream, LLC or its subsidiaries;
- the disruption to economies around the world including the oil, gas and NGL industry in which we operate and the resulting adverse impact on our business, liquidity, commodity prices, workforce, third-party and counterparty effects and resulting federal, state and local actions;
- the extent of changes in commodity prices and the demand for our products and services, our ability to effectively limit a portion of the adverse impact of potential changes in commodity prices through derivative financial instruments, and the potential impact of price, and of producers’ access to capital on natural gas drilling, demand for our services, and the volume of NGLs and condensate extracted;
- the demand for crude oil, residue gas and NGL products;
- the level and success of drilling and quality of production volumes around our assets and our ability to connect supplies to our gathering and processing systems, as well as our residue gas and NGL infrastructure;
- new, additions to, and changes in, laws and regulations, particularly with regard to taxes, safety, regulatory and protection of the environment, including, but not limited to, climate change legislation, regulation of over-the-counter derivatives markets and entities, and hydraulic fracturing regulations, or the increased regulation of our industry, including additional local control over such activities, and their impact on producers and customers served by our systems;
- other factors beyond our control including the increased cost of labor, contractors, services, supplies and materials due to persistent inflation;
- volatility in the price of our common units and preferred units;
- general economic, market and business conditions;
- the amount of natural gas we gather, compress, treat, process, transport, store and sell, or the NGLs we produce, fractionate, transport, store and sell, may be reduced if the pipelines, storage and fractionation facilities to which we deliver the natural gas or NGLs are capacity constrained and cannot, or will not, accept the natural gas or NGLs or we may be required to find alternative markets and arrangements for our natural gas and NGLs;
- our ability to continue the safe and reliable operation of our assets;
- our ability to grow through organic growth projects, or acquisitions, and the successful integration and future performance of such assets;
- our ability to access the debt and equity markets and the resulting cost of capital, which will depend on general market conditions, our financial and operating results, inflation rates, interest rates, our ability to comply with the covenants in our Credit Agreement or other credit facilities, and the indentures governing our notes, as well as our ability to maintain our credit ratings;
- the creditworthiness of our customers and the counterparties to our transactions, including the impact of bankruptcies;
- the amount of collateral we may be required to post from time to time in our transactions;
- industry changes, including consolidations, alternative energy sources, technological advances, infrastructure constraints and changes in competition;
- our ability to construct and start up facilities on budget and in a timely fashion, which is partially dependent on obtaining required construction, environmental and other permits issued by federal, state and municipal governments, or agencies thereof, the availability of specialized contractors and laborers, and the price of and demand for materials;
- our ability to hire, train, and retain qualified personnel and key management to execute our business strategy;
- weather, weather-related conditions and other natural phenomena, including, but not limited to, their potential impact on demand for the commodities we sell and the operation of company-owned and third party-owned infrastructure;
- security threats such as terrorist attacks, and cybersecurity attacks and breaches, against, or otherwise impacting, our facilities and systems; and
- our ability to obtain insurance on commercially reasonable terms, if at all, as well as the adequacy of insurance to cover our losses.

In light of these risks, uncertainties and assumptions, the events described in the forward-looking statements might not occur or might occur to a different extent or at a different time than we have described. The forward-looking statements in this report speak as of the filing date of this report. We undertake no obligation to publicly update or revise any forward-looking statements, whether as a result of new information, future events or otherwise, except as required by applicable securities laws.

**PART I**

**Item 1. *Financial Statements***

**DCP MIDSTREAM, LP**  
**CONDENSED CONSOLIDATED BALANCE SHEETS**  
(unaudited)

	September 30, 2022	December 31, 2021
ASSETS	(millions)	
Current assets:		
Cash and cash equivalents	\$ 93	\$ 1
Accounts receivable:		
Trade, net of allowance for credit losses of \$1 and \$2 million, respectively	1,298	1,029
Affiliates	445	389
Other	4	7
Inventories	45	77
Unrealized gains on derivative instruments	130	86
Collateral cash deposits	219	128
Other	26	32
Total current assets	2,260	1,749
Property, plant and equipment, net	7,736	7,701
Intangible assets, net	35	39
Investments in unconsolidated affiliates	3,496	3,578
Unrealized gains on derivative instruments	35	10
Operating lease assets	103	104
Other long-term assets	217	199
Total assets	\$ 13,882	\$ 13,380
<b>LIABILITIES AND EQUITY</b>		
Current liabilities:		
Accounts payable:		
Trade	\$ 1,351	\$ 977
Affiliates	307	205
Other	17	16
Current debt	506	355
Unrealized losses on derivative instruments	224	145
Accrued interest	65	79
Accrued taxes	72	51
Accrued wages and benefits	66	60
Capital spending accrual	9	7
Other	124	115
Total current liabilities	2,741	2,010
Long-term debt	4,317	5,078
Unrealized losses on derivative instruments	49	30
Deferred income taxes	34	34
Operating lease liabilities	90	93
Other long-term liabilities	265	259
Total liabilities	7,496	7,504
Commitments and contingent liabilities (see <a href="#">note 15</a> )		
Equity:		
Series A preferred limited partners (500,000 preferred units authorized, issued and outstanding, respectively)	499	489
Series B preferred limited partners (6,450,000 preferred units authorized, issued and outstanding, respectively)	156	156
Series C preferred limited partners (4,400,000 preferred units authorized, issued and outstanding, respectively)	106	106
Limited partners (208,396,558 and 208,373,672 common units authorized, issued and outstanding, respectively)	5,606	5,106
Accumulated other comprehensive loss	(6)	(6)
Total partners' equity	6,361	5,851
Noncontrolling interests	25	25
Total equity	6,386	5,876
Total liabilities and equity	\$ 13,882	\$ 13,380

See accompanying notes to condensed consolidated financial statements.

**DCP MIDSTREAM, LP**  
**CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS**  
(unaudited)

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2022	2021	2022	2021
	(millions, except per unit amounts)			
Operating revenues:				
Sales of natural gas, NGLs and condensate	\$ 3,153	\$ 1,935	\$ 8,361	\$ 5,395
Sales of natural gas, NGLs and condensate to affiliates	982	921	3,328	2,143
Transportation, processing and other	184	144	523	387
Trading and marketing losses, net	—	(173)	(249)	(695)
Total operating revenues	4,319	2,827	11,963	7,230
Operating costs and expenses:				
Purchases and related costs	3,344	2,181	9,332	5,484
Purchases and related costs from affiliates	56	81	255	183
Transportation and related costs from affiliates	297	249	829	720
Operating and maintenance expense	193	168	534	482
Depreciation and amortization expense	90	89	270	273
General and administrative expense	90	63	210	158
Asset impairments	—	—	1	20
Other expenses (income), net	3	2	(5)	(4)
(Gain) loss on sale of assets, net	(1)	—	(8)	1
Total operating costs and expenses	4,072	2,833	11,418	7,317
Operating income (loss)	247	(6)	545	(87)
Earnings from unconsolidated affiliates	153	134	464	393
Interest expense, net	(69)	(73)	(210)	(227)
Income before income taxes	331	55	799	79
Income tax expense	(1)	—	(4)	—
Net income	330	55	795	79
Net income attributable to noncontrolling interests	(2)	(1)	(4)	(3)
Net income attributable to partners	328	54	791	76
Series A preferred limited partners' interest in net income	(10)	(9)	(28)	(28)
Series B preferred limited partners' interest in net income	(4)	(4)	(10)	(10)
Series C preferred limited partners' interest in net income	(2)	(3)	(7)	(7)
Net income allocable to limited partners	\$ 312	\$ 38	\$ 746	\$ 31
Net income per limited partner unit — basic and diluted	\$ 1.50	\$ 0.18	\$ 3.58	\$ 0.15
Weighted-average limited partner units outstanding — basic	208.4	208.4	208.4	208.4
Weighted-average limited partner units outstanding — diluted	208.5	208.7	208.5	208.6

See accompanying notes to condensed consolidated financial statements.

**DCP MIDSTREAM, LP**  
**CONDENSED CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME**  
**(unaudited)**

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2022	2021	2022	2021
	(millions)			
Net income	\$ 330	\$ 55	\$ 795	\$ 79
Other comprehensive income:				
Total other comprehensive income	—	1	—	1
Total comprehensive income	330	56	795	80
Total comprehensive income attributable to noncontrolling interests	(2)	(1)	(4)	(3)
Total comprehensive income attributable to partners	\$ 328	\$ 55	\$ 791	\$ 77

See accompanying notes to condensed consolidated financial statements.



**DCP MIDSTREAM, LP**  
**CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS**  
(unaudited)

	Nine Months Ended September 30,	
	2022	2021
	(millions)	
OPERATING ACTIVITIES:		
Net income	\$ 795	\$ 79
Adjustments to reconcile net income to net cash provided by operating activities:		
Depreciation and amortization expense	270	273
Earnings from unconsolidated affiliates	(464)	(393)
Distributions from unconsolidated affiliates	547	462
Net unrealized (gains) losses on derivative instruments	(2)	296
Asset impairments	1	20
Gain on sale of assets, net	(8)	—
Other, net	25	13
Change in operating assets and liabilities, which (used) provided cash:		
Accounts receivable	(302)	(726)
Inventories	24	(20)
Accounts payable	446	576
Other assets and liabilities	(57)	(325)
Net cash provided by operating activities	1,275	255
INVESTING ACTIVITIES:		
Capital expenditures	(128)	(69)
Acquisition	(161)	—
Investments in unconsolidated affiliates	(2)	(4)
Proceeds from sale of assets	18	—
Net cash used in investing activities	(273)	(73)
FINANCING ACTIVITIES:		
Proceeds from debt	3,192	3,380
Payments of debt	(3,807)	(3,332)
Distributions to preferred limited partners	(35)	(35)
Distributions to limited partners and general partner	(252)	(244)
Distributions to noncontrolling interests	(4)	(4)
Debt issuance costs	(4)	—
Net cash used in financing activities	(910)	(235)
Net change in cash, cash equivalents and restricted cash	92	(53)
Cash, cash equivalents and restricted cash, beginning of period	1	56
Cash, cash equivalents and restricted cash, end of period	\$ 93	\$ 3
Reconciliation of cash, cash equivalents, and restricted cash:		
	September 30, 2022	September 30, 2021
Cash and cash equivalents	93	\$ 3
Restricted cash included in other current assets	—	—
Total cash, cash equivalents, and restricted cash	\$ 93	\$ 3

See accompanying notes to condensed consolidated financial statements.

**DCP MIDSTREAM, LP**  
**CONDENSED CONSOLIDATED STATEMENT OF CHANGES IN EQUITY**  
**(unaudited)**

	Partners' Equity				Accumulated Other Comprehensive Loss	Noncontrolling Interests	Total Equity
	Series A Preferred Limited Partners	Series B Preferred Limited Partners	Series C Preferred Limited Partners	Limited Partners			
	(millions)						
<b>Balance, January 1, 2022</b>	\$ 489	\$ 156	\$ 106	\$ 5,106	\$ (6)	\$ 25	\$ 5,876
Net income	9	3	2	66	—	1	81
Distributions to unitholders	—	(3)	(2)	(81)	—	—	(86)
Distributions to noncontrolling interests	—	—	—	—	—	(1)	(1)
Equity based compensation	—	—	—	1	—	—	1
<b>Balance, March 31, 2022</b>	\$ 498	\$ 156	\$ 106	\$ 5,092	\$ (6)	\$ 25	\$ 5,871
Net income	9	3	3	368	—	1	384
Distributions to unitholders	(18)	(3)	(3)	(82)	—	—	(106)
Distributions to noncontrolling interests	—	—	—	—	—	(1)	(1)
Equity based compensation	—	—	—	2	—	—	2
<b>Balance, June 30, 2022</b>	\$ 489	\$ 156	\$ 106	\$ 5,380	\$ (6)	\$ 25	\$ 6,150
Net income	10	4	2	312	—	2	330
Distributions to unitholders	—	(4)	(2)	(89)	—	—	(95)
Distributions to noncontrolling interests	—	—	—	—	—	(2)	(2)
Equity based compensation	—	—	—	3	—	—	3
<b>Balance, September 30, 2022</b>	<u>\$ 499</u>	<u>\$ 156</u>	<u>\$ 106</u>	<u>\$ 5,606</u>	<u>\$ (6)</u>	<u>\$ 25</u>	<u>\$ 6,386</u>

See accompanying notes to condensed consolidated financial statements.

**DCP MIDSTREAM, LP**  
**CONDENSED CONSOLIDATED STATEMENT OF CHANGES IN EQUITY**  
(unaudited)

	Partner's Equity				Accumulated Other Comprehensive Loss	Noncontrolling Interests	Total Equity
	Series A Preferred Limited Partners	Series B Preferred Limited Partners	Series C Preferred Limited Partners	Limited Partners			
	(millions)						
<b>Balance, January 1, 2021</b>	\$ 489	\$ 156	\$ 106	\$ 5,090	\$ (7)	\$ 27	\$ 5,861
Net income	9	3	2	39	—	1	54
Distributions to unitholders	—	(3)	(2)	(81)	—	—	(86)
Distributions to noncontrolling interests	—	—	—	—	—	(1)	(1)
Equity based compensation	—	—	—	4	—	—	4
<b>Balance, March 31, 2021</b>	\$ 498	\$ 156	\$ 106	\$ 5,052	\$ (7)	\$ 27	\$ 5,832
Net income (loss)	10	3	2	(46)	—	1	(30)
Distributions to unitholders	(18)	(3)	(2)	(82)	—	—	(105)
Distributions to noncontrolling interests	—	—	—	—	—	(1)	(1)
Equity based compensation	—	—	—	1	—	—	1
<b>Balance, June 30, 2021</b>	\$ 490	\$ 156	\$ 106	\$ 4,925	\$ (7)	\$ 27	\$ 5,697
Net income	9	4	3	38	—	1	55
Other comprehensive income	—	—	—	—	1	—	1
Distributions to unitholders	—	(4)	(3)	(81)	—	—	(88)
Distributions to noncontrolling interests	—	—	—	—	—	(2)	(2)
Equity based compensation	—	—	—	3	—	—	3
<b>Balance, September 30, 2021</b>	<u>\$ 499</u>	<u>\$ 156</u>	<u>\$ 106</u>	<u>\$ 4,885</u>	<u>\$ (6)</u>	<u>\$ 26</u>	<u>\$ 5,666</u>

See accompanying notes to condensed consolidated financial statements.

**DCP MIDSTREAM, LP**  
**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS**  
**Three and Nine Months Ended September 30, 2022 and 2021**  
**(unaudited)**

**1. Description of Business and Basis of Presentation**

DCP Midstream, LP, with its consolidated subsidiaries, or “us,” “we,” “our” or the “Partnership” is a Delaware limited partnership formed in 2005 by DCP Midstream, LLC to own, operate, acquire and develop a diversified portfolio of complementary midstream energy assets.

Our Partnership includes our Logistics and Marketing and Gathering and Processing segments. For additional information regarding these segments, see Note 16 - Business Segments.

Our operations and activities are managed by our general partner, DCP Midstream GP, LP (the “GP LP”), which in turn is managed by its general partner, DCP Midstream GP, LLC, which we refer to as the General Partner, and which is 100% owned by DCP Midstream, LLC.

On August 17, 2022, Phillips 66 and Enbridge Inc. (“Enbridge”), through their respective subsidiaries, entered into an Agreement and Plan of Merger (the “Merger Agreement”) for the purpose of realigning their respective economic interests in and governance responsibilities over DCP Midstream, LP and Gray Oak Pipeline, LLC through the merger of existing joint ventures owned by Phillips 66 and Enbridge.

As part of the merger, Phillips Gas Company LLC (“PGC”), an indirect wholly owned subsidiary of Phillips 66, and Spectra DEFS Holding, LLC, an indirect wholly owned subsidiary of Enbridge, as the members of DCP Midstream, LLC, the owner of the General Partner, the general partner of GP LP, the general partner of the Partnership, entered into a Third Amended and Restated Limited Liability Agreement of DCP Midstream, LLC, effective on August 17, 2022 (the “Third A&R LLC Agreement”). Under the Third A&R LLC Agreement, PGC, except as otherwise provided therein, was delegated the power to control, direct and manage all activities of DCP Midstream, LLC associated with the Partnership and each of its subsidiaries, the General Partner and the GP LP, and, in each case, the businesses, activities, assets and liabilities thereof. The Third A&R LLC Agreement also delegated PGC the power to exercise DCP Midstream, LLC’s rights to appoint or remove any director of the General Partner and vote any common units representing limited partner interests of the Partnership that are owned directly or indirectly by DCP Midstream, LLC. Prior to the merger, Phillips 66 and Enbridge, through their respective subsidiaries, jointly governed DCP Midstream, LLC and its subsidiaries.

As of September 30, 2022, DCP Midstream, LLC, together with the General Partner, owned approximately 57% of the Partnership’s common units representing limited partner interests.

***Common Unit Acquisition Proposal***

On August 17, 2022, the Board of Directors of our General Partner (the “Board”) received a non-binding proposal from Phillips 66 to acquire all of the Partnership’s issued and outstanding publicly-held common units not already owned by DCP Midstream, LLC or its subsidiaries at a value of \$34.75 per each issued and outstanding publicly-held common unit (the “Proposal”). The Board appointed the conflicts committee to review, evaluate and negotiate the Proposal. The proposed transaction is subject to a number of contingencies, including approval by the conflicts committee and the Board, the negotiation of a definitive agreement concerning the transaction, and the satisfaction of conditions to the consummation of a transaction set forth in any such definitive agreement. There can be no assurance that such definitive agreement will be executed or that any transaction will be consummated on the terms described above or at all.

***Interim Financial Statements***

The condensed consolidated financial statements include the accounts of the Partnership and all majority-owned subsidiaries where we have the ability to exercise control. Investments in greater than 20% owned affiliates that are not variable interest entities and where we do not have the ability to exercise control, and investments in less than 20% owned affiliates where we have the ability to exercise significant influence, are accounted for using the equity method.

The condensed consolidated financial statements have been prepared in accordance with GAAP. Conformity with GAAP requires management to make estimates and assumptions that affect the amounts reported in the condensed consolidated financial statements and notes. Although these estimates are based on management’s best available knowledge of current and expected future events, actual results could differ from these estimates, which may be significantly impacted by various factors, including those outside of our control, such as the impact of a sustained deterioration in commodity prices and volumes, which would negatively impact our results of operations, financial condition and cash flows. All intercompany balances and

**DCP MIDSTREAM, LP**  
**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS**  
**Three and Nine Months Ended September 30, 2022 and 2021**  
**(unaudited)**

transactions have been eliminated in consolidation.

These unaudited condensed consolidated financial statements in this Quarterly Report on Form 10-Q have been prepared pursuant to the rules and regulations of the SEC. Accordingly, these condensed consolidated financial statements reflect all adjustments, consisting of normal recurring adjustments, that are, in the opinion of management, necessary to present fairly the financial position and results of operations for the respective interim periods. Certain information and note disclosures normally included in our annual financial statements prepared in accordance with GAAP have been condensed or omitted from these interim financial statements pursuant to such rules and regulations, although we believe that the disclosures made are adequate to make the information presented not misleading. Results of operations for the nine months ended September 30, 2022 are not necessarily indicative of the results that may be expected for the year ending December 31, 2022. These unaudited condensed consolidated financial statements and other information included in this Quarterly Report on Form 10-Q should be read in conjunction with the 2021 audited consolidated financial statements and notes thereto included in our Annual Report on Form 10-K for the year ended December 31, 2021.

## 2. Update to Significant Accounting Policies

**Business Combinations** - We account for business combinations by recognizing assets and liabilities of an acquired business at their estimated fair values on the acquisition date. Any excess consideration over the fair value of assets acquired and liabilities assumed is recognized as goodwill. The results of businesses acquired in business combinations are included in our consolidated financial statements from the date of the acquisition.

We perform valuations of assets acquired and liabilities assumed and allocate the purchase price to the respective assets and liabilities. Determining the fair value of assets acquired and liabilities assumed requires management to use significant judgment and estimates, including the selection of valuation methodologies, estimates of future revenue, costs and cash flows, discount rates, and selection of comparable companies.

Transaction costs associated with business combinations are expensed as incurred and are included in general and administrative expenses in the consolidated statements of operations.

## 3. Recent Accounting Pronouncements

**FASB ASU, 2021-08 Business Combinations (Topic 805): Accounting for Contract Assets and Contract Liabilities from Contracts with Customers** - In October 2021, the FASB issued ASU 2021-08, which requires application of ASC 606 "Revenue from Contractors with Customers" ("Topic 606") to recognize and measure contract assets and contract liabilities from contracts with customers acquired in a business combination. This ASU is effective for interim and annual periods beginning after December 15, 2022, with the option to early adopt for financial statements that have not been issued. However, an entity that elects to early adopt must apply the amendments to all business combinations that occurred during the fiscal year that includes the interim period. We early adopted this ASU on August 1, 2022 and it did not have a material impact on our consolidated financial statements.

## 4. Revenue Recognition

We disaggregate our revenue from contracts with customers by type of contract for each of our reportable segments, as we believe it best depicts the nature, timing and uncertainty of our revenue and cash flows. The following tables set forth our revenue by those categories:

	Three Months Ended September 30, 2022			
	Logistics and Marketing	Gathering and Processing	Eliminations	Total
	(millions)			
Sales of natural gas	\$ 1,731	\$ 1,474	\$ (1,389)	\$ 1,816
Sales of NGLs and condensate (a)	2,098	1,402	(1,181)	2,319
Transportation, processing and other	19	165	—	184
Trading and marketing gains (losses), net (b)	(19)	19	—	—
Total operating revenues	<u>\$ 3,829</u>	<u>\$ 3,060</u>	<u>\$ (2,570)</u>	<u>\$ 4,319</u>

**DCP MIDSTREAM, LP**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**  
**Three and Nine Months Ended September 30, 2022 and 2021**  
**(unaudited)**

Nine Months Ended September 30, 2022				
	Logistics and Marketing	Gathering and Processing	Eliminations	Total
	(millions)			
Sales of natural gas	\$ 4,230	\$ 3,594	\$ (3,379)	\$ 4,445
Sales of NGLs and condensate (a)	6,553	4,263	(3,572)	7,244
Transportation, processing and other	56	467	—	523
Trading and marketing losses, net (b)	(58)	(191)	—	(249)
Total operating revenues	<u>\$ 10,781</u>	<u>\$ 8,133</u>	<u>\$ (6,951)</u>	<u>\$ 11,963</u>

(a) Includes \$754 million and \$2,138 million for the three and nine months ended September 30, 2022, respectively, of revenues from physical sales contracts and buy-sell exchange transactions in our Logistics and Marketing segment. For the three and nine months ended September 30, 2022, these revenues are net of \$999 million and \$2,760 million, respectively, of buy-sell purchases related to buy-sell revenues of \$1,074 million and \$3,013 million, respectively, that are not within the scope of Topic 606.

(b) Not within the scope of Topic 606.

Three Months Ended September 30, 2021				
	Logistics and Marketing	Gathering and Processing	Eliminations	Total
	(millions)			
Sales of natural gas	\$ 895	\$ 715	\$ (695)	\$ 915
Sales of NGLs and condensate (a)	1,768	1,139	(966)	1,941
Transportation, processing and other	19	126	(1)	144
Trading and marketing losses, net (b)	(14)	(159)	—	(173)
Total operating revenues	<u>\$ 2,668</u>	<u>\$ 1,821</u>	<u>\$ (1,662)</u>	<u>\$ 2,827</u>

Nine Months Ended September 30, 2021				
	Logistics and Marketing	Gathering and Processing	Eliminations	Total
	(millions)			
Sales of natural gas	\$ 2,625	\$ 1,832	\$ (1,673)	\$ 2,784
Sales of NGLs and condensate (a)	4,296	2,686	(2,228)	4,754
Transportation, processing and other	46	342	(1)	387
Trading and marketing losses, net (b)	(284)	(411)	—	(695)
Total operating revenues	<u>\$ 6,683</u>	<u>\$ 4,449</u>	<u>\$ (3,902)</u>	<u>\$ 7,230</u>

(a) Includes \$589 million and \$1,473 million for the three and nine months ended September 30, 2021, respectively, of revenues from physical sales contracts and buy-sell exchange transactions in our Logistics and Marketing segment. For the three and nine months ended September 30, 2021, these revenues are net of \$741 million and \$1,692 million, respectively, of buy-sell purchases related to buy-sell revenues of \$786 million and \$1,867 million, respectively, which are not within the scope of Topic 606.

(b) Not within the scope of Topic 606.

The revenue expected to be recognized in the future related to performance obligations that are not satisfied is approximately \$393 million as of September 30, 2022. Our remaining performance obligations primarily consist of minimum volume commitment fee arrangements and are expected to be recognized through 2031 with a weighted average remaining life of three years as of September 30, 2022. As a practical expedient permitted by Topic 606, this amount excludes variable consideration as well as remaining performance obligations that have original expected durations of one year or less, as applicable. Our remaining performance obligations also exclude estimates of variable rate escalation clauses in our contracts with customers.

**DCP MIDSTREAM, LP**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**  
**Three and Nine Months Ended September 30, 2022 and 2021**  
**(unaudited)**

**5. Agreements and Transactions with Affiliates**

**DCP Midstream, LLC**

The following table summarizes employee related costs that were charged by DCP Midstream, LLC to the Partnership that are included in the condensed consolidated statements of operations:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2022	2021	2022	2021
	(millions)			
Employee related costs charged by DCP Midstream, LLC				
Operating and maintenance expense	\$ 44	\$ 39	\$ 126	\$ 116
General and administrative expense	\$ 61	\$ 44	\$ 136	\$ 109

**Summary of Transactions with Affiliates**

The following table summarizes our transactions with affiliates:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2022	2021	2022	2021
	(millions)			
Phillips 66 (including its affiliates):				
Sales of natural gas, NGLs and condensate to affiliates	\$ 952	\$ 893	\$ 3,244	\$ 2,066
Purchases and related costs from affiliates	\$ 26	\$ 45	\$ 153	\$ 94
Transportation and related costs from affiliates	\$ 50	\$ 39	\$ 140	\$ 113
Operating and maintenance and general administrative expenses	\$ 3	\$ 3	\$ 10	\$ 9
Enbridge (including its affiliates):				
Sales of natural gas, NGLs and condensate to affiliates	\$ 1	\$ —	\$ (1)	\$ 4
Purchases and related costs from affiliates	\$ —	\$ 12	\$ 13	\$ 27
Transportation and related costs from affiliates	\$ 2	\$ 1	\$ 3	\$ 1
Operating and maintenance and general administrative expenses	\$ 1	\$ 1	\$ 1	\$ 1
Unconsolidated affiliates:				
Sales of natural gas, NGLs and condensate to affiliates	\$ 29	\$ 28	\$ 85	\$ 73
Transportation, processing, and other to affiliates	\$ 4	\$ 3	\$ 11	\$ 13
Purchases and related costs from affiliates	\$ 30	\$ 24	\$ 89	\$ 62
Transportation and related costs from affiliates	\$ 245	\$ 209	\$ 686	\$ 606

We had balances with affiliates as follows:

	September 30, 2022	December 31, 2021
	(millions)	
Phillips 66 (including its affiliates):		
Accounts receivable	\$ 399	\$ 361
Accounts payable	\$ 205	\$ 114
Other assets	\$ —	\$ 1
Enbridge (including its affiliates):		
Accounts receivable	\$ 2	\$ —
Accounts payable	\$ 6	\$ 4
Unconsolidated affiliates:		
Accounts receivable	\$ 44	\$ 28
Accounts payable	\$ 96	\$ 87

**DCP MIDSTREAM, LP**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**  
**Three and Nine Months Ended September 30, 2022 and 2021**  
**(unaudited)**

**6. Inventories**

Inventories were as follows:

	September 30, 2022	December 31, 2021
	(millions)	
Natural gas	\$ 27	\$ 43
NGLs	18	34
Total inventories	<u>\$ 45</u>	<u>\$ 77</u>

We recognize lower of cost or net realizable value adjustments when the carrying value of our inventories exceeds their net realizable value. These non-cash charges are a component of purchases and related costs in the condensed consolidated statements of operations. We recognized \$10 million of lower of cost or net realizable value adjustments for the three and nine months ended September 30, 2022. We recognized no lower of cost or net realizable value adjustments for the three and nine months ended September 30, 2021.

**7. Acquisition**

On August 1, 2022, we completed the acquisition of 100 percent of the membership interests in the legal entities holding gathering and processing assets in the Permian Basin ("James Lake System") from Woodland Midstream II. The James Lake System consists primarily of a 120MMcf/d cryogenic processing facility, gas gathering and processing assets in West Texas, and associated contracts for long-term acreage dedications from producers in the Permian region. The acquisition is complementary to our existing infrastructure in the region including our natural gas liquids assets and provides incremental natural gas gathering and processing capacity. We paid total consideration of approximately \$161 million after post-closing adjustments, which was funded with cash and borrowings under our Credit Facility.

We have accounted for the James Lake System acquisition as a business combination under ASC 805 which, among other things, requires assets acquired and liabilities assumed to be measured at their acquisition date fair values. The fair values determined for accounts receivable, inventory, accounts payable, and most other current assets and current liabilities were equivalent to the carrying value due to their short-term nature. The estimated fair value of the acquired property, plant and equipment was determined using the cost approach. The purchase price allocation is based on estimates of fair values at the date of the acquisition. The final purchase price allocation of the acquisition date fair value of the major classes of assets acquired and liabilities assumed at August 1, 2022 recorded to our Gathering and Processing segment is as follows:

(millions)

Assets Acquired

Accounts receivable	\$ 19
Inventory	3
Property, plant and equipment	157

Liabilities assumed

Accounts payable, accrued expenses and other liabilities	18
Total purchase price allocation	\$ 161

The contribution of the James Lake System to our consolidated revenues and net income were \$41 million and \$1 million, respectively, during the three and nine months ended September 30, 2022. Additionally, acquisition related costs were not material during the three and nine months ended September 30, 2022. Assuming the result of the James Lake System had been included in our operations beginning on January 1, 2021, the estimated pro forma net operating revenues of the Partnership for the year ended December 31, 2021 and the nine months ended September 30, 2022 would have been approximately \$10.7 billion and \$12.1 billion, respectively, and pro forma net income would have been approximately \$397 million and \$798 million for the same periods, respectively. The pro forma summary uses estimates and assumptions based on information available at the time. Management believes the estimates and assumptions to be reasonable; however, actual results may differ significantly from this pro forma financial information. The pro forma information does not reflect any synergistic savings that might be achieved from combining the operations and is not intended to reflect the actual results that would have occurred had the companies actually been combined during the periods presented.



**DCP MIDSTREAM, LP**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**  
**Three and Nine Months Ended September 30, 2022 and 2021**  
**(unaudited)**

**8. Property, Plant and Equipment**

A summary of property, plant and equipment by classification is as follows:

	Depreciable Life	September 30, 2022	December 31, 2021
		(millions)	
Gathering and transmission systems	20 — 50 Years	\$ 7,825	\$ 7,645
Processing, storage and terminal facilities	35 — 60 Years	5,116	5,057
Other	3 — 30 Years	559	585
Finance lease assets	5 — 35 Years	32	28
Construction work in progress		138	103
Property, plant and equipment		13,670	13,418
Accumulated depreciation		(5,934)	(5,717)
Property, plant and equipment, net		\$ 7,736	\$ 7,701

Interest capitalized on construction projects was immaterial for all periods presented.

Depreciation expense was \$89 million and \$88 million for the three months ended September 30, 2022 and 2021, respectively, and \$266 million and \$269 million for the nine months ended September 30, 2022 and 2021, respectively.

**9. Investments in Unconsolidated Affiliates**

The following table summarizes our investments in unconsolidated affiliates:

	Percentage Ownership	Carrying Value as of	
		September 30, 2022	December 31, 2021
		(millions)	
DCP Sand Hills Pipeline, LLC	66.67%	\$ 1,665	\$ 1,703
DCP Southern Hills Pipeline, LLC	66.67%	710	728
Gulf Coast Express LLC	25.00%	411	422
Front Range Pipeline LLC	33.33%	192	195
Texas Express Pipeline LLC	10.00%	92	94
Mont Belvieu 1 Fractionator	20.00%	7	6
Discovery Producer Services LLC	40.00%	223	231
Cheyenne Connector, LLC	50.00%	145	148
Mont Belvieu Enterprise Fractionator	12.50%	29	28
Other	Various	22	23
Total investments in unconsolidated affiliates		\$ 3,496	\$ 3,578

**DCP MIDSTREAM, LP**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**  
**Three and Nine Months Ended September 30, 2022 and 2021**  
**(unaudited)**

Earnings from investments in unconsolidated affiliates were as follows:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2022	2021	2022	2021
	(millions)			
DCP Sand Hills Pipeline, LLC	\$ 80	\$ 68	\$ 255	\$ 202
DCP Southern Hills Pipeline, LLC	21	21	66	67
Gulf Coast Express LLC	18	16	50	46
Front Range Pipeline LLC	12	10	33	28
Texas Express Pipeline LLC	6	5	16	14
Mont Belvieu 1 Fractionator	5	6	12	12
Discovery Producer Services LLC	5	2	14	13
Cheyenne Connector, LLC	4	4	11	8
Mont Belvieu Enterprise Fractionator	1	2	5	1
Other	1	—	2	2
Total earnings from unconsolidated affiliates	\$ 153	\$ 134	\$ 464	\$ 393

The following tables summarize the combined financial information of our investments in unconsolidated affiliates:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2022	2021	2022	2021
	(millions)		(millions)	
Statements of operations:				
Operating revenue	\$ 636	\$ 535	\$ 1,825	\$ 1,552
Operating expenses	\$ 258	\$ 231	\$ 721	\$ 631
Net income	\$ 378	\$ 303	\$ 1,102	\$ 917

## 10. Fair Value Measurement

### Valuation Hierarchy

Our fair value measurements are grouped into a three-level valuation hierarchy and are categorized in their entirety in the same level of the fair value hierarchy as the lowest level input that is significant to the entire measurement. The valuation hierarchy is based upon the transparency of inputs to the valuation of an asset or liability as of the measurement date. The three levels are defined as follows.

- Level 1 — inputs are unadjusted quoted prices for identical assets or liabilities in active markets.
- Level 2 — inputs include quoted prices for similar assets and liabilities in active markets, and inputs that are observable for the asset or liability, either directly or indirectly, for substantially the full term of the financial instrument.
- Level 3 — inputs are unobservable and considered significant to the fair value measurement.

A financial instrument's categorization within the hierarchy is based upon the level of judgment involved in the most significant input in the determination of the instrument's fair value. Following is a description of the valuation methodologies used as well as the general classification of such instruments pursuant to the hierarchy.

### Commodity Derivative Assets and Liabilities

We enter into a variety of derivative financial instruments, which may include exchange traded instruments (such as New York Mercantile Exchange, or NYMEX, crude oil or natural gas futures) or over-the-counter, or OTC, instruments (such as natural gas contracts, crude oil or NGL swaps). The exchange traded instruments are generally executed with a highly rated broker dealer serving as the clearinghouse for individual transactions.

**DCP MIDSTREAM, LP**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**  
**Three and Nine Months Ended September 30, 2022 and 2021**  
**(unaudited)**

Our activities expose us to varying degrees of commodity price risk. To mitigate a portion of this risk and to manage commodity price risk related primarily to owned natural gas storage and pipeline assets, we engage in natural gas asset based trading and marketing, and we may enter into natural gas and crude oil derivatives to lock in a specific margin when market conditions are favorable. A portion of this may be accomplished through the use of exchange traded derivative contracts. Such instruments are generally classified as Level 1 since the value is equal to the quoted market price of the exchange traded instrument as of our balance sheet date, and no adjustments are required. Depending upon market conditions and our strategy we may enter into exchange traded derivative positions with a significant time horizon to maturity. Although such instruments are exchange traded, market prices may only be readily observable for a portion of the duration of the instrument. In order to calculate the fair value of these instruments, readily observable market information is utilized to the extent it is available; however, in the event that readily observable market data is not available, we may interpolate or extrapolate based upon observable data. In instances where we utilize an interpolated or extrapolated value, and it is considered significant to the valuation of the contract as a whole, we would classify the instrument within Level 3.

We also engage in the business of trading energy related products and services, which exposes us to market variables and commodity price risk. We may enter into physical contracts or financial instruments with the objective of realizing a positive margin from the purchase and sale of these commodity-based instruments. We may enter into derivative instruments for NGLs or other energy related products, primarily using the OTC derivative instrument markets, which are not as active and liquid as exchange traded instruments. Market quotes for such contracts may only be available for short dated positions (up to six months), and an active market itself may not exist beyond such time horizon. Contracts entered into with a relatively short time horizon for which prices are readily observable in the OTC market are generally classified within Level 2. Contracts with a longer time horizon, for which we internally generate a forward curve to value such instruments, are generally classified within Level 3. The internally generated curve may utilize a variety of assumptions including, but not limited to, data obtained from third-party pricing services, historical and future expected relationship of NGL prices to crude oil prices, the knowledge of expected supply sources coming online, expected weather trends within certain regions of the United States, and the future expected demand for NGLs.

Each instrument is assigned to a level within the hierarchy at the end of each financial quarter depending upon the extent to which the valuation inputs are observable. Generally, an instrument will move toward a level within the hierarchy that requires a lower degree of judgment as the time to maturity approaches, and as the markets in which the asset trades will likely become more liquid and prices more readily available in the market, thus reducing the need to rely upon our internally developed assumptions. However, the level of a given instrument may change, in either direction, depending upon market conditions and the availability of market observable data.

The following table presents the financial instruments carried at fair value on a recurring basis as of September 30, 2022 and December 31, 2021, by condensed consolidated balance sheet caption and by valuation hierarchy, as described above:

	September 30, 2022				December 31, 2021			
	Level 1	Level 2	Level 3	Total Carrying Value	Level 1	Level 2	Level 3	Total Carrying Value
	(millions)							
Current assets:								
Commodity derivatives	\$ 7	\$ 105	\$ 18	\$ 130	\$ 24	\$ 62	\$ —	\$
Short-term investments (a)	\$ 3	\$ —	\$ —	\$ 3	\$ 4	\$ 1	\$ —	\$
Long-term assets:								
Commodity derivatives	\$ —	\$ 28	\$ 7	\$ 35	\$ —	\$ 8	\$ 2	\$
Investments in marketable securities (a)	\$ 37	\$ —	\$ —	\$ 37	\$ 28	\$ —	\$ —	\$
Current liabilities:								
Commodity derivatives	\$ (16)	\$ (207)	\$ (1)	\$ (224)	\$ (42)	\$ (100)	\$ (3)	\$ (1)
Long-term liabilities:								
Commodity derivatives	\$ —	\$ (45)	\$ (4)	\$ (49)	\$ (1)	\$ (25)	\$ (4)	\$ (1)

**DCP MIDSTREAM, LP**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**  
**Three and Nine Months Ended September 30, 2022 and 2021**  
**(unaudited)**

(a) \$3 million and \$5 million recorded within "Other" current assets and \$37 million and \$28 million recorded within "Other long-term assets" as of September 30, 2022 and December 31, 2021, respectively.

**Changes in Level 3 Fair Value Measurements**

The table below illustrates a rollforward of the amounts included in our condensed consolidated balance sheets for derivative financial instruments that we have classified within Level 3.

We manage our overall risk at the portfolio level and in the execution of our strategy, we may use a combination of financial instruments, which may be classified within any level. Since Level 1 and Level 2 risk management instruments are not included in the rollforward below, the gains or losses in the table do not reflect the effect of our total risk management activities.

	Commodity Derivative Instruments			
	Current Assets	Long-Term Assets	Current Liabilities	Long-Term Liabilities
	(millions)			
Three months ended September 30, 2022 (a):				
Beginning balance	\$ 3	\$ 6	\$ (3)	\$ (4)
Net unrealized gains (losses) included in earnings	24	2	3	(1)
Transfers out of Level 3	(6)	(1)	1	1
Settlements	(3)	—	(2)	—
Ending balance	<u>\$ 18</u>	<u>\$ 7</u>	<u>\$ (1)</u>	<u>\$ (4)</u>
Net unrealized gains (losses) on derivatives still held included in earnings	<u>\$ 16</u>	<u>\$ 3</u>	<u>\$ (3)</u>	<u>\$ (5)</u>
Three months ended September 30, 2021 (a):				
Beginning balance	\$ 1	\$ 1	\$ (9)	\$ (5)
Net unrealized gains (losses) included in earnings	1	2	(10)	2
Transfers out of Level 3	(2)	—	12	—
Settlements	—	—	2	—
Ending balance	<u>\$ —</u>	<u>\$ 3</u>	<u>\$ (5)</u>	<u>\$ (3)</u>
Net unrealized gains (losses) on derivatives still held included in earnings	<u>\$ —</u>	<u>\$ 2</u>	<u>\$ (3)</u>	<u>\$ 2</u>

**DCP MIDSTREAM, LP**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**  
**Three and Nine Months Ended September 30, 2022 and 2021**  
**(unaudited)**

	Commodity Derivative Instruments			
	Current Assets	Long-Term Assets	Current Liabilities	Long-Term Liabilities
	(millions)			
<b>Nine months ended September 30, 2022 (a):</b>				
Beginning balance	\$ —	\$ 2	\$ (3)	\$ (4)
Net unrealized gains (losses) included in earnings	18	8	(5)	(7)
Transfers out of Level 3	—	(3)	5	7
Settlements	—	—	2	—
Ending balance	<u>\$ 18</u>	<u>\$ 7</u>	<u>\$ (1)</u>	<u>\$ (4)</u>
Net unrealized gains (losses) on derivatives still held included in earnings	<u>\$ 18</u>	<u>\$ 6</u>	<u>\$ (1)</u>	<u>\$ (3)</u>
<b>Nine months ended September 30, 2021 (a):</b>				
Beginning balance	\$ —	\$ 2	\$ (3)	\$ (1)
Net unrealized gains (losses) included in earnings	—	1	(16)	(3)
Transfers out of Level 3	—	—	9	1
Settlements	—	—	5	—
Ending balance	<u>\$ —</u>	<u>\$ 3</u>	<u>\$ (5)</u>	<u>\$ (3)</u>
Net unrealized gains (losses) on derivatives still held included in earnings	<u>\$ —</u>	<u>\$ 1</u>	<u>\$ (5)</u>	<u>\$ (3)</u>

(a) There were no purchases, issuances or sales of derivatives or transfers into Level 3 for the three and nine months ended September 30, 2022 and 2021.

**Quantitative Information and Fair Value Sensitivities Related to Level 3 Unobservable Inputs**

We utilize the market approach to measure the fair value of our commodity contracts. The significant unobservable inputs used in this approach to fair value are longer dated price quotes. Our sensitivity to these longer dated forward curve prices are presented in the table below. Significant changes in any of those inputs in isolation would result in significantly different fair value measurements, depending on our short or long position in contracts.

Product Group	September 30, 2022				
	Fair Value (millions)	Valuation Techniques	Unobservable Input	Forward Curve Range	Weighted Average (a)
<b>Assets</b>					
NGLs	\$ 22	Market approach	Longer dated forward curve prices	\$0.34-\$0.98	\$0.80 Per gallon
Natural gas	\$ 3	Market approach	Longer dated forward curve prices	\$3.50-\$4.83	\$4.11 Per MMBtu
<b>Liabilities</b>					
NGLs	\$ (1)	Market approach	Longer dated forward curve prices	\$0.34-\$1.56	\$0.90 Per gallon
Natural gas	\$ (4)	Market approach	Longer dated forward curve prices	\$3.29-\$5.56	\$3.75 Per MMBtu

(a) Unobservable inputs were weighted by the instrument's notional amounts.

**DCP MIDSTREAM, LP**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**  
**Three and Nine Months Ended September 30, 2022 and 2021**  
**(unaudited)**

***Estimated Fair Value of Financial Instruments***

The fair value of accounts receivable and accounts payable are not materially different from their carrying amounts because of the short-term nature of these instruments or the stated rates approximating market rates. Derivative instruments are carried at fair value.

We determine the fair value of our fixed-rate senior notes and junior subordinated notes based on quotes obtained from bond dealers. The carrying value of borrowings under the Credit Agreement and the Securitization Facility approximate fair value as their interest rates are based on prevailing market interest rates. We classify the fair values of our outstanding debt balances within Level 2 of the valuation hierarchy. As of September 30, 2022 and December 31, 2021, the carrying value and fair value of our total debt, including current maturities, were as follows:

	September 30, 2022		December 31, 2021	
	Carrying Value (a)	Fair Value	Carrying Value (a)	Fair Value
	(millions)			
Total debt	\$ 4,834	\$ 4,580	\$ 5,445	\$ 6,107

(a) Excludes unamortized issuance costs and finance lease liabilities.

**11. Debt**

***Senior Notes Redemption***

On January 3, 2022, we repaid, at par, prior to maturity all \$350 million of aggregate principal amount outstanding of our 4.950% Senior Notes due April 1, 2022 using borrowings under our Credit Facility and Securitization Facility.

***Credit Agreement***

On March 18, 2022, we amended the Credit Agreement. The amendment extended the term of the Credit Agreement from December 9, 2024 to March 18, 2027. The amendment also includes sustainability linked key performance indicators that increase or decrease the applicable margin and facility fee payable thereunder based on our safety performance relative to our peers and year-over-year change in our greenhouse gas emissions intensity rate. The Credit Agreement provides up to \$1.4 billion of borrowing capacity and bears interest, as described in greater detail below, at either the term SOFR rate or the base rate plus, in each case, an applicable margin based on our credit rating.

The Credit Agreement also grants us the option to increase the revolving loan commitment by an aggregate principal amount of up to \$500 million, subject to requisite lender approval. The Credit Agreement may be extended for up to two additional one-year periods subject to requisite lender approval. Loans under the Credit Agreement may be used for working capital and other general partnership purposes including acquisitions.

Our cost of borrowing under the Credit Agreement is determined by a ratings-based pricing grid. Indebtedness under the Credit Agreement bears interest at either: (1) SOFR, plus an applicable margin of 1.075% based on our current credit rating, plus an adjustment of 0.10%; or (2) (a) the base rate which shall be the higher of the Prime Rate, the Federal Funds rate plus 0.50% or the SOFR Market Index rate plus 1.00%, plus (b) an applicable margin of 0.075% based on our current credit rating. The Credit Agreement incurs an annual facility fee of 0.175% based on our current credit rating. This fee is paid on drawn and undrawn portions of the Credit Facility.

As of September 30, 2022, we had unused borrowing capacity of \$1,390 million, net of \$10 million of letters of credit, under the Credit Agreement, of which \$1,390 million would have been available to borrow for working capital and other general partnership purposes based on the financial covenants set forth in the Credit Agreement. Except in the case of a default, amounts borrowed under our Credit Agreement will not become due prior to the March 18, 2027 maturity date.

***Accounts Receivable Securitization Facility***

The Securitization Facility provides for up to \$350 million of borrowing capacity through August 2024 at an adjusted SOFR and includes an uncommitted option to increase the total commitments under the Securitization Facility by up to an additional \$400 million. Under this Securitization Facility, certain of the Partnership's wholly owned subsidiaries sell or

**DCP MIDSTREAM, LP**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**  
**Three and Nine Months Ended September 30, 2022 and 2021**  
**(unaudited)**

contribute receivables to another of the Partnership's consolidated subsidiaries, DCP Receivables LLC ("DCP Receivables"), a bankruptcy-remote special purpose entity created for the sole purpose of the Securitization Facility.

As of September 30, 2022, we had unused borrowing capacity of \$350 million under the Securitization Facility, secured by approximately \$1,559 million of our accounts receivable at DCP Receivables.

The maturities of our debt as of September 30, 2022 are as follows:

	<b>Debt Maturities (millions)</b>
2022	\$ —
2023	500
2024	—
2025	825
2026	—
Thereafter	3,500
<b>Total debt</b>	<b>\$ 4,825</b>

## 12. Risk Management and Hedging Activities

Our operations expose us to a variety of risks including but not limited to changes in the prices of commodities that we buy or sell, changes in interest rates, and the creditworthiness of each of our counterparties. We manage certain of these exposures with either physical or financial transactions. We have established a comprehensive risk management policy and a risk management committee (the "Risk Management Committee"), to monitor and manage market risks associated with commodity prices and counterparty credit. The Risk Management Committee is composed of senior executives who receive regular briefings on positions and exposures, credit exposures and overall risk management in the context of market activities. The Risk Management Committee is responsible for the overall management of credit risk and commodity price risk, including monitoring exposure limits.

### Collateral

As of September 30, 2022, we had cash deposits of \$219 million, included in collateral cash deposits in our condensed consolidated balance sheets. Additionally, as of September 30, 2022, we held letters of credit of \$198 million from counterparties to secure their future performance under financial or physical contracts. Collateral amounts held or posted may be fixed or may vary, depending on the value of the underlying contracts, and could cover normal purchases and sales, services, trading and hedging contracts. In many cases, we and our counterparties have publicly disclosed credit ratings, which may impact the amounts of collateral requirements.

### Offsetting

Certain of our financial derivative instruments are subject to a master netting or similar arrangement, whereby we may elect to settle multiple positions with an individual counterparty through a single net payment. Each of our individual derivative instruments are presented on a gross basis on the condensed consolidated balance sheets, regardless of our ability to net settle our positions. Instruments that are governed by agreements that include net settle provisions allow final settlement, when presented with a termination event, of outstanding amounts by extinguishing the mutual debts owed between the parties in exchange for a net amount due. We have trade receivables and payables associated with derivative instruments, subject to master netting or similar agreements, which are not included in the table below. The following summarizes the gross and net amounts of our derivative instruments:

**DCP MIDSTREAM, LP**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**  
**Three and Nine Months Ended September 30, 2022 and 2021**  
**(unaudited)**



**DCP MIDSTREAM, LP**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**  
**Three and Nine Months Ended September 30, 2022 and 2021**  
**(unaudited)**

September 30, 2022			December 31, 2021		
Gross Amounts of Assets and (Liabilities) Presented in the Balance Sheet	Amounts Not Offset in the Balance Sheet - Financial Instruments	Net Amount	Gross Amounts of Assets and (Liabilities) Presented in the Balance Sheet	Amounts Not Offset in the Balance Sheet - Financial Instruments	Net Amount
(millions)					

**Assets:**

Commodity derivatives	\$	165	\$	(1)	\$	164	\$	96	\$	—	\$	96
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**Liabilities:**

Commodity derivatives	\$	(273)	\$	1	\$	(272)	\$	(175)	\$	—	\$	(175)
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**Summarized Derivative Information**

The fair value of our derivative instruments that are marked-to-market each period, as well as the location of each within our condensed consolidated balance sheets, by major category, is summarized below. We have no derivative instruments that are designated as hedging instruments for accounting purposes as of September 30, 2022 and December 31, 2021.

Balance Sheet Line Item	September 30, 2022	December 31, 2021	Balance Sheet Line Item	September 30, 2022	December 31, 2021
(millions)			(millions)		
<b>Derivative Assets Not Designated as Hedging Instruments:</b>			<b>Derivative Liabilities Not Designated as Hedging Instruments:</b>		
<b>Commodity derivatives:</b>			<b>Commodity derivatives:</b>		
Unrealized gains on derivative instruments — current	\$	130	Unrealized losses on derivative instruments — current	\$	(224)
Unrealized gains on derivative instruments — long-term		35	Unrealized losses on derivative instruments — long-term		(49)
Total	\$	165	Total	\$	(273)
		\$			\$
		96			(175)

For the nine months ended September 30, 2022 and 2021, no derivative losses attributable to the ineffective portion or to amounts excluded from effectiveness testing were recognized in trading and marketing gains or losses, net or interest expense in our condensed consolidated statements of operations.

Changes in the value of derivative instruments, for which the hedge method of accounting has not been elected from one period to the next, are recorded in the condensed consolidated statements of operations. The following summarizes these amounts and the location within the condensed consolidated statements of operations that such amounts are reflected:

Commodity Derivatives: Statements of Operations Line Item	Three Months Ended September 30,		Nine Months Ended September 30,	
	2022	2021	2022	2021
(millions)				
Realized losses	\$	(77)	\$	(251)
Unrealized gains (losses)		77		2
Trading and marketing losses, net	\$	(173)	\$	(249)
		\$		\$
		(66)		(399)
		(107)		(296)
		(695)		

We do not have any derivative financial instruments that are designated as a hedge of a net investment.

The following tables represent, by commodity type, our net long or short positions that are expected to partially or entirely settle in each respective year. To the extent that we have long dated derivative positions that span multiple calendar years, the

**DCP MIDSTREAM, LP**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**  
**Three and Nine Months Ended September 30, 2022 and 2021**  
**(unaudited)**

contract will appear in more than one line item in the tables below.

September 30, 2022				
Year of Expiration	Crude Oil	Natural Gas	Natural Gas Liquids	Natural Gas Basis Swaps
	Net Short Position (Bbls)	Net Short Position (MMBtu)	Net Long (Short) Position (Bbls)	Net Long (Short) Position (MMBtu)
2022	(442,000)	(17,357,400)	2,057,818	247,500
2023	(1,526,000)	(28,753,300)	(7,268,200)	(16,647,500)
2024	(720,000)	(8,235,000)	102,000	(7,770,000)
2025	—	(7,300,000)	(1,000)	1,160,000
2026	—	—	—	535,000
2027	—	—	—	—

  

September 30, 2021				
Year of Expiration	Crude Oil	Natural Gas	Natural Gas Liquids	Natural Gas Basis Swaps
	Net Short Position (Bbls)	Net (Short) Long Position (MMBtu)	Net Long (Short) Position (Bbls)	Net (Short) Long Position (MMBtu)
2021	(405,000)	(31,457,300)	168,546	(2,245,000)
2022	(1,286,000)	(59,980,200)	(8,817,555)	(2,362,500)
2023	(446,000)	912,500	(1,296,000)	(13,605,000)
2024	—	—	(1,446,000)	1,380,000
2025	—	—	(1,440,000)	21,020,000
2026	—	—	(1,080,000)	457,500

### 13. Partnership Equity and Distributions

**Common Units** — During the nine months ended September 30, 2022 and 2021, we issued no common units pursuant to our at-the-market program. As of September 30, 2022, \$750 million of common units remained available for sale pursuant to our at-the-market program.

Our general partner and DCP Midstream LLC are entitled to a percentage of all quarterly distributions equal to their limited partner interest of approximately 57% as of September 30, 2022.

**DCP MIDSTREAM, LP**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**  
**Three and Nine Months Ended September 30, 2022 and 2021**  
**(unaudited)**

**Distributions** — The following table presents our cash distributions paid in 2022:

Payment Date	Per Unit Distribution	Total Cash Distribution (millions)
<b>Distributions to common unitholders</b>		
August 12, 2022	\$ 0.43	\$ 89
May 13, 2022	\$ 0.39	\$ 82
February 14, 2022	\$ 0.39	\$ 81
<b>Distributions to Series A Preferred unitholders</b>		
June 15, 2022	\$ 36.8750	\$ 18
<b>Distributions to Series B Preferred unitholders</b>		
September 15, 2022	\$ 0.4922	\$ 4
June 15, 2022	\$ 0.4922	\$ 3
March 15, 2022	\$ 0.4922	\$ 3
<b>Distributions to Series C Preferred unitholders</b>		
July 15, 2022	\$ 0.4969	\$ 2
April 15, 2022	\$ 0.4969	\$ 2
January 18, 2022	\$ 0.4969	\$ 2

#### 14. Net Income or Loss per Limited Partner Unit

We have the ability to elect to settle restricted phantom units at our discretion in either cash or common units. For restricted phantom units granted since 2020, we have the ability and intent to settle vested units through the issuance of common units.

Basic and diluted net income per limited partner unit was calculated as follows for the years indicated:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2022	2021	2022	2021
	(millions, except per unit amounts)			
Net income allocable to limited partners	\$ 312	\$ 38	\$ 746	\$ 31
Weighted average limited partner units outstanding, basic	208,386,529	208,368,605	208,385,081	208,363,754
Dilutive effects of nonvested restricted phantom units	82,691	291,364	85,825	188,470
Weighted average limited partner units outstanding, diluted	208,469,220	208,659,969	208,470,906	208,552,224
Net income (loss) per limited partner unit, basic and diluted	\$ 1.50	\$ 0.18	\$ 3.58	\$ 0.15

#### 15. Commitments and Contingent Liabilities

**Litigation** — We are not a party to any material legal proceedings, but are a party to various administrative and regulatory proceedings and commercial disputes that have arisen in the ordinary course of our business. Management currently believes that the ultimate resolution of the foregoing matters, taken as a whole, and after consideration of amounts accrued, insurance coverage or other indemnification arrangements, will not have a material adverse effect on our results of operations, financial position, or cash flow.

**Insurance** — Our insurance coverage is carried with third-party insurers and with an affiliate of Phillips 66. Our insurance coverage includes: (i) general liability insurance covering third-party exposures; (ii) statutory workers' compensation insurance; (iii) automobile liability insurance for all owned, non-owned and hired vehicles; (iv) excess liability insurance above

**DCP MIDSTREAM, LP**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**  
**Three and Nine Months Ended September 30, 2022 and 2021**  
**(unaudited)**

the established primary limits for general liability and automobile liability insurance; (v) property insurance, which covers the replacement value of real and personal property and includes business interruption; and (vi) insurance covering our directors and officers for acts related to our business activities. All coverage is subject to certain limits and deductibles, the terms and conditions of which are common for companies with similar types of operations.

**Environment, Health and Safety** — The operation of pipelines, plants and other facilities for gathering, transporting, processing, treating, fractionating, or storing natural gas, NGLs and other products is subject to stringent and complex laws and regulations pertaining to the environment, health and safety. As an owner or operator of these facilities, we must comply with laws and regulations at the federal, state and, in some cases, local levels that relate to worker health and safety, public health and safety, pipeline safety, air and water quality, solid and hazardous waste management and disposal, and other environmental matters. The cost of planning, designing, constructing and operating pipelines, plants, and other facilities incorporates compliance with environmental laws and regulations, health and safety standards applicable to workers and the public, and safety standards applicable to our various facilities. In addition, there is increasing focus from (i) regulatory bodies and communities, and through litigation, on hydraulic fracturing and the real or perceived environmental or public health impacts of this technique, which indirectly presents some risk to our available supply of natural gas and the resulting supply of NGLs; (ii) regulatory bodies regarding pipeline system safety which could impose additional regulatory burdens and increase the cost of our operations; (iii) state and federal regulatory agencies regarding the emission of greenhouse gases and other air emissions associated with our operations or the materials managed as part of our business, which could impose regulatory burdens and increase the cost of our operations; and (iv) regulatory bodies and communities that could prevent or delay the development of fossil fuel energy infrastructure such as pipelines, plants, and other facilities used in our business. Failure to comply with these various health, safety and environmental laws and regulations may trigger a variety of administrative, civil and potentially criminal enforcement measures, including citizen suits, which can include the assessment of monetary penalties, the imposition of remedial requirements, and the issuance of injunctions or restrictions on operation. Management believes that, based on currently known information, compliance with these existing laws and regulations will not have a material adverse effect on our results of operations, financial position or cash flows.

The following pending proceedings involve governmental authorities as a party under federal, state, and local laws regulating the discharge of materials into the environment. We have elected to disclose matters where we reasonably believe such proceeding would result in monetary sanctions, exclusive of interest and costs, of \$1 million or more. It is not possible for us to predict the final outcome of these pending proceedings; however, we do not expect the outcome of one or more of these proceedings to have a material adverse effect on our results of operations, financial position, or cash flows:

- In March 2019, Region 8 of the U.S. Environmental Protection Agency (“EPA”) issued a Notice of Violation alleging various non-compliance with federal Leak Detection and Repair (LDAR) regulations, known as Subparts KKK and OOOO that exist to mitigate emissions of volatile organic compounds from certain equipment at natural gas plants, at various times over the course of late 2011 through 2017 at five of our Colorado natural gas processing plants. DCP does not agree with many of the allegations of non-compliance, and engaged in discussions with EPA about the propriety of the allegations, including the facts and regulatory underpinnings of the various allegations. DCP, EPA and the State of Colorado resolved these allegations in July 2022 with a Consent Decree in which DCP agrees to implement enhancements to its LDAR program at all of its Colorado natural gas processing plants, implement an environmental mitigation project valued at \$1.15 million at its Mewbourn gas plant in Colorado, and pay a civil penalty of \$3.25 million. Public review having been completed, the U.S. District Court (Colorado) entered the final Consent Decree on October 27, 2022, providing the final resolution of this enforcement matter. DCP does not believe that the resolution of this matter will have a material adverse effect on our results of operations, financial position, or cash flows.
- In 2018, the Colorado Department of Public Health and Environment (“CDPHE”) issued a Compliance Advisory in relation to an improperly permitted facility flare and related air emissions from flare operations at one of our gas processing plants, which we had self-disclosed to CDPHE in December 2017. Following information exchanges and discussions with CDPHE, a resolution was proposed pursuant to which the plant's air permit would be revised to include the flare and emissions limits for such flare in addition to us paying an administrative penalty as well as an economic benefit payment generally covering the period when the flare was required to be included in the facility air permit. A revised air permit was issued in May 2019, but the parties had not yet entered into a final settlement agreement to complete the matter. Subsequently, in July 2020 CDPHE issued a Notice of Violation in relation to amine treater emissions at this gas processing plant, which we had self-disclosed to CDPHE in April 2020. We are still exchanging information and holding discussions with CDPHE as to this and the foregoing flare-related enforcement matter, including possible settlement terms, although these matters, which have since been combined, may end up in formal legal proceedings. It is possible that resolution of this matter may include an administrative penalty and

**DCP MIDSTREAM, LP**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**  
**Three and Nine Months Ended September 30, 2022 and 2021**  
**(unaudited)**

economic benefit payment, further revising the facility air permit, or installation of emissions management equipment, or a combination of these, that could, in the aggregate, exceed the disclosure threshold amount described above, although we do not believe that resolution of this matter would have a material adverse effect on our results of operations, financial position, or cash flows.

## 16. Business Segments

Our operations are organized into two reportable segments: (i) Logistics and Marketing and (ii) Gathering and Processing. These segments are monitored separately by management for performance against our internal forecast and are consistent with internal financial reporting. These segments have been identified based on the differing products and services, regulatory environment and the expertise required for these operations. Our Gathering and Processing reportable segment includes operating segments that have been aggregated based on the nature of the products and services provided. Adjusted gross margin is a performance measure utilized by management to monitor the operations of each segment. The accounting policies of the reportable segments are the same as those described in the summary of significant accounting policies included in Note 2 of the Notes to the Consolidated Financial Statements in "Financial Statements and Supplementary Data" included as Item 8 in our Annual Report on Form 10-K for the year ended December 31, 2021.

Our Logistics and Marketing segment includes transporting, trading, marketing, storing natural gas and NGLs, and fractionating NGLs. Our Gathering and Processing segment consists of gathering, compressing, treating, processing natural gas, producing and fractionating NGLs, and recovering condensate. The remainder of our business operations is presented as "Other," and consists of unallocated corporate costs. Elimination of inter-segment transactions are reflected in the Eliminations column.

The following tables set forth our segment information:

### Three Months Ended September 30, 2022

	Logistics and Marketing	Gathering and Processing	Other	Eliminations	Total
	(millions)				
Total operating revenue	\$ 3,829	\$ 3,060	\$ —	\$ (2,570)	\$ 4,319
Adjusted gross margin (a)	\$ 33	\$ 589	\$ —	\$ —	\$ 622
Operating and maintenance expense	(12)	(174)	(7)	—	(193)
General and administrative expense	(1)	(5)	(84)	—	(90)
Depreciation and amortization expense	(4)	(82)	(4)	—	(90)
Other expense, net	(2)	(1)	—	—	(3)
Gain on sale of assets, net	—	1	—	—	1
Earnings from unconsolidated affiliates	148	5	—	—	153
Interest expense	—	—	(69)	—	(69)
Income tax expense	—	—	(1)	—	(1)
Net income (loss)	\$ 162	\$ 333	\$ (165)	\$ —	\$ 330
Net income attributable to noncontrolling interests	—	(2)	—	—	(2)
Net income (loss) attributable to partners	\$ 162	\$ 331	\$ (165)	\$ —	\$ 328
Non-cash derivative mark-to-market	\$ (34)	\$ 111	\$ —	\$ —	\$ 77
Non-cash lower of cost or net realizable value adjustments	\$ 10	\$ —	\$ —	\$ —	\$ 10
Capital expenditures	\$ 2	\$ 64	\$ 2	\$ —	\$ 68
Investments in unconsolidated affiliates, net	\$ 1	\$ —	\$ —	\$ —	\$ 1

**DCP MIDSTREAM, LP**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**  
**Three and Nine Months Ended September 30, 2022 and 2021**  
**(unaudited)**

**Nine Months Ended September 30, 2022:**

	Logistics and Marketing	Gathering and Processing	Other (millions)	Eliminations	Total
Total operating revenue	\$ 10,781	\$ 8,133	\$ —	\$ (6,951)	\$ 11,963
Adjusted gross margin (a)	\$ 89	\$ 1,458	\$ —	\$ —	\$ 1,547
Operating and maintenance expense	(29)	(489)	(16)	—	(534)
General and administrative expense	(4)	(14)	(192)	—	(210)
Depreciation and amortization expense	(10)	(245)	(15)	—	(270)
Asset impairments	—	(1)	—	—	(1)
Other income (expense), net	8	(3)	—	—	5
Gain on sale of assets, net	—	8	—	—	8
Earnings from unconsolidated affiliates	450	14	—	—	464
Interest expense	—	—	(210)	—	(210)
Income tax expense	—	—	(4)	—	(4)
Net income (loss)	\$ 504	\$ 728	\$ (437)	\$ —	\$ 795
Net income attributable to noncontrolling interests	—	(4)	—	—	(4)
Net income (loss) attributable to partners	\$ 504	\$ 724	\$ (437)	\$ —	\$ 791
Non-cash derivative mark-to-market	\$ (53)	\$ 55	\$ —	\$ —	\$ 2
Non-cash lower of cost or net realizable value adjustments	\$ 10	\$ —	\$ —	\$ —	\$ 10
Capital expenditures	\$ 8	\$ 115	\$ 5	\$ —	\$ 128
Investments in unconsolidated affiliates, net	\$ 1	\$ 1	\$ —	\$ —	\$ 2

**Three Months Ended September 30, 2021**

	Logistics and Marketing	Gathering and Processing	Other (millions)	Eliminations	Total
Total operating revenue	\$ 2,668	\$ 1,821	\$ —	\$ (1,662)	\$ 2,827
Adjusted gross margin (a)	\$ 35	\$ 281	\$ —	\$ —	\$ 316
Operating and maintenance expense	(11)	(157)	—	—	(168)
General and administrative expense	(1)	(4)	(58)	—	(63)
Depreciation and amortization expense	(3)	(80)	(6)	—	(89)
Other expenses, net	—	(2)	—	—	(2)
Earnings from unconsolidated affiliates	133	1	—	—	134
Interest expense	—	—	(73)	—	(73)
Net income (loss)	\$ 153	\$ 39	\$ (137)	\$ —	\$ 55
Net income attributable to noncontrolling interests	—	(1)	—	—	(1)
Net income (loss) attributable to partners	\$ 153	\$ 38	\$ (137)	\$ —	\$ 54
Non-cash derivative mark-to-market	\$ (7)	\$ (100)	\$ —	\$ —	\$ (107)
Capital expenditures	\$ 2	\$ 25	\$ 1	\$ —	\$ 28
Investments in unconsolidated affiliates, net	\$ 4	\$ —	\$ —	\$ —	\$ 4

**DCP MIDSTREAM, LP**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**  
**Three and Nine Months Ended September 30, 2022 and 2021**  
**(unaudited)**

**Nine Months Ended September 30, 2021:**

	Logistics and Marketing	Gathering and Processing	Other (millions)	Eliminations	Total
Total operating revenue	\$ 6,683	\$ 4,449	\$ —	\$ (3,902)	\$ 7,230
Adjusted gross margin (a)	\$ 78	\$ 765	\$ —	\$ —	\$ 843
Operating and maintenance expense	(29)	(443)	(10)	—	(482)
General and administrative expense	(4)	(12)	(142)	—	(158)
Depreciation and amortization expense	(9)	(243)	(21)	—	(273)
Other income (expense), net	5	(1)	—	—	4
Asset impairments	(13)	(7)	—	—	(20)
Loss on sale of assets, net	—	(1)	—	—	(1)
Earnings from unconsolidated affiliates	380	13	—	—	393
Interest expense	—	—	(227)	—	(227)
Net income (loss)	\$ 408	\$ 71	\$ (400)	\$ —	\$ 79
Net income attributable to noncontrolling interests	—	(3)	—	—	(3)
Net income (loss) attributable to partners	\$ 408	\$ 68	\$ (400)	\$ —	\$ 76
Non-cash derivative mark-to-market	\$ (47)	\$ (249)	\$ —	\$ —	\$ (296)
Capital expenditures	\$ 2	\$ 62	\$ 5	\$ —	\$ 69
Investments in unconsolidated affiliates, net	\$ 4	\$ —	\$ —	\$ —	\$ 4

	September 30, 2022	December 31, 2021
	(millions)	
Segment long-term assets:		
Gathering and Processing	\$ 7,570	\$ 7,515
Logistics and Marketing	3,830	3,887
Other (b)	222	229
Total long-term assets	11,622	11,631
Current assets	2,260	1,749
Total assets	\$ 13,882	\$ 13,380

- (a) Adjusted gross margin consists of total operating revenues, including commodity derivative activity, less purchases and related costs. Adjusted gross margin is viewed as a non-GAAP financial measure under the rules of the SEC, but is included as a supplemental disclosure because it is a primary performance measure used by management as it represents the results of product sales versus product purchases. As an indicator of our operating performance, adjusted gross margin should not be considered an alternative to, or more meaningful than, net income, net cash provided by operating activities or gross margin as determined in accordance with GAAP. Our adjusted gross margin may not be comparable to a similarly titled measure of another company because other entities may not calculate adjusted gross margin in the same manner.
- (b) Other long-term assets not allocable to segments consist of corporate leasehold improvements and other long-term assets

## 17. Supplemental Cash Flow Information

	Nine Months Ended September 30,	
	2022	2021
	(millions)	
Cash paid for interest:		
Cash paid for interest, net of amounts capitalized	\$ 224	\$ 234
Cash paid for income taxes, net of income tax refunds	\$ 1	\$ 3
Non-cash investing and financing activities:		
Property, plant and equipment acquired with accounts payable and accrued liabilities	\$ 27	\$ 8
Other non-cash changes in property, plant and equipment	\$ (2)	\$ (2)
Other non-cash activities:		
Right-of-use assets obtained in exchange for operating and finance lease liabilities	\$ 24	\$ 29

## 18. Subsequent Events

On October 13, 2022, we announced that the board of directors of the General Partner declared a quarterly distribution on our common units of \$0.43 per common unit. The distribution will be paid on November 14, 2022 to unitholders of record on October 28, 2022.

Also on October 13, 2022, the board of directors of the General Partner declared a semi-annual distribution on our Series A Preferred Units of \$36.875 per unit. The distribution will be paid on December 15, 2022 to unitholders of record on December 1, 2022.

Also on October 13, 2022, the board of directors of the General Partner declared a quarterly distribution on our Series B and Series C Preferred Units of \$0.4922 and \$0.4969 per unit, respectively. The Series B distributions will be paid on December 15, 2022 to unitholders of record on December 1, 2022. The Series C distribution will be paid on January 17, 2023 to unitholders of record on January 3, 2023.



## **Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations**

*The following discussion analyzes our financial condition and results of operations. You should read the following discussion of our financial condition and results of operations in conjunction with our condensed consolidated financial statements and notes included elsewhere in this Quarterly Report on Form 10-Q and the consolidated financial statements and notes thereto included in our Annual Report on Form 10-K for the year ended December 31, 2021.*

### **Overview**

We are a Delaware limited partnership formed by DCP Midstream, LLC to own, operate, acquire and develop a diversified portfolio of complementary midstream energy assets. Our operations are organized into two reportable segments: (i) Logistics and Marketing and (ii) Gathering and Processing. Our Logistics and Marketing segment includes transporting, trading, marketing and storing natural gas and NGLs, and fractionating NGLs. Our Gathering and Processing segment consists of gathering, compressing, treating, and processing natural gas, producing and fractionating NGLs, and recovering condensate.

### **Common Unit Acquisition Proposal**

On August 17, 2022, the Board of Directors of our General Partner (the "Board") received a non-binding proposal from Phillips 66 to acquire all of the Partnership's issued and outstanding publicly-held common units not already owned by DCP Midstream, LLC or its subsidiaries at a value of \$34.75 per each issued and outstanding publicly-held common unit (the "Proposal"). The Board appointed the conflicts committee to review, evaluate and negotiate the Proposal. The proposed transaction is subject to a number of contingencies, including approval by the conflicts committee and the Board, the negotiation of a definitive agreement concerning the transaction, and the satisfaction of conditions to the consummation of a transaction set forth in any such definitive agreement. There can be no assurance that such definitive agreement will be executed or that any transaction will be consummated on the terms described above or at all.

### **General Trends and Outlook**

We anticipate our business will continue to be affected by the following key trends. Our expectations are based on assumptions made by us and information currently available to us. To the extent our underlying assumptions about, or interpretations of, available information prove to be incorrect, our actual results may vary materially from our expected results.

Our business is impacted by commodity prices and volumes. We mitigate a significant portion of commodity price risk on an overall Partnership basis through our fee-based assets and by executing on our hedging program. Various factors impact both commodity prices and volumes, and as indicated in Item 3. "Quantitative and Qualitative Disclosures about Market Risk," we have sensitivities to certain cash and non-cash changes in commodity prices. Commodity prices have been volatile during 2022 and are subject to global energy supply and demand fundamentals as well as geopolitical disruptions. Drilling activity levels vary by geographic area and we will continue to target our strategy in geographic areas where we expect producer drilling activity.

Our long-term view is that commodity prices will be at levels that we believe will support sustained or increasing levels of domestic production. Our business is predominantly fee-based and we have a diversified portfolio to balance the upside of our earnings potential while reducing our commodity exposure. In addition, we use our strategic hedging program to further mitigate commodity price exposure. We expect future commodity prices will be influenced by tariffs and other global economic conditions, the level of North American production and drilling activity by exploration and production companies, the balance of trade between imports and exports of liquid natural gas, NGLs and crude oil, and the severity of winter and summer weather.

We intend to be a proactive participant in the transition to a lower carbon energy future. In August 2021, we announced two goals for companywide greenhouse gas (GHG) emission reductions. By 2030, our goal is to reduce our total Scope 1 and Scope 2 greenhouse gas emissions by 30% from our 2018 baseline. Additionally, by 2050, our goal is to achieve net zero greenhouse gas emissions. We plan to achieve these targets through increased efficiency and modernization of existing operations and reducing greenhouse gas emissions within the base business. We are continuously working to improve operational and energy efficiency through resource and energy conservation throughout our operations and made progress towards our goals by reducing Scope 1 and Scope 2 GHG emissions across our operations by approximately 23% from the 2018 baseline through the end of 2021. We also plan to leverage our existing infrastructure to establish adjacent lines of business that capture growing market opportunities and capitalize on green energy growth. To measure and report progress against these targets, we utilize an emission calculation protocol intended to align with the Energy Infrastructure Council (EIC) Midstream ESG Reporting Template, which is based upon the principles noted in the World Resources Institute (WRI) Corporate Accounting and Reporting Standard & Scope 2 Protocols. While we believe these goals align with our long-term growth strategy and financial and operational priorities, they are aspirational and may change, and there is no guarantee that they will be met.

Our business is primarily driven by the level of production of natural gas by producers and of NGLs from processing plants connected to our pipelines and fractionators. These volumes can be impacted negatively by, among other things, reduced drilling activity, depressed commodity prices, severe weather disruptions, operational outages and ethane rejection. Upstream producers response to changes in commodity prices and demand remain uncertain.

We hedge commodity prices associated with a portion of our expected natural gas, NGL and condensate equity volumes in our Gathering and Processing segment. Drilling activity levels vary by geographic area, and we will continue to target our strategy in geographic areas where we expect producer drilling activity.

We believe our contract structure with our producers provides us with significant protection from credit risk since we generally hold the product, sell it and withhold our fees prior to remittance of payments to the producer. Currently, our top 20 producers account for a majority of the total natural gas that we gather and process and of these top 20 producers, 5 have investment grade credit ratings. During February 2021, Winter Storm Uri resulted in lower volumes and abnormally high gas prices in certain regions. Certain counterparty billings during this time remain under dispute and are taking longer to collect than normal.

The global economic outlook continues to be a cause for concern for U.S. financial markets and businesses and investors alike. This uncertainty may contribute to volatility in financial and commodity markets.

We believe we are positioned to withstand future commodity price volatility as a result of the following:

- Our fee-based business represents a significant portion of our margins.
- We have positive operating cash flow from our well-positioned and diversified assets.
- We have a well-defined and targeted multi-year hedging program.
- We manage our disciplined capital growth program with a significant focus on fee-based agreements and projects with long-term volume outlooks.
- We believe we have a solid capital structure and balance sheet.
- We believe we have access to sufficient capital to fund our growth including excess distribution coverage and divestitures.

During 2022, our strategic objectives are to generate Excess Free Cash Flows (a non-GAAP measure defined in “Reconciliation of Non-GAAP Measures - Excess Free Cash Flows”) and reduce leverage. We believe the key elements to generating Excess Free Cash Flows are the diversity of our asset portfolio, our fee-based business which represents a significant portion of our estimated margins, plus our hedged commodity position, the objective of which is to protect against downside risk in our Excess Free Cash Flows. We will continue to pursue incremental revenue, cost efficiencies and operating improvements of our assets through process and technology improvements.

We incur capital expenditures for our consolidated entities and our unconsolidated affiliates. Our 2022 plan includes sustaining capital expenditures of between \$100 million and \$140 million and expansion capital expenditures of between \$100 million and \$150 million excluding our acquisition of the James Lake System for \$161 million.

## **Recent Events**

### ***Common and Preferred Distributions***

On October 13, 2022, we announced that the board of directors of the General Partner declared a quarterly distribution on our common units of \$0.43 per common unit. The distribution will be paid on November 14, 2022 to unitholders of record on October 28, 2022.

Also on October 13, 2022, the board of directors of the General Partner declared a semi-annual distribution on our Series A Preferred Units of \$36.875 per unit. The distribution will be paid on December 15, 2022 to unitholders of record on December 1, 2022.

Also on October 13, 2022, the board of directors of the General Partner declared a quarterly distribution on our Series B and Series C Preferred Units of \$0.4922 and \$0.4969 per unit, respectively. The Series B distributions will be paid on December 15, 2022 to unitholders of record on December 1, 2022. The Series C distribution will be paid on January 17, 2023 to unitholders of record on January 3, 2023.

## Results of Operations

### Consolidated Overview

The following table and discussion provides a summary of our consolidated results of operations for the three and nine months ended September 30, 2022 and 2021. The results of operations by segment are discussed in further detail following this consolidated overview discussion.

	Three Months Ended September 30,		Nine Months Ended September 30,		Variance Three Months 2022 vs. 2021		Variance Nine Months 2022 vs. 2021	
	2022	2021	2022	2021	Increase (Decrease)	Percent	Increase (Decrease)	Percent
(millions, except operating data)								
Operating revenues (a):								
Logistics and Marketing	\$ 3,829	\$ 2,668	\$ 10,781	\$ 6,683	\$ 1,161	44 %	\$ 4,098	61 %
Gathering and Processing	3,060	1,821	8,133	4,449	1,239	68 %	3,684	83 %
Inter-segment eliminations	(2,570)	(1,662)	(6,951)	(3,902)	908	55 %	3,049	78 %
Total operating revenues	<u>4,319</u>	<u>2,827</u>	<u>11,963</u>	<u>7,230</u>	1,492	53 %	4,733	65 %
Purchases and related costs								
Logistics and Marketing	(3,796)	(2,633)	(10,692)	(6,605)	1,163	44 %	4,087	62 %
Gathering and Processing	(2,471)	(1,540)	(6,675)	(3,684)	931	60 %	2,991	81 %
Inter-segment eliminations	2,570	1,662	6,951	3,902	908	55 %	3,049	78 %
Total purchases	<u>(3,697)</u>	<u>(2,511)</u>	<u>(10,416)</u>	<u>(6,387)</u>	1,186	47 %	4,029	63 %
Operating and maintenance expense	(193)	(168)	(534)	(482)	25	15 %	52	11 %
Depreciation and amortization expense	(90)	(89)	(270)	(273)	1	1 %	(3)	(1 %)
General and administrative expense	(90)	(63)	(210)	(158)	27	43 %	52	33 %
Asset impairments	—	—	(1)	(20)	—	— %	(19)	(95 %)
Other (expense) income, net	(3)	(2)	5	4	1	50 %	1	25 %
Gain (loss) on sale of assets, net	1	—	8	(1)	1	*	9	*
Earnings from unconsolidated affiliates (b)	153	134	464	393	19	14 %	71	18 %
Interest expense	(69)	(73)	(210)	(227)	(4)	(5 %)	(17)	(7 %)
Income tax expense	(1)	—	(4)	—	1	*	4	*
Net income attributable to noncontrolling interests	(2)	(1)	(4)	(3)	1	*	1	33 %
Net income attributable to partners	<u>\$ 328</u>	<u>\$ 54</u>	<u>\$ 791</u>	<u>\$ 76</u>	\$ 274	*	\$ 715	*
Other data:								
Adjusted gross margin (c):								
Logistics and Marketing	\$ 33	\$ 35	\$ 89	\$ 78	\$ (2)	(6 %)	\$ 11	14 %
Gathering and Processing	589	281	1,458	765	308	*	693	91 %
Total adjusted gross margin	<u>\$ 622</u>	<u>\$ 316</u>	<u>\$ 1,547</u>	<u>\$ 843</u>	\$ 306	97 %	\$ 704	84 %
Non-cash commodity derivative mark-to-market	\$ 77	\$ (107)	\$ 2	\$ (296)	\$ 184	*	\$ 298	*
NGL pipelines throughput (MBbls/d) (d)	731	668	711	639	63	9 %	72	11 %
Gas pipelines throughput (TBtu/d) (d)	1.07	1.08	1.09	1.04	(0.01)	(1 %)	0.05	5 %
Natural gas wellhead (MMcf/d) (d)	4,492	4,221	4,328	4,212	271	6 %	116	3 %
NGL gross production (MBbls/d) (d)	436	406	422	392	30	7 %	30	8 %

\* Percentage change is not meaningful.

(a) Operating revenues include the impact of trading and marketing gains (losses), net.

(b) Earnings for certain unconsolidated affiliates include the amortization of the net difference between the carrying amount of the investments and the underlying equity of the entities.

(c) Adjusted gross margin consists of total operating revenues less purchases and related costs. Segment adjusted gross margin for each segment consists of total operating revenues for that segment, less purchases and related costs for that segment. Please read "Reconciliation of Non-GAAP Measures".

(d) For entities not wholly-owned by us, includes our share, based on our ownership percentage, of the wellhead and throughput volumes and NGL production.

**Three Months Ended September 30, 2022 vs. Three Months Ended September 30, 2021**

*Total Operating Revenues* — Total operating revenues increased \$1,492 million in 2022 compared to 2021 primarily as a result of the following:

- \$1,239 million increase for our Gathering and Processing segment, primarily due to higher commodity prices, favorable commodity derivative activity, higher volumes in the Permian, Midcontinent, and DJ Basin, and an increase in transportation, processing and other, partially offset by lower volumes in the South region; and
- \$1,161 million increase for our Logistics and Marketing segment, primarily due to higher commodity prices, and an increase attributable to higher gas and NGL volumes, partially offset by unfavorable commodity derivative activity.

These increases were partially offset by:

- \$908 million change in inter-segment eliminations, which relate to sales of gas and NGL volumes from our Gathering and Processing segment to our Logistics and Marketing segment, primarily due to higher commodity prices.

*Total Purchases* — Total purchases increased \$1,186 million in 2022 compared to 2021 primarily as a result of the following:

- \$1,163 million increase for our Logistics and Marketing segment for the reasons discussed above; and
- \$931 million increase for our Gathering and Processing segment for the reasons discussed above.

These increases were partially offset by:

- \$908 million change in inter-segment eliminations, for the reasons discussed above.

*Operating and Maintenance Expense* — Operating and maintenance expense increased in 2022 compared to 2021 primarily due to higher base costs primarily in the Permian, and higher reliability and pipeline integrity spend.

*General and Administrative Expense* — General and administrative expense increased in 2022 compared to 2021, primarily due to higher employee costs and benefits.

*Earnings from Unconsolidated Affiliates* — Earnings from unconsolidated affiliates increased in 2022 compared to 2021 primarily as a result of higher throughput volumes on the Sand Hills, Front Range, and Texas Express pipelines, and higher NGL pipeline tariffs.

*Net Income Attributable to Partners* — Net income attributable to partners increased in 2022 compared to 2021 for the reasons discussed above.

*Adjusted Gross Margin* — Gross margin increased \$306 million in 2022 compared to 2021 primarily as a result of the following:

- \$308 million increase for our Gathering and Processing segment primarily as a result of commodity derivative activity as discussed above, higher commodity prices, higher volumes across all regions, and higher gathering and processing margins in the Midcontinent and Permian.

This increase was partially offset by:

- \$2 million decrease for our Logistics and Marketing segment primarily as a result of commodity derivative activity and unfavorable NGL marketing activity, partially offset by gas marketing and storage margins.

*NGL Pipelines Throughput* — NGL pipelines throughput increased in 2022 compared to 2021 due to increased volumes on the Sand Hills, Front Range, Southern Hills, and Texas Express pipelines.

*Natural Gas Wellhead* — Natural gas wellhead increased in 2022 compared to 2021 due to increased volumes across all regions.

*NGL Gross Production* — NGL gross production increased in 2022 compared to 2021 due to increased volumes in the Permian region and DJ Basin.

***Nine Months Ended September 30, 2022 vs. Nine Months Ended September 30, 2021***

**Total Operating Revenues** — Total operating revenues increased \$4,733 million in 2022 compared to 2021, primarily as a result of the following:

- \$4,098 million increase for our Logistics and Marketing segment, primarily due to higher commodity prices, higher gas and NGL volumes, favorable commodity derivative activity, and an increase in transportation, processing and other; and
- \$3,684 million increase for our Gathering and Processing segment, primarily due to higher commodity prices, higher volumes in the Permian, DJ Basin, and Midcontinent regions, an increase in transportation, processing and other, and favorable commodity derivative activity, partially offset by lower volumes in the South region.

These increases were partially offset by:

- \$3,049 million change in inter-segment eliminations, which relate to sales of gas and NGL volumes from our Gathering and Processing segment to our Logistics and Marketing segment, primarily due to higher commodity prices.

**Total Purchases** — Total purchases increased \$4,029 million in 2022 compared to 2021, primarily as a result of the following:

- \$4,087 million increase for our Logistics and Marketing segment for the commodity price and volume changes discussed above; and
- \$2,991 million increase for our Gathering and Processing segment for the commodity price and volume changes discussed above.

These increases were partially offset by:

- \$3,049 million change in inter-segment eliminations, for the reasons discussed above.

**Operating and Maintenance Expense** — Operating and maintenance expense increased in 2022 compared to 2021 primarily due to higher base costs primarily in the Permian, and higher reliability and pipeline integrity spend.

**General and Administrative Expense** — General and administrative expense increased in 2022 compared to 2021, primarily due to higher employee costs and benefits.

**Asset Impairments** — Asset impairments in 2021 relate to long-lived assets in the Midcontinent region of our Gathering and Processing segment and the Logistics and Marketing segment.

**Gain on sale of assets** — The net gain on sale of assets in 2022 represents the sale of a gathering system in the Permian region.

**Earnings from Unconsolidated Affiliates** — Earnings from unconsolidated affiliates increased in 2022 compared to 2021 primarily as a result of a contract amendment with a third party customer that modified performance obligations and conditions, resulting in higher non-recurring earnings on the Sand Hills pipeline, higher throughput volumes on the Sand Hills, Front Range, and Texas Express pipelines, and higher NGL pipeline tariffs.

**Interest Expense** — Interest expense decreased in 2022 compared to 2021 primarily as a result of lower average outstanding debt balances.

**Net Income Attributable to Partners** — Net income attributable to partners increased in 2022 compared to 2021 for all of the reasons discussed above.

**Adjusted Gross Margin** — Adjusted gross margin increased \$704 million in 2022 compared to 2021, primarily as a result of the following:

- \$693 million increase for our Gathering and Processing segment, primarily as a result of higher commodity prices, favorable derivative activity attributable to our corporate equity hedge program, higher margins in the Permian and Midcontinent, higher volumes in the Permian and DJ Basin, and the negative impact of Winter Storm Uri resulting in producer shut-ins in the first quarter of 2021; and
- \$11 million increase for our Logistics and Marketing segment, primarily as a result of an increase in gas pipeline and storage marketing margins due to more favorable commodity spreads in 2022, the negative impact of Winter Storm Uri in the first

quarter of 2021, and an increase in NGL pipeline margins, partially offset by a contract settlement and unfavorable NGL marketing activity.

*NGL Pipelines Throughput* — NGL pipelines throughput increased in 2022 compared to 2021 due to increased volumes on the Sand Hills, Front Range, Southern Hills, and Texas Express pipelines.

*Natural Gas Wellhead* — Natural gas wellhead increased in 2022 compared to 2021 due to increased volumes in the Permian region and DJ Basin.

*NGL Gross Production* — NGL gross production increased in 2022 compared to 2021 due to increased volumes in the Permian region and DJ Basin.

#### Supplemental Information on Unconsolidated Affiliates

The following tables present financial information related to unconsolidated affiliates during the three and nine months ended September 30, 2022 and 2021, respectively:

Earnings from investments in unconsolidated affiliates were as follows:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2022	2021	2022	2021
	(millions)			
DCP Sand Hills Pipeline, LLC	\$ 80	\$ 68	\$ 255	\$ 202
DCP Southern Hills Pipeline, LLC	21	21	66	67
Gulf Coast Express LLC	18	16	50	46
Front Range Pipeline LLC	12	10	33	28
Texas Express Pipeline LLC	6	5	16	14
Mont Belvieu 1 Fractionator	5	6	12	12
Discovery Producer Services LLC	5	2	14	13
Cheyenne Connector, LLC	4	4	11	8
Mont Belvieu Enterprise Fractionator	1	2	5	1
Other	1	—	2	2
Total earnings from unconsolidated affiliates	\$ 153	\$ 134	\$ 464	\$ 393

Distributions received from unconsolidated affiliates were as follows:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2022	2021	2022	2021
	(millions)			
DCP Sand Hills Pipeline, LLC	\$ 94	\$ 79	\$ 294	\$ 218
DCP Southern Hills Pipeline, LLC	27	30	84	85
Gulf Coast Express LLC	21	19	61	58
Front Range Pipeline LLC	13	10	37	32
Texas Express Pipeline LLC	6	5	18	16
Mont Belvieu 1 Fractionator	5	5	11	11
Discovery Producer Services LLC	8	9	23	26
Cheyenne Connector, LLC	5	5	14	13
Mont Belvieu Enterprise Fractionator	(1)	—	3	—
Other	—	1	2	3
Total distributions from unconsolidated affiliates	\$ 178	\$ 163	\$ 547	\$ 462

## Results of Operations — Logistics and Marketing Segment

### Operating Data

System	Approximate System Length (Miles)	Fractionators	Approximate Throughput Capacity (MBbls/d) (a)	Approximate Gas Throughput Capacity (TBtus/d) (a)	Three Months Ended September 30, 2022		Nine Months Ended September 30, 2022	
					Pipeline Throughput (MBbls/d) (a)	Pipeline Throughput (TBtus/d) (a)	Pipeline Throughput (MBbls/d) (a)	Pipeline Throughput (TBtus/d) (a)
Sand Hills pipeline	1,400	—	333	—	313	—	302	—
Southern Hills pipeline	950	—	128	—	117	—	119	—
Front Range pipeline	450	—	87	—	79	—	77	—
Texas Express pipeline	600	—	37	—	23	—	22	—
Other NGL pipelines (a)	1,100	—	310	—	199	—	191	—
Gulf Coast Express pipeline	500	—	—	0.50	—	0.49	—	0.49
Guadalupe pipeline	600	—	—	0.25	—	0.28	—	0.29
Cheyenne Connector	70	—	—	0.30	—	0.30	—	0.31
Mont Belvieu fractionators	—	2	—	—	—	—	—	—
Pipelines total	5,670	2	895	1.05	731	1.07	711	1.09

(a) Represents total capacity or total volumes allocated to our proportionate ownership share.

The results of operations for our Logistics and Marketing segment are as follows:

	Three Months Ended September 30,		Nine Months Ended September 30,		Variance Three Months 2022 vs. 2021		Variance Nine Months 2022 vs. 2021	
	2022	2021	2022	2021	Increase (Decrease)	Percent	Increase (Decrease)	Percent
(millions, except operating data)								
Operating revenues:								
Sales of natural gas, NGLs and condensate	\$ 3,829	\$ 2,663	\$ 10,783	\$ 6,921	\$ 1,166	44 %	\$ 3,862	56 %
Transportation, processing and other	19	19	56	46	—	— %	10	22 %
Trading and marketing losses, net	(19)	(14)	(58)	(284)	(5)	(36 %)	226	80 %
Total operating revenues	3,829	2,668	10,781	6,683	1,161	44 %	4,098	61 %
Purchases and related costs	(3,796)	(2,633)	(10,692)	(6,605)	1,163	44 %	4,087	62 %
Operating and maintenance expense	(12)	(11)	(29)	(29)	1	9 %	—	— %
Depreciation and amortization expense	(4)	(3)	(10)	(9)	1	33 %	1	11 %
General and administrative expense	(1)	(1)	(4)	(4)	—	— %	—	— %
Asset impairments	—	—	—	(13)	—	— %	(13)	*
Other (expense) income, net	(2)	—	8	5	(2)	*	3	60 %
Earnings from unconsolidated affiliates (a)	148	133	450	380	15	11 %	70	18 %
Segment net income attributable to partners	\$ 162	\$ 153	\$ 504	\$ 408	\$ 9	6 %	\$ 96	24 %
Other data:								
Segment adjusted gross margin (b)	\$ 33	\$ 35	\$ 89	\$ 78	\$ (2)	(6 %)	\$ 11	14 %
Non-cash commodity derivative mark-to-market	\$ (34)	\$ (7)	\$ (53)	\$ (47)	\$ (27)	*	\$ (6)	(13 %)
NGL pipelines throughput (MBbls/d) (c)	731	668	711	639	63	9 %	72	11 %
Gas pipelines throughput (TBtu/d) (c)	1.07	1.08	1.09	1.04	(0.01)	(1 %)	0.05	5 %

\* Percentage change is not meaningful.

(a) Earnings for certain unconsolidated affiliates include the amortization of the net difference between the carrying amount of the investments and the underlying equity of the entities.



- (b) Adjusted gross margin consists of total operating revenues less purchases and related costs. Segment adjusted gross margin for each segment consists of total operating revenues for that segment less purchases and related costs for that segment. Please read “Reconciliation of Non-GAAP Measures”.
- (c) For entities not wholly owned by us, includes our share, based on our ownership percentage, of the throughput volumes.

**Three Months Ended September 30, 2022 vs. Three Months Ended September 30, 2021**

*Total Operating Revenues* — Total operating revenues increased \$1,161 million in 2022 compared to 2021, primarily as a result of the following:

- \$949 million increase as a result of higher commodity prices before the impact of derivative activity; and
- \$217 million increase attributable to higher gas and NGL volumes.

These increases were partially offset by:

- \$5 million decrease as a result of commodity derivative activity attributable to a \$27 million decrease in unrealized commodity derivative losses partially offset by an increase in realized cash settlement gains of \$22 million due to movements in forward prices of commodities in 2022.

*Purchases and Related Costs* — Purchases and related costs increased \$1,163 million in 2022 compared to 2021, for the reasons discussed above.

*Earnings from Unconsolidated Affiliates* — Earnings from unconsolidated affiliates increased in 2022 compared to 2021 primarily as a result of higher throughput volumes on the Sand Hills, Front Range, and Texas Express pipelines, and higher NGL pipeline tariffs.

*Segment Gross Margin* — Segment gross margin decreased \$2 million in 2022 compared to 2021, primarily as a result of the following:

- \$5 million decrease as a result of commodity derivative activity discussed above; and
- \$2 million decrease as a result of unfavorable NGL marketing activity.

These decreases were partially offset by:

- \$5 million increase as a result of favorable gas marketing and storage margins.

*NGL Pipelines Throughput* — NGL pipelines throughput increased in 2022 compared to 2021 due to increased volumes on the Sand Hills, Front Range, Southern Hills, and Texas Express pipelines.

**Nine Months Ended September 30, 2022 vs. Nine Months Ended September 30, 2021**

*Total Operating Revenues* — Total operating revenues increased \$4,098 million in 2022 compared to 2021, primarily as a result of the following:

- \$3,341 million increase as a result of higher commodity prices before the impact of derivative activity;
- \$521 million increase attributable to higher gas and NGL volumes;
- \$226 million increase as a result of commodity derivative activity attributable to a decrease in realized cash settlement losses of \$232 million, partially offset by an increase in unrealized commodity derivative losses of \$6 million due to movements in forward prices of commodities; and
- \$10 million increase in transportation, processing and other.

*Purchases and Related Costs* — Purchases and related costs increased \$4,087 million in 2022 compared to 2021, for the reasons discussed above.

*Asset Impairments* — Asset impairments in 2021 relate to an asset in South Texas where we determined a triggering event occurred due to a negative outlook for long-term volume forecasts.

*Earnings from Unconsolidated Affiliates* — Earnings from unconsolidated affiliates increased in 2022 compared to 2021 primarily as a result of a contract amendment with a third party customer that modified performance obligations and conditions, resulting in higher non-

recurring earnings on the Sand Hills pipeline, higher throughput volumes on the Sand Hills, Front Range, and Texas Express pipelines, and higher NGL pipeline tariffs.

*Segment Adjusted Gross Margin* — Segment adjusted gross margin increased \$11 million in 2022 compared to 2021, primarily as a result of the following:

- \$26 million increase as a result of increased gas pipeline and storage marketing margins due to more favorable commodity spreads in 2022;
- \$5 million increase as a result of the negative impacts of Winter Storm Uri in the first quarter 2021; and
- \$4 million increase as a result of NGL pipeline margins.

These increases were partially offset by:

- \$16 million contract settlement; and
- \$8 million decrease as a result of unfavorable NGL marketing activity in 2022.

*NGL Pipelines Throughput* — NGL pipelines throughput increased in 2022 compared to 2021 due to increased volumes on the Sand Hills, Front Range, Southern Hills, and Texas Express pipelines.

## Results of Operations — Gathering and Processing Segment

### Operating Data

Regions	Plants	Approximate Gathering and Transmission Systems (Miles)	Approximate Net Nameplate Plant Capacity (MMcf/d) (a)	Three Months Ended September 30, 2022		Nine Months Ended September 30, 2022	
				Natural Gas Wellhead Volume (MMcf/d) (a)	NGL Production (MBbls/d) (a)	Natural Gas Wellhead Volume (MMcf/d) (a)	NGL Production (MBbls/d) (a)
North	13	3,500	1,580	1,600	158	1,582	155
Midcontinent	6	23,000	1,110	840	68	825	71
Permian	10	15,000	1,220	1,047	134	998	124
South	7	7,000	1,630	1,005	76	923	72
Total	36	48,500	5,540	4,492	436	4,328	422

(a) Represents total capacity or total volumes allocated to our proportionate ownership share.

The results of operations for our Gathering and Processing segment are as follows:

	Three Months Ended September 30,		Nine Months Ended September 30,		Variance Three Months 2022 vs. 2021		Variance Nine Months 2022 vs. 2021	
	2022	2021	2022	2021	Increase (Decrease)	Percent	Increase (Decrease)	Percent
(millions, except operating data)								
Operating revenues:								
Sales of natural gas, NGLs and condensate	\$ 2,876	\$ 1,854	\$ 7,857	\$ 4,518	\$ 1,022	55 %	\$ 3,339	74 %
Transportation, processing and other	165	126	467	342	39	31 %	125	37 %
Trading and marketing losses, net	19	(159)	(191)	(411)	178	*	220	54 %
Total operating revenues	3,060	1,821	8,133	4,449	1,239	68 %	3,684	83 %
Purchases and related costs	(2,471)	(1,540)	(6,675)	(3,684)	931	60 %	2,991	81 %
Operating and maintenance expense	(174)	(157)	(489)	(443)	17	11 %	46	10 %
Depreciation and amortization expense	(82)	(80)	(245)	(243)	2	3 %	2	1 %
General and administrative expense	(5)	(4)	(14)	(12)	1	25 %	2	17 %
Asset impairments	—	—	(1)	(7)	—	— %	(6)	(86 %)
Other expense, net	(1)	(2)	(3)	(1)	(1)	(50 %)	2	*
Gain (loss) on sale of assets, net	1	—	8	(1)	1	*	9	*
Earnings from unconsolidated affiliates (a)	5	1	14	13	4	*	1	8 %
Segment net income	333	39	728	71	294	*	657	*
Segment net income attributable to noncontrolling interests	(2)	(1)	(4)	(3)	(1)	100 %	(1)	(33 %)
Segment net income attributable to partners	\$ 331	\$ 38	\$ 724	\$ 68	\$ 293	*	\$ 656	*
Other data:								
Segment adjusted gross margin (b)	\$ 589	\$ 281	\$ 1,458	\$ 765	\$ 308	*	\$ 693	91 %
Non-cash commodity derivative mark-to-market	\$ 111	\$ (100)	\$ 55	\$ (249)	211	*	\$ 304	*
Natural gas wellhead (MMcf/d) (c)	4,492	4,221	4,328	4,212	271	6 %	116	3 %
NGL gross production (MBbls/d) (c)	436	406	422	392	30	7 %	30	8 %

\* Percentage change is not meaningful.

(a) Earnings for certain unconsolidated affiliates include the amortization of the net difference between the carrying amount of the investments and the underlying equity of the entities.

(b) Segment adjusted gross margin for each segment consists of total operating revenues for that segment less purchases and related costs for that segment. Please read "Reconciliation of Non-GAAP Measures".

(c) For entities not wholly-owned by us, includes our share, based on our ownership percentage, of the wellhead and NGL production

### Three Months Ended September 30, 2022 vs. Three Months Ended September 30, 2021

*Total Operating Revenues* — Total operating revenues increased \$1,239 million in 2022 compared to 2021, primarily as a result of the following:

- \$848 million increase attributable to higher commodity prices, before the impact of derivative activity;
- \$178 million increase as a result of commodity derivative activity attributable to a \$211 million increase in unrealized commodity derivative gains partially offset by an increase in realized cash settlement losses of \$33 million due to movements in forward prices of commodities in 2022;
- \$174 million increase as a result of higher volumes in the Permian, Midcontinent, and DJ Basin, partially offset by lower volumes in the South region;
- \$39 million increase in transportation, processing and other.

*Purchases and Related Costs* — Purchases and related costs increased \$931 million in 2022 compared to 2021, for the reasons discussed above.

*Operating and Maintenance Expense* — Operating and maintenance expense increased in 2022 compared to 2021 primarily due to higher base costs primarily in the Permian, and higher reliability and pipeline integrity spend.

*Segment Gross Margin* — Segment gross margin increased \$308 million in 2022 compared to 2021, primarily as a result of the following:

- \$178 million increase as a result of commodity derivative activity as discussed above;
- \$80 million increase as a result of higher commodity prices; and
- \$50 million increase due to higher volumes across all regions, and higher gathering and processing margins in the Midcontinent and Permian.

*Natural Gas Wellhead* — Natural gas wellhead increased in 2022 compared to 2021 across all regions.

*NGL Gross Production* — NGL gross production increased in 2022 compared to 2021 due to increased volumes in the Permian region and DJ Basin.

### Nine Months Ended September 30, 2022 vs. Nine Months Ended September 30, 2021

*Total Operating Revenues* — Total operating revenues increased \$3,684 million in 2022 compared to 2021, primarily as a result of the following:

- \$2,883 million increase attributable to higher commodity prices, before the impact of derivative activity;
- \$456 million increase as a result of higher volumes in the Permian, DJ Basin, and Midcontinent regions, partially offset by lower volumes in the South region;
- \$125 million increase in transportation, processing and other; and
- \$220 million increase as a result of commodity derivative activity attributable to a \$304 million increase in unrealized commodity derivative gains partially offset by an increase in realized cash settlement losses of \$84 million due to movements in forward prices of commodities in 2022.

*Purchases and Related Costs* — Purchases and related costs increased \$2,991 million in 2022 compared to 2021, primarily as a result of the commodity price and volume changes discussed above.

*Operating and Maintenance Expense* — Operating and maintenance expense increased in 2022 compared to 2021 primarily due to higher base costs primarily in the Permian, and higher reliability and pipeline integrity spend.

*Asset Impairments* — Asset impairments in 2021 relate to certain long-lived assets in the Midcontinent region.

*Gain on Sale of Assets, net* — The net gain on sale of assets in 2022 represents the sale of a gathering system in the Permian region.

*Segment Adjusted Gross Margin* — Segment adjusted gross margin increased \$693 million in 2022 compared to 2021, primarily as a result of the following:

- \$383 million increase as a result of higher commodity prices;
- \$151 million increase as a result of favorable commodity derivative activity attributable to our corporate equity hedge program as discussed above;
- \$124 million increase due to higher margins in the Permian and Midcontinent regions and higher volumes in the Permian and DJ Basin; and
- \$35 million increase as a result of the negative impact of Winter Storm Uri in the first quarter 2021 which reflected reduced volumes due to producer shut-ins, commodity derivative activity associated with swaps, and the net impact of producer payments and marketing activity.

*Natural Gas Wellhead* — Natural gas wellhead increased in 2022 compared to 2021 due to increased volumes in the Permian region and DJ Basin.

*NGL Gross Production* — NGL gross production increased in 2022 compared to 2021 due to increased volumes in the Permian region and DJ Basin.

## Liquidity and Capital Resources

We expect our sources of liquidity to include:

- cash generated from operations;
- cash distributions from our unconsolidated affiliates;
- borrowings under our Credit Agreement and Securitization Facility;
- proceeds from asset rationalization;
- debt offerings;
- borrowings under term loans, or other credit facilities; and
- issuances of additional common units, preferred units or other securities.

We anticipate our more significant uses of resources to include:

- quarterly distributions to our common unitholders and distributions to our preferred unitholders;
- payments to service or retire our debt or Preferred Units;
- capital expenditures;
- contributions to our unconsolidated affiliates to finance our share of their capital expenditures;
- business and asset acquisitions; and
- collateral with counterparties to our swap contracts to secure potential exposure under these contracts, which may, at times, be significant depending on commodity price movements.

We believe that cash generated from these sources will be sufficient to meet our short-term working capital requirements, long-term capital expenditures and quarterly cash distributions.

We routinely evaluate opportunities for strategic investments or acquisitions. Future material investments or acquisitions may require that we obtain additional capital, assume third party debt or incur other long-term obligations. We have the option to utilize both equity and debt instruments as vehicles for the long-term financing of our investment activities or acquisitions.

Based on current and anticipated levels of operations, we believe we have adequate committed financial resources to conduct our ongoing business, although deterioration in our operating environment could limit our borrowing capacity, impact our credit ratings, raise our financing costs, as well as impact our compliance with the financial covenants contained in the Credit Agreement and other debt instruments.

**Senior Notes** — On January 3, 2022, we repaid, at par, prior to maturity all \$350 million of aggregate principal amount outstanding of our 4.95% Senior Notes due April 1, 2022, using borrowings under our Credit Facility and Securitization Facility.

**Credit Agreement** — On March 18, 2022, we amended the Credit Agreement. The amendment extended the term of the Credit Agreement from December 9, 2024 to March 18, 2027. The amendment also includes sustainability linked key performance indicators that increase or decrease the applicable margin and facility fee payable thereunder based on our safety performance relative to our peers and year-over-year change in our greenhouse gas emissions intensity rate. The Credit Agreement provides up to \$1.4 billion of borrowing capacity and bears interest at either the term SOFR rate or the base rate plus, in each case, an applicable margin based on our credit rating.

As of September 30, 2022, we had unused borrowing capacity of \$1,390 million, net of \$10 million letters of credit, under the Credit Agreement, of which at least \$1,390 million would have been available to borrow for working capital and other general partnership purposes based on the financial covenants set forth in the Credit Agreement. As of October 28, 2022, we had unused borrowing capacity of \$1,390 million, net of \$10 million of letters of credit, under the Credit Agreement. Our cost of borrowing under the Credit Agreement is determined by a ratings-based pricing grid.

**Accounts Receivable Securitization Facility** — As of September 30, 2022, we had unused borrowing capacity of \$350 million under the Securitization Facility, secured by approximately \$1,559 million of our accounts receivable at DCP Receivables.

**Issuance of Securities** — In October 2020, we filed a shelf registration statement with the SEC that became effective upon filing and allows us to issue an indeterminate number of common units, preferred units, debt securities, and guarantees of debt securities.

In October 2020, we also filed a shelf registration statement with the SEC, which allows us to issue up to \$750 million in common units pursuant to our at-the-market program. During the nine months ended September 30, 2022, we did not issue any common units pursuant to this registration statement, and \$750 million remained available for future sales.

**Guarantee of Registered Debt Securities** — The condensed consolidated financial statements of DCP Midstream, LP, or “parent guarantor”, include the accounts of DCP Midstream Operating LP, or “subsidiary issuer”, which is a 100% owned subsidiary, and all other subsidiaries which are all non-guarantor subsidiaries. The parent guarantor has agreed to fully and unconditionally guarantee the senior notes. The entirety of the Company’s operating assets and liabilities, operating revenues, expenses and other comprehensive income exist at its non-guarantor subsidiaries, and the parent guarantor and subsidiary issuer have no assets, liabilities or operations independent of their respective financing activities and investments in non-guarantor subsidiaries. All covenants in the indentures governing the notes limit the activities of subsidiary issuer, including limitations on the ability to pay dividends, incur additional indebtedness, make restricted payments, create liens, sell assets or make loans to parent guarantor.

The Company qualifies for alternative disclosure under Rule 13-01 of Regulation S-X, because the combined financial information of the subsidiary issuer and parent guarantor, excluding investments in subsidiaries that are not issuers or guarantors, reflect no material assets, liabilities or results of operations apart from their respective financing activities and investments in non-guarantor subsidiaries. Summarized financial information is presented as follows. The only assets, liabilities and results of operations of the subsidiary issuer and parent guarantor on a combined basis, independent of their respective investments in non-guarantor subsidiaries are:

- Accounts payable and other current liabilities of \$67 million and \$81 million as of September 30, 2022 and December 31, 2021, respectively;
- Balances related to debt of \$4.823 billion and \$5.174 billion as of September 30, 2022 and December 31, 2021, respectively; and
- Interest expense, net of \$67 million and \$72 million for the three months ended September 30, 2022 and 2021, respectively, and \$205 million and \$224 million for the nine months ended September 30, 2022 and 2021, respectively.

**Commodity Swaps and Collateral** — Changes in natural gas, NGL and condensate prices and the terms of our processing arrangements have a direct impact on our generation and use of cash from operations due to their impact on net income, along with the resulting changes in working capital. For additional information regarding our derivative activities, please read Item 3. “Quantitative and Qualitative Disclosures about Market Risk” contained herein.

When we enter into commodity swap contracts, we may be required to provide collateral to the counterparties in the event that our potential payment exposure exceeds a predetermined collateral threshold. Collateral thresholds are set by us and each counterparty, as applicable, in the master contract that governs our financial transactions based on our and the counterparty’s assessment of creditworthiness. The assessment of our position with respect to the collateral thresholds are determined on a counterparty by counterparty basis, and are impacted by the representative forward price curves and notional quantities under our swap contracts. Due to the interrelation between the representative crude oil and natural gas forward price curves, it is not practical to determine a pricing point at which our swap contracts will meet the collateral thresholds as we may transact multiple commodities with the same counterparty. Depending on daily commodity prices, the amount of collateral posted can go up or down on a daily basis.

**Working Capital** — Working capital is the amount by which current assets exceed current liabilities. Current assets are reduced in part by our quarterly distributions, which are required under the terms of our Partnership Agreement based on Available Cash, as defined in the Partnership Agreement. In general, our working capital is impacted by changes in the prices of commodities that we buy and sell, inventory levels, and other business factors that affect our net income and cash flows. Our working capital is also impacted by the timing of operating cash receipts and disbursements, cash collateral we may be required to post with counterparties to our commodity derivative instruments, borrowings of and payments on debt and the Securitization

Facility, capital expenditures, and increases or decreases in other long-term assets. We expect that our future working capital requirements will be impacted by these same recurring factors. During February 2021, Winter Storm Uri resulted in lower regional volumes and abnormally high gas prices for a period of days. A majority of our receivables associated with Winter Storm Uri have been collected. Certain counterparty billings during this time are under dispute and are taking longer to collect than normal, which continues to impact our working capital at September 30, 2022. We believe the amounts due to us are owed and are vigorously pursuing legal avenues to collect these receivables.

We had working capital deficits of \$481 million and \$261 million as of September 30, 2022 and December 31, 2021, respectively, driven by current maturities of long term debt of \$506 million and \$355 million, respectively. We had net derivative working capital deficits of \$94 million and \$59 million as of September 30, 2022 and December 31, 2021, respectively.

**Cash Flow** — Operating, investing and financing activities were as follows:

	Nine Months Ended September 30,	
	2022	2021
	(millions)	
Net cash provided by operating activities	\$ 1,275	\$ 2,100
Net cash used in investing activities	\$ (273)	\$ (70)
Net cash used in financing activities	\$ (910)	\$ (2,200)

#### **Nine Months Ended September 30, 2022 vs. Nine Months Ended September 30, 2021**

**Operating Activities** — Net cash provided by operating activities increased \$1,020 million in 2022 compared to the same period in 2021. The changes in net cash provided by operating activities are attributable to our net income adjusted for non-cash charges and changes in working capital as presented in the condensed consolidated statements of cash flows. For additional information regarding fluctuations in our earnings and distributions from unconsolidated affiliates, please read “Supplemental Information on Unconsolidated Affiliates” under “Results of Operations”.

**Investing Activities** — Net cash used in investing activities increased \$200 million in 2022 compared to the same period in 2021, primarily as a result of an increase in capital expenditures and the acquisition of the James Lake System, partially offset by proceeds from the sale of assets.

**Financing Activities** — Net cash used in financing activities increased \$675 million in 2022 compared to the same period in 2021, primarily as a result of higher net payments of debt.

**Contractual Obligations** — Material contractual obligations arising in the normal course of business primarily consist of purchase obligations, long-term debt and related interest payments, leases, and other long-term liabilities. See Note 11 to the Condensed Consolidated Financial Statements included in Item 1 “Financial Statements” for amounts outstanding on September 30, 2022, related to debt.

Purchase Obligations are contractual obligations and include various non-cancelable commitments to purchase physical quantities of commodities in future periods and other items, including gas supply, fractionation and transportation agreements in the ordinary course of business.

Management believes that our cash and investment position and operating cash flows as well as capacity under existing and available credit agreements will be sufficient to meet our liquidity and capital requirements for the foreseeable future. We believe that our current and projected asset position is sufficient to meet our liquidity requirements.

**Capital Requirements** — The midstream energy business can be capital intensive, requiring significant investment to maintain and upgrade existing operations. In the ordinary course of our business, we purchase physical commodities and enter into arrangements related to other items, including long-term fractionation and transportation agreements, in future periods. We establish a margin for these purchases by entering into physical and financial sale and exchange transactions to maintain a balanced position between purchases and sales and future delivery obligations. We expect to fund the obligations with the corresponding sales to entities that we deem creditworthy or who have provided credit support we consider adequate. We may enter into purchase order and non-cancelable construction agreements for capital expenditures. Our capital requirements have consisted primarily of, and we anticipate will continue to consist of the following:



- Sustaining capital expenditures, which are cash expenditures to maintain our cash flows, operating or earnings capacity. These expenditures add on to or improve capital assets owned, including certain system integrity, compliance and safety improvements. Sustaining capital expenditures also include certain well connects, and may include the acquisition or construction of new capital assets; and
- Expansion capital expenditures, which are cash expenditures to increase our cash flows, or operating or earnings capacity. Expansion capital expenditures include acquisitions or capital improvements (where we add on to or improve the capital assets owned, or acquire or construct new gathering lines and well connects, treating facilities, processing plants, fractionation facilities, pipelines, terminals, docks, truck racks, tankage and other storage, distribution or transportation facilities and related or similar midstream assets).

We incur capital expenditures for our consolidated entities and our unconsolidated affiliates. Our 2022 plan includes sustaining capital expenditures of between \$100 million and \$140 million and expansion capital expenditures of between \$100 million and \$150 million excluding our acquisition of the James Lake system for \$161 million.

We expect to fund future acquisitions and capital expenditures with funds generated from our operations, borrowings under our Credit Agreement, Securitization Facility and the issuance of additional debt and equity securities. We funded our acquisition of the James Lake system with cash and borrowings under our Credit Facility. Future material investments or acquisitions may require that we obtain additional capital, assume third party debt or incur other long-term obligations. We have the option to utilize both equity and debt instruments as vehicles for the long-term financing of our investment activities and acquisitions.

**Cash Distributions to Unitholders** — Our Partnership Agreement requires that, within 45 days after the end of each quarter, we distribute all Available Cash, as defined in the Partnership Agreement. We made cash distributions to our common unitholders and general partner of \$252 million during the nine months ended September 30, 2022 and 2021.

On October 13, 2022, we announced that the board of directors of the General Partner declared a quarterly distribution on our common units of \$0.43 per common unit. The distribution will be paid on November 14, 2022 to unitholders of record on October 28, 2022.

Also on October 13, 2022, the board of directors of the General Partner declared a semi-annual distribution on our Series A Preferred Units of \$36.875 per unit. The distribution will be paid on December 15, 2022 to unitholders of record on December 1, 2022.

Also on October 13, 2022, the board of directors of the General Partner declared a quarterly distribution on our Series B and Series C Preferred Units of \$0.4922 and \$0.4969 per unit, respectively. The Series B distributions will be paid on December 15, 2022 to unitholders of record on December 1, 2022. The Series C distribution will be paid on January 17, 2023 to unitholders of record on January 3, 2023.

We expect to continue to use cash provided by operating activities for the payment of distributions to our unitholders. See Note [13](#). “Partnership Equity and Distributions” in the Notes to the Condensed Consolidated Financial Statements in Item 1. “Financial Statements.”

## Reconciliation of Non-GAAP Measures

**Adjusted Gross Margin and Segment Adjusted Gross Margin** — In addition to net income, we view our adjusted gross margin as an important performance measure of the core profitability of our operations. We review our adjusted gross margin monthly for consistency and trend analysis.

We define adjusted gross margin as total operating revenues, less purchases and related costs, and we define segment adjusted gross margin for each segment as total operating revenues for that segment less purchases and related costs for that segment. Our adjusted gross margin equals the sum of our segment adjusted gross margins. Adjusted gross margin and segment adjusted gross margin are primary performance measures used by management, as these measures represent the results of product sales and purchases, a key component of our operations. As an indicator of our operating performance, adjusted gross margin and segment adjusted gross margin should not be considered an alternative to, or more meaningful than, operating revenues, gross margin, segment gross margin, net income or loss, net income or loss attributable to partners, operating income, net cash provided by operating activities or any other measure of financial performance presented in accordance with GAAP.

We believe adjusted gross margin provides useful information to our investors because our management views our adjusted gross margin and segment adjusted gross margin as important performance measures that represent the results of product sales and purchases, a key component of our operations. We review our adjusted gross margin and segment adjusted gross margin monthly for consistency and trend analysis. We believe that investors benefit from having access to the same financial measures that management uses in evaluating our operating results.

**Adjusted EBITDA** — We define adjusted EBITDA as net income or loss attributable to partners adjusted for (i) distributions from unconsolidated affiliates, net of earnings, (ii) depreciation and amortization expense, (iii) net interest expense, (iv) noncontrolling interest in depreciation and income tax expense, (v) unrealized gains and losses from commodity derivatives, (vi) income tax expense or benefit, (vii) impairment expense and (viii) certain other non-cash items. Adjusted EBITDA further excludes items of income or loss that we characterize as unrepresentative of our ongoing operations. Management believes these measures provide investors meaningful insight into results from ongoing operations.

Adjusted EBITDA should not be considered an alternative to, or more meaningful than, net income or loss, net income or loss attributable to partners, operating income, net cash provided by operating activities or any other measure of financial performance presented in accordance with GAAP as measures of operating performance, liquidity or ability to service debt obligations.

Adjusted EBITDA is used as a supplemental liquidity and performance measure and adjusted segment EBITDA is used as a supplemental performance measure by our management and by external users of our financial statements, such as investors, commercial banks, research analysts and others to assess:

- financial performance of our assets without regard to financing methods, capital structure or historical cost basis;
- our operating performance and return on capital as compared to those of other companies in the midstream energy industry, without regard to financing methods or capital structure;
- viability and performance of acquisitions and capital expenditure projects and the overall rates of return on investment opportunities; and
- in the case of Adjusted EBITDA, the ability of our assets to generate cash sufficient to pay interest costs, support our indebtedness, make cash distributions to our unitholders and pay capital expenditures.

**Adjusted Segment EBITDA** — We define adjusted segment EBITDA for each segment as segment net income or loss attributable to partners adjusted for (i) distributions from unconsolidated affiliates, net of earnings, (ii) depreciation and amortization expense, (iii) net interest expense, (iv) noncontrolling interest in depreciation and income tax expense, (v) unrealized gains and losses from commodity derivatives, (vi) income tax expense or benefit, (vii) impairment expense and (viii) certain other non-cash items. Adjusted segment EBITDA further excludes items of income or loss that we characterize as unrepresentative of our ongoing operations for that segment. Our adjusted segment EBITDA may not be comparable to similarly titled measures of other companies because they may not calculate adjusted segment EBITDA in the same manner.

Adjusted segment EBITDA should not be considered in isolation or as an alternative to our financial measures presented in accordance with GAAP, including operating revenues, net income or loss attributable to partners, or any other measure of performance presented in accordance with GAAP.

Our adjusted gross margin, segment adjusted gross margin, adjusted EBITDA and adjusted segment EBITDA may not be comparable to a similarly titled measure of another company because other entities may not calculate these measures in the

same manner. The accompanying schedules provide reconciliations of adjusted gross margin, segment adjusted gross margin and adjusted segment EBITDA to their most directly comparable GAAP financial measures.

**Distributable Cash Flow** — We define Distributable Cash Flow as adjusted EBITDA, as defined above, less sustaining capital expenditures, net of reimbursable projects, less interest expense, less income attributable to preferred units, and certain other items. Sustaining capital expenditures are cash expenditures made to maintain our cash flows, operating or earnings capacity. These expenditures add on to or improve capital assets owned, including certain system integrity, compliance and safety improvements. Sustaining capital expenditures also include certain well connects, and may include the acquisition or construction of new capital assets. Income attributable to preferred units represent cash distributions earned by the preferred units. Cash distributions to be paid to the holders of the preferred units assuming a distribution is declared by the board of directors of the General Partner, are not available to common unit holders. Non-cash mark-to-market of derivative instruments is considered to be non-cash for the purpose of computing Distributable Cash Flow because settlement will not occur until future periods, and will be impacted by future changes in commodity prices and interest rates. Distributable Cash Flow is used as a supplemental liquidity and performance measure by our management and by external users of our financial statements, such as investors, commercial banks, research analysts and others, to assess our ability to make cash distributions to our unitholders and our general partner.

Our Distributable Cash Flow may not be comparable to a similarly titled measure of another company because other entities may not calculate Distributable Cash Flow in the same manner.

**Excess Free Cash Flow** — We define Excess Free Cash Flow as Distributable Cash Flow, as defined above, less distributions to limited partners, less expansion capital expenditures, net of reimbursable projects, and contributions to equity method investments and certain other items. Expansion capital expenditures are cash expenditures to increase our cash flows, or operating or earnings capacity. Expansion capital expenditures include acquisitions or capital improvements (where we add on to or improve the capital assets owned, or acquire or construct new gathering lines and well connects, treating facilities, processing plants, fractionation facilities, pipelines, terminals, docks, truck racks, tankage and other storage, distribution or transportation facilities and related or similar midstream assets).

Excess Free Cash Flow is used as a supplemental liquidity and performance measure by our management and by external users of our financial statements, such as investors, commercial banks, research analysts and others, and is useful to investors and management as a measure of our ability to generate cash. Once business needs and obligations are met, including cash reserves to provide funds for distribution payments on our units and the proper conduct of our business, which includes cash reserves for future capital expenditures and anticipated credit needs, this cash can be used to reduce debt, reinvest in the company for future growth, or return to unitholders.

Our definition of Excess Free Cash Flow is limited in that it does not represent residual cash flows available for discretionary expenditures. Therefore, we believe the use of Excess Free Cash Flow for the limited purposes described above and in this report is not a substitute for net cash flows provided by operating activities, which is the most comparable GAAP measure. Excess Free Cash Flow may not be comparable to a similarly titled measure of another company because other entities may not calculate Excess Free Cash Flow in the same manner.

The following table sets forth our reconciliation of certain non-GAAP measures:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2022	2021	2022	2021
<b>Reconciliation of Non-GAAP Measures</b>				
<b>Reconciliation of gross margin to adjusted gross margin:</b>				
Operating revenues	\$ 4,319	\$ 2,827	\$ 11,963	\$ 7,230
Cost of revenues				
Purchases and related costs	3,344	2,181	9,332	5,484
Purchases and related costs from affiliates	56	81	255	183
Transportation and related costs from affiliates	297	249	829	720
Depreciation and amortization expense	90	89	270	273
Gross margin	532	227	1,277	570
Depreciation and amortization expense	90	89	270	273
Adjusted gross margin	<u>\$ 622</u>	<u>\$ 316</u>	<u>\$ 1,547</u>	<u>\$ 843</u>
<b>Reconciliation of segment gross margin to segment adjusted gross margin:</b>				
<b>Logistics and Marketing segment:</b>				
Operating revenues	\$ 3,829	\$ 2,668	\$ 10,781	\$ 6,683
Cost of revenues				
Purchases and related costs	3,796	2,633	10,692	6,605
Depreciation and amortization expense	4	3	10	9
Segment gross margin	29	32	79	69
Depreciation and amortization expense	4	3	10	9
Segment adjusted gross margin	<u>\$ 33</u>	<u>\$ 35</u>	<u>\$ 89</u>	<u>\$ 78</u>
<b>Gathering and Processing segment:</b>				
Operating revenues	\$ 3,060	\$ 1,821	\$ 8,133	\$ 4,449
Cost of revenues				
Purchases and related costs	2,471	1,540	6,675	3,684
Depreciation and amortization expense	82	80	245	243
Segment gross margin	507	201	1,213	522
Depreciation and amortization expense	82	80	245	243
Segment adjusted gross margin	<u>\$ 589</u>	<u>\$ 281</u>	<u>\$ 1,458</u>	<u>\$ 765</u>

Three Months Ended September 30,		Nine Months Ended September 30,	
2022	2021	2022	2021
(millions)			

**Reconciliation of net income attributable to partners to adjusted segment EBITDA:**

**Logistics and Marketing segment:**

Segment net income attributable to partners (a)	\$ 162	\$ 153	\$ 504	\$ 408
Non-cash commodity derivative mark-to-market	34	7	53	47
Depreciation and amortization expense, net of noncontrolling interest	4	3	10	9
Distributions from unconsolidated affiliates, net of earnings	22	21	74	56
Asset impairments	—	—	—	13
Other expense	2	—	—	—
Adjusted segment EBITDA	<u>\$ 224</u>	<u>\$ 184</u>	<u>\$ 641</u>	<u>\$ 533</u>

**Gathering and Processing segment:**

Segment net income attributable to partners	\$ 331	\$ 38	\$ 724	\$ 68
Non-cash commodity derivative mark-to-market	(111)	100	(55)	249
Depreciation and amortization expense, net of noncontrolling interest	82	80	244	241
Distributions from unconsolidated affiliates, net of earnings	3	8	9	13
Asset impairments	—	—	1	7
Gain on sale of assets	(1)	—	(8)	—
Other expense	2	1	4	2
Adjusted segment EBITDA	<u>\$ 306</u>	<u>\$ 227</u>	<u>\$ 919</u>	<u>\$ 580</u>

(a) We recognized \$10 million of lower of cost or net realizable value adjustment for the three and nine months ended September 30, 2022. We recognized no lower of cost or net realizable value adjustment for the three and nine months ended September 30, 2021.

## Critical Accounting Policies and Estimates

Our critical accounting policies and estimates are described in “Critical Accounting Estimates” within Item 7 “Management’s Discussion and Analysis of Financial Condition and Results of Operations” included in our Annual Report on Form 10-K for the year ended December 31, 2021 and Note 2 of the Notes to Consolidated Financial Statements in “Financial Statements and Supplementary Data” included as Item 8 in our Annual Report on Form 10-K for the year ended December 31, 2021. The accounting policies and estimates used in preparing our interim condensed consolidated financial statements for the three and nine months ended September 30, 2022 are the same as those described in our Annual Report on Form 10-K for the year ended December 31, 2021, except as follows below. Certain information and note disclosures normally included in our annual financial statements prepared in accordance with GAAP have been condensed or omitted from the interim financial statements included in this Quarterly Report on Form 10-Q pursuant to the rules and regulations of the SEC, although we believe that the disclosures made are adequate to make the information not misleading. The unaudited condensed consolidated financial statements and other information included in this Quarterly Report on Form 10-Q should be read in conjunction with the audited consolidated financial statements and notes thereto in our Annual Report on Form 10-K for the year ended December 31, 2021.

**Business combinations** - We account for business combinations under ASC 805 which, among other things, requires the allocation of the company’s purchase price to the various assets and liabilities of the acquired business at their respective fair values at the date of acquisition.

We estimate fair value measurements in accordance with ASC 820. These significant estimates, judgments, inputs, and assumptions include, when applicable, the selection of an appropriate valuation method depending on the nature of the respective asset, such as the income approach, the market or sales comparison approach. Determining the fair values of assets acquired generally involves assumptions regarding the amounts and timing of future revenues and expenditures, as well as discount rates.

The assumptions and inputs incorporated within the fair value estimates are subject to considerable management judgement and are based on historical trends, industry, market, and economic conditions prevalent at the time of the acquisition. Although we based these estimates on assumptions believed to be reasonable, these estimates are inherently unpredictable, uncertain and sensitive to change and the actual results could affect the accuracy or validity of our estimates.

### Item 3. Quantitative and Qualitative Disclosures about Market Risk

The following tables set forth additional information about our fixed price swaps used to mitigate a portion of our natural gas and NGL price risk associated with our percent-of-proceeds arrangements and our condensate price risk associated with our gathering and processing operations. Our positions as of October 28, 2022 were as follows:

#### Commodity Swaps

Period	Commodity	Notional Volume - Short Positions	Reference Price	Price Range
October 2022 — December 2022	Natural Gas	(125,000) MMBtu/d (e)	NYMEX Final Settlement Price (a)	\$2.40-\$7.91/MMBtu
January 2023 — December 2023	Natural Gas	(55,000) MMBtu/d (e)	NYMEX Final Settlement Price (a)	\$2.80-\$5.40/MMBtu
January 2024 — December 2024	Natural Gas	(22,500) MMBtu/d (e)	NYMEX Final Settlement Price (a)	\$3.78-\$4.39/MMBtu
January 2025 — December 2025	Natural Gas	(20,000) MMBtu/d (e)	NYMEX Final Settlement Price (a)	\$3.82-\$4.29/MMBtu
October 2022 — December 2022	NGLs	(15,167) Bbls/d (d)	Mt.Belvieu (b)	\$ .54-\$1.44/Gal
January 2023 — December 2023	NGLs	(3,455) Bbls/d (d)	Mt.Belvieu (b)	\$1.11-\$1.32/Gal
October 2022 — February 2023	Crude Oil	(4,880) Bbls/d (d)	NYMEX crude oil futures (c)	\$46.86-\$103.25/Bbl
March 2023 — December 2023	Crude Oil	(3,928) Bbls/d (d)	NYMEX crude oil futures (c)	\$60.37-\$82.15/Bbl
January 2024 — December 2024	Crude Oil	(1,968) Bbls/d (d)	NYMEX crude oil futures (c)	\$75.80-\$84.55/Bbl

(a) NYMEX final settlement price for natural gas futures contracts (NG).

(b) The average monthly OPIS price for Mt. Belvieu TET/Non-TET.

(c) Monthly average of the daily close prices for the prompt month NYMEX light, sweet crude oil futures contract (CL).

(d) Average Bbls/d per time period.

(e) Average MMBtu/d per time period.

Our sensitivities for 2022 as shown in the table below are estimated based on our average estimated commodity price exposure and commodity cash flow protection activities for the calendar year 2022, and exclude the impact of non-cash mark-to-market changes on our commodity derivatives. We utilize direct product crude oil, natural gas and NGL derivatives to mitigate a portion of our condensate, natural gas and NGL commodity price exposure. These sensitivities are associated with our condensate, natural gas and NGL volumes that are currently unhedged.

#### Commodity Sensitivities Net of Cash Flow Protection Activities

	Per Unit Decrease	Unit of Measurement	Estimated Decrease in Annual Net Income Attributable to Partners (millions)
NGL prices	\$ 0.01	Gallon	\$ 5
Natural gas prices	\$ 0.10	MMBtu	\$ 2
Crude oil prices	\$ 1.00	Barrel	\$ 3

In addition to the linear relationships in our commodity sensitivities above, additional factors may cause us to be less sensitive to commodity price declines. A portion of our net income is derived from fee-based contracts and a portion from percentage-of-proceeds and percentage-of-liquids processing arrangements that contain minimum fee clauses in which our processing margins convert to fee-based arrangements as commodity prices decline.

We estimate the following sensitivities related to the non-cash mark-to-market on our commodity derivatives associated with our open position on our commodity cash flow protection activities:

#### Non-Cash Mark-To-Market Commodity Sensitivities

	Per Unit Increase	Unit of Measurement	Estimated Mark-to-Market Impact (Decrease in Net Income Attributable to Partners) (millions)
NGL prices	\$ 0.01	Gallon	\$
Natural gas prices	\$ 0.10	MMBtu	\$
Crude oil prices	\$ 1.00	Barrel	\$

While the above commodity price sensitivities are indicative of the impact that changes in commodity prices may have on our annualized net income, changes during certain periods of extreme price volatility and market conditions or changes in the relationship of the price of NGLs and crude oil may cause our commodity price sensitivities to vary significantly from these estimates.

The midstream natural gas industry is cyclical, with the operating results of companies in the industry significantly affected by the prevailing price of NGLs, which in turn has been generally related to the price of crude oil. Although the prevailing price of residue natural gas has less short-term significance to our operating results than the price of NGLs, in the long-term the growth and sustainability of our business depends on natural gas prices being at levels sufficient to provide incentives and capital for producers to increase natural gas exploration and production. To minimize potential future commodity-based pricing and cash flow volatility, we have entered into a series of derivative financial instruments.

Based on historical trends, we generally expect NGL prices to directionally follow changes in crude oil prices over the long-term. However, the pricing relationship between NGLs and crude oil may vary, as we believe crude oil prices will in large part be determined by the level of production from major crude oil exporting countries and the demand generated by growth in the world economy, whereas NGL prices are more correlated to supply and U.S. petrochemical demand. Additionally, the level of NGL export demand may also have an impact on prices. We believe that future natural gas prices will be influenced by the level of North American production and drilling activity of exploration and production companies, the balance of trade between imports and exports of liquid natural gas and NGLs and the severity of winter and summer weather. Drilling activity can be

adversely affected as natural gas prices decrease. Energy market uncertainty could also reduce North American drilling activity. Limited access to capital could also decrease drilling. Lower drilling levels over a sustained period would reduce natural gas volumes gathered and processed, but could increase commodity prices, if supply were to fall relative to demand levels.

**Natural Gas Storage and Pipeline Asset Based Commodity Derivative Program** — Our natural gas storage and pipeline assets are exposed to certain risks including changes in commodity prices. We manage commodity price risk related to our natural gas storage and pipeline assets through our commodity derivative program. The commercial activities related to our natural gas storage and pipeline assets primarily consist of the purchase and sale of gas and associated time spreads and basis spreads.

A time spread transaction is executed by establishing a long gas position at one point in time and establishing an equal short gas position at a different point in time. Time spread transactions allow us to lock in a margin supported by the injection, withdrawal, and storage capacity of our natural gas storage assets. We may execute basis spread transactions to mitigate the risk of sale and purchase price differentials across our system. A basis spread transaction allows us to lock in a margin on our physical purchases and sales of gas, including injections and withdrawals from storage. We typically use swaps to execute these transactions, which are not designated as hedging instruments and are recorded at fair value with changes in fair value recorded in the current period condensed consolidated statements of operations. While gas held in our storage locations is recorded at the lower of average cost or net realizable value, the derivative instruments that are used to manage our storage facilities are recorded at fair value and any changes in fair value are currently recorded in our condensed consolidated statements of operations. Even though we may have economically hedged our exposure and locked in a future margin, the use of lower-of-cost-or-market accounting for our physical inventory and the use of mark-to-market accounting for our derivative instruments may subject our earnings to market volatility.

The following tables set forth additional information about our derivative instruments, used to mitigate a portion of our natural gas price risk associated with our inventory within our natural gas storage operations as of September 30, 2022:

#### Inventory

Period ended	Commodity	Notional Volume - Long Positions	Fair Value (millions)	Weighted Average Price
September 30, 2022	Natural Gas	5,098,663 MMBtu	\$ 27	\$5.27/MMBtu

#### Commodity Swaps

Period	Commodity	Notional Volume - (Short)/Long Positions	Fair Value (millions)	Price Range
October 2022 — January 2023	Natural Gas	(8,765,000) MMBtu	\$ 1	\$5.65-\$9.42/MMBtu
October 2022 — December 2022	Natural Gas	3,642,500 MMBtu	\$ (2)	\$6.74-\$8.64/MMBtu

**Natural Gas Asset Based Trading and Marketing** - Our trading and marketing activities are subject to commodity price fluctuations in response to changes in supply and demand, market conditions and other factors.

We may enter into physical contracts and financial instruments with the objective of realizing a positive margin from the purchase and sale of commodity-based instruments. The following table sets forth our commodity derivative instruments as of September 30, 2022:

#### Commodity Swaps

Period	Commodity	Notional Volume - (Short)/Long Positions	Fair Value (millions)	Price Range (a)
October 2022 — December 2025	Natural Gas	(63,247,500) MMBtu	\$ 12	\$-0.02-\$0.15/MMBtu
October 2022 — October 2026	Natural Gas	60,510,000 MMBtu	\$ (60)	\$0.19-\$0.85/MMBtu

(a) Represents the basis differential from NYMEX final settlement price for natural gas futures contracts for stated time period



## **Item 4. Controls and Procedures**

### ***Evaluation of Disclosure Controls and Procedures***

We maintain disclosure controls and procedures that are designed to ensure that information required to be disclosed by us in the reports that we file or submit to the SEC under the Securities Exchange Act of 1934, as amended (the “Exchange Act”), is recorded, processed, summarized and reported within the time periods specified by the SEC’s rules and forms, and that information is accumulated and communicated to the management of our general partner, including our general partner’s principal executive and principal financial officers (whom we refer to as the “Certifying Officers”), as appropriate to allow timely decisions regarding required disclosure. The management of our general partner evaluated, with the participation of the Certifying Officers, the effectiveness of our disclosure controls and procedures as of September 30, 2022, pursuant to Rule 13a-15(b) under the Exchange Act. Based upon that evaluation, the Certifying Officers concluded that, as of September 30, 2022, our disclosure controls and procedures were effective at a reasonable assurance level.

### ***Changes in Internal Control Over Financial Reporting***

There were no changes in internal control over financial reporting (as defined in Rule 13a-15(f) under the Exchange Act) that occurred during the quarter ended September 30, 2022 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

## **PART II**

### **Item 1. Legal Proceedings**

The information provided in “Commitments and Contingent Liabilities” included in (a) Note 21 of the Notes to Consolidated Financial Statements included in Item 8 of our Annual Report on Form 10-K for the year ended December 31, 2021 and (b) Note 15 of the Notes to Condensed Consolidated Financial Statements included in Item 1 of Part I of this Quarterly Report on Form 10-Q are incorporated herein by reference. For the disclosure of environmental proceedings with a governmental entity as a party pursuant to Item 103(c)(3)(iii) of Regulation S-K, the Company has elected to disclose matters where the Company reasonably believes such proceeding would result in monetary sanctions, exclusive of interest costs, of \$1 million or more.

### **Item 1A. Risk Factors**

An investment in our securities involves various risks. When considering an investment in us, careful consideration should be given to the risk factors discussed in Part I, “Item 1A. Risk Factors” in our Annual Report on Form 10-K for the year ended December 31, 2021. There are no material changes to the risk factors described in our Annual Report on Form 10-K for the year ended December 31, 2021, except as follows:

***Our business could be negatively impacted by inflationary pressures which may decrease our operating margins and increase working capital investments required to operate our business.***

The U.S. economy has experienced rising inflation in 2022. A sustained increase in inflation may continue to increase our costs for labor, services, and materials. Further our producer suppliers and customers face inflationary pressures and resulting impacts, such as the tight labor market, availability of drilling and hydraulic fracturing equipment, and supply chain disruptions, which could increase the cost of production which in turn may limit the level of drilling activity in the regions in which we operate. Our throughput volumes of natural gas and NGL supply may be impacted if producers are constrained. The rate and scope of these various inflationary factors may increase our operating costs and capital expenditures materially, which may not be readily recoverable in the prices of our services and may have an adverse effect on our costs, operating margins, results of operations and financial condition.

***There can be no assurances that we will enter into a definitive agreement with Phillips 66 related to Phillips 66’s proposal to acquire all of our outstanding common units not already owned by DCP Midstream, LLC or its subsidiaries, or that we will complete any transaction contemplated by such an agreement.***

On August 17, 2022, the board of directors of our General Partner received a non-binding preliminary proposal letter from Phillips 66 to acquire all of the Partnership’s issued and outstanding common units not already owned by DCP Midstream, LLC or its subsidiaries (the “Proposal”). While the conflicts committee has been appointed by the board of directors of our General Partner to evaluate the Proposal and any potential transaction with Phillips 66 related to the Proposal (the “Potential

Transaction”), there can be no assurances that we will enter into a definitive agreement with Phillips 66 related to any Potential Transaction. Furthermore, if we enter into a definitive agreement with Phillips 66, we anticipate that the consummation of any Potential Transaction will be subject to a number of conditions, and there can be no assurances that such conditions will be satisfied or waived or that any Potential Transaction will be completed in a timely manner or at all.

## Item 6. Exhibits

Exhibit Number	Description
<a href="#"><u>3.1</u></a> *	<a href="#"><u>Certificate of Limited Partnership of DCP Midstream Partners, LP dated August 5, 2005 (attached as Exhibit 3.1 to DCP Midstream Partners, LP's Registration Statement on Form S-1 (File No. 333-128378) filed with the SEC on September 16, 2005).</u></a>
<a href="#"><u>3.2</u></a> *	<a href="#"><u>Certificate of Amendment to Certificate of Limited Partnership of DCP Midstream Partners, LP dated January 11, 2017 (attached as Exhibit 3.1 to DCP Midstream Partners, LP's Current Report on Form 8-K (File No. 001-32678) filed with the SEC on January 17, 2017).</u></a>
<a href="#"><u>3.3</u></a> *	<a href="#"><u>Fifth Amended and Restated Agreement of Limited Partnership of DCP Midstream, LP dated November 6, 2019 (attached as Exhibit 3.1 to DCP Midstream, LP's Current Report on Form 8-K (File No. 001-32678) filed with the SEC on November 8, 2019).</u></a>
<a href="#"><u>10.1</u></a>	<a href="#"><u>Fifth Amendment to Receivables Financing Agreement, dated July 29, 2022, among DCP Receivables LLC, as borrower, DCP Midstream, LP, as initial servicer, the lenders, LC participants and group agents that are parties thereto from time to time, PNC Bank, National Association, as Administrative Agent and LC Bank, and PNC Capital Markets LLC, as Structuring Agent.</u></a>
<a href="#"><u>22</u></a>	<a href="#"><u>List of Guaranteed Securities</u></a>
<a href="#"><u>31.1</u></a>	<a href="#"><u>Certification of Chief Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.</u></a>
<a href="#"><u>31.2</u></a>	<a href="#"><u>Certification of Chief Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.</u></a>
<a href="#"><u>32.1</u></a>	<a href="#"><u>Certification of Chief Executive Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.</u></a>
<a href="#"><u>32.2</u></a>	<a href="#"><u>Certification of Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.</u></a>
101	Financial statements from the Quarterly Report on Form 10-Q of DCP Midstream, LP for the three and nine months ended September 30, 2022, formatted in XBRL: (i) the Condensed Consolidated Balance Sheets, (ii) the Condensed Consolidated Statements of Operations, (iii) the Condensed Consolidated Statements of Comprehensive Income, (iv) the Condensed Consolidated Statements of Cash Flows, (v) the Condensed Consolidated Statements of Changes in Equity, and (vi) the Notes to the Condensed Consolidated Financial Statements.
104	Cover Page Interactive Data File (formatted as Inline XBRL and contained in Exhibit 101).

\* Such exhibit has heretofore been filed with the SEC as part of the filing indicated and is incorporated herein by reference.

+ Denotes management contract or compensatory plan or arrangement.

## 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 thereunto duly authorized.

DCP Midstream, LP

By: DCP Midstream GP, LP  
*its General Partner*

By: DCP Midstream GP, LLC  
*its General Partner*

Date: November 3, 2022

By: /s/ Wouter T. van Kempen

Name: Wouter T. van Kempen

Title: President and Chief Executive Officer  
(Principal Executive Officer)

Date: November 3, 2022

By: /s/ Sean P. O'Brien

Name: Sean P. O'Brien

Title: Group Vice President and Chief Financial Officer  
(Principal Financial Officer)

**Fifth Amendment To  
Receivables Financing Agreement**

This Fifth Amendment to Receivables Financing Agreement (this “*Amendment*”), dated as of July 29, 2022, is by and among DCP Receivables LLC, a Delaware limited liability company, as Borrower (together with its successors and assigns, the “*Borrower*”); DCP Midstream, LP, a Delaware limited partnership, as initial Servicer (in such capacity, together with its successors and assigns in such capacity, the “*Servicer*”); the Lenders, LC Participants and Group Agents party to the Financing Agreement (as hereinafter defined); PNC Bank, National Association (“*PNC*”), as LC Bank (in such capacity, the “*LC Bank*”) and as Administrative Agent (in such capacity together with its successors and assigns in such capacity, the “*Administrative Agent*”); and PNC Capital Markets LLC, a Pennsylvania limited liability company, as Structuring Agent (the “*Structuring Agent*”).

W I T N E S S E T H:

Whereas, the Borrower, the Servicer, the Lenders, the LC Participants, the Group Agents, the LC Bank, the Administrative Agent, and the Structuring Agent are party to that certain Receivables Financing Agreement dated as of August 13, 2018 (as amended by the First Amendment thereto dated as of August 12, 2019, the Second Amendment thereto dated as of December 23, 2019 and the Third Amendment thereto dated as of April 22, 2021, the “*Financing Agreement*”).

Whereas, the Borrower, the Servicer, the Lenders, the LC Participants, the Group Agents, the LC Bank and the Administrative Agent hereby agree to make certain amendments to the Financing Agreement, as permitted by Section 14.01 of the Financing Agreement, pursuant to the terms and conditions set forth herein.

Now, Therefore, in consideration of the mutual agreements herein contained and other good and valuable consideration, receipt and sufficiency of which are hereby acknowledged by the parties hereto agree as follows:

Section 1. Definitions. Capitalized terms not otherwise defined herein shall have the meanings given to them in the Financing Agreement.

Section 2. Amendments. Subject to the satisfaction of the conditions precedent set forth in Section 4 below, the parties hereto agree that the Financing Agreement shall be amended with text marked in underline (e.g., addition or addition) indicating additions to the Financing Agreement and with text marked in strikethrough (e.g., ~~deletion~~ or ~~deletion~~) indicating deletions to the Financing Agreement as set forth in Exhibit A attached hereto.

Section 3. Representations of the Borrower and the Servicer. Each of the Borrower and the Servicer hereby represent and warrant to the parties hereto that as of the date hereof each of the representations and warranties contained in Article VII of the Financing Agreement are true and correct in all material respects as of the date hereof and after giving effect to this Amendment (except to the extent that such representations and warranties expressly refer to an

earlier date, in which case they are true and correct in all material respects as of such earlier date).

Section 4. Conditions Precedent. This Amendment shall become effective and be deemed effective as of the date first written above upon the satisfaction or waiver of the following conditions precedent:

- (a) the Administrative Agent shall have received a fully executed counterpart of this Amendment from each of the other parties hereto;
- (b) the Administrative Agent shall have received an executed Reaffirmation, Acknowledgment and Consent of Performance Guarantor dated as of the date hereof; and
- (c) no Unmatured Event of Default or Event of Default shall have occurred and be continuing.

Section 5. Counterparts. This Amendment may be executed by the parties in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument. Delivery of an executed counterpart hereof by facsimile or other electronic means shall be equally effective as delivery of an originally executed counterpart.

Section 6. Severability. Any provision of this Amendment which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

Section 7. Governing Law and Jurisdiction. Sections 14.07, 14.10 and 14.11 of the Financing Agreement are incorporated in this Amendment by reference as if such provisions were set forth herein *mutatis mutandis*.

Section 8. Headings. The headings of this Amendment are provided solely for convenience of reference and shall not affect the meaning or interpretation of any provision of this Amendment.

[Signatures appear on following page.]

IN WITNESS WHEREOF, the parties hereto have each caused this Amendment to be duly executed by their respective duly authorized officers as of the day and year first above written.

DCP Receivables LLC,  
as the Borrower

By: /s/ Sean O'Brien  
Name: Sean O'Brien  
Title: Group Vice President and Chief Financial Officer

DCP Midstream, LP,  
as the Servicer

By: DCP Midstream GP, LP  
Its General Partner

By: DCP Midstream GP, LLC  
Its General Partner

By: /s/ Sean O'Brien  
Name: Sean O'Brien  
Title: Group Vice President and Chief Financial Officer

[Signature Page to Fifth Amendment to Receivables Financing Agreement]

PNC Bank, National Association,  
as Administrative Agent

By: /s/ Imad Naja  
Name: Imad Naja  
Title: Senior Vice President

PNC Bank, National Association,  
as LC Bank and as Group Agent for the PNC Group

By: /s/ Imad Naja  
Name: Imad Naja  
Title: Senior Vice President

PNC Bank, National Association,  
as a Committed Lender

By: /s/ Imad Naja  
Name: Imad Naja  
Title: Senior Vice President

PNC Capital Markets LLC,  
as Structuring Agent and Sustainability Agent

By: /s/ Imad Naja  
Name: Imad Naja  
Title: Senior Vice President

**Exhibit A to Fifth Amendment to Receivables Financing Agreement**

**[See Attached]**



Receivables Financing Agreement

Dated as of August 13, 2018

by and among

DCP Receivables LLC,  
as Borrower,

The Persons from Time to Time Party Hereto,  
as Lenders, LC Participants, and as Group Agents,

PNC Bank, National Association,  
as LC Bank,

PNC Bank, National Association,  
as Administrative Agent,

DCP Midstream, LP,  
as initial Servicer

and

PNC Capital Markets LLC,  
as Structuring [Agent and as Sustainability](#) Agent

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## Table of Contents

Section	Heading	Page
Article I	Definitions	1
Section 1.01.	Certain Defined Terms	1
Section 1.02.	Other Interpretative Matters	<del>37</del> <a href="#">38</a>
Section 1.03.	<del>LIBOR</del> <a href="#">SOFR</a> Notification	<del>38</del> <a href="#">39</a>
<a href="#">Section 1.04.</a>	<a href="#">Conforming Changes Relating to SOFR</a>	<a href="#">39</a>
Article II	Terms of the Loans	<del>38</del> <a href="#">39</a>
Section 2.01.	Loan Facility	<del>38</del> <a href="#">39</a>
Section 2.02.	Making Loans; Repayment of Loans	40
Section 2.03.	Interest and Fees	<del>41</del> <a href="#">42</a>
Section 2.04.	Records of Loans	42
Section 2.05.	Selection of Interest Rates <del>and Tranche Periods</del>	42
Section 2.06.	Defaulting Lenders	<del>42</del> <a href="#">43</a>
<a href="#">Section 2.07.</a>	<a href="#">Increase of Commitments</a>	<a href="#">43</a>
Article III	Letter of Credit Facility	<del>43</del> <a href="#">45</a>
Section 3.01.	Letters of Credit	<del>43</del> <a href="#">45</a>
Section 3.02.	Issuance of Letters of Credit; Participations	<del>43</del> <a href="#">46</a>
Section 3.03.	Requirements For Issuance of Letters of Credit	<del>44</del> <a href="#">47</a>
Section 3.04.	Disbursements, Reimbursement	<del>45</del> <a href="#">47</a>
Section 3.05.	Repayment of Participation Advances	<del>46</del> <a href="#">48</a>
Section 3.06.	Documentation	<del>46</del> <a href="#">48</a>
Section 3.07.	Determination to Honor Drawing Request	<del>46</del> <a href="#">49</a>
Section 3.08.	Nature of Participation and Reimbursement Obligations	<del>46</del> <a href="#">49</a>
Section 3.09.	Indemnity	<del>48</del> <a href="#">50</a>
Section 3.10.	Liability for Acts and Omissions	<del>48</del> <a href="#">51</a>
Article IV	Settlement Procedures and Payment Provisions	<del>50</del> <a href="#">52</a>
Section 4.01.	Settlement Procedures	<del>50</del> <a href="#">52</a>
Section 4.02.	Payments and Computations, Etc.	<del>53</del> <a href="#">55</a>
Article V	Increased Costs; Funding Losses; Taxes; and Illegality	<del>53</del> <a href="#">55</a>
Section 5.01.	Increased Costs	<del>53</del> <a href="#">55</a>
Section 5.02.	Funding Losses	<del>55</del> <a href="#">57</a>
Section 5.03.	Taxes	<del>55</del> <a href="#">58</a>
Section 5.04.	Inability to Determine <del>Adjusted LIBOR or LMIR</del> <a href="#">SOFR Rate</a> ; Change in Legality	<del>60</del> <a href="#">62</a>
Section 5.05.	Benchmark Replacement Setting	<del>60</del> <a href="#">67</a>

Section 5.06	Mitigation Obligations; Replacement of Lenders	<del>69</del> <a href="#">67</a>
Section 5.07.	Certain Rules Relating to the Payment of Additional Amounts	<del>69</del> <a href="#">67</a>
Section 5.08.	Security Interest	<del>70</del> <a href="#">68</a>
Article VI	Conditions to Effectiveness and Credit Extensions	<del>71</del> <a href="#">69</a>
Section 6.01.	Conditions Precedent to Effectiveness and the Initial Credit Extension	<del>71</del> <a href="#">69</a>
Section 6.02.	Conditions Precedent to All Credit Extensions	<del>71</del> <a href="#">69</a>
Section 6.03.	Conditions Precedent to All Reinvestments	<del>72</del> <a href="#">70</a>
Article VII	Representations and Warranties	<del>73</del> <a href="#">71</a>
Section 7.01.	Representations and Warranties of the Borrower	<del>73</del> <a href="#">71</a>
Section 7.02.	Representations and Warranties of the Servicer	<del>78</del> <a href="#">76</a>
Article VIII	Covenants	<del>82</del> <a href="#">79</a>
Section 8.01.	Covenants of the Borrower	<del>82</del> <a href="#">79</a>
Section 8.02.	Covenants of the Servicer	<del>90</del> <a href="#">88</a>
Section 8.03.	Separate Existence of the Borrower	<del>95</del> <a href="#">92</a>
Section 8.04.	Covenant of Parent	<del>99</del> <a href="#">96</a>
Article IX	Administration and Collection of Receivables	<del>99</del> <a href="#">96</a>
Section 9.01.	Appointment of the Servicer	<del>99</del> <a href="#">96</a>
Section 9.02.	Duties of the Servicer	<del>100</del> <a href="#">97</a>
Section 9.03.	Collection Account Arrangements	<del>101</del> <a href="#">98</a>
Section 9.04.	Enforcement Rights	<del>101</del> <a href="#">99</a>
Section 9.05.	Responsibilities of the Borrower	<del>103</del> <a href="#">100</a>
Section 9.06.	Servicing Fee	<del>103</del> <a href="#">101</a>
Article X	Events of Default	<del>103</del> <a href="#">101</a>
Section 10.01.	Events of Default	<del>103</del> <a href="#">101</a>
Article XI	The Administrative Agent	<del>107</del> <a href="#">104</a>
Section 11.01.	Authorization and Action	<del>107</del> <a href="#">104</a>
Section 11.02.	Administrative Agent's Reliance, Etc	<del>107</del> <a href="#">105</a>
Section 11.03.	Administrative Agent and Affiliates	<del>108</del> <a href="#">105</a>
Section 11.04.	Indemnification of Administrative Agent	<del>108</del> <a href="#">105</a>
Section 11.05.	Delegation of Duties	<del>108</del> <a href="#">106</a>
Section 11.06.	Action or Inaction by Administrative Agent	<del>109</del> <a href="#">106</a>
Section 11.07.	Notice of Events of Default; Action by Administrative Agent	<del>109</del> <a href="#">106</a>
Section 11.08.	Non-Reliance on Administrative Agent and Other Parties	<del>109</del> <a href="#">106</a>
Section 11.09.	Successor Administrative Agent	<del>110</del> <a href="#">107</a>
Section 11.10.	Structuring Agent	<del>110</del> <a href="#">107</a>

Section 11.11.	Erroneous Payments	<del>110</del> <a href="#">107</a>
Article XII	The Group Agents	<del>112</del> <a href="#">109</a>
Section 12.01.	Authorization and Action	<del>112</del> <a href="#">109</a>
Section 12.02.	Group Agent’s Reliance, Etc	<del>112</del> <a href="#">109</a>
Section 12.03.	Group Agent and Affiliates	<del>112</del> <a href="#">110</a>
Section 12.04.	Indemnification of Group Agents	<del>113</del> <a href="#">110</a>
Section 12.05.	Delegation of Duties	<del>113</del> <a href="#">110</a>
Section 12.06.	Notice of Events of Default	<del>113</del> <a href="#">110</a>
Section 12.07.	Non-Reliance on Group Agent and Other Parties	<del>113</del> <a href="#">111</a>
Section 12.08.	Successor Group Agent	<del>114</del> <a href="#">111</a>
Section 12.09.	Reliance on Group Agent	<del>114</del> <a href="#">111</a>
Article XIII	Indemnification	<del>114</del> <a href="#">111</a>
Section 13.01.	Indemnities by the Borrower	<del>114</del> <a href="#">111</a>
Section 13.02.	Indemnification by the Servicer	<del>117</del> <a href="#">114</a>
Article XIV	Miscellaneous	<del>118</del> <a href="#">115</a>
Section 14.01.	Amendments, Etc	<del>118</del> <a href="#">115</a>
Section 14.02.	Notices, Etc	<del>119</del> <a href="#">116</a>
Section 14.03.	Assignability; Addition of Lenders	<del>119</del> <a href="#">116</a>
Section 14.04.	Costs and Expenses	<del>123</del> <a href="#">120</a>
Section 14.05.	No Proceedings; Limitation on Payments	<del>123</del> <a href="#">120</a>
Section 14.06.	Confidentiality	<del>124</del> <a href="#">121</a>
Section 14.07.	Governing Law	<del>125</del> <a href="#">123</a>
Section 14.08.	Execution in Counterparts	<del>126</del> <a href="#">123</a>
Section 14.09.	Integration; Binding Effect; Survival of Termination	<del>126</del> <a href="#">123</a>
Section 14.10.	Consent to Jurisdiction	<del>126</del> <a href="#">123</a>
Section 14.11.	Waiver of Jury Trial	<del>126</del> <a href="#">123</a>
Section 14.12.	Ratable Payments	<del>126</del> <a href="#">124</a>
Section 14.13.	Limitation of Liability	<del>127</del> <a href="#">124</a>
Section 14.14.	Intent of the Parties	<del>127</del> <a href="#">124</a>
Section 14.15.	USA Patriot Act	<del>127</del> <a href="#">125</a>
Section 14.16.	Right of Setoff	<del>128</del> <a href="#">125</a>
Section 14.17.	Severability	<del>128</del> <a href="#">125</a>
Section 14.18.	Mutual Negotiations	<del>128</del> <a href="#">125</a>
Section 14.19.	Captions and Cross References	<del>128</del> <a href="#">125</a>
Section 14.20.	ESG Certificate	<del>128</del> <a href="#">125</a>

## Exhibits

- Exhibit A-1 – Form of [Loan Request][LC Request]
- Exhibit A-2 – Form of Letter of Credit Application
- Exhibit B – Form of Assignment and Acceptance Agreement
- Exhibit C – Form of Assumption Agreement
- Exhibit D – Reduction Notice
- Exhibit E – Credit and Collection Policy
- Exhibit F-1 – Form of Monthly Information Package
- Exhibit F-2 – Form of Weekly Information Package
- Exhibit F-3 – Form of Daily Information Package
- Exhibit G – Form of Compliance Certificate
- Exhibit H – Closing Memorandum

## Schedules

- Schedule I – Commitments
- Schedule II – Lock-Boxes, Collection Accounts and Collection Account Banks
- Schedule III – Notice Addresses
- Schedule IV – Special Obligors
- Schedule V – Subject Originators

This Receivables Financing Agreement (as amended, restated, supplemented or otherwise modified from time to time, this “*Agreement*”) is entered into as of August 13, 2018 by and among the following parties:

- (i) DCP Receivables LLC, a Delaware limited liability company, as Borrower (together with its successors and assigns, the “*Borrower*”);
- (ii) the Persons from time to time party hereto as Lenders, LC Participants, and as Group Agents;
- (iii) PNC Bank, National Association, as LC Bank (in such capacity, together with its successors and assigns in such capacity, the “*LC Bank*”);
- (iv) PNC Bank, National Association (“*PNC*”), as Administrative Agent;
- (v) DCP Midstream, LP, a Delaware limited partnership (“*DCP*”), as initial Servicer (in such capacity, together with its successors and assigns in such capacity, the “*Servicer*”); and
- (vi) PNC Capital Markets LLC, a Pennsylvania limited liability company, as Structuring [Agent and as Sustainability Agent](#).

### **Preliminary Statements**

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

In consideration of the mutual agreements, provisions and covenants contained herein, the sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

### **Article I**

#### **Definitions**

*Section 1.01. Certain Defined Terms.* As used in this Agreement, the following terms shall have the following meanings (such meanings to be equally applicable to both the singular and plural forms of the terms defined):

“*Account Control Agreement*” means each agreement, in form and substance reasonably satisfactory to the Administrative Agent, among the Borrower, the Administrative Agent and a Collection Account Bank, governing the terms of the related Collection Accounts that provides the Administrative Agent with control within the meaning of the UCC over the deposit accounts

subject to such agreement, as the same may be amended, restated, supplemented or otherwise modified from time to time.

“*Adjusted LC Participation Amount*” means, at any time of determination, the greater of (i) the LC Participation Amount less the amount of cash collateral held in the LC Collateral Account at such time and (ii) zero (\$0).

~~“Adjusted LIBOR” means with respect to any Tranche Period, the interest rate per annum determined by the Administrative Agent by dividing (the resulting quotient rounded upwards, if necessary, to the nearest 1/100th of 1% per annum) (i) the rate of interest determined by the Administrative Agent in accordance with its usual procedures (which determination shall be conclusive absent manifest error) to be the rate per annum for deposits in U.S. dollars as reported by Bloomberg Finance L.P. and shown on US0001M Screen or other applicable screen as the composite offered rate for London interbank deposits for such Tranche Period (or on any successor or substitute page of such service providing rate quotations comparable to those currently provided on such page of such service, as determined by the Administrative Agent from time to time for purposes of providing quotations of interest rates applicable to U.S. dollar deposits in the London interbank market) at or about 11:00 a.m. (London time) on the Business Day which is two (2) Business Days prior to the first day of such Tranche Period for an amount comparable to the Portion of Capital to be funded at the Adjusted LIBOR during such Interest Period, by (ii) a number equal to 1.00 minus the Euro-Rate Reserve Percentage. The calculation of Adjusted LIBOR may also be expressed by the following formula:~~

$$\text{Adjusted LIBOR} = \frac{\text{Composite of London interbank offered rates shown on Bloomberg Finance L.P. Screen US0001M or other applicable screen for such Tranche Period, or appropriate successor}}{1.00 - \text{Euro-Rate Reserve Percentage}}$$

~~Adjusted LIBOR shall be adjusted on the effective date of any change in the Euro-Rate Reserve Percentage as of such effective date. The Administrative Agent shall give prompt notice to the Borrower of Adjusted LIBOR as determined or adjusted in accordance herewith (which determination shall be conclusive absent manifest error). Notwithstanding the foregoing, if Adjusted LIBOR as determined herein would be less than zero (0.00), such rate shall be deemed to be zero percent (0.00%) for purposes of this Agreement.~~

~~“Adjusted LMIR” means, as of any day of any Interest Period, the interest rate per annum determined by dividing (the resulting quotient rounded upwards, if necessary, to the nearest 1/100th of 1% per annum) (i) the LMIR as of such date, by (ii) a number equal to 1.00 minus the Euro-Rate Reserve Percentage. Notwithstanding the foregoing, if Adjusted LMIR as determined herein would be less than zero (0.00), such rate shall be deemed to be zero percent (0.00%) for purposes of this Agreement.~~

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

*“Adverse Claim”* means any ownership interest or claim, mortgage, deed of trust, pledge, lien, security interest, hypothecation, charge or other encumbrance or security arrangement of any nature whatsoever, whether voluntarily or involuntarily given, including, but not limited to, any conditional sale or title retention arrangement, and any assignment, deposit arrangement or lease intended as, or having the effect of, security and any filed financing statement or other notice of any of the foregoing (whether or not a lien or other encumbrance is created or exists at the time of the filing); it being understood that any of the foregoing in favor of, or assigned to, the Administrative Agent (for the benefit of the Secured Parties) shall not constitute an Adverse Claim.

*“Advisors”* has the meaning set forth in Section 14.06(c).

*“Affected Person”* means each Credit Party, each Program Support Provider, each Liquidity Agent, and each of their respective Affiliates.

*“Affiliate”* means, with respect to any Person, any other Person (other than a Subsidiary of the Parent) which directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such first Person or any of its Subsidiaries. The term “control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through ownership of voting securities, by contract or otherwise. The terms “controlling” and “controlled” have meanings correlative thereto.

*“Affiliate Deduction Amount”* means, on any day, an amount equal to (A) except after the occurrence and during the continuation of a Level 2 Ratings Event, \$0 or (B) after the occurrence and during the continuance of a Level 2 Ratings Event, upon the election of the Administrative Agent in its sole discretion, the aggregate Outstanding Balance of all Eligible Receivables the Obligor of which is an Approved Affiliate Obligor.

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

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

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

*“AML Laws”* means all laws, rules, and regulations of any Governmental Authority that are applicable to the Borrower from time to time concerning or relating to anti-money laundering.

*“Anti-Corruption Laws”* means all laws, rules, and regulations of any Governmental Authority applicable to the Borrower from time to time concerning or relating to bribery or corruption, including, without limitation, the United States Foreign Corrupt Practices Act of 1977, as amended, and the rules and regulations thereunder.



*“Applicable Law”* means all applicable provisions of constitutions, laws, statutes, ordinances, rules, treaties, regulations, permits, licenses, approvals, interpretations and orders of courts or Governmental Authorities and all orders and decrees of all courts and arbitrators.

*“Approved Affiliate Obligor”* means Enbridge, Inc., Phillips 66, and each of their respective Subsidiaries other than Parent and its Subsidiaries.

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

*“Assumption Agreement”* has the meaning set forth in Section 14.03(i).

*“Attorney Costs”* means and includes all reasonable and documented fees, costs, expenses and disbursements of any law firm or other external counsel.

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

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

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

(b) 0.50% per annum above the Overnight Bank Funding Rate in effect on such day.

*“Borrower”* has the meaning specified in the preamble to this Agreement.

*“Borrower Indemnified Amounts”* has the meaning set forth in Section 13.01(a).

*“Borrower Obligations”* means all present and future indebtedness, reimbursement obligations, and other liabilities and obligations (howsoever created, arising or evidenced, whether direct or indirect, absolute or contingent, or due or to become due) of the Borrower to any Credit Party, Indemnified Party and/or any Affected Person, arising under or in connection with this Agreement or any other Transaction Document or the transactions contemplated hereby or thereby, and shall include, without limitation, all Capital and Interest on the Loans, reimbursement for all drawings under the Letters of Credit, all Fees and all other amounts due or

to become due under the Transaction Documents (whether in respect of fees, costs, expenses, indemnifications or otherwise), including, without limitation, interest, fees and other obligations that accrue after the commencement of any Insolvency Proceeding with respect to the Borrower (in each case whether or not allowed as a claim in such proceeding).

“*Borrower’s Net Worth*” means, at any time of determination, an amount equal to (i) the Outstanding Balance of all Pool Receivables at such time, *minus* (ii) the sum of (A) the Aggregate Capital at such time, *plus* (B) the Adjusted LC Participation Amount at such time, *plus* (C) the Aggregate Interest at such time, *plus* (D) the aggregate accrued and unpaid Fees at such time, *plus* (E) without duplication, the aggregate accrued and unpaid other Borrower Obligations at such time.

“*Borrowing Base*” means, at any time of determination, the amount equal to the lesser of (a) the Facility Limit and (b) the amount equal to (i) the Net Receivables Pool Balance at such time, *minus* (ii) the Total Reserves at such time.

“*Borrowing Base Deficit*” means, at any time of determination, the amount, if any, by which (a) the Aggregate Capital at such time *plus* the Adjusted LC Participation Amount at such time, exceeds (b) the Borrowing Base at such time.

“*Breakage Fee*” means (i) for any Interest Period for which Interest is computed by reference to the CP Rate, or ~~Adjusted LIBOR~~ SOFR Rate and a reduction of Capital is made for any reason on any day other than a Settlement Date or pursuant to Section 2.02(d) or (ii) to the extent that the Borrower shall for any reason, fail to borrow on the date specified by the Borrower in connection with any request for funding pursuant to Article II of this Agreement, the amount, if any, by which (A) the additional Interest (calculated without taking into account any Breakage Fee or any shortened duration of such Interest Period pursuant to the definition thereof) which would have accrued during such Interest Period (or, in the case of clause (i) above, until the maturity of the underlying Note) on the reductions of Capital relating to such Interest Period had such reductions not been made (or, in the case of clause (ii) above, on the amounts so failed to be borrowed or accepted in connection with any such request for funding by the Borrower), exceeds (B) the income, if any, received by the applicable Lender (or likely to be realized by such Lender (as reasonably determined by such Lender)) from the investment of the proceeds of such reductions of Capital (or such amounts failed to be borrowed by the Borrower). A certificate as to the amount of any Breakage Fee (including the computation of such amount) shall be submitted by the affected Lender (or applicable Group Agent on its behalf) to the Borrower and shall be conclusive and binding for all purposes, absent manifest error.

“*Business Day*” means any day (other than a Saturday or Sunday) on which: (a) banks are not authorized or required to close in Pittsburgh, Pennsylvania, or New York City, New York and (b) if this definition of “Business Day” is utilized in connection with ~~LMR any direct or Adjusted LIBOR, dealings are carried out in the London interbank market~~ indirect calculation or determination involving SOFR or SOFR Rate, the term “Business Day” means any such day that is also a U.S. Government Securities Business Day.

“*Canadian Sanctions*” means economic or financial sanctions administered, enacted or enforced by any sanctions authority including any restriction on any of the Lender’s or its Affiliates’ ability to conduct business with any banks or financial institutions in any country relevant to the transaction, pursuant to all applicable Canadian laws regarding sanctions and export controls (all such applicable laws currently in effect, all such new applicable laws in effect in the future or each as amended from time to time), such as the United Nations Act, Special Economic Measures Act, Export and Import Permits Act, Freezing Assets of Foreign Corrupt Officials Act, Criminal Code, Defense Production Act, Proceeds of Crime (Money Laundering) and Terrorist Financing Act, Anti-Terrorism Act or any other similar Canadian statute or regulation.

“*Capital*” means, with respect to any Lender, without duplication, the aggregate amounts (i) advanced to, or on behalf of, the Borrower in connection with all Loans made by such Lender pursuant to Article II, (ii) paid by such Lender, as an LC Participant, to the LC Bank in respect of a Participation Advance made by such Lender to LC Bank pursuant to Section 3.04(b) and (iii) with respect to the Lender that is the LC Bank, paid by the LC Bank with respect to all drawings under the Letter of Credit to the extent such drawings have not been reimbursed by the Borrower or funded by Participation Advances, as reduced from time to time by Collections distributed and applied on account of such Capital pursuant to Section 4.01 and as reduced in accordance with Section 2.02; *provided*, that if such Capital shall have been reduced by any distribution and thereafter all or a portion of such distribution is rescinded or must otherwise be returned for any reason, such Capital shall be increased by the amount of such rescinded or returned distribution as though it had not been made.

“*Capital Stock*” means (a) in the case of a corporation, all classes of capital stock of such corporation, (b) in the case of a partnership, partnership interests (whether general or limited), (c) in the case of a limited liability company, membership interests and (d) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person.

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

(a) DCP Midstream, LP ceases to own, directly or indirectly, 100% of the issued and outstanding Capital Stock and all other equity interests of the Borrower free and clear of all Adverse Claims;

(b) DCP Midstream, LP ceases to own, directly or indirectly, 100% of the issued and outstanding Capital Stock, membership interests or other equity interests of any Originator who is not a Subject Originator free and clear of all Adverse Claims; *provided* that prior to any disposition of the Capital Stock, membership interests or other equity interest of a Subject Originator, the Servicer shall have provided to the Administrative Agent a *pro forma* calculation of the Borrowing Base showing that no Borrowing Base Deficit exists or would exist after giving effect to such disposition and any voluntary prepayments of the outstanding Capital associated therewith;

(c) any Subordinated Note shall at any time cease to be owned by an Originator, free and clear of all Adverse Claims; *provided* that an Originator may pledge the Subordinated Note as security so long as the pledgee thereof agrees in writing not to file a petition seeking relief under any applicable federal or state law relating to bankruptcy against the Borrower until the date that is one year and one day after the payment in full of all Borrower Obligations hereunder; or

(d) DCP Midstream LLC shall cease to own, directly or indirectly, a majority of the voting equity of the general partner of the Parent.

“*Change in Law*” means the occurrence, after the date of this Agreement, of any of the following: (a) the adoption or taking effect of any law, rule, regulation or treaty, (b) any change in any law, rule, regulation or treaty or in the administration, interpretation, implementation or application thereof by any Governmental Authority or (c) the making or issuance of any request, rule, guideline or directive (whether or not having the force of law) by any Governmental Authority; *provided* that notwithstanding anything herein to the contrary, (i) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (ii) 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.

“*Closing Date*” means August 13, 2018.

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

“*Collateral*” has the meaning set forth in Section 5.08(a).

“*Collection Account*” means each account listed on Schedule II to this Agreement (as such schedule may be modified from time to time in connection with the closing or opening of any Collection Account in accordance with the terms hereof) (in each case, in the name of the Borrower) and maintained at a bank or other financial institution acting as a Collection Account Bank pursuant to an Account Control Agreement for the purpose of receiving Collections.

“*Collection Account Bank*” means any of the banks or other financial institutions holding one or more Collection Accounts.

“*Collections*” means, with respect to any Pool Receivable: (a) all cash collections and other cash proceeds that are received by any Originator, the Borrower, the Servicer or any other Person on their behalf in payment of any amounts owed in respect of such Pool Receivable (including purchase price, finance charges, interest and all other charges), or applied to amounts owed in respect of such Pool Receivable (including insurance payments, proceeds of drawings under supporting letters of credit, and net proceeds of the sale or other disposition of repossessed goods or other collateral or property of the related Obligor or any other Person directly or

indirectly liable for the payment of such Pool Receivable and available to be applied thereon), (b) all Deemed Collections with respect to such Pool Receivable, (c) all cash proceeds of all Related Security with respect to such Pool Receivable and (d) all other cash proceeds of such Pool Receivable.

“*Commitment*” means, with respect to any Committed Lender (including a Related Committed Lender), LC Participant or LC Bank, as applicable, the maximum aggregate amount which such Person is obligated to lend or pay hereunder on account of all Loans and all drawings under all Letters of Credit, on a combined basis, as set forth on Schedule I or in the Assumption Agreement or other agreement pursuant to which it became a Lender and/or LC Participant, as such amount may be modified in connection with any subsequent assignment pursuant to Section 14.03 or in connection with a reduction in the Facility Limit pursuant to Section 2.02(e); plus the dollar amount of any increase to such Committed Lender’s Commitment pursuant to Section 2.07. If the context so requires, “*Commitment*” also refers to a Committed Lender’s obligation to make Loans, make Participation Advances and/or issue Letters of Credit hereunder in accordance with this Agreement.

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

“*Concentration Percentage*” means, at any time of determination, (a) except as provided in clause (b) below, (i) for any Group A Obligor, 25.0%, (ii) for any Group B Obligor, 12.5%, (iii) for any Group C Obligor, 8.0%, and (iv) for any Group D Obligor, 5.0% and (b) for each of the Obligors listed in the chart on Schedule IV hereto or which the Administrative Agent, with the approval of the Borrower and the consent, or at the direction, of the Majority Group Agents from time to time designates in writing to the Borrower and the Servicer as a Special Obligor (each, a “*Special Obligor*”), the percentage specified in the chart on Schedule IV for such Special Obligor (the applicable “*Special Concentration Limit*”); *provided, however*, that the Administrative Agent may, upon not less than thirty (30) days’ prior written notice to the Borrower, cancel or reduce the Special Concentration Limit with respect to any or all Special Obligors, and in the case of a cancellation, the Concentration Percentage for such Special Obligor(s) shall be determined pursuant to clause (a) above. In the event that any other Obligor is or becomes an Affiliate of a Special Obligor, the Special Concentration Limit shall apply to both such Obligor and such Special Obligor and shall be calculated as if such Obligor and such Special Obligor were a single Obligor.

“*Concentration Reserve Percentage*” means, at any time of determination, the largest of: (a) the sum of the five (5) largest Obligor Percentages of the Group D Obligors, (b) the sum of the three (3) largest Obligor Percentages of the Group C Obligors, (c) the sum of the two (2) largest Obligor Percentages of the Group B Obligors, and (d) the largest Obligor Percentage of the Group A Obligors.

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

“*Conduit Trustee*” means with respect to any Conduit Lender or CP Issuer a security trustee or collateral agent for the benefit of the holders of the commercial paper of such Conduit Lender or CP Issuer appointed pursuant to such entity’s program documents.

“*Conforming Changes*” means, with respect to the Term SOFR Rate, Daily 1M SOFR or any Benchmark Replacement, any technical, administrative or operational changes (including changes to the definition of “Base Rate,” the definition of “Business Day,” the definition of “Tranche Period,” the definition of “Interest Period,” timing and frequency of determining rates and making payments of Interest, timing of loan requests or return, prepayment, conversion or continuation notices, the applicability and length of lookback periods, the applicability of breakage provisions, and other technical, administrative or operational matters) that the Administrative Agent reasonably decides may be appropriate to reflect the adoption and implementation of the Term SOFR Rate, Daily 1M SOFR or such Benchmark Replacement and to permit the administration thereof by the Administrative Agent in a manner substantially consistent with market practice (or, if the Administrative Agent reasonably decides that adoption of any portion of such market practice is not administratively feasible or if the Administrative Agent reasonably determines that no market practice for the administration of the Term SOFR Rate, Daily 1M SOFR or the Benchmark Replacement exists, in such other manner of administration as the Administrative Agent reasonably decides is necessary in connection with the administration of this Agreement and the other Transaction Documents).

“*Connection Income Taxes*” means Other Connection Taxes that are imposed on or measured by net income (however denominated) or that are franchise Taxes or branch profits Taxes.

“*Consolidated Leverage Ratio*” has the meaning set forth in the Credit Agreement as defined on the Closing Date.

“*Consolidated Net Tangible Assets*” has the meaning set forth in the Credit Agreement as defined on the Closing Date.

“*Contra Deduction Amount*” means, on any day, an amount equal to (A) \$0 or (B) after the occurrence and during the continuance of a Level 1 Ratings Event, the sum of all amounts determined as follows: for each Obligor, the aggregate amounts payable, if any, by the applicable Originator to such Obligor as of the last day of the most recently ended Fiscal Month other than (i) any such amounts payable subject to a Net-Out Agreement and (ii) any such amounts payable asserted by such Obligor as an offset to the Outstanding Balance of Eligible Receivables of such Obligor.

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

“*CP Issuer*” means with respect to any Conduit Lender, any other Person which, in the ordinary course of its business, issues commercial paper notes the proceeds of which commercial

paper notes are made available to such Conduit Lender to fund and maintain its Loans from time to time hereunder.

“*CP Rate*” means, for any Conduit Lender and for any Interest Period (or portion thereof) for any Portion of Capital of such Conduit Lender (a) the per annum rate equivalent to the weighted average cost (as determined by the applicable Group Agent and which shall include commissions of placement agents and dealers, incremental carrying costs incurred with respect to Notes of such Person maturing on dates other than those on which corresponding funds are received by such Conduit Lender, and any other costs associated with the issuance of Notes) of or related to the issuance of Notes that are allocated, in whole or in part, by the applicable Conduit Lender to fund or maintain such Portion of Capital (and which may be also allocated in part to the funding of other assets of such Conduit Lender); *provided, however*, that if any component of such rate is a discount rate, in calculating the “CP Rate” for such Portion of Capital for such Interest Period (or portion thereof), the applicable Group Agent shall for such component use the rate resulting from converting such discount rate to an interest bearing equivalent rate per annum; *provided, further*, that notwithstanding anything in this Agreement or the other Transaction Documents to the contrary, the Borrower agrees that any amounts payable to Conduit Lenders in respect of Interest for any Interest Period (or portion thereof) with respect to any Portion of Capital funded by such Conduit Lenders at the CP Rate shall include an amount equal to the portion of the face amount of the outstanding Notes issued to fund or maintain such Portion of Capital that corresponds to the portion of the proceeds of such Notes that was used to pay the interest component of maturing Notes issued to fund or maintain such Portion of Capital, to the extent that such Conduit Lenders had not received payments of interest in respect of such interest component prior to the maturity date of such maturing Notes (for purposes of the foregoing, the “interest component” of Notes equals the excess of the face amount thereof over the net proceeds received by such Conduit Lender from the issuance of Notes, except that if such Notes are issued on an interest-bearing basis its “interest component” will equal the amount of interest accruing on such Notes through maturity) or (b) any other rate designated as the “CP Rate” for such Conduit Lender in an Assumption Agreement pursuant to which such Person becomes a party as a Conduit Lender to this Agreement, or any other writing or agreement provided by such Conduit Lender to the Borrower, the Servicer, the Administrative Agent and the applicable Group Agent from time to time. At the election of the Administrative Agent or the request of the Majority Group Agents, the “CP Rate” for any Conduit Lender for any day while an Event of Default has occurred and is continuing shall be an interest rate equal to the greater of (i) 2.00% per annum above the Base Rate for each day during such Interest Period (or portion thereof) and (ii) 2.00% per annum above the “CP Rate” calculated without giving effect to such Event of Default.

“*Credit Agreement*” means the Second Amended and Restated Credit Agreement, dated as of December 6, 2017, by and among DCP Midstream, LP, as Parent, DCP Midstream Operating, LP, as Borrower, Mizuho Bank, Ltd., as Administrative Agent, Swingline Lender, and Issuing Lender, and the lenders referred to therein, as such agreement may be amended, restated, supplemented, refinanced, replaced or otherwise modified from time to time.

“*Credit and Collection Policy*” means the receivables credit and collection policy and practices of the Originators in effect on the Closing Date and described in Exhibit E, as modified in compliance with this Agreement.

“*Credit Extension*” means the making of any Loan or the issuance of any Letter of Credit or any modification, extension or renewal of any Letter of Credit.

“*Credit Party*” means each Lender, the LC Bank, each LC Participant, the Administrative Agent and each Group Agent.

“*Credit Risk Retention Rules*” means (i) Section 15G of the Securities Exchange Act of 1934, as amended, and (ii) Articles 404-410 of the EU Capital Requirements Regulation (including Article 122a of the Banking Consolidation Directive), in each case, together with the rules and regulations thereunder.

“Daily 1M SOFR” means, for any day, the rate per annum determined by the Administrative Agent by dividing (the resulting quotient rounded upwards, at the Administrative Agent’s discretion, to the nearest 1/100th of 1%) (a) the Term SOFR Reference Rate for such day for a one (1) month period, as published by the Term SOFR Administrator, by (b) a number equal to 1.00 minus the SOFR Reserve Percentage; provided, that if Daily 1M SOFR, determined as provided above, would be less than the SOFR Floor, then Daily 1M SOFR shall be deemed to be the SOFR Floor. The rate of interest will be adjusted automatically as of each Business Day based on changes in Daily 1M SOFR without notice to the Borrower.

“*Daily Information Package*” means a report in substantially the form of Exhibit F-3.

“*Days’ Sales Outstanding*” means, for any Fiscal Month, an amount computed as of the last day of such Fiscal Month equal to: (a) the average of the aggregate initial Outstanding Balance of all Pool Receivables as of the last day of each of the three most recent Fiscal Months ended on the last day of such Fiscal Month, *divided by* (b) an amount equal to (i) the aggregate credit sales originated by the Originators during the three (3) most recent Fiscal Months ended on the last day of such Fiscal Month, *divided by* (ii) the number of days in the three (3) most recent Fiscal Months then ended.

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

“*DCP TRIR*” means, for any Reference Year, the Total Recordable Incident Rate of the Parent for such Reference Year as set forth in the annual reporting of Total Recordable Incident Rates published by GPA Midstream Association for such Reference Year.

“*Debt*” of any Person means, without duplication, (a) all obligations of such Person for borrowed money, (b) all obligations of such Person for the deferred purchase price of property or services purchased (excluding trade payables and accrued expenses incurred in the ordinary course of business that are not more than 90 days past the due date or which are being contested in good faith and for which adequate reserves have been maintained in accordance with GAAP), (c) all obligations of such Person created or arising under any conditional sale or other title



retention agreement with respect to the property acquired, (d) all obligations of such Person under lease obligations which shall have been, or should be, in accordance with GAAP, recorded as capital leases in respect of which such Person is liable as lessee, (e) the face amount of all letter of credit indebtedness available to be drawn (other than letter of credit obligations relating to indebtedness included in Indebtedness pursuant to another clause of this definition) and, without duplication, the unreimbursed amount of all drafts drawn thereunder, (f) all Indebtedness of others secured by a lien on property or assets of such Person, whether or not assumed (but in any event not exceeding the fair market value of the property or asset), (g) all guarantees of Indebtedness referred to in clauses (a) through (f) above, (h) all amounts payable by such Person in connection with mandatory redemptions or repurchases of preferred stock, (i) any obligations of such Person (in the nature of principal or interest) in respect of acceptances or similar obligations issued or created for the account of such Person, and (j) all Off Balance Sheet Indebtedness of such Person.

“*Deemed Collections*” has the meaning set forth in Section 4.01(d).

“*Default Ratio*” means the ratio computed as of the last day of each Fiscal Month by *dividing*: (a) the aggregate Outstanding Balance of all Pool Receivables that became Defaulted Receivables during such Fiscal Month, *by* (b) the aggregate credit sales of all Pool Receivables originated by the Originators during the month that is three (3) Fiscal Months before such month.

“*Defaulted Receivable*” means a Receivable:

(a) without duplication as to which any payment, or part thereof, remains unpaid for more than 60 days from the original due date for such payment;

(b) without duplication, as to which any payment, or part thereof, remains unpaid for 61 days or less from the original due date for such payment and consistent with the Credit and Collection Policy, has been or should be written off the applicable Originator’s or the Borrower’s books as uncollectible; or

(c) without duplication, as to which any payment, or part thereof, remains unpaid for 61 days or less from the original due date for such payment and an Insolvency Proceeding shall have occurred with respect to the Obligor thereof or any other Person obligated thereon or owning any Related Security with respect thereto.

“*Defaulting Lender*” means any Committed Lender that (a) has failed, within two (2) Business Days of the date required to be funded or paid, to (i) fund any portion of its Loans or its participations in any Letter of Credit or (ii) pay over to any Credit Party any other amount required to be paid by it hereunder, unless, in the case of clause (i) above, such Committed Lender notifies the Administrative Agent in writing that such failure is the result of such Committed Lender’s good faith determination that a condition precedent to funding (specifically identified and including the particular default, if any) has not been satisfied, (b) has notified the Borrower or any Credit Party in writing, or has made a public statement to the effect, that it does not intend or expect to comply with any of its funding obligations under this Agreement (unless such writing or public statement indicates that such position is based on such Committed

Lender's good faith determination that a condition precedent (specifically identified and including the particular default, if any) to funding a Loan under this Agreement cannot be satisfied) or generally under other agreements in which it commits to extend credit, (c) has failed, within three (3) Business Days after request by a Credit Party, acting in good faith, to provide a certification in writing from an authorized officer of such Committed Lender that it will comply with its obligations (and is financially able to meet such obligations) to fund prospective Loans under this Agreement, provided that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon such Credit Party's receipt of such certification in form and substance satisfactory to it and the Administrative Agent, or (d) has become the subject of an Insolvency Proceeding.

*"Delinquency Ratio"* means the ratio computed as of the last day of each Fiscal Month by *dividing*: (a) the aggregate Outstanding Balance of all Pool Receivables that were Delinquent Receivables on such day, *by* (b) the aggregate Outstanding Balance of all Pool Receivables on such day.

*"Delinquent Receivable"* means a Receivable as to which any payment, or part thereof, remains unpaid for 61 days or more from the original due date for such payment.

*"Dilution Horizon Ratio"* means, for any Fiscal Month, the ratio (expressed as a decimal) computed as of the last day of such Fiscal Month by *dividing*: (a) the aggregate credit sales originated by the Originators during the most recently ended Fiscal Month, *by* (b) the Net Receivables Pool Balance as of the last day of such Fiscal Month. Within thirty (30) days of the completion and the receipt by the Administrative Agent of the results of any annual audit or field exam of the Receivables and the servicing and origination practices of the Servicer and the Originators, the numerator of the Dilution Horizon Ratio may be adjusted by the Administrative Agent upon not less than five (5) Business Days' notice to the Borrower to reflect such number of Fiscal Months as the Administrative Agent reasonably believes best reflects the business practices of the Servicer and the Originators and the actual amount of dilution and Deemed Collections that occur with respect to Pool Receivables based on the weighted average dilution lag calculation completed as part of such audit or field exam.

*"Dilution Ratio"* means, for any Fiscal Month, the ratio, computed as of the last day of each Fiscal Month by *dividing*: (a) the aggregate amount of Deemed Collections during such Fiscal Month (other than any Deemed Collections with respect to any Receivables that were both (I) generated by an Originator during such Fiscal Month and (II) written off the applicable Originator's or the Borrower's books as uncollectible during such Fiscal Month), *by* (b) the aggregate credit sales originated by the Originators during such Fiscal Month.

*"Dilution Reserve Percentage"* means, on any day, the product (expressed as a percentage) of (a) the sum of (i) (x) 2.50 times (y) the arithmetic average of the Dilution Ratios for the twelve most recent Fiscal Months, *plus* (ii) the Dilution Volatility Component, *multiplied by* (b) the Dilution Horizon Ratio.

“*Dilution Volatility Component*” means, for any Fiscal Month, the product (expressed as a percentage) of:

(a) the positive difference, if any, between: (i) the highest Dilution Ratio for any Fiscal Month during the twelve most recent Fiscal Months and (ii) the arithmetic average of the Dilution Ratios for such twelve Fiscal Months, *times*

(b) (i) the highest Dilution Ratio for any Fiscal Month during the twelve most recent Fiscal Months, *divided by* (ii) the arithmetic average of the Dilution Ratios for such twelve Fiscal Months.

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

“*Drawing Date*” has the meaning set forth in Section 3.04(a).

“*Eligible Assignee*” means (i) any Committed Lender or any of its Affiliates, (ii) any Person managed by a Committed Lender or any of its Affiliates and (iii) any other financial or other institution of recognized standing having a combined capital and surplus in excess of \$250,000,000.

“*Eligible Foreign Obligor*” means any Obligor which is organized in or has a head office (domicile), registered office, and chief executive office located in any country other than the United States or a Sanctioned Country.

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

(a) the Obligor of which is: (i) either (A) a resident of the United States of America or (B) an Eligible Foreign Obligor; (ii) not a Governmental Authority, (iii) not a Sanctioned Person; (iv) not subject to any Insolvency Proceeding; (v) not an Affiliate of the Borrower, the Servicer, the Parent, or any Originator unless such Obligor is an Approved Affiliate Obligor or an Affiliate of an Approved Affiliate Obligor; and (vi) not the Obligor with respect to Defaulted Receivables with an aggregate Outstanding Balance exceeding 50% of the aggregate Outstanding Balance of all of such Obligor’s Pool Receivables;

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

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

(d) in which the Borrower owns good and marketable title, free and clear of any Adverse Claims other than Permitted Liens, that is freely assignable, and the related Contract does not contain any enforceable restriction on assignment of such Receivable

that is effective under Applicable Law (including without any consent of the related Obligor or any Governmental Authority unless such consent has been obtained);

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

(f) that either (i) has been billed or invoiced by or on behalf of the Servicer or (ii) is an Eligible Unbilled Receivable;

(g) that does not have a due date which is 61 days or more after the original invoice date of such Receivable;

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

(i) that arises under a Contract for the sale of goods or services entered into on an arm's length basis in the ordinary course of the applicable Originator's business;

(j) that arises under a duly authorized Contract that is in full force and effect and that is a legal, valid and binding obligation of the related Obligor, enforceable against such Obligor in accordance with its terms, except (i) as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally and (ii) as such enforceability may be limited by general principles of equity, regardless of whether such enforceability is considered in a proceeding in equity or at law;

(k) that (i) is not subject to any existing dispute, litigation, right of rescission, set-off, counterclaim, hold back, any other defense against the applicable Originator (or any assignee of such Originator) or Adverse Claim (including customer deposits, advance payments (including payments related to unearned revenues)), and the Obligor of which holds no right as against the applicable Originator to cause such Originator to repurchase the goods or merchandise, the sale of which shall have given right to such Receivable, except to the extent any of the foregoing are included in the Contra Deduction Amount or (ii) is not a Net-Out Receivable;

(l) that, together with the Contract related thereto, has not been modified, waived or restructured since its creation, in accordance with the Credit and Collection Policy or as otherwise permitted under this Agreement;

(m) that, together with the Contract related thereto, conforms in all material respects with all Applicable Laws (including any applicable laws relating to usury, truth in lending, fair credit billing, fair credit reporting, equal credit opportunity, fair debt collection practices and privacy);

- (n) represents amounts that have been recognized as revenue by the Originator thereof in accordance with GAAP;
- (o) that represents amounts earned and payable by the Obligor that are not subject to the performance of additional services by the Originator thereof or by the Borrower and the related goods or merchandise shall have been shipped and/or services performed other than, in the case of an Eligible Unbilled Receivable, the billing or invoicing of such Receivable;
- (p) that, if such Receivable is an Unbilled Receivable, is an Eligible Unbilled Receivable;
- (q) that has been transferred by an Originator to the Borrower pursuant to the Receivables Sale Agreement with respect to which transfer all conditions precedent under the Receivables Sale Agreement have been met;
- (r) with respect to which all material consents, licenses, approvals or authorizations of, or registrations or declarations with or notices to, any Governmental Authority or other Person required to be obtained, effected or given by an Originator in connection with the creation of such Receivable, the execution, delivery and performance by such Originator of the related Contract or the assignment thereof under the Receivables Sale Agreement have been duly obtained, effected or given and are in full force and effect;
- (s) that constitutes an “account” or “general intangible” as defined in the UCC, and that is not evidenced by instruments or chattel paper;
- (t) that does not arise from the sale of as-extracted collateral of any Originator or the Borrower, as such term is used in the UCC;
- (u) which (i) does not arise from a sale of accounts made as part of a sale of a business or constitute an assignment for the purpose of collection only, (ii) is not a transfer of a single account made in whole or partial satisfaction of a preexisting indebtedness or an assignment of a right to payment under a contract to an assignee that is also obligated to perform under the contract, and (iii) is not a transfer of an interest in or an assignment of a claim under a policy of insurance;
- (v) which does not relate to the sale of any consigned goods or finished goods which have incorporated any consigned goods into such finished goods;
- (x) that is not a Subject Originator Receivable; and
- (y) is not an Excluded Receivable.

“*Eligible Unbilled Receivable*” means, at any time, any Unbilled Receivable if (a) the related Originator has recognized the related revenue on its financial books and records under

GAAP and (b) is otherwise an Eligible Receivable *provided* that not more than 61 days have expired since the date such Unbilled Receivable arose.

“*Employee Benefit Plan*” means (a) any employee benefit plan within the meaning of Section 3(3) of ERISA that is maintained for employees of the Borrower, the Parent or any ERISA Affiliate or (b) any Pension Plan or Multiemployer Plan that has at any time within the preceding seven (7) years been maintained, funded or administered for the employees of the Borrower, the Parent or any current or former ERISA Affiliate.

“*ERISA*” means the Employee Retirement Income Security Act of 1974, and the rules and regulations thereunder, each as amended or modified from time to time.

“*ERISA Affiliate*” means any Person who together with the Borrower, the Parent or any of their respective Subsidiaries is treated as a single employer within the meaning of Section 414(b), (c), (m) or (o) of the Code or Section 4001(b) of ERISA.

“*Erroneous Payment*” has the meaning set forth in [Section 11.11\(a\)](#).

“*Erroneous Payment Notice*” has the meaning set forth in [Section 11.11\(b\)](#).

“*ESG Certificate*” has the meaning set forth in [Section 14.20](#).

[“\*ESG Determination Date\*” means, with respect to any calendar year, the 25<sup>th</sup> day of August \(or if such day is not a Business Day, the next occurring Business Day\).](#)

“*ESG Margin*” means the sum of the corresponding percentages per annum of (i) the TRIR Margin based on the TRIR Among Peers and (ii) the GHG Margin based on the GHG Intensity (YoY Change), in each case as specified under and in accordance with the terms set forth below:

Level	TRIR Among Peers	TRIR Margin
I	DCP TRIR is less than Peer Average TRIR	-0.0125%
II	DCP TRIR is equal to Peer Average TRIR	0.0000%
III	DCP TRIR is greater than Peer Average TRIR	0.0125%

Level	GHG Intensity (YoY Change)	GHG Margin
I	Less than or equal to -2.00%	-0.0125%
II	Greater than -2.00% but less than or equal to 2.00%	0.0000%
III	Greater than 2.00%	0.0125%

For purposes of determining the TRIR Margin and the GHG Margin:

(a) The TRIR Margin and the GHG Margin shall, in each case, be set at Level II until receipt of the ESG Certificate to be delivered on or before the ~~Monthly Settlement~~ ESG Determination Date occurring on August 25, 2022. (the date such ESG Certificate is delivered, the “First ESG Determination Date”).

(b) ~~The Following the First ESG Determination Date, the~~ TRIR Margin and the GHG Margin shall be recomputed ~~as of the end of each calendar year beginning with the 2021 calendar year~~ annually based on the TRIR Among Peers and the GHG Intensity (YoY Change) ~~as of such~~ for the prior calendar year ~~end as reflected in the ESG Certificate delivered in connection with such ESG Determination Date.~~ Any increase or decrease in the TRIR Margin or the GHG Margin computed as of a calendar year end shall be effective on the date on which the ESG Certificate evidencing such computations is delivered under Section 14.20. If an ESG Certificate is not delivered when due ~~in accordance with such Section 14.20~~, then the sum of the TRIR Margin and the GHG Margin rates in Level III shall apply as of the first Business Day after the date on which such ESG Certificate was required to have been delivered and shall remain in effect until the date on which such ESG Certificate is delivered.

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

“Event of Default” has the meaning specified in Section 10.01. For the avoidance of doubt, any Event of Default that occurs shall be deemed to be continuing at all times thereafter unless and until waived in accordance with Section 14.01.

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

(a) the sum of the amounts calculated for each of the Obligors equal to the excess (if any) of (i) an amount equal to (w) the aggregate Outstanding Balance of the Eligible Receivables of such Obligor *less* (x) the Contra Deduction Amount allocable to such Obligor *less* (y) the Affiliate Deduction Amount allocable to such Obligor *less* (z) the First Purchaser Liability allocable to such Obligor, *over* (ii) the product of (x) such Obligor’s applicable Concentration Percentage, *multiplied* by (y) the aggregate Outstanding Balance of all Eligible Receivables then in the Receivables Pool; *plus*

(b) the excess (if any) of (i) the aggregate Outstanding Balance of all Eligible Receivables, the Obligor of which is an Eligible Foreign Obligor *less* (x) the Contra Deduction Amount allocable to such Eligible Foreign Obligors *less* (y) the Affiliate Deduction Amount allocable to such Eligible Foreign Obligors *less* (z) the First Purchaser Liability allocable to such Eligible Foreign Obligors, *over* (ii) the product of (x) 5.0%, *multiplied* by (y) the aggregate Outstanding Balance of all Eligible Receivables then in the Receivables Pool; *plus*

(c) the sum of the amounts by which the aggregate Outstanding Balance of all Eligible Receivables then in the Receivables Pool with stated maturities which are more than 30 days but less than or equal to 60 days after the original invoice date of such

Receivable exceeds 5.0% of the aggregate Outstanding Balance of all Eligible Receivables.

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

“*Excluded Receivable*” means each receivable identified on the list of “Excluded Receivables” delivered in writing by the Servicer to the Administrative Agent on April 22, 2021, as such list of receivables may be updated from time to time by the Servicer and approved by the Administrative Agent in its sole discretion.

“*Excluded Taxes*” means any of the following Taxes imposed on or with respect to a Credit Party or required to be withheld or deducted from a payment to a Credit Party: (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 Credit Party 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 pursuant to a law in effect on the date on which (i) such Lender acquires the applicable interest in the Loan or Commitment (other than pursuant to an assignment request under [Section 5.07](#)) or (ii) such Lender changes its lending office, except in each case to the extent that amounts with respect to such Taxes were payable either to such Lender’s assignor immediately before such Lender became a party hereto or to such Lender immediately before it changed its lending office, (c) Taxes attributable to such Credit Party’s failure to comply with [Section 5.03\(f\)](#) and (d) any withholding Taxes imposed pursuant to FATCA.

“*Facility Limit*” means, at any time of determination, the aggregate Commitment of all Committed Lenders, which ~~as of the Second Amendment Effective Date~~ is equal to \$350,000,000, as [such amount may be increased from time to time in accordance with Section 2.07, and as such amount may be](#) reduced from time to time pursuant to [Section 2.02\(e\)](#). References to the unused portion of the Facility Limit shall mean, at any time of determination, an amount equal to (x) the Facility Limit at such time, *minus* (y) the sum of the Aggregate Capital plus the LC Participation Amount.

“*FATCA*” means Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable), any current or future regulations or official interpretations thereof, any agreements entered into pursuant to Section 1471(b)(1) of the Code, any intergovernmental agreement, treaty or convention entered into in connection with any of the foregoing and any fiscal or regulatory legislation, rules or practices adopted pursuant to any such intergovernmental agreement, treaty or convention.

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

“*Fee Letter*” has the meaning specified in [Section 2.03\(a\)](#).



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

“Final Payout Date” means the date on or after the Termination Date when (i) the Aggregate Capital and Aggregate Interest have been paid in full, (ii) the LC Participation Amount has been reduced to zero (\$0) and no Letters of Credit issued hereunder remain outstanding and undrawn (or with respect to any Letter of Credit with an expiration date that extends beyond the Termination Date, the LC Collateral Account shall have been fully funded in accordance with Section 3.05(c)), (iii) all Borrower Obligations shall have been paid in full, (iv) all other amounts owing to the Credit Parties and any other Indemnified Party or Affected Person hereunder and under the other Transaction Documents have been paid in full and (v) all accrued Servicing Fees have been paid in full.

“Financial Officer” of any Person means, the chief executive officer, the chief financial officer, the chief accounting officer, the principal accounting officer, the controller, the treasurer or the assistant treasurer of such Person.

“First Purchaser Liability” means, on any day, an amount equal to (A) \$0 or (B) after the occurrence and during the continuance of a Level 2 Ratings Event, upon the election of the Administrative Agent in its sole discretion, the aggregate Outstanding Balance of all Eligible Receivables then in the Receivables Pool that are subject to a First Purchaser Lien.

“First Purchaser Lien” means any security interest, whether or not evidenced by a filed financing statement, of any mineral interest owner against DCP or any Originator, which does or would represent a valid and enforceable first priority perfected security interest.

“First Purchaser Lien Receivables” shall mean an equivalent amount of Receivables equal to the amount of purchases by the Originator that are subject or potentially subject to a First Purchaser Lien, that give rise or potentially give rise to adverse claims on such Receivables pursuant to a First Purchaser Lien.

“Fiscal Month” means each calendar month.

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

“GAAP” means generally accepted accounting principles in the United States of America, consistently applied.

“GHG Intensity (YoY Change)” means ~~the percentage (represented as, as determined in connection with the delivery of any ESG Certificate, a positive or negative percentage) equal to~~ determined as:

(a) the quotient of (i) the positive or negative difference of (x) the GHG Intensity for the most recently completed Reference Year (the “Current Reference Year”) minus (y) the GHG Intensity for the ~~year~~ immediately ~~prior to such~~ preceding Reference Year (the “Prior Reference Year”), divided by (b) the GHG Intensity for ~~the~~ such Prior Reference Year, multiplied by ~~(e)~~

(b) 100;

provided, that, if such percentage determined in accordance with the foregoing formula would be either a positive percentage greater than 10% or a percentage less than -10% with respect to the Current Reference Year (any such Reference Year, an “Irregular Event Year” and the most recent preceding Reference Year that was not an Irregular Event Year being referred to as the “Fixed Regular Benchmark Year”), then (A) such Irregular Event Year shall be disregarded for any future calculation of the GHG Intensity (YoY Change) under this definition (but, for avoidance of doubt, shall not be disregarded for determining the ESG Margin when such Irregular Event Year is the Current Reference Year) and (B) the then current Fixed Regular Benchmark Year shall be deemed to be the “Prior Reference Year” for any such future calculation of the GHG Intensity (YoY Change) until such time that Parent and its Subsidiaries demonstrate a GHG Intensity for a future Reference Year that is either (x) in the case of an Irregular Event Year that was disregarded as described above due to a percentage less than -10%, greater than or equal to 90% of the GHG Intensity of the Fixed Regular Benchmark Year or (y) in the case of an Irregular Event Year that was disregarded as described above due to a positive percentage greater than 10% less than or equal to 110% of the GHG Intensity of the Fixed Regular Benchmark Year.

“*GHG Intensity*” means the aggregate amount of Total GHG Emissions per ~~barrel of oil equivalent throughput~~ total wellhead volume produced at all wellheads that are serviced by assets under the operational control of the Parent and its Subsidiaries in a Reference Year, as calculated at the end of such Reference Year in accordance with the Parent’s internal ~~throughput~~ calculation methodology.

“*GHG Protocol*” means the GHG Protocol Corporate Accounting and Reporting Standard of the World Business Council for the Sustainable Development and World Resources Institute.

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

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

“*Group A Obligor*” means any Obligor with short-term ratings of at least: (a) “A-1” by S&P, or if such Obligor does not have a short-term rating from S&P, a rating of at least “A+” by

S&P on such Obligor's long-term senior unsecured and uncredit-enhanced debt securities, and (b) "P-1" by Moody's, or if such Obligor does not have a short-term rating from Moody's, a rating of at least "A1" by Moody's on such Obligor's long-term senior unsecured and uncredit-enhanced debt securities; *provided, however*, if such Obligor is rated by only one of such rating agencies, then such Obligor will be a "Group A Obligor" if it satisfies either clause (a) or clause (b) above; *provided, further*, that if an Obligor receives a split rating from S&P and Moody's and satisfies only one of clause (a) or clause (b) above, then such Obligor shall be deemed to have satisfied each of clause (a) or clause (b) above. Notwithstanding the foregoing, (i) any Obligor that is a Subsidiary of an Obligor that satisfies the definition of "Group A Obligor" shall be deemed to be a Group A Obligor and shall be aggregated with the Obligor that satisfies such definition for the purposes of determining the "Concentration Reserve Percentage" and clause (a) of the definition of "Excess Concentration" for such Obligors, unless such deemed Obligor separately satisfies the definition of "Group A Obligor", "Group B Obligor", or "Group C Obligor", in which case such Obligor shall be separately treated as a Group A Obligor, a Group B Obligor or a Group C Obligor, as the case may be, and shall be aggregated and combined for such purposes with any of its Subsidiaries that are Obligors and (ii) any Obligor that is a Special Obligor that satisfies the definition of "Group A Obligor" shall be deemed to be a Group A Obligor solely for the purposes of determining the "Concentration Reserve Percentage".

"Group Agent" means each Person acting as agent on behalf of a Group and designated as the Group Agent for such Group on the signature pages to this Agreement or any other Person who becomes a party to this Agreement as a Group Agent for any Group pursuant to an Assumption Agreement, an Assignment and Acceptance Agreement or otherwise in accordance with this Agreement.

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

"Group B Obligor" means an Obligor that is not a Group A Obligor, with short-term ratings of at least: (a) "A-2" by S&P, or if such Obligor does not have a short-term rating from S&P, a rating of at least "BBB+" to "A" by S&P on such Obligor's long-term senior unsecured and uncredit-enhanced debt securities, and (b) "P-2" by Moody's, or if such Obligor does not have a short-term rating from Moody's, a rating of at least "Baa1" to "A2" by Moody's on such Obligor's long-term senior unsecured and uncredit-enhanced debt securities; *provided, however*, if such Obligor is rated by only one of such rating agencies, then such Obligor will be a "Group B Obligor" if it satisfies either clause (a) or clause (b) above *provided, further*, that if an Obligor receives a split rating from S&P and Moody's and satisfies only one of clause (a) or clause (b) above, then such Obligor shall be deemed to have satisfied each of clause (a) or clause (b) above. Notwithstanding the foregoing, (i) any Obligor that is a Subsidiary of an Obligor that satisfies the definition of "Group B Obligor" shall be deemed to be a Group B Obligor and shall be aggregated with the Obligor that satisfies such definition for the purposes of determining the "Concentration Reserve Percentage" and clause (a) of the definition of "Excess Concentration" for such Obligors, unless such deemed Obligor separately satisfies the definition of "Group A Obligor", "Group B Obligor", or "Group C Obligor", in which case such Obligor shall be separately treated as a Group A Obligor, a Group B Obligor or a Group C Obligor, as the case

may be, and shall be aggregated and combined for such purposes with any of its Subsidiaries that are Obligor and (ii) any Obligor that is a Special Obligor that satisfies the definition of “Group B Obligor” shall be deemed to be a Group B Obligor solely for the purposes of determining the “Concentration Reserve Percentage”.

“*Group C Obligor*” means an Obligor that is not a Group A Obligor or a Group B Obligor, with short-term ratings of at least: (a) “A-3” by S&P, or if such Obligor does not have a short-term rating from S&P, a rating of at least “BBB-” to “BBB” by S&P on such Obligor’s long-term senior unsecured and uncredit-enhanced debt securities, and (b) “P-3” by Moody’s, or if such Obligor does not have a short-term rating from Moody’s, at least “Baa3” to “Baa2” by Moody’s on such Obligor’s long-term senior unsecured and uncredit-enhanced debt securities; *provided, however*, if such Obligor is rated by only one of such rating agencies, then such Obligor will be a “Group C Obligor” if it satisfies either clause (a) or clause (b) above; *provided, further*, that if an Obligor receives a split rating from S&P and Moody’s and satisfies only one of clause (a) or clause (b) above, then such Obligor shall be deemed to have satisfied each of clause (a) or clause (b) above. Notwithstanding the foregoing, (i) any Obligor that is a Subsidiary of an Obligor that satisfies the definition of “Group C Obligor” shall be deemed to be a Group C Obligor and shall be aggregated with the Obligor that satisfies such definition for the purposes of determining the “Concentration Reserve Percentage” and clause (a) of the definition of “Excess Concentration” for such Obligor, unless such deemed Obligor separately satisfies the definition of “Group A Obligor”, “Group B Obligor”, or “Group C Obligor”, in which case such Obligor shall be separately treated as a Group A Obligor, a Group B Obligor or a Group C Obligor, as the case may be, and shall be aggregated and combined for such purposes with any of its Subsidiaries that are Obligor, (ii) ScanSource, Inc. shall be deemed to be a Group C Obligor until such time that any Lender provides thirty (30) days’ written notice to the Borrower and Servicer that such Obligor shall no longer be deemed a Group C Obligor and (iii) any Obligor that is a Special Obligor that satisfies the definition of “Group C Obligor” shall be deemed to be a Group C Obligor solely for the purposes of determining the “Concentration Reserve Percentage”.

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

“*Group D Obligor*” means any Obligor that is not a Group A Obligor, Group B Obligor or Group C Obligor; *provided*, that (i) any Obligor that is not rated by either Moody’s or S&P shall be a Group D Obligor, except as provided by the last sentence of each of “Group A Obligor”, “Group B Obligor”, and “Group C Obligor” and (ii) any Obligor that is a Special Obligor that satisfies the definition of “Group D Obligor” shall be deemed to be a Group D Obligor solely for the purposes of determining the “Concentration Reserve Percentage”.

“*Guaranty*” of any Person means any obligation of such Person guarantying or in effect guarantying any liability or obligation of any other Person in any manner, whether directly or indirectly, including any such liability arising by virtue of partnership agreements, including any agreement to indemnify or hold harmless any other Person, any performance bond or other suretyship arrangement and any other form of assurance against loss, except endorsement of negotiable or other instruments for deposit or collection in the ordinary course of business.

[“Incremental Commitment” is defined in Section 2.07.](#)

[“Incremental Lender” is defined in Section 2.07.](#)

*“Indemnified Party”* has the meaning set forth in [Section 13.01\(a\)](#).

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

*“Independent Manager”* has the meaning set forth in [Section 8.03\(c\)](#).

*“Information Package”* means, collectively, the Monthly Information Package, the Weekly Information Package, and the Daily Information Package, as applicable.

*“Insolvency Proceeding”* means (a) any case, action or proceeding before any court or other Governmental Authority relating to bankruptcy, reorganization, insolvency, liquidation, receivership, dissolution, winding-up or relief of debtors and, in the case of any such proceeding instituted against such Person (but not instituted by such Person), either such proceeding shall remain undismissed or unstayed for a period of ninety (90) consecutive days, or any of the actions sought in such proceeding (including the entry of an order for relief against, or the appointment of a receiver, trustee, custodian, or other similar official for, it or for any substantial part of its property) shall occur or (b) any general assignment for the benefit of creditors of a Person, composition, marshaling of assets for creditors of a Person, or other, similar arrangement in respect of its creditors generally or any substantial portion of its creditors, in each of clauses (a) and (b) undertaken under U.S. Federal, state or foreign law, including the Bankruptcy Code.

*“Intended Tax Treatment”* has the meaning set forth in [Section 14.14](#).

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

*“Interest Period”* means: (a) before the Termination Date: (i) initially the period commencing on the date of the initial Loan pursuant to [Section 2.01\(a\)](#) (or in the case of any fees payable hereunder, commencing on the Closing Date) and ending on (but not including) the next Monthly Settlement Date and (ii) thereafter, each period commencing on such Monthly Settlement Date and ending on (but not including) the next Monthly Settlement Date and (b) on and after the Termination Date, such period (including a period of one (1) day) as shall be selected from time to time by the Administrative Agent (with the consent or at the direction of the Majority Group Agents) or, in the absence of any such selection, each period of 30 days from the last day of the preceding Interest Period.

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

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

(b) if such Loan (or such portion of Capital thereof) is being funded by any Lender on such day other than through the issuance of Notes (including, without limitation, if a Conduit Lender is then funding such Loan (or such portion of Capital thereof) under a Program Support Agreement, or if a Committed Lender is then funding such Loan (or such portion of Capital thereof)), ~~LMIR~~ or ~~Adjusted LIBOR~~ the applicable SOFR Rate plus the SOFR Adjustment, as selected in writing by the Borrower;

*provided, however*, that, at the election of the Administrative Agent or the request of the Majority Group Agents the “Interest Rate” for any day while an Event of Default has occurred and is continuing shall be an interest rate per annum equal to the sum of 2.00% per annum plus the greater of (i) the Base Rate in effect on such day and (ii) the ~~Adjusted LMIR~~ SOFR Rate with respect to such Lender at such time; *provided, further*, that no provision of this Agreement shall require the payment or permit the collection of Interest in excess of the maximum permitted by Applicable Law; and *provided, further, however*, that Interest for any Loan shall not be considered paid by any distribution to the extent that at any time all or a portion of such distribution is rescinded or must otherwise be returned for any reason.

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

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

“*LC Collateral Account*” means the account of the Borrower at any time designated as the LC Collateral Account established and maintained by the Administrative Agent (for the benefit of the LC Bank and the LC Participants), or such other account as may be so designated as such by the Administrative Agent.

“*LC Fee Expectation*” has the meaning set forth in Section 3.05(c).

“*LC Participant*” means each Lender.

“*LC Participation Amount*” means at any time of determination, the sum of the amounts then available to be drawn under all outstanding Letters of Credit.

“*LC Request*” means a letter in substantially the form of Exhibit A-1 hereto executed and delivered by the Borrower to the Administrative Agent, the LC Bank and the Lenders pursuant to Section 3.02(a).

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

“*Letter of Credit*” means any stand-by letter of credit issued by the LC Bank at the request of the Borrower pursuant to this Agreement.

“*Letter of Credit Application*” has the meaning set forth in Section 3.02(a).

“*Level 1 Ratings Event*” means, with respect to the Performance Guarantor, either (x) the S&P long-term corporate rating for the Performance Guarantor is below “BB-” or (y) the Moody’s long-term corporate family rating for the Performance Guarantor is below “Ba3”.

“*Level 2 Ratings Event*” means, with respect to the Performance Guarantor, either (x) the S&P long-term corporate rating for the Performance Guarantor is reduced below “B” or (y) the Moody’s long-term corporate family rating for the Performance Guarantor is reduced below “B2”.

“*Liquidity Agent*” means any bank or other financial institution acting as agent for the various Liquidity Providers under each Liquidity Agreement.

“*Liquidity Agreement*” means any agreement entered into in connection with this Agreement pursuant to which a Liquidity Provider agrees to make purchases or advances to, or purchase assets from, any Conduit Lender in order to provide liquidity for such Conduit Lender’s Loans.

“*Liquidity Provider*” means each bank or other financial institution that provides liquidity support to any Conduit Lender pursuant to the terms of a Liquidity Agreement.

~~“*LMIR*” means for any day during any Interest Period, the interest rate per annum determined by the applicable Group Agent (which determination shall be conclusive absent manifest error) by dividing (i) (x) at any time that a Conduit Lender is not party to this Agreement, the one-month Eurodollar rate for U.S. dollar deposits as reported by Bloomberg Finance L.P. and shown on US0001M Screen or any other service or page that may replace such page from time to time for the purpose of displaying offered rates of leading banks for London interbank deposits in United States dollars, or (y) at any time that a Conduit Lender is party to this Agreement, the three-month Eurodollar rate for U.S. dollar deposits as reported by Bloomberg Finance L.P. and shown on US0003M Screen or any other service or page that may replace such page from time to time for the purpose of displaying offered rates of leading banks for London interbank deposits in United States dollars, in each case as of 11:00 a.m. (London time) on such day, or if such day is not a Business Day, then the immediately preceding Business Day (or if not so reported, then as determined by the Administrative Agent from another recognized source for interbank quotation), in each case, changing when and as such rate changes, by (ii) a number equal to 1.00 minus the Euro-Rate Reserve Percentage on such day. The calculation of LMIR may also be expressed by the following formula:~~

~~One-month Eurodollar rate for U.S. dollar deposits shown on Bloomberg US0001M Screen or three-month Eurodollar rate for U.S. dollar deposits shown on Bloomberg US00003M Screen, as applicable, or appropriate successor~~

LMIR =

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~~1.00 - Euro-Rate Reserve Percentage.~~

~~LMIR shall be adjusted on the effective date of any change in the Euro-Rate Reserve Percentage as of such effective date. Notwithstanding the foregoing, if LMIR as determined herein would be less than zero (0.00), such rate shall be deemed to be zero percent (0.00%) for purposes of this Agreement.~~

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

“Loan Request” means a letter in substantially the form of Exhibit A-1 hereto executed and delivered by the Borrower to the Administrative Agent and the Group Agents pursuant to Section 2.02(a).

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

“Loss Horizon Ratio” means, at any time of determination, the ratio (expressed as a decimal) computed as of the last day of each Fiscal Month by dividing:

(a) the sum of (i) aggregate credit sales originated by the Originators during the four (4) most recent Fiscal Months ending prior to the time of determination, plus (ii) the product of (A) 30.0%, times (B) the aggregate credit sales originated by the Originators during the fifth most recent Fiscal Month ending prior to the time of determination, by

(b) the Net Receivables Pool Balance as of such date.

“Loss Reserve Percentage” means, at any time of determination, the product (expressed as a percentage) of (a) 2.50, times (b) the highest average of the Default Ratios for any three consecutive Fiscal Months during the twelve most recent Fiscal Months, times (c) the Loss Horizon Ratio.



“*Majority Group Agents*” means one or more Group Agents which in its Group, or their combined Groups, as the case may be, have Committed Lenders representing more than 50% of the aggregate Commitments of all Committed Lenders in all Groups (or, if the Commitments have been terminated, have Lenders representing more than 50% of the aggregate outstanding Capital held by all the Lenders in all Groups).

“*Material Adverse Effect*” means relative to any Person (*provided* that if no particular Person is specified, “*Material Adverse Effect*” shall be deemed to be relative to the Borrower, the Servicer and the Originators, individually and in the aggregate) with respect to any event or circumstance, a material adverse effect on:

(a) (i) with respect to the Borrower, the assets, operations, business or financial condition of such Person and its consolidated Subsidiaries, taken as a whole and (ii) with respect to the Parent, the Servicer or any Originator, the business, financial condition or results of operations of the Parent and its Subsidiaries taken as a whole;

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

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

(d) the status, perfection, enforceability or priority of the Administrative Agent’s or the Borrower’s security interest in the Collateral or the rights or remedies of the Administrative Agent and the Lenders under the Transaction Documents.

“*Maturity Date*” means the date on which the “Termination Date” is declared or deemed to have occurred under Section 10.01.

“*Maximum Incremental Facility Amount*” means \$400,000,000.

“*Minimum Dilution Reserve Percentage*” means, on any day in a Fiscal Month, the product of (a) the 12-month rolling average of the Dilution Ratio at such time, *multiplied by* (b) the Dilution Horizon Ratio at such time.

“*Minimum Funding Threshold*” means, at any time of determination, the amount that is equal to the lesser of (a) sixty percent (60%) of the Facility Limit at such time and (b) the Borrowing Base at such time.

“*Monthly Information Package*” means a report, in substantially the form of Exhibit F-1.

“*Monthly Settlement Date*” means the 25th day of each calendar month (or if such day is not a Business Day, the next occurring Business Day).

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

“*Multiemployer Plan*” means a “multiemployer plan” as defined in Section 4001(a)(3) of ERISA to which the Borrower, the Parent or any ERISA Affiliate is making, or is accruing an obligation to make, or has accrued an obligation to make contributions within the preceding seven (7) years.

“*Net Receivables Pool Balance*” means, at any time of determination: (a) the aggregate Outstanding Balance of all Eligible Receivables then in the Receivables Pool, *minus* (b) the sum of (i) the Excess Concentration, *plus* (ii) the Contra Deduction Amount, *plus* (iii) the Affiliate Deduction Amount, *plus* (iv) the First Purchaser Liability.

“*Net-Out Agreement*” means a “net-out agreement” or similar agreement with respect to purchases and sales between an Originator and an Obligor (which is also a supplier to such Originator), pursuant to which amounts payable by such Originator and such Obligor are settled on a net basis.

“*Net-Out Receivable*” means any Receivable subject to a Net-Out Agreement.

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

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

“*Obligor Percentage*” means, at any time of determination, for each Obligor, a fraction, expressed as a percentage, (a) the numerator of which is the aggregate Outstanding Balance of the Eligible Receivables of such Obligor *less* the amount (if any) then included in the calculation of the Excess Concentration with respect to such Obligor and (b) the denominator of which is the aggregate Outstanding Balance of all Eligible Receivables at such time; *provided* that such percentage shall not exceed the applicable Concentration Percentage for such Obligor.

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

“*Off Balance Sheet Indebtedness*” means any obligation of a Person that would be considered indebtedness for tax purposes but is not set forth on the balance sheet of such Person.

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

“*Other Connection Taxes*” means, with respect to any Credit Party, Taxes imposed as a result of a present or former connection between such Credit Party and the jurisdiction imposing such Tax (other than connections arising from such Credit Party having executed, delivered, become a party to, performed its obligations under, received payments under, received or

perfected a security interest under, engaged in any other transaction pursuant to or enforced any Transaction Document, or sold or assigned an interest in any Loan or Transaction Document).

“*Other Taxes*” means any and all present or future stamp or documentary Taxes arising from any payment made hereunder or from the execution, delivery, filing, recording or enforcement of, or otherwise in respect of, this Agreement and the other Transaction Documents, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment (other than an assignment made pursuant to Section 5.07).

“*Overnight Bank Funding Rate*” means for any day, the rate comprised of both overnight federal funds and overnight eurocurrency borrowings by U.S.-managed banking offices of depository institutions, as such composite rate shall be determined by the Federal Reserve Bank of New York (“*NYFRB*”), as set forth on its public website from time to time, and as published on the next succeeding Business Day as the overnight bank funding rate by the NYFRB (or by such other recognized electronic source (such as Bloomberg) selected by the Administrative Agent for the purpose of displaying such rate); provided, that if such day is not a Business Day, the Overnight Bank Funding Rate for such day shall be such rate on the immediately preceding Business Day; provided, further, that if such rate shall at any time, for any reason, no longer exist, a comparable replacement rate shall be determined by the Administrative Agent at such time (which determination shall be conclusive absent manifest error). If the Overnight Bank Funding Rate determined as above would be less than zero, then such rate shall be deemed to be zero. The rate of interest charged shall be adjusted as of each Business Day based on changes in the Overnight Bank Funding Rate without notice to the Borrower.

“*Outstanding Balance*” means, at any time of determination, with respect to any Receivable, the then outstanding principal balance thereof.

“*Parent*” means DCP Midstream, LP, a Delaware limited partnership.

“*Participant*” has the meaning set forth in Section 14.03(e).

“*Participant Register*” has the meaning set forth in Section 14.03(f).

“*Participation Advance*” has the meaning set forth in Section 3.04(b).

“*PATRIOT Act*” means the USA PATRIOT Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)), as amended.

“*PBGC*” means the Pension Benefit Guaranty Corporation, or any successor thereto.

“*Peer Average TRIR*” means, for any Reference Year, the average Total Recordable Incident Rate of all “Division I” companies as set forth in the annual reporting of Total Recordable Incident Rates aggregated by GPA Midstream Association for such Reference Year.

“*Pension Plan*” means any Employee Benefit Plan, other than a Multiemployer Plan, which is subject to the provisions of Title IV of ERISA or Section 412 of the Code and which (a)

is maintained, funded or administered for the employees of the Borrower, the Parent or any ERISA Affiliate or (b) has at any time within the preceding seven (7) years been maintained, funded or administered for the employees of the Borrower, the Parent or any current or former ERISA Affiliates.

*“Performance Guarantor”* means Parent.

*“Performance Guaranty”* means the Performance Guaranty, dated as of the Closing Date, by the Performance Guarantor in favor of the Administrative Agent for the benefit of the Secured Parties, as such agreement may be amended, restated, supplemented or otherwise modified from time to time.

*“Permitted Liens”* means (i) the interest in favor of the Borrower created pursuant to the Receivables Sale Agreement and the interest in favor of the Administrative Agent (for the benefit of the Secured Parties) created pursuant to this Agreement, (ii) in the case of First Purchaser Lien Receivables and any Related Security and Collections thereof that constitute identifiable proceeds of such First Purchaser Lien Receivables, the rights described in the definition thereof, (iii) the rights of any Collection Bank arising in the Collections under any Account Control Agreement, (iv) liens for Taxes, fees, assessments and other governmental charges that are not delinquent and (v) as otherwise provided herein.

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

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

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

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

*“Pro Rata Percentage”* means, at any time of determination, with respect to any Committed Lender, a fraction (expressed as a percentage), (a) the numerator of which is (i) prior to the termination of all Commitments hereunder, its Commitment at such time or (ii) if all Commitments hereunder have been terminated, the aggregate outstanding Capital of all Loans being funded by such Committed Lender at such time and (b) the denominator of which is (i) prior to the termination of all Commitments hereunder, the aggregate Commitments of all Committed Lenders at such time or (ii) if all Commitments hereunder have been terminated, the aggregate outstanding Capital of all Loans at such time.

*“Program Support Agreement”* means and includes any Liquidity Agreement and any other agreement entered into by any Program Support Provider providing for: (a) the issuance of one or more letters of credit for the account of any Conduit Lender, (b) the issuance of one or more surety bonds for which any Conduit Lender is obligated to reimburse the applicable

Program Support Provider for any drawings thereunder, (c) the sale by any Conduit Lender to any Program Support Provider of any Loan (or portions thereof or participation interest therein) maintained by such Conduit Lender and/or (d) the making of loans and/or other extensions of credit to any Conduit Lender in connection with such Conduit Lender's receivables-securitization program contemplated in this Agreement, together with any letter of credit, surety bond or other instrument issued thereunder.

*"Program Support Provider"* means and includes, with respect to any Conduit Lender, any Liquidity Provider and any other Person (other than any customer of such Conduit Lender) now or hereafter extending credit or having a commitment to extend credit to or for the account of, or to make purchases from, such Conduit Lender pursuant to any Program Support Agreement.

*"Qualified Acquisition"* has the meaning set forth in the Credit Agreement, as defined on the Closing Date.

*"Rating Agency"* mean each of S&P, Fitch and Moody's (and/or each other rating agency then rating the Notes of any Conduit Lender).

*"Receivable"* means any right to payment of a monetary obligation, whether or not earned by performance, owed to any Originator or the Borrower (as assignee of an Originator), whether constituting an account, chattel paper, payment intangible, instrument or general intangible, in each instance arising in connection with the sale of goods that have been or are to be sold or for services rendered or to be rendered, and includes, without limitation, the obligation to pay any finance charges, fees and other charges with respect thereto; *provided, however*, that no Excluded Receivable shall constitute a Receivable. Any such right to payment arising from any one transaction, including, without limitation, any such right to payment represented by an individual invoice or agreement, shall constitute a Receivable separate from a Receivable consisting of any such right to payment arising from any other transaction.

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

*"Receivables Sale Agreement"* means the Receivables Sale and Contribution Agreement, dated as of the Closing Date, among the Originators and the Borrower, as such agreement may be amended, supplemented or otherwise modified from time to time.

*"Receivables Sale Agreement Termination Event"* means the date on which a termination of the purchase and sale of Receivables under the Receivables Sale Agreement shall have occurred pursuant to Section 6.1 or 6.2 thereof.

*"Reference Year"* means a period of 12 calendar months beginning on January 1 of any year and ending on December 31 of the same year. For purposes of this Agreement, the first Reference Year will be the 12-month period ending December 31, 2021.

“*Register*” has the meaning set forth in Section 14.03(c).

“*Regulation U or X*” means Regulation U or X, respectively, of the Board of Governors of the Federal Reserve System as from time to time in effect and any successor to all or a portion thereof.

“*Reimbursement Obligation*” has the meaning set forth in Section 3.04(a).

“*Reinvestment*” has the meaning set forth in Section 4.01(a).

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

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

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

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

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

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

(d) all of the Borrower’s and each Originator’s rights, interests and claims under the related Contracts and all guaranties, indemnities, insurance and other agreements (including the related Contract), “supporting obligations” (as defined in the UCC) or arrangements of whatever character from time to time supporting or securing payment of such Receivable (including all eligible supporting Letters of Credit, if any) or otherwise relating to such Receivable, whether pursuant to the Contract related to such Receivable or otherwise; and

(e) all of the Borrower’s rights, interests and claims under the Receivables Sale Agreement and the other Transaction Documents.

“*Release*” has the meaning set forth in Section 4.01(a).

“*Representatives*” has the meaning set forth in Section 14.06(c).

“*Required Capital Amount*” means, at any time of determination, an amount equal to \$10,000,000.00.

“*Restricted Payments*” has the meaning set forth in Section 8.01(r).

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

“*Sanctioned Country*” means at any time, a country, region or territory which is itself the subject or target of any Sanctions.

“*Sanctioned Person*” means, at any time, (a) Person listed in any Sanctions-related list of designated Persons maintained by OFAC, the U.S. Department of State, or, to the extent applicable, the United Nations Security Council, the European Union, Her Majesty’s Treasury, or other applicable Governmental Authority, including, to the extent applicable, any Person so named under any Canadian Sanctions, (b) Person operating, organized or resident in a Sanctioned Country or (c) Person owned or controlled by any such Person or Persons described in clauses (a) and (b).

“*Sanctions*” means economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by the U.S. government (including those administered by OFAC or the U.S. Department of State) or, to the extent applicable, the European Union, Her Majesty’s Treasury, or any other Governmental Authority, including, to the extent applicable, any Canadian Sanctions.

“*Scheduled Termination Date*” means August 12, 2024, as such date may be extended pursuant to Section 2.01(b).

“*Scope 1 Emissions*” means, for any period, direct greenhouse gas emissions occurring from sources that are under the operational control of the Parent and its Subsidiaries, which are determined by the Parent in accordance with the GHG Protocol and the Parent’s internally developed methodology.

“*Scope 2 Emissions*” means, for any period, indirect greenhouse gas emissions occurring from the generation of purchased and imported electricity consumed by the Parent and its Subsidiaries in the operation of their business, which are determined by the Parent in accordance with the GHG Protocol and the Parent’s internally developed methodology.

“*SEC*” means the U.S. Securities and Exchange Commission or any governmental agencies substituted therefor.

“*Second Amendment Effective Date*” means December 23, 2019.

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

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

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

“Servicing Fee” means the fee referred to in Section 9.06 of this Agreement.

“Servicing Fee Rate” means the rate referred to in Section 9.06 of this Agreement.

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

“SOFR” shall mean, for any day, a rate equal to the secured overnight financing rate as administered by the Federal Reserve Bank of New York (or a successor administrator of the secured overnight financing rate).

“SOFR Adjustment” shall mean an interest rate per annum equal to ten basis points (0.10%).

“SOFR Floor” means a rate of interest per annum equal to 0 basis points (0.00%).

“SOFR Rate” means, at any time of determination, with respect to any Lender, Daily 1M SOFR or the Term SOFR Rate, as determined pursuant to Section 2.05, provided, however, that the SOFR Rate applicable to any Term SOFR Tranche funded pursuant to a payment of Capital that occurs other than on a Monthly Settlement Date shall be Daily 1M SOFR for each day during the initial Interest Period applicable to such Term SOFR Tranche from the date such Loan is made pursuant to Section 2.01 until the next occurring Monthly Settlement Date.

“SOFR Reserve Percentage” shall mean, for any day, the maximum effective percentage in effect on such day, if any, as prescribed by the Board of Governors of the Federal Reserve System (or any successor) for determining the reserve requirements (including, without limitation, supplemental, marginal and emergency reserve requirements) with respect to SOFR funding.

“Solvent” means, with respect to any Person as of a particular date, that on such date (a) such Person is able to pay its debts and other liabilities, contingent obligations and other commitments as they mature in the normal course of business, (b) 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 in their ordinary course, (c) such Person is not engaged in a business or a transaction, and is not about to engage in a business or a transaction, for which such Person's assets would constitute unreasonably small capital after giving due consideration to the prevailing practice in the industry in which such Person is engaged or is to engage, (d) the fair value of the assets of such Person is greater than the total amount of liabilities, including, without limitation, contingent liabilities, of such Person and (e) 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 as they become absolute and matured. In computing the amount of contingent liabilities at any time, it is intended that such liabilities will be computed as the amount which, in light of all the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability.

*"Special Concentration Limit"* has the meaning set forth in the definition of Concentration Percentage.

*"Special Obligor"* has the meaning set forth in the definition of Concentration Percentage.

*"Structuring Agent"* means PNC Capital Markets LLC, a Pennsylvania limited liability company.

*"Subject Originator"* means any Originator initially listed on Schedule V; *provided* that any such Originator may be removed from Schedule V at the direction of the Administrative Agent upon the satisfaction of the Subject Originator Conditions.

*"Subject Originator Conditions"* means delivery of the following items in form and substance satisfactory to the Administrative Agent:

(a) a written opinion of counsel to such Originator with respect to certain corporate, enforceability, and security interest matters with regard to such Originator and in substantially the same form as given on the Closing Date;

(b) a written opinion of counsel to such Originator with respect to true sale and nonconsolidation matters in substantially the same form as given on the Closing Date;

(c) satisfactory reports of searches of UCC filings in the jurisdiction of formation of such Originator, or where a filing has been or would need to be made in order to perfect the Administrative Agent's security interest on behalf of the Secured Parties in the Collateral, copies of the financing statements on file in such jurisdictions and evidence that no Adverse Claims exist (other than Permitted Liens), or, if necessary, copies of proper financing statements, if any, filed on or before the date hereof necessary to terminate all security interests and other rights of any Person in any Collateral previously granted;

(d) UCC-1 financing statements with respect to the Collateral together with written evidence reasonably satisfactory to the Administrative Agent that the same have been filed or submitted for filing in the appropriate public filing office(s) in the Administrative Agent's sole discretion, to perfect the Administrative Agent's security interest on behalf of the Secured Parties in the Collateral; and

(e) A certificate of a Financial Officer of such Originator certifying as to the incumbency and genuineness of the signature of each officer of such Originator executing Transaction Documents to which it is a party and certifying that attached thereto is a true, correct and complete copy of (A) the certificate of limited partnership, incorporation, formation or other formation documents of such Originator and all amendments thereto, certified as of a recent date by the appropriate Governmental Authority in its jurisdiction of formation, (B) the limited partnership or limited liability company agreement or other governing document of such Originator as in effect on the Closing Date, (C) resolutions duly adopted by the general partner (or other governing body) of such Originator authorizing and approving the transactions contemplated hereunder and the execution, delivery and performance of this Agreement and the other Transaction Documents to which it is a party, and (D) certificates as of a recent date of the good standing of such Originator under the laws of its jurisdiction of organization and, to the extent requested by the Administrative Agent, each other jurisdiction where such Originator is qualified to do business.

*"Subject Originator Receivable"* means any Receivable originated by a Subject Originator.

*"Subordinated Note"* means each "Subordinated Note" (as defined in the Receivables Sale Agreement).

*"Sub-Servicer"* has the meaning set forth in Section 9.01(d).

*"Subsidiary"* means as to any Person, any corporation, partnership, limited liability company or other entity of which more than fifty percent (50%) of the outstanding Capital Stock having ordinary voting power to elect a majority of the board of directors (or equivalent governing body) or other managers of such corporation, partnership, limited liability company or other entity is at the time owned by (directly or indirectly) or the management is otherwise controlled by (directly or indirectly) such Person (irrespective of whether, at the time, Capital Stock of any other class or classes of such corporation, partnership, limited liability company or other entity shall have or might have voting power by reason of the happening of any contingency). Unless otherwise qualified, references to "Subsidiary" or "Subsidiaries" herein shall refer to those of the Parent.

*"Taxes"* means any and all present or future taxes, levies, imposts, duties, deductions, charges or withholdings (including backup withholding), assessments or fees imposed by any Governmental Authority and all interest, penalties, and additions to tax with respect thereto.

“Term SOFR Administrator” means CME Group Benchmark Administration Limited (CBA) (or a successor administrator of the Term SOFR Reference Rate selected by the Administrative Agent in its reasonable discretion).

“Term SOFR Rate” means with respect to any Tranche Period, the interest rate per annum determined by the Administrative Agent by dividing (the resulting quotient rounded upwards, at the Administrative Agent’s discretion, to the nearest 1/100th of 1%) (A) the Term SOFR Reference Rate for a tenor comparable to such Tranche Period, as such rate is published by the Term SOFR Administrator on the day (the “Term SOFR Determination Date”) that is two (2) Business Days prior to the first day of such Tranche Period, by (B) a number equal to 1.00 minus the SOFR Reserve Percentage; provided, however, that with respect to the initial Tranche Period for any Capital advanced or issued on a date that is not a Monthly Settlement Date, the Term SOFR Rate shall be the interest rate per annum equal to Daily 1M SOFR for each day during such initial Tranche Period from the date that such Loan is made pursuant to Section 2.01 until the next occurring Monthly Settlement Date. If the Term SOFR Reference Rate for the applicable tenor has not been published or replaced with a Benchmark Replacement by 5:00 p.m. (New York City time) on the Term SOFR Determination Date, then the Term SOFR Reference Rate, for purposes of clause (A) in the preceding sentence, shall be the Term SOFR Reference Rate for such tenor on the first Business Day preceding such Term SOFR Determination Date for which such Term SOFR Reference Rate for such tenor was published in accordance herewith, so long as such first preceding Business Day is not more than three (3) Business Days prior to such Term SOFR Determination Date. If the Term SOFR Rate, determined as provided above, would be less than the SOFR Floor, then the Term SOFR Rate shall be deemed to be the SOFR Floor. The Term SOFR Rate shall be adjusted automatically without notice to the Borrower on and as of (i) the first day of each Tranche Period, and (ii) the effective date of any change in the SOFR Reserve Percentage.

“Term SOFR Reference Rate” shall mean the forward-looking term rate based on SOFR.

“Term SOFR Tranche” means any Capital (or portion thereof) accruing Interest at the Term SOFR Rate.

“Termination Date” means the earliest to occur of (a) the Scheduled Termination Date, (b) the date on which the “Termination Date” is declared or deemed to have occurred under Section 10.01 and (c) the date selected by the Borrower on which all Commitments have been reduced to zero pursuant to Section 2.02(e).

“Termination Event” means the occurrence of any of the following which, individually or in the aggregate, has resulted or could reasonably be expected to result in liability of the Borrower in an aggregate amount in excess of the lesser of (x) three percent (3%) of Consolidated Net Tangible Assets and (y) \$50,000,000: (a) a “Reportable Event” described in Section 4043 of ERISA for which the thirty (30) day notice requirement has not been waived by the PBGC, or (b) the withdrawal of the Borrower, the Parent or any ERISA Affiliate from a Pension Plan during a plan year in which it was a “substantial employer” as defined in Section 4001(a) (2) of ERISA or a cessation of operations that is treated as such a withdrawal under Section 4062(e) of ERISA, or (c) the termination of a Pension Plan, the filing of a notice of

intent to terminate a Pension Plan or the treatment of a Pension Plan amendment as a termination, under Section 4041 of ERISA, if the plan assets are not sufficient to pay all plan liabilities, or (d) the institution of proceedings to terminate, or the appointment of a trustee with respect to, any Pension Plan by the PBGC, or (e) any other event or condition which would constitute grounds under Section 4042(a) of ERISA for the termination of, or the appointment of a trustee to administer, any Pension Plan, or (f) the imposition of a lien pursuant to Section 430(k) of the Code or Section 303 of ERISA, or (g) the determination that any Pension Plan or Multiemployer Plan is considered an at-risk plan or plan in endangered or critical status with the meaning of Sections 430, 431 or 432 of the Code or Sections 303, 304 or 305 of ERISA or (h) the partial or complete withdrawal of the Borrower, the Parent or any ERISA Affiliate from a Multiemployer Plan if withdrawal liability is asserted by such plan, or (i) any event or condition which results in the reorganization or insolvency of a Multiemployer Plan under Sections 4241 or 4245 of ERISA, or (j) any event or condition which results in the termination of a Multiemployer Plan under Section 4041A of ERISA or the institution by PBGC of proceedings to terminate a Multiemployer Plan under Section 4042 of ERISA, or (k) the imposition of any liability under Title IV of ERISA, other than for PBGC premiums due but not delinquent under Section 4007 of ERISA, upon the Borrower, the Parent or any ERISA Affiliate.

“*Total GHG Emissions*” means, for any period, the total aggregate amount of ~~Scope 1 Emissions and~~ (a) direct greenhouse gas emissions occurring from sources that are under the operational control of the Parent and its Subsidiaries, which are determined by the Parent in accordance with the GHG Protocol and the Parent’s internally developed methodology (“Scope 1 Emissions”) for such period and (b) indirect greenhouse gas emissions occurring from the generation of purchased and imported electricity consumed by the Parent and its Subsidiaries in the operation of their business, which are determined by the Parent in accordance with the GHG Protocol and the Parent’s internally developed methodology (“Scope 2 Emissions”) for such period.

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

“*Tranche Period*” means, with respect to any Loan for which Interest is computed by reference to ~~Adjusted LIBOR~~ the Term SOFR Rate, a period of one, ~~two or three months~~ month selected by the Borrower pursuant to Section 2.05. Each Tranche Period shall commence on a Monthly Settlement Date and end on (but not including) the Monthly Settlement Date occurring one, ~~two, or three~~ calendar months thereafter, ~~as selected by the Borrower pursuant to Section 2.05~~; *provided, however* that if the date any Loan made pursuant to Section 2.01 is not a Monthly Settlement Date, the initial Tranche Period for such Loan shall commence on the date such Loan is made pursuant to Section 2.01 and end on the next Monthly Settlement Date occurring after the day in the applicable succeeding calendar month which corresponds numerically to the beginning day of such initial Tranche Period; *provided, further* that if any Tranche Period would end after the Termination Date, such Tranche Period (including a period of one day) shall end on the Termination Date.

“*Transaction Documents*” means this Agreement, the Receivables Sale Agreement, the Account Control Agreements, the Fee Letter, the Performance Guaranty and all other certificates, instruments, UCC financing statements, reports, notices, agreements and documents executed or delivered under or in connection with this Agreement, in each case as the same may be amended, supplemented or otherwise modified from time to time in accordance with this Agreement.

“*Transaction Information*” shall mean any information provided to any Rating Agency, in each case, to the extent related to such Rating Agency providing or proposing to provide a rating of any Notes or monitoring such rating including, without limitation, information in connection with the Borrower, the Originator, the Servicer or the Receivables.

“*TRIR Among Peers*” means, for any Reference Year, the DCP TRIR for such Reference Year as compared to the Peer Average TRIR for such Reference Year.

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

“*Unbilled Receivable*” means, at any time, any Receivable as to which the invoice or bill with respect thereto has not yet been sent to the Obligor thereof.

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

“*U.S. Government Securities Business Day*” means any day except for (a) a Saturday or Sunday or (b) a day on which the Securities Industry and Financial Markets Association recommends that the fixed income departments of its members be closed for the entire day for purposes of trading in United States government securities.

“*U.S. Tax Compliance Certificate*” has the meaning set forth in Section 5.03(f)(ii)(B)(3).

“*Weekly Information Package*” means a report, in substantially the form of Exhibit F-2.

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

$$\frac{1.50 \times \text{DSO} \times \text{BR}}{360}$$

where:

BR = the Base Rate plus 1.0%; and

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

*Section 1.02. Other Interpretative Matters.* All accounting terms not specifically defined herein shall be construed in accordance with GAAP. All terms used in Article 9 of the UCC in the State of New York and not specifically defined herein, are used herein as defined in such

Article 9. Unless otherwise expressly indicated, all references herein to “Article,” “Section,” “Schedule,” “Exhibit” or “Annex” shall mean articles and sections of, and schedules, exhibits and annexes to, this Agreement. For purposes of this Agreement, the other Transaction Documents and all such certificates and other documents, unless the context otherwise requires: (a) references to any amount as on deposit or outstanding on any particular date means such amount at the close of business on such day; (b) the words “hereof,” “herein” and “hereunder” and words of similar import refer to such agreement (or the certificate or other document in which they are used) as a whole and not to any particular provision of such agreement (or such certificate or document); (c) references to any Section, Schedule or Exhibit are references to Sections, Schedules and Exhibits in or to such agreement (or the certificate or other document in which the reference is made), and references to any paragraph, subsection, clause or other subdivision within any Section or definition refer to such paragraph, subsection, clause or other subdivision of such Section or definition; (d) the term “including” means “including without limitation”; (e) references to any Applicable Law refer to that Applicable Law as amended from time to time and include any successor Applicable Law; (f) references to any agreement refer to that agreement as from time to time amended, restated or supplemented or as the terms of such agreement are waived or modified in accordance with its terms; (g) references to any Person include that Person’s permitted successors and assigns; (h) headings are for purposes of reference only and shall not otherwise affect the meaning or interpretation of any provision hereof; (i) unless otherwise provided, in the calculation of time from a specified date to a later specified date, the term “from” means “from and including”, and the terms “to” and “until” each means “to but excluding”; (j) terms in one gender include the parallel terms in the neuter and opposite gender; (k) references to any amount as on deposit or outstanding on any particular date means such amount at the close of business on such day and (l) the term “or” is not exclusive.

Section 1.03. ~~LIBOR~~SOFR Notification. Section ~~5.05~~5.04(c) of this Agreement provides a mechanism for determining an alternative rate of interest in the event that the ~~London interbank offered rate~~Term SOFR Rate or Daily 1M SOFR is no longer available or in certain other circumstances. The Administrative Agent does not warrant or accept any responsibility for and shall not have any liability with respect to, the administration, submission or any other matter related to the ~~London interbank offered rate or other rates in the definitions of “LMIR” or “Adjusted LIBOR”~~Term SOFR Rate, Daily 1M SOFR or with respect to any alternative or successor ~~rates~~rate thereto, or replacement ~~rates~~rate therefor.

Section 1.04. Conforming Changes Relating to SOFR. With respect to the Term SOFR Rate and Daily 1M SOFR, the Administrative Agent will have the right to make Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Transaction Document, any amendments implementing such Conforming Changes will become effective without any further action or consent of any other party to this Agreement or any other Transaction Document; provided that, with respect to any such amendment effected, the Administrative Agent shall provide notice to the Borrower and the Lenders of each such amendment implementing such Conforming Changes reasonably promptly after such amendment becomes effective.

## Article II

### Terms of the Loans

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

- (i) the Aggregate Capital plus the LC Participation Amount would exceed the Facility Limit at such time;
- (ii) the sum of (A) the Capital of such Lender, plus (B) the aggregate outstanding Capital of each other Lender in its Group, plus (C) the related LC Participant's Pro Rata Share of the LC Participation Amount, would exceed the Group Commitment of such Lender's Group;
- (iii) if such Lender is a Committed Lender, the aggregate outstanding Capital of such Committed Lender would exceed its Commitment; or
- (iv) the Aggregate Capital plus the Adjusted LC Participation Amount would exceed the Borrowing Base at such time.

(b) *Extension of Scheduled Termination Date.* The Borrower may, no more frequently than once each year, request the Committed Lenders to extend the date set forth in the definition of "Scheduled Termination Date" (the "*Commitment Termination Date*") for a period of 364 days past the then applicable Commitment Termination Date by delivering written notice to each Group Agent, with such extension to become effective as of the date one or more Committed Lenders shall in their sole discretion consent to such extension. Any such request shall be subject to the following conditions: (i) at no time will any Commitment of any Committed Lender have a term of more than 364 days and, if any such request would result in a term of more than 364 days, such request shall be deemed to have been made for such number of days so that, after giving effect to such extension on the date requested, such term will not exceed 364 days, (ii) none of the Committed Lenders will have any obligation to extend any Commitment, (iii) any such extension of the Commitment Termination Date will be effective only upon the written agreement of at least one Committed Lender and the Borrower and (iv) any request for such extension shall be made not more than one hundred twenty (120) nor less than forty-five (45) days prior to the then current and applicable Commitment Termination Date. The Group Agent for each applicable Committed Lender will respond to any such request within thirty (30)

days but in any event no earlier than ninety (90) days prior to the then current Commitment Termination Date, *provided*, that any Group Agent's failure to respond within such period shall be deemed to be a rejection of the requested extension. If one or more Group Agents (but less than all) does not extend the Scheduled Termination Date, the Commitments of the Committed Lenders in such Group Agent's Group (each Lender in such Group, a "*Non-Renewing Lender*") shall expire on the then current Commitment Termination Date without further action required on the part of any Person and the Scheduled Termination Date shall be extended only with respect to the Committed Lenders that have confirmed the extension of their Commitments to the Borrower in writing on or prior to the then current Commitment Termination Date. For the avoidance of doubt, no Non-Renewing Lender shall be an LC Participant with respect to any undrawn and unexpired amount of any then outstanding Letters of Credit following the expiration of the Commitments of such Non-Renewing Lender.

*Section 2.02. Making Loans; Repayment of Loans.* (a) Each Loan hereunder shall be made on at least one (1) Business Day's prior written request from the Borrower to the Administrative Agent and each Group Agent in the form of a Loan Request attached hereto as Exhibit A-1, provided that, at any time when PNC (or an Affiliate thereof) is both the Administrative Agent and the sole Group Agent hereunder, if the Borrower enters into a separate written agreement with the Administrative Agent regarding the Administrative Agent's PINACLE® auto-advance service (or any similar or replacement electronic loan administration service implemented by the Administrative Agent), then any request for a Loan made using such service shall constitute a Loan Request, and each Loan made pursuant to such service shall be made on the date such Loan Request is received by the Administrative Agent. Each such request for a Loan shall be made no later than 1:00 p.m. (New York City time) on a Business Day (it being understood that any such request made after such time shall be deemed to have been made on the following Business Day) and shall specify (i) the amount of the Loan(s) requested (which shall not be less than \$100,000 and shall be an integral multiple of \$100,000), (ii) the allocation of such amount among the Groups (which shall be ratable based on the Group Commitments), (iii) the account to which the proceeds of such Loan shall be distributed and (iv) the date such requested Loan is to be made (which shall be a Business Day).

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

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

(d) The Borrower shall repay in full the outstanding Capital of each Lender on the Maturity Date. Prior thereto, the Borrower shall, on each Settlement Date, make a prepayment of



the outstanding Capital of the Lenders to the extent required under Section 4.01 and otherwise in accordance therewith. Notwithstanding the foregoing, the Borrower, in its discretion, shall have the right to make a prepayment, in whole or in part, of the outstanding Capital of the Lenders (i) at any time when PNC (or an Affiliate thereof) is both the Administrative Agent and the sole Group Agent hereunder, and to the extent the Borrower has entered into a separate written agreement with the Administrative Agent regarding the Administrative Agent's PINACLE® auto-advance service (or any similar or replacement electronic loan administration service implemented by the Administrative Agent) pursuant to Section 2.02(a) hereof, on any Business Day, or (ii) otherwise, on any Business Day upon one (1) Business Day's prior written notice thereof to the Administrative Agent and each Group Agent in the form of a Reduction Notice attached hereto as Exhibit D; *provided, however*, that (i) each such prepayment shall be in a minimum aggregate amount of \$100,000 and shall be an integral multiple of \$100,000 and (ii) any accrued Interest and Fees in respect of such prepaid Capital shall be paid on the immediately following Settlement Date.

(e) The Borrower may, at any time upon at least five (5) Business Days' prior written notice to the Administrative Agent and each Group Agent, terminate the Facility Limit in whole or ratably reduce the Facility Limit in part. Each partial reduction in the Facility Limit shall be in a minimum aggregate amount of \$5,000,000 and shall be an integral multiple of \$1,000,000, and no such partial reduction shall reduce the Facility Limit to an amount less than \$100,000,000. In connection with any partial reduction in the Facility Limit, the Commitment of each Committed Lender and LC Participant shall be ratably reduced.

(f) In connection with any reduction of the Commitments, the Borrower shall remit to the Administrative Agent (i) instructions regarding such reduction and (ii) for payment to the Lenders, cash in an amount sufficient to pay (A) the Capital of the Lenders in each Group in excess of the Group Commitment of such Group and (B) all other outstanding Borrower Obligations with respect to such reduction (determined based on the ratio of the reduction of the Commitments being effected to the amount of the Commitments prior to such reduction or, if the Administrative Agent reasonably determines that any portion of the outstanding Borrower Obligations is allocable solely to that portion of the Commitments being reduced or has arisen solely as a result of such reduction, all of such portion) including, without duplication, any associated Breakage Fees. Upon receipt of any such amounts, the Administrative Agent shall apply such amounts first to the reduction of the outstanding Capital, and second to the payment of the remaining outstanding Borrower Obligations with respect to such reduction, including any Breakage Fees, by paying such amounts to the Lenders.

*Section 2.03. Interest and Fees.* (a) On each Settlement Date, the Borrower shall, in accordance with the terms and priorities for payment set forth in Section 4.01, pay to each Group Agent, each Lender, the Administrative Agent, and the Structuring Agent certain fees (collectively, the "*Fees*") in the amounts set forth in the fee letter agreements from time to time entered into, among the Borrower, the members of the applicable Group (or their Group Agent on their behalf) and/or the Administrative Agent (each such fee letter agreement, as amended, restated, supplemented or otherwise modified from time to time, collectively being referred to herein as the "*Fee Letter*"); *provided* that, notwithstanding anything in the Fee Letter to the contrary, the ESG Margin then in effect shall be added (which ESG Margin, for the avoidance of

doubt, may be a positive or negative percentage) to the percentages specified in each of the definitions of Drawn Fee, LC Participation Fee, Unused Fee and Commitment Fee (each as defined in the Fee Letter) for purposes of computing each of the foregoing Fees on each such day. Commitment Fees (as defined in the Fee Letter) shall cease to accrue on the unfunded portion of the Commitment of such Defaulting Lender as provided in Section 2.06.

(b) The Capital of each Lender shall accrue interest on each day when such Capital remains outstanding at the then applicable Interest Rate. The Borrower shall pay all Interest, Fees and Breakage Fees accrued during each Interest Period on the immediately following Settlement Date in accordance with the terms and priorities for payment set forth in Section 4.01.

*Section 2.04. Records of Loans.* Each Group Agent shall record in its records, the date and amount of each Loan and Participation Advance made by the Lenders in its Group hereunder, the interest rate with respect thereto, the Interest accrued thereon and each repayment and payment thereof. Subject to Section 14.03(c), such records shall be conclusive and binding absent manifest error. The failure to so record any such information or any error in so recording any such information shall not, however, limit or otherwise affect the obligations of the Borrower hereunder or under the other Transaction Documents to repay the Capital of each Lender, together with all Interest accruing thereon and all other Borrower Obligations.

*Section 2.05. Selection of Interest Rates ~~and Tranche Periods~~.* (a) So long as no Event of Default has occurred and is continuing, the Borrower may from time to time elect the type of Interest Rate ~~and/or Tranche Period~~ borne by each Loan or, subject to the minimum amount requirement for each outstanding Loan set forth in Section 2.02, a portion thereof by notice to the Administrative Agent not later than 1:00 p.m. (New York City time), one (1) Business Day prior to the expiration of any ~~Tranche Period or~~ Interest Period, as applicable; *provided*, that there shall not be more than ten (10) Loans outstanding for which Interest is computed by reference to ~~LMIR or Adjusted LIBOR~~ the SOFR Rate hereunder at any one time. Any such notices requesting the continuation or conversion of a Loan to the Administrative Agent may be given by telephone, telecopy, or other telecommunication device acceptable to the Administrative Agent (which notice shall be irrevocable once given and, if by telephone, shall be promptly confirmed in writing in a manner acceptable to the Administrative Agent).

(b) If, by the time required in Section 2.05(a), the Borrower fails to select ~~a Tranche Period or~~ an Interest Rate for any Loan, such Loan shall automatically accrue Interest at ~~LMIR~~ Daily 1M SOFR until such time as the Interest Rate is selected by the Borrower in accordance with this Section 2.05.

*Section 2.06. Defaulting Lenders.* Notwithstanding any provision of this Agreement to the contrary, if any Committed Lender becomes a Defaulting Lender, then the following provisions shall apply for so long as such Committed Lender is a Defaulting Lender:

(a) Commitment Fees (as defined in the Fee Letter) shall cease to accrue on the unfunded portion of the Commitment of such Defaulting Lender.

(b) The Commitment and Capital of such Defaulting Lender shall not be included in determining whether the Majority Group Agents have taken or may take any action hereunder (including any consent to any amendment, waiver or other modification pursuant to Section 14.01); provided, that, except as otherwise provided in Section 14.01, this clause (b) shall not apply to the vote of a Defaulting Lender in the case of an amendment, waiver or other modification requiring the consent of such Committed Lender or each Committed Lender directly affected thereby (if such Committed Lender is directly affected thereby).

(c) In the event that the Administrative Agent, the Borrower and the Servicer each agrees in writing that a Defaulting Lender has adequately remedied all matters that caused such Lender to be a Defaulting Lender, then on such date such Committed Lender (or a member of such Committed Lender's Group) shall purchase at par such of the Loans of the other Lenders as the Administrative Agent shall determine may be necessary in order for such Committed Lender's Group to hold such Loans in accordance with its Pro Rata Percentage; provided, that no adjustments shall be made retroactively with respect to fees accrued or payments made by or on behalf of the Borrower while such Committed Lender was a Defaulting Lender, and provided, further, that except to the extent otherwise agreed by the affected parties, no change hereunder from Defaulting Lender to Lender that is not a Defaulting Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender having been a Defaulting Lender.

Section 2.07. Increase of Commitments.

(a) From time to time prior to the Termination Date and in accordance with this Section 2.07, the Borrower may, upon at least thirty (30) days' prior written notice to the Administrative Agent (or such shorter period as may be agreed to by the Administrative Agent in its sole discretion) (who shall promptly provide a copy of such notice to each Group Agent), propose to increase the Facility Limit (each such increase, an "Incremental Commitment"); provided, that:

(i) the aggregate amount of all Incremental Commitments shall not exceed the Maximum Incremental Facility Amount;

(ii) any Incremental Commitment shall be in a minimum principal amount of \$10,000,000 and in integral multiples of \$10,000,000 in excess thereof, and the Borrower may invite any Committed Lender, any Eligible Assignee and/or any other Person reasonably satisfactory to the Administrative Agent and the LC Bank, to provide an Incremental Commitment (any such Person, an "Incremental Lender") (it being understood that any Committed Lender or any Incremental Lender offered or approached to provide all or a portion of any Incremental Commitment may elect or decline, in its sole discretion, to provide such Incremental Commitment);

(iii) no Event of Default or Unmatured Event of Default shall exist and be continuing at the time of the establishment of any Incremental Commitment;

(iv) the conditions set forth in Section 6.02 shall be satisfied as of the date of the establishment of any Incremental Commitment;

\_\_\_(v)\_\_\_ the Borrower shall have provided to the Administrative Agent a certificate, in form a detail reasonably acceptable to the Administrative Agent, certifying as to compliance with clauses (iii) and (iv) in this Section 2.07;

\_\_\_(vi)\_\_\_ the Administrative Agent shall have received all documents (including resolutions of the board of directors of the Borrower and opinions of counsel) it may reasonably request relating to such Incremental Commitments, all in form and substance reasonably satisfactory to the Administrative Agent and shall have consented to such Incremental Commitments and any amendments in connection therewith;

\_\_\_(vii)\_\_\_ any Incremental Commitments shall have terms identical to those for the initial Commitments under this Agreement;

\_\_\_(viii)\_\_\_ no Committed Lender or Incremental Lender shall have any obligation to provide any Incremental Commitment, and any decision by a Committed Lender or Incremental Lender to provide any Incremental Commitment shall be made in its sole discretion independently from any other Investor;

\_\_\_(ix)\_\_\_ any Incremental Commitments shall be pursuant to a commitment agreement, joinder agreement or other document in form and substance reasonably acceptable to the Administrative Agent, and upon the effectiveness of such commitment agreement, joinder agreement or other document pursuant to the terms thereof, the Commitments, as applicable, shall automatically be increased by the amount of the Commitments added through such commitment agreement, joinder agreement or other document;

\_\_\_(x)\_\_\_ the Borrower shall pay any applicable upfront or arrangement fees in connection with such Incremental Commitments; and

\_\_\_(xi)\_\_\_ all other terms and conditions with respect to any such Incremental Commitments shall be reasonably satisfactory to the Administrative Agent.

\_\_\_(b)\_\_\_ Upon the effectiveness of any such Incremental Commitment, the Commitments of each Committed Lender and Incremental Lender will be adjusted to give effect to the Incremental Commitments.

(c) Any Incremental Lender with an Incremental Commitment shall be entitled to the same voting rights as the existing Committed Lenders and any such Loan made in connection with each Incremental Commitment shall receive proceeds of prepayments on the same basis as the other Loans made hereunder.

(d) The Incremental Lenders shall be included in any determination of the Majority Group Agents, as applicable, and the Incremental Lenders will not constitute a separate voting class for any purposes under this Agreement.

(e) On the effective date of any Incremental Commitment, subject to the foregoing terms and conditions, each Incremental Lender with an Incremental Commitment shall become a Committed Lender hereunder with respect to such Incremental Commitment.

### **Article III**

#### **Letter of Credit Facility**

*Section 3.01. Letters of Credit.* (a) Subject to the terms and conditions hereof and the satisfaction of the applicable conditions set forth in Article VI, the LC Bank shall issue or cause the issuance of Letters of Credit on behalf of the Borrower (and, if applicable, on behalf of, or for the account of, an Originator or an Affiliate of such Originator in favor of such beneficiaries as such Originator or an Affiliate of such Originator may elect with the consent of the Borrower); *provided, however*, that the LC Bank will not be required to issue or cause to be issued any Letters of Credit to the extent that after giving effect thereto:

- (i) the Aggregate Capital plus the LC Participation Amount would exceed the Facility Limit at such time;
- (ii) the Aggregate Capital plus the LC Participation Amount would exceed the Borrowing Base at such time;
- (iii) the LC Participation Amount would exceed the Facility Limit; or
- (iv) the LC Participation Amount would exceed the aggregate of the Commitments of the LC Participants at such time.

(b) Interest shall accrue on all amounts drawn under Letters of Credit for each day on and after the applicable Drawing Date so long as such drawn amounts shall have not been reimbursed to the LC Bank pursuant to the terms hereof.

*Section 3.02. Issuance of Letters of Credit; Participations.* (a) The Borrower may request the LC Bank, upon two (2) Business Days' prior written notice submitted on or before 1:00 p.m. (New York City time), to issue a Letter of Credit by delivering to the Administrative Agent, each Lender and the LC Bank, the LC Bank's form of Letter of Credit Application (the "*Letter of Credit Application*"), substantially in the form of Exhibit A-2 attached hereto and an LC Request, in each case completed to the satisfaction of the Administrative Agent and the LC Bank; and such other certificates, documents and other papers and information as the Administrative Agent or the LC Bank may reasonably request.

(b) Each Letter of Credit shall, among other things, (i) provide for the payment of sight drafts or other written demands for payment when presented for honor thereunder in accordance with the terms thereof and when accompanied by the documents described therein and (ii) have an expiry date not later than twelve (12) months after such Letter of Credit's date of issuance, extension or renewal, as the case may be, and in no event later than twelve (12) months after the Scheduled Termination Date. The terms of each Letter of Credit may include customary

“evergreen” provisions providing that such Letter of Credit’s expiry date shall automatically be extended for additional periods not to exceed twelve (12) months unless, not less than thirty (30) days (or such longer period as may be specified in such Letter of Credit) (the “*Notice Date*”) prior to the applicable expiry date, the LC Bank delivers written notice to the beneficiary thereof declining such extension; *provided, however*, that if (x) any such extension would cause the expiry date of such Letter of Credit to occur after the date that is twelve (12) months after the Scheduled Termination Date or (y) the LC Bank determines that any condition precedent (including, without limitation, those set forth in Section 3.01 and Article VI) to issuing such Letter of Credit hereunder are not satisfied (other than any such condition requiring the Borrower to submit an LC Request or Letter of Credit Application in respect thereof), then the LC Bank, in the case of clause (x) above, may (or, at the written direction of any LC Participant, shall) or, in the case of clause (y) above, shall, use reasonable efforts in accordance with (and to the extent permitted by) the terms of such Letter of Credit to prevent the extension of such expiry date (including notifying the Borrower and the beneficiary of such Letter of Credit in writing prior to the Notice Date that such expiry date will not be so extended). Each Letter of Credit shall be subject either to the Uniform Customs and Practice for Documentary Credits (2007 Revision), International Chamber of Commerce Publication No. 600, and any amendments or revisions thereof adhered to by the LC Bank or the International Standby Practices (ISP98-International Chamber of Commerce Publication Number 590), and any amendments or revisions thereof adhered to by the LC Bank, as determined by the LC Bank.

(c) Immediately upon the issuance by the LC Bank of any Letter of Credit (or any amendment to a Letter of Credit increasing the amount thereof), the LC Bank shall be deemed to have sold and transferred to each LC Participant, and each LC Participant shall be deemed irrevocably and unconditionally to have purchased and received from the LC Bank, without recourse or warranty, an undivided interest and participation, to the extent of such LC Participant’s Pro Rata Share, in such Letter of Credit, each drawing made thereunder and the obligations of the Borrower hereunder with respect thereto, and any security therefor or guaranty pertaining thereto. Upon any change in the Commitments or Pro Rata Shares of the LC Participants pursuant to this Agreement, it is hereby agreed that, with respect to all outstanding Letters of Credit and unreimbursed drawings thereunder, there shall be an automatic adjustment to the participations pursuant to this clause (c) to reflect the new Pro Rata Shares of the assignor and assignee LC Participant or of all LC Participants with Commitments, as the case may be. In the event that the LC Bank makes any payment under any Letter of Credit and the Borrower shall not have reimbursed such amount in full to the LC Bank pursuant to Section 3.04(a), each LC Participant shall be obligated to make Participation Advances with respect to such Letter of Credit in accordance with Section 3.04(b).

*Section 3.03. Requirements For Issuance of Letters of Credit.* The Borrower shall authorize and direct the LC Bank to name the Borrower, an Originator or an Affiliate of an Originator as the “Applicant” or “Account Party” of each Letter of Credit.

*Section 3.04. Disbursements, Reimbursement.* (a) In the event of any request for a drawing under a Letter of Credit by the beneficiary or transferee thereof, the LC Bank will promptly notify the Administrative Agent and the Borrower of such request. The Borrower shall reimburse (such obligation to reimburse the LC Bank shall sometimes be referred to as a

“*Reimbursement Obligation*”) the LC Bank prior to noon (New York City time), on each date that an amount is paid by the LC Bank under any Letter of Credit (each such date, a “*Drawing Date*”) in an amount equal to the amount so paid by the LC Bank. The Borrower shall honor its Reimbursement Obligation *first*, from funds on deposit in the LC Collateral Account, if any, and, *second*, from its own funds. To the extent the Borrower has not reimbursed the LC Bank any Reimbursement Obligations by noon (New York City time) on the second Business Day occurring after the applicable Drawing Date, the Borrower shall be deemed to have automatically requested a Loan pursuant to Section 2.01 to be funded on the second Business Day occurring after the applicable Drawing Date by noon (New York City time) in an amount equal to the amount necessary to pay any Reimbursement Obligations owing to the LC Bank without (i) the need for the delivery of any Loan Request, (ii) giving effect to any notice requirements applicable to requests for Loans hereunder or (iii) giving effect to the requirement that such Loan be made prior to the Termination Date. The Administrative Agent and the Lenders hereby waive any notice requirements set forth in Section 2.02 in connection with any such Loan that is automatically requested in order to pay any Reimbursement Obligations owing to the LC Bank. In the event the Borrower fails to reimburse the LC Bank for the full amount of any drawing under any Letter of Credit by noon (New York City time) on the Drawing Date (including because the conditions precedent to a Loan requested by the Borrower pursuant to Section 2.01(a) shall not have been satisfied), the LC Bank will promptly notify each LC Participant thereof. Any notice given by the LC Bank pursuant to this Section may be oral if promptly confirmed in writing; *provided* that the lack of such a prompt written confirmation shall not affect the conclusiveness or binding effect of such oral notice.

(b) Each LC Participant shall upon any notice pursuant to clause (a) above make available to the LC Bank an amount in immediately available funds equal to its Pro Rata Share of the amount of the drawing (a “*Participation Advance*”), whereupon the LC Participants shall each be deemed to have made a Loan to the Borrower in that amount. If any LC Participant so notified fails to make available to the LC Bank the amount of such LC Participant’s Pro Rata Share of such amount by 2:00 p.m. (New York City time) on the Drawing Date, then interest shall accrue on such LC Participant’s obligation to make such payment, from the Drawing Date to the date on which such LC Participant makes such payment (i) at a rate per annum equal to the Overnight Bank Funding Rate during the first three days following the Drawing Date and (ii) at a rate per annum equal to the Base Rate on and after the fourth day following the Drawing Date. The LC Bank will promptly give notice to each LC Participant of the occurrence of the Drawing Date, but failure of the LC Bank to give any such notice on the Drawing Date or in sufficient time to enable any LC Participant to effect such payment on such date shall not relieve such LC Participant from its obligation under this clause (b). Each LC Participant’s Commitment shall continue until the last to occur of any of the following events: (1) the LC Bank ceases to be obligated to issue or cause to be issued Letters of Credit hereunder, (2) no Letter of Credit issued hereunder remains outstanding and uncanceled or (3) all Credit Parties have been fully reimbursed for all payments made under or relating to Letters of Credit.

*Section 3.05. Repayment of Participation Advances.* (a) Upon (and only upon) receipt by the LC Bank for its account of immediately available funds from or for the account of the Borrower (i) in reimbursement of any payment made by the LC Bank under a Letter of Credit with respect to which any LC Participant has made a Participation Advance to the LC Bank or

(ii) in payment of Interest on the Loans made or deemed to have been made in connection with any such draw, the LC Bank will pay to each LC Participant, ratably (based on the outstanding drawn amounts funded by each such LC Participant in respect of such Letter of Credit), in the same funds as those received by the LC Bank; it being understood, that the LC Bank shall retain a ratable amount of such funds that were not the subject of any payment in respect of such Letter of Credit by any LC Participant.

(b) If the LC Bank is required at any time to return to the Borrower, or to a trustee, receiver, liquidator, custodian, or any official in any Insolvency Proceeding, any portion of the payments made by the Borrower to the LC Bank pursuant to this Agreement in reimbursement of a payment made under a Letter of Credit or interest or fee thereon, each LC Participant shall, on demand of the LC Bank, forthwith return to the LC Bank the amount of its Pro Rata Share of any amounts so returned by the LC Bank plus interest at the Overnight Bank Funding Rate, from the date the payment was first made to such LC Participant through, but not including, the date the payment is returned by such LC Participant.

(c) If any Letters of Credit are outstanding and undrawn on the Termination Date, the LC Collateral Account shall be funded from Collections (or, in the Borrower's sole discretion, by other funds available to the Borrower) in an amount equal to the aggregate undrawn face amount of such Letters of Credit plus all related fees to accrue through the stated expiration dates thereof (such fees to accrue, as reasonably estimated by the LC Bank, the "*LC Fee Expectation*").

*Section 3.06. Documentation.* The Borrower agrees to be bound by the terms of the Letter of Credit Application and by the LC Bank's interpretations of any Letter of Credit issued for the Borrower and by the LC Bank's written regulations and customary practices relating to letters of credit, though the LC Bank's interpretation of such regulations and practices may be different from the Borrower's own. In the event of a conflict between the Letter of Credit Application and this Agreement, this Agreement shall govern. The LC Bank shall not be liable for any error, negligence and/or mistakes, whether of omission or commission, in following the Borrower's instructions or those contained in the Letters of Credit or any modifications, amendments or supplements thereto.

*Section 3.07. Determination to Honor Drawing Request.* In determining whether to honor any request for drawing under any Letter of Credit by the beneficiary thereof, the LC Bank shall be responsible only to determine that the documents and certificates required to be delivered under such Letter of Credit have been delivered and that they comply on their face with the requirements of such Letter of Credit and that any other drawing condition appearing on the face of such Letter of Credit has been satisfied in the manner so set forth.

*Section 3.08. Nature of Participation and Reimbursement Obligations.* Each LC Participant's obligation in accordance with this Agreement to make Participation Advances as a result of a drawing under a Letter of Credit, and the obligations of the Borrower to reimburse the LC Bank upon a draw under a Letter of Credit, shall be absolute, unconditional and irrevocable, and shall be performed strictly in accordance with the terms of this Agreement and under all circumstances, including the following circumstances:



(i) any set-off, counterclaim, recoupment, defense or other right which such LC Participant may have against the LC Bank, the other Credit Parties, the Borrower, the Servicer, an Originator, the Performance Guarantor or any other Person for any reason whatsoever;

(ii) the failure of the Borrower or any other Person to comply with the conditions set forth in this Agreement for the making of a Loan, requests for Letters of Credit or otherwise, it being acknowledged that such conditions are not required for the making of Participation Advances hereunder;

(iii) any lack of validity or enforceability of any Letter of Credit or any set-off, counterclaim, recoupment, defense or other right which the Borrower, the Performance Guarantor, the Servicer, an Originator or any Affiliate thereof on behalf of which a Letter of Credit has been issued may have against the LC Bank, or any other Credit Party or any other Person for any reason whatsoever;

(iv) any claim of breach of warranty that might be made by the Borrower, an Originator, the Servicer or any Affiliate thereof, the LC Bank, or any LC Participant against the beneficiary of a Letter of Credit, or the existence of any claim, set-off, defense or other right which the Borrower, the Servicer, the LC Bank or any LC Participant may have at any time against a beneficiary, any successor beneficiary or any transferee of any Letter of Credit or the proceeds thereof (or any Persons for whom any such transferee may be acting), the LC Bank, any other Credit Party or any other Person, whether in connection with this Agreement, the transactions contemplated herein or any unrelated transaction (including any underlying transaction between the Borrower or any Affiliates of the Borrower and the beneficiary for which any Letter of Credit was procured);

(v) the lack of power or authority of any signer of, or lack of validity, sufficiency, accuracy, enforceability or genuineness of, any draft, demand, instrument, certificate or other document presented under any Letter of Credit, or any such draft, demand, instrument, certificate or other document proving to be forged, fraudulent, invalid, defective or insufficient in any respect or any statement therein being untrue or inaccurate in any respect, even if the Administrative Agent or the LC Bank has been notified thereof;

(vi) payment by the LC Bank under any Letter of Credit against presentation of a demand, draft or certificate or other document which does not comply with the terms of such Letter of Credit;

(vii) the solvency of, or any acts or omissions by, any beneficiary of any Letter of Credit, or any other Person having a role in any transaction or obligation relating to a Letter of Credit, or the existence, nature, quality, quantity, condition, value or other characteristic of any property or services relating to a Letter of Credit;

(viii) any failure by the LC Bank or any of the LC Bank's Affiliates to issue any Letter of Credit in the form requested by the Borrower;

- (ix) any Material Adverse Effect;
- (x) any breach of this Agreement or any other Transaction Document by any party thereto;
- (xi) the occurrence or continuance of an Insolvency Proceeding with respect to the Borrower, the Performance Guarantor, any Originator or any Affiliate thereof;
- (xii) the fact that an Event of Default or an Unmatured Event of Default shall have occurred and be continuing;
- (xiii) the fact that this Agreement or the obligations of the Borrower or the Servicer hereunder shall have been terminated; and
- (xiv) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing.

*Section 3.09. Indemnity.* In addition to other amounts payable hereunder, the Borrower hereby agrees to protect, indemnify, pay and save harmless the Administrative Agent, the LC Bank, each LC Participant, each other Credit Party and each of the LC Bank's Affiliates that have issued a Letter of Credit from and against any and all claims, demands, liabilities, damages, Taxes, penalties, interest, judgments, losses, costs, charges and expenses (including Attorney Costs) which the Administrative Agent, the LC Bank, any LC Participant, any other Credit Party or any of their respective Affiliates may incur or be subject to as a consequence, direct or indirect, of the issuance of any Letter of Credit, except to the extent resulting from (a) the gross negligence or willful misconduct of the party to be indemnified as determined by a final non-appealable judgment of a court of competent jurisdiction or (b) the wrongful dishonor by the LC Bank of a proper demand for payment made under any Letter of Credit, except if such dishonor resulted from any act or omission, whether rightful or wrongful, of any present or future de jure or de facto Governmental Authority (all such acts or omissions herein called "*Governmental Acts*"). Notwithstanding anything to the contrary, this Section 3.09 shall not apply to Taxes unless those Taxes represent losses, claims, damages, etc. arising as a result of a non-Tax claim that is otherwise subject to the indemnity contained in this Section 3.09.

*Section 3.10. Liability for Acts and Omissions.* As between the Borrower, on the one hand, and the Administrative Agent, the LC Bank, the LC Participants, and the other Credit Parties, on the other, the Borrower assumes all risks of the acts and omissions of, or misuse of any Letter of Credit by, the respective beneficiaries of such Letter of Credit. In furtherance and not in limitation of the foregoing, none of the Administrative Agent, the LC Bank, the LC Participants, or any other Credit Party shall be responsible for: (i) the form, validity, sufficiency, accuracy, genuineness or legal effect of any document submitted by any party in connection with the application for an issuance of any such Letter of Credit, even if it should in fact prove to be in any or all respects invalid, insufficient, inaccurate, fraudulent or forged (even if the LC Bank, any LC Participant or any other Credit Party shall have been notified thereof); (ii) the validity or sufficiency of any instrument transferring or assigning or purporting to transfer or assign any such Letter of Credit or the rights or benefits thereunder or proceeds thereof, in whole or in part,

which may prove to be invalid or ineffective for any reason; (iii) the failure of the beneficiary of any such Letter of Credit, or any other party to which such Letter of Credit may be transferred, to comply fully with any conditions required in order to draw upon such Letter of Credit or any other claim of the Borrower against any beneficiary of such Letter of Credit, or any such transferee, or any dispute between or among the Borrower and any beneficiary of any Letter of Credit or any such transferee; (iv) errors, omissions, interruptions or delays in transmission or delivery of any messages, by mail, electronic mail, cable, telegraph, telex, facsimile or otherwise, whether or not they be in cipher; (v) errors in interpretation of technical terms; (vi) any loss or delay in the transmission or otherwise of any document required in order to make a drawing under any such Letter of Credit or of the proceeds thereof; (vii) the misapplication by the beneficiary of any such Letter of Credit of the proceeds of any drawing under such Letter of Credit; or (viii) any consequences arising from causes beyond the control of the Administrative Agent, the LC Bank, the LC Participants, and the other Credit Parties, including any Governmental Acts, and none of the above shall affect or impair, or prevent the vesting of, any of the LC Bank's rights or powers hereunder. In no event shall the Administrative Agent, the LC Bank, the LC Participants, or the other Credit Parties or their respective Affiliates, be liable to the Borrower or any other Person for any indirect, consequential, incidental, punitive, exemplary or special damages or expenses (including without limitation Attorney Costs), or for any damages resulting from any change in the value of any property relating to a Letter of Credit.

Without limiting the generality of the foregoing, the Administrative Agent, the LC Bank, the LC Participants, and the other Credit Parties and each of their respective Affiliates (i) may rely on any written communication believed in good faith by such Person to have been authorized or given by or on behalf of the applicant for a Letter of Credit; (ii) may honor any presentation if the documents presented appear on their face to comply with the terms and conditions of the relevant Letter of Credit; (iii) may honor a previously dishonored presentation under a Letter of Credit, whether such dishonor was pursuant to a court order, to settle or compromise any claim of wrongful dishonor, or otherwise, and shall be entitled to reimbursement to the same extent as if such presentation had initially been honored, together with any interest paid by the LC Bank or its Affiliates; (iv) may honor any drawing that is payable upon presentation of a statement advising negotiation or payment, upon receipt of such statement (even if such statement indicates that a draft or other document is being delivered separately), and shall not be liable for any failure of any such draft or other document to arrive, or to conform in any way with the relevant Letter of Credit; (v) may pay any paying or negotiating bank claiming that it rightfully honored under the laws or practices of the place where such bank is located; and (vi) may settle or adjust any claim or demand made on the Administrative Agent, the LC Bank, the LC Participants, or the other Credit Parties or their respective Affiliates, in any way related to any order issued at the applicant's request to an air carrier, a letter of guarantee or of indemnity issued to a carrier or any similar document (each, an "*Order*") and may honor any drawing in connection with any Letter of Credit that is the subject of such Order, notwithstanding that any drafts or other documents presented in connection with such Letter of Credit fail to conform in any way with such Letter of Credit.

In furtherance and extension and not in limitation of the specific provisions set forth above, any action taken or omitted by the LC Bank under or in connection with any Letter of Credit issued by it or any documents and certificates delivered thereunder, if taken or omitted in good faith and

without gross negligence or willful misconduct, as determined by a final non-appealable judgment of a court of competent jurisdiction, shall not put the LC Bank under any resulting liability to the Borrower, any Credit Party or any other Person.

## Article IV

### Settlement Procedures and Payment Provisions

*Section 4.01. Settlement Procedures.* (a) The Servicer shall set aside and hold in trust for the benefit of the Secured Parties (or, after the occurrence and continuance of a Level 2 Ratings Event, if so requested by the Administrative Agent, segregate into a separate account in the name of the Borrower and approved by the Administrative Agent), for application in accordance with the priority of payments set forth below, all Collections on Pool Receivables that are received by the Servicer or the Borrower or received in any Lock-Box or Collection Account; *provided, however*, that so long as each of the conditions precedent set forth in Section 6.03 are satisfied, the Servicer may release to the Borrower from such Collections the amount (if any) necessary to pay (i) the purchase price for Receivables purchased by the Borrower in accordance with the terms of the Receivables Sale Agreement (each such release, a “*Reinvestment*”) or (ii) amounts owing by the Borrower to the Originators under the Subordinated Notes (each such release, a “*Release*”). On each Settlement Date, the Servicer (or, following its assumption of control of the Collection Accounts, the Administrative Agent) shall, distribute Collections in the following order of priority:

(i) *first*, to the Servicer for the payment of the accrued Servicing Fees payable for the immediately preceding Interest Period (plus, if applicable, the amount of Servicing Fees payable for any prior Interest Period to the extent the full amount owed has not been distributed to the Servicer);

(ii) *second*, to each Lender and other Credit Party (ratably, based on the amount then due and owing), all accrued and unpaid Interest, Fees and Breakage Fees due to such Lender and other Credit Party for the immediately preceding Interest Period (including any additional amounts or indemnified amounts payable under Sections 5.03 and 13.01 in respect of such payments), plus, if applicable, the amount of any such Interest, Fees and Breakage Fees (including any additional amounts or indemnified amounts payable under Sections 5.03 and 13.01 in respect of such payments) payable for any prior Interest Period to the extent such amount has not been distributed to such Lender or Credit Party;

(iii) *third*, as set forth in clause (x) or (y) below, as applicable:

(x) prior to the occurrence of the Termination Date, to the extent that a Borrowing Base Deficit exists on such date, to the Lenders (ratably, based on the aggregate outstanding Capital of each Lender at such time) for the payment of a portion of the outstanding Aggregate Capital at such time, in an aggregate amount equal to the amount necessary to reduce the Borrowing Base Deficit to zero (\$0); or

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

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

(x) prior to the occurrence of the Termination Date, to the extent that a Borrowing Base Deficit exists on such date, to the LC Collateral Account, in reduction of the Adjusted LC Participation Amount, in an amount equal to the amount necessary (after giving effect to clause (iii)(x) above) to reduce the Borrowing Base Deficit to zero (\$0);

(y) on and after the occurrence of the Termination Date, to the LC Collateral Account (A) the amount necessary to reduce the Adjusted LC Participation Amount to zero (\$0) and (B) an amount equal to the LC Fee Expectation at such time; or

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

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

(vi) *sixth*, the balance, if any, to be paid to the Borrower for its own account.

(b) All payments or distributions to be made by the Servicer, the Borrower and any other Person to the Lenders (or their respective related Affected Persons and the Indemnified Parties), the LC Bank and the LC Participants hereunder shall be paid or distributed to the related Group Agent at its Group Agent's Account. Each Group Agent, upon its receipt in the applicable Group Agent's Account of any such payments or distributions, shall distribute such amounts to the applicable Lenders, the LC Bank, LC Participants, Affected Persons and the Indemnified Parties within its Group ratably; *provided* that if such Group Agent shall have received insufficient funds to pay all of the above amounts in full on any such date, such Group Agent shall pay such amounts to the applicable Lenders, the LC Bank, the LC Participants, Affected Persons and the Indemnified Parties within its Group in accordance with the priority of payments set forth above, and with respect to any such category above for which there are insufficient funds to pay all amounts owing on such date, ratably (based on the amounts in such categories owing to each such Person in such Group) among all such Persons in such Group entitled to payment thereof.

(c) If and to the extent the Administrative Agent, any Credit Party, any Affected Person or any Indemnified Party shall be required for any reason to pay over to any Person (other than to any Person that is a party hereto as contemplated by this Agreement) any amount received on its behalf hereunder, such amount shall be deemed not to have been so received but rather to have been retained by the Borrower and, accordingly, the Administrative Agent, such Credit Party, such Affected Person or such Indemnified Party, as the case may be, shall have a claim against the Borrower for such amount.

(d) For the purposes of this Section 4.01:

(i) if on any day the Outstanding Balance of any Pool Receivable is reduced or adjusted as a result of any defective, rejected, returned, repossessed or foreclosed goods or services, or any revision, cancellation, allowance, rebate, credit memo, discount or other adjustment made by the Borrower, any Originator, the Servicer, or any Affiliate of the Servicer or any setoff, counterclaim or dispute between or among the Borrower or any Affiliate of the Borrower, an Originator or any Affiliate of an Originator, or the Servicer or any Affiliate of the Servicer, and an Obligor, the Borrower shall be deemed to have received on such day a Collection of such Pool Receivable in the amount of such reduction or adjustment;

(ii) if on any day any of the representations or warranties in Section 7.01 is not true (in all material respects) with respect to any Pool Receivable, the Borrower shall be deemed to have received on such day a Collection of such Pool Receivable in full (Collections deemed to have been received pursuant to Section 4.01(d) are hereinafter sometimes referred to as “*Deemed Collections*”);

(iii) except as provided in clauses (i) or (ii) above or otherwise required by Applicable Law or the relevant Contract, all Collections received from an Obligor of any Receivable shall be applied to the Receivables of such Obligor in the order of the age of such Receivables, starting with the oldest such Receivable, unless such Obligor designates in writing its payment for application to specific Receivables;

(iv) if and to the extent the Administrative Agent, any Credit Party, any Affected Person or any Indemnified Party shall be required for any reason to pay over to an Obligor (or any trustee, receiver, custodian or similar official in any Insolvency Proceeding) any amount received by it hereunder, such amount shall be deemed not to have been so received by such Person but rather to have been retained by the Borrower and, accordingly, such Person shall have a claim against the Borrower for such amount, payable when and to the extent that any distribution from or on behalf of such Obligor is made in respect thereof; and

(v) to the extent the Borrower receives or is deemed to receive any Deemed Collection pursuant to Section 4.01(d)(i) or (ii) above, if a Borrowing Base Deficit shall exist at the time the Borrower is deemed to have received such Deemed Collection, or after giving effect to the event giving rise to such Deemed Collection, the Borrower shall deposit such amount in the Collection Account (and to the extent necessary to deposit any

such amount request any corresponding amount owing from an Originator or Servicer to the Borrower to the extent the Originator or the Servicer is responsible for the event giving rise to such Deemed Collection).

*Section 4.02. Payments and Computations, Etc.* (a) All amounts to be paid by the Borrower or the Servicer to the Administrative Agent, any Credit Party, any Affected Person or any Indemnified Party hereunder shall be paid no later than 1:00 p.m. (New York City time) on the day when due in same day funds to the applicable Group Agent's Account.

(b) Each of the Borrower and the Servicer shall, to the extent permitted by Applicable Law and at the election of the Administrative Agent or if required by the Majority Group Agents, pay interest on any amount for each day not paid or deposited by it when due hereunder, at an interest rate per annum equal to 2.00% per annum above the Base Rate.

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

## **Article V**

### **Increased Costs; Funding Losses; Taxes; and Illegality**

#### *Section 5.01. Increased Costs.*

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

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

(ii) subject any Affected Person to any Taxes (other than Indemnified Taxes, Taxes described in clauses (b) through (d) of the definition of Excluded Taxes, and Connection Income Taxes) on its loans, loan principal, letters of credit, commitments or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto; or

(iii) impose on any Affected Person any other condition, cost or expense (other than Taxes) (A) affecting the Collateral, this Agreement, any other Transaction Document, any Program Support Agreement, any Loan or any Letter of Credit or any

participation therein or (B) affecting its obligations or rights to make Loans or issue or participate in Letters of Credit;

and the result of any of the foregoing shall be to increase the cost to such Affected Person of (A) acting as the Administrative Agent, a Group Agent or a Lender hereunder or as a Program Support Provider with respect to the transactions contemplated hereby, (B) funding or maintaining any Loan or issuing or participating in any Letter of Credit (or interests therein) or (C) maintaining its obligation to fund or maintain any Loan or issuing or participating in, any Letter of Credit (or interest therein), or to reduce the amount of any sum received or receivable by such Affected Person hereunder, then, upon request of such Affected Person (or its Group Agent), the Borrower shall pay to such Affected Person such additional amount or amounts as will compensate such Affected Person for such additional costs incurred or reduction suffered in accordance with Section 5.01(d).

(b) *Capital and Liquidity Requirements.* If any Affected Person determines that any Change in Law affecting such Affected Person or any lending office of such Affected Person or such Affected Person's holding company, if any, regarding capital or liquidity requirements, has or would have the effect of (x) increasing the amount of capital required to be maintained by such Affected Person or Affected Person's holding company, if any, or increasing the amount of high quality liquid assets such Affected Person or Affected Person's holding company, if any, is required to maintain as a result of any funding commitment made by such Affected Person under any Transaction Document, (y) reducing the rate of return on such Affected Person's capital or on the capital of such Affected Person's holding company, if any, or (z) causing an internal capital or liquidity charge or other imputed cost to be assessed upon such Affected Person or Affected Person's holding company, if any, in each case, as a consequence of (A) this Agreement or any other Transaction Document, (B) the commitments of such Affected Person hereunder or under any related Program Support Agreement, (C) the Loans, Letters of Credit or participations in Letters of Credit, in each case made or issued by such Affected Person, or (D) any Capital, to a level below that which such Affected Person or such Affected Person's holding company would have achieved but for such Change in Law (taking into consideration such Affected Person's policies and the policies of such Affected Person's holding company with respect to capital adequacy and liquidity), then from time to time, upon request by such Affected Person certifying (x) that the event described in this clause (b) has occurred and describing in reasonable detail the nature of such event, (y) as to the reduction of the rate of return on capital, imputed cost, increased internal capital or liquidity charge, or the increase in the amount of high quality liquid assets it is required to maintain as a result of any funding commitment made by such Affected Person under any Transaction Document, in each case, resulting from such event, and (z) as to the additional amount or amounts demanded by such Affected Person and a reasonably detailed explanation of the calculation thereof, the Borrower will pay to such Affected Person such additional amount or amounts as will compensate such Affected Person or such Affected Person's holding company for any such increase, reduction or charge suffered in accordance with Section 5.01(d).

(c) *Adoption of Changes in Law.* The Borrower acknowledges that any Affected Person may institute measures in anticipation of a Change in Law (including, without limitation, the imposition of internal charges on such Affected Person's interests or obligations under any



Transaction Document or Program Support Agreement), and may commence allocating charges to or seeking compensation from the Borrower under this Section 5.01 in connection with such measures, in advance of the effective date of such Change in Law, and the Borrower agrees to pay such charges or compensation to such Affected Person, following demand therefor in accordance with the terms of this Section 5.01, without regard to whether such effective date has occurred.

(d) *Certificates for Reimbursement.* A certificate of an Affected Person (or its Group Agent on its behalf) setting forth the amount or amounts necessary to compensate such Affected Person or its holding company, as the case may be, as specified in clause (a), (b) or (c) of this Section and delivered to the Borrower together with all backup information and documentation reasonably requested by the Borrower, shall be conclusive absent manifest error. The Borrower shall, subject to the priorities of payment set forth in Section 4.01, pay such Affected Person the amount shown as due on any such certificate on the later of (i) the first Settlement Date occurring after the Borrower's receipt of such certificate and (ii) ten (10) days after the Borrower's receipt of such certificate.

(e) *Delay in Requests.* Failure or delay on the part of any Affected Person to demand compensation pursuant to this Section shall not constitute a waiver of such Affected Person's right to demand such compensation provided that the Borrower shall not be required to compensate an Affected Person pursuant to this Section 5.01 for any increased costs or reductions incurred more than six months prior to the date that such Affected Person notifies the Borrower of the Change in Law giving rise to such increased costs or reductions and of such Affected Person's intention to claim compensation therefor; provided further that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the six month period referred to above shall be extended to include the period of retroactive effect thereof.

*Section 5.02. Funding Losses.* (a) The Borrower will pay each Lender all Breakage Fees as and when due and owing.

(b) A certificate of a Lender (or its Group Agent on its behalf) setting forth the amount or amounts necessary to compensate such Lender, as specified in clause (a) above and delivered to the Borrower together with all backup information and documentation reasonably requested by the Borrower, shall be conclusive absent manifest error. The Borrower shall, subject to the priorities of payment set forth in Section 4.01, pay such Lender the amount shown as due on any such certificate on the later of (i) the first Settlement Date occurring after the Borrower's receipt of such certificate and (ii) ten (10) days after the Borrower's receipt of such certificate.

*Section 5.03. Taxes.*

(a) *Payments Free of Taxes.* Any and all payments by or on account of any obligation under any Transaction 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 such 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 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 5.03), the applicable Credit Party receives an amount equal to the sum it would have received had no such deduction or withholding been made.

(b) *Payment of Other Taxes by the Borrower.* Without duplication of any amounts paid pursuant to Sections 5.03(a) or 5.03(c), 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.

(c) *Indemnification by the Borrower.* Without duplication of any amounts paid pursuant to Sections 5.03(a) or 5.03(b), the Borrower shall indemnify each Credit Party, within ten 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 5.03) payable or paid by such Credit Party or required to be withheld or deducted from a payment to such Credit Party 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; *provided* that the Borrower shall not be required to compensate any Credit Party pursuant to this Section 5.03 for any Indemnified Taxes unless such Credit Party requests compensation from the Borrower not later than 180 days after the earlier of (i) the date on which the relevant Governmental Authority makes written demand upon such Credit Party for payment of such Indemnified Taxes, and (ii) the date on which such Credit Party has made payment of such Indemnified Taxes. A certificate that states the amount of such payment or liability shall be delivered to the Borrower by a Credit Party (with a copy to the Administrative Agent) together with all backup information and documentation reasonably requested by the Borrower, or by the Administrative Agent on its own behalf or on behalf of a Credit Party and shall be conclusive absent manifest error.

(d) *Indemnification by the Lenders.* Each Lender (other than the Conduit Lenders) shall severally indemnify the Administrative Agent, within ten days after demand therefor, for (i) any Indemnified Taxes attributable to such Lender, its related Conduit Lender or any of their respective Affiliates that are Affected Persons (but only to the extent that the Borrower and its Affiliates have not already indemnified the Administrative Agent for such Indemnified Taxes and without limiting any obligation of the Borrower, the Servicer or their Affiliates to do so), (ii) any Taxes attributable to the failure of such Lender, its related Conduit Lender or any of their respective Affiliates that are Affected Persons to comply with Section 14.03(f) relating to the maintenance of a Participant Register and (iii) any Excluded Taxes attributable to such Lender, its related Conduit Lender or any of their respective Affiliates that are Affected Persons, in each case, that are payable or paid by the Administrative Agent in connection with any Transaction Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Lender (or its Group Agent) by the Administrative Agent shall be conclusive absent manifest error. Each Lender (other than the Conduit Lenders) hereby authorizes the Administrative Agent to set off

and apply any and all amounts at any time owing to such Lender, its related Conduit Lender or any of their respective Affiliates that are Affected Persons under any Transaction Document or otherwise payable by the Administrative Agent to such Lender, its related Conduit Lender or any of their respective Affiliates that are Affected Persons from any other source against any amount due to the Administrative Agent under this clause (d).

(e) *Evidence of Payments.* As soon as practicable after any payment of Taxes by the Borrower to a Governmental Authority pursuant to this Section 5.03, the Borrower shall deliver to the Administrative Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(f) *Status of Credit Parties.* (i) Any Credit Party that is entitled to an exemption from or reduction of withholding Tax with respect to payments made under any Transaction 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 Credit Party, 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 Credit Party 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 Sections 5.03(f)(ii)(A), 5.03(f)(ii)(B) and 5.03(g)) shall not be required if, in the Credit Party's reasonable judgment, such completion, execution or submission would subject such Credit Party to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Credit Party.

(ii) Without limiting the generality of the foregoing:

(A) any Credit Party that is a "United States Person" within the meaning of Section 7701(a)(30) of the Code, shall deliver to the Borrower and the Administrative Agent on or prior to the date on which such Credit Party becomes a party hereto (and from time to time upon the reasonable request of the Borrower or the Administrative Agent), executed copies of Internal Revenue Service Form W-9 certifying that such Credit Party is exempt from U.S. federal backup withholding Tax;

(B) any Credit Party that is not a "United States Person" within the meaning of Section 7701(a)(30) of the Code (a "Foreign Credit Party") 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 reasonably requested by the Borrower or the Administrative Agent) on or about the date on which such Foreign Credit Party becomes a Credit Party with respect to 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:

(1) (x) with respect to payments of interest under any Transaction Document, executed copies of Internal Revenue Service Form W-8BEN or Internal Revenue Service Form W-8BEN-E (or successor form) 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 Transaction Document, Internal Revenue Service Form W-8BEN or Internal Revenue Form W-8BEN-E (or successor form) 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;

(2) executed copies of Internal Revenue Service Form W-8ECI;

(3) (x) a certificate to the effect that such Foreign Credit Party 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 copies of Internal Revenue Service Form W-8BEN or Internal Revenue Service Form W-8BEN-E (or successor form); or

(4) executed copies of Internal Revenue Service Form W-8IMY, accompanied by Internal Revenue Service Form W-8ECI, Internal Revenue Service Form W-8BEN or Internal Revenue Service Form W-8BEN-E (or successor form), a U.S. Tax Compliance Certificate, Internal Revenue Service Form W-9, and/or other certification documents from each beneficial owner, as applicable; *provided* that, if such Credit Party is a partnership and one or more direct or indirect partners of such Foreign Credit Party are claiming the portfolio interest exemption, such Foreign Credit Party may provide a U.S. Tax Compliance Certificate on behalf of each such direct and indirect partner; and

(C) any Foreign Credit Party, to the extent it is legally entitled to do so, shall deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient), on or about the date on which such Foreign Credit Party becomes a party hereto (and from time to time upon the reasonable request of the Borrower or the Administrative Agent), executed copies 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.

(g) *Documentation Required by FATCA.* If a payment made to a Credit Party under any Transaction Document would be subject to U.S. federal withholding Tax imposed by FATCA if such Credit Party 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 Credit Party shall deliver to the Borrower and the Administrative Agent at the time or times prescribed by Applicable 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 Credit Party has complied with such Credit Party's obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this clause (g), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

(h) *Survival.* Each party's obligations under this Section 5.03 shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Credit Party, the termination of the Commitments and the repayment, satisfaction or discharge of all the Borrower Obligations and the Servicer's obligations hereunder.

(i) *Updates.* Each Credit Party agrees that if any form or certification it previously delivered pursuant to this Section 5.03 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.

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

(k) *Treatment of Certain Refunds.* If any party determines, in its sole discretion exercised in good faith, that it has received a refund (or a credit in lieu of a refund) of any Taxes as to which it has been indemnified pursuant to this Section 5.03 (including by the payment of additional amounts pursuant to this Section 5.03), 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 5.03 with respect to the Taxes giving rise to such refund), net of all reasonable 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 (k) (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 (k), in no event will the indemnified party be required to pay any amount to an indemnifying party pursuant to this paragraph (k) 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.

Section 5.04. *Inability to Determine ~~Adjusted LIBOR or LMIR~~SOFR Rate; Change in Legality.* (a) If any ~~Group Agent~~Lender shall have determined (which determination shall be conclusive and binding upon the parties hereto absent manifest error) before the first day of any Interest Period (with respect to ~~Adjusted LIBOR~~the SOFR Rate determined by reference to the Term SOFR Rate) or on any day (with respect to ~~LMIR~~), ~~by reason of circumstances affecting the interbank Eurodollar market, either that: (i) dollar deposits in the relevant amounts and for the relevant Interest Period or day, as applicable, are~~the SOFR Rate determined by reference to Daily 1M SOFR), ~~either that: (i) the SOFR Rate cannot be determined because it is~~ not available ~~or published on a current basis,~~ (ii) adequate and reasonable means do not exist for ascertaining the ~~Adjusted LIBOR or LMIR~~SOFR Rate for such ~~Tranche Period,~~ Interest Period or day, as applicable, or (iii) the ~~Adjusted LIBOR or LMIR~~SOFR Rate determined pursuant hereto does not accurately reflect the cost to the applicable ~~Affected Person~~Lender (as conclusively determined by such ~~Group Agent~~Lender) of ~~funding or~~ maintaining any Portion of Capital during such ~~Tranche Period,~~ Interest Period or day, as applicable, such ~~Group Agent~~Lender shall promptly give telephonic notice of such determination, confirmed in writing, to the ~~Administrative Agent and the~~ Borrower before the first day of any Interest Period (with respect to the ~~Euro-SOFR~~ Rate determined by reference to ~~Adjusted LIBOR~~the Term SOFR Rate) or on such day (with respect to the ~~Euro-SOFR~~ Rate determined by reference to ~~LMIR~~Daily 1M SOFR). Upon delivery of such notice: (i) no Portion of Capital shall be funded thereafter at ~~Adjusted LIBOR or LMIR~~the SOFR Rate, ~~and shall instead be funded at the Base Rate,~~ unless and until such ~~Group Agent~~Lender shall have given notice to the Borrower ~~and the Administrative Agent~~ that the circumstances giving rise to such determination no longer exist and (ii) with respect to any outstanding Portion of Capital then funded at ~~Adjusted LIBOR or LMIR~~the SOFR Rate, the Interest Rate with respect to such Portion of Capital shall automatically be converted to the Base Rate on the last day of the then-current Interest Period (with respect to ~~Adjusted LIBOR~~the SOFR Rate determined by reference to the Term SOFR Rate) or immediately (with respect to ~~LMIR~~the SOFR Rate determined by reference to Daily 1M SOFR).

(b) If, ~~on or before the first day of any Interest Period (with respect to Adjusted LIBOR) or on any day (with respect to LMIR),~~ ~~at any time any time~~ any ~~Group Agent~~Lender shall have ~~been notified by any Affected Person that such Affected Person has~~ determined (which determination shall be final and conclusive absent manifest error) that ~~any Change in Law,~~the funding or maintenance of any Portion of Capital at or by reference to the SOFR Rate has been made impracticable or unlawful by compliance by such ~~Affected Person~~Lender in good faith with any ~~Change in~~Applicable Law, ~~shall make it unlawful or impossible for such Affected Person to fund or maintain any Portion of Capital at or by reference to Adjusted LIBOR or LMIR or any interpretation or application thereof by any Governmental Authority or with any request or directive of any such Governmental Authority (whether or not having the force of law),~~ such ~~Group Agent~~Lender shall notify the Borrower and the Administrative Agent thereof. Upon receipt of such notice, until the applicable ~~Group Agent~~Lender notifies the Borrower and the Administrative Agent that the circumstances giving rise to such determination no longer apply, (i) no Portion of Capital shall be funded thereafter at ~~Adjusted LIBOR or LMIR~~the SOFR Rate, ~~and shall instead be funded at the Base Rate,~~ unless and until such Lender shall have given notice to the Administrative Agent and the Borrower that the circumstances giving rise to such determination no longer exist and (ii) with respect to any outstanding Portion of Capital then funded at ~~Adjusted LIBOR or LMIR~~the SOFR Rate, the Interest Rate with respect to such

Portion of Capital shall automatically and immediately be converted to the Base Rate ~~on the last day of the then-current Interest Period (with respect to Adjusted LIBOR) or immediately (with respect to LMIR).~~

~~Section 5.05.—Benchmark Replacement Setting. (a) On March 5, 2021, the ICE Benchmark Administration, the administrator of LIBOR (the “IBA”) and the U.K. Financial Conduct Authority, the regulatory supervisor for the IBA, announced in a public statement the future cessation or loss of representativeness of overnight/Spot Next, 1-week, 1-month, 2-month, 3-month, 6-month and 12-month USD LIBOR tenor settings (collectively, the “Cessation Announcements”). The parties hereto acknowledge that, as a result of the Cessation Announcements, a Benchmark Transition Event occurred on March 5, 2021 with respect to USD LIBOR under clauses (1) and (2) of the definition of Benchmark Transition Event below; provided however, no related Benchmark Replacement Date occurred as of such date.~~

(c) ~~(bi)~~ Notwithstanding anything to the contrary herein or in any other Transaction Document (and any Hedging Agreement shall be deemed not to be a “Transaction Document” for purposes of this Section), if a Benchmark Transition Event, ~~an Early Opt-in Election or an Other Benchmark Rate Election, as applicable,~~ and its related Benchmark Replacement Date have occurred prior to the Reference Time in respect of any setting of the then-current Benchmark, then ~~(x) if a Benchmark Replacement is determined in accordance with clause (1) or (2) of the definition of “Benchmark Replacement” for such Benchmark Replacement Date, such Benchmark Replacement will replace such Benchmark for all purposes hereunder and under any Transaction Document in respect of such Benchmark setting and subsequent Benchmark settings without any amendment to, or further action or consent of any other party to, this Agreement or any other Transaction Document and (y) if a Benchmark Replacement is determined in accordance with clause (3) of the definition of “Benchmark Replacement” for such Benchmark Replacement Date, such~~ the Benchmark Replacement will replace such Benchmark for all purposes hereunder and under any Transaction Document in respect of any Benchmark setting at or after 5:00 p.m. (New York City time) on the fifth (5th) Business Day after the date notice of such Benchmark Replacement is provided to the Lenders without any amendment to, or further action or consent of any other party to, this Agreement or any other Transaction Document so long as the Administrative Agent has not received, by such time, written notice of objection to such Benchmark Replacement from ~~Group Agents~~ Lenders comprising the Majority Group Agents.

(~~ei~~) In connection with the implementation and administration of a Benchmark Replacement, the Administrative Agent will have the right to make ~~Benchmark Replacement~~ Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Transaction Document, any amendments implementing such ~~Benchmark Replacement~~ Conforming Changes will become effective without any further action or consent of any other party to this Agreement or any other Transaction Document.

(~~diii~~) The Administrative Agent will promptly notify the Borrower and the Lenders of (~~i~~) A any occurrence of a Benchmark Transition Event, ~~a Term SOFR Transition Event, an Early~~

~~Opt-in Election or an Other Benchmark Rate Election, as applicable,~~ and its related Benchmark Replacement Date, (~~#B~~) the implementation of any Benchmark Replacement, (~~iiiC~~) the effectiveness of any ~~Benchmark Replacement~~ Conforming Changes, (~~ivD~~) the removal or reinstatement of any tenor of a Benchmark pursuant to paragraph (~~eiv~~) below and (~~vE~~) the commencement ~~or conclusion~~ of any Benchmark Unavailability Period. Any determination, decision or election that may be made by the Administrative Agent or, if applicable, any Lender (or ~~Group~~group of Lenders) pursuant to this Section ~~5.05~~, including any determination with respect to a tenor, rate or adjustment or of the occurrence or non-occurrence of an event, circumstance or date and any decision to take or refrain from taking any action or any selection, will be conclusive and binding absent manifest error and may be made in its or their sole discretion and without consent from any other party to this Agreement or any other Transaction Document; except, in each case, as expressly required pursuant to this Section ~~5.05~~.

(~~eiv~~) Notwithstanding anything to the contrary herein or in any other Transaction Document, at any time (including in connection with the implementation of a Benchmark Replacement), (~~iA~~) if the then-current Benchmark is a term rate ~~(including Term SOFR or USD LIBOR)~~ and either (~~AI~~) any tenor for such Benchmark is not displayed on a screen or other information service that publishes such rate from time to time as selected by the Administrative Agent in its reasonable discretion or (~~BII~~) the regulatory supervisor for the administrator of such Benchmark has provided a public statement or publication of information announcing that any tenor for such Benchmark is or will be no longer representative, then the Administrative Agent may modify the ~~definitions of “Interest Period”, definition of “Tranche Period” and “LMR” or “Interest Period” (or any similar or analogous definition)~~ for any Benchmark settings at or after such time to remove such unavailable or non-representative tenor and (~~#B~~) if a tenor that was removed pursuant to clause (~~iA~~) above either (~~AI~~) is subsequently displayed on a screen or information service for a Benchmark (including a Benchmark Replacement) or (~~BII~~) is not, or is no longer, subject to an announcement that it is or will no longer be representative for a Benchmark (including a Benchmark Replacement), then the Administrative Agent may modify the ~~definitions~~definition of ~~“Interest Period”, “Tranche Period” and or “LMR”~~Interest Period” (or any similar or analogous definition) for all Benchmark settings at or after such time to reinstate such previously removed tenor.

(~~fy~~) Upon the Borrower's receipt of notice of the commencement of a Benchmark Unavailability Period, the Borrower may revoke any request for a ~~Loan bearing interest based on USD LIBOR, payment of Capital, or a~~ conversion to or continuation of ~~Loans bearing interest based on USD LIBOR~~Capital, accruing Interest at the SOFR Rate to be made, converted or continued during any Benchmark Unavailability Period and, failing that, the Borrower will be deemed to have converted any such request into a request for a ~~Loan~~payment of Capital, or a conversion ~~to Loans bearing interest under of Capital to Capital, accruing Interest at the Base Rate, and, for the avoidance of doubt, all outstanding Capital accruing Interest at the SOFR Rate shall automatically be converted to Capital accruing Interest at~~ the Base Rate. During any Benchmark Unavailability Period or at any time that a tenor for the then-current Benchmark is not an Available Tenor, the component of the Base Rate based upon the then-current Benchmark or such tenor for such Benchmark, as applicable, will not be used in any determination of the Base Rate.



~~(g) Notwithstanding anything to the contrary herein or in any other Transaction Document and subject to the proviso below in this paragraph, if a Term SOFR Transition Event and its related Benchmark Replacement Date have occurred prior to the Reference Time in respect of any setting of the then-current Benchmark, then (i) the applicable Benchmark Replacement will replace the then-current Benchmark for all purposes hereunder or under any Transaction Document in respect of such Benchmark setting (the “Secondary Term SOFR Conversion Date”) and subsequent Benchmark settings, without any amendment to, or further action or consent of any other party to, this Agreement or any other Transaction Document; and (ii) Loans outstanding on the Secondary Term SOFR Conversion Date bearing interest based on the then-current Benchmark shall be deemed to have been converted to Loans bearing interest at the Benchmark Replacement with a tenor approximately the same length as the interest payment period of the then-current Benchmark; provided that, this paragraph (g) shall not be effective unless the Administrative Agent has delivered to the Lenders and the Borrower a Term SOFR Notice. For the avoidance of doubt, the Administrative Agent shall not be required to deliver a Term SOFR Notice after a Term SOFR Transition Event and may do so in its sole discretion.~~

~~(hvi)~~ As used in this Section ~~5.05~~:

“Available Tenor” means, as of any date of determination and with respect to the then-current Benchmark, as applicable,

(x) if the then-current Benchmark is a term rate or is based on a term rate, any tenor for such Benchmark that is or may be used for determining the length of ~~an Interest Period, a~~ Tranche Period or ~~LMIR pursuant to this Agreement as of such date and not including, for the avoidance of doubt, any tenor for such Benchmark that is then removed from the definition of “Interest Period”, “Tranche Period” or “LMIR” pursuant to paragraph (c) of this Section 5.05, or (y) if the then current Benchmark is not a term rate nor based on a term rate~~ Interest Period or (y) otherwise, any payment period for ~~interest~~ Interest calculated with reference to such Benchmark, as applicable, pursuant to this Agreement as of such date. ~~For the avoidance of doubt, the Available Tenor for LMIR is one month or three months pursuant to the definition of LMIR.~~

“Benchmark” means, initially, ~~USD LIBOR~~ the SOFR Rate; ~~provided that if a Benchmark Transition Event, a Term SOFR Transition Event, an Early Opt-in Election or an Other Benchmark Election, as applicable, and its related Benchmark Replacement Date have occurred with respect to USD LIBOR~~ the SOFR Rate or the then-current Benchmark, then “Benchmark” means the applicable Benchmark Replacement to the extent that such Benchmark Replacement has replaced such prior benchmark rate pursuant to ~~paragraph (b) of this Section 5.05. Any reference to “Benchmark” shall include, as applicable, the published component used in the calculation thereof.~~

“Benchmark Replacement” means, for any Available Tenor, the ~~first alternative set forth in the order below that can be determined by the Administrative Agent for the applicable Benchmark Replacement Date:~~

~~—(1)—the sum of: (a) Term SOFR and (b) the related Benchmark Replacement Adjustment;~~

~~—(2)—the sum of: (a) Daily Simple SOFR and (b) the related Benchmark Replacement Adjustment;~~

~~—(3)—the sum of: (a)~~ A the alternate benchmark rate that has been selected by the Administrative Agent and the Borrower as the replacement for the then-current Benchmark for the applicable Corresponding Tenor giving due consideration to (i) ~~any selection or recommendation of a replacement benchmark rate or the mechanism for determining such a rate by the Relevant Governmental Body~~ or (ii) any evolving or then-prevailing market convention ~~for determining a benchmark rate as a replacement for the then-current Benchmark, including any applicable recommendations made by the Relevant Governmental Body,~~ for U.S. dollar-denominated syndicated credit facilities at such time and ~~(b)~~ B the related Benchmark Replacement Adjustment;

provided that, in ~~if~~ the ~~case of clause (1), such Unadjusted Benchmark Replacement is displayed on a screen or other information service that publishes such rate from time to time as selected by the Administrative Agent in its reasonable discretion; provided, further, that, in the case of an Other Benchmark Rate Election, the “Benchmark Replacement” shall mean the alternative set forth in clause (3) above and when such clause is used to determine the Benchmark Replacement in connection with the occurrence of an Other Benchmark Rate Election, the alternate benchmark rate selected by the Administrative Agent and the Borrower shall be the term benchmark rate that is used in lieu of a USD LIBOR-based rate in relevant other U.S. dollar-denominated syndicated credit facilities; provided, further, that, with respect to a Term SOFR Transition Event, on the applicable Benchmark Replacement Date, the “Benchmark Replacement” shall revert to and shall be determined as set forth in clause (1) of this definition. If the Benchmark Replacement as determined pursuant to clause (1), (2) or (3)~~ as so determined above would be less than the Floor, the Benchmark Replacement will be deemed to be the Floor for the purposes of this Agreement and the other Transaction Documents and provided further, that any such Benchmark Replacement shall be administratively feasible as determined by the Administrative Agent in its sole discretion.

“Benchmark Replacement Adjustment” means, with respect to any replacement of the then-current Benchmark with an Unadjusted Benchmark Replacement for any applicable Available Tenor for any setting of such Unadjusted Benchmark Replacement:

~~—(1)—for purposes of clauses (1) and (2) of the definition of “Benchmark Replacement,” the applicable amount(s) set forth below:~~

Available Tenor	Benchmark Replacement Adjustment*
One-Week	0.03839% (3.839 basis points)
One-Month	0.11448% (11.448 basis points)
Two-Months	0.18456% (18.456 basis points)
Three-Months	0.26161% (26.161 basis points)
Six-Months	0.42826% (42.826 basis points)
* These values represent the ARRC/ISDA recommended spread adjustment values available here: <a href="https://assets.bbhub.io/professional/sites/10/IBOR-Fallbacks-LIBOR-Cessation-Announcement-20210305.pdf">https://assets.bbhub.io/professional/sites/10/IBOR-Fallbacks-LIBOR-Cessation-Announcement-20210305.pdf</a>	

—(2)—for purposes of clause (3) of the definition of “Benchmark Replacement,” the spread adjustment, or method for calculating or determining such spread adjustment, (which may be a positive or negative value or zero) that has been selected by the Administrative Agent and the Borrower for the applicable Corresponding Tenor giving due consideration to ~~(i) any selection or recommendation of a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement by the Relevant Governmental Body on the applicable Benchmark Replacement Date or (ii) any evolving or then-prevailing market convention for determining a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement, including any applicable recommendations made by the Relevant Governmental Body,~~ for U.S. dollar-denominated syndicated credit facilities at such time; provided that, if the then-current Benchmark is a term rate, more than one tenor of such Benchmark is available as of the applicable Benchmark Replacement Date and the applicable Unadjusted Benchmark Replacement will not be a term rate, the Available Tenor of such Benchmark for purposes of this definition of “Benchmark Replacement Adjustment” shall be deemed to be the Available Tenor that has approximately the same length (disregarding business day adjustments) as the payment period for interest calculated with reference to such Unadjusted Benchmark Replacement.

~~“Benchmark Replacement Conforming Changes” means, with respect to any Benchmark Replacement, any technical, administrative or operational changes (including changes to the definition of “Base Rate,” the definition of “Business Day,” the definition of “Interest Period,” the definition of “Tranche Period,” the definition of “LMIR,” timing and frequency of determining rates and making payments of interest, timing of borrowing requests or prepayment, conversion or continuation notices, length of lookback periods, the applicability of breakage provisions, and other technical, administrative or operational matters) that the Administrative Agent decides may be appropriate to reflect the adoption and implementation of such Benchmark Replacement and to permit the administration thereof by the Administrative Agent in a manner substantially consistent with market~~

~~practice (or, if the Administrative Agent decides that adoption of any portion of such market practice is not administratively feasible or if the Administrative Agent determines that no market practice for the administration of such Benchmark Replacement exists, in such other manner of administration as the Administrative Agent decides is reasonably necessary in connection with the administration of this Agreement and the other Transaction Documents).~~

“Benchmark Replacement Date” means a date and time determined by the Administrative Agent, which date shall be at the end of a Tranche Period, Interest Period or day (as applicable) and no later than the earliest to occur of the following events with respect to the then-current Benchmark:

(1) in the case of clause (1) or (2) of the definition of “Benchmark Transition Event,” the later of (a) the date of the public statement or publication of information referenced therein and (b) the date on which the administrator of such Benchmark (or the published component used in the calculation thereof) permanently or indefinitely ceases to provide all Available Tenors of such Benchmark (or such component thereof); or

(2) in the case of clause (3) of the definition of “Benchmark Transition Event,” the date determined by the Administrative Agent, which date shall promptly follow the date of the public statement or publication of information referenced therein;

~~—(3)—in the case of a Term SOFR Transition Event, the date that is set forth in the Term SOFR Notice provided to the Lenders and the Borrower pursuant to this Section 5.05, which date shall be at least 30 days from the date of the Term SOFR Notice; or~~

~~—(4)—in the case of an Early Opt-in Election or an Other Benchmark Rate Election, the sixth (6th) Business Day after the date notice of such Early Opt-in Election or Other Benchmark Rate Election, as applicable, is provided to the Lenders, so long as the Administrative Agent has not received, by 5:00 p.m. (New York City time) on the fifth (5th) Business Day after the date notice of such Early Opt-in Election or Other Benchmark Rate Election, as applicable, is provided to the Lenders, written notice of objection to such Early Opt-in Election or Other Benchmark Rate Election, as applicable, from Group Agents comprising the Majority Group Agents.~~

For the avoidance of doubt, (i) if the event giving rise to the Benchmark Replacement Date occurs on the same day as, but earlier than, the Reference Time in respect of any determination, the Benchmark Replacement Date will be deemed to have occurred prior to the Reference Time for such determination and (ii) the “Benchmark Replacement Date” will be deemed to have occurred in the case of clause (1) or (2) with respect to any Benchmark upon the occurrence of the applicable event or events set forth therein with respect to all then-current Available Tenors of such Benchmark (or the published component used in the calculation thereof).

“Benchmark Transition Event” means, the occurrence of one or more of the following events, with respect to ~~the~~any then-current Benchmark:

(1) a public statement or publication of information by or on behalf of the administrator of such Benchmark (or the published component used in the calculation thereof) announcing that such administrator has ceased or will cease to provide all Available Tenors of such Benchmark (or such component thereof), permanently or indefinitely, provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide any Available Tenor of such Benchmark (or such component thereof);

(2) a public statement or publication of information by a Governmental Authority having jurisdiction over the Administrative Agent, the regulatory supervisor for the administrator of such Benchmark (or the published component used in the calculation thereof), the Federal Reserve Board, the Federal Reserve Bank of New York, an insolvency official with jurisdiction over the administrator for such Benchmark (or such component), a resolution authority with jurisdiction over the administrator for such Benchmark (or such component) or a court or an entity with similar insolvency or resolution authority over the administrator for such Benchmark (or such component), which states that the administrator of such Benchmark (or such component) has ceased or will cease to provide all Available Tenors of such Benchmark (or such component thereof) permanently or indefinitely, provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide any Available Tenor of such Benchmark (or such component thereof); or

(3) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark (or the published component used in the calculation thereof) or a Governmental Authority having jurisdiction over the Administrative Agent announcing that all Available Tenors of such Benchmark (or such component thereof) are no longer representative.

For the avoidance of doubt, a “Benchmark Transition Event” will be deemed to have occurred with respect to any Benchmark if a public statement or publication of information set forth above has occurred with respect to each then-current Available Tenor of such Benchmark (or the published component used in the calculation thereof).

“Benchmark Unavailability Period” means the period (if any) (x) beginning at the time that a Benchmark Replacement Date pursuant to clauses (1) or (2) of that definition has occurred if, at such time, no Benchmark Replacement has replaced the then-current Benchmark for all purposes hereunder and under any Transaction Document in accordance with this Section ~~5.05~~ and (y) ending at the time that a Benchmark Replacement has replaced the then-current Benchmark for all purposes hereunder and under any Transaction Document in accordance with this Section ~~5.05~~.

“Corresponding Tenor” with respect to any Available Tenor means, as applicable, either a tenor (including overnight) or an interest payment period having approximately the same length (disregarding business day adjustment) as such Available Tenor.

~~“Daily Simple SOFR” means, for any day, SOFR, with the conventions for this rate (which will include a lookback) being established by the Administrative Agent in accordance with the conventions for this rate selected or recommended by the Relevant~~

Governmental Body for determining “Daily Simple SOFR” for syndicated business loans; provided, that if the Administrative Agent decides that any such convention is not administratively feasible for the Administrative Agent, then the Administrative Agent may establish another convention in its reasonable discretion.

“~~Early Opt-in Election~~” means, if the then-current Benchmark is USD LIBOR, the occurrence of:

—(1)—a notification by the Administrative Agent to (or the request by the Borrower to the Administrative Agent to notify) each of the other parties hereto that at least ten (10) currently outstanding U.S. dollar-denominated syndicated credit facilities at such time contain (as a result of amendment or as originally executed) a SOFR-based rate (including SOFR, a term SOFR or any other rate based upon SOFR) as a benchmark rate (and such syndicated credit facilities are identified in such notice and are publicly available for review), and

—(2)—the joint election by the Administrative Agent and the Borrower to trigger a fallback from USD LIBOR and the provision by the Administrative Agent of written notice of such election to the Lenders.

“~~Floor~~” means the benchmark rate floor, if any, provided in this Agreement initially (as of the execution of this Agreement, the modification, amendment or renewal of this Agreement or otherwise) with respect to ~~USD LIBOR~~the SOFR Rate or, if no floor is specified, zero.

“~~ISDA Definitions~~” means the 2006 ISDA Definitions published by the International Swaps and Derivatives Association, Inc. or any successor thereto, as amended or supplemented from time to time, or any successor definitional booklet for interest rate derivatives published from time to time by the International Swaps and Derivatives Association, Inc. or such successor thereto.

“~~Other Benchmark Rate Election~~” means, if the then-current Benchmark is USD LIBOR, the occurrence of: (x) either (i) a request by the Borrower to the Administrative Agent, or (ii) notice by the Administrative Agent to the Borrower, that, at the determination of the Borrower or the Administrative Agent, as applicable, U.S. dollar-denominated syndicated credit facilities at such time contain (as a result of amendment or as originally executed), in lieu of a USD LIBOR based rate, a term benchmark rate as a benchmark rate, and (y) the Administrative Agent, in its sole discretion, and the Borrower jointly elect to trigger a fallback from USD LIBOR and the provision, as applicable, by the Administrative Agent of written notice of such election to the Borrower and the Lenders.

“Reference Time” means, with respect to any setting of the then-current Benchmark ~~means (1) if such Benchmark is USD LIBOR, 11:00 a.m. (London time) on the day that is two London banking days preceding the date of such setting, and (2) if such Benchmark is not USD LIBOR, the time determined by the Administrative Agent in its reasonable discretion.~~

“Relevant Governmental Body” means the Board of Governors of the Federal Reserve ~~Board~~System or the Federal Reserve Bank of New York, or a committee officially endorsed or convened by the Board of Governors of the Federal Reserve ~~Board~~System or the Federal Reserve Bank of New York, or any successor thereto.

~~“SOFR” means, with respect to any Business Day, a rate per annum equal to the secured overnight financing rate for such Business Day published by the SOFR Administrator on the SOFR Administrator’s Website on the immediately succeeding Business Day.~~

~~“SOFR Administrator” means the Federal Reserve Bank of New York (or a successor administrator of the secured overnight financing rate).~~

~~“SOFR Administrator’s Website” means the website of the Federal Reserve Bank of New York, currently at <http://www.newyorkfed.org>, or any successor source for the secured overnight financing rate identified as such by the SOFR Administrator from time to time.~~

~~“Term SOFR” means, for the applicable Corresponding Tenor as of the applicable Reference Time, the forward-looking term rate based on SOFR that has been selected or recommended by the Relevant Governmental Body.~~

~~“Term SOFR Notice” means a notification by the Administrative Agent to the Lenders and the Borrower of the occurrence of a Term SOFR Transition Event.~~

~~“Term SOFR Transition Event” means the determination by the Administrative Agent that (a) Term SOFR has been recommended for use by the Relevant Governmental Body, and is determinable for each Available Tenor, (b) the administration of Term SOFR is administratively feasible for the Administrative Agent and (c) a Benchmark Transition Event or an Early Opt-in Election, as applicable, (and, for the avoidance of doubt, not in the case of an Other Benchmark Rate Election) has previously occurred resulting in a Benchmark Replacement in accordance with Section titled “Benchmark Replacement Setting” that is not Term SOFR.~~

“Unadjusted Benchmark Replacement” means the applicable Benchmark Replacement excluding the related Benchmark Replacement Adjustment. .

~~“USD LIBOR” means the London interbank offered rate for U.S. dollars.~~

#### Section 5.05. Reserved.

*Section 5.06 Mitigation Obligations; Replacement of Lenders.* If any Affected Person requests compensation under Section 5.01, or the Borrower is required to pay any Indemnified Taxes or additional amounts to any Affected Person or any Governmental Authority for the account of any Affected Person pursuant to Section 5.03, then such Affected Person (at the

request of the Borrower) 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 judgment of such Affected Person, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 5.01 or 5.03, as the case may be, in the future and (ii) would not subject such Affected Person to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Affected Person. The Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Affected Person in connection with any such designation or assignment.

*Section 5.07. Certain Rules Relating to the Payment of Additional Amounts.* (a) If any Affected Person requests compensation under Section 5.01, or if the Borrower is required to pay any additional amount to any Affected Person or to any Governmental Authority for the account of any Affected Person pursuant to Section 5.03, then such Affected Person shall (at the request of the Borrower) use commercially reasonable efforts to designate a different lending office for funding or booking the related Loans hereunder or to assign and delegate (or cause to be assigned and delegated) such Affected Person's rights and obligations hereunder to another office, branch or Affiliate of such Affected Person if, in the judgment of such Affected Person, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 5.01 or 5.03, as the case may be, in the future and (ii) would not subject such Affected Person to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Affected Person. The Borrower hereby agrees to pay all reasonable out of pocket costs and expenses incurred by any Affected Person in connection with any such designation or assignment and delegation.

(b) If (i) any Affected Person requests compensation under Section 5.01, (ii) the Borrower is required to pay any additional amount to any Affected Person or any Governmental Authority for the account of any Affected Person pursuant to Section 5.03, (iii) any Affected Person has become a Defaulting Lender or (iv) any Affected Person has failed to consent to a proposed amendment, waiver, discharge or termination that requires the consent of all Lenders and with respect to which the other Lenders shall have or would have granted their consent, then the Borrower may, at its sole expense and effort, upon notice to the Administrative Agent, require the Administrative Agent to cause the related Affected Person to assign and delegate, without recourse (in accordance with and subject to all applicable transfer restrictions), all its interests, rights and obligations under this Agreement and the other Transaction Documents to another appropriate Person (which, in the case of a Lender, shall be an Eligible Assignee) that shall acquire such interest or assume such commitment; *provided that* (a) the Borrower shall have received the prior written consent of the Administrative Agent and the other Lenders, which consent shall not unreasonably be withheld, (b) such Affected Person, if a Lender, shall have received payment of an amount equal to its outstanding Capital and, if applicable, accrued Interest and Fees thereon and all other amounts then owing to it hereunder from the assignee or the Borrower, (c) in the case of any such assignment and delegation resulting from a claim for compensation under Section 5.01 or payments required to be made pursuant to Section 5.03, such assignment is expected to result in a reduction in such compensation or payments for future periods and (d) in the case of any such assignment and delegation resulting from the failure of an Affected Person to provide a consent, the assignee shall have given such consent and, as a result of such assignment and delegation and any contemporaneous assignments and delegations and



consents, the applicable amendment, waiver, discharge or termination can be effected. An Affected Person shall not be required to make any such assignment and delegation if, prior thereto, as a result of a waiver or consent by such Affected Person or otherwise, the circumstances entitling the Borrower to require such assignment and delegation have ceased to apply.

*Section 5.08. Security Interest.* (a) As security for the performance by the Borrower of all the terms, covenants and agreements on the part of the Borrower to be performed under this Agreement or any other Transaction Document, including the punctual payment when due of the Aggregate Capital and all Interest in respect of the Loans and all other Borrower Obligations, the Borrower hereby grants to the Administrative Agent for its benefit and the ratable benefit of the Secured Parties, a continuing security interest in, all of the Borrower's right, title and interest in, to and under all of the following, whether now or hereafter owned, existing or arising (collectively, the "*Collateral*"): (i) all Pool Receivables, (ii) all Related Security with respect to such Pool Receivables, (iii) all Collections with respect to such Pool Receivables, (iv) the Lock-Boxes and Collection Accounts and all amounts on deposit therein, and all certificates and instruments, if any, from time to time evidencing such Lock-Boxes and Collection Accounts and amounts on deposit therein, (v) all rights (but none of the obligations) of the Borrower under the Receivables Sale Agreement, (vi) all other personal and fixture property or assets of the Borrower of every kind and nature including, without limitation, all goods (including inventory, equipment and any accessions thereto), instruments (including promissory notes), documents, accounts, chattel paper (whether tangible or electronic), deposit accounts, securities accounts, securities entitlements, letter-of-credit rights, commercial tort claims, securities and all other investment property, supporting obligations, money, any other contract rights or rights to the payment of money, insurance claims and proceeds, and all general intangibles (including all payment intangibles) (each as defined in the UCC), (vii) the LC Collateral Account and all amounts on deposit therein, and (viii) all proceeds of, and all amounts received or receivable under any or all of, the foregoing.

(b) The Administrative Agent (for the benefit of the Secured Parties) shall have, with respect to all the Collateral, and in addition to all the other rights and remedies available to the Administrative Agent (for the benefit of the Secured Parties), all the rights and remedies of a secured party under any applicable UCC. The Borrower hereby authorizes the Administrative Agent to file financing statements describing the collateral covered thereby as "all of the debtor's personal property or assets" or words to that effect.

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

## Article VI

### Conditions to Effectiveness and Credit Extensions

*Section 6.01. Conditions Precedent to Effectiveness and the Initial Credit Extension.* This Agreement shall become effective as of the Closing Date when (a) the Administrative Agent shall have received each of the documents, agreements (in fully executed form), opinions of counsel, lien search results, UCC filings, certificates and other deliverables listed on the closing memorandum attached as Exhibit H hereto, in each case, in form and substance acceptable to the Administrative Agent and (b) all fees and expenses payable by the Borrower on the Closing Date to the Credit Parties have been paid in full in accordance with the terms of the Transaction Documents.

*Section 6.02. Conditions Precedent to All Credit Extensions.* Each Credit Extension hereunder on or after the Closing Date shall be subject to the conditions precedent that:

(a) the Borrower shall have delivered to the Administrative Agent and each Group Agent a Loan Request for such Loan, and, in the case of a Letter of Credit, the Borrower shall have delivered to the Administrative Agent and the LC Bank a Letter of Credit Application and an LC Request, in each case, in accordance with Section 2.02(a) or Section 3.02(a), as applicable;

(b) the Servicer shall have delivered to the Administrative Agent and each Group Agent all Information Packages required to be delivered hereunder on or prior to the date of such Credit Extension;

(c) the making of such Credit Extension will not result in any of the circumstances specified in Section 2.01(a)(i) through (iv) and Section 3.01(a), as applicable;

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

(i) the representations and warranties of the Borrower and the Servicer contained in Sections 7.01 and 7.02 are true and correct in all material respects on and as of the date of such Credit Extension as though made on and as of such date unless such representations and warranties by their terms refer to an earlier date, in which case they shall be true and correct in all material respects on and as of such earlier date;

(ii) no Event of Default or Unmatured Event of Default has occurred and is continuing, and no Event of Default or Unmatured Event of Default would result from such Credit Extension;

- (iii) no Borrowing Base Deficit exists or would exist after giving effect to such Credit Extension; and
- (iv) the Termination Date has not occurred.

*Section 6.03. Conditions Precedent to All Reinvestments.* Each Reinvestment hereunder on or after the Closing Date shall be subject to the conditions precedent that:

- (a) after giving effect to such Reinvestment, the Servicer shall be holding in trust for the benefit of the Secured Parties an amount of Collections sufficient to pay the sum of (x) all accrued and unpaid Servicing Fees, Interest, Fees and Breakage Fees as of such date, if any, (y) the amount of any Borrowing Base Deficit as of such date and (z) the amount of all other accrued and unpaid Borrower Obligations, in each case, that will be due and owing on the next Settlement Date;
- (b) the Borrower shall use the proceeds of such Reinvestment solely to pay the purchase price for Receivables purchased by the Borrower in accordance with the terms of the Receivables Sale Agreement; and
- (c) on the date of such Reinvestment the following statements shall be true and correct (and upon the occurrence of such Reinvestment, the Borrower and the Servicer shall be deemed to have represented and warranted that such statements are then true and correct):
  - (i) the representations and warranties of the Borrower and the Servicer contained in Sections 7.01 and 7.02 are true and correct in all material respects on and as of the date of such Reinvestment as though made on and as of such date unless such representations and warranties by their terms refer to an earlier date, in which case they shall be true and correct in all material respects on and as of such earlier date;
  - (ii) no Event of Default has occurred and is continuing, and no Event of Default would result from such Reinvestment; and
  - (iii) the Termination Date has not occurred.

## **Article VII**

### **Representations and Warranties**

*Section 7.01. Representations and Warranties of the Borrower.* The Borrower represents and warrants as of the Closing Date, on each Settlement Date, ~~on each date on which any~~

~~Information Package or other report is delivered to the Administrative Agent or any Lender hereunder, and on each day on which a Credit Extension shall have occurred:~~

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

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

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

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

(e) *No Violation.* The execution, delivery and performance of, and the consummation of the transactions contemplated by, this Agreement and the other Transaction Documents to which it is a party, and the fulfillment of the terms hereof and thereof, will not (i) result in any material breach of any of the terms or provisions of, or constitute (with or without notice or lapse of time or both) a default under its organizational documents or any indenture, sale agreement, credit agreement, loan agreement, security agreement, mortgage, deed of trust, or other material agreement or instrument to which the Borrower is a party or by which it or any of its properties is bound, (ii) result in the creation or imposition of any Adverse Claim (other than Permitted Liens) upon any of the Collateral pursuant to the terms of any such indenture, credit agreement, loan agreement, security agreement, mortgage, deed of trust, or other agreement or instrument other than this Agreement and the other Transaction Documents or (iii) materially violate any Applicable Law.

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

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

(h) *Margin Regulations.* None of the proceeds of the Loans will be used for the purpose of (a) purchasing or carrying any “margin stock” as defined in Regulation U or Regulation X, (b) for the purpose of reducing or retiring any Indebtedness which was originally incurred to purchase or carry “margin stock”, (c) for any other purpose which might constitute this transaction a “purpose credit” within the meaning of Regulation U or Regulation X or (d) for the acquisition of another Person unless the board of directors (or other comparable governing body) or stockholders, as appropriate, of such Person has approved such acquisition.

(i) *Taxes.* ~~The Borrower has (i) timely filed or caused to be filed all income tax returns (federal, state and local) and all other material tax returns required to be filed by it and (ii) paid, or caused to be paid, all material taxes, assessments and other governmental charges owing by it, if any, other than (a) taxes, assessments and other governmental charges being contested in good faith by appropriate proceedings, (b) as to which adequate reserves have been provided in accordance with GAAP or (c) to the extent that failure to do so could not reasonably be expected to result in a Material Adverse Effect. The Borrower is properly classified as a “disregarded entity” which is wholly and beneficially owned by a “United States person” for U.S. federal income tax purposes.~~

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

(k) *Offices; Legal Name.* As of the Closing Date, the Borrower's sole jurisdiction of organization is the State of Delaware and such jurisdiction has not changed within four months prior to the date of this Agreement. As of the Closing Date, the office of the Borrower is located at the applicable address specified on Schedule III hereto. As of the Closing Date, the legal name of the Borrower is DCP Receivables LLC.

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

(m) *No Material Adverse Effect.* Since March 31, 2018 there has been no Material Adverse Effect with respect to the Borrower.

(n) *Accuracy of Information.* All Information Packages (if prepared by the Borrower or one of its Affiliates, or to the extent that the information contained therein is supplied by the Borrower or an Affiliate of the Borrower), Loan Requests, certificates, reports, statements, documents and other written information (other than Projections) furnished to the Administrative Agent or any other Credit Party by or on behalf of the Borrower pursuant to any provision of this Agreement or any other Transaction Document, or in connection with or pursuant to any amendment or modification of, or waiver under, this Agreement or any other Transaction Document, is, at the time the same are so furnished, complete and correct in all material respects on the date the same are furnished to the Administrative Agent or such other Credit Party, and does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements contained therein, in light of the circumstances under which they were made (and taken together with all of the other information furnished to the Administrative Agent), not misleading, other than matters of a general economic nature or matters that generally affect any industry segment of the Borrower.

(o) *Sanctions; Anti-Corruption and AML Laws.* None of (a) the Borrower or (b) to the knowledge of the Borrower, any directors, officers, employees, Affiliate, agent or representative of the Borrower that will act in any capacity in connection with or benefit from the credit facility established hereby, (i) is a Sanctioned Person or the subject of any Sanctions or (ii) has taken any action, directly or indirectly, that would result in a violation by such Persons of any Sanctions, Anti-Corruption Laws or AML Laws, in each case, in any material respect.

(p) *Perfection Representations.* (i) This Agreement creates a valid and continuing security interest (as defined in the applicable UCC) in the Borrower's right, title and interest in, to and under the Collateral which (A) security interest has been perfected and is enforceable against creditors of and purchasers from the Borrower and (B) will be free of all Adverse Claims in such Collateral.

(ii) The Receivables constitute "accounts" or "general intangibles" within the meaning of Section 9-102 of the UCC.

(iii) The Borrower owns and has good and marketable title to the Collateral free and clear of any Adverse Claim of any Person other than Permitted Liens.

(iv) Appropriate financing statements, financing statement amendments and continuation statements have been filed in the proper filing office in the appropriate jurisdictions under Applicable Law in order to perfect (and continue the perfection of) the sale of the Receivables and Related Security from each Originator to the Borrower pursuant to the Receivables Sale Agreement and the Administrative Agent's security interest in the Collateral.

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

(vi) Notwithstanding any other provision of this Agreement or any other Transaction Document, the representations contained in this Section 7.01(p) shall be continuing and shall remain in full force and effect until the Final Payout Date.

(q) *The Lock-Boxes and Collection Accounts.*

(i) *Nature of Collection Accounts.* Each Collection Account constitutes a "deposit account" within the meaning of the applicable UCC.

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

(iii) *Perfection.* The Borrower has delivered to the Administrative Agent a fully executed Account Control Agreement relating to each Lock-Box and Collection Account, pursuant to which each applicable Collection Account Bank has agreed to comply with the instructions originated by the Administrative Agent directing the disposition of funds in such Lock-Box and Collection Account without further consent by the Borrower, the Servicer or any other Person. The Administrative Agent has “control” (as defined in § 9-104 of the UCC) over each Collection Account.

(iv) *Instructions.* Neither the Lock-Boxes nor the Collection Accounts are in the name of any Person other than the Borrower. Neither the Borrower nor the Servicer has consented to the applicable Collection Account Bank complying with instructions of any Person other than the Administrative Agent.

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

(s) *Compliance with Law.* The Borrower has complied with all Applicable Laws to which it may be subject, except where the failure to do so, could not reasonably be expected to result in a Material Adverse Effect.

(t) *Eligible Receivables.* Each Receivable included as an Eligible Receivable in the calculation of the Net Receivables Pool Balance as of any date is an Eligible Receivable as of such date.

(u) *Opinions.* The facts and other assumptions regarding the Borrower, the Servicer, each Originator, the Performance Guarantor, the Receivables, the Related Security and the related matters set forth in any back-up certificate delivered by the Borrower, the Servicer, any Originator or the Performance Guarantor in connection with any opinion of counsel delivered in connection with this Agreement and the Transaction Documents are true and correct in all material respects.

(v) ~~*Liquidity Coverage Ratio.* The Borrower has not, does not and will not during this Agreement (x) issue any obligations that (A) constitute asset-backed commercial paper, or (B) are securities required to be registered under the Securities Act or that may be offered for sale under Rule 144A or a similar exemption from registration under the Securities Act or the rules promulgated thereunder, or (y) issue any other debt obligations or equity interest other than debt obligations substantially similar to the obligations of the Borrower under this Agreement that are (A) issued to other banks or asset-backed commercial paper conduits in privately negotiated transactions, and (B) subject to transfer restrictions substantially similar to the transfer restrictions set forth in this Agreement. The Borrower further represents and warrants that its assets and~~



~~liabilities are consolidated with the assets and liabilities of DCP for purposes of generally accepted accounting principles.~~

(w) *Events of Default.* No Event of Default or Unmatured Event of Default has occurred and is continuing.

*Section 7.02. Representations and Warranties of the Servicer.* The Servicer represents and warrants as of the Closing Date, on each Settlement Date, ~~on each date on which any Information Package or other report is delivered to the Administrative Agent or any Lender hereunder,~~ and on each day on which a Credit Extension shall have occurred:

(a) *Organization and Good Standing.* The Servicer is a duly organized and validly existing limited partnership in good standing under the laws of the State of Delaware, with the requisite power and authority under its organizational documents and under the laws of the State of Delaware to own its properties and to conduct its business as such properties are currently owned and such business is presently conducted.

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

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

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

(e) *No Violation.* The execution and delivery of this Agreement and each other Transaction Document to which the Servicer is a party, the performance of the transactions contemplated by this Agreement and the other Transaction Documents and the fulfillment of the terms of this Agreement and the other Transaction Documents by the Servicer will not (i) result in any material breach of any of the terms or provisions of,

or constitute (with or without notice or lapse of time or both) a default under, the organizational documents of the Servicer or any indenture, sale agreement, credit agreement, loan agreement, security agreement, mortgage, deed of trust or other material agreement or instrument to which the Servicer is a party or by which it or any of its property is bound, (ii) result in the creation or imposition of any Adverse Claim (other than Permitted Liens) upon any of its properties pursuant to the terms of any such indenture, credit agreement, loan agreement, agreement, mortgage, deed of trust or other agreement or instrument, other than this Agreement and the other Transaction Documents or (iii) materially violate any Applicable Law, except to the extent that any such breach, default, Adverse Claim or violation could not reasonably be expected to have a Material Adverse Effect.

(f) *Litigation and Other Proceedings.* There is no action, suit, proceeding or investigation pending, or to the Servicer's knowledge threatened, against the Servicer before any Governmental Authority: (i) asserting the invalidity of this Agreement or any of the other Transaction Documents; (ii) seeking to prevent the consummation of any of the transactions contemplated by this Agreement or any other Transaction Document; or (iii) seeking any determination or ruling that could materially and adversely affect the performance by the Servicer of its obligations under, or the validity or enforceability of, this Agreement or any of the other Transaction Documents, except, in each case that, if adversely determined, could reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect.

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

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

(i) *Accuracy of Information.* All Information Packages (if prepared by the Servicer or one of its Affiliates, or to the extent that information therein is supplied by the Servicer or an Affiliate of the Servicer), Loan Requests, certificates, reports, statements, documents and other written information (other than Projections) furnished to the Administrative Agent or any other Credit Party by the Servicer pursuant to any provision of this Agreement or any other Transaction Document, or in connection with or pursuant to any amendment or modification of, or waiver under, this Agreement or any other Transaction Document, is, at the time the same are so furnished, complete and correct in all material respects on the date the same are furnished to the Administrative Agent or such other Credit Party, and does not contain any material misstatement of fact or omit to state a material fact or any fact necessary to make the statements contained therein not

misleading, other than matters of a general economic nature or matters that generally affect any industry segment of the Servicer.

(j) *Location of Records.* The offices where the initial Servicer keeps all of its master electronic records for the Pool Receivables are located at DCP Midstream, LP, 370 17th St., Suite 2500, Denver, Colorado 80202.

(k) *Credit and Collection Policy.* The Servicer has complied in all material respects with the Credit and Collection Policy with regard to each Pool Receivable and the related Contracts.

(l) *Eligible Receivables.* Each Receivable included as an Eligible Receivable in the calculation of the Net Receivables Pool Balance as of any date is an Eligible Receivable as of such date.

(m) *Servicing of Pool Receivables.* Since the Closing Date there has been no material adverse change in the ability of the Servicer or any Sub-Servicer to service and collect the Pool Receivables and the Related Security.

(n) *No Material Adverse Effect.* Since March 31, 2018 there has been no Material Adverse Effect with respect to the Servicer.

(o) *Investment Company Act.* The Servicer is not an “investment company,” or a company “controlled” by an “investment company,” within the meaning of the Investment Company Act.

(p) *Sanctions; Anti-Corruption and AML Laws.* None of (a) the Servicer or any of its Subsidiaries or (b) to the knowledge of the Servicer, any directors, officers, employees, Affiliate, agent or representative of the Servicer or any Subsidiary that will act in any capacity in connection with or benefit from the credit facility established hereby, (i) is a Sanctioned Person or the subject of any Sanctions or (ii) has taken any action, directly or indirectly, that would result in a violation by such Persons of any Sanctions, Anti-Corruption Laws or AML Laws, in each case, in any material respect.

(q) *Financial Condition.* The consolidated balance sheets of the Servicer and its consolidated Subsidiaries as of March 31, 2018 and the related statements of income and shareholders’ equity of the Servicer and its consolidated Subsidiaries for the fiscal quarter then ended, copies of which have been furnished to the Administrative Agent and the Group Agents, present fairly in all material respects the consolidated financial position of the Servicer and its consolidated Subsidiaries for the period ended on such date, all in accordance with GAAP, subject to normal year-end audit adjustments and the absence of footnotes.

(r) *Taxes.* The Servicer has (i) timely filed or caused to be filed all income tax returns (federal, state and local) and all other material tax returns required to be filed by it and (ii) paid, or caused to be paid, all material taxes, assessments and other

governmental charges owing by it, if any, other than (a) taxes, assessments and other governmental charges being contested in good faith by appropriate proceedings, (b) as to which adequate reserves have been provided in accordance with GAAP or (c) to the extent that failure to do so could not reasonably be expected to result in a Material Adverse Effect.

(s) *Opinions.* The facts and other assumptions regarding the Borrower, the Servicer, each Originator, the Performance Guarantor, the Receivables, the Related Security and the related matters set forth in any back-up certificate delivered by the Borrower, the Servicer, any Originator or the Performance Guarantor in connection with any opinion of counsel delivered in connection with this Agreement and the Transaction Documents are true and correct in all material respects.

(t) *Events of Default.* No Event of Default or Unmatured Event of Default has occurred and is continuing.

## **Article VIII**

### **Covenants**

*Section 8.01. Covenants of the Borrower.* At all times from the Closing Date until the Final Payout Date:

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

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

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

(i) *Annual Financial Statements of the Borrower.* Promptly upon completion and in no event later than 95 days after the close of each fiscal year of the Borrower, annual unaudited financial statements of the Borrower certified by a Financial Officer of the Borrower that they fairly present in all material respects, in accordance with GAAP, the financial condition of the Borrower as of the date indicated and the results of its operations for the periods indicated.

(ii) *Information Packages.* As soon as available and in any event not later than two (2) Business Days prior to each Settlement Date, a Monthly

Information Package as of the most recently completed Fiscal Month; *provided*, that at any time after the occurrence and during the continuance of a Level 1 Ratings Event, upon two (2) Business Days' prior written notice from the Administrative Agent, the Borrower shall furnish or cause to be furnished to the Administrative Agent by no later than the second (2<sup>nd</sup>) Business Day of each week, a Weekly Information Package with respect to the Pool Receivables with data as of the last Business Day of the previous week; and, *provided, further*, that at any time after the occurrence and during the continuance of a Level 2 Ratings Event, upon two (2) Business Days' prior written notice from the Administrative Agent, the Borrower shall furnish or cause to be furnished to the Administrative Agent on each Business Day thereafter a Daily Information Package with respect to the Pool Receivables with data as of the previous Business Day.

(iii) *Other Information.* Such other information (including non-financial information) as the Administrative Agent or any Group Agent may from time to time reasonably request.

(iv) *Quarterly Financial Statements of Performance Guarantor.* As soon as available, and in any event within 50 days after the close of each fiscal quarter of the Parent (other than the fourth fiscal quarter) a consolidated balance sheet of the Parent as of the end of such fiscal quarter, together with a related consolidated income statement and related statement of cash flows for such fiscal quarter in each case setting forth in comparative form figures for the corresponding period of the preceding Fiscal Year, and accompanied by a certificate of a Financial Officer of the Parent to the effect that such quarterly financial statements fairly present in all material respects the financial condition of the Parent and its Subsidiaries and have been prepared in accordance with GAAP, subject to changes resulting from audit and normal year end audit adjustments to same; *provided*, that the Parent's Form 10-Q Quarterly Report as filed with the SEC, without exhibits, will satisfy the requirements of this Section 8.01(c)(iv).

(v) *Annual Financial Statements of Performance Guarantor.* As soon as available, and in any event within 95 days after the close of each Fiscal Year of the Parent, a consolidated balance sheet of the Parent as of the end of such Fiscal Year, together with a related consolidated income statement and related statements of cash flows, capitalization and retained earnings for such Fiscal Year, setting forth in comparative form figures for the preceding Fiscal Year, all such financial information described above to be audited by independent certified public accountants of recognized national standing and whose opinion, which shall be furnished to the Administrative Agent, shall be to the effect that such financial statements have been prepared in accordance with GAAP (except for changes with which such accountants concur); *provided*, that the Parent's Form 10-K Annual Report as filed with the SEC, without exhibits, will satisfy the requirements of this Section 8.01(c)(v).

(d) *Notices.* The Borrower (or the Servicer on its behalf) will notify the Administrative Agent and each Group Agent in writing of any of the following events promptly upon (but in no event later than three (3) Business Days after (other than with respect to clauses (v) and (vi) below)) a Financial Officer or other officer with responsibility relating thereto learning of the occurrence thereof, with such notice describing the same, and if applicable, the steps being taken by the Person(s) affected with respect thereto:

(i) *Notice of Events of Default or Unmatured Events of Default.* A statement of a Financial Officer of the Borrower setting forth details of any Event of Default or Unmatured Event of Default of which the Borrower or the Servicer has knowledge and that is continuing and the action which the Borrower has taken or proposes to take with respect thereto.

(ii) *Litigation.* The institution of any litigation, arbitration proceeding or governmental proceeding on the Borrower, the Servicer or any Originator, which with respect to any Person other than the Borrower that, if adversely determined, could reasonably be expected to have a Material Adverse Effect.

(iii) *Name Changes.* At least five (5) Business Days before any change in any Originator's name, jurisdiction of organization or any other change requiring the amendment of UCC financing statements, a notice setting forth such changes and the effective date thereof.

(iv) *Change in Accountants or Accounting Policy.* No later than ten (10) Business Days after any change in any material accounting policy of the Borrower or any Originator that is relevant to the transactions contemplated by this Agreement or any other Transaction Document (it being understood that any change to the manner in which any Originator accounts for the Pool Receivables shall be deemed "material" for such purpose).

(v) *Material Adverse Change.* Promptly after the occurrence thereof, notice of any Material Adverse Effect with respect to the Borrower, the Servicer, any Originator, or the Performance Guarantor of which the Borrower or the Servicer, as applicable, has actual knowledge.

(e) *Conduct of Business.* The Borrower will carry on and conduct its business in substantially the same manner and in substantially the same fields of enterprise as it is presently conducted and will do all things necessary to remain duly organized, validly existing and in good standing as a domestic organization in its jurisdiction of organization and maintain all requisite authority to conduct its business in each jurisdiction in which its business is conducted, except where the failure to maintain such authority could not reasonably be expected to have a Material Adverse Effect.

(f) *Compliance with Laws.* The Borrower will comply with all Applicable Laws to which it may be subject if the failure to comply could reasonably be expected to have a Material Adverse Effect.

(g) *Furnishing of Information and Inspection of Receivables.* The Borrower will furnish or cause to be furnished to the Administrative Agent and each Group Agent from time to time such information with respect to the Pool Receivables and the other Collateral as the Administrative Agent or any Group Agent may reasonably request not otherwise furnished by the Servicer. The Borrower will, at the Borrower's expense, during regular business hours with at least five (5) days' prior written notice (i) permit the Administrative Agent and each Group Agent or their respective agents or representatives to (A) examine and make copies of and abstracts from all books and records relating to the Pool Receivables or other Collateral, (B) visit the offices and properties of the Borrower for the purpose of examining such books and records and (C) discuss matters relating to the Pool Receivables, the other Collateral or the Borrower's performance hereunder or under the other Transaction Documents to which it is a party with any of the officers, directors, employees or independent public accountants of the Borrower (*provided* that representatives of the Borrower are present during such discussions) having knowledge of such matters and (ii) without limiting the provisions of clause (i) above, during regular business hours, at the Borrower's expense, upon at least five (5) days' prior written notice from the Administrative Agent, permit certified public accountants or other auditors acceptable to the Administrative Agent to conduct a review of its books and records with respect to such Pool Receivables and other Collateral; *provided*, that the Borrower shall be required to reimburse the Administrative Agent and any Group Agent for only one (1) such review pursuant to clause (i) and (ii) above in any twelve-month period, unless an Event of Default has occurred and is continuing.

(h) *Payments on Receivables, Collection Accounts.* The Borrower (or the Servicer on its behalf) will, and will cause each Originator to, at all times, instruct all Obligors to deliver payments on the Pool Receivables to a Collection Account or a Lock-Box. If any payments on the Pool Receivables or other Collections are received by the Borrower (other than in a Collection Account), the Servicer or an Originator, it shall hold such payments in trust for the benefit of the Administrative Agent, the Group Agents and the other Secured Parties and promptly (but in any event within two (2) Business Days after receipt) remit such funds into a Collection Account. The Borrower (or the Servicer on its behalf) will use commercially reasonable efforts to enforce each applicable Account Control Agreement. At all times after the Closing Date, the Borrower shall not permit funds other than Collections on Pool Receivables and other Collateral to be deposited into any Collection Account except with respect to any amounts received in connection with an Excluded Receivable. If such funds are nevertheless deposited into any Collection Account, the Borrower (or the Servicer on its behalf) will within two (2) Business Days identify and transfer such funds to the appropriate Person entitled to such funds. At all times after the Closing Date, the Borrower will not, and will not permit the Servicer, any Originator or any other Person to commingle Collections or other funds to which the Administrative Agent, any Group Agent or any other Secured Party is entitled, with any other funds. The Borrower shall only add or replace a Collection Account (or a

related Lock-Box) or a Collection Account Bank to those listed on Schedule II to this Agreement, if the Administrative Agent has received notice of such addition or replacement and an executed and acknowledged copy of an Account Control Agreement (or an amendment thereto) in form and substance reasonably acceptable to the Administrative Agent from the applicable Collection Account Bank. The Borrower shall only terminate a Collection Account Bank or close a Collection Account (or a related Lock-Box) with the prior written consent of the Administrative Agent, which consent shall not be unreasonably withheld, conditioned or delayed.

(i) *Sales, Liens, etc.* The Borrower will not sell, assign (by operation of law or otherwise) or otherwise dispose of, or create or suffer to exist any Adverse Claim (except for Permitted Liens) upon (including, without limitation, the filing of any financing statement) or with respect to, any Pool Receivable or other Collateral, or assign any right to receive income in respect thereof.

(j) *Extension or Amendment of Pool Receivables.* Except as otherwise permitted in Section 9.02, the Borrower will not, and will not permit the Servicer to, alter the delinquency status or adjust the Outstanding Balance or otherwise modify the payment terms of any Pool Receivable in any material respect, or amend, modify or waive, in any material respect, any payment term or condition of any related Contract without the prior written consent of the Administrative Agent. The Borrower shall at its expense, timely and fully perform and comply in all material respects with all provisions, covenants and other promises required to be observed by it under the Contracts related to the Pool Receivables, and timely and fully comply with the Credit and Collection Policy with regard to each Pool Receivable and the related Contract.

(k) *Change in Credit and Collection Policy.* The Borrower will not make any material change in the Credit and Collection Policy that could reasonably be expected to materially adversely affect the collectability of the Pool Receivables, the credit quality of any Pool Receivable, the enforceability of any related Contract or its ability to perform its obligations under the related Contract or the Transaction Documents without the prior written consent of the Administrative Agent and the Majority Group Agents, which consent shall not be unreasonably withheld, conditioned or delayed. Promptly following any change in the Credit and Collection Policy, the Borrower will deliver a copy of the updated Credit and Collection Policy to the Administrative Agent and each Group Agent.

(l) *Fundamental Changes.* The Borrower shall not, without the prior written consent of the Administrative Agent and the Majority Group Agents, permit itself (i) to divide into one or more Persons, to merge or consolidate with or into, or convey, transfer, lease or otherwise dispose of (whether in one transaction or in a series of transactions) all or substantially all of its assets (whether now owned or hereafter acquired) to, any Person or (ii) to be directly owned by any Person other than an Originator. The Borrower shall provide the Administrative Agent with at least five (5) Business Days' prior written notice before making any change in the Borrower's name or location or making any other change in the Borrower's identity or corporate structure that could impair or otherwise render any UCC financing statement filed in connection with this Agreement or any other



Transaction Document “seriously misleading” as such term (or similar term) is used in the applicable UCC; each notice to the Administrative Agent and the Group Agents pursuant to this sentence shall set forth the applicable change and the proposed effective date thereof.

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

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

(o) *Change in Payment Instructions to Obligors.* The Borrower shall not (and shall not permit the Servicer or any Sub-Servicer to) add, replace or terminate any Collection Account (or any related Lock-Box) or make any change in its (or their) instructions to the Obligors regarding payments to be made to the Collection Accounts (or any related Lock-Box), other than any instruction to remit payments to a different Collection Account (or any related Lock-Box), unless the Administrative Agent shall have received (i) prior written notice of such addition, termination or change and (ii) a signed and acknowledged Account Control Agreement (or an amendment thereto) with respect to such new Collection Account (or any related Lock-Box), and, solely with respect to the replacement or termination of a Collection Account, the Administrative Agent shall have consented to such change in writing, such consent not to be unreasonably withheld, conditioned or delayed.

(p) *Security Interest, Etc.* The Borrower shall (and shall cause the Servicer to), at its expense, take all action necessary to establish and maintain a valid and enforceable perfected security interest in the Collateral, in each case free and clear of any Adverse Claim other than Permitted Liens, in favor of the Administrative Agent (on behalf of the Secured Parties), including taking such action to perfect, protect or more fully evidence the security interest of the Administrative Agent (on behalf of the Secured Parties) as the Administrative Agent or any Secured Party may reasonably request. In order to evidence the security interests of the Administrative Agent under this Agreement, the Borrower shall, from time to time take such action, or execute and deliver

such instruments as may be necessary (including, without limitation, such actions as are reasonably requested by the Administrative Agent) to maintain and perfect the Administrative Agent's security interest in the Receivables, Related Security and Collections. The Borrower shall, from time to time and within the time limits established by applicable law, prepare and present to the Administrative Agent for the Administrative Agent's authorization and approval, all financing statements, amendments, continuations or initial financing statements in lieu of a continuation statement, or other filings necessary to continue, maintain and perfect the Administrative Agent's security interest. The Administrative Agent's approval of such filings shall authorize the Borrower to file such financing statements under the UCC without the signature of the Borrower, any Originator or the Administrative Agent where allowed by Applicable Law. Notwithstanding anything else in the Transaction Documents to the contrary, the Borrower shall not have any authority to file a termination, partial termination, release, partial release, or any amendment that deletes the name of a debtor or excludes collateral of any such financing statements filed in connection with the Transaction Documents, without the prior written consent of the Administrative Agent, except as set forth in Section 5.08(c) hereof.

(q) *Certain Agreements.* Other than in connection with the Final Payout Date, without the prior written consent of the Administrative Agent and the Majority Group Agents, the Borrower will not (and will not permit any Originator or the Servicer to) amend, modify, waive, revoke or terminate any Transaction Document to which it is a party or any provision of the Borrower's organizational documents which requires the consent of the "Independent Manager" (as such term is used in the Borrower's Limited Liability Company Agreement).

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

(ii) Subject to the limitations set forth in clause (iii) below, the Borrower may make Restricted Payments so long as such Restricted Payments are made only in the following way: the Borrower may declare and pay dividends if, both immediately before and immediately after giving effect thereto, the Borrower's Net Worth is not less than the Required Capital Amount.

(iii) The Borrower may make Restricted Payments only out of the funds, if any, it receives pursuant to Section 4.01 of this Agreement; *provided* that the Borrower shall not pay, make or declare any Restricted Payment (including any dividend) if, after giving effect thereto, any Event of Default or Unmatured Event of Default shall have occurred and be continuing.

(s) *Other Business.* The Borrower will not: (i) engage in any business other than the transactions contemplated by the Transaction Documents, (ii) create, incur or permit to exist any Debt of any kind (or cause or permit to be issued for its account any letters of credit or bankers' acceptances) other than pursuant to this Agreement or the other Transaction Documents or (iii) form any Subsidiary or make any investments in any other Person; *provided*, that the Borrower shall be permitted to incur de minimis obligations incidental to the day-to-day operations of the Borrower (such as expenses for stationery, audits, and maintenance of legal status).

(t) *Use of Collections Available to the Borrower.* The Borrower shall apply the Collections available to the Borrower to make payments in the following order of priority: (i) the payment of its obligations under this Agreement and each of the other Transaction Documents, (ii) the payment of accrued and unpaid interest on the Subordinated Note and (iii) other legal and valid corporate purposes.

(u) *Further Assurances; Change in Name or Jurisdiction of Origination, etc.* (i) The Borrower hereby authorizes and hereby agrees from time to time, at its own expense, promptly to execute (if necessary) and deliver all further instruments and documents, and to take all further actions, that may be reasonably necessary, or that the Administrative Agent may reasonably request, to perfect, protect or more fully evidence the security interest granted pursuant to this Agreement or any other Transaction Document, or to enable the Administrative Agent (on behalf of the Secured Parties) to exercise and enforce the Secured Parties' rights and remedies under this Agreement and the other Transaction Documents. Without limiting the foregoing, the Borrower hereby authorizes, and will, upon the request of the Administrative Agent, at the Borrower's own expense, execute (if necessary) and file such financing statements or continuation statements, or amendments thereto, and such other instruments and documents, that may be reasonably necessary, or that the Administrative Agent may reasonably request, to perfect, protect or evidence any of the foregoing.

(ii) The Borrower authorizes the Administrative Agent to file financing statements, continuation statements and amendments thereto and assignments thereof, relating to the Receivables, the Related Security, the related Contracts, Collections with respect thereto and the other Collateral without the signature of the Borrower. A photocopy or other reproduction of this Agreement shall be sufficient as a financing statement where permitted by law.

(iii) The Borrower shall at all times be organized under the laws of the State of Delaware and shall not take any action to change its jurisdiction of organization.

(iv) The Borrower will not change its name, location, identity or corporate structure unless (x) the Borrower, at its own expense, shall have taken all action necessary or appropriate to perfect or maintain the perfection of the security interest under this Agreement (including, without limitation, the filing of all financing statements and the taking of such other action as the Administrative

Agent may reasonably request in connection with such change or relocation) and (y) if requested by the Administrative Agent, the Borrower shall have taken action to cause to be delivered to the Administrative Agent, an opinion, in form and substance reasonably satisfactory to the Administrative Agent as to such UCC perfection and priority matters as the Administrative Agent may request at such time.

(v) *OFAC*. The Borrower has not used and will not use the proceeds of any Credit Extension to fund any operations in, finance any investments or activities in or make any payments to, a Sanctioned Person or a Sanctioned Country.

(w) *Borrower's Net Worth*. The Borrower shall not permit the Borrower's Net Worth to be less than the Required Capital Amount, *provided*, that the foregoing shall not require the Performance Guarantor to make any additional capital contributions to the Borrower.

(x) *Credit Risk Retention*. The Borrower shall cooperate with each Lender (including by providing such information and entering into or delivering such additional agreements or documents reasonably requested by such Lender or its Group Agent) to the extent reasonably necessary to assure such Lender that the Originators retain credit risk in the amount and manner required by the Credit Risk Retention Rules and to permit such Lender to perform its due diligence and monitoring obligations (if any) under the Credit Risk Retention Rules.

(y) *Payment of Obligations; Tax Status*. The Borrower will pay, discharge or otherwise satisfy as the same shall become due and payable, all of its obligations and liabilities, including Tax liabilities, unless (i) the same are being contested in good faith by appropriate proceedings diligently conducted and adequate reserves in accordance with GAAP are being maintained by the Borrower, or (ii) to the extent that the failure to do so could not reasonably be expected to have a Material Adverse Effect. The Borrower shall maintain its status as a "disregarded entity" which is wholly beneficially owned by a "United States person" for U.S. federal income tax purposes.

(z) *Other Additional Information*. The Borrower will provide to the Administrative Agent and each Group Agent such information and documentation as may reasonably be requested by the Administrative Agent or any Group Agent from time to time for purposes of compliance by the Administrative Agent or such Group Agent with applicable laws (including without limitation the USA Patriot Act and other "know your customer" and anti-money laundering rules and regulations), and any policy or procedure implemented by the Administrative Agent or such Group Agent to comply therewith.

*Section 8.02. Covenants of the Servicer.* At all times from the Closing Date until the Final Payout Date:

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

(i) *Compliance Certificates.* At the time of delivery of the financial statements provided for in Sections 8.01(c)(iv) and 8.01(c)(v) above, a certificate of a Financial Officer of the Servicer, substantially in the form of Exhibit G, stating that no Event of Default or Unmatured Event of Default exists, or if any Event of Default or Unmatured Event of Default does exist, specifying the nature and extent thereof and what action the Servicer or the Borrower proposes to take with respect thereto.

(ii) *Information Packages.* As soon as available and in any event not later than two (2) Business Days prior to each Settlement Date, a Monthly Information Package as of the most recently completed Fiscal Month; *provided*, that at any time after the occurrence and during the continuance of a Level 1 Ratings Event, upon two (2) Business Days' prior written notice from the Administrative Agent, the Servicer shall furnish or cause to be furnished to the Administrative Agent by no later than the second (2<sup>nd</sup>) Business Day of each week, a Weekly Information Package with respect to the Pool Receivables with data as of the last Business Day of the previous week; and, *provided, further*, that at any time after the occurrence and during the continuance of a Level 2 Ratings Event, upon two (2) Business Days' prior written notice from the Administrative Agent, the Servicer shall furnish or cause to be furnished to the Administrative Agent on each Business Day thereafter a Daily Information Package with respect to the Pool Receivables with data as of the previous Business Day.

(iii) *Other Information.* With reasonable promptness upon any such request, such other information regarding the business, properties or financial condition of the Borrower, the Parent and their Subsidiaries as the Administrative Agent or any other Secured Party may reasonably request.

(iv) Notwithstanding anything herein to the contrary, any financial information, proxy statements or other material required to be delivered pursuant to this paragraph (a) shall be deemed to have been furnished to each of the Administrative Agent and each Group Agent on the date (A) that such report, proxy statement or other material is posted on the SEC's website at [www.sec.gov](http://www.sec.gov), (B) that the Borrower posts such documents, or provides a link thereto on the Parent's website on the Internet at the website address listed in Section 11.1 of the Credit Agreement, or (C) on which such documents are posted on the Borrower's behalf on an Internet or intranet website, if any, to which each Lender and the Administrative Agent have access (whether a commercial, third-party website or whether sponsored by the Administrative Agent).

(b) *Notices.* The Servicer will notify the Administrative Agent and each Group Agent in writing of any of the following events promptly upon (but in no event later than three (3) Business Days after (other than with respect to clauses (v) and (vi) below)) a Financial Officer or other officer learning of the occurrence thereof, with such notice describing the same, and if applicable, the steps taken or being taken by the Person(s) affected with respect thereto:

(i) *Notice of Events of Default or Unmatured Events of Default.* A statement of a Financial Officer of the Servicer setting forth details of any Event of Default or Unmatured Event of Default that has occurred and is continuing and the action which the Servicer has taken or proposes to take with respect thereto.

(ii) *Litigation.* The institution of any litigation, arbitration proceeding or governmental proceeding which could reasonably be expected to have a Material Adverse Effect.

(iii) *Name Changes.* At least five (5) Business Days before any change in any Originator's name, jurisdiction of organization or any other change requiring the amendment of UCC financing statements, a notice setting forth such changes and the effective date thereof.

(iv) *Change in Accountants or Accounting Policy.* No later than ten (10) Business Days after any change in any material accounting policy of the Servicer or any Originator that is relevant to the transactions contemplated by this Agreement or any other Transaction Document (it being understood that any change to the manner in which any Originator accounts for the Pool Receivables shall be deemed "material" for such purpose).

(v) *Material Adverse Change.* Promptly after the occurrence thereof, notice of any Material Adverse Effect with respect to the Servicer, the Borrower, the Performance Guarantor or any Subsidiary of the Servicer that is an Originator.

(c) *Conduct of Business.* The Servicer will do all things necessary to remain duly organized, validly existing and in good standing as a domestic organization in its jurisdiction of organization and maintain all requisite authority to conduct its business in each jurisdiction in which its business is conducted if the failure to have such authority could reasonably be expected to have a Material Adverse Effect.

(d) *Compliance with Laws.* The Servicer will comply with all Applicable Laws to which it may be subject if the failure to comply could reasonably be expected to have a Material Adverse Effect. The Servicer shall service the Receivables in accordance with the terms hereof and the terms of the related Contracts.

(e) *Furnishing of Information and Inspection of Receivables.* The Servicer will furnish or cause to be furnished to the Administrative Agent and each Group Agent from time to time such information with respect to the Pool Receivables as the

Administrative Agent or any Group Agent may reasonably request. The Servicer will, at the Servicer's expense, during regular business hours with reasonable prior written notice of at least five (5) Business Days, (i) permit the Administrative Agent and each Group Agent or their respective agents or representatives to (A) examine and make copies of and abstracts from all books and records relating to the Pool Receivables or other Collateral, (B) visit the offices and properties of the Servicer for the purpose of examining such books and records and (C) discuss matters relating to the Pool Receivables, the other Collateral or the Servicer's performance hereunder or under the other Transaction Documents to which it is a party with any of the officers, directors, employees or independent public accountants of the Servicer (*provided* that representatives of the Servicer are present during such discussions) having knowledge of such matters and (ii) without limiting the provisions of clause (i) above, during regular business hours, at the Servicer's expense, upon reasonable prior written notice of at least five (5) Business Days from the Administrative Agent, permit certified public accountants or other auditors acceptable to the Administrative Agent to conduct a review of its books and records with respect to the Pool Receivables; *provided*, that the Servicer shall be required to reimburse the Administrative Agent or a Group Agent, as applicable, for only one (1) such review pursuant to clause (i) or (ii) above in any twelve-month period unless an Event of Default has occurred and is continuing.

(f) *Payments on Receivables, Collection Accounts.* The Servicer will at all times, instruct all Obligor to deliver payments on the Pool Receivables to a Collection Account or a Lock-Box. If any payments on the Pool Receivables or other Collections are received by the Borrower (other than in a Collection Account), the Servicer or an Originator, it shall hold such payments in trust for the benefit of the Administrative Agent, the Group Agents and the other Secured Parties and promptly (but in any event within two (2) Business Days after receipt) remit such funds into a Collection Account. At all times after the Closing Date, the Servicer shall not permit funds other than Collections on Pool Receivables and other Collateral to be deposited into any Collection Account except with respect to any amounts received in connection with an Excluded Receivable. If such funds are nevertheless deposited into any Collection Account, the Servicer will within two (2) Business Days identify and transfer such funds to the appropriate Person entitled to such funds. At all times after the Closing Date, the Servicer will not, and will not permit the Borrower, any Originator or any other Person to commingle Collections or other funds to which the Administrative Agent, any Group Agent or any other Secured Party is entitled, with any other funds. At all times after the Closing Date, the Servicer shall only add or replace a Collection Account (or a related Lock-Box), or a Collection Account Bank to those listed on Schedule II to this Agreement, if the Administrative Agent has received notice of such addition or replacement and an executed and acknowledged copy of an Account Control Agreement (or an amendment thereto) in form and substance reasonably acceptable to the Administrative Agent from the applicable Collection Account Bank. The Servicer shall only terminate a Collection Account Bank or close a Collection Account (or a related Lock-Box) with the prior written consent of the Administrative Agent, which consent shall not be unreasonably withheld, conditioned or delayed.

(g) *Extension or Amendment of Pool Receivables.* Except as otherwise permitted in Section 9.02, the Servicer will not alter the delinquency status or adjust the Outstanding Balance or otherwise modify the payment terms of any Pool Receivable in any material respect, or amend, modify or waive, in any material respect, any payment term or condition of any related Contract. The Servicer shall at its expense, timely and fully perform and comply in all material respects with all provisions, covenants and other promises required to be observed by it under the Contracts related to the Pool Receivables, and timely and fully comply with the Credit and Collection Policy with regard to each Pool Receivable and the related Contract.

(h) *Change in Credit and Collection Policy.* The Servicer will not make any material change in the Credit and Collection Policy that could reasonably be expected to materially adversely affect the collectability of the Receivables, the credit quality of any Receivable, or its ability to perform its obligations under the Transaction Documents without the prior written consent of the Administrative Agent and the Majority Group Agents, which consent shall not be unreasonably withheld, conditioned or delayed. Promptly following any change in the Credit and Collection Policy, the Servicer will deliver a copy of the updated Credit and Collection Policy to the Administrative Agent and each Group Agent.

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

(j) *Identifying of Records.* The Servicer shall identify its master data processing reports relating to Pool Receivables and related Contracts with a legend that indicates that the Pool Receivables have been pledged in accordance with this Agreement.

(k) *Change in Payment Instructions to Obligors.* The Servicer shall not (and shall not permit any Sub-Servicer to) add, replace or terminate any Collection Account (or any related Lock-Box) or make any change in its instructions to the Obligors regarding payments to be made to the Collection Accounts (or any related Lock-Box), other than any instruction to remit payments to a different Collection Account (or any related Lock-Box), unless the Administrative Agent shall have received (i) prior written notice of such addition, termination or change and (ii) signed and acknowledged Account Control Agreements with respect to such new Collection Accounts (or any related Lock-Box) and, solely with respect to the replacement or termination of a Collection Account (or any related Lock-Box) the Administrative Agent shall have consented to such change in writing, which consent shall not be unreasonably withheld, conditioned or delayed.



(l) *Security Interest, Etc.* The Servicer shall, on behalf of the Borrower, at its expense, take all action reasonably necessary to establish and maintain a valid and enforceable perfected security interest in the Collateral, in each case free and clear of any Adverse Claim, other than Permitted Liens, in favor of the Administrative Agent (on behalf of the Secured Parties), including taking such action to perfect, protect or more fully evidence the security interest of the Administrative Agent (on behalf of the Secured Parties) as the Administrative Agent or any Secured Party may reasonably request. Except in connection with the Final Payout Date, notwithstanding anything else in the Transaction Documents to the contrary, the Servicer shall not have any authority to file a termination, partial termination, release, partial release, or any amendment that deletes the Borrower or any Originator or excludes collateral of any such financing statements filed in connection with the Transaction Documents, without the prior written consent of the Administrative Agent.

(m) *Further Assurances.* The Servicer hereby agrees from time to time, at its own expense, promptly to execute (if necessary) and deliver all further instruments and documents that the Administrative Agent may reasonably request, and to take all further actions, that may be reasonably necessary, or that the Administrative Agent may reasonably request, to enable the Administrative Agent (on behalf of the Secured Parties) to exercise and enforce their respective rights and remedies under this Agreement or any other Transaction Document.

(n) *Credit Risk Retention.* The Servicer shall, and shall cause each Originator to, cooperate with each Lender (including by providing such information and entering into or delivering such additional agreements or documents reasonably requested by such Lender or its Group Agent) to the extent reasonably necessary to assure such Lender that the Originators retain credit risk in the amount and manner required by the Credit Risk Retention Rules and to permit such Lender to perform its due diligence and monitoring obligations (if any) under the Credit Risk Retention Rules.

(o) *Servicing Programs.* Upon the occurrence of an Event of Default, the Servicer shall, at the request of the Administrative Agent, take reasonable steps to obtain any licenses or approvals that are reasonably required for the Administrative Agent's use of any software or other computer program used by the Servicer, any Originator or any Sub-Servicer in the servicing of the Pool Receivables.

*Section 8.03. Separate Existence of the Borrower.* Each of the Borrower and the Servicer hereby acknowledges that the Secured Parties, the Group Agents and the Administrative Agent are entering into the transactions contemplated by this Agreement and the other Transaction Documents in reliance upon the Borrower's identity as a legal entity separate from any Originator, the Servicer and their Affiliates. Therefore, each of the Borrower and Servicer shall take all steps specifically required by this Agreement or reasonably required by the Administrative Agent or any Group Agent to continue the Borrower's identity as a separate legal entity and to make it apparent to third Persons that the Borrower is an entity with assets and liabilities distinct from those of the Originators, the Servicer and any other Person, and is not a division of the Originators, the Servicer, its Affiliates or any other Person. Without limiting the

generality of the foregoing and in addition to and consistent with the other covenants set forth herein, each of the Borrower and the Servicer shall take such actions as shall be required in order that:

(a) *Special Purpose Entity.* The Borrower will be a special purpose company whose primary activities are restricted in its Limited Liability Company Agreement to: (i) purchasing or otherwise acquiring from the Originators, owning, holding, granting security interests or selling interests in the Collateral, (ii) entering into agreements for the selling, servicing and financing of the Receivables Pool (including the Transaction Documents) and (iii) conducting such other activities as it deems necessary or appropriate to carry out its primary activities.

(b) *No Other Business or Debt.* The Borrower shall not engage in any business or activity except as set forth in this Agreement or in its organizational documents nor, incur any indebtedness or liability other than the Borrower Obligations and as expressly permitted by the Transaction Documents.

(c) *Independent Manager.* Not fewer than one member of the Borrower's board of managers (the "*Independent Manager*") shall be a natural person who (i) is not, and has not been for a period of five years prior to his or her appointment as Independent Manager of the Borrower, an equityholder, director, officer, manager, member, partner, officer or employee, or any relative of the foregoing, of any member of the Parent Group (as hereinafter defined) (other than his or her service as an Independent Manager of the Borrower or an independent director or manager of any other bankruptcy-remote special purpose entity formed for the sole purpose of securitizing, or facilitating the securitization of, financial assets of any member or members of the Parent Group), (ii) is not a customer or supplier of any member of the Parent Group (other than his or her service as an Independent Manager of the Borrower or an independent director or manager of any other bankruptcy-remote special purpose entity formed for the sole purpose of securitizing, or facilitating the securitization of, financial assets of any member or members of the Parent Group) and (iii) has (x) prior experience as an independent director or manager for a corporation or limited liability company whose organizational or charter documents required the unanimous consent of all independent directors or managers thereof before such corporation or limited liability company could consent to the institution of bankruptcy or insolvency proceedings against it or could file a petition seeking relief under any applicable federal or state law relating to bankruptcy and (y) at least three years of employment experience with one or more entities that provide, in the ordinary course of their respective businesses, advisory, management or placement services to issuers of securitization or structured finance instruments, agreements or securities. For purposes of this clause (c), "Parent Group" shall mean (i) the Parent, the Servicer, the Performance Guarantor and each Originator and (ii) and each of their respective Affiliates. For the purposes of this definition, "*control*" means the possession directly or indirectly of the power to direct or cause the direction of management policies or activities of a person or entity whether through ownership of voting securities, by contract or otherwise.

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

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

The Independent Manager shall not at any time serve as a trustee in bankruptcy for the Borrower, the Performance Guarantor, any Originator, the Servicer or any of their respective Affiliates.

(d) *Organizational Documents.* The Borrower shall maintain its organizational documents in conformity with this Agreement, such that it does not amend, restate, supplement or otherwise modify its ability to comply with the terms and provisions of any of the Transaction Documents, including, without limitation, Section 8.01(p).

(e) *Conduct of Business.* The Borrower shall conduct its affairs strictly in accordance with its organizational documents and observe all necessary, appropriate and customary company formalities, including, but not limited to, holding all regular and special members' and board of managers' meetings appropriate to authorize all corporate action, keeping separate and accurate minutes of its meetings, passing all resolutions or consents necessary to authorize actions taken or to be taken, and maintaining accurate and separate books, records and accounts, including, but not limited to, payroll and intercompany transaction accounts.

(f) *Compensation.* Any employee, consultant or agent of the Borrower will be compensated from the Borrower's funds for services provided to the Borrower, and to the extent that Borrower shares the same officers or other employees as the Servicer (or any other Affiliate thereof), the salaries and expenses relating to providing benefits to such officers and other employees shall be fairly allocated among such entities, and each such entity shall bear its fair share of the salary and benefit costs associated with such common officers and employees; *provided*, that the foregoing shall not require Parent to

make any additional capital contributions to the Borrower. The Borrower will not engage any agents other than its attorneys, auditors and other professionals, and a servicer and any other agent contemplated by the Transaction Documents for the Receivables Pool.

(g) *Servicing and Costs.* The Borrower will contract with the Servicer to perform for the Borrower all operations required on a daily basis to service the Receivables Pool and operate the Borrower's business. Except as otherwise permitted by this Agreement, the Borrower will not incur any material indirect or overhead expenses for items shared with the Servicer (or any other Affiliate thereof) that are not reflected in the Servicing Fee. To the extent, if any, that the Borrower (or any Affiliate thereof) shares items of expenses not reflected in the Servicing Fee, such as legal, auditing and other professional services, such expenses will be allocated to the extent practical on the basis of actual use or the value of services rendered, and otherwise on a basis reasonably related to the actual use or the value of services rendered.

(h) *Operating Expenses.* The Borrower's operating expenses will not be paid by the Servicer, the Performance Guarantor, any Originator (except as permitted by this Agreement in connection with servicing the Pool Receivables) or any Affiliate thereof and Parent shall have no obligation to make additional capital contributions to the Borrower for such operating expenses.

(i) *Books and Records.* The Borrower's books and records will be maintained separately from those of each member of the Parent Group and in a manner such that it will not be difficult or costly to segregate, ascertain or otherwise identify the assets and liabilities of the Borrower.

(j) *Disclosure of Transactions.* All financial statements of the Servicer, the Performance Guarantor, the Originators or any Affiliate thereof that are consolidated to include the Borrower will disclose that (i) the Borrower is a special purpose consolidated Subsidiary of Parent created for the sole purpose of consummating the transactions contemplated in the Transaction Documents, (ii) the Borrower is a separate legal entity with its own separate creditors who will be entitled, upon its liquidation, to be satisfied out of the Borrower's assets prior to any assets or value in the Borrower becoming available to the Borrower's equity holders and (iii) the Pool Receivables are not available to pay creditors of any member of the Parent Group.

(k) *Segregation of Assets.* The Borrower's assets will be maintained in a manner that facilitates their identification and segregation from those of each member of the Parent Group.

(l) *Corporate Formalities.* The Borrower will strictly observe corporate formalities in its dealings with the Parent Group, and funds or other assets of the Borrower will not be commingled with those of the any member of the Parent Group thereof except as permitted by this Agreement in connection with servicing the Pool Receivables. The Borrower shall not maintain joint bank accounts or other depository accounts to which a member of the Parent Group (other than the Servicer solely in its

capacity as such) has independent access. The Borrower is not named, and has not entered into any agreement to be named, directly or indirectly, as a direct or contingent beneficiary or loss payee on any insurance policy with respect to any loss relating to the property of any member of the Parent Group. The Borrower will pay to the appropriate Affiliate the marginal increase or, in the absence of such increase, the market amount of its portion of the premium payable with respect to any insurance policy that covers the Borrower and such Affiliate.

(m) *Arm's-Length Relationships.* The Borrower will maintain arm's-length relationships with each member of the Parent Group. Any Person that renders or otherwise furnishes services to the Borrower will be compensated by the Borrower at market rates for such services it renders or otherwise furnishes to the Borrower. Neither the Borrower on the one hand, nor any member of the Parent Group, on the other hand, will be or will hold itself out to be responsible for the debts of the other or the decisions or actions respecting the daily business and affairs of the other. The Borrower and each member of the Parent Group will promptly correct any known misrepresentation with respect to the foregoing, and they will not operate or purport to operate as an integrated single economic unit with respect to each other or in their dealing with any other entity.

(n) *Allocation of Overhead.* To the extent that Borrower, on the one hand, and a member of the Parent Group, on the other hand, have offices in the same location, there shall be a fair and appropriate allocation of overhead costs between them, and the Borrower shall bear its fair share of such expenses, which may be paid through the Servicing Fee or otherwise.

*Section 8.04. Covenant of Parent.* At all times from the Closing Date until the Final Payout Date, Parent hereby covenants that it will not sell, assign, convey, transfer or otherwise dispose of any of its assets to the Borrower except for sales, assignments, conveyances, transfer or other dispositions of (a) Receivables, Related Security and Collections with respect to Receivables, (b) other Sold Assets and (c) financial assets, securities, bonds, cash, cash equivalents, deposits and other similar financial instruments.

## **Article IX**

### **Administration and Collection of Receivables**

*Section 9.01. Appointment of the Servicer.* (a) The servicing, administering and collection of the Pool Receivables shall be conducted by the Person so designated from time to time as the Servicer in accordance with this Section 9.01. Until the Administrative Agent gives notice to DCP (in accordance with this Section 9.01) of the designation of a new Servicer, DCP is hereby designated as, and hereby agrees to perform the duties and obligations of, the Servicer pursuant to the terms hereof. Upon the occurrence of an Event of Default, the Administrative Agent may (with the consent of the Majority Group Agents) and shall (at the direction of the Majority Group Agents) designate as Servicer any Person (including itself) to succeed DCP or any successor Servicer, on the condition in each case that any such Person so designated shall agree in writing to perform the duties and obligations of the Servicer pursuant to the terms hereof. The Servicer

shall be entitled to payment of all Servicing Fees and reimbursable expenses accrued prior to the date of such termination.

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

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

(d) The Servicer may delegate its duties and obligations hereunder to any subservicer (each a "*Sub-Servicer*"); *provided*, that, in each such delegation: (i) such Sub-Servicer shall agree in writing to perform the delegated duties and obligations of the Servicer pursuant to the terms hereof, (ii) the Servicer shall remain liable for the performance of the duties and obligations so delegated, (iii) the Borrower, the Administrative Agent, each Lender and each Group Agent shall have the right to look solely to the Servicer for performance, (iv) the terms of any agreement with any Sub-Servicer shall provide that the Administrative Agent may terminate such agreement upon the termination of the Servicer hereunder by giving notice of its desire to terminate such agreement to the Servicer (and the Servicer shall provide appropriate notice to each such Sub-Servicer) and (v) if such Sub-Servicer is not an Affiliate of DCP, the Administrative Agent and the Majority Group Agents shall have consented in writing in advance to such delegation. For the avoidance of doubt, this Section 9.01(d) shall not apply to any third party collection agency collecting Defaulted Receivables or other third party service provider assisting in the servicing of the Defaulted Receivables.

*Section 9.02. Duties of the Servicer.* (a) The Servicer shall take or cause to be taken all such action as may be necessary (i) to service, administer and collect each Pool Receivable from time to time, all in accordance with this Agreement and all Applicable Laws, with reasonable care and diligence, and in accordance with the Credit and Collection Policy and consistent with the past practices of the Originators and (ii) to comply with its obligations under Section 8.03 and the other Transaction Documents. The Servicer shall set aside (or shall cause the Borrower to set aside), for the accounts of the Borrower and each Group, the amount of Collections to which each such Group is entitled in accordance with Article IV hereof. The Servicer may, in accordance with the Credit and Collection Policy and consistent with past practices of the Originators, take such action, including modifications, waivers or restructurings of Pool Receivables and related Contracts (including extending the maturity of any Pool Receivable and extending the maturity or adjust the Outstanding Balance of any Defaulted Receivable), as the Servicer may reasonably determine to be appropriate to maximize Collections thereof or reflect

adjustments expressly permitted under the Credit and Collection Policy or as expressly required under Applicable Laws or the applicable Contract; *provided*, that for purposes of this Agreement: (i) such action shall not, and shall not be deemed to, change the number of days such Pool Receivable has remained unpaid from the date of the original due date related to such Pool Receivable, (ii) such action shall not alter the status of such Pool Receivable as a Delinquent Receivable or a Defaulted Receivable or limit the rights of any Secured Party under this Agreement or any other Transaction Document and (iii) if an Event of Default has occurred and is continuing, upon notice from the Administrative Agent that it wants consent rights over such actions, the Servicer may take such action only upon the prior written consent of the Administrative Agent. The Borrower shall deliver to the Servicer and the Servicer shall hold for the benefit of the Borrower and the Administrative Agent (individually and for the benefit of each Group), in accordance with their respective interests, all records and documents (including computer tapes or disks) with respect to each Pool Receivable. Notwithstanding anything to the contrary contained herein, if an Event of Default has occurred and is continuing, the Administrative Agent may direct the Servicer to commence or settle any legal action to enforce collection of any Pool Receivable that is a Defaulted Receivable or to foreclose upon or repossess any Related Security with respect to any such Defaulted Receivable.

(b) The Servicer shall, as soon as reasonably practicable following actual receipt of collected funds, turn over to the Borrower the collections of any indebtedness that is not a Pool Receivable, less, if DCP or an Affiliate thereof is not the Servicer, all reasonable and appropriate out-of-pocket costs and expenses of such Servicer of servicing, collecting and administering such collections. The Servicer, if other than DCP or an Affiliate thereof, shall, as soon as reasonably practicable upon written demand, deliver to the Borrower all records in its possession that evidence or relate to any indebtedness that is not a Pool Receivable, and copies of records in its possession that evidence or relate to any indebtedness that is a Pool Receivable.

(c) The Servicer's obligations hereunder shall terminate on the Final Payout Date. Promptly following the Final Payout date, if DCP or an Affiliate thereof was not the Borrower on the date of such termination the Servicer shall deliver to the Borrower all books, records and related materials that the Borrower previously provided to the Servicer, or that have been obtained by the Servicer, in connection with this Agreement.

*Section 9.03. Collection Account Arrangements.* Prior to the Closing Date, the Borrower shall have entered into Account Control Agreements with all of the Collection Account Banks and delivered executed counterparts of each to the Administrative Agent. Upon the occurrence and during the continuance of an Event of Default, the Administrative Agent may (with the consent of the Majority Group Agents) and shall (upon the direction of the Majority Group Agents) at any time thereafter give notice to each Collection Account Bank that the Administrative Agent is exercising its rights under the Account Control Agreements to do any or all of the following: (a) to have the exclusive ownership and control of the Collection Accounts transferred to the Administrative Agent (for the benefit of the Secured Parties) and to exercise exclusive dominion and control over the funds deposited therein, (b) to have the proceeds that are sent to the respective Collection Accounts redirected pursuant to the Administrative Agent's instructions rather than deposited in the applicable Collection Account and (c) to take any or all other actions permitted under the applicable Account Control Agreement. The Borrower hereby

agrees that if the Administrative Agent at any time takes any action set forth in the preceding sentence, the Administrative Agent shall have exclusive control (for the benefit of the Secured Parties) of the proceeds (including Collections) of all Pool Receivables on deposit therein and the Borrower hereby further agrees to take any other action that the Administrative Agent may reasonably request to transfer such control. Any proceeds of Pool Receivables received by the Borrower or the Servicer thereafter shall be sent immediately to, or as otherwise instructed by, the Administrative Agent. The parties hereto hereby acknowledge that if at any time the Administrative Agent exercises its control of any Collection Account, the Administrative Agent shall not have any rights to the funds therein in excess of the unpaid amounts due to the Administrative Agent, any member of any Group, any Indemnified Party or Affected Person or any other Person hereunder, and the Administrative Agent shall distribute or cause to be distributed such funds in accordance with Article II (in each case as if such funds were held by the Servicer thereunder).

*Section 9.04. Enforcement Rights.* (a) At any time following the occurrence and during the continuation of an Event of Default:

(i) the Administrative Agent (at the Borrower's expense) may direct the Obligors that payment of all amounts payable under any Pool Receivable is to be made directly to the Administrative Agent or its designee;

(ii) the Administrative Agent may instruct the Borrower or the Servicer to give notice of the Secured Parties' interest in Pool Receivables to each Obligor, which notice shall direct that payments be made directly to the Administrative Agent or its designee (on behalf of the Secured Parties), and the Borrower or the Servicer, as the case may be, shall give such notice at the expense of the Borrower or the Servicer, as the case may be; *provided*, that if the Borrower or the Servicer, as the case may be, fails to so notify each Obligor within two (2) Business Days following instruction by the Administrative Agent, the Administrative Agent (at the Borrower's or the Servicer's, as the case may be, expense) may so notify the Obligors;

(iii) the Administrative Agent may request the Servicer to, and upon such request the Servicer shall: (A) assemble all of the records reasonably necessary to collect the Pool Receivables and the Related Security, and transfer or license to a successor Servicer the use of all software reasonably necessary to collect the Pool Receivables and the Related Security, and make the same available to the Administrative Agent or its designee (for the benefit of the Secured Parties) at a place selected by the Administrative Agent and (B) segregate all cash, checks and other instruments received by it from time to time constituting Collections in a manner reasonably acceptable to the Administrative Agent and, promptly upon receipt, remit all such cash, checks and instruments, duly endorsed or with duly executed instruments of transfer, to the Administrative Agent or its designee;

(iv) the Administrative Agent may assume exclusive control of each Collection Account and notify the Collection Account Banks that the Borrower and the Servicer will no longer have any access to the Collection Accounts;



(v) the Administrative Agent may (or, at the direction of the Majority Group Agents shall) replace the Person then acting as Servicer; and

(vi) the Administrative Agent may collect any amounts due from an Originator under the Receivables Sale Agreement or the Performance Guarantor under the Performance Guaranty.

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

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

*Section 9.05. Responsibilities of the Borrower.* (a) The Borrower shall: (i) perform all of its obligations, if any, under the Contracts related to the Pool Receivables to the same extent as if interests in such Pool Receivables had not been transferred hereunder, and the exercise by the Administrative Agent, or any other Credit Party of their respective rights hereunder shall not relieve the Borrower from such obligations and (ii) pay when due any taxes, including any sales taxes payable in connection with the Pool Receivables and their creation and satisfaction. None of the Credit Parties shall have any obligation or liability with respect to any Collateral, nor shall any of them be obligated to perform any of the obligations of the Borrower, the Servicer or any Originator thereunder.

(b) DCP hereby irrevocably agrees that if at any time it shall cease to be the Servicer hereunder, it shall act (if the then-current Servicer so requests) as the data-processing agent of the Servicer and, in such capacity, DCP shall conduct the data-processing functions of the administration of the Receivables and the Collections thereon in substantially the same way that DCP conducted such data-processing functions while it acted as the Servicer. In connection with any such processing functions, the Borrower shall pay to DCP its reasonable out-of-pocket costs and expenses from the Borrower's own funds (subject to the priority of payments set forth in Section 4.01).

*Section 9.06. Servicing Fee.* The Servicer shall be paid a fee (the "Servicing Fee") equal to 1.00% per annum (the "Servicing Fee Rate") of the monthly average aggregate Outstanding Balance of the Pool Receivables.

## **Article X**

### **Events of Default**

*Section 10.01. Events of Default.* If any of the following events (each an "Event of Default") shall occur:

(a) (i) except as otherwise provided herein, the Borrower, any Originator, the Performance Guarantor, or the Servicer shall fail to perform or observe any term, covenant or agreement under this Agreement or any other Transaction Document to be performed or observed by the Borrower, such Originator, the Performance Guarantor or the Servicer, as applicable (other than any such failure which would constitute an Event of Default under clause (ii) or (iii) of this paragraph (a) or any breach of a covenant contained in Sections 8.01(c), (h), (p), or (t) or Section 8.02(a) and (l)), and such failure, solely to the extent capable of cure, shall continue for (A) fifteen (15) days, with respect to the Borrower or (B) thirty (30) days with respect to any Originator, the Performance Guarantor, or the Servicer, in each case after the earlier of (x) written notice to the Borrower, any Originator, the Performance Guarantor, or the Servicer (which may be by email) by the Administrative Agent or any Lender, and (y) actual knowledge of the Borrower, any Originator, the Performance Guarantor, or the Servicer; (ii) the Borrower, any Originator, the Performance Guarantor or the Servicer shall fail to make when due any payment or deposit to be made by it under this Agreement or any other Transaction Document and such failure shall continue unremedied for three (3) Business Days or (iii) DCP shall resign as Servicer, and no successor Servicer reasonably satisfactory to the Administrative Agent shall have been appointed;

(b) any representation or warranty made or deemed made by the Borrower, any Originator, the Performance Guarantor or the Servicer (or any of their respective officers) under or in connection with this Agreement or any other Transaction Document or any information or report delivered by the Borrower, any Originator, the Performance Guarantor or the Servicer pursuant to this Agreement or any other Transaction Document, shall prove to have been incorrect or untrue in any material respect when made or deemed made or delivered and, if the representation or warranty is of a type that is capable of

being cured, shall remain incorrect or untrue for ten (10) days after the earlier of such Person's actual knowledge or notice thereof;

(c) the Borrower or the Servicer shall fail to deliver an Information Package pursuant to this Agreement, and such failure shall remain unremedied for two (2) Business Days;

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

(e) the occurrence of any of the following with respect to the Borrower, any Originator, the Performance Guarantor or the Servicer (i) a court or governmental agency having jurisdiction in the premises shall enter a decree or order for relief in respect of the Borrower, such Originator, the Performance Guarantor or the Servicer in an involuntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or appoint a receiver, liquidator, assignee, custodian, trustee, sequestrator or similar official of the Borrower, such Originator, the Performance Guarantor or the Servicer or for any substantial part of its property or ordering the winding up or liquidation of its affairs; or (ii) an involuntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect is commenced against the Borrower, such Originator, the Performance Guarantor or the Servicer and such petition remains unstayed and in effect for a period of 90 consecutive days; or (iii) the Borrower, such Originator, the Performance Guarantor or the Servicer shall commence a voluntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or consent to the entry of an order for relief in an involuntary case under any such law, or consent to the appointment or taking possession by a receiver, liquidator, assignee, custodian, trustee, sequestrator or similar official of such Person or any substantial part of its property or make any general assignment for the benefit of creditors; or (iv) the Borrower, such Originator, the Performance Guarantor or the Servicer shall admit in writing its inability to pay its debts generally as they become due or any action shall be taken by such Person in furtherance of any of the aforesaid purposes;

(f) (i) the average for three consecutive Fiscal Months of: (A) the Default Ratio shall exceed 1.50%, (B) the Delinquency Ratio shall exceed 3.50%; (C) the Dilution Ratio shall exceed 3.00%; or (ii) the Days' Sales Outstanding shall exceed forty-five (45) days;

(g) a Change in Control shall occur;

(h) a Borrowing Base Deficit shall occur, and shall not have been cured within two (2) Business Days;

(i) (i) the Borrower shall fail to pay any principal of or premium or interest on any of its Debt (other than the Borrower Obligations) when the same becomes due and payable (whether by scheduled maturity, required prepayment, acceleration, demand or otherwise), and such failure shall continue after the applicable grace period, if any, specified in the agreement, mortgage, indenture or instrument relating to such Debt (whether or not such failure shall have been waived under the related agreement); (ii) any Originator, the Performance Guarantor or the Servicer or any of their respective Subsidiaries, individually or in the aggregate, shall fail to pay any principal of or premium or interest on any of its Debt that is outstanding (A) under the Credit Agreement or (B) in a principal amount exceeding the lesser of (x) Consolidated Net Tangible Assets *times* 3.0% and (y) \$100,000,000 in the aggregate when the same becomes due and payable (whether by scheduled maturity, required prepayment, acceleration, demand or otherwise), and such failure shall continue after the applicable grace period, if any, specified in the agreement, mortgage, indenture or instrument relating to such Debt; (iii) any other event shall occur or condition shall exist under any agreement, mortgage, indenture or instrument relating to any such Debt (as referred to in clause (i) or (ii) of this paragraph) and shall continue after the applicable grace period, if any, specified in such agreement, mortgage, indenture or instrument, if the effect of such event or condition is to give the applicable debtholders the right (whether acted upon or not) to accelerate the maturity of such Debt (as referred to in clause (i) or (ii) of this paragraph) or to terminate the commitment of any lender thereunder, or (iv) any such Debt (as referred to in clause (i) or (ii) of this paragraph) shall be declared to be due and payable, or required to be prepaid (other than by a regularly scheduled required prepayment), redeemed, purchased or defeased, or an offer to repay, redeem, purchase or defease such Debt shall be required to be made or the commitment of any lender thereunder terminated, in each case before the stated maturity thereof;

(j) the Borrower shall fail (x) at any time to have an Independent Manager who satisfies each requirement and qualification specified in Section 8.03(c) of this Agreement for Independent Managers, on the Borrower's board of managers or (y) to timely notify the Administrative Agent of any replacement or appointment of any Person that is to serve as an Independent Manager on the Borrower's board of managers as required pursuant to Section 8.03(c) of this Agreement, and such failure in each case, solely to the extent capable of cure, shall continue for five (5) Business Days;

(k) The occurrence of any of the following events: (i) the Borrower, the Parent or any ERISA Affiliate fails to make full payment when due of all amounts which, under the provisions of any Pension Plan or Sections 412 or 430 of the Code, the Borrower, the Parent or any ERISA Affiliate is required to pay as contributions thereto and are in excess of the lesser of (x) three percent (3%) of Consolidated Net Tangible Assets and (y) \$25,000,000, (ii) a Termination Event or (iii) the Borrower, the Parent or any ERISA Affiliate as employers under one or more Multiemployer Plans makes a complete or partial withdrawal from any such Multiemployer Plan and the plan sponsor of such Multiemployer Plans notifies such withdrawing employer that such employer has incurred a withdrawal liability requiring payments in an amount exceeding the lesser of (x) three percent (3%) of Consolidated Net Tangible Assets and (y) \$50,000,000;

(l) a Receivables Sale Agreement Termination Event shall occur under the Receivables Sale Agreement;

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

(n) this Agreement or any other Transaction Document shall fail to be in full force and effect or any of the Borrower, any Originator, the Performance Guarantor or the Servicer shall so assert or this Agreement or any Transaction Document shall fail to give the Administrative Agent and/or the Lenders the rights, powers and privileges purported to be created hereby or thereby;

(o) one or more judgments or decrees shall be entered against the Borrower, any Originator, the Performance Guarantor or the Servicer involving in the aggregate a liability (not paid or to the extent not covered by a reputable and solvent insurance company) and such judgments and decrees either shall be final and non-appealable or shall not be vacated, discharged or stayed or bonded pending appeal for any period of 45 consecutive days, and the aggregate amount of all such judgments equals or exceeds \$50,000,000 (or solely with respect to the Borrower, \$15,000); or

(p) the Consolidated Leverage Ratio shall exceed (i) for the fiscal quarter ending June 30, 2018, 5.25 to 1.0 and (ii) for each fiscal quarter ending on or after September 30, 2018, 5.00 to 1.0; *provided, however*, that notwithstanding the foregoing, subsequent to the consummation of a Qualified Acquisition, the Consolidated Leverage Ratio, solely for the three consecutive fiscal quarters following such Qualified Acquisition (including the fiscal quarter in which such Qualified Acquisition is consummated), the Consolidated Leverage Ratio pursuant to clauses (i) and/or (ii) above, as applicable, shall be 5.50 to 1.0.

then, and in any such event, the Administrative Agent may (or, at the direction of the Majority Group Agents shall) by notice to the Borrower (x) declare the Termination Date to have occurred (in which case the Termination Date shall be deemed to have occurred) and (y) declare the Aggregate Capital and all other Borrower Obligations to be immediately due and payable (in which case the Aggregate Capital and all other Borrower Obligations shall be immediately due and payable); *provided* that, automatically upon the occurrence of any event (without any requirement for the giving of notice) described in subsection (e) of this Section 10.01 with respect to the Borrower, the Termination Date shall occur and the Aggregate Capital and all other Borrower Obligations shall be immediately due and payable. Upon any such declaration or designation or upon such automatic termination, the Administrative Agent and the other Secured Parties shall have, in addition to the rights and remedies which they may have under this Agreement and the other Transaction Documents, all other rights and remedies provided after default under the UCC and under other Applicable Law, which rights and remedies shall be cumulative. Any proceeds from liquidation of the Collateral shall be applied in the order of priority set forth in Section 4.01.

## Article XI

### The Administrative Agent

*Section 11.01. Authorization and Action.* Each Credit Party hereby appoints and authorizes the Administrative Agent to take such action as agent on its behalf and to exercise such powers under this Agreement as are delegated to the Administrative Agent by the terms hereof, together with such powers as are reasonably incidental thereto. The Administrative Agent shall not have any duties other than those expressly set forth in the Transaction Documents, and no implied obligations or liabilities shall be read into any Transaction Document, or otherwise exist, against the Administrative Agent. The Administrative Agent does not assume, nor shall it be deemed to have assumed, any obligation to, or relationship of trust or agency with, the Borrower or any Affiliate thereof or any Credit Party except for any obligations expressly set forth herein. Notwithstanding any provision of this Agreement or any other Transaction Document, in no event shall the Administrative Agent ever be required to take any action which exposes the Administrative Agent to personal liability or which is contrary to any provision of any Transaction Document or Applicable Law.

*Section 11.02. Administrative Agent's Reliance, Etc.* Neither the Administrative Agent nor any of its directors, officers, agents or employees shall be liable for any action taken or omitted to be taken by it or them as Administrative Agent under or in connection with this Agreement (including, without limitation, the Administrative Agent's servicing, administering or collecting Pool Receivables in the event it replaces the Servicer in such capacity pursuant to Section 9.01), in the absence of its or their own gross negligence or willful misconduct. Without limiting the generality of the foregoing, the Administrative Agent: (a) may consult with legal counsel (including counsel for any Credit Party or the Servicer), independent certified public accountants and other experts selected by it and shall not be liable for any action taken or omitted to be taken in good faith by it in accordance with the advice of such counsel, accountants or experts; (b) makes no warranty or representation to any Credit Party (whether written or oral) and shall not be responsible to any Credit Party for any statements, warranties or representations (whether written or oral) made by any other party in or in connection with this Agreement; (c) shall not have any duty to ascertain or to inquire as to the performance or observance of any of the terms, covenants or conditions of this Agreement on the part of any Credit Party or to inspect the property (including the books and records) of any Credit Party; (d) shall not be responsible to any Credit Party for the due execution, legality, validity, enforceability, genuineness, sufficiency or value of this Agreement or any other instrument or document furnished pursuant hereto; and (e) shall be entitled to rely, and shall be fully protected in so relying, upon any notice (including notice by telephone), consent, certificate or other instrument or writing (which may be by facsimile) believed by it to be genuine and signed or sent by the proper party or parties.

*Section 11.03. Administrative Agent and Affiliates.* With respect to any Credit Extension or interests therein owned by any Credit Party that is also the Administrative Agent, such Credit Party shall have the same rights and powers under this Agreement as any other Credit Party and may exercise the same as though it were not the Administrative Agent. The Administrative Agent and any of its Affiliates may generally engage in any kind of business with the Borrower or any Affiliate thereof and any Person who may do business with or own securities of the

Borrower or any Affiliate thereof, all as if the Administrative Agent were not the Administrative Agent hereunder and without any duty to account therefor to any other Secured Party.

*Section 11.04. Indemnification of Administrative Agent.* Each Committed Lender agrees to indemnify the Administrative Agent (to the extent not reimbursed by the Borrower or any Affiliate thereof), ratably according to the respective Pro Rata Percentage of such Committed Lender, from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever which may be imposed on, incurred by, or asserted against the Administrative Agent in any way relating to or arising out of this Agreement or any other Transaction Document or any action taken or omitted by the Administrative Agent under this Agreement or any other Transaction Document; *provided* that no Committed Lender shall be liable for any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements resulting from the Administrative Agent's gross negligence or willful misconduct.

*Section 11.05. Delegation of Duties.* The Administrative Agent may execute any of its duties through agents or attorneys-in-fact and shall be entitled to advice of counsel concerning all matters pertaining to such duties. The Administrative Agent shall not be responsible for the negligence or misconduct of any agents or attorneys-in-fact selected by it with reasonable care.

*Section 11.06. Action or Inaction by Administrative Agent.* The Administrative Agent shall in all cases be fully justified in failing or refusing to take action under any Transaction Document unless it shall first receive such advice or concurrence of the Group Agents or the Majority Group Agents, as the case may be, and assurance of its indemnification by the Committed Lenders, as it deems appropriate. The Administrative Agent shall in all cases be fully protected in acting, or in refraining from acting, under this Agreement or any other Transaction Document in accordance with a request or at the direction of the Group Agents or the Majority Group Agents, as the case may be, and such request or direction and any action taken or failure to act pursuant thereto shall be binding upon all Credit Parties. The Credit Parties and the Administrative Agent agree that unless any action to be taken by the Administrative Agent under a Transaction Document (i) specifically requires the advice or concurrence of all Group Agents or (ii) may be taken by the Administrative Agent alone or without any advice or concurrence of any Group Agent, then the Administrative Agent may take action based upon the advice or concurrence of the Majority Group Agents.

*Section 11.07. Notice of Events of Default; Action by Administrative Agent.* The Administrative Agent shall not be deemed to have knowledge or notice of the occurrence of any Unmatured Event of Default or Event of Default unless the Administrative Agent has received notice from any Credit Party or the Borrower stating that an Unmatured Event of Default or Event of Default has occurred hereunder and describing such Unmatured Event of Default or Event of Default. If the Administrative Agent receives such a notice, it shall promptly give notice thereof to each Group Agent, whereupon each Group Agent shall promptly give notice thereof to its respective Conduit Lender(s) and Related Committed Lender(s). The Administrative Agent may (but shall not be obligated to) take such action, or refrain from taking such action, concerning an Unmatured Event of Default or Event of Default or any other matter

hereunder as the Administrative Agent deems advisable and in the best interests of the Secured Parties.

*Section 11.08. Non-Reliance on Administrative Agent and Other Parties.* Each Credit Party expressly acknowledges that neither the Administrative Agent nor any of its directors, officers, agents or employees has made any representations or warranties to it and that no act by the Administrative Agent hereafter taken, including any review of the affairs of the Borrower or any Affiliate thereof, shall be deemed to constitute any representation or warranty by the Administrative Agent. Each Credit Party represents and warrants to the Administrative Agent that, independently and without reliance upon the Administrative Agent or any other Credit Party and based on such documents and information as it has deemed appropriate, it has made and will continue to make its own appraisal of and investigation into the business, operations, property, prospects, financial and other conditions and creditworthiness of the Borrower, each Originator, the Performance Guarantor or the Servicer and the Pool Receivables and its own decision to enter into this Agreement and to take, or omit, action under any Transaction Document. Except for items expressly required to be delivered under any Transaction Document by the Administrative Agent to any Credit Party, the Administrative Agent shall not have any duty or responsibility to provide any Credit Party with any information concerning the Borrower, any Originator, the Performance Guarantor or the Servicer that comes into the possession of the Administrative Agent or any of its directors, officers, agents, employees, attorneys-in-fact or Affiliates.

*Section 11.09. Successor Administrative Agent.* (a) The Administrative Agent may, upon at least thirty (30) days' notice to the Borrower, the Servicer and each Group Agent, resign as Administrative Agent. Except as provided below, such resignation shall not become effective until a successor Administrative Agent is appointed by the Majority Group Agents as a successor Administrative Agent and has accepted such appointment. If no successor Administrative Agent shall have been so appointed by the Majority Group Agents, within thirty (30) days after the departing Administrative Agent's giving of notice of resignation, the departing Administrative Agent may, on behalf of the Secured Parties, appoint a successor Administrative Agent as successor Administrative Agent. If no successor Administrative Agent shall have been so appointed by the Majority Group Agents within sixty (60) days after the departing Administrative Agent's giving of notice of resignation, the departing Administrative Agent may, on behalf of the Secured Parties, petition a court of competent jurisdiction to appoint a successor Administrative Agent.

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

*Section 11.10. Structuring Agent.* Each of the parties hereto hereby acknowledges and agrees that the Structuring Agent shall not have any right, power, obligation, liability,



responsibility or duty under this Agreement. Each Credit Party acknowledges that it has not relied, and will not rely, on the Structuring Agent in deciding to enter into this Agreement and to take, or omit to take, any action under any Transaction Document.

*Section 11.11. Erroneous Payments.*

(a) Each Group Agent and each Lender hereby agrees that (i) if the Administrative Agent notifies such Group Agent or such Lender that the Administrative Agent has determined in its sole discretion that any funds received by such Group Agent or such Lender from the Administrative Agent or any of its Affiliates were erroneously transmitted to, or otherwise erroneously or mistakenly received by, such Group Agent or such Lender (whether or not known to such Group Agent or such Lender (whether as a payment, prepayment or repayment of principal, interest, fees or otherwise), individually and collectively, an “*Erroneous Payment*”) and demands the return of such Erroneous Payment (or a portion thereof), such Group Agent or such Lender shall promptly, but in no event later than one Business Day thereafter, return to the Administrative Agent the amount of any such Erroneous Payment (or portion thereof) as to which such a demand was made, in same day funds (in the currency so received), together with interest thereon in respect of each day from and including the date such Erroneous Payment (or portion thereof) was received by such Lender to the date such amount is repaid to the Administrative Agent in same day funds at the greater of the Overnight Bank Funding Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation from time to time in effect, and (ii) such Group Agent or such Lender shall not assert any right or claim to the Erroneous Payment, and hereby waives any claim, counterclaim, defense or right of set-off or recoupment with respect to any demand, claim or counterclaim by the Administrative Agent for the return of any Erroneous Payments received, including without limitation waiver of any defense based on “discharge for value” or any similar doctrine. A notice of the Administrative Agent to any Group Agent or any Lender under this clause (a) shall be conclusive, absent manifest error.

(b) Without limiting immediately preceding clause (a), each Group Agent and each Lender hereby further agrees that if it receives an Erroneous Payment from the Administrative Agent (or any of its Affiliates) (i) that is in an amount different than (other than a *de minimis* difference), or on a different date from, that specified in a notice of payment sent by the Administrative Agent (or any of its Affiliates) with respect to such Erroneous Payment (an “*Erroneous Payment Notice*”), or (ii) that was not preceded or accompanied by an Erroneous Payment Notice, it shall be on notice that, in each such case, an error has been made with respect to such Erroneous Payment. Each Group Agent and each Lender further agrees that, in each such case, or if it otherwise becomes aware an Erroneous Payment (or portion thereof) may have been sent in error, such Group Agent or such Lender shall promptly notify the Administrative Agent of such occurrence and, upon demand from the Administrative Agent, it shall promptly, but in no event later than one (1) Business Day thereafter, return to the Administrative Agent the amount of any such Erroneous Payment (or portion thereof) that was received by such Group Agent or such Lender to the date such amount is repaid to the Administrative Agent in same day funds at the greater of the Overnight Bank Funding Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation from time to time in effect.

(c) The Borrower and each other party hereto hereby agree that (i) in the event an Erroneous Payment (or portion thereof) is not recovered from any Group Agent or any Lender that has received such Erroneous Payment (or portion thereof) for any reason, the Administrative Agent shall be subrogated to all the rights of such Group Agent or such Lender with respect to such amount and (ii) an Erroneous Payment shall not pay, prepay, repay, discharge or otherwise satisfy any Borrower Obligations owed by the Borrower or any other obligor; *provided* that this Section 11.11 shall not be interpreted to increase (or accelerate the due date for), or have the effect of increasing (or accelerating the due date for), any Borrower Obligations relative to the amount (and/or timing for payment) of the Borrower Obligations that would have been payable had such Erroneous Payment not been made by the Administrative Agent; *provided, further*, that for the avoidance of doubt, immediately preceding clauses (i) and (ii) shall not apply to the extent any such Erroneous Payment is, and solely with respect to the amount of such Erroneous Payment that is, comprised of funds received by the Administrative Agent from the Borrower for the purpose of making such Erroneous Payment.

(d) Each party's obligations under this Section 11.11 shall survive the resignation or replacement of the Administrative Agent or any transfer of rights or obligations by, or the replacement of, a Group Agent or a Lender, the termination of the Commitments or the repayment, satisfaction or discharge of all Borrower Obligations (or any portion thereof) under any Transaction Document.

## **Article XII**

### **The Group Agents**

*Section 12.01. Authorization and Action.* Each Credit Party that belongs to a Group hereby appoints and authorizes the Group Agent for such Group to take such action as agent on its behalf and to exercise such powers under this Agreement as are delegated to such Group Agent by the terms hereof, together with such powers as are reasonably incidental thereto. No Group Agent shall have any duties other than those expressly set forth in the Transaction Documents, and no implied obligations or liabilities shall be read into any Transaction Document, or otherwise exist, against any Group Agent. No Group Agent assumes, nor shall it be deemed to have assumed, any obligation to, or relationship of trust or agency with the Borrower or any Affiliate thereof, any Lender except for any obligations expressly set forth herein. Notwithstanding any provision of this Agreement or any other Transaction Document, in no event shall any Group Agent ever be required to take any action which exposes such Group Agent to personal liability or which is contrary to any provision of any Transaction Document or Applicable Law.

*Section 12.02. Group Agent's Reliance, Etc.* No Group Agent nor any of its directors, officers, agents or employees shall be liable for any action taken or omitted to be taken by it or them as a Group Agent under or in connection with this Agreement or any other Transaction Documents in the absence of its or their own gross negligence or willful misconduct. Without limiting the generality of the foregoing, a Group Agent: (a) may consult with legal counsel (including counsel for the Administrative Agent, the Borrower or the Servicer), independent certified public accountants and other experts selected by it and shall not be liable for any action

taken or omitted to be taken in good faith by it in accordance with the advice of such counsel, accountants or experts; (b) makes no warranty or representation to any Credit Party (whether written or oral) and shall not be responsible to any Credit Party for any statements, warranties or representations (whether written or oral) made by any other party in or in connection with this Agreement or any other Transaction Document; (c) shall not have any duty to ascertain or to inquire as to the performance or observance of any of the terms, covenants or conditions of this Agreement or any other Transaction Document on the part of the Borrower or any Affiliate thereof or any other Person or to inspect the property (including the books and records) of the Borrower or any Affiliate thereof; (d) shall not be responsible to any Credit Party for the due execution, legality, validity, enforceability, genuineness, sufficiency or value of this Agreement, any other Transaction Documents or any other instrument or document furnished pursuant hereto; and (e) shall be entitled to rely, and shall be fully protected in so relying, upon any notice (including notice by telephone), consent, certificate or other instrument or writing (which may be by facsimile) believed by it to be genuine and signed or sent by the proper party or parties.

*Section 12.03. Group Agent and Affiliates.* With respect to any Credit Extension or interests therein owned by any Credit Party that is also a Group Agent, such Credit Party shall have the same rights and powers under this Agreement as any other Lender and may exercise the same as though it were not a Group Agent. A Group Agent and any of its Affiliates may generally engage in any kind of business with the Borrower or any Affiliate thereof and any Person who may do business with or own securities of the Borrower or any Affiliate thereof or any of their respective Affiliates, all as if such Group Agent were not a Group Agent hereunder and without any duty to account therefor to any other Secured Party.

*Section 12.04. Indemnification of Group Agents.* Each Committed Lender in any Group agrees to indemnify the Group Agent for such Group (to the extent not reimbursed by the Borrower or any Affiliate thereof), ratably according to the proportion of the Pro Rata Percentage of such Committed Lender to the aggregate Pro Rata Percentages of all Committed Lenders in such Group, from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever which may be imposed on, incurred by, or asserted against such Group Agent in any way relating to or arising out of this Agreement or any other Transaction Document or any action taken or omitted by such Group Agent under this Agreement or any other Transaction Document; *provided* that no Committed Lender shall be liable for any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements resulting from such Group Agent's gross negligence or willful misconduct.

*Section 12.05. Delegation of Duties.* Each Group Agent may execute any of its duties through agents or attorneys-in-fact and shall be entitled to advice of counsel concerning all matters pertaining to such duties. No Group Agent shall be responsible for the negligence or misconduct of any agents or attorneys-in-fact selected by it with reasonable care.

*Section 12.06. Notice of Events of Default.* No Group Agent shall be deemed to have knowledge or notice of the occurrence of any Unmatured Event of Default or Event of Default unless such Group Agent has received notice from the Administrative Agent, any other Group Agent, any other Credit Party, the Servicer or the Borrower stating that an Unmatured Event of

Default or Event of Default has occurred hereunder and describing such Unmatured Event of Default or Event of Default. If a Group Agent receives such a notice, it shall promptly give notice thereof to the Credit Parties in its Group and to the Administrative Agent (but only if such notice received by such Group Agent was not sent by the Administrative Agent). A Group Agent may take such action concerning an Unmatured Event of Default or Event of Default as may be directed by Committed Lenders in its Group representing a majority of the Commitments in such Group (subject to the other provisions of this Article XII), but until such Group Agent receives such directions, such Group Agent may (but shall not be obligated to) take such action, or refrain from taking such action, as such Group Agent deems advisable and in the best interests of the Conduit Lenders and Committed Lenders in its Group.

*Section 12.07. Non-Reliance on Group Agent and Other Parties.* Each Credit Party expressly acknowledges that neither the Group Agent for its Group nor any of such Group Agent's directors, officers, agents or employees has made any representations or warranties to it and that no act by such Group Agent hereafter taken, including any review of the affairs of the Borrower or any Affiliate thereof, shall be deemed to constitute any representation or warranty by such Group Agent. Each Credit Party represents and warrants to the Group Agent for its Group that, independently and without reliance upon such Group Agent, any other Group Agent, the Administrative Agent or any other Credit Party and based on such documents and information as it has deemed appropriate, it has made and will continue to make its own appraisal of and investigation into the business, operations, property, prospects, financial and other conditions and creditworthiness of the Borrower or any Affiliate thereof and the Receivables and its own decision to enter into this Agreement and to take, or omit, action under any Transaction Document. Except for items expressly required to be delivered under any Transaction Document by a Group Agent to any Credit Party in its Group, no Group Agent shall have any duty or responsibility to provide any Credit Party in its Group with any information concerning the Borrower or any Affiliate thereof that comes into the possession of such Group Agent or any of its directors, officers, agents, employees, attorneys-in-fact or Affiliates.

*Section 12.08. Successor Group Agent.* Any Group Agent may, upon at least thirty (30) days' notice to the Administrative Agent, the Borrower, the Servicer and the Credit Parties in its Group, resign as Group Agent for its Group. Such resignation shall not become effective until a successor Group Agent is appointed by the Lender(s) in such Group. Upon such acceptance of its appointment as Group Agent for such Group hereunder by a successor Group Agent, such successor Group Agent shall succeed to and become vested with all the rights and duties of the resigning Group Agent, and the resigning Group Agent shall be discharged from its duties and obligations under the Transaction Documents. After any resigning Group Agent's resignation hereunder, the provisions of this Article XII and Article XIII shall inure to its benefit as to any actions taken or omitted to be taken by it while it was a Group Agent.

*Section 12.09. Reliance on Group Agent.* Unless otherwise advised in writing by a Group Agent or by any Credit Party in such Group Agent's Group, each party to this Agreement may assume that (i) such Group Agent is acting for the benefit and on behalf of each of the Credit Parties in its Group, as well as for the benefit of each assignee or other transferee from any such Person and (ii) each action taken by such Group Agent has been duly authorized and approved by all necessary action on the part of the Credit Parties in its Group.

## Article XIII

### Indemnification

*Section 13.01. Indemnities by the Borrower.* (a) Without limiting any other rights that the Administrative Agent, the Credit Parties, the Affected Persons and their respective assigns, officers, directors, agents and employees (each, an “*Indemnified Party*”) may have hereunder or under Applicable Law, the Borrower hereby agrees to indemnify each Indemnified Party from and against any and all claims, losses and liabilities (including Attorney Costs) (all of the foregoing being collectively referred to as “*Borrower Indemnified Amounts*”) arising out of or resulting from this Agreement or any other Transaction Document or the use of proceeds of the Credit Extensions or the security interest in respect of any Pool Receivable or any other Collateral; excluding, however, (x) Borrower Indemnified Amounts (i) to the extent a final judgment of a court of competent jurisdiction holds that such Borrower Indemnified Amounts resulted primarily from the gross negligence or willful misconduct by the Indemnified Party seeking indemnification and (ii) to the extent such Borrower Indemnified Amounts arise due to the credit risk of an Obligor and for which reimbursement would constitute recourse to any Originator or the Servicer for uncollectible Receivables and (y) Taxes that are covered by Section 5.03. Without limiting or being limited by the foregoing, the Borrower shall pay on written demand (which demand shall be accompanied by documentation of the Borrower Indemnified Amounts in reasonable detail) (it being understood that if any portion of such payment obligation is made from Collections, such payment will be made at the time and in the order of priority set forth in Section 4.01), to each Indemnified Party any and all amounts necessary to indemnify such Indemnified Party from and against any and all Borrower Indemnified Amounts relating to or resulting from any of the following (but excluding Borrower Indemnified Amounts and Taxes described in clauses (x) and (y) above):

(i) any Pool Receivable which the Borrower or the Servicer includes as an Eligible Receivable as part of the Net Receivables Pool Balance but which is not an Eligible Receivable at such time;

(ii) any written representation, warranty or statement made or deemed made by the Borrower (or any of its respective officers) under or in connection with this Agreement, any of the other Transaction Documents, any Information Package or any other written information or report (other than projections, forward-looking statements and information of a general economic or industry nature) delivered by or on behalf of the Borrower pursuant hereto which shall have been untrue or incorrect when made or deemed made;

(iii) the failure by the Borrower to comply with any Applicable Law with respect to any Pool Receivable or the related Contract; or the failure of any Pool Receivable or the related Contract to conform to any such Applicable Law;

(iv) the failure to vest in the Administrative Agent a perfected security interest in all or any portion of the Collateral, in each case free and clear of any Adverse Claim

(other than Permitted Liens) or any Person other than an Indemnified Party having any enforceable ownership interest or perfected Lien in all or any portion of the Collateral;

(v) the failure to have filed, or any delay in filing, financing statements, financing statement amendments, continuation statements or other similar instruments or documents under the UCC of any applicable jurisdiction or other Applicable Laws with respect to any Pool Receivable and the other Collateral and Collections in respect thereof, whether at the time of any Credit Extension or at any subsequent time;

(vi) any dispute, claim or defense (other than any reduction, revision or discharge in bankruptcy) of an Obligor to the payment of any Pool Receivable (including, without limitation, a defense based on such Pool Receivable or the related Contract not being a legal, valid and binding obligation of such Obligor enforceable against it in accordance with its terms), or any other claim resulting from or relating to collection activities with respect to such Pool Receivable, or the sale of goods or the rendering of services related to such Pool Receivable or the furnishing or failure to furnish any such goods or services or other similar claim or defense not arising from the financial inability of any Obligor to pay undisputed indebtedness;

(vii) any failure of the Borrower to perform any of its duties or obligations in accordance with the provisions hereof and of each other Transaction Document related to Pool Receivables or to timely and fully comply with the Credit and Collection Policy in regard to each Pool Receivable;

(viii) any products liability, environmental or other claim arising out of or in connection with any Pool Receivable or other merchandise, goods or services which are the subject of or related to any Pool Receivable;

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

(x) any investigation, litigation or proceeding (actual or threatened) brought by a Person other than an Indemnified Party related to this Agreement or any other Transaction Document or the use of proceeds of any Credit Extensions or in respect of any Pool Receivable or other Collateral or any related Contract;

(xi) any failure of the Borrower to comply with its covenants, obligations and agreements contained in this Agreement or any other Transaction Document;

(xii) any setoff with respect to any Pool Receivable;

(xiii) any claim brought by any Person other than an Indemnified Party arising from any activity by the Borrower or the Servicer (if an Affiliate of the Borrower) in servicing, administering or collecting any Pool Receivable;

(xiv) any failure of a Collection Account Bank to comply with the terms of the applicable Account Control Agreement or any amounts payable by the Administrative Agent to a Collection Account Bank under any Account Control Agreement, or the termination of any Account Control Agreement by a Collection Account Bank, or any amounts payable by the Administrative Agent to a Collection Account Bank pursuant to the applicable Account Control Agreement;

(xv) any action taken by the Administrative Agent as attorney-in-fact for the Borrower, any Originator or the Servicer pursuant to this Agreement or any other Transaction Document;

(xvi) the use of proceeds of any Credit Extension;

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

(xviii) the failure to provide each Obligor with an invoice or other statements evidencing amounts owed under each applicable Pool Receivable.

(b) Notwithstanding anything to the contrary in this Agreement, solely for purposes of the Borrower's indemnification obligations in clauses (ii), (iii), (vii) and (xi) of this Article XIII, any representation, warranty or covenant qualified by the occurrence or non-occurrence of a material adverse effect or similar concepts of materiality shall be deemed to be not so qualified.

(c) If for any reason the foregoing indemnification is unavailable to any Indemnified Party or insufficient to hold it harmless, then the Borrower shall contribute to such Indemnified Party the amount paid or payable by such Indemnified Party as a result of such loss, claim, damage or liability in such proportion as is appropriate to reflect the relative economic interests of the Borrower on the one hand and such Indemnified Party on the other hand in the matters contemplated by this Agreement as well as the relative fault of the Borrower and such Indemnified Party with respect to such loss, claim, damage or liability and any other relevant equitable considerations. The reimbursement, indemnity and contribution obligations of the Borrower under this Section shall be in addition to any liability which the Borrower may otherwise have, shall extend upon the same terms and conditions to each Indemnified Party, and shall be binding upon and inure to the benefit of any successors, assigns, heirs and personal representatives of the Borrower and the Indemnified Parties.

(d) Any indemnification or contribution under this Section shall survive the termination of this Agreement.

*Section 13.02. Indemnification by the Servicer.* (a) The Servicer shall indemnify the Indemnified Parties for any and all claims, losses and liabilities resulting from: (i) the failure of any representation or warranty made or deemed made by the Servicer (or any of its officers) under or in connection with this Agreement or any other Transaction Document to which it is a party to have been true and correct as of the date made or deemed made, (ii) the failure by the

Servicer to comply with any applicable Laws, rule or regulation with respect to any Pool Receivable or the related Contract, (iii) any dispute, claim, offset or defense of an Obligor (other than as a result of discharge in bankruptcy with respect to such Obligor) to the payment of any Pool Receivable to the extent resulting from the failure of the Servicer to comply with its obligations hereunder in respect of such Receivable, (iv) any failure of the Servicer to perform its duties or obligations in accordance with the provisions hereof or any other Transaction Document to which it is a party, or (v) the commingling of Collections of Pool Receivables at any time with other funds of the Servicer.

(b) Promptly upon receipt by any Indemnified Party under this Section 13.02 of notice of the commencement of any suit, action, claim, proceeding or governmental investigation against such Indemnified Party, such Indemnified Party shall, if a claim in respect thereof is to be made against the Servicer hereunder, notify the Servicer in writing of the commencement thereof. Any notice claiming compensation under this Section shall set forth in reasonable detail the amount or amounts to be paid to it hereunder and shall be conclusive in the absence of manifest error. The Servicer may participate in and assume the defense and settlement of any such suit, action, claim, proceeding or investigation at its expense, and no settlement thereof shall be made without the approval of the Servicer and the Indemnified Party. The approval of the Servicer will not be unreasonably withheld or delayed. After notice from the Servicer to the Indemnified Party of its intention to assume the defense thereof with counsel reasonably satisfactory to the Administrative Agent and the Group Agents, and so long as the Servicer so assumes the defense thereof in a manner reasonably satisfactory to the Administrative Agent and the Group Agents, the Servicer shall not be liable for any legal expenses of counsel unless there shall be a conflict between the interests of the Servicer and the Indemnified Party, in which case the Indemnified Party(ies) shall have the right to employ one counsel to so represent it (them).

(c) The Servicer will promptly pay to the Group Agent for the Indemnified Party such indemnity amount as shall be specified to the Servicer in a certificate of the Indemnified Party (or its Group Agent, on its behalf) setting forth the calculations of such amount, together with the basis therefor. Any such certificate submitted by or on behalf of the Indemnified Party shall be conclusive and binding for all purposes, absent manifest error.

(d) Each Indemnified Party, on behalf of itself, its assigns, officers, directors, officers and employees, shall use its good faith efforts to mitigate, reduce or eliminate any losses, expenses or claims for indemnification.

(e) Any indemnification or contribution under this Section shall survive the termination of this Agreement.

## **Article XIV**

### **Miscellaneous**

*Section 14.01. Amendments, Etc.* (a) No failure on the part of any Credit Party to exercise, and no delay in exercising, any right hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any right hereunder preclude any other or further exercise thereof or



the exercise of any other right. No amendment or waiver of any provision of this Agreement or consent to any departure by either the Borrower or the Servicer shall be effective unless in a writing signed by the Administrative Agent and the Majority Group Agents (and, in the case of any amendment, also signed by the Borrower), and then such amendment, waiver or consent shall be effective only in the specific instance and for the specific purpose for which given; *provided, however*, that (A) no amendment, waiver or consent shall, unless in writing and signed by the Servicer, affect the rights or duties of the Servicer under this Agreement; (B) no amendment, waiver or consent shall, unless in writing and signed by the Administrative Agent and each Group Agent:

(i) change (directly or indirectly) the definitions of, Borrowing Base Deficit, Defaulted Receivable, Delinquent Receivable, Eligible Receivable, Facility Limit, Scheduled Termination Date, Net Receivables Pool Balance or Total Reserves contained in this Agreement, or increase the then existing Concentration Percentage or Special Concentration Limit for any Obligor or change the calculation of the Borrowing Base;

(ii) reduce the amount of Capital or Interest that is payable on account of any Loan or delay any scheduled date for payment thereof;

(iii) change any of the provisions of this Section 14.01 or the definition of “Majority Group Agents”; or

(iv) change the order of priority in which Collections are applied pursuant to Section 4.01.

Notwithstanding the foregoing, (A) no amendment, waiver or consent shall increase any Committed Lender’s Commitment hereunder without the consent of such Committed Lender, (B) no amendment, waiver or consent shall reduce any Fees payable by the Borrower to any member of any Group or delay the dates on which any such Fees are payable, in either case, without the consent of the Group Agent for such Group, and (C) no consent with respect to any amendment, waiver or other modification of this Agreement shall be required of any Defaulting Lender, except with respect to any amendment, waiver or other modification referred to in clauses (i)–(v) above and then only in the event such Defaulting Lender shall be directly affected by such amendment, waiver or other modification.

Notwithstanding anything in this Agreement to the contrary, each Lender hereby irrevocably authorizes the Administrative Agent on its behalf, and without further consent, to enter into amendments or modifications to this Agreement (including, without limitation, amendments to this Section 14.01) as the Administrative Agent reasonably deems appropriate in order to effectuate the terms of Section 2.07 (including, without limitation, as applicable, i. to permit the Incremental Commitment to share ratably in the benefits of this Agreement and ii. to include the Incremental Commitment, as applicable, or outstanding Incremental Commitment, as applicable, in any determination of (i) Majority Group Agents or (ii) similar required lender terms applicable thereto); provided that no amendment or modification shall result in any increase in the amount of any Lender’s Commitment without the written consent of such affected Lender.

*Section 14.02. Notices, Etc.* All notices and other communications hereunder shall, unless otherwise stated herein, be in writing (which shall include email and facsimile communication) and emailed, faxed or delivered, to each party hereto, at its address set forth under its name on Schedule III hereto or at such other address as shall be designated by such party in a written notice to the other parties hereto. Notices and communications by facsimile shall be effective when sent (and shall be followed by hard copy sent by regular mail), notices and communications sent by email shall be effective when confirmed by electronic receipt or otherwise acknowledged, and notices and communications sent by other means shall be effective when received.

*Section 14.03. Assignability; Addition of Lenders.*

(a) *Assignment by Conduit Lenders.* This Agreement and the rights of each Conduit Lender hereunder (including each Loan made by it hereunder) shall be assignable by such Conduit Lender and its successors and permitted assigns (i) to any Program Support Provider of such Conduit Lender without prior notice to or consent from the Borrower or any other party, or any other condition or restriction of any kind, (ii) to any other Lender with prior notice to the Borrower but without consent from the Borrower or (iii) with the prior written consent of the Borrower (such consent not to be unreasonably withheld, conditioned or delayed; *provided, however*, that such consent shall not be required if an Event of Default or Unmatured Event of Default has occurred and is continuing), to any other Eligible Assignee. Each assignor of a Loan or any interest therein may, in connection with the assignment or participation, disclose to the assignee or Participant any information relating to the Borrower and its Affiliates, including the Receivables, furnished to such assignor by or on behalf of the Borrower and its Affiliates or by the Administrative Agent; *provided* that, prior to any such disclosure, the assignee or Participant agrees to preserve the confidentiality of any confidential information relating to the Borrower and its Affiliates received by it from any of the foregoing entities in a manner consistent with Section 14.06(b).

(b) *Assignment by Committed Lenders.* Each Committed Lender may assign to any Eligible Assignee or to any other Committed Lender all or a portion of its rights and obligations under this Agreement (including, without limitation, all or a portion of its Commitment and any Loan or interests therein owned by it); *provided, however* that

(i) except for an assignment by a Committed Lender to either an Affiliate of such Committed Lender or any other Committed Lender, each such assignment shall require the prior written consent of the Borrower and the LC Bank (such consent not to be unreasonably withheld, conditioned or delayed; *provided, however*, that in the case of the Borrower, such consent shall not be required if an Event of Default or an Unmatured Event of Default has occurred and is continuing);

(ii) each such assignment shall be of a constant, and not a varying, percentage of all rights and obligations under this Agreement;

(iii) the amount being assigned pursuant to each such assignment (determined as of the date of the Assignment and Acceptance Agreement with respect to such

assignment) shall in no event be less than the lesser of (x) \$10,000,000 and (y) all of the assigning Committed Lender's Commitment; and

(iv) the parties to each such assignment shall execute and deliver to the Administrative Agent, for its acceptance and recording in the Register, an Assignment and Acceptance Agreement.

Upon such execution, delivery, acceptance and recording from and after the effective date specified in such Assignment and Acceptance Agreement, (x) the assignee thereunder shall be a party to this Agreement, and to the extent that rights and obligations under this Agreement have been assigned to it pursuant to such Assignment and Acceptance Agreement, have the rights and obligations of a Committed Lender hereunder and (y) the assigning Committed Lender shall, to the extent that rights and obligations have been assigned by it pursuant to such Assignment and Acceptance Agreement, relinquish such rights and be released from such obligations under this Agreement (and, in the case of an Assignment and Acceptance Agreement covering all or the remaining portion of an assigning Committed Lender's rights and obligations under this Agreement, such Committed Lender shall cease to be a party hereto).

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

(d) *Procedure.* Upon its receipt of an Assignment and Acceptance Agreement executed and delivered by an assigning Committed Lender and an Eligible Assignee or assignee Committed Lender, the Administrative Agent shall, if such Assignment and Acceptance Agreement has been duly completed, (i) accept such Assignment and Acceptance Agreement, (ii) record the information contained therein in the Register and (iii) give prompt notice thereof to the Borrower and the Servicer.

(e) *Participations.* Each Committed Lender may sell participations to one or more Eligible Assignees (each, a "*Participant*") in or to all or a portion of its rights and/or obligations

under this Agreement (including, without limitation, all or a portion of its Commitment and the interests in the Loans owned by it); *provided, however, that*

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

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

(iii) such Participant shall not be entitled to receive any greater payment under Section 5.01 or 5.03, with respect to any participation, than its participating Committed Lender would have been entitled to receive, except to the extent such entitlement to receive a greater payment results from a Change in Law that occurs after the Participant acquired the applicable participation.

The Administrative Agent, the Group Agents, the Conduit Lenders, the other Committed Lenders, the Borrower and the Servicer shall have the right to continue to deal solely and directly with such Committed Lender in connection with such Committed Lender's rights and obligations under this Agreement.

(f) *Participant Register*. Each Committed Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of the Borrower, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each Participant's interest in the Loans or other obligations under this Agreement (the "*Participant Register*"); *provided that* no Committed Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a Participant's interest in any Commitments, Loans, Letters of Credit or its other obligations under any this Agreement) to any Person except to the extent that such disclosure is necessary to establish that such Commitment, Loan, Letters of Credit or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and such Committed Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. For the avoidance of doubt, the Administrative Agent (in its capacity as Administrative Agent) shall have no responsibility for maintaining a Participant Register.

(g) *Assignments by Agents*. This Agreement and the rights and obligations of the Administrative Agent and each Group Agent herein shall be assignable by the Administrative Agent or such Group Agent, as the case may be, and its successors and assigns; *provided that* in the case of an assignment to a Person that is not an Affiliate of the Administrative Agent or such Group Agent, so long as no Event of Default or Unmatured Event of Default has occurred and is continuing, such assignment shall require the Borrower's consent (not to be unreasonably withheld, conditioned or delayed).

(h) *Assignments by the Borrower or the Servicer*. Neither the Borrower nor, except as provided in Section 9.01, the Servicer may assign any of its respective rights or obligations

hereunder or any interest herein without the prior written consent of the Administrative Agent and each Group Agent (such consent to be provided or withheld in the sole discretion of such Person).

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

(j) *Pledge to a Federal Reserve Bank.* Notwithstanding anything to the contrary set forth herein, any Lender, Program Support Provider or any of their respective Affiliates may at any time pledge or grant a security interest in all or any portion of its interest in, to and under this Agreement (including, without limitation, rights to payment of Capital and Interest) and any other Transaction Document to secure its obligations to a Federal Reserve Bank, without notice to or the consent of the Borrower, the Servicer, any Affiliate thereof or any Credit Party; *provided, however*, that that no such pledge shall relieve such assignor of its obligations under this Agreement.

(k) *Pledges by Conduit Lenders and CP Issuers.* Notwithstanding any other provision of this Agreement (including this Section 14.03), any Conduit Lender or CP Issuer may at any time pledge or grant a security interest in all or any portion of its rights under this Agreement (including, without limitation, rights to payment of the principal balance of a Loan and any Interest thereon) to any Conduit Trustee without notice to or consent of the Borrower (and without entering into an Assumption Agreement); provided, that no such pledge or grant of security interest shall release such CP Conduit or CP Issuer from any of its obligations hereunder or substitute any such Conduit Trustee for such CP Conduit or CP Issuer as a party hereto.

*Section 14.04. Costs and Expenses.* In addition to the rights of indemnification granted under Section 13.01 hereof, the Borrower agrees to pay on written demand (which demand shall be accompanied by documentation thereof in reasonable detail) all reasonable out-of-pocket costs and expenses in connection with the preparation, negotiation, execution, delivery and administration of this Agreement, any Program Support Agreement (or any supplement or amendment thereof) specifically related to this Agreement and the other Transaction Documents (together with all amendments, restatements, supplements, consents and waivers, if any, from time to time hereto and thereto), including, without limitation, (i) the reasonable Attorney Costs for a single counsel to the Administrative Agent and the other Credit Parties and any of their respective Affiliates with respect thereto and with respect to advising the Administrative Agent and the other Credit Parties and their respective Affiliates as to their rights and remedies under this Agreement and the other Transaction Documents and (ii) reasonable accountants’, auditors’ and consultants’ fees and expenses for the Administrative Agent and the other Credit Parties and any of their respective Affiliates and the fees and charges of any nationally recognized statistical

rating agency incurred in connection with the administration and maintenance of this Agreement or advising the Administrative Agent or any other Credit Party as to their rights and remedies under this Agreement or as to any actual or reasonably claimed breach of this Agreement or any other Transaction Document. In addition, the Borrower agrees to pay on written demand (which demand shall be accompanied by documentation thereof in reasonable detail) all reasonable out-of-pocket costs and expenses (including reasonable Attorney Costs for a single counsel to the Administrative Agent), of the Administrative Agent and the other Credit Parties and their respective Affiliates, incurred in connection with the enforcement of any of their respective rights or remedies under the provisions of this Agreement and the other Transaction Documents.

*Section 14.05. No Proceedings; Limitation on Payments.* (a) Each of the Borrower, the Administrative Agent, the Servicer, each Group Agent, each Lender and each assignee of a Loan or any interest therein, hereby covenants and agrees that it will not institute against, or join any other Person in instituting against, any Conduit Lender any Insolvency Proceeding so long as any Notes or other senior indebtedness issued by such Conduit Lender shall be outstanding or there shall not have elapsed one year plus one day since the last day on which any such Notes or other senior indebtedness shall have been outstanding.

(b) Each of the Servicer, each Group Agent, the LC Bank, each Lender and each assignee of a Loan or any interest therein, hereby covenants and agrees that it will not institute against, or join any other Person in instituting against, the Borrower any Insolvency Proceeding until one year and one day after the Final Payout Date; *provided*, that the Administrative Agent may take any such action in its sole discretion following the occurrence of an Event of Default.

(c) Notwithstanding any provisions contained in this Agreement to the contrary, a Conduit Lender shall not, and shall be under no obligation to, pay any amount, if any, payable by it pursuant to this Agreement or any other Transaction Document unless (i) such Conduit Lender has received funds which may be used to make such payment and which funds are not required to repay such Conduit Lender's Notes when due and (ii) after giving effect to such payment, either (x) such Conduit Lender could issue Notes to refinance all of its outstanding Notes (assuming such outstanding Notes matured at such time) in accordance with the program documents governing such Conduit Lender's securitization program or (y) all of such Conduit Lender's Notes are paid in full. Any amount which any Conduit Lender does not pay pursuant to the operation of the preceding sentence shall not constitute a claim (as defined in Section 101 of the Bankruptcy Code) against or company obligation of such Conduit Lender for any such insufficiency unless and until such Conduit Lender satisfies the provisions of clauses (i) and (ii) above. The provisions of this Section 14.05 shall survive any termination of this Agreement.

*Section 14.06. Confidentiality.* (a) Each of the Borrower and the Servicer covenants and agrees to hold in confidence, and not disclose to any Person, the terms of this Agreement (including any fees payable in connection with this Agreement or any other Transaction Document or the identity of the Administrative Agent or any other Credit Party), except as the Administrative Agent and each Group Agent may have consented to in writing prior to any proposed disclosure; *provided, however*, that it may disclose such information (i) to its Advisors and Representatives or to a Conduit Trustee, (ii) to the extent such information has become available to the public other than as a result of a disclosure by or through the Borrower, the

Servicer or their Advisors and Representatives or (iii) to the extent it should be (A) required by Applicable Law, or in connection with any legal or regulatory proceeding or (B) requested by any Governmental Authority to disclose such information; *provided*, that, in the case of clause (iii) above, the Borrower and the Servicer will use reasonable efforts to maintain confidentiality and will (unless otherwise prohibited by Applicable Law) notify the Administrative Agent and the affected Credit Party of its intention to make any such disclosure prior to making such disclosure. Each of the Borrower and the Servicer agrees to be responsible for any breach of this Section by its Representatives and Advisors and agrees that its Representatives and Advisors will be advised by it of the confidential nature of such information and instructed to comply with this Section. Notwithstanding the foregoing, it is expressly agreed that each of the Borrower, the Servicer and their respective Affiliates may publish a press release or otherwise publicly announce the existence and principal amount of the Commitments under this Agreement and the transactions contemplated hereby; *provided* that the Administrative Agent shall be provided a reasonable opportunity to review such press release or other public announcement prior to its release and provide comment thereon; and *provided, further*, that no such press release shall name or otherwise identify the Administrative Agent, any other Credit Party or any of their respective Affiliates without such Person's prior written consent (such consent not to be unreasonably withheld, conditioned or delayed). Notwithstanding the foregoing, the Borrower consents to the publication by the Administrative Agent or any other Credit Party of a tombstone or similar advertising material relating to the financing transactions contemplated by this Agreement.

(b) Each of the Administrative Agent and each other Credit Party, severally and with respect to itself only, agrees to hold in confidence, and not disclose to any Person, any confidential and proprietary information concerning the Borrower, the Servicer and their respective Affiliates and their businesses or the terms of this Agreement (including any fees payable in connection with this Agreement or the other Transaction Documents), except as the Borrower or the Servicer may have consented to in writing prior to any proposed disclosure; *provided, however*, that it may disclose such information (i) to its Advisors and Representatives and to any related Program Support Provider, (ii) to its assignees and Participants and potential assignees and Participants and their respective counsel on a need-to-know basis if they agree in writing to hold it confidential, (iii) to the extent such information has become available to the public other than as a result of a disclosure by or through it or its Representatives or Advisors or any related Program Support Provider, (iv) to any nationally recognized statistical rating organization in connection with obtaining or maintaining the rating of any Conduit Lender's Notes or as contemplated by 17 CFR 240.17g-5(a)(3), (v) to the Borrower, the Servicer and its Affiliates, Advisors and Representatives on a need-to-know basis if they agree in writing to hold it confidential, (vi) at the request of a bank examiner or other regulatory authority or in connection with an examination of any of the Administrative Agent, any Group Agent or any Lender or their respective Affiliates or Program Support Providers or (vii) to the extent it should be (A) required by Applicable Law, or in connection with any legal or regulatory proceeding, with notice to the Borrower to the extent permitted by Applicable Law or (B) requested by any Governmental Authority to disclose such information; *provided*, that, in the case of clause (vii) above, the Administrative Agent, each Group Agent and each Lender will use reasonable efforts to maintain confidentiality and will (unless otherwise prohibited by Applicable Law) notify the Borrower and the Servicer of its making any such disclosure as promptly as reasonably

practicable thereafter. Each of the Administrative Agent and each other Credit Party, severally and with respect to itself only, agrees that any confidential and proprietary information concerning the Borrower, the Servicer and their respective Affiliates and their businesses or the terms of this Agreement (including any fees payable in connection with this Agreement or the other Transaction Documents) shall be used only in connection with this Agreement and the other Transaction Documents. Each of the Administrative Agent, each Group Agent and each Lender, severally and with respect to itself only, agrees to be responsible for any breach of this Section by its Representatives, Advisors and Program Support Providers and agrees that its Representatives, Advisors and Program Support Providers will be advised by it of the confidential nature of such information and shall agree to comply with this Section.

(c) As used in this Section, (i) “*Advisors*” means, with respect to any Person, such Person’s accountants, attorneys and other confidential advisors and (ii) “*Representatives*” means, with respect to any Person, such Person’s Affiliates, Subsidiaries, directors, managers, officers, employees, members, investors, financing sources (other than any Credit Party), insurers, professional advisors, representatives and agents; *provided* that such persons shall not be deemed to Representatives of a Person unless (and solely to the extent that) confidential information is furnished to such person.

(d) Notwithstanding the foregoing, to the extent not inconsistent with applicable securities laws, each party hereto (and each of its employees, representatives or other agents) may disclose to any and all persons, without limitation of any kind, the tax treatment and tax structure (as defined in Section 1.6011-4 of the Treasury Regulations and applicable state and local tax law) of the transactions contemplated by the Transaction Documents and all materials of any kind (including opinions or other tax analyses) that are provided to such Person relating to such tax treatment and tax structure.

*Section 14.07. Governing Law.* This Agreement, including the rights and duties of the parties hereto, shall be governed by, and construed in accordance with, the laws of the State of New York (including Sections 5-1401 and 5-1402 of the General Obligations Law of the State of New York, but without regard to any other conflicts of law provisions thereof, except to the extent that the perfection, the effect of perfection or priority of the interests of Administrative Agent or any Lender in the collateral is governed by the laws of a jurisdiction other than the State of New York).

*Section 14.08. Execution in Counterparts.* This Agreement may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original and all of which when taken together shall constitute one and the same agreement. Delivery of an executed counterpart hereof by facsimile or other electronic means shall be equally effective as delivery of an originally executed counterpart.

*Section 14.09. Integration; Binding Effect; Survival of Termination.* This Agreement and the other Transaction Documents contain the final and complete integration of all prior expressions by the parties hereto with respect to the subject matter hereof and shall constitute the entire agreement among the parties hereto with respect to the subject matter hereof superseding all prior oral or written understandings. This Agreement shall be binding upon and inure to the



benefit of the parties hereto and their respective successors and permitted assigns. This Agreement shall create and constitute the continuing obligations of the parties hereto in accordance with its terms and shall remain in full force and effect until the Final Payout Date; *provided, however*, that the provisions of Sections 5.01, 5.02, 5.03, 11.04, 11.06, 12.04, 13.01, 13.02, 14.04, 14.05, 14.07, 14.09, 14.11 and 14.13 shall survive any termination of this Agreement.

*Section 14.10. Consent to Jurisdiction.* (a) Each party hereto hereby irrevocably submits to the non-exclusive jurisdiction of any New York state or federal court sitting in New York City, New York in any action or proceeding arising out of or relating to this Agreement, and each party hereto hereby irrevocably agrees that all claims in respect of such action or proceeding may be heard and determined in such New York state court or, to the extent permitted by applicable law, in such federal court. The parties hereto hereby irrevocably waive, to the fullest extent they may effectively do so, the defense of an inconvenient forum to the maintenance of such action or proceeding. The parties hereto agree that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

(b) Each of the Borrower and the Servicer consents to the service of any and all process in any such action or proceeding by the mailing of copies of such process to it at its address specified in Section 14.02. Nothing in this Section 14.10 shall affect the right of the Administrative Agent or any other Credit Party to serve legal process in any other manner permitted by applicable law.

*Section 14.11. Waiver of Jury Trial.* Each party hereto hereby waives, to the maximum extent permitted by applicable law, trial by jury in any judicial proceeding involving, directly or indirectly, any matter (whether sounding in tort, contract or otherwise) in any way arising out of, related to, or connected with this Agreement or any other Transaction Document.

*Section 14.12. Ratable Payments.* If any Credit Party, whether by setoff or otherwise, has payment made to it with respect to any Borrower Obligations in a greater proportion than that received by any other Credit Party entitled to receive a ratable share of such Borrower Obligations, such Credit Party agrees, promptly upon demand, to purchase for cash without recourse or warranty a portion of such Borrower Obligations held by the other Credit Parties so that after such purchase each Credit Party will hold its ratable proportion of such Borrower Obligations; *provided* that if all or any portion of such excess amount is thereafter recovered from such Credit Party, such purchase shall be rescinded and the purchase price restored to the extent of such recovery, but without interest.

*Section 14.13. Limitation of Liability.* (a) No claim may be made by the Borrower or any Affiliate thereof or any other Person against any Credit Party or their respective Affiliates, members, directors, officers, employees, incorporators, attorneys or agents for any special, indirect, consequential or punitive damages in respect of any claim for breach of contract or any other theory of liability arising out of or related to the transactions contemplated by this Agreement or any other Transaction Document, or any act, omission or event occurring in connection herewith or therewith; and each of the Borrower and the Servicer hereby waives,

releases, and agrees not to sue upon any claim for any such damages, whether or not accrued and whether or not known or suspected to exist in its favor. None of the Credit Parties and their respective Affiliates shall have any liability to the Borrower or any Affiliate thereof or any other Person asserting claims on behalf of or in right of the Borrower or any Affiliate thereof in connection with or as a result of this Agreement or any other Transaction Document or the transactions contemplated hereby or thereby, except to the extent that any losses, claims, damages, liabilities or expenses incurred by the Borrower or any Affiliate thereof result from the gross negligence or willful misconduct of such Credit Party in performing its duties and obligations hereunder and under the other Transaction Documents to which it is a party.

(b) The obligations of the Administrative Agent and each of the other Credit Parties under this Agreement and each of the Transaction Documents are solely the corporate obligations of such Person. No recourse shall be had for any obligation or claim arising out of or based upon this Agreement or any other Transaction Document against any member, director, officer, employee or incorporator of any such Person.

*Section 14.14. Intent of the Parties.* The Borrower has structured this Agreement with the intention that the Loans and the obligations of the Borrower hereunder will be treated under United States federal, and applicable state, local and foreign tax law as debt (the “*Intended Tax Treatment*”). The Borrower, the Servicer, the Administrative Agent and the other Credit Parties agree to file no tax return, or take any action, inconsistent with the Intended Tax Treatment unless required by applicable law. Each assignee and each Participant acquiring an interest in a Credit Extension, by its acceptance of such assignment or participation, agrees to comply with the immediately preceding sentence.

*Section 14.15. USA Patriot Act.* Each of the Administrative Agent and each of the other Credit Parties hereby notifies the Borrower and the Servicer that pursuant to the requirements of the PATRIOT Act, the Administrative Agent and the other Credit Parties may be required to obtain, verify and record information that identifies the Borrower, the Servicer and the Performance Guarantor, which information includes the name, address, tax identification number and other information regarding the Borrower and the Servicer that will allow the Administrative Agent and the other Credit Parties to identify the Borrower, the Servicer and the Performance Guarantor in accordance with the PATRIOT Act. This notice is given in accordance with the requirements of the PATRIOT Act. Each of the Borrower, the Servicer and the Performance Guarantor agrees to provide the Administrative Agent and each other Credit Parties, from time to time, with all documentation and other information required by bank regulatory authorities under “know your customer” and anti-money laundering rules and regulations, including, without limitation, the PATRIOT Act.

*Section 14.16. Right of Setoff.* Each Credit Party is hereby authorized (in addition to any other rights it may have), at any time during the continuance of an Event of Default, to setoff, appropriate and apply (without presentment, demand, protest or other notice which are hereby expressly waived) any deposits and any other indebtedness held or owing by such Credit Party (including by any branches or agencies of such Credit Party) to, or for the account of, the Borrower or the Servicer against amounts owing by the Borrower or the Servicer hereunder

(even if contingent or unmatured); *provided* that such Credit Party shall notify the Borrower or the Servicer, as applicable, promptly following such setoff.

*Section 14.17. Severability.* Any provisions of this Agreement which are prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

*Section 14.18. Mutual Negotiations.* This Agreement and the other Transaction Documents are the product of mutual negotiations by the parties thereto and their counsel, and no party shall be deemed the draftsperson of this Agreement or any other Transaction Document or any provision hereof or thereof or to have provided the same. Accordingly, in the event of any inconsistency or ambiguity of any provision of this Agreement or any other Transaction Document, such inconsistency or ambiguity shall not be interpreted against any party because of such party's involvement in the drafting thereof.

*Section 14.19. Captions and Cross References.* The various captions (including the table of contents) in this Agreement are provided solely for convenience of reference and shall not affect the meaning or interpretation of any provision of this Agreement. Unless otherwise indicated, references in this Agreement to any Section, Schedule or Exhibit are to such Section, Schedule or Exhibit to this Agreement, as the case may be, and references in any Section, subsection, or clause to any subsection, clause or subclause are to such subsection, clause or subclause of such Section, subsection or clause.

*Section 14.20. ESG Certificate.*

(a) ESG Certificate; ESG Margin Adjustment. On or before the ~~Monthly Settlement~~ESG Determination Date ~~occurring in August~~ of each year, beginning with the ~~Monthly Settlement~~ESG Determination Date occurring on August 25, 2022, the Parent shall furnish to the Administrative ~~Agent and each Group~~ Agent a certificate in form reasonably satisfactory to the Administrative Agent (each, an "ESG Certificate") containing calculations, in reasonable detail, of the TRIR Among Peers and the GHG Intensity (YoY Change) for the ~~prior~~most recently ended calendar year, together with supporting information in connection therewith, signed by a ~~Financial Officer~~financial officer of the Parent and certified as being true, complete and correct in all material respects. ~~Each party hereto hereby agrees that the Administrative Agent shall not have any responsibility for (or liability in respect of) reviewing, auditing or otherwise evaluating any calculation~~Following the date on which the Parent provides an ESG Certificate in respect of the most recently ended calendar year, the Drawn Fee, LC Participation Fee, Unused Fee and Commitment Fee (each as defined in the Fee Letter) shall be increased or decreased (or neither increased nor decreased), as applicable, by the Parent of the ESG Margin ~~(or any of the data or computations that are part of or related to any such calculation)~~as set forth in any such ESG Certificate (and, For purposes of the foregoing, (i) the ESG Margin shall be applied as of the fifth business day following receipt by the Administrative Agent may rely conclusively on any such certificate, without further inquiry). Notwithstanding anything in this Agreement to the contrary, the failure to deliver an ESG Certificate under this

~~Section shall not constitute an Event of Default or an Unmatured Event of Default~~ of an ESG Certificate (each such date, an “*ESG Margin Adjustment Date*”) and (ii) each change in the Drawn Fee, LC Participation Fee, Unused Fee and Commitment Fee (each as defined in the Fee Letter) resulting from an ESG Certificate shall be effective during the period commencing on and including the applicable ESG Margin Adjustment Date and ending on the date immediately preceding the next such ESG Margin Adjustment Date (or, in the case of non-delivery of an ESG Certificate, the last day such ESG Certificate should have been delivered pursuant to the terms hereof).

(b) *ESG Certificate Inaccuracy.*

(i) If (i)(A) any Lender becomes aware of any material inaccuracy in the calculations of the TRIR Among Peers or the GHG Intensity (YoY Change) as reported in an ESG Certificate (any such material inaccuracy, an “*ESG Certificate Inaccuracy*”) and such Lender delivers, not later than ten (10) Business Days after obtaining knowledge thereof, a written notice to the Administrative Agent describing such ESG Certificate Inaccuracy in reasonable detail (which description shall be shared with each Lender and the Borrower) or (B) the Borrower becomes aware of an ESG Certificate Inaccuracy and, in the case of this clause (B), the Borrower and the Administrative Agent mutually agree that there was an ESG Certificate Inaccuracy at the time of delivery of an ESG Certificate, and (ii) a proper calculation of the TRIR Among Peers or the GHG Intensity (YoY Change) would have resulted in an increase in the Drawn Fee, LC Participation Fee, Unused Fee or Commitment Fee for any period, the Borrower shall pay to the Administrative Agent for the account of the applicable Lenders or the applicable Issuing Lenders, as the case may be, promptly on demand by the Administrative Agent (or, after the occurrence of an actual or deemed entry of an order for relief with respect to any Borrower under the Bankruptcy Code, automatically and without further action by the Administrative Agent or any Lender), but in any event within ten (10) Business Days after the Borrower has received written notice of, or has agreed in writing that there was, an ESG Certificate Inaccuracy (such date, the “*Certificate Inaccuracy Payment Date*”), an amount equal to the excess of (1) the amount of fees that should have been paid for such period over (2) the amount of fees actually paid for such period.

(ii) If a proper calculation of the TRIR Among Peers or the GHG Intensity (YoY Change) would have resulted in a decrease in the Drawn Fee, LC Participation Fee, Unused Fee or Commitment Fee for any period, then, commencing on the first Business Day after receipt by the Administrative Agent of notice from such Lender or the Borrower of such ESG Certificate Inaccuracy (which notice shall include corrections to the calculations of the TRIR Among Peers or the GHG Intensity (YoY Change), as applicable), the Drawn Fee, LC Participation Fee, Unused Fee or Commitment Fee shall be adjusted to reflect the corrected calculations of the TRIR Among Peers or the GHG Intensity (YoY Change), as applicable. For the avoidance of any doubt, the parties agree that any such adjustment to reflect a decrease in the Drawn Fee, LC Participation Fee, Unused Fee or Commitment Fee for any period shall only be effective on a prospective basis from date of such adjustment and shall not require any adjustments to amounts previously paid by the Borrower prior to the discovery of an ESG Certificate Inaccuracy.

(iii) Any ESG Certificate Inaccuracy shall not constitute a Default or Event of Default; provided that the Borrower complies with clause (b)(i) above with respect to such ESG Certificate Inaccuracy. Notwithstanding anything to the contrary herein, unless such amounts shall be due upon the occurrence of an actual or deemed entry of an order for relief with respect to the Borrower under the Bankruptcy Code, (x) any additional amounts required to be paid pursuant to the immediately preceding paragraph shall not be due and payable until the applicable Certificate Inaccuracy Payment Date, (y) any nonpayment of such additional amounts prior to the Certificate Inaccuracy Payment Date shall not constitute a Default (whether retroactively or otherwise) and (z) none of such additional amounts shall be deemed overdue prior to the Certificate Inaccuracy Payment Date or shall accrue interest at any default rate prior to the Certificate Inaccuracy Payment Date.

(iv) The Borrower will, promptly upon becoming aware of an ESG Certificate Inaccuracy, furnish to the Administrative Agent and each Lender written notice of such ESG Certificate Inaccuracy.

(c) Amendments. Notwithstanding anything to the contrary in this Agreement, the Borrower and the Majority Group Agents, in consultation with the Sustainability Structuring Agent, may (i) amend this Section 14.20, (ii) amend the definitions of Current Reference Year, ESG Certificate, ESG Certificate Inaccuracy, Certificate Inaccuracy Payment Date, ESG Determination Date, ESG Margin, ESG Margin Adjustment Date, First ESG Determination Date, GHG Intensity, GHG Intensity (YoY Change), GHG Protocol, Irregular Event Year, Fixed Regular Benchmark Year, Prior Reference Year, KPIs, ESG Provisions, ESG Amendment, Peer Average TRIR, TRIR Among Peers, Reference Year, Total GHG Emissions and any component therein (but not the definitions of Drawn Fee, LC Participation Fee, Unused Fee or Commitment Fee), (iii) establish, include and/or remove specified key performance indicators ("KPIs") with respect to certain environmental, social and governance targets of Parent and its Subsidiaries and incorporating any related provisions, and (iv) include or modify any proposed incentives and penalties for compliance and noncompliance, respectively, with any KPIs, including adjustments to the ESG Margin (but not the definitions of Drawn Fee, LC Participation Fee, Unused Fee or Commitment Fee) (the foregoing clauses (i) through (iv), the "ESG Provisions" and such amendment and/or modification ESG Provisions, the "ESG Amendment"); provided, that no such ESG Amendment shall be made that results in aggregate adjustments to the Drawn Fee, LC Participation Fee, Unused Fee or Commitment Fee pursuant to the definition of ESG Margin exceeding an aggregate one (1) basis point per annum increase or decrease in such fee. For the avoidance of doubt, such pricing adjustments shall not be cumulative year-over-year, and each applicable adjustment shall only apply until the date on which the next adjustment is due to take place. Notwithstanding the foregoing, the Administrative Agent, the Sustainability Agent and the Borrower may, without the consent of any Lender, amend, modify, or supplement the ESG Provisions to (A) cure any ambiguity, omission, mistake, defect or inconsistency, or (B) reflect technical changes in calculation or reporting methodologies applicable pursuant to the ESG Provisions; provided that, in each case of the foregoing clause (A) and (B), such amendments, modifications, or supplements are either (x) consistent with generally accepted industry standards applicable to sustainability-linked financing in the syndicated loan market for companies of substantially the same creditworthiness and industry as the Borrower, or (y) not

objected to by the Majority Group Agents within five (5) Business Days' notice thereof to the Administrative Agent, Sustainability Agent and the Borrower.

**[Signature Pages Follow]**

In Witness Whereof, the parties have caused this Agreement to be executed by their respective officers thereunto duly authorized, as of the date first above written.

DCP Receivables LLC,  
as the Borrower

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

DCP Midstream, LP,  
as the Servicer

By: DCP Midstream GP, LP, its general partner

By: DCP Midstream GP, LLC, its general partner

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

[Signature Page to Receivables Financing Agreement]

PNC Bank, National Association,  
as Administrative Agent

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

PNC Bank, National Association,  
as Group Agent for the PNC Group

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

PNC Bank, National Association,  
as a Committed Lender

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

PNC Capital Markets LLC,  
as Structuring [Agent and Sustainability](#) Agent

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



**Exhibit A-1**

**Form of [Loan Request][LC Request]**

**[Letterhead of Borrower]**

**[Date]**

**[Administrative Agent]**

**[Group Agents]**

**Re: [Loan Request] [LC Request]**

Ladies and Gentlemen:

Reference is hereby made to that certain Receivables Financing Agreement, dated as of August 13, 2018 among DCP Receivables LLC (the “*Borrower*”), DCP Midstream, LP, as Servicer (the “*Servicer*”), the Lenders party thereto, the Group Agents party thereto and PNC Bank, National Association, as Administrative Agent (in such capacity, the “*Administrative Agent*”) (as amended, supplemented or otherwise modified from time to time, the “*Agreement*”). Capitalized terms used in this Loan Request and not otherwise defined herein shall have the meanings assigned thereto in the Agreement.

**[This letter constitutes a Loan Request pursuant to Section 2.02(a) of the Agreement. The Borrower hereby request a Loan in the amount of [\$\_\_\_\_\_] to be made on [\_\_\_\_, 201\_] (of which \$[\_\_\_\_] will be funded by the PNC Group, and \$[\_\_\_\_] will be funded by the \_\_\_\_ Group). The proceeds of such Loan should be deposited to [Account number], at [Name, Address and ABA Number of Bank]. After giving effect to such Loan, the Aggregate Capital will be [\$\_\_\_\_\_].]**

**[This letter constitutes an LC Request pursuant to Section 3.02(a) of the Agreement. The Borrower hereby request that the LC Bank issue a Letter of Credit with a face amount of [\$\_\_\_\_\_] on [\_\_\_\_, 202\_]. After giving effect to such issuance, the LC Participation Amount will be [\$\_\_\_\_\_].]**

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

(i) the representations and warranties of the Borrower and the Servicer contained in Sections 7.01 and 7.02 of the Agreement are true and correct in all material respects on and as of the date of such Credit Extension as though made on and as of such date unless such representations and warranties by their terms refer to an earlier date, in which case they shall be true and correct in all material respects on and as of such earlier date;

- (ii) no Event of Default or Unmatured Event of Default has occurred and is continuing, and no Event of Default or Unmatured Event of Default would result from such Credit Extension;
- (iii) no Borrowing Base Deficit exists or would exist after giving effect to such Credit Extension; and
- (iv) the Termination Date has not occurred.

In Witness Whereof, the undersigned has executed this letter by its duly authorized officer as of the date first above written.

Very truly yours,

DCP Receivables LLC

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

Name:\_\_\_\_\_

Title:\_\_\_\_\_

**Exhibit A-2**

**Form of Letter of Credit Application**

A-2-1

**Exhibit B**

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

Dated as of \_\_\_\_\_, 202\_\_

Section 1.

Commitment assigned:

\$[\_\_\_\_\_]

Assignor's remaining Commitment:

\$[\_\_\_\_\_]

Capital allocable to Commitment assigned:

\$[\_\_\_\_\_]

Assignor's remaining Capital:

\$[\_\_\_\_\_]

Interest (if any) allocable to Capital assigned:

\$[\_\_\_\_\_]

Interest (if any) allocable to Assignor's remaining Capital:

\$[\_\_\_\_\_]

Section 2.

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

Upon execution and delivery of this Assignment and Acceptance Agreement by the assignee and the assignor and the satisfaction of the other conditions to assignment specified in Section 14.03(b) of the Agreement (as defined below), from and after the effective date specified above, the assignee shall become a party to, and, to the extent of the rights and obligations thereunder being assigned to it pursuant to this Assignment and Acceptance Agreement, shall have the rights and obligations of a Committed Lender under that certain Receivables Financing Agreement, dated as of August 13, 2018 among DCP Receivables LLC, as Borrower, DCP Midstream, LP, as Servicer, the Lenders party thereto, the Group Agents party thereto and PNC Bank, National Association, as Administrative Agent (as amended, supplemented or otherwise modified from time to time, the "Agreement").

[Signature Pages Follow]

Assignor:

[\_\_\_\_\_]

By:

Name:

Title:

Assignee:

[\_\_\_\_\_]

By:

Name:

Title:

**[Address]**

Accepted as of date first above  
written:

PNC Bank, National Association,  
as Administrative Agent

By:\_\_\_

Name:

Title:

DCP Receivables LLC,  
as Borrower

By:\_\_\_

Name:

Title:

## Exhibit C

### [Form of Assumption Agreement]

This Assumption Agreement (this “*Agreement*”), dated as of [\_\_\_\_\_, \_\_\_\_], is among DCP Receivables LLC (the “*Borrower*”), [\_\_\_\_\_, \_\_\_\_\_], as conduit lender (the “[\_\_\_\_\_] *Conduit Lender*”), [\_\_\_\_\_, \_\_\_\_\_], as the Related Committed Lender (the “[\_\_\_\_\_] *Committed Lender*” and together with the Conduit Lender, the “[\_\_\_\_\_] *Lenders*”), and [\_\_\_\_\_, \_\_\_\_\_], as group agent for the [\_\_\_\_\_] Lenders (the “[\_\_\_\_\_] *Group Agent*” and together with the [\_\_\_\_\_] Lenders, the “[\_\_\_\_\_] *Group*”).

### Background

The Borrower and various others are parties to a certain Receivables Financing Agreement, dated as of August 13, 2018 (as amended through the date hereof and as the same may be amended, amended and restated, supplemented or otherwise modified from time to time, the “*Receivables Financing Agreement*”). Capitalized terms used and not otherwise defined herein have the respective meaning assigned to such terms in the Receivables Financing Agreement.

Now, Therefore, the parties hereto hereby agree as follows:

*Section 1.* This letter constitutes an Assumption Agreement pursuant to Section 14.03(i) of the Receivables Financing Agreement. The Borrower desires **[the [\_\_\_\_\_] Lenders] [the [\_\_\_\_\_] Committed Lender] to [become a Group] [increase its existing Commitment]** under the Receivables Financing Agreement, and upon the terms and subject to the conditions set forth in the Receivables Financing Agreement, the **[the [\_\_\_\_\_] Lenders] [the [\_\_\_\_\_] Committed Lender]** agree[s] to **[become Lenders within a Group thereunder] [increase its Commitment to the amount set forth as its “Commitment” under the signature of such [\_\_\_\_\_] Committed Lender hereto]**.

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

- (i) the representations and warranties of the Borrower contained in Section 7.01 of the Receivables Financing Agreement are true and correct on and as of such date as though made on and as of such date;
- (ii) no Event of Default or Unmatured Event of Default has occurred and is continuing, or would result from the assumption contemplated hereby; and
- (iii) the Termination Date shall not have occurred.

*Section 2.* Upon execution and delivery of this Agreement by the Borrower and each member of the [\_\_\_\_\_] Group, satisfaction of the other conditions with respect to the addition of a Group specified in Section 14.03(i) of the Receivables Financing Agreement (including the

written consent of the Administrative Agent and the Majority Group Agents) and receipt by the Administrative Agent of counterparts of this Agreement (whether by facsimile or otherwise) executed by each of the parties hereto, **[the [\_\_\_\_\_] Lenders shall become a party to, and have the rights and obligations of Lenders under, the Receivables Financing Agreement and the “Commitment” with respect to the Committed Lenders in such Group as shall be as set forth under the signature of each such Committed Lender hereto] [the [\_\_\_\_\_] Committed Lender shall increase its Commitment to the amount set forth as the “Commitment” under the signature of the [\_\_\_\_\_] Committed Lender hereto].**

*Section 3.* Each party hereto hereby covenants and agrees that it will not institute against, or join any other Person in instituting against, any Conduit Lender, any bankruptcy, reorganization, arrangement, insolvency or liquidation proceeding, or other proceeding under any federal or state bankruptcy or similar law, for one year and one day after the latest maturing commercial paper notes or other senior indebtedness issued by such Conduit Lender is paid in full. The covenant contained in this paragraph shall survive any termination of the Receivables Financing Agreement.

*Section 4.* This Agreement, including the rights and duties of the parties hereto, shall be governed by, and construed in accordance with, the laws of the State of New York (including Sections 5-1401 and 5-1402 of the general obligations law of the State of New York), but without regard to any other conflicts of law provisions thereof. This Agreement may not be amended or supplemented except pursuant to a writing signed by each of the parties hereto and may not be waived except pursuant to a writing signed by the party to be charged. This Agreement may be executed in counterparts, and by the different parties on different counterparts, each of which shall constitute an original, but all together shall constitute one and the same agreement.

(Signature Pages Follow)



In Witness Whereof, the parties hereto have executed this Agreement by their duly authorized officers as of the date first above written.

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

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

**[Address]**

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

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

**[Address]**

**[Commitment]**

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

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

**[Address]**

DCP Receivables LLC,  
as Borrower

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

**Exhibit D**

**Form of Reduction Notice**

**[Letterhead of Borrower]**

**[Date]**

**[Administrative Agent]**

**[Group Agents]**

Re: Reduction Notice

Ladies and Gentlemen:

Reference is hereby made to that certain Receivables Financing Agreement, dated as of August 13, 2018 among DCP Receivables LLC (the “*Borrower*”), DCP Midstream, LP, as Servicer (the “*Servicer*”), the Lenders party thereto, the Group Agents party thereto and PNC Bank, National Association, as Administrative Agent (in such capacity, the “*Administrative Agent*”) (as amended, supplemented or otherwise modified from time to time, the “*Agreement*”). Capitalized terms used in this Reduction Notice and not otherwise defined herein shall have the meanings assigned thereto in the Agreement.

This letter constitutes a Reduction Notice pursuant to Section 2.02(d) of the Agreement. The Borrower hereby notifies the Administrative Agent and the Group Agents that it shall prepay the outstanding Capital of the Lenders in the amount of **[\$\_\_\_\_\_]** to be made on **[\_\_\_\_\_, 201\_]**. After giving effect to such prepayment, the Aggregate Capital will be **[\$\_\_\_\_\_]**.

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

(i) the representations and warranties of the Borrower and the Servicer contained in Sections 7.01 and 7.02 of the Agreement are true and correct in all material respects on and as of the date of such prepayment as though made on and as of such date unless such representations and warranties by their terms refer to an earlier date, in which case they shall be true and correct in all material respects on and as of such earlier date;

(ii) no Event of Default or Unmatured Event of Default has occurred and is continuing, and no Event of Default or Unmatured Event of Default would result from such prepayment;

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

(iv) the Termination Date has not occurred.

In Witness Whereof, the undersigned has executed this letter by its duly authorized officer as of the date first above written.

Very truly yours,

DCP Receivables LLC

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

Name:\_\_\_\_\_

Title:\_\_\_\_\_

**Exhibit E**

**Credit and Collection Policy**

(On file with PNC)

**Exhibit F-1**

**Form of Monthly Information Package**

(Attached)

F-1-1

**Exhibit F-2**

**Form of Weekly Information Package**

(Attached)

F-2-1



**Exhibit F-3**

**Form of Daily Information Package**

(Attached)

F-3-1

## Exhibit G

### Form of Compliance Certificate

To: PNC Bank, National Association, as Administrative Agent

This Compliance Certificate is furnished pursuant to that certain Receivables Financing Agreement, dated as of August 13, 2018 among DCP Receivables LLC (the “*Borrower*”), DCP Midstream, LP, as Servicer (the “*Servicer*”), the Lenders party thereto, the Group Agents party thereto and PNC Bank, National Association, as Administrative Agent (in such capacity, the “*Administrative Agent*”) (as amended, supplemented or otherwise modified from time to time, the “*Agreement*”). Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to them in the Agreement.

The Undersigned Hereby Certifies That:

1. I am the duly elected \_\_\_\_\_ of the Servicer.
2. I have reviewed the terms of the Agreement and each of the other Transaction Documents and I have made, or have caused to be made under my supervision, a detailed review of the transactions and condition of the Borrower during the accounting period covered by the attached financial statements.
3. The examinations described in paragraph 2 above did not disclose, and I have no knowledge of, the existence of any condition or event which constitutes an Event of Default or an Unmatured Event of Default, as each such term is defined under the Agreement, during or at the end of the accounting period covered by the attached financial statements or as of the date of this Certificate [**except as set forth in paragraph 5 below**].
4. Schedule I attached hereto sets forth financial statements of the Servicer and its Subsidiaries for the period referenced on such Schedule I [**and sets forth the calculation of [insert financial covenants if applicable].**]
- [5. Described below are the exceptions, if any, to paragraph 3 above by listing, in detail, the nature of the condition or event, the period during which it has existed and the action which Borrower has taken, is taking, or proposes to take with respect to each such condition or event:]

The foregoing certifications are made and delivered this \_\_\_\_ day of \_\_\_\_\_, 201\_\_.

DCP Midstream, LP

By: DCP Midstream GP, LP, its general partner

By: DCP Midstream GP, LLC, its general partner

By:

Name:\_\_\_

Title:\_\_\_

### **Schedule I to Compliance Certificate**

A. Schedule of Compliance as of \_\_\_\_\_, 201\_\_ with the Agreement. Unless otherwise defined herein, the terms used in this Compliance Certificate have the meanings ascribed thereto in the Agreement.

This schedule relates to the month ended: \_\_\_\_\_, 201\_\_.

B. The following financial statements of the Servicer and its Subsidiaries for the period ending on \_\_\_\_\_, 201\_\_, are attached hereto:

C. The calculation of the \_\_\_\_\_ for the fiscal quarter ended \_\_\_\_\_, 201\_\_ is set forth below:

**Exhibit H**  
**Closing Memorandum**  
(Attached)

H-1

**Schedule I**

**Commitments**

PNC Group	Party	Capacity	Maximum Commitment
	PNC	Committed Lender	\$350,000,000
	PNC	LC Participant	\$350,000,000
	PNC	LC Bank	N/A
	PNC	Group Agent	N/A

**Schedule II**

**Lock-Boxes, Collection Accounts and Collection Account Banks**

<b>Bank</b>	<b>Lockbox</b>	<b>Account and ABA Numbers</b>
JPMorgan Chase Bank, N.A.		Account Number: Wire ABA#:
JPMorgan Chase Bank, N.A.		Account Number: Wire ABA#:
JPMorgan Chase Bank, N.A.		Account Number: Wire ABA#:
JPMorgan Chase Bank, N.A.		Account Number: Wire ABA#:
JPMorgan Chase Bank, N.A.		Account Number: Wire ABA#:

### **Schedule III**

#### **Notice Addresses**

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

DCP Receivables LLC  
370 17th St., Suite 2500  
Denver, CO 80202  
Attn: Chief Financial Officer  
Telephone: (303) 633-2900  
Facsimile: (303) 605-2226

with a copy to:

DCP Midstream, LP  
370 17th St., Suite 2500  
Denver, CO 80202  
Attn: General Counsel  
Telephone: (303) 633-2900  
Facsimile: (303) 605-2226

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

DCP Midstream, LP  
370 17th St., Suite 2500  
Denver, CO 80202  
Attn: Chief Financial Officer  
Telephone: (303) 633-2900  
Facsimile: (303) 605-2226

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

PNC Bank, National Association  
300 Fifth Avenue, Floor 11  
Pittsburgh, PA 15222-2707  
Attention: Brian Stanley  
Telephone: (412) 768-2001  
Facsimile: (412) 762-9184

with a copy to: ABFAdmin@pnc.com

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



**Schedule IV**

**Special Obligors**

<b>Special Obligor</b>	<b>Percentage Limit</b>
Targa Resources Partners LP	8.0%
Phillips 66 Company	17.5%

Schedule IV-1

## **Schedule V**

### **Subject Originators**

1. DCP Mobile Bay Processing, LLC
2. National Helium, LLC
3. Centana Intrastate Pipeline, LLC
4. Fuels Cotton Valley Gathering, LLC
5. Dauphin Island Gathering Partners
6. EasTrans, LLC
7. DCP Guadalupe Pipeline, LLC
8. DCP East Texas Gathering, LLC
9. DCP Assets Holding, LP
10. Cimarron River Pipeline, LLC
11. DCP Michigan Pipeline & Processing, LLC
12. DCP Grands Lacs LLC
13. DCP Litchfield LLC
14. DCP Saginaw Bay Lateral LLC
15. DCP Michigan Holdings LLC
16. DCP Black Lake Holdings, LP
17. Marysville Hydrocarbons LLC
18. DCP South Central Texas LLC

## List of Guaranteed Securities

Pursuant to Item 601(b)(22) of Regulation S-K, set forth below are securities issued by DCP Midstream Operating, LP (Subsidiary Issuer) and guaranteed by DCP Midstream, LP (Parent Guarantor).

\$500 million of 3.875% Senior Notes due March 2023

\$825 million of 5.375% Senior Notes due July 2025

\$500 million of 5.625% Senior Notes due July 2027

\$600 million of 5.125% Senior Notes due May 2029

\$300 million of 8.125% Senior Notes due August 2030

\$400 million of 3.250% Senior Notes due February 2032

\$300 million of 6.450% Senior Notes due November 2036

\$450 million of 6.750% Senior Notes due September 2037

\$400 million of 5.600% Senior Notes due April 2044

**Certification Pursuant to  
Section 302 of the Sarbanes-Oxley Act of 2002**

I, Wouter T. van Kempen, certify that:

1. I have reviewed this quarterly report on Form 10-Q of DCP Midstream, LP for the period ended September 30, 2022;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: November 3, 2022

/s/ Wouter T. van Kempen

Wouter T. van Kempen

President and Chief Executive Officer  
(Principal Executive Officer)

DCP Midstream GP, LLC, general partner of  
DCP Midstream GP, LP, general partner of  
DCP Midstream, LP

**Certification Pursuant to  
Section 302 of the Sarbanes-Oxley Act of 2002**

I, Sean P. O'Brien, certify that:

1. I have reviewed this quarterly report on Form 10-Q of DCP Midstream, LP for the period ended September 30, 2022;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: November 3, 2022

/s/ Sean P. O'Brien

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Sean P. O'Brien  
Group Vice President and Chief Financial Officer  
(Principal Financial Officer)  
DCP Midstream GP, LLC, general partner of  
DCP Midstream GP, LP, general partner of  
DCP Midstream, LP

**Certification of President and Chief Executive Officer  
Pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906  
of the Sarbanes-Oxley Act of 2002 (18 U.S.C. Section 1350)**

The undersigned, the President and Chief Executive Officer of DCP Midstream GP, LLC, general partner of DCP Midstream GP, LP, general partner of DCP Midstream, LP (the “Partnership”), hereby certifies that, to his knowledge on the date hereof:

- (a) the quarterly report on Form 10-Q of the Partnership for the period ended September 30, 2022, filed on the date hereof with the Securities and Exchange Commission (the “Report”) fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (b) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Partnership.

/s/ Wouter T. van Kempen

Wouter T. van Kempen

President and Chief Executive Officer

(Principal Executive Officer)

November 3, 2022

*A signed original of this written statement required by Section 906 has been provided to the Partnership and will be retained by the Partnership and furnished to the Securities and Exchange Commission or its staff upon request.*

**Certification of Group Vice President and Chief Financial Officer  
Pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906  
of the Sarbanes-Oxley Act of 2002 (18 U.S.C. Section 1350)**

The undersigned, the Group Vice President and Chief Financial Officer of DCP Midstream GP, LLC, general partner of DCP Midstream GP, LP, general partner of DCP Midstream, LP (the "Partnership"), hereby certifies that, to his knowledge on the date hereof:

- (a) the quarterly report on Form 10-Q of the Partnership for the period ended September 30, 2022, filed on the date hereof with the Securities and Exchange Commission (the "Report") fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (b) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Partnership.

/s/ Sean P. O'Brien

Sean P. O'Brien

Group Vice President and Chief Financial Officer

(Principal Financial Officer)

November 3, 2022

*A signed original of this written statement required by Section 906 has been provided to the Partnership and will be retained by the Partnership and furnished to the Securities and Exchange Commission or its staff upon request.*