

---

## Section 1: 8-K (8-K)

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

---

**FORM 8-K**

Current Report Pursuant to Section 13 or 15(d) of  
the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported):

October 12, 2018

**OXFORD SQUARE CAPITAL CORP.**  
(Exact name of registrant as specified in its charter)

**Maryland**  
(State or other jurisdiction  
of incorporation)

**000-50398**  
(Commission File Number)

**20-0188736**  
(I.R.S. Employer Identification No.)

**8 Sound Shore Drive, Suite 255**  
**Greenwich, CT 06830**  
(Address of principal executive offices and zip code)

Registrant's telephone number, including area code: **(203) 983-5275**

Check the appropriate box below if the Form 8-K is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

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

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

Emerging growth company

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

---

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

On October 12, 2018, Oxford Square Funding 2018, LLC (“OXSQ Funding”), a special purpose vehicle that is a wholly-owned subsidiary of Oxford Square Capital Corp. (the “Company,” “we,” “us,” or “our”), entered into a First Amendment (the “Amendment”) to its credit facility (the “Facility”) with Citibank, N.A., dated as of June 21, 2018.

The Amendment amends the Facility by providing for an additional borrowing by OXSQ Funding under the Facility of approximately \$37.3 million, for a total outstanding principal amount of \$125.0 million. No further borrowings under the Facility are permitted. The Company will continue to act as the collateral manager of the loans owned by OXSQ Funding and will continue to retain a residual interest through its ownership of OXSQ Funding. OXSQ Funding used the proceeds of the Facility to pay the purchase price for the loans purchased by it from the Company.

Subject to certain continuing exceptions, pricing under the Facility continues to be based on the London interbank offered rate for an interest period equal to three months plus a spread of 2.25% per annum. Interest on the outstanding principal amount owing under the Facility continues to be payable quarterly in arrears.

The Facility will mature, and all outstanding principal and accrued and unpaid interest thereunder continues to be due and payable, on June 21, 2020, and is subject to periodic repayment prior to such date from collections on OXSQ Funding’s loan assets and certain other mandatory payment requirements. OXSQ Funding may elect to reduce the amount of the Facility, in whole or in part, at any time subject to payment of a prepayment fee and certain funding breakage fees if prepayments occur prior to expiration of the relevant interest period.

In connection with the Facility, the Company entered into a sale, contribution and master participation agreement with OXSQ Funding under which the Company sold and contributed an additional portfolio of loans to OXSQ Funding.

The Bank of New York Mellon Trust Company, National Association serves as collateral administrator to OXSQ Funding under a collateral administration agreement entered into in connection with the Facility. The collateral administration agreement was not amended in connection with the Amendment.

The descriptions of the documentation relating to this transaction contained in this Current Report on Form 8-K do not purport to be complete and are qualified in their entirety by reference to the forms of underlying agreements, attached hereto as Exhibits 10.1 and 10.2 and incorporated into this Current Report on Form 8-K by reference.

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

The information set forth in Item 1.01 is incorporated by reference into this Item 2.03.

---

**Item 9.01 Financial Statements and Exhibits.**

- (a) Not applicable.
- (b) Not applicable.
- (c) Not applicable.
- (d) Exhibits.

**Exhibit No.      Description**

<u>10.1</u>	<u>First Amendment to the Credit and Security Agreement among Oxford Square Funding 2018, LLC, as borrower, Oxford Square Capital Corp., as equityholder and collateral manager, and Citibank, N.A., as lender and administrative agent, dated October 12, 2018.</u>
<u>10.2</u>	<u>Sale, Contribution and Master Participation Agreement by and between Oxford Square Funding 2018, LLC, as the buyer and Oxford Square Capital Corp., as the seller, dated October 12, 2018.</u>

---

## SIGNATURES

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

Date: October 12, 2018

OXFORD SQUARE CAPITAL CORP.

By: /s/ Saul B. Rosenthal  
Saul B. Rosenthal  
President

---

[\(Back To Top\)](#)

## Section 2: EX-10.1 (EXHIBIT 10.1)

**Exhibit 10.1**

**EXECUTION VERSION**

### FIRST AMENDMENT TO CREDIT AND SECURITY AGREEMENT

This FIRST AMENDMENT TO CREDIT AND SECURITY AGREEMENT, dated as of October 12, 2018 (this "Amendment"), by and among OXFORD SQUARE FUNDING 2018, LLC, a Delaware limited liability company, as borrower (the "Borrower"), OXFORD SQUARE CAPITAL CORP., a Maryland corporation, as the sole equityholder of the Borrower (in such capacity, the "Equityholder") and as collateral manager (in such capacity, the "Collateral Manager"), CITIBANK, N.A., as the lender (in such capacity, the "Lender"), and as administrative agent (in such capacity, the "Administrative Agent").

WHEREAS, the Borrower, the Collateral Manager, the Equityholder, the Lender, the Administrative Agent, The Bank of New York Mellon Trust Company, National Association, as the Custodian and the Collateral Agent are parties to the Credit and Security Agreement, dated as of June 21, 2018 (as in effect immediately prior to the effectiveness of this Amendment and including any exhibits and schedules thereto, the "Existing Credit Agreement"), and as amended by this Amendment and as may be further amended, supplemented or otherwise modified and in effect from time to time, the "Amended Credit Agreement"; except as otherwise defined in this Amendment, terms defined in the Amended Credit Agreement are used herein as defined therein).

WHEREAS, the Borrower, the Collateral Manager, the Equityholder, the Lender, which Lender is the sole Lender under the Existing Credit Agreement, and the Administrative Agent have agreed to amend the Existing Credit Agreement upon and subject to the terms and conditions set forth in this Amendment.

WHEREAS, these recitals shall be construed as part of this Amendment.

NOW THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto hereby agree as follows:

**Section 1. Amendments to the Existing Credit Agreement.** From and after the First Amendment Effective Date (as defined below), the Existing Credit Agreement shall be amended as follows:

1.01. References Generally.

(a) References in the Existing Credit Agreement (including references to the Existing Credit Agreement as amended hereby) to "this Agreement" (and indirect references such as "hereunder", "hereby", "herein" and "hereof") and each reference to the Existing Credit Agreement in the other Facility Documents (and indirect references such as "thereunder", "thereby", "therein" and "thereof") shall be deemed to be references to the Existing Credit Agreement as amended hereby.

---

1.02. First Amendment Advances.

(a) The Lender hereby agrees to make a loan to the Borrower on the First Amendment Effective Date (the “First Amendment Advance”), in a principal amount equal to \$37,296,761.67, on the terms and conditions as set forth in the Existing Credit Agreement. The First Amendment Advance shall be deemed to be an Advance for all purposes of the Facility Documents, having terms and provisions identical to those applicable to the Advances outstanding immediately prior to the First Amendment Effective Date (the “Existing Advances”).

(b) The First Amendment Advance shall be made as a single borrowing, with an initial Interest Accrual Period that commences on the First Amendment Effective Date and ends on the last day of the Interest Accrual Period applicable to the Existing Advances on the First Amendment Effective Date. During such initial Interest Accrual Period, the LIBOR Rate applicable to the First Amendment Advance shall be the same LIBOR Rate applicable for the Existing Advances as of the First Amendment Effective Date. Notwithstanding anything to the contrary contained herein or in the Existing Credit Agreement, from and after the First Amendment Effective Date, the Existing Advances and the First Amendment Advance shall constitute a single borrowing of Advances for all purposes under the Existing Credit Agreement.

(c) The commitment of the Lender to make the First Amendment Advance shall automatically terminate upon the earlier of (x) the making of the First Amendment Advance and (y) 5:00 p.m. on the First Amendment Effective Date.

1.03. Amended Language. The Existing Credit Agreement is hereby amended as follows:

(a) to delete the bold, stricken text (indicated textually in the same manner as the following example: ~~stricken text~~) and to add the bold, double-underlined text (indicated textually in the same manner as the following example: double-underlined text) as set forth in the Amended Credit Agreement (or changed pages thereof) attached as Exhibit A hereto.

(b) Schedule 5 of the Credit Agreement is amended and restated in its entirety as set forth on Exhibit B hereto.

**Section 2. Representations and Warranties of the Borrower and Collateral Manager.** The Borrower, the Collateral Manager and the Equityholder represent and warrant to the Administrative Agent and the Lender that as of the First Amendment Effective Date:

2.01. each of the representations and warranties set forth in the Amended Credit Agreement and in the other Facility Documents are true and correct in all material respects (or in all respects for such representations and warranties that are by their terms already qualified as to materiality) as of the date hereof, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they shall be true and correct in all material respects (or in all respects for such representations and warranties that are by their terms already qualified as to materiality) as of such earlier date;

2.02. both immediately before and after giving effect to this Amendment and the transactions contemplated hereby, no Default, Event of Default or Collateral Manager Default has occurred and is continuing, or would result therefrom; and

2.03. the execution and delivery by each of the Borrower, the Collateral Manager and the Equityholder of, and the performance of its obligations under this Amendment and the other Facility Documents to which it is a party and the other instruments, certificates and agreements contemplated thereby are within its powers and have been duly authorized by all requisite action by it and have been duly executed and delivered by it and constitute its legal, valid and binding obligations enforceable against it in accordance with their respective terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting creditors' rights generally or general principles of equity, regardless of whether considered in a proceeding in equity or at law.

**Section 3. Conditions Precedent.** The amendments to the Existing Credit Agreement set forth in Section 1 above shall become effective as of the date (the "First Amendment Effective Date"), upon which each of the following conditions precedent shall be satisfied or waived:

3.01. Execution. The Administrative Agent shall have received counterparts of this Amendment executed by the Borrower, the Collateral Manager, the Equityholder and the Lender.

3.02. Payment of Fees and Expenses. The Administrative Agent shall have received evidence that the reasonable and documented fees and expenses of Winston & Strawn LLP, counsel to the Administrative Agent, in each case in connection with the transactions contemplated hereby (to the extent invoiced prior to the First Amendment Effective Date), shall have been paid by the Borrower.

3.03. Responsible Officer's Certificates of Borrower and Equityholder. The Administrative Agent shall have received certificates of a Responsible Officer of each of the Borrower and the Equityholder certifying (i) as to its Constituent Documents, (ii) as to its resolutions or other action of its board of directors or members approving this Amendment and the transactions contemplated hereby and thereby and (iii) as to the incumbency and specimen signature of each of its Responsible Officers authorized to execute this Amendment and the other Facility Documents to which it is a party.

3.04. Legal Opinions. The Administrative Agent shall have received the executed legal opinions of counsel to the Borrower and the Equityholder, in form and substance reasonably satisfactory to the Administrative Agent covering (i) customary corporate matters and (ii) true sale matters, in each case as the Administrative Agent may reasonably request.

3.05. Beneficial Ownership Certification. The Administrative Agent shall have received a Beneficial Ownership Certification in respect of the Borrower and any other Person that qualifies as a "legal entity customer" under the Beneficial Ownership Regulation.

3.06. Notice of Borrowing. The Collateral Agent and the Administrative Agent shall have received a Notice of Borrowing for such First Amendment Advance (including a pro forma Borrowing Base Calculation Statement attached thereto) prior to the First Amendment Effective Date.

3.07. Governmental Authorizations. The Administrative Agent shall have received true and complete copies certified by a Responsible Officer of the Borrower of all Governmental Authorizations, Private Authorizations and Governmental Filings, if any, required in connection with the transactions contemplated by this Amendment.

3.08. Financing Statements. The Administrative Agent shall have received proper financing statements (or the equivalent thereof in any applicable foreign jurisdiction), duly filed on or before the First Amendment Effective Date, under the UCC with the Delaware Secretary of State, Division of Corporations and any other applicable filing office in any applicable jurisdiction that the Administrative Agent deems necessary or desirable in order to perfect the interests in the Collateral acquired by the Borrower pursuant to the First Amendment Effective Date Sale Agreement as contemplated by the Amended Credit Agreement.

3.09. Delivery of Collateral. Delivery of such Collateral (including any promissory note, executed assignment agreement and word or pdf copies of the principal credit agreement for each Collateral Loan, to the extent received by the Borrower) as required under the Amended Credit Agreement shall have been effected.

3.10. Officer's Certificate. A certificate of a Responsible Officer of the Borrower, dated as of the First Amendment Effective Date, certifying to the effect that, in the case of each item of Collateral acquired by the Borrower pursuant to the First Amendment Effective Date Sale Agreement and pledged to the Collateral Agent, (x) in the case of clause (i) through (iv) below, immediately prior to the First Amendment Effective Date and (y) after giving effect to the transactions contemplated on the First Amendment Effective Date:

(i) the Borrower is the owner of such Collateral free and clear of any Liens or claims of any nature whatsoever except for (A) those which are being released on the First Amendment Effective Date and (B) Permitted Liens;

(ii) the Borrower has acquired its ownership in such Collateral in good faith without notice of any adverse claim, except as described in clause (i) above;

(iii) the Borrower has not assigned, pledged or otherwise encumbered any interest in such Collateral (or, if any such interest has been assigned, pledged or otherwise encumbered, it has been released) other than Permitted Liens;

(iv) the Borrower has full right to grant a security interest in and assign and pledge such Collateral to the Collateral Agent; and

(v) upon grant by the Borrower, the Collateral Agent has a first priority perfected security interest in the Collateral, except as permitted by the Amended Credit Agreement.

3.11. After the making of the First Amendment Advances and the deposit of any portion thereof into the Unfunded Reserve Account, the amount on deposit thereon is at least equal to the Unfunded Reserve Required Amount.

**Section 4. Reference to and Effect Upon the Existing Credit Agreement; Limited Consent.**

4.01. Except as specifically amended above, the Existing Credit Agreement and the other Facility Documents shall remain unchanged and in full force and effect and are hereby ratified and confirmed.

4.02. The execution, delivery and effectiveness of this Amendment shall not operate as a waiver of any right, power or remedy of the Administrative Agent or any other Secured Party under the Existing Credit Agreement or any other Facility Document, nor constitute a waiver of any provision of the Existing Credit Agreement or any other Facility Document.

**Section 5. Reaffirmation.** Each of the Borrower, the Collateral Manager and the Equityholder hereby reaffirms its obligations under each Facility Document to which it is a party. The Borrower hereby reaffirms the grant of security contained in Section 7.01(a) of the Amended Credit Agreement.

**Section 6. Miscellaneous.** This Amendment is a Facility Document for all purposes of the Amended Credit Agreement and the other Facility Documents. This Amendment may be executed in any number of counterparts, and by different parties hereto on separate counterpart signature pages, and all such counterparts taken together shall be deemed to constitute one and the same instrument. Delivery of a counterpart signature page by facsimile transmission or by e-mail transmission of an Adobe portable document format file (also known as a “*PDF*” file) shall be effective as delivery of a manually executed counterpart signature page. Section headings used in this Amendment are for reference only and shall not affect the construction of this Amendment.

**Section 7. GOVERNING LAW.** THIS AMENDMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES UNDER THIS AMENDMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAW OF THE STATE OF NEW YORK.

[signature pages follow]



IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed and delivered as of the day and year first above written.

OXFORD SQUARE FUNDING 2018, LLC, as Borrower

By: \_\_\_\_\_  
Name:  
Title:

OXFORD SQUARE CAPITAL CORP., as Collateral Manager

By: \_\_\_\_\_  
Name:  
Title:

OXFORD SQUARE CAPITAL CORP., as Equityholder

By: \_\_\_\_\_  
Name:  
Title:

[Signature Page to First Amendment to Credit and Security Agreement]

---

CITIBANK, N.A., as Administrative Agent and as the Lender

By: \_\_\_\_\_  
Name:  
Title:

[Signature Page to First Amendment to Credit and Security Agreement]

---

Exhibit A

AMENDED CREDIT AGREEMENT

---

**CREDIT AND SECURITY AGREEMENT**

among

OXFORD SQUARE FUNDING 2018, LLC,  
as Borrower,

THE LENDERS FROM TIME TO TIME PARTIES HERETO,

CITIBANK, N.A.,  
as Administrative Agent,

OXFORD SQUARE CAPITAL CORP.,  
as Equityholder,

THE BANK OF NEW YORK MELLON TRUST COMPANY, NATIONAL ASSOCIATION,  
as Collateral Agent and as Custodian

and

OXFORD SQUARE CAPITAL CORP.,  
as Collateral Manager

---

Dated as of June 21, 2018

---

---

## TABLE OF CONTENTS

	<b>Page</b>
ARTICLE I DEFINITIONS; RULES OF CONSTRUCTION; COMPUTATIONS	1
Section 1.01.    Definitions	1
Section 1.02.    Rules of Construction	<del>42</del> <u>43</u>
Section 1.03.    Computation of Time Periods	43
Section 1.04.    Collateral Value Calculation Procedures	<del>43</del> <u>44</u>
ARTICLE II ADVANCES	<del>44</del> <u>45</u>
Section 2.01.    Advances	<del>44</del> <u>45</u>
Section 2.02.    Making of the Advances	<del>44</del> <u>45</u>
Section 2.03.    Evidence of Indebtedness; Notes	<del>45</del> <u>46</u>
Section 2.04.    Payment of Principal and Interest	<del>45</del> <u>46</u>
Section 2.05.    Prepayment of Advances	<del>46</del> <u>47</u>
Section 2.06.    Commitments	<del>47</del> <u>48</u>
Section 2.07.    Maximum Lawful Rate	<del>47</del> <u>48</u>
Section 2.08.    Several Obligations	<del>47</del> <u>48</u>
Section 2.09.    Increased Costs	48
Section 2.10.    Compensation; Breakage Payments	<del>49</del> <u>50</u>
Section 2.11.    Illegality; Inability to Determine Rates	<del>50</del> <u>51</u>
Section 2.12.    Prepayment Fee	<del>50</del> <u>51</u>
Section 2.13.    Rescission or Return of Payment	<del>51</del> <u>52</u>
Section 2.14.    Post-Default Interest	<del>51</del> <u>52</u>
Section 2.15.    Payments Generally	<del>51</del> <u>52</u>
Section 2.16.    Replacement of Lenders	<del>52</del> <u>53</u>
Section 2.17.    Right of Setoff	53
Section 2.18.    Contractual Currency	<del>53</del> <u>54</u>
Section 2.19.    Lending Offices; Changes Thereto	<del>53</del> <u>54</u>
ARTICLE III CONDITIONS PRECEDENT	<del>54</del> <u>55</u>
Section 3.01.    Conditions Precedent to the Making of the Advances	<del>54</del> <u>55</u>
ARTICLE IV REPRESENTATIONS AND WARRANTIES	<del>56</del> <u>57</u>
Section 4.01.    Representations and Warranties of the Borrower	<del>56</del> <u>57</u>
Section 4.02.    Representations and Warranties of the Collateral Manager and the Equityholder	<del>61</del> <u>62</u>
Section 4.03.    Representations and Warranties of the Collateral Agent and the Custodian	63
ARTICLE V COVENANTS	<del>63</del> <u>64</u>
Section 5.01.    Affirmative Covenants of the Borrower	<del>63</del> <u>64</u>
Section 5.02.    Negative Covenants of the Borrower	<del>68</del> <u>70</u>
Section 5.03.    Affirmative Covenants of the Collateral Manager and the Equityholder	<del>72</del> <u>73</u>
Section 5.04.    Negative Covenants of the Collateral Manager and the Equityholder	<del>73</del> <u>75</u>
Section 5.05.    Certain Undertakings Relating to Separateness	<del>74</del> <u>75</u>

**TABLE OF CONTENTS**  
(continued)

	<b>Page</b>
ARTICLE VI EVENTS OF DEFAULT	<a href="#"><u>7576</u></a>
Section 6.01.    Events of Default	<a href="#"><u>7576</u></a>
Section 6.02.    Remedies	<a href="#"><u>7778</u></a>
Section 6.03.    Power of Attorney	<a href="#"><u>7879</u></a>
ARTICLE VII PLEDGE OF COLLATERAL; RIGHTS OF THE COLLATERAL AGENT	<a href="#"><u>7980</u></a>
Section 7.01.    Grant of Security	<a href="#"><u>7980</u></a>
Section 7.02.    Release of Security Interest	<a href="#"><u>8081</u></a>
Section 7.03.    Rights and Remedies	<a href="#"><u>8182</u></a>
Section 7.04.    Remedies Cumulative	<a href="#"><u>8182</u></a>
Section 7.05.    Related Documents	<a href="#"><u>8283</u></a>
Section 7.06.    Borrower Remains Liable	<a href="#"><u>8283</u></a>
Section 7.07.    Protection of Collateral	<a href="#"><u>8283</u></a>
ARTICLE VIII ACCOUNTS, ACCOUNTINGS AND RELEASES	<a href="#"><u>8384</u></a>
Section 8.01.    Collection of Money	<a href="#"><u>8384</u></a>
Section 8.02.    Collection Account	<a href="#"><u>8384</u></a>
Section 8.03.    Payment Account	<a href="#"><u>8485</u></a>
Section 8.04.    The Unfunded Reserve Account; Fundings	<a href="#"><u>8485</u></a>
Section 8.05.    The Cash Diversion Reserve Account	<a href="#"><u>8586</u></a>
Section 8.06.    The Custodial Account	<a href="#"><u>8586</u></a>
Section 8.07.    Reinvestment of Funds in Covered Accounts; Reports by Collateral Agent	<a href="#"><u>8586</u></a>
Section 8.08.    Accountings	<a href="#"><u>8687</u></a>
Section 8.09.    Release of Collateral	<a href="#"><u>8788</u></a>
Section 8.10.    Reports by Independent Accountants	<a href="#"><u>8889</u></a>
ARTICLE IX APPLICATION OF FUNDS	<a href="#"><u>8990</u></a>
Section 9.01.    Disbursements of Funds from Payment Account	<a href="#"><u>8990</u></a>
ARTICLE X SALE OF COLLATERAL LOANS; PURCHASE OF ADDITIONAL COLLATERAL LOANS	<a href="#"><u>9192</u></a>
Section 10.01.    Sales of Collateral Loans	<a href="#"><u>9192</u></a>
Section 10.02.    Purchases of Additional Collateral Loans	<a href="#"><u>9293</u></a>
Section 10.03.    Conditions Applicable to All Sale and Purchase Transactions	<a href="#"><u>9293</u></a>
Section 10.04.    Additional Equity Contributions	<a href="#"><u>9394</u></a>
Section 10.05.    Transfer of Warranty Collateral Loans	<a href="#"><u>9394</u></a>
ARTICLE XI THE AGENTS	<a href="#"><u>9394</u></a>
Section 11.01.    Authorization and Action	<a href="#"><u>9394</u></a>
Section 11.02.    Delegation of Duties	<a href="#"><u>9495</u></a>
Section 11.03.    Agents' Reliance, Etc.	<a href="#"><u>9495</u></a>
Section 11.04.    Indemnification	<a href="#"><u>9697</u></a>
Section 11.05.    Successor Agents	<a href="#"><u>9698</u></a>
ARTICLE XII MISCELLANEOUS	<a href="#"><u>9798</u></a>
Section 12.01.    No Waiver; Modifications in Writing	<a href="#"><u>9798</u></a>
Section 12.02.    Notices, Etc.	<a href="#"><u>9899</u></a>
Section 12.03.    Taxes	<a href="#"><u>99100</u></a>

**TABLE OF CONTENTS**  
(continued)

	<b>Page</b>
Section 12.04. Costs and Expenses; Indemnification	<del>102</del> <a href="#">104</a>
Section 12.05. Execution in Counterparts	<del>105</del> <a href="#">106</a>
Section 12.06. Assignability	<del>105</del> <a href="#">106</a>
Section 12.07. Governing Law	<del>107</del> <a href="#">108</a>
Section 12.08. Severability of Provisions	<del>107</del> <a href="#">108</a>
Section 12.09. Confidentiality	<del>108</del> <a href="#">109</a>
Section 12.10. Merger	<del>108</del> <a href="#">109</a>
Section 12.11. Survival	<del>108</del> <a href="#">109</a>
Section 12.12. Submission to Jurisdiction; Waivers; Etc.	<del>109</del> <a href="#">110</a>
Section 12.13. IMPORTANT WAIVERS	<del>109</del> <a href="#">110</a>
Section 12.14. PATRIOT Act Notice	<del>110</del> <a href="#">111</a>
Section 12.15. Legal Holidays	<del>110</del> <a href="#">111</a>
Section 12.16. Non-Petition	<del>111</del> <a href="#">112</a>
Section 12.17. Waiver of Setoff	<del>111</del> <a href="#">112</a>
Section 12.18. Option to Acquire Rating	<del>111</del> <a href="#">112</a>
Section 12.19. Acknowledgment and Consent to Bail-In of EEA Financial Institutions	<del>111</del> <a href="#">112</a>
 ARTICLE XIII	 <del>112</del> <a href="#">113</a>
 CUSTODIAN	 <del>112</del> <a href="#">113</a>
Section 13.01. Appointment of Custodian	<del>112</del> <a href="#">113</a>
Section 13.02. Duties of Custodian	<del>112</del> <a href="#">113</a>
Section 13.03. Delivery of Collateral Loans to Custodian	<del>113</del> <a href="#">114</a>
Section 13.04. Release of Documents/Control By Agents	<del>113</del> <a href="#">114</a>
Section 13.05. Records	<del>114</del> <a href="#">115</a>
Section 13.06. Reporting	<del>114</del> <a href="#">115</a>
Section 13.07. Certain General Terms	<del>114</del> <a href="#">115</a>
Section 13.08. Compensation of Custodian	<del>116</del> <a href="#">117</a>
Section 13.09. Responsibility of Custodian	<del>116</del> <a href="#">117</a>
Section 13.10. Resignation and Removal; Appointment of Successor	<del>119</del> <a href="#">120</a>
 ARTICLE XIV	 <del>120</del> <a href="#">121</a>
 COLLATERAL MANAGEMENT	 <del>120</del> <a href="#">121</a>
Section 14.01. Designation of the Collateral Manager	<del>120</del> <a href="#">121</a>
Section 14.02. Duties of the Collateral Manager	<del>121</del> <a href="#">122</a>
Section 14.03. Authorization of the Collateral Manager	<del>122</del> <a href="#">123</a>
Section 14.04. Realization Upon Defaulted Collateral Loans	<del>122</del> <a href="#">123</a>
Section 14.05. Compensation	<del>123</del> <a href="#">124</a>
Section 14.06. Expense Reimbursement; Indemnification	<del>123</del> <a href="#">124</a>
Section 14.07. The Collateral Manager Not to Resign; Assignment; Collateral Manager Default	<del>124</del> <a href="#">125</a>

## SCHEDULES

Schedule 1	Commitments and Percentages
Schedule 2	Contents of Monthly Report
Schedule 3	Contents of Payment Date Report
Schedule 4	Information Obligations
Schedule 5	<del>Initial</del> Collateral Loans
Schedule 6	Notice Information
Schedule 7	Authorized Persons

## EXHIBITS

Exhibit A	Form of Notice of Borrowing (with attached form of Borrowing Base Calculation)
Exhibit B	Form of Notice of Prepayment
Exhibit C	Form of Assignment and Acceptance
Exhibit D	Form of Note
Exhibit E	Forms of Tax Compliance Certificates



“Base Rate” means, on any date, a fluctuating interest rate *per annum* equal to the highest of (a) the Prime Rate, (b) the Federal Funds Rate *plus* 1.50% or (c) the LIBOR Rate for a three (3) month period *plus* 1.0%. The Base Rate is a reference rate and does not necessarily represent the lowest or best rate actually charged to any customer of any Agent or any Lender. Interest calculated pursuant to clauses (a), (b) and (c) above will be determined based on a year of 360 days and actual days elapsed.

“Beneficial Ownership Certification” means a certification regarding beneficial ownership as required by the Beneficial Ownership Regulation in a form as agreed to by the Administrative Agent.

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

“Block Notice” has the meaning assigned to such term in Section 13.04(b).

“BNYM” has the meaning assigned to such term in the introduction to this Agreement.

“Borrower” has the meaning assigned to such term in the introduction to this Agreement.

“Borrower Information” has the meaning assigned to such term in Section 12.09.

“Borrowing” has the meaning assigned to such term in Section 2.01.

“Borrowing Base” means, at any time, the least of:

(a) the Facility Amount *minus* the Unfunded Reserve Required Amount (net of the aggregate amount on deposit in the Unfunded Reserve Account) at such time;

(b) the sum of:

(i) the product of (A) the Effective Advance Rate as of such date and (B) the Aggregate Original Asset Value as of such date, *plus*

(ii) the aggregate amount of cash then on deposit in the Principal Collection Subaccount, *plus*

(iii) the aggregate amount of cash then on deposit in the Cash Diversion Reserve Account, *minus*

(iv) the Unfunded Reserve Required Amount (net of the aggregate amount on deposit in the Unfunded Reserve Account) and

(c) the sum of:

(i) the Aggregate Original Asset Value, *minus*

(ii) the Minimum Equity Amount, *plus*

(iii) the aggregate amount of cash then on deposit in the Principal Collection Subaccount, *plus*

(iv) the aggregate amount of cash then on deposit in the Cash Diversion Reserve Account, *minus*

managing member of the Adviser; or (g) Jonathan H. Cohen and Saul B. Rosenthal cease to be the controlling members of Oxford Funds, LLC.

“Citibank” has the meaning assigned to such term in the introduction of this Agreement.

“Clearing Agency” means an organization registered as a “clearing agency” pursuant to Section 17A of the Exchange Act.

“Clearing Corporation” means each entity included within the meaning of “clearing corporation” under Section 8-102(a)(5) of the UCC.

“Clearing Corporation Security” means securities which are in the custody of or maintained on the books of a Clearing Corporation or a nominee subject to the control of a Clearing Corporation and, if they are Certificated Securities in registered form, properly endorsed to or registered in the name of the Clearing Corporation or such nominee.

“Closing Date” means June 21, 2018.

“Closing Date Sale Agreement” means the [Sale, Contribution and Master Participation Agreement, dated as of the Closing Date, by and between the Equityholder and the Borrower.](#)

“Closing Date Participation Agreement” means that certain Master Participation Agreement, dated as of the Closing Date, between the Equityholder, as transferor, and the Borrower, as transferee, relating to the Closing Date Participation Interests.

“Closing Date Participation Interests” means the undivided 100% Participation Interests granted by the Equityholder to the Borrower in and to each Collateral Loan identified on Annex A to the Closing Date Participation Agreement or Schedule II to the [Closing Date Sale Agreement](#) (to the extent constituting a Participation Interest pending completion of the assignment thereof in accordance with Section 2.4 of the Sale Agreement), as applicable, and in which a Lien is granted therein by the Borrower to the Collateral Agent pursuant to this Agreement.

“Code” means the Internal Revenue Code of 1986.

“Collateral” has the meaning assigned to such term in [Section 7.01\(a\)](#).

“Collateral Administration Agreement” means that certain Collateral Administration Agreement, dated as of the Closing Date, among the Collateral Administrator, the Borrower, the Collateral Manager and the Administrative Agent.

“Collateral Administrator” means BNYM, and any successor thereto under the Collateral Administration Agreement.

“Collateral Agent” has the meaning assigned to such term in the introduction to this Agreement.

“Collateral Agent Fee Letter” means the fee letter, by and among the Borrower and BNYM, setting forth the amounts payable by the Borrower to the Collateral Agent, the Custodian, the Securities Intermediary and the Collateral Administrator in connection with the transactions contemplated by this Agreement.

“Collateral Agent Fee” means the fee payable to the Collateral Agent, the Custodian, the Securities Intermediary and the Collateral Administrator pursuant to the Collateral Agent Fee Letter.

“Collateral Loan” means a commercial loan ~~or~~, a Closing Date Participation Interest or a First Amendment Effective Date Participation Interest owned or acquired by the Borrower.

“Collateral Management Fee” means the fee payable to the Collateral Manager in arrears on each Payment Date (prorated for the related Interest Accrual Period) pursuant to Section 9.01 of this Agreement, in an amount equal to 0.25% *per annum* (calculated on the basis of a 360-day year and the actual number of days elapsed during the applicable Interest Accrual Period) of the Quarterly Asset Amount at the beginning of the Collection Period relating to such Payment Date; provided that for so long as Oxford Square Capital Corp. is the Collateral Manager, the Collateral Management Fee shall be \$0.

“Collateral Management Standard” means, with respect to any Collateral Loan included in the Collateral, to service and administer such Collateral Loan in accordance with the Related Documents and all customary and usual servicing practices with reasonable care and in good faith, (i) using a degree of skill, care, prudence, diligence and attention no less than the higher of (a) that which the Collateral Manager exercises with respect to comparable assets that it may manage for itself and its other clients having similar investment objectives and restrictions and (b) the customary and usual collateral management practices that a prudent collateral manager of national recognition in the United States would use to manage comparable assets for its own account and for the account of others, and (ii) in accordance with the Collateral Manager’s customary practices and procedures involving assets of the nature and character of the Collateral Loans.

“Collateral Manager” has the meaning assigned to such term in the introduction to this Agreement.

“Collateral Manager Default” means the occurrence of any one of the following:

- (a) any failure by the Collateral Manager to make any payment, transfer or deposit into any Covered Account as required by this Agreement which continues unremedied for a period of two (2) Business Days;
- (b) any failure by the Collateral Manager to deliver any report required to be delivered by it under this Agreement or the other Facility Documents on or before the date that is two (2) Business Days after the date that such report is required to be delivered;
- (c) except as otherwise provided in this definition, a default in any material respect in the performance, or breach in any material respect, of any covenant or agreement of the Collateral Manager under this Agreement or the other Facility Documents to which it is a party, or the failure of any representation or warranty of the Collateral Manager made in this Agreement or in any other Facility Document to be correct, in each case, in all material respects when the same shall have been made, and the continuation of such default, breach or failure for a period of ten (10) Business Days after the earlier of (i) written notice to the Collateral Manager (which may be by e-mail) by either Agent, and (ii) actual knowledge of a Responsible Officer of the Collateral Manager;
- (d) an Insolvency Event shall occur with respect to the Collateral Manager;
- (e) the occurrence of any Change of Control with respect to the Collateral Manager;

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

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

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

“Effective Advance Rate” means, on any date of determination with respect to ~~the~~all Eligible Loans included in the Collateral as of the First Amendment Effective Date, ~~initially the Initial~~the First Amendment Effective Date Advance Rate; provided that, following any repayment or prepayment, in full or in part, of any Eligible Loan, the Effective Advance Rate of the Eligible Loans included in the Collateral will be equal to the aggregate Advances Outstanding as of such date *divided by* the Aggregate Original Asset Value as of such date.

“Eligible Investment Required Ratings” means, with respect to any obligation or security, with respect to ratings assigned by Moody’s, “Aa2” (and not on credit watch for possible downgrade) or “P-1” for one-month instruments, “Aa2” (and not on credit watch for possible downgrade) and “P-1” for three-month instruments, “Aa3” (and not on credit watch for possible downgrade) and “P-1” for six-month instruments and “Aa2” (and not on credit watch for possible downgrade) and “P-1” for instruments with a term in excess of six months and (b) with respect to rating assigned by S&P, “A-1” (and not on credit watch for possible downgrade) for short-term instruments and “A” (and not on credit watch for possible downgrade) for long-term instruments.

“Eligible Investments” means any Dollar investment that, at the time it is Delivered, is Cash or one or more of the following obligations or securities:

- (a) direct obligations of, and obligations the timely payment of principal and interest on which is fully and expressly guaranteed by, the United States of America or any agency or instrumentality of the United States of America the obligations of which are expressly backed by the full faith and credit of the United States of America;
- (b) bank deposit products of, demand and time deposits in, certificates of deposit of, trust accounts with, bankers’ acceptances payable within 183 days of issuance by, or federal funds sold by any depository institution or trust company incorporated under the laws of the United States of America or any state thereof and subject to supervision and examination by federal and/or state banking authorities, so long as the commercial paper and/or the debt obligations of such depository institution or trust company (or, in the case of the principal depository institution in a holding company system, the commercial paper or debt obligations of such holding company) at the time of such investment or contractual commitment providing for such investment have the Eligible Investment Required Ratings;
- (c) non-extendable commercial paper or other short-term obligations with the Eligible Investment Required Ratings and that either bear interest or are sold at a discount from the face amount thereof and have a maturity of not more than 183 days from their date of issuance; and

(d) money market funds that have, at all times, ratings in the highest credit rating category by Moody's and S&P;

provided that (i) Eligible Investments purchased with funds in the Collection Account shall be held until maturity except as otherwise specifically provided herein and shall include only such obligations or securities, other than those referred to in clause (d) above, as mature (or are puttable at par to the issuer thereof) no later than the earlier of (A) 90 days after the date of acquisition thereof or (B) the Business Day prior to the next Payment Date; and (ii) none of the foregoing obligations or securities shall constitute Eligible Investments if (A) such obligation or security has an "F", "r", "p", "pi", "q", "sf" or "t" subscript assigned by S&P, (B) all, or substantially all, of the remaining amounts payable thereunder consist of interest and not principal payments, (C) such obligation or security is subject to U.S. withholding or foreign withholding tax unless the issuer of the security is required to make "gross-up" payments for the full amount of such withholding tax, (D) such obligation or security is secured by real property, (E) such obligation or security is purchased at a price greater than 100% of the principal or face amount thereof, (F) such obligation or security is subject of a tender offer, voluntary redemption, exchange offer, conversion or other similar action or (G) in the Collateral Manager's judgment, such obligation or security is subject to material non-credit related risks. Any such investment may be made or acquired from or through the Collateral Agent or any of its Affiliates, or any entity for whom the Collateral Agent or any of its Affiliates provides services (so long as such investment otherwise meets the applicable requirements of the foregoing definition of Eligible Investment at the time of acquisition). Notwithstanding the foregoing, unless the Borrower and the Collateral Manager have received the written advice of counsel of national reputation experienced in such matters to the contrary (together with an officer's certificate of the Borrower or the Collateral Manager to the Administrative Agent (on which the Administrative Agent may rely) that the advice specified in this definition has been received by the Borrower and the Collateral Manager) and the Administrative Agent consents thereto, on and after July 21, 2015 (or such later date as may be determined by the Borrower and the Collateral Manager based upon such advice), Eligible Investments may only include obligations or securities that constitute cash equivalents for purposes of the rights and assets in paragraph (c)(8)(i)(B) of the exclusions from the definition of "covered fund" for purposes of the Volcker Rule.

"Eligible Loan" means a Collateral Loan that (A) has been approved by the Administrative Agent, in its sole discretion, prior to Closing Date, and (B) satisfies each of the following eligibility requirements on any date of determination (unless the Administrative Agent in its sole discretion agrees to waive any such eligibility requirement with respect to such loan):

(a) is (i) a First Lien Obligation, (ii) a Second Lien Obligation ~~or~~, (iii) prior to the date that is sixty (60) days after the Closing Date (or such longer period to which the Administrative Agent may agree in its sole discretion) a Closing Date Participation Interest or (iv) prior to the date that is sixty (60) days after the First Amendment Effective Date (or such longer period to which the Administrative Agent may agree in its sole discretion) a First Amendment Effective Date Participation Interest;

(b) permits the purchase thereof by or assignment thereof (or, in the case of a Closing Date Participation Interest or a First Amendment Effective Participation Interest, participation thereof) to the Borrower and the pledge to the Collateral Agent;

(c) is not in arrears;

- (u) if evidenced by a note or other instrument, such note or other instrument has been delivered to the Custodian in accordance with this Agreement;
- (v) except for a Closing Date Participation Interest [or a First Amendment Effective Date Participation Interest](#), is not a Participation Interest;
- (w) the acquisition of such loan will not cause the Borrower or the pool of Collateral to be (x) required to register as an “investment company” under the Investment Company Act or (y) a “covered fund” under the Volcker Rule;
- (x) such loan is not underwritten as a commercial real estate loan principally secured by real property;
- (y) as to which no payment default, breach in any material respect of any other term or covenant or other material default exists;
- (z) is not a letter of credit;
- (aa) is in “registered” form for U.S. federal income tax purposes;
- (bb) constitutes indebtedness for U.S. federal income tax purposes;
- (cc) the acquisition of such loan will not cause the Borrower to violate any applicable Law or cause the Administrative Agent or any Lender to fail to comply with any request or directive from any banking authority or Governmental Authority having jurisdiction over the Administrative Agent or any Lender;
- (dd) the transfer thereof is effected pursuant to either (i) in the case of a Collateral Loan other than a Closing Date Participation Interest [or a First Amendment Effective Date Participation Interest](#), an LSTA Par/Near Par Trade Confirmation, subject to Standard Terms and Condition for Par/Near Par Trade Confirmations, as published by The Loan Syndications and Trading Association, Inc., or the equivalent thereof as published by the Loan Market Association, ~~or~~ (ii) in the case of a Closing Date Participation Interest, the applicable Closing Date Participation Agreement; [or \(iii\) in the case of a First Amendment Effective Date Participation Interest, the First Amendment Effective Date Sale Agreement](#);
- (ee) is not subject to any Lien other than Permitted Liens;
- (ff) does not have an interest rate basis exceeding six (6) months;
- (gg) as of any date of determination, it is rated by Moody’s or S&P; provided that (i) in the case of a First Lien Obligation, if such First Lien Obligation is rated by Moody’s, it has a Moody’s Rating of at least, “B3” and, if such First Lien Obligation is rated by S&P, it has an S&P Rating of at least “B-” and (ii) in the case of a Second Lien Obligation, if such Second Lien Obligation is rated by Moody’s, it has a Moody’s Rating of at least, “Caa2” and, if such Second Lien Obligation is rated by S&P, it has an S&P Rating of at least “CCC”; and
- (hh) is on the date of purchase or other acquisition thereof by the Borrower part of an applicable Tranche Size of at least \$70,000,000;
- (ii) has at least one (1) bid on a nationally recognized loan pricing service reasonably acceptable to the Administrative Agent;

Materials. Environmental Laws include the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. § 9601 *et seq.*), the Hazardous Material Transportation Act (49 U.S.C. § 331 *et seq.*), the Resource Conservation and Recovery Act (42 U.S.C. § 6901 *et seq.*), the Federal Water Pollution Control Act (33 U.S.C. § 1251 *et seq.*), the Clean Air Act (42 U.S.C. § 7401 *et seq.*), the Toxic Substances Control Act (15 U.S.C. § 2601 *et seq.*), the Safe Drinking Water Act (42 U.S.C. § 300, *et seq.*), the Environmental Protection Agency's regulations relating to underground storage tanks (40 C.F.R. Parts 280 and 281), and the Occupational Safety and Health Act (29 U.S.C. § 651 *et seq.*), and the rules and regulations thereunder.

“Equity Coverage Amount” means, at any date of determination, for all Eligible Loans owned by the Borrower on such date, the product of (a) the sum of (i) 100% *minus* (ii) the Effective Advance Rate *minus* (iii) 10% *multiplied by* (b) the Aggregate Original Asset Value.

“Equity Coverage Deficiency” means, as of any date of determination, an amount equal to the positive difference, if any, of (a) the Equity Coverage Amount on such date *minus* (b) the Net Equity Amount on such date.

“Equity Coverage Test” means a test that will be satisfied if at any date of determination no Equity Coverage Deficiency exists.

“Equityholder” has the meaning assigned to such term in the introduction to this Agreement.

“Equityholder Collateral Loan” means each Collateral Loan sold and/or contributed by the Equityholder to the Borrower pursuant to ~~the~~[any](#) Sale Agreement.

“Equityholder Purchased Loan Balance” means, as of any date of determination, an amount equal to (a) the aggregate Principal Balance of all Equityholder Collateral Obligations acquired by the Borrower prior to such date minus (b) the aggregate Principal Balance of all Equityholder Collateral Obligations (other than Warranty Collateral Obligations) repurchased by the Equityholder or an Affiliate thereof prior to such date.

“Equity Security” means any stock or similar security, certificate of interest or participation in any profit sharing agreement, reorganization certificate or subscription, transferable share, voting trust certificate or certificate of deposit for an equity security, limited partnership interest, interest in a joint venture, or certificate of interest in a business trust; any security future on any such security; or any security convertible, with or without consideration into such a security, or carrying any warrant (other than a detachable warrant) or right to subscribe to or purchase such a security; or any such warrant or right.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended, and the regulations promulgated and rulings issued thereunder.

“ERISA Event” means (a) any “reportable event,” as defined in Section 4043 of ERISA or the regulations issued thereunder with respect to a Plan (other than an event for which the thirty (30) day notice requirement is waived); (b) the failure with respect to any Plan to satisfy the “minimum funding standard” (as defined in Section 412 of the Code or Section 302 of ERISA); (c) the filing pursuant to Section 412(c) of the Code or Section 302 of ERISA of an application for a waiver of the minimum funding standard with respect to any Plan; (d) a determination that any Plan is, or is expected to be, in “at risk” status (as defined in Section 430 of the Code or Section 303 of ERISA); (e) the incurrence by the Borrower or any member of its ERISA Group of any liability under Title IV of ERISA with respect to the termination of any Plan; (f) (i) the receipt by the Borrower or any member of its ERISA Group from the

“Excluded Amounts” means any amounts received in the Collection Account with respect to any Collateral, which amounts are attributable to (i) the reimbursement by the related Obligor of payment of out-of-pocket expenses by the Collateral Manager or the Equityholder on behalf of the Borrower or (ii) amounts deposited into the Collection Account in error; provided, that any such amounts shall be Excluded Amounts only to the extent that such amounts (x) are in excess of the principal and interest then due in respect of such Collateral, except with respect to the amounts described in clause (ii) of this definition and (y) were required to be paid by the related Obligor pursuant to a specific provision of the Related Documents with respect to such Collateral.

“Excluded Taxes” means any of the following Taxes imposed on or with respect to a Secured Party or required to be withheld or deducted from a payment to a Secured Party (a) Taxes imposed on or measured by net income (however denominated), or that are franchise Taxes or branch profits Taxes, in each case, (i) imposed by the jurisdiction (or any political subdivision thereof) under the laws of which such Secured Party is organized or in which its principal office is located, or in the case of any Lender, in which its applicable lending office is located or (ii) that are Other Connection Taxes, (b) in the case of a Lender, U.S. federal withholding Taxes imposed on amounts payable to or for the account of such Lender with respect to an applicable interest in a Commitment pursuant to a Law in effect on the date on which (i) such Lender acquires such interest in the Commitment (other than pursuant to an assignment request by the Borrower under Sections 2.16 or 12.03(h)) or (ii) such Lender designates a new lending office (a “New Lending Office”), except in each case to the extent that, pursuant to Section 12.03, 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 Secured Party’s failure to comply with Section 12.03(g), and (d) U.S. federal withholding Taxes imposed by FATCA.

“Facility Amount” means (a) on the Closing Date, ~~\$95,193,112.98~~ ~~and~~ ~~(b)95,193,112.98~~, (b) on the First Amendment Effective Date, \$125,000,000.00, and (c) following the ~~Closing~~First Amendment Effective Date, the outstanding principal balance of all the Advances.

“Facility Documents” means this Agreement, the Notes, the Account Control Agreement, the Collateral Administration Agreement, the Collateral Agent Fee Letter, the Sale ~~Agreement~~Agreements and any other security agreements and other instruments entered into or delivered by or on behalf of the Borrower pursuant to Section 5.01(c) to create, perfect or otherwise evidence the Collateral Agent’s security interest in the Collateral.

“FATCA” means Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended versions of Sections 1471 through 1474 of the Code that are substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof, any agreements entered into pursuant to Section 1471(b)(1) of the Code and any intergovernmental agreements and any rules or guidance entered into in connection with the implementation of such Sections.

“Federal Funds Rate” means, for any period, a fluctuating interest rate per annum equal for each day during such period to the weighted average of the rates on overnight federal funds transactions with members of the Federal Reserve System arranged by federal funds brokers, as published for such day (or, if such day is not a Business Day, for the next preceding Business Day) by the Federal Reserve Bank of New York, or, if such rate is not so published for any day which is a Business Day, the average of the quotations for such day on such transactions received by the Administrative Agent from three federal funds brokers of recognized standing selected by it; provided that, if at any time a Lender is borrowing overnight funds from a Federal Reserve Bank that day, the Federal Funds Rate for such Lender for such day shall be the average rate per annum at which such overnight borrowings are made on that day as promptly reported by such Lender to the Borrower and the Agents in writing. Each determination of the Federal Funds Rate by a Lender pursuant to the foregoing proviso shall be conclusive and binding except in the case of manifest error.



“Final Maturity Date” means the earliest to occur of (a) the Business Day designated by the Borrower as the Final Maturity Date upon not less than ten (10) Business Days’ prior written notice to the Administrative Agent, the Collateral Agent, the Lenders, the Custodian and the Collateral Administrator, (b) June 21, 2020, and (c) the date on which the Administrative Agent provides notice of the declaration of the Final Maturity Date after the occurrence of an Event of Default.

“Final Order” means an order, judgment, decree or ruling the operation or effect of which has not been stayed, reversed or amended and as to which order, judgment, decree or ruling (or any revision, modification or amendment thereof) the time to appeal or to seek review or rehearing has expired and as to which no appeal or petition for review or rehearing was filed or, if filed, remains pending.

“Financial Asset” has the meaning specified in Section 8-102(a)(9) of the UCC.

“Firm Bid” means with respect to any Collateral Loan, a good and irrevocable bid for value, to purchase the par amount of such Collateral Loan, expressed as a percentage of the par amount of such Collateral Loan and exclusive of accrued interest and premium, for scheduled settlement substantially in accordance with the then-current market practice in the principal market for such Collateral Loan, as determined by the Administrative Agent, submitted as of 11:00 a.m. (New York time) or as soon as practicable thereafter. The Administrative Agent shall be entitled to disregard any Firm Bid submitted by a broker-dealer (a) if, in the Administrative Agent’s commercially reasonable judgment, (i) such broker-dealer may be ineligible to accept assignment or transfer of the par amount of such Collateral Loan substantially in accordance with the then-current market practice in the principal market for such Collateral Loan, as determined by the Administrative Agent, or (ii) such broker-dealer would not, through the exercise of its commercially reasonable efforts, be able to obtain any consent required under the Related Documents for such Collateral Loan to the assignment or transfer to such broker-dealer of the par amount of such Collateral Loan or (b) if the Administrative Agent determines that such Firm Bid is not bona fide, including, without limitation, due to (i) the insolvency of the bidder, (ii) the inability, failure or refusal of the bidder to settle the purchase of the par amount of such Collateral Loan or otherwise settle transactions in the relevant market or perform its obligations generally or (iii) the Administrative Agent not having pre-approved trading lines with the broker-dealer that would permit settlement of the sale to such broker-dealer of the par amount of such Collateral Loan.

“First Amendment” means the First Amendment to Credit and Security Agreement, dated as of the First Amendment Effective Date, by and among the Borrower, the Equityholder, the Collateral Manager, the Lenders and the Administrative Agent.

“First Amendment Effective Date” means October 12, 2018.

“First Amendment Effective Date Advance Rate” means 42.92%.

“First Amendment Effective Date Participation Interests” means the undivided 100% Participation Interests granted by the Equityholder to the Borrower in and to each Collateral Loan identified on Schedule II to the First Amendment Effective Date Sale Agreement (to the extent constituting a Participation Interest pending completion of the assignment thereof in accordance with Section 2.4 of the First Amendment Effective Date Sale Agreement) and in which a Lien is granted therein by the Borrower to the Collateral Agent pursuant to this Agreement.

“First Amendment Effective Date Sale Agreement” means the Sale, Contribution and Master Participation Agreement, dated as of the First Amendment Effective Date, by and between the Equityholder and the Borrower.

“First Lien Obligation” means any loan (and not a bond or similar security) that meets the following criteria:

- (i) is not (and is not expressly permitted by its terms to become) subordinate in right of payment to any other obligation for borrowed money of the Obligor of such loan;
- (ii) is secured by a valid first priority (subject to customary permitted liens) perfected Lien in, to or on specified collateral securing the Obligor’s obligations under such loan (whether or not such loan is also secured by any lower priority Lien on other collateral and whether or not a separate loan is secured by a first lien on separate collateral);
- (iii) is secured, pursuant to such first priority perfected Lien, by collateral having a value (determined as set forth below) not less than the outstanding principal balance of such loan *plus* the aggregate outstanding principal balances of all other loans of equal seniority secured by a first Lien in the same collateral; and
- (iv) is not a loan which is secured solely or primarily by the common stock of its Obligor or any of its Affiliates.

The determination as to whether clause (iii) of this definition is satisfied shall be based on the Collateral Manager’s judgment at the time the loan is acquired by the Borrower (which value may include an assessment of the Obligor’s cash flow, enterprise value, general financial condition and other attributes). The limitation set forth in clause (iv) above shall not apply with respect to a loan made to a parent entity that is secured solely or primarily by the stock of one or more of the subsidiaries of such parent entity to the extent that the granting by any such subsidiary of a Lien on its own property would (1) in the case of a subsidiary that is not part of the same consolidated group as such parent entity for U.S. Federal income tax purposes, result in a deemed dividend by such subsidiary to such parent entity for such tax purposes, (2) violate Law applicable to such subsidiary (whether the obligation secured is such loan or any other similar type of indebtedness owing to third parties) or (3) cause such subsidiary to suffer adverse economic consequences under capital adequacy or other similar rules, in each case, so long as (x) the Related Documents limit the incurrence of indebtedness by such subsidiary and (y) the aggregate amount of all such indebtedness is not material relative to the aggregate value of the assets of such subsidiary.

“Fundamental Amendment” means any amendment, modification, waiver or supplement (as determined by the Administrative Agent) of or to this Agreement that would (a) reinstate the Commitments after such Commitments are terminated on the Closing Date in accordance with Section 2.06 or change the Final Maturity Date, (b) extend the date fixed for the payment of principal of or interest on any Advance or any fee hereunder, (c) reduce the amount of any such payment of principal, (d) reduce the rate at which Interest is payable thereon or any fee is payable hereunder, (e) release any material portion of the Collateral, except in connection with dispositions expressly permitted hereunder, (f) alter the terms of Section 9.01 or Section 12.01(b), or (g) modify the definition of the term “Required Lenders” or modify in any other manner the number or percentage of the Lenders required to make any determinations or waive any rights hereunder or to modify any provision hereof.

“GAAP” means generally accepted accounting principles in effect from time to time in the United States.

stockholder, director, member, manager, officer, employee, or partner; provided, however, such Independent Manager may be an independent director, independent trustee or independent manager of another special purpose entity affiliated with the Equityholder or the Collateral Manager.

“Ineligible Collateral Loan” means, at any time, a loan or other obligation, or any portion thereof, that fails to satisfy any criteria of the definition of “Eligible Loan” giving effect to the proviso in the introductory language to the definition of “Eligible Loan”.

~~“Initial Advance Rate” means 42.5%.~~

“Insolvency Event” means, with respect to a specified Person, (a) the filing of a decree or order for relief by a court having jurisdiction in the premises in respect of such Person or any substantial part of its property in an involuntary case under the Bankruptcy Code or any other applicable insolvency law now or hereafter in effect, or appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator or similar official for such Person or for any substantial part of its property, or ordering the winding-up or liquidation of such Person’s affairs, and such decree or order shall remain unstayed and in effect for a period of sixty (60) consecutive days; or (b) the commencement by such Person of a voluntary case under the Bankruptcy Code or any other applicable insolvency law now or hereafter in effect, or the consent by such Person to the entry of an order for relief in an involuntary case under any such law, or the consent by such Person to the appointment of or taking possession by a receiver, liquidator, assignee, custodian, trustee, sequestrator or similar official for such Person or for any substantial part of its property, or the making by such Person of any general assignment for the benefit of creditors, or the failure by such Person generally to pay its debts as such debts become due, or the taking of action by such Person in furtherance of any of the foregoing.

“Instrument” has the meaning specified in Section 9-102(a)(47) of the UCC.

“Interest” means, for each day during an Interest Accrual Period and each Advance outstanding by a Lender on such day, the sum of the products (for each day during such Interest Accrual Period) of:

$$IR \times P \times \frac{1}{D}$$

where:

IR = the Interest Rate for such Advance on such day;

P = the principal amount of such Advance on such day; and

D = 360 days.

“Interest Accrual Period” means (a) with respect to the first Payment Date, the period from and including the Closing Date to and including the last day of the calendar month preceding the first Payment Date, and (b) with respect to any subsequent Payment Date, the period commencing on the first day of the calendar month in which the preceding Payment Date occurred and ending on the last day of the calendar month immediately preceding the month in which such Payment Date occurs; provided, that the final Interest Accrual Period hereunder shall end on and include the day prior to the Payment in Full of the Advances hereunder.

“Interest Collection Subaccount” has the meaning specified in Section 8.02(a).

“Non-Excluded Taxes” means (a) all 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 Facility Document and (b) to the extent not otherwise described in (a), Other Taxes.

“Non-U.S. Lender” has the meaning assigned to such term in [Section 12.03\(g\)](#).

“Note” means each promissory note, if any, issued by the Borrower to a Lender in accordance with the provisions of [Section 2.03](#), substantially in the form of [Exhibit D](#) hereto.

“Noteless Loan” means a Collateral Loan with respect to which (a) the related loan agreement does not require the Obligor to execute and deliver an Underlying Note to evidence the indebtedness created under such Collateral Loan and (b) no Underlying Notes issued to the Borrower are outstanding with respect to the portion of the Collateral Loan transferred to the Borrower.

“Notice of Borrowing” has the meaning assigned to such term in [Section 2.02](#).

“Notice of Prepayment” has the meaning assigned to such term in [Section 2.05](#).

“Obligations” means all indebtedness, whether absolute, fixed or contingent, at any time or from time to time owing by the Borrower to any Secured Party or any Affected Person under or in connection with this Agreement, the Notes or any other Facility Document, including all amounts payable by the Borrower in respect of the Advances, with interest thereon, and all other amounts payable hereunder or thereunder by the Borrower.

“Obligor” means, in respect of any Collateral Loan, the Person primarily obligated to pay Collections in respect of such Collateral Loan, including any applicable guarantors; provided that, in the case of any Closing Date Participation Interest [or any First Amendment Effective Date Participation Interest](#), the Obligor thereunder shall be deemed to be the underlying obligor in respect of the Collateral Loan that is subject of such Closing Date Participation Interest [or First Amendment Effective Date Participation Interest](#).

“OFAC” has the meaning assigned to such term in [Section 4.01\(f\)](#).

“Original Asset Value” means, for each Collateral Loan included in the Collateral, the product of (i) the Purchase Price paid by the Borrower for such Collateral Loan times (ii) the Principal Balance of such Collateral Loan on the date such Collateral Loan is acquired by the Borrower.

“Other Connection Taxes” means, in the case of any Secured Party, any Taxes imposed by any jurisdiction by reason of such Secured Party having any present or former connection with such jurisdiction (other than a connection arising solely from such Secured Party having executed, delivered, become a party to, performed its obligations under, received any payment under, received or perfected a security interest under, engaged in any other transaction pursuant to or enforced its rights under this Agreement, the Notes or any other Facility Document or sold or assigned an interest in any Collateral Loan or Facility Document).

“Other Taxes” has the meaning assigned to such term in [Section 12.03\(c\)](#).

“Paid in Full,” “Pay in Full” or “Payment in Full” means, with respect to any Obligations the payment in full in cash of all such Obligations (other than contingent indemnification obligations to the extent no claim giving rise thereto has been asserted).

- (e) all records and Related Documents with respect to such Collateral Loan and any of the foregoing; and
- (f) all recoveries and proceeds of the foregoing.

“Replacement Lender” has the meaning assigned to such term in Section 2.16(a).

“Requested Amount” has the meaning assigned to such term in Section 2.02.

“Required Lenders” means, as of any date of determination, Lenders whose aggregate principal amount of Advances Outstanding aggregate more than 50% of all Advances Outstanding.

“Required Loan Documents” means, for each Collateral Loan:

- (a) other than in the case of a Closing Date Participation Interest or a First Amendment Effective Date Participation Interest, an executed copy of the assignment for such Collateral Loan;
- (b) other than in the case of a Noteless Loan ~~or~~, a Closing Date Participation Interest or First Amendment Effective Date Participation Interest, the original executed Underlying Note endorsed by the issuer or the prior holder of record of such Collateral Loan in blank or to the Borrower;
- (c) an executed copy of the Underlying Loan Agreement, together with a copy of all amendments and modifications thereto;
- (d) a copy of each related security agreement (if any) signed by each applicable Obligor;
- (e) a copy of each related guarantee (if any) then executed in connection with such Collateral Loan;
- (f) for the Closing Date Participation Interests, the applicable Closing Date Participation Agreement;
- (g) for the First Amendment Effective Date Participation Interests, the applicable First Amendment Effective Date Sale Agreement; and
- ~~(g)~~ a Document Checklist.

“Responsible Officer” means (a) in the case of (i) a corporation or (ii) a partnership or limited liability company that, in each case, pursuant to its Constituent Documents, has officers, any chief executive officer, chief financial officer, chief administrative officer, managing director, president, senior vice president, vice president, assistant vice president, treasurer, director or manager, and, in any case where two Responsible Officers are acting on behalf of such entity, the second such Responsible Officer may be a secretary or assistant secretary (provided that a director of the Borrower shall be a Responsible Officer regardless of whether its Constituent Documents provide for officers), (b) without limitation of clause (a)(ii), in the case of a limited partnership, the Responsible Officer of the general partner, acting on behalf of such general partner in its capacity as general partner, (c) without limitation of clause (a)(ii), in the case of a limited liability company, any Responsible Officer of the sole member or managing member, acting on behalf of the sole member or managing member in its capacity as sole member or managing member, (d) in the case of a trust, the Responsible Officer of the trustee, acting on behalf of such trustee in its capacity as trustee, (e) an “authorized signatory” or “authorized officer” that has been so authorized pursuant to customary corporate proceedings, limited partnership proceedings, limited liability company proceedings or trust proceedings, as the case may be, and that has responsibilities commensurate with the matter for which it is acting as a Responsible Officer, and (f) in the case of the Collateral Administrator, the Collateral Agent or Administrative Agent, an officer of the Collateral Administrator, the Collateral Agent or Administrative Agent, as applicable, responsible for the administration of this Agreement.

“~~Sale Agreement~~Agreements” means, collectively (i) the Closing Date Sale, Contribution and Master Participation Agreement, dated as of the date hereof, by and among the Equityholder and the Borrower. Agreement and (ii) the First Amendment Effective Date Sale Agreement.

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

“Sanctioned Person” means, at any time, (i) any Person listed in any Sanctions-related list of designated Persons maintained by OFAC, the U.S. Department of State, or by the United Nations Security Council, the European Union, any EU member state or Canada, (ii) any Person operating, organized or resident in a Sanctioned Country or (iii) any Person controlled by any such Person.

“Sanctions” means economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by (i) the U.S. government, including those administered by OFAC or the U.S. Department of State, or (ii) the United Nations Security Council, the European Union, Canada or Her Majesty’s Treasury of the United Kingdom.

“S&P” means Standard & Poor’s Ratings Service, a Standard & Poor’s Financial Services LLC business.

“S&P Rating” means, with respect to any Collateral Loan as of any date of determination:

(a) if such Collateral Loan has a monitored rating expressly assigned to a debt obligation (or facility) or a monitored estimated rating expressly assigned to a debt obligation (or facility) by S&P, such rating,

(b) if the foregoing paragraph is not applicable, then, if the related Obligor has a corporate issuer rating by S&P, the rating specified in the applicable row of the table below under “Relevant Rating” opposite the row in the table below that describes such Collateral Loan:

<u>Collateral Loan</u>	<u>Relevant Rating</u>
The Collateral Loan is a secured obligation, but is not a Second Lien Obligation and is not subordinate	The rating by S&P that is one rating subcategory above such corporate issuer rating
The Collateral Loan is an unsecured obligation or is a Second Lien Obligation, but is not subordinate	The rating by S&P that is one rating subcategory below such corporate issuer rating

Agreement as of the original effective date of the Underlying Loan Agreement. For purposes of determining the Tranche Size in respect of any Collateral Loan: (a) for Collateral Loans that are, in accordance with then-prevailing market practice, typically bought and sold together, the respective aggregate principal amount of the borrowing facilities available to the Obligor under the facilities evidenced by the relevant Underlying Loan Agreement shall be aggregated (and, for the avoidance of doubt, the respective aggregate principal amounts of all revolving facilities, term loan “A” tranches, term loan “B” tranches and similar loan tranches issued under a single credit agreement shall be aggregated); (b) the respective principal amounts of lines of credit and delayed draws that, in accordance with then-prevailing market practice, trade with any Collateral Loan shall be aggregated; and (c) the respective principal amount of any borrowing facilities that are, under then prevailing market practice, considered add-on facilities in respect of any Collateral Loan shall be aggregated with the principal amount of such Collateral Loan; provided that, in the case of clauses (a), (b) and (c) above, such facilities are pari passu in terms of repayment seniority and, with respect to appropriate price adjustments, buyers are typically indifferent between such facilities.

“UCC” means the New York Uniform Commercial Code; provided that if, by reason of any mandatory provisions of law, the perfection, the effect of perfection or non-perfection or priority of the security interests granted to the Collateral Agent pursuant to this Agreement are governed by the Uniform Commercial Code as in effect in a jurisdiction of the United States of America other than the State of New York, then “UCC” means the Uniform Commercial Code as in effect from time to time in such other jurisdiction for purposes of such perfection, effect of perfection or non-perfection or priority.

“Uncertificated Security” has the meaning specified in Section 8-102(a)(18) of the UCC.

“Underlying Loan Agreement” means, with respect to any Collateral Loan, the document or documents evidencing the commercial loan agreement or facility pursuant to which such Collateral Loan is made.

“Underlying Note” means one or more promissory notes, if any, executed by an Obligor evidencing a Collateral Loan.

“Unfunded Reserve Account” has the meaning specified in Section 8.04.

“Unfunded Reserve Required Amount” has the meaning specified in Section 8.04.

“U.S. Tax Compliance Certificate” has the meaning specified in 12.03(g).

“Volcker Rule” means Section 13 of the U.S. Bank Holding Company Act of 1956, as amended, and the applicable rules and regulations thereunder.

“Warranty Collateral Loan” has the meaning assigned to such term in the Sale ~~Agreement~~Agreements.

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

#### Section 1.02. Rules of Construction

For all purposes of this Agreement and the other Facility Documents, except as otherwise expressly provided or unless the context otherwise requires, (a) singular words shall connote the plural as material violation, material non-compliance, liability or potential liability regarding environmental matters or compliance with Environmental Laws with regard to any of the Related Security.

(s) Beneficial Ownership Certification. As of the First Amendment Effective Date, the information included in the Beneficial Ownership Certification is true and correct in all respects.

(t) ~~(s)~~ Representations Relating to the Collateral.

(i) The Borrower owns and has good and marketable and the sole legal title to all Collateral Loans (other than the Collateral Loans related to the Collateral Participation Interests, until any such Collateral Participation Interest is elevated to a full assignment) and other Collateral free and clear of any Lien, claim or encumbrance of any Person, other than Permitted Liens;

(ii) the Borrower has acquired its ownership in the Collateral Loans and other Collateral in good faith without notice of any adverse claim, other than Permitted Liens;

(iii) other than Permitted Liens, the Borrower has not pledged, assigned or sold (except as otherwise permitted under the Facility Documents), granted a security interest in, or otherwise conveyed (except as otherwise permitted under the Facility Documents) any of the Collateral;

(iv) the Borrower has full right to grant a security interest in and assign and pledge the Collateral to the Collateral Agent for the benefit of the Secured Parties (and has duly authorized such grant by all necessary action and the execution, delivery and performance of this Agreement and the other Facility Documents to which it is a party have been duly authorized by it by all necessary action);

(v) other than the security interest granted to the Collateral Agent for the benefit of the Secured Parties pursuant to this Agreement, the Borrower has not pledged, assigned, sold, granted a security interest in, or otherwise conveyed any of the Collateral; the Borrower has not authorized the filing of and is not aware of any financing statements or any equivalent filing in any applicable jurisdiction against the Borrower that include a description of collateral covering the Collateral other than any financing statement or any equivalent filing in any applicable jurisdiction (A) relating to the security interest granted to the Collateral Agent hereunder or (B) any security interest that has been terminated or fully and validly assigned to the Collateral Agent or the Borrower on or prior to the date hereof; and the Borrower is not aware of any judgment, PBGC liens or Tax lien filings against the Borrower or any of its assets;

(vi) the Collateral constitutes Money, Cash, accounts (as defined in Section 9-102(a)(2) of the UCC), Instruments, general intangibles (as defined in Section 9-102(a)(42) of the UCC), Uncertificated Securities, Certificated Securities or security entitlements to financial assets resulting from the crediting of financial assets to a "securities account" (as defined in Section 8-501(a) of the UCC) or supporting obligations;

(vii) all Covered Accounts constitute "securities accounts" under Section 8-501(a) of the UCC or "deposit accounts" as defined in Section 9-102 of the UCC;

(viii) this Agreement creates a valid, continuing and, upon Delivery of Collateral, execution of the Account Control Agreement and filing of the financing statements referenced in clause (xi) below, perfected security interest (as defined in Section 1-201(37) of the UCC) in the



(f) Information and Reports. The Notice of Borrowing, each Monthly Report, each Borrowing Base Calculation Statement, each Payment Date Report and all other written information, reports, certificates and statements furnished by or on behalf of the Borrower to any Secured Party for purposes of or in connection with this Agreement, the other Facility Documents or the transactions contemplated hereby or thereby shall be true, complete and correct in all material respects as of the date such information is stated or certified and the delivery by or on behalf of the Borrower of the Notice of Borrowing and any such Monthly Report, Borrowing Base Calculation Statement, Payment Date Report or other written information, reports, certificates and statements shall be deemed to be a representation and warranty by the Borrower that such information is true, complete and correct in all material respects as of the date such information is stated or certified.

(g) No Other Business. The Borrower shall not engage in any business or activity other than borrowing Advances pursuant to this Agreement, funding, acquiring, owning, holding, administering, selling, enforcing, lending, exchanging, redeeming, pledging, contracting for the management of and otherwise dealing with Collateral Loans, Eligible Investments and the Collateral in connection therewith and entering into the Facility Documents, any applicable Related Documents and any other agreement contemplated by this Agreement.

(h) Tax Matters. The Borrower shall (and each Lender hereby agrees to) treat the Advances and the Notes as debt for U.S. federal income tax purposes and will take no contrary position, unless otherwise required pursuant to a closing agreement with the U.S. Internal Revenue Service or a non-appealable judgment of a court of competent jurisdiction. Notwithstanding any contrary agreement or understanding, the Collateral Manager, the Borrower, the Agents and the Lenders (and each of their respective employees, representatives or other agents) may disclose to any and all Persons, without limitation of any kind, the tax treatment and tax structure of the transactions contemplated by this Agreement and all materials of any kind (including opinions or other tax analyses) that are provided to them relating to such tax treatment and tax structure. The foregoing provision shall apply from the beginning of discussions between the parties. For this purpose, the tax treatment of a transaction is the purported or claimed U.S. tax treatment of the transaction under applicable U.S. federal, state or local law, and the tax structure of a transaction is any fact that may be relevant to understanding the purported or claimed U.S. tax treatment of the transaction under applicable U.S. federal, state or local law. For U.S. federal income tax purposes, the Borrower shall remain disregarded as an entity separate from its sole owner, the Equityholder, within the meaning of Treasury Regulation Section 301.7701-3. The Equityholder shall remain a United States Person within the meaning of Section 7701(a)(30) of the Code.

(i) Collections. The Borrower shall direct all Obligors (and related paying agents) to pay all Collections directly to the Collection Account. The Borrower shall transfer, or cause to be transferred, all Collections to the Collection Account by the close of business on the Business Day following the date such Collections are received by the Borrower, the Equityholder, the Collateral Manager or any of their respective Affiliates.

(j) Priority of Payments. The Borrower shall instruct (or cause the Collateral Manager to instruct) the Collateral Agent to apply all Interest Proceeds and Principal Proceeds solely in accordance with the Priority of Payments and the other provisions of this Agreement.

(k) Acquisition of Collateral Loans from the Equityholder. Any acquisition of Collateral Loans by the Borrower from the Equityholder shall be (i) effected pursuant to the Sale ~~Agreement~~Agreements and subject in all respects to the terms and conditions set forth therein and (ii) for fair market value and no adverse selection procedures shall be employed by the Borrower (or the Collateral Manager on behalf of the Borrower) in selecting the Collateral Loans for acquisition.

(l) Certificate of Assignment for Closing Date Participation Interests. As soon as practicable, but in no event later than the date that is sixty (60) days after the Closing Date (or such longer period to which the Administrative Agent may agree), the Borrower shall deliver to the Custodian and the Administrative Agent a copy of the fully executed assignment agreement assigning the Collateral Loans related to the Closing Date Participation Interests directly to the Borrower, certified by an officer of the Borrower (or the Collateral Manager on behalf of the Borrower) and written evidence satisfactory to the Administrative Agent that the Borrower is recognized as the owner of record by the related administrative agent in respect of the Related Documents.

(m) Certificate of Assignment for First Amendment Effective Date Participation Interests. As soon as practicable, but in no event later than the date that is sixty (60) days after the First Amendment Effective Date (or such longer period to which the Administrative Agent may agree), the Borrower shall deliver to the Custodian and the Administrative Agent a copy of the fully executed assignment agreement assigning the Collateral Loans related to the First Amendment Effective Date Participation Interests directly to the Borrower, certified by an officer of the Borrower (or the Collateral Manager on behalf of the Borrower) and written evidence satisfactory to the Administrative Agent that the Borrower is recognized as the owner of record by the related administrative agent in respect of the Related Documents.

(n) ~~(m)~~ Delivery of Loan Files. The Borrower (or the Collateral Manager on behalf of the Borrower) shall deliver to the Custodian for each Collateral Loan, each item referenced in the definition of "Loan File"; provided that, other than as set forth above with respect to any original assignment of any Collateral Loan or any original executed promissory note with respect to any Collateral Loan (each of which shall be delivered to the Custodian in sealed envelopes labeled appropriately), the requirements set forth in this Section 5.01(m) shall be satisfied by providing electronic copies of any Required Loan Document to the Custodian; provided, further, that any filed stamped document included in any Loan File shall be delivered as soon as they are reasonably available (but in no event later than 30 Business Days after the acquisition by the Borrower of the applicable Collateral Loan). Neither the Custodian nor the Collateral Administrator shall have any obligation to review any of the documents delivered to it hereunder.

(o) Beneficial Ownership Regulation. Promptly following any request therefor, the Borrower shall deliver to the Administrative Agent information and documentation reasonably requested by the Administrative Agent or any Lender for purpose of compliance with the Beneficial Ownership Regulation.

(p) Delivery of Additional Information. The Borrower shall deliver to the Administrative Agent or any Lender (i) promptly following any request therefor, any information and documentation reasonably requested by the Administrative Agent or such Lender for purposes of compliance with applicable "know your customer" and anti-money laundering rules and regulations, including the PATRIOT Act and the Beneficial Ownership Regulation, and (ii) prompt written notice of any change in the information provided in the Beneficial Ownership Certification delivered to the Administrative Agent or such Lender that would result in a change to the list of beneficial owners identified in such certification.

#### Section 5.02. Negative Covenants of the Borrower

The Borrower covenants and agrees that, until the Final Maturity Date (and thereafter until the date that all Obligations, other than contingent indemnification obligations as to which no claim giving rise thereto has been asserted, have been Paid in Full):

during the continuance of a Collateral Manager Default. Nevertheless, if so requested by the Administrative Agent, the Borrower shall ratify and confirm any such sale or other disposition by executing and delivering to the Administrative Agent all proper bills of sale, assignments, releases and other instruments as may be designated in any such request.

(b) No person to whom this power of attorney is presented as authority for the Administrative Agent to take any action or actions contemplated by clause (a) above shall inquire into or seek confirmation from the Borrower as to the authority of the Administrative Agent to take any action described below, or as to the existence of or fulfillment of any condition to the power of attorney described in clause (a) above, which is intended to grant to the Administrative Agent unconditionally the authority to take and perform the actions contemplated herein, and to the extent permitted by applicable Law, the Borrower irrevocably waives any right to commence any suit or action, in law or equity, against any person or entity that acts in reliance upon or acknowledges the authority granted under this power of attorney. The power of attorney granted in clause (a) above is coupled with an interest and may not be revoked or canceled by the Borrower until all obligations of the Borrower under the Facility Documents have been Paid in Full and the Administrative Agent has provided its written consent thereto.

(c) Notwithstanding anything to the contrary herein, the power of attorney granted pursuant to this Section 6.03 shall only be exercisable after the occurrence and during the continuance of an Event of Default.

ARTICLE VII  
PLEDGE OF COLLATERAL;  
RIGHTS OF THE COLLATERAL AGENT

Section 7.01. Grant of Security

(a) The Borrower hereby grants, pledges, transfers and collaterally assigns to the Collateral Agent, for the benefit of the Secured Parties, as collateral security for all Obligations, a continuing security interest in, and a Lien upon, all of the Borrower's right, title and interest in, to and under, the following property, in each case whether tangible or intangible, wheresoever located, and whether now owned by the Borrower or hereafter acquired and whether now existing or hereafter coming into existence (all of the property described in this Section 7.01(a) being collectively referred to herein as the "Collateral"):

(i) all Collateral Loans and Related Documents (including those listed, as of the Closing First Amendment Effective Date, in Schedule 5 hereto), both now and hereafter owned, including all Collections and other Proceeds thereon or with respect thereto;

(ii) each Covered Account and all Money and all investment property (including all securities, all security entitlements with respect to such Covered Account and all financial assets carried in such Covered Account) from time to time on deposit in or credited to each Covered Account;

(iii) all interest, dividends, stock dividends, stock splits, distributions and other Money or property of any kind distributed in respect of the Collateral Loans of the Borrower, which the Borrower is entitled to receive, including all Collections in respect of its Collateral Loans;

(iv) each Facility Document and all rights, remedies, powers, privileges and claims under or in respect thereto (whether arising pursuant to the terms thereof or otherwise available to Margin Stock, unless such sale is prohibited by Applicable Law or contract, in which case such Equity Security should be sold as soon as such sale is permitted by Applicable Law or contract.

(d) Certain Restrictions.

(i) No Collateral Loan (other than a Warranty Collateral Loan) may be sold to an Affiliate of the Borrower without the prior written consent of the Administrative Agent and, in the case of a sale at a price less than the original percentage of par paid by the Borrower, the purchase price shall not be less than the Asset Value of such Collateral Loan.

(ii) The Principal Balance of all Equityholder Collateral Loans (other than Warranty Collateral Loans) sold pursuant to Section 10.01(a) to the Equityholder or an Affiliate thereof or released to the Equityholder pursuant to a dividend by the Borrower shall not in any twelve-month period exceed 20% of the Equityholder Purchased Loan Balance measured as of the first day of such twelve-month period.

(iii) The Principal Balance of all Defaulted Collateral Loans (other than Warranty Collateral Loans) that are Equityholder Collateral Loans sold pursuant to Section 10.01(a) to the Equityholder or an Affiliate thereof or released to the Equityholder pursuant to a dividend by the Borrower shall not in any twelve-month period exceed 10% of the Equityholder Purchased Loan Balance measured as of the first day of such twelve-month period.

(e) Application of Proceeds of Sales. The Collateral Manager on behalf of the Borrower shall deposit the proceeds of any sale effected pursuant to this Section 10.01 into the Principal Collection Account for disbursement in accordance with Section 9.01(a)(ii).

Section 10.02. Purchases of Additional Collateral Loans.

Other than the Collateral Loans acquired by the Borrower on the Closing Date and the First Amendment Effective Date, the Borrower shall not purchase any additional Collateral Loans.

Section 10.03. Conditions Applicable to All Sale and Purchase Transactions

(a) Any transaction effected under this Article X or in connection with the acquisition of additional Collateral Loans shall be for fair market value and, if effected with a Person that is an Affiliate of the Collateral Manager (or with an account or portfolio for which the Collateral Manager or any of its Affiliates serves as investment adviser), shall be (i) on terms no less favorable to the Borrower than would be the case if such Person were not an Affiliate or as otherwise expressly permitted in this Agreement and (ii) effected in accordance with all Applicable Laws.

(b) Upon each acquisition by the Borrower of a Collateral Loan on the Closing Date and the First Amendment Effective Date (i) all of the Borrower's right, title and interest to such Collateral Loan shall be subject to the Lien granted to the Collateral Agent pursuant to this Agreement and (ii) such Collateral Loan shall be Delivered to the Collateral Agent.

Section 10.04. Additional Equity Contributions

The Equityholder may, but shall have no obligation to, at any time or from time to time make a capital contribution to the Borrower for any purpose, including for the purpose of curing any Default or satisfying any Coverage Test. Each contribution shall be made in Cash or Eligible Investments. All Cash contributed to the Borrower shall be treated as Principal Proceeds, except to the extent that the Collateral Manager specifies that such Cash shall constitute Interest Proceeds and shall be deposited into the applicable Collection Account in accordance with Section 8.02 as designated by the Collateral Manager.

Section 10.05. Transfer of Warranty Collateral Loans.

The Borrower may transfer any Warranty Collateral Loan to the Equityholder, or to any third party at the Equityholder's direction, to consummate the sale or substitution of such Warranty Collateral Loan pursuant to, and in accordance with the terms of, Article VI of the Sale Agreement [Agreements](#).

ARTICLE XI  
THE AGENTS

Section 11.01. Authorization and Action

(a) Each Lender hereby irrevocably appoints and authorizes the Administrative Agent and the Collateral Agent to take such action as agent on its behalf and to exercise such powers under this Agreement and, to the extent applicable, the other Facility Documents as are delegated to such Agent by the terms hereof and thereof, together with such powers as are reasonably incidental thereto, subject to the terms hereof. No Agent shall have any duties or responsibilities, except those expressly set forth herein or in the other Facility Documents to which it is a party or any fiduciary relationship with any Secured Party and no implied covenants, functions, responsibilities, duties or obligations or liabilities on the part of such Agent shall be read into this Agreement or any other Facility Document to which such Agent is a party (if any) as duties on its part to be performed or observed. No Agent shall have or be construed to have any other duties or responsibilities in respect of this Agreement or any other Facility Document and the transactions contemplated hereby or thereby. As to any matters not expressly provided for by this Agreement or the other Facility Documents, no Agent shall be required to exercise any discretion or take any action, but shall be required to act or to refrain from acting (and shall be fully protected in so acting or refraining from acting) upon the written instructions of the Required Lenders (or, with respect to the Collateral Agent, the Administrative Agent); provided that such Agent shall not be required to take any action which exposes such Agent, in its judgment, to personal liability, cost or expense or which is contrary to this Agreement, the other Facility Documents or Applicable Law, or would be, in its judgment, contrary to its duties hereunder, under any other Facility Document or under Applicable Law. Each Lender agrees that in any instance in which the Facility Documents provide that an Agent's consent may not be unreasonably withheld, provide for the exercise of such Agent's reasonable discretion, or provide to a similar effect, it shall not in its instructions (or by refusing to provide instruction) to such Agent withhold its consent or exercise its discretion in an unreasonable manner.

(b) If the Collateral Agent has been requested or directed by the Required Lenders to take any action pursuant to any provision of this Agreement or any other Facility Document, the Collateral Agent shall not be under any obligation to exercise any of the rights or powers vested in it by this Agreement or such Facility Document in the manner so requested unless it shall have been provided indemnity reasonably satisfactory to it against the costs, expenses and liabilities which may be incurred by it in compliance with or in performing such request or direction. No provision of this Agreement or any other Facility Document shall otherwise be construed to require the Collateral Agent to expend or risk its own funds or to take any action that could in its judgment cause it to incur any cost, expenses or liability, unless it is provided indemnity acceptable to it against any such expenditure, risk, costs, expense or liability. For the avoidance of doubt, the Collateral Agent shall not have any duty or obligation to take any action to exercise or enforce any power, right or remedy available to it under this Agreement or any other Facility Document or any Related Document unless and until directed by the Required Lenders (or the Administrative Agent on their behalf).

[\(Back To Top\)](#)

## Section 3: EX-10.2 (EXHIBIT 10.2)

**Exhibit 10.2**

**EXECUTION VERSION**

**SALE, CONTRIBUTION AND MASTER PARTICIPATION AGREEMENT**

by and between

**OXFORD SQUARE FUNDING 2018, LLC,**  
as the Buyer

and

**OXFORD SQUARE CAPITAL CORP.,**  
as the Seller

October 12, 2018

## TABLE OF CONTENTS

	<b>Page</b>
ARTICLE I GENERAL	1
Section 1.1 Defined Terms	1
Section 1.2 Other Terms	3
Section 1.3 Computation of Time Periods	3
Section 1.4 Interpretation	3
ARTICLE II SALE, TRANSFER AND ASSIGNMENT	4
Section 2.1 Sale, Transfer and Assignment	4
Section 2.2 Purchase Price	7
Section 2.3 Payment of Purchase Price	7
Section 2.4 Actions Pending Completion of Assignments of Collateral Loans	8
ARTICLE III CONDITIONS PRECEDENT	8
Section 3.1 Condition Precedent to Closing and Purchase	8
ARTICLE IV REPRESENTATIONS AND WARRANTIES	9
Section 4.1 Seller's Representations and Warranties	9
Section 4.2 Representations and Warranties of the Seller Relating to the Agreement and the Transferred Assets	14
Section 4.3 Representations and Warranties of the Buyer	15
ARTICLE V COVENANTS	17
Section 5.1 Affirmative Covenants of the Seller	17
Section 5.2 Negative Covenants of the Seller	20
ARTICLE VI REMOVAL OR REPLACEMENT OF WARRANTY COLLATERAL LOANS	21
ARTICLE VII ADDITIONAL RIGHTS AND OBLIGATIONS IN RESPECT OF THE TRANSFERRED ASSETS	22
Section 7.1 Rights of the Buyer	22
Section 7.2 Responsibilities of the Seller	23
Section 7.3 Rights With Respect to Loan Files	23
Section 7.4 Notice to Administrative Agent and Collateral Agent	23
ARTICLE VIII SURVIVAL	23
Section 8.1 Survival of Certain Provisions	23
ARTICLE IX INDEMNIFICATION	24
Section 9.1 Indemnification by the Seller	24
Section 9.2 Assignment of Indemnities	26

**TABLE OF CONTENTS**

	<b>Page</b>
ARTICLE X MISCELLANEOUS	26
Section 10.1 Amendments and Waivers	26
Section 10.2 Notices, Etc.	26
Section 10.3 Binding Effect; Benefit of Agreement	28
Section 10.4 GOVERNING LAW; CONSENT TO JURISDICTION; WAIVER OF OBJECTION TO VENUE	28
Section 10.5 WAIVER OF JURY TRIAL	28
Section 10.6 Costs, Expenses and Taxes	28
Section 10.7 No Proceedings	29
Section 10.8 Recourse Against Certain Parties	29
Section 10.9 Protection of Right, Title and Interest in the Transferred Assets; Further Action Evidencing Purchases	30
Section 10.10 Execution in Counterparts; Severability; Integration	31
Section 10.11 Waiver of Setoff	31
Section 10.12 Heading and Exhibits	31
Section 10.13 Rights of Inspection	32
Section 10.14 Assignment	32
Section 10.15 No Waiver; Cumulative Remedies	32

**SCHEDULES**

SCHEDULE I	Loan List
SCHEDULE II	First Amendment Effective Date Participations

**THIS SALE, CONTRIBUTION AND MASTER PARTICIPATION AGREEMENT** (such agreement as amended, modified, supplemented or restated from time to time, the "Agreement") is dated as of October 12, 2018 (the "Purchase Date"), by and between **OXFORD SQUARE CAPITAL CORP.**, a Maryland corporation, as the seller (in such capacity, the "Seller") and **OXFORD SQUARE FUNDING 2018, LLC**, a Delaware limited liability company, as the buyer (in such capacity, the "Buyer").

**WITNESSETH:**

**WHEREAS**, the Buyer desires to purchase from the Seller and the Seller desires to sell to the Buyer certain assets originated, purchased or underwritten by the Seller in its normal course of business, together with, among other things, the related rights of payment thereunder and the interest of the Seller in the Underlying Assets and other interests securing the payments to be made under such loans.

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, agree as follows:

**ARTICLE I**

**GENERAL**

**Section 1.1** **Defined Terms.**

Capitalized terms used but not defined herein have the meanings provided in the Credit and Security Agreement (as defined below). As used herein, the following terms have the meanings provided below.

"Agreement": Defined in the Preamble.

"Buyer": Defined in the Preamble.

"Collateral Loan": A commercial loan or a Participation with respect to a commercial loan purchased by the Buyer pursuant to this Agreement.

"Credit and Security Agreement": The Credit and Security Agreement, dated as of June 21, 2018 (as amended by the First Amendment to Credit and Security Agreement, dated as of October 12, 2018, as may be further amended, restated, supplemented or otherwise modified from time to time), among Buyer, as the borrower, the Seller, as the collateral manager, each of the Lenders from time to time party thereto, Citibank, N.A., as the administrative agent, The Bank of New York Mellon Trust Company, National Association, as the collateral agent and custodian, and Oxford Square Capital Corp., as the equityholder.

"Early Termination": Defined in Section 8.1.

---



“Insolvency Laws”: The Bankruptcy Code and all other applicable liquidation, conservatorship, bankruptcy, moratorium, rearrangement, receivership, insolvency, reorganization, suspension of payments, or similar debtor relief laws from time to time in effect affecting the rights of creditors generally.

“Insolvency Proceeding”: Any case, action or proceeding before any court or other Governmental Authority relating to any Insolvency Event.

“Loan List”: The list of Collateral Loans provided by the Seller to the Buyer on the Purchase Date and incorporated as Schedule I to this Agreement by reference.

“Material Adverse Effect”: (a) With respect to the Seller, a material adverse effect on (i) the business, assets, financial condition, operations, performance or properties of the Seller, (ii) the validity, enforceability or collectability of this Agreement against Seller, (iii) the rights and remedies of Buyer with respect to matters arising under this Agreement, (iv) the ability of Seller to perform its obligations under this Agreement, or (v) the status, existence, perfection, priority or enforceability of Buyer’s interest in the Transferred Assets and (b) with respect to the Buyer, a material adverse effect on (i) the business, assets, financial condition, operations, performance or properties of the Buyer, (ii) the validity, enforceability or collectability of this Agreement against Buyer, (iii) the rights and remedies of Seller with respect to matters arising under this Agreement and (iv) the ability of Buyer to perform its obligations under this Agreement.

“Participation”: Defined in Section 2.4(a).

“Purchase”: The purchase by the Buyer of Transferred Assets from the Seller pursuant to Section 2.1.

“Purchase Date”: Defined in the Preamble.

“Purchase Price”: Defined in Section 2.2.

“Repurchase Amount”: For any Warranty Collateral Loan for which a payment or substitution is being made pursuant to this Agreement, as of any time of determination, the sum of (i) the greater of (a) an amount equal to the Purchase Price paid by the Buyer for such Collateral Loan (excluding purchased accrued interest and original issue discount) less all payments of principal received in connection with such Warranty Collateral Loan since the date it became a Transferred Asset and (b) the Asset Value of such Warranty Collateral Loan, and (ii) any accrued and unpaid interest thereon since the last Payment Date; provided, however, that the Seller and/or the Buyer may elect to designate a portion of the Repurchase Amount for such Warranty Collateral Loan in an amount not to exceed the Returned Portion Limit as a return of capital to the Seller, in its capacity as the sole member of the Buyer, and, in such event, the Repurchase Amount payable with respect to such Warranty Collateral Loan shall be reduced by that portion of the Repurchase Amount of such Warranty Collateral that was so returned.

“Returned Portion Limit”: For any Warranty Collateral Loan for which a payment or substitution is being made pursuant to this Agreement, (a) the Principal Balance of such Warranty Collateral Loan less (b) the result of (i) the Asset Value for such Warranty Collateral Loan multiplied by (ii) the Advance Rate as of the date it became a Transferred Asset.

“Seller”: Defined in the Preamble.

“Substituted Collateral Loan”: Any Warranty Collateral Loan with respect to which the Seller has substituted in a replacement Collateral Loan pursuant to Article VI.

“Transferred Assets”: Defined in Section 2.1(a).

“Underlying Assets”: With respect to a Collateral Loan, any property or other assets designated and pledged as collateral to secure repayment of such Collateral Loan, including, without limitation, to the extent provided for in the relevant Underlying Loan Agreement, a pledge of the stock, membership or other ownership interests in the related Obligor and all Proceeds from any sale or other disposition of such property or other assets.

“Warranty Event”: As to any Collateral Loan, (a) a breach of any representation or warranty relating to such Collateral Loan under this Agreement (other than any representation or warranty that the Collateral Loan satisfies the criteria of the definition of Eligible Loan) and the failure of the Buyer to cure such breach, or cause the same to be cured, within thirty (30) days after the earlier to occur of the Buyer’s receipt of notice thereof from the Administrative Agent or the Buyer becoming aware thereof or (b) in the case of a Participation, such Participation is not elevated to a full assignment under Section 2.4 within 45 days of the Purchase Date.

“Warranty Collateral Loan”: Any Collateral Loan (a) that fails to satisfy any criteria set forth in clause (B) of the definition of Eligible Loan as of the date of acquisition of such Loan, or (b) with respect to which a Warranty Event has occurred.

**Section 1.2      Other Terms.**

All accounting terms used but 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 used but not specifically defined herein, are used herein as defined in such Article 9.

**Section 1.3      Computation of Time Periods.**

Unless otherwise stated in this Agreement, in the computation of a period of time from a specified date to a later specified date, the word “from” means “from and including” and the words “to” and “until” each mean “to but excluding.”

**Section 1.4      Interpretation.**

In this Agreement, unless a contrary intention appears:

- (i) the singular number includes the plural number and vice versa;
- (ii) reference to any Person includes such Person’s successors and assigns but, if applicable, only if such successors and assigns are permitted by this Agreement;

- (iii) reference to any gender includes each other gender;
- (iv) reference to day or days without further qualification mean calendar days;
- (v) reference to any time means New York City, New York time;
- (vi) reference to any agreement (including any Facility Document), document or instrument means such agreement, document or instrument as amended, modified, supplemented, restated or replaced and in effect from time to time in accordance with the terms thereof and, if applicable, the terms of the other Facility Documents, and reference to any promissory note includes any promissory note that is an extension or renewal thereof or a substitute or replacement therefor;
- (vii) reference to any delivery or transfer to the Custodian with respect to the Collateral in this Agreement means delivery or transfer to the Custodian for the benefit of the Collateral Agent on behalf of the Secured Parties;
- (viii) reference to “including” means “including, without limitation”; and
- (ix) reference to any Applicable Law means such Applicable Law as amended, modified, codified, replaced or reenacted, in whole or in part, and in effect from time to time, including rules and regulations promulgated thereunder, and reference to any Section or other provision of any Applicable Law means that provision of such Applicable Law from time to time in effect and constituting the substantive amendment, modification, codification, replacement or reenactment of such Section or other provision.

## ARTICLE II

### SALE, TRANSFER AND ASSIGNMENT

#### **Section 2.1     Sale, Transfer and Assignment.**

(a) On the terms and subject to the conditions set forth in this Agreement (including the conditions to Purchase set forth in Article III), on the Purchase Date, the Seller hereby sells, transfers, assigns, sets over and otherwise conveys to the Buyer, and the Buyer hereby purchases and takes from the Seller, in its capacity as lender of record, all right, title and interest (whether now existing, owned or hereafter acquired or arising and wherever located) of the Seller, in the property identified in clauses (i) through (iii) below and other property consisting of, arising out of, or related to any of the following (but excluding any such property constituting Excluded Amounts that are for the account of Seller) (collectively, the “Transferred Assets”):

- (i) The Collateral Loans identified by the Seller and which are listed on the Loan List attached hereto, including for the avoidance of doubt any Participations of Collateral Loans which are listed on Schedule II attached hereto (pending the effectiveness of the assignment thereof in accordance with Section 2.4) and any Substituted Collateral Loans transferred to the Buyer in connection with a Warranty Event, together with all monies due or to become due in payment of such Collateral Loans on and after the Purchase Date, including all Collections;

(ii) all Underlying Loan Agreements, Underlying Notes and Related Documents (including, without limitation, any participation or assignment agreements or any similar agreements related thereto) with respect to the Collateral Loans (including for the avoidance of doubt any Participations) referred to in clause (i) above;

(iii) all Liens, property, guaranties, supporting obligations, insurance and other agreements or arrangements of whatever character from time to time supporting or securing payment of any of the foregoing; and

(iv) all income and Proceeds of the foregoing.

Without limiting the foregoing, the term "Transferred Assets" (i) shall, for all purposes of this Agreement, be deemed to include any Collateral Loan (including for the avoidance of doubt any Participation with respect thereto) acquired by the Buyer in a transaction in which the Buyer is the designee of the Seller under the instruments of conveyance relating to the applicable Collateral Loan (including for the avoidance of doubt any Participation with respect thereto), subject in each case to the terms of this Agreement (including the representations, warranties, covenants and indemnities of the Seller set forth herein) and (ii) shall include only the rights and obligations of the Seller in its capacity as lender of record and only with respect to the Collateral Loans described on the Loan List (and shall exclude any rights or obligations (i) as administrative agent for any Collateral Loan and (ii) as lender under any loan not included in the Loan List).

(b) The Seller shall be deemed to have certified, and hereby does certify, with respect to the Transferred Assets to be purchased by the Buyer on the Purchase Date, that its representations and warranties contained in Article IV are true and correct on and as of the Purchase Date. The Seller and the Buyer acknowledge that the representations and warranties of the Seller in Article IV will run to and be for the benefit of the Collateral Agent on behalf of the Secured Parties, and the Collateral Agent on behalf of the Secured Parties may enforce, directly without joinder of the Buyer, the repurchase obligations of the Seller with respect to breaches of certain of the representations and warranties set forth herein.

(c) Except as specifically provided in this Agreement, the sale and purchase of Transferred Assets under this Agreement shall be without recourse to the Seller; it being understood that the Seller shall be liable to the Buyer for all representations, warranties, covenants and indemnities made by the Seller pursuant to the terms of this Agreement.

(d) Except for future funding obligations under any Transferred Assets, the Buyer, the Collateral Agent, the Administrative Agent, each Lender and the other Secured Parties shall not have any obligation or liability to any Obligor (including any obligation to perform any of the obligations of the Seller (including any obligation with respect to any other related agreements)). Except as set forth in the immediately preceding sentence, no such obligation or liability is intended to be assumed by the Buyer, the Collateral Agent, the Administrative Agent, the Lenders or the Secured Parties, and any such assumption is expressly disclaimed.

(e) In connection with the Purchase of Transferred Assets hereunder, the Seller shall deliver, or cause to be delivered, to the Custodian no later than 12:00 noon on the Purchase Date (i) the related Document Checklist and (ii) each of the other Required Loan Documents. Promptly after the Purchase of Transferred Assets hereunder, the Seller shall deliver, or cause to be delivered, to the Collateral Agent with a copy to the Custodian and the Administrative Agent a properly completed Trade Confirmation, if any, on which the Custodian may conclusively rely without further inquiry or investigation, and shall deliver to the Custodian the Loan Files for the Transferred Assets.

(f) In connection with the transfers contemplated by this Agreement, the Seller hereby grants to each of the Buyer, the Collateral Agent and the Collateral Manager an irrevocable, non-exclusive license to use, without royalty or payment of any kind, all software used by the Seller to account for the Transferred Assets, to the extent necessary to allow the Buyer, the Collateral Agent or the Collateral Manager to administer the Transferred Assets, whether such software is owned by the Seller or is owned by others and used by the Seller under license agreements with respect thereto; provided that should the consent of any licensor of such software be required for the grant of the license described herein, to be effective, the Seller hereby agrees that upon the request of the Buyer or the Collateral Agent, the Seller will use its best reasonable efforts to obtain the consent of such third-party licensor either before the First Amendment Effective Date or as soon as possible thereafter. The license granted hereby shall be irrevocable until the Final Maturity Date and shall terminate on the date this Agreement terminates in accordance with its terms. The Seller shall take such action requested by the Buyer or the Collateral Agent, from time to time hereafter, that may be necessary or appropriate to ensure that the Buyer has an enforceable ownership interest and that Collateral Agent (and its assigns), for the benefit of the Secured Parties, under the Credit and Security Agreement have an enforceable security interest in the Transferred Assets purchased by the Buyer as contemplated by this Agreement.

(g) In connection with the Purchase by the Buyer of the Transferred Assets as contemplated by this Agreement, the Seller shall, at its own expense, indicate clearly and unambiguously in its computer files and its financial statements, on or prior to the Purchase Date, that the Transferred Assets have been purchased by the Buyer in accordance with this Agreement.

(h) The Seller agrees to deliver to the Buyer, the Administrative Agent, the Collateral Agent and the Custodian on or before the Purchase Date a computer file containing a true, complete and correct Loan List of all Collateral Loans to be sold or otherwise conveyed hereunder on the Purchase Date (which shall contain the related Principal Balance, Loan number (if any) and Obligor name for each Collateral Loan) as of the Purchase Date. Such file or list shall be delivered to the Buyer as confidential and proprietary, and is automatically incorporated into and made a part of this Agreement.

(i) It is the intention of the parties hereto that the conveyance of all right, title and interest of the Seller in and to any Transferred Assets to the Buyer as provided in this Section 2.1 shall constitute an absolute transfer conveying good title, free and clear of any Lien (other than Permitted Liens) and that the Transferred Assets shall not be part of the Seller's bankruptcy estate in the event of an Insolvency Event with respect to the Seller. Furthermore, it is not intended that such conveyance be deemed a pledge of the Collateral Loans and the other Transferred Assets to the Buyer to secure a debt or other obligation of the Seller. If, however, notwithstanding the intention of the parties, the conveyance provided for in this Section 2.1 is determined to be a transfer for security, then this Agreement shall constitute a "security agreement" within the meaning of Article 9 of the UCC and the Seller shall be deemed to have granted (and hereby grants) to the Buyer a duly perfected, first priority "security interest" within the meaning of Article 9 of the UCC in all right, title and interest in and to the Transferred Assets, now existing and hereafter created, to secure the prompt and complete payment of a loan deemed to have been made in an amount equal to the aggregate Purchase Price of the Transferred Assets together with all of the other obligations of the Seller hereunder. The Seller and the Buyer shall file or cause to be filed a UCC-1 financing statement naming the Seller, as debtor, the Buyer, as secured party, and the Collateral Agent, as assignee secured party, listing all of the Transferred Assets pledged hereunder as collateral thereunder. The Buyer shall have, in addition to the rights and remedies which it may have under this Agreement, all other rights and remedies provided to a secured creditor under the UCC and other Applicable Law, which rights and remedies shall be cumulative.

**Section 2.2      Purchase Price.**

The purchase price for each Transferred Asset sold to the Buyer by the Seller under this Agreement shall be a dollar amount equal to the "cost" therefor, as set forth on Schedule I attached hereto (the "Purchase Price").

**Section 2.3      Payment of Purchase Price.**

(a) The Purchase Price for the Transferred Assets sold by the Seller to the Buyer on the Purchase Date shall be paid in a combination of (i) immediately available funds and (ii) if the Buyer does not have sufficient funds to pay the full amount of the Purchase Price, by means of a capital contribution by the Seller to the Buyer.

(b) Notwithstanding any provision herein to the contrary, the Seller may on the Purchase Date elect to designate all or a portion of the Transferred Assets proposed to be transferred to the Buyer on such date as a capital contribution to the Buyer. In such event, the cash portion of the Purchase Price payable with respect to such transfer shall be reduced by that portion of the Purchase Price of the Transferred Assets that was so contributed; provided that Transferred Assets contributed to the Buyer as capital shall constitute Transferred Assets for all purposes of this Agreement and shall be subject to all representations, warranties, covenants and indemnities hereunder relating to the Transferred Assets.

(c) Upon the payment of the Purchase Price for the Purchase, title to the Transferred Assets included in the Purchase shall vest in the Buyer (subject, in the case of any Participation, to the effectiveness of the assignment of the related Collateral Loan in accordance with Section 2.4), whether or not the conditions precedent to the Purchase and the other covenants and agreements contained herein were in fact satisfied; provided that the Buyer shall not be deemed to have waived any claim it may have under this Agreement for the failure by the Seller in fact to satisfy any such condition precedent, covenant or agreement.

**Section 2.4      Actions Pending Completion of Assignments of Collateral Loans.**

(a) With respect to the Collateral Loans identified on Schedule II hereto, pending the receipt of any required consents to, and the effectiveness of, the assignment of each such Collateral Loan from the Seller to the Buyer in accordance with the applicable underlying instrument, the Seller hereby sells to the Buyer an undivided 100% participation in such Collateral Loan and the related Transferred Assets (each, a “Participation”). The Participations will not include any rights that are not permitted to be participated pursuant to the terms of the underlying instruments. Except as specifically provided in this Agreement, such sale of the Participations shall be without recourse to the Seller (including, without limitation, with regard to collectability), and shall constitute an absolute sale of each such Participation. Each of the Participations has the following characteristics: (i) the Participation represents an undivided participating interest in 100% of the underlying Collateral Loan and its proceeds (including Collections); (ii) the Seller does not provide any guaranty of payments to the holder of the Participation or other form of recourse (except as specifically provided in this Agreement) or credit support; and (iii) the Participation represents a pass through of all of the payments made on the Collateral Loan (including the Collections) and will last for the same length of time as such Collateral Loan. For the avoidance of doubt, each Participation will terminate automatically upon the settlement of the assignment of the underlying Collateral Loan.

(b) Each Party shall use commercially reasonable efforts to, as soon as reasonably practicable after the Purchase Date, but in any event no later than 45 days after the Purchase Date, cause the Buyer to become a lender under the underlying instrument with respect to the Seller’s interest in the applicable Collateral Loan and take such action as shall be mutually agreeable in connection therewith and in accordance with the terms and conditions of the underlying instrument and consistent with the terms of this Agreement.

(c) Pending settlement of the assignment of a Collateral Loan in accordance with the applicable underlying instruments, the Seller shall comply with any written instructions provided to the Seller by or on behalf of the Buyer with respect to voting rights to be exercised by holders of the applicable Collateral Loan, other than with respect to any voting rights that are not permitted to be participated pursuant to the terms of the applicable underlying instrument (and such restrictions, requirements or prohibitions are hereby incorporated by reference as if set forth herein).

**ARTICLE III**

**CONDITIONS PRECEDENT**

**Section 3.1      Condition Precedent to Closing and Purchase.**

The closing and Purchase hereunder are subject to the satisfaction of the following conditions precedent:

(a) counterparts of this Agreement executed on behalf of the Seller shall have been delivered to the Buyer.

(b) all representations and warranties of the Seller contained in Sections 4.1 and 4.2 shall be true and correct in all material respects on and as of the Purchase Date;

(c) the Seller shall have delivered to the Buyer a Loan List that is true, accurate and complete in all respects as of the Purchase Date and the Buyer shall have consented to the Purchase of such Transferred Assets;

(d) on and as of the Purchase Date, the Seller shall have performed all of the covenants and agreements required to be performed by it on or prior to such date pursuant to the provisions of this Agreement;

(e) no Applicable Law shall prohibit or enjoin, and no order, judgment or decree of any federal, state or local court or governmental body, agency or instrumentality shall prohibit or enjoin, the making of the Purchase by the Buyer in accordance with the provisions hereof; and

(f) the Seller shall have paid all fees, costs and expenses required to be paid by it on the Purchase Date.

#### ARTICLE IV

#### REPRESENTATIONS AND WARRANTIES

##### **Section 4.1 Seller's Representations and Warranties.**

As of the Purchase Date, the Seller represents and warrants to the Buyer for the benefit of the Buyer and each of its successors and assigns that:

(a) Organization and Good Standing. The Seller has been duly organized, and is validly existing as a corporation in good standing under the laws of the State of Maryland, with all requisite corporate power and authority to own or lease its properties and conduct its business as such business is presently conducted, and had at all relevant times, and now has, all necessary power, authority and legal right to acquire, own, sell, underwrite, refer, designate and grant interests in the Transferred Assets.

(b) Due Qualification. The Seller has obtained all necessary qualifications, licenses and approvals, in all jurisdictions in which the ownership or lease of property or the conduct of its business requires such qualification, licenses or approvals, except where the failure to be so qualified, licensed or approved would not have a Material Adverse Effect with respect to the Seller.

(c) Power and Authority; Due Authorization; Execution and Delivery. The Seller (i) has all necessary corporate power, authority and legal right to (a) execute and deliver this Agreement, (b) carry out the terms of this Agreement, and (c) acquire, own, sell, underwrite, refer, designate and grant interests in the Transferred Assets on the terms and conditions provided herein, and (ii) has duly authorized by all necessary corporate action the execution, delivery and performance of this Agreement and the acquisition, sale, underwriting, referral, designation and grant of an interest in the Transferred Assets on the terms and conditions herein provided. This Agreement has been duly executed and delivered by the Seller.



(d) Binding Obligation. This Agreement constitutes a legal, valid and binding obligation of the Seller enforceable against the Seller in accordance with its respective terms, except as such enforceability may be limited by Insolvency Laws and by general principles of equity (whether considered in a suit at law or in equity).

(e) No Violation. The consummation of the transactions contemplated by this Agreement and the fulfillment of the terms hereof will not (i) conflict with, result in any breach of any of the terms and provisions of, or constitute (with or without notice or lapse of time or both) a default under, the Seller's Constituent Documents or any contractual obligation of the Seller, (ii) result in the creation or imposition of any Lien upon any of the Seller's properties pursuant to the terms of any such contractual obligation, other than this Agreement, or (iii) violate any Applicable Law.

(f) No Proceedings. There is no litigation, proceeding or investigation pending or, to the best knowledge of the Seller, threatened against the Seller, before any Governmental Authority (i) asserting the invalidity of this Agreement, (ii) seeking to prevent the consummation of any of the transactions contemplated by this Agreement or (iii) seeking any determination or ruling that could reasonably be expected to have a Material Adverse Effect with respect to the Seller.

(g) All Consents Required. All approvals, authorizations, consents, orders, licenses or other actions of any Person or of any Governmental Authority (if any) required for the due execution, delivery and performance by the Seller of this Agreement have been obtained.

(h) Bulk Sales. The execution, delivery and performance of this Agreement and the transactions contemplated hereby do not require compliance with any "bulk sales" act or similar law by the Seller.

(i) Solvency. The Seller is not the subject of any Insolvency Proceedings or Insolvency Event. The transactions under this Agreement do not and will not render the Seller not Solvent.

(j) Taxes. The Seller has filed or caused to be filed all tax returns that are required to be filed by it and has timely paid all Taxes due.

(k) Exchange Act Compliance; Regulations T, U and X. None of the transactions contemplated herein (including the use of the proceeds from the sale of the Transferred Assets) will violate or result in a violation of Section 7 of the Exchange Act, or any regulations issued pursuant thereto, including Regulations T, U and X of the Board of Governors of the Federal Reserve System, 12 C.F.R., Chapter II. The Seller does not own or intend to carry or purchase, and no proceeds from the sale of the Transferred Assets will be used to carry or purchase, any "margin stock" within the meaning of Regulation U or to extend "purpose credit" within the meaning of Regulation U.

(l) Security Interest.

(i) this Agreement creates a valid and continuing security interest (as defined in the applicable UCC) in the Transferred Assets in favor of the Buyer and the Collateral Agent, as assignee, for the benefit of the Secured Parties, which security interest is prior to all other Liens, and is enforceable as such against creditors of and purchasers from the Seller;

(ii) the Transferred Assets constitute “instruments”, “general intangibles”, “certificated securities”, “uncertificated securities”, “deposit accounts”, “investment property,” “proceeds” (each as defined in the applicable UCC) and/or such other category of collateral under the applicable UCC as to which the Seller has complied with its obligations under this Section 4.1(l);

(iii) the Seller owns and has good and marketable title to the Transferred Assets purchased by the Buyer hereunder on the Purchase Date, and is transferring such Transferred Assets to the Buyer free and clear of any Lien of any Person (other than Permitted Liens);

(iv) the Seller has received all consents and approvals required by the terms of any Collateral Loan, if any, to the sale and granting of a security interest in the Collateral Loans hereunder to the Buyer and the Collateral Agent as assignee, on behalf of the Secured Parties;

(v) the Seller has caused the filing of all appropriate financing statements in the proper filing office in the appropriate jurisdictions under Applicable Law in order to perfect the security interest in the Transferred Assets granted hereunder to the Buyer and the Collateral Agent, as assignee, on behalf of the Secured Parties;

(vi) other than the security interest granted to the Buyer pursuant to this Agreement and the Collateral Agent, as assignee, on behalf of the Secured Parties, pursuant to the Credit and Security Agreement and other than security interests that are released in connection with the transfer of Transferred Assets to the Buyer, the Seller has not pledged, assigned, sold, granted a security interest in or otherwise conveyed any of the Transferred Assets. The Seller has not authorized the filing of and is not aware of any financing statements against the Seller that include a collateral description covering the Transferred Assets other than any financing statement (A) relating to the security interest granted to the Buyer under this Agreement and the Collateral Agent, as assignee, on behalf of the Secured Parties under the Credit and Security Agreement, (B) that has been terminated or for which a release or partial release (which releases at least any collateral constituting Transferred Assets) has been filed and/or fully and validly assigned to the Buyer on or prior to the Purchase Date or (C) relating to Permitted Liens. The Seller is not aware of the filing of any judgment or tax lien filings against the Seller with respect to, or that would attach to, any Transferred Assets;

(vii) other than in the case of Noteless Loans and Participations (pending the effectiveness of the assignment of the related Collateral Loans in accordance with Section 2.4), all original executed copies of each underlying promissory note (if any) that constitutes or evidences each Collateral Loan included in the Transferred Assets that is evidenced by a promissory note has been, or subject to the delivery requirements contained herein, will be delivered to the Custodian or its bailee;

(viii) none of the underlying promissory notes (if any) that constitute or evidence the Collateral Loans included in the Transferred Assets has any marks or notations indicating that they have been pledged, assigned or otherwise conveyed to any Person other than the Buyer (and by the Buyer to the Collateral Agent, on behalf of the Secured Parties);

(ix) with respect to Transferred Assets that constitute a “certificated security,” if any, (A) such certificated security has been delivered to the Custodian registered in the name of the Collateral Agent or its affiliated nominee or endorsed to the Collateral Agent or in blank, (B) the Seller has caused the Custodian to agree to continuously identify on its books and records that such certificated security is credited to the appropriate Covered Account and (C) the Seller has caused the Custodian to agree to maintain continuous possession of such certificated security; and

(x) with respect to Transferred Assets that constitute an “uncertificated security”, if any, the Seller has caused the issuer of such uncertificated security to (A) register the Collateral Agent as the registered owner of such uncertificated security or (B) to agree to comply with instructions of the Collateral Agent without further consent of the Buyer, upon original issue or registration of transfer by the issuer of such uncertificated security;

(m) Reports Accurate. All information, exhibits, financial statements, documents, books, records or reports furnished or to be furnished by the Seller to the Buyer in connection with this Agreement and the Transferred Assets are true, complete and correct in all material respects.

(n) Location of Offices. The Seller’s location (within the meaning of Article 9 of the UCC) is Maryland. The office where the Seller keeps all the Records is at the address of the Seller referred to in Section 10.2 hereof (or at such other locations as to which the notice and other requirements specified in Section 5.2(c) shall have been satisfied). The Seller’s principal place of business is Connecticut.

(o) Tradenames. The Seller has no trade names, fictitious names, assumed names or “doing business as” names or other names under which it has done or is doing business.

(p) Sale Agreement. This Agreement together with the Required Loan Documents are the only agreements pursuant to which the Seller sells or otherwise transfers the Transferred Assets to the Buyer.

(q) Value Given. The Buyer has given reasonably equivalent value to the Seller in consideration for the transfer to the Buyer of the Transferred Assets as contemplated by this Agreement (including for such purpose the portion of the Purchase Price that is treated as a capital contribution from the Seller to the Buyer), the Purchase has not been made for or on account of an antecedent debt owed by the Seller to the Buyer, and no such transfer is or may be voidable or subject to avoidance under any section of the Bankruptcy Code. The transfer of such Transferred Assets by the Seller to the Buyer is on fair and reasonable terms that are no less favorable than would be obtained in a comparable arm’s-length transaction.

(r) Accounting. The Seller accounts for the transfers to the Buyer from the Seller of interests in Transferred Assets as sales of such Transferred Assets for consolidated accounting purposes and for legal and, where relevant, tax purposes on its books, records and financial statements, in each case consistent with GAAP and with the requirements set forth herein, provided that for federal income tax reporting purposes, the Buyer is treated as a “disregarded entity” and, therefore, the transfer of Transferred Assets by the Seller to the Buyer hereunder will not be recognized.

(s) Special Purpose Entity. The Buyer is an entity with assets and liabilities separate and distinct from those of the Seller and any Affiliates thereof, and the Seller hereby acknowledges that the Collateral Agent, the Administrative Agent, the Lenders and the other Secured Parties are entering into the transactions contemplated by the Credit and Security Agreement in reliance upon the Buyer’s identity as a legal entity that is separate from the Seller and from each other Affiliate of the Seller. Therefore, from and after the date of execution and delivery of this Agreement, the Seller shall take all reasonable steps, including all steps that the Buyer or the Administrative Agent may from time to time reasonably request, to maintain the Buyer’s identity as a legal entity that is separate from the Seller and from each other Affiliate of the Seller, and to make it manifest to third parties that the Buyer is an entity with assets and liabilities distinct from those of the Seller and each other Affiliate thereof and not just a division of the Seller or any such other Affiliate. Without limiting the generality of the foregoing and in addition to the other covenants set forth herein, the Seller shall take all reasonable steps to ensure that the Buyer has not and will not take, refrain from taking, or fail to take (as applicable) any action described in Section 5.05 of the Credit and Security Agreement.

(t) Confirmation from the Seller. Each of the Buyer and the Seller is aware that the filing of a voluntary petition under the Bankruptcy Code for the purpose of making any Transferred Assets or any other assets of the Buyer available to satisfy claims of the creditors of the Seller would not result in making such assets available to satisfy such creditors under the Bankruptcy Code. The Seller will not cause the Buyer to file a voluntary petition under the Bankruptcy Code or Insolvency Laws.

(u) ERISA. The Seller does not maintain, nor are any employees of the Seller permitted to participate in, a Pension Plan.

(v) Compliance with Law. The Seller has complied in all respects with all Applicable Laws to which it may be subject, and no item of the Transferred Assets contravenes any Applicable Laws.

(w) Set-Off, etc. As of the Purchase Date for a Transferred Asset, such Transferred Asset has not been compromised, adjusted, extended, satisfied, subordinated, rescinded, set-off or modified by the Seller or by the Obligor thereof, and such Transferred Asset is not subject to compromise, adjustment, extension, satisfaction, subordination, rescission, set-off, counterclaim, defense, abatement, suspension, deferment, deduction, reduction, termination or modification, whether arising out of transactions concerning such Transferred Assets or otherwise, by the Seller or by the Obligor with respect thereto, except for amendments, extension and modifications, if any, to such Transferred Asset otherwise permitted under the Facility Documents.

(x) Full Payment. As of the Purchase Date, the Seller has no actual knowledge of any fact which leads it to expect that any Transferred Assets will not be paid in full.

(y) Representations and Warranties for Benefit of the Buyer's Assignees: Each of the representations and warranties of the Seller contained in this Agreement is true and correct in all material respects on the Purchase Date, and the Seller hereby makes each such representation and warranty to, and for the benefit of the Collateral Agent, the Administrative Agent, the Lenders and the other Secured Parties.

(z) USA PATRIOT Act. Neither the Seller nor any Affiliate of the Seller is (i) a country, territory, organization, person or entity named on an Office of Foreign Asset Control (OFAC) list; (ii) a Person that resides or has a place of business in a country or territory named on such lists or which is designated as a "Non-Cooperative Jurisdiction" by the Financial Action Task Force on Money Laundering, or whose subscription funds are transferred from or through such a jurisdiction; (iii) a "Foreign Shell Bank" within the meaning of the USA PATRIOT Act, i.e., a foreign bank that does not have a physical presence in any country and that is not affiliated with a bank that has a physical presence and an acceptable level of regulation and supervision; or (iv) a person or entity that resides in or is organized under the laws of a jurisdiction designated by the United States Secretary of the Treasury under Sections 311 or 312 of the USA PATRIOT Act as warranting special measures due to money laundering concerns.

It is understood and agreed that the representations and warranties provided in this Section 4.1 shall survive (x) the sale and assignment or contribution of the Transferred Assets by the Seller to the Buyer and (y) any subsequent transfer of the Transferred Assets by the Buyer (including its grant of a first priority perfected security interest in, to and under the Transferred Assets pursuant to the Credit and Security Agreement) and such representations and warranties, may not be waived by any party hereto without the consent of the Administrative Agent.

#### **Section 4.2 Representations and Warranties of the Seller Relating to the Agreement and the Transferred Assets.**

The Seller hereby represents and warrants to the Buyer, as of the Purchase Date:

(a) Binding Obligation, Valid Transfer and Security Interest. This Agreement constitutes a valid transfer to the Buyer of all right, title and interest of the Seller in, to and under all of the Transferred Assets, free and clear of any Lien of any Person claiming through or under the Seller or its Affiliates, except for Permitted Liens, and subject, in the case of any Participation, to the effectiveness of the assignment of the related Collateral Loan in accordance with Section 2.4. If the conveyances contemplated by this Agreement are determined to be a transfer for security, then this Agreement constitutes a grant of a security interest in all of the Transferred Assets to the Buyer which upon the delivery of the Required Loan Documents to the Custodian, the crediting of Collateral Loans to the Covered Accounts and the filing of the financing statements described in Section 2.1(i) and, in the case of additional Collateral Loans on the Purchase Date, shall be a valid and enforceable first priority perfected security interest in all Transferred Assets, subject only to the security interest granted to the Collateral Agent, on behalf of the Secured Parties, pursuant to the Credit and Security Agreement. Neither the Seller nor any Person claiming through or under Seller shall have any claim to or interest in any Covered Account and if this Agreement constitutes the grant of a security interest in such property, except for the interest of the Seller in such property as a debtor for purposes of the UCC.

(b) Eligibility of Transferred Assets. As of the Purchase Date, (i) Schedule I and Schedule II provide an accurate and complete listing of all the Collateral Loans and other Transferred Assets hereunder as of the Purchase Date and the information contained therein with respect to the identity of such Collateral Loans and other Transferred Assets and the amounts owing thereunder is true and correct as of the Purchase Date, (ii) each such Collateral Loan is an Eligible Loan as of the Purchase Date, (iii) the Buyer owns all right, title and interest in and to each such Transferred Asset, free and clear of any Lien of any Person (other than Liens released in connection with the sale of such Transferred Asset to the Buyer and the security interest granted to the Collateral Agent, on behalf of the Secured Parties, pursuant to the Credit and Security Agreement) and in compliance with all Applicable Laws, (iv) with respect to each such Transferred Asset, all consents, licenses, approvals or authorizations of or registrations or declarations of any Governmental Authority or any Person required to be obtained, effected or given in connection with the transfer of an ownership interest in such Transferred Asset to the Buyer have been duly obtained, effected or given and are in full force and effect (other than, in the case of any Participation, the effectiveness of the assignment of the related Collateral Loan in accordance with Section 2.4), and (v) the representations and warranties set forth in Section 4.2(a) are true and correct with respect to each Transferred Asset.

(c) No Fraud. Each Collateral Loan was originated without any fraud or material misrepresentation by the Seller or, to the best of the Seller's knowledge, on the part of the Obligor.

It is understood and agreed that the representations and warranties provided in this Section 4.2 shall survive (x) the sale and assignment or contribution of the Transferred Assets by the Seller to the Buyer and (y) any subsequent transfer of the Transferred Assets by the Buyer (including its grant of a perfected security interest in, to and under the Transferred Assets pursuant to the Credit and Security Agreement which, shall be a first priority security interest) and such representations and warranties, may not be waived by any party hereto without the consent of the Administrative Agent.

### **Section 4.3      Representations and Warranties of the Buyer.**

The Buyer hereby represents and warrants to the Seller, as of the Purchase Date, that:

(a) Organization and Good Standing. The Buyer has been duly organized and is validly existing as a limited liability company in good standing under the laws of the State of Delaware, with all requisite power and authority to own or lease its properties and conduct its business as such business is presently conducted, and had at all relevant times, and now has, all necessary power, authority and legal right to acquire and own the Transferred Assets.

(b) Due Qualification. The Buyer is duly qualified to do business and is in good standing as a limited liability company, and has obtained all necessary qualifications, licenses and approvals in all jurisdictions in which the ownership or lease of property or the conduct of its business requires such qualifications, licenses or approvals, except where the failure to be so qualified, licensed or approved would not have a Material Adverse Effect with respect to the Buyer.

(c) Power and Authority; Due Authorization; Execution and Delivery. The Buyer (i) has all necessary limited liability company power, authority and legal right to (a) execute and deliver this Agreement, (b) carry out the terms of this Agreement, and (ii) has duly authorized by all necessary limited liability company action the execution, delivery and performance of this Agreement and the purchase of the Transferred Assets on the terms and conditions herein provided. This Agreement has been duly executed and delivered by the Buyer.

(d) Binding Obligation. This Agreement constitutes a legal, valid and binding obligation of the Buyer enforceable against the Buyer in accordance with its terms, except as such enforceability may be limited by Insolvency Laws and by general principles of equity (whether considered in a suit at law or in equity).

(e) No Violation. The consummation of the transactions contemplated by this Agreement and the fulfillment of the terms hereof will not (i) conflict with, result in any breach of any of the terms and provisions of, or constitute (with or without notice or lapse of time or both) a default under, the Buyer's Constituent Documents or any contractual obligation of the Buyer, (ii) result in the creation or imposition of any Lien (other than the security interest granted to the Buyer pursuant to this Agreement and the security interest granted to the Collateral Agent, on behalf of the Secured Parties, pursuant to the Credit and Security Agreement) upon any of the Buyer's properties pursuant to the terms of any such contractual obligation, other than this Agreement, or (iii) violate any Applicable Law.

(f) No Proceedings. There is no litigation, proceeding or investigation pending or, to the best knowledge of the Buyer, threatened against the Buyer, before any Governmental Authority (i) asserting the invalidity of this Agreement, (ii) seeking to prevent the consummation of any of the transactions contemplated by this Agreement or (iii) seeking any determination or ruling that could reasonably be expected to have Material Adverse Effect with respect to the Buyer.

(g) All Consents Required. All approvals, authorizations, consents, orders, licenses or other actions of any Person or of any Governmental Authority (if any) required for the due execution, delivery and performance by the Buyer of this Agreement have been obtained.

(h) Value Given. The Buyer has given reasonably equivalent value to the Seller as consideration for the transfer to the Buyer of such Transferred Assets as contemplated by this Agreement, no such transfer has been made for or on account of an antecedent debt owed by the Seller or any such other Person to the Buyer, and no such transfer is or may be voidable or subject to avoidance as to the Buyer under any section of the Bankruptcy Code. The transfer of such Transferred Assets by the Seller to the Buyer is on fair and reasonable terms that are no less favorable than would be obtained in a comparable arm's-length transaction.

## ARTICLE V

### COVENANTS

#### Section 5.1 Affirmative Covenants of the Seller.

From the date hereof until the Final Maturity Date:

(a) Compliance with Laws. The Seller will comply in all material respects with all Applicable Laws, including those with respect to the Transferred Assets or any part thereof, except for instances of non-compliance that could not reasonably be expected to have a Material Adverse Effect with respect to the Seller.

(b) Preservation of Corporate Existence. The Seller will preserve and maintain its corporate existence, rights, franchises and privileges in the jurisdiction of its incorporation, and qualify and remain qualified in good standing as a foreign corporation in each jurisdiction where the failure to preserve and maintain such existence, rights, franchises, privileges and qualification has had, or could reasonably be expected to have, a Material Adverse Effect with respect to the Seller.

(c) Performance and Compliance with Transferred Assets. The Seller will, at its expense, timely and fully perform and comply with all provisions, covenants and other promises required to be observed by it under the Transferred Assets and all other agreements related to such Transferred Assets.

(d) Protection of Interest in Transferred Assets. All Transferred Assets acquired by the Buyer from the Seller will be acquired pursuant to and in accordance with the terms of this Agreement and the Required Loan Documents and the Seller will, (i) at its expense take all action necessary to perfect, protect and more fully evidence the Buyer's or its assignee's ownership of or security interest in such Transferred Assets free and clear of any Lien other than Permitted Liens, including (A) filing and maintaining (at its expense) effective financing statements against the Seller, in all necessary or appropriate filing offices, and filing continuation statements, amendments or assignments with respect thereto in such filing offices, and (B) executing or causing to be executed such other instruments or notices as may be necessary or appropriate, and (ii) take all additional action that the Buyer and the Collateral Agent may reasonably request to perfect, protect and more fully evidence the respective interests of the parties to this Agreement in the Transferred Assets.

(e) Deposit of Collections. The Seller will instruct the administrative agent under each Transferred Asset or the applicable Obligors thereof if no administrative agent exists to make all payments relating to all Transferred Assets directly to the applicable Covered Account. In the event any payments relating to any Transferred Assets are remitted directly to the Seller or any Affiliate of the Seller, the Seller will remit such payments (or will cause all such payments to be remitted) directly to the applicable Covered Account within two (2) Business Days following receipt thereof, and, at all times prior to such remittance, the Seller will itself hold or, if applicable, will cause such payments to be held in trust for the exclusive benefit of the Buyer and the Secured Parties.

(f) Taxes. The Seller will file and pay any and all Taxes required to meet its obligations with respect thereto under this Agreement.



(g) Adverse Claims. The Seller will not create, or participate in the creation of, or permit to exist, any Liens in relation to the Collection Account.

(h) Notices. The Seller will furnish to the Buyer, the Collateral Agent and the Administrative Agent:

(i) Representations and Warranties. Forthwith upon receiving knowledge of the same, but in any event no later than 10 Business Days after receiving such knowledge of the same, the Seller shall notify the Buyer, the Collateral Agent and the Administrative Agent if any representation or warranty set forth in Section 4.1 was incorrect at the time it was given or deemed to have been given and at the same time deliver to the Buyer, the Collateral Agent and the Administrative Agent a written notice setting forth in reasonable detail the nature of such facts and circumstances. In particular, but without limiting the foregoing, the Seller shall notify the Buyer, the Collateral Agent and the Administrative Agent in the manner set forth in the preceding sentence before the Purchase Date of any facts or circumstances within the knowledge of the Seller which would render any of the said representations and warranties untrue at the date when such representations and warranties were made or deemed to have been made; and

(ii) Notice of Material Events. Promptly upon becoming aware thereof, but in any event no later than 10 Business Days after becoming aware thereof, notice of any other event or circumstances that, in the reasonable judgment of the Seller, is likely to have a Material Adverse Effect with respect to Seller.

(i) Separate Identity. The Seller acknowledges that the Collateral Agent, the Administrative Agent, the Lenders and the other Secured Parties are entering into the transactions contemplated by this Agreement and the Credit and Security Agreement in reliance upon the Buyer's identity as a legal entity that is separate from the Seller and each other Affiliate of the Seller. Accordingly, from and after the date of execution and delivery of this Agreement, the Seller will take all reasonable steps, including all steps that the Buyer, the Collateral Agent or the Administrative Agent may from time to time reasonably request, to maintain the Buyer's identity as a legal entity that is separate from the Seller and each other Affiliate of the Seller and to make it manifest to third parties that the Buyer is an entity with assets and liabilities distinct from those of the Seller and each other Affiliate thereof and not just a division of the Seller or any such other Affiliate. Without limiting the generality of the foregoing and in addition to the other covenants set forth herein, the Seller agrees that:

(i) the Seller will take all other actions necessary on its part to ensure that the Buyer is at all times in compliance with Section 5.05 of the Credit and Security Agreement;

(ii) the Seller shall maintain corporate records and books of account separate from those of the Buyer;

(iii) the annual financial statements of the Seller shall disclose the effects of the Seller's transactions in accordance with GAAP and the annual financial statements of the Seller shall note that the assets of the Buyer, including the Transferred Assets, are not available to pay creditors of the Seller or any other Affiliate of the Seller;

(iv) the resolutions, agreements and other instruments underlying the transactions described in this Agreement shall be continuously maintained by the Seller as official records;

(v) the Seller shall maintain an arm's-length relationship with the Buyer and will not hold itself out as being liable for the debts of the Buyer;

(vi) the Seller shall keep its assets and its liabilities wholly separate from those of the Buyer; and

(vii) the Seller will avoid the appearance, and promptly correct any known misperception of any of the Seller's creditors, that the assets of the Buyer are available to pay the obligations and debts of the Seller.

(j) Cooperation with Requests for Information or Documents. The Seller will cooperate fully with all reasonable requests of the Buyer regarding the provision of any information or documents, necessary or desirable, including the provision of such information or documents in electronic or machine-readable format, to allow each of the Buyer and its assignees to carry out their responsibilities under the Facility Documents.

(k) Payment Performance and Discharge of Obligations. The Seller will pay, perform and discharge all of its obligations and liabilities, including all taxes, assessments and governmental charges upon its income and properties, when due, the non-payment, performance or discharge of which would reasonably be expected to have a Material Adverse Effect with respect to the Seller, unless and only to the extent that such obligations, liabilities, taxes, assessments and governmental charges shall be contested in good faith and by appropriate proceedings and that, to the extent required by GAAP, proper and adequate book reserves relating thereto are established by the Seller and then only to the extent that a bond is filed in cases where the filing of a bond is necessary to avoid the creation of a Lien against any of its properties.

(l) Copies of Other Information. The Seller will deliver to the Buyer, the Collateral Agent and the Administrative Agent promptly, from time to time, such other information, documents, records or reports respecting the Transferred Assets or the conditions or operations, financial or otherwise, of the Seller as the Buyer, the Collateral Agent or the Administrative Agent may from time to time reasonably request in order to perform their obligations hereunder or under any other Facility Document or to protect the interests of the Buyer, the Administrative Agent, the Collateral Agent and the Secured Parties under or as contemplated by this Agreement and the other Facility Documents.

(m) Mergers, Acquisitions, Sales, etc.

(i) Any Person into which the Seller may be merged or consolidated, or any Person resulting from such merger or consolidation to which the Seller is a party, or any Person succeeding by acquisition or transfer to substantially all of the assets and the business of the Seller shall be the successor to the Seller hereunder, without execution or filing of any paper or any further act on the part of any of the parties hereto, notwithstanding anything herein to the contrary.

(ii) The merger or consolidation of the Seller or transfer of substantially all of its assets and its business as described in this Section 5.1(m), shall not be effected unless the Seller shall have provided 30 days' prior written notice thereof to the Administrative Agent, the Collateral Agent and the Custodian and the Administrative Agent shall have consented thereto in accordance with Section 14.07 of the Credit and Security Agreement.

**Section 5.2 Negative Covenants of the Seller.**

From the date hereof until the Final Maturity Date:

(a) Loans Not to be Evidenced by Instruments. The Seller will take no action (and will not cause Collateral Manager to take any action) to cause any Collateral Loan that is not, as of the related Purchase Date, evidenced by an Instrument, to be so evidenced except in connection with the enforcement or collection of such Collateral Loan or unless such Instrument is promptly delivered to the Custodian, together with an Indorsement in blank, as collateral security for such Collateral Loan.

(b) Security Interests. Except as otherwise permitted herein, and in the Credit and Security Agreement, the Seller will not and will not cause or permit the Buyer to sell, pledge, assign or transfer to any other Person, or grant, create, incur, assume or suffer to exist any Lien on any Transferred Assets, whether now existing or hereafter acquired or any interest, therein. The Seller will promptly notify the Buyer, the Collateral Agent, the Administrative Agent and the Custodian of the existence of any Lien other than as permitted in the immediately preceding sentence on any Transferred Assets and the Seller shall defend the right, title and interest of the Buyer, and the Collateral Agent for the benefit of the Secured Parties, in, to and under the Transferred Assets against all claims of third parties; provided that nothing in this Section 5.2(b) shall prevent or be deemed to prohibit the Seller from suffering to exist Permitted Liens upon any of the Transferred Assets and Liens permitted in the immediately preceding sentence.

(c) Change of Name or Location of Loan Files. The Seller shall not change its name, move the location of its principal place of business and chief executive office, change the offices where it keeps the records from the location referred to in Section 10.2, or change the jurisdiction of its incorporation, unless the Seller has given at least 30 days' prior written notice to the Buyer, the Custodian, the Collateral Agent and the Administrative Agent and has taken all actions required under the UCC of each relevant jurisdiction in order to continue the first priority perfected security interest of the Buyer and the Collateral Agent, for the benefit of the Secured Parties, in the Transferred Assets.

(d) Accounting of Purchases. The Seller will not account for or treat (whether in financial statements or otherwise) the transactions contemplated hereby in any manner other than as a sale or contribution of the Transferred Assets by the Seller to the Buyer; provided that for federal income tax reporting purposes, the Buyer is treated as a "disregarded entity" and, therefore, the transfer of Transferred Assets by the Seller to the Buyer hereunder will not be recognized; and provided, further, that nothing shall prevent Seller from showing the Transferred Assets as consolidated assets of the Seller and its consolidated subsidiaries on Seller's consolidated financial statements.

(e) Constituent Documents. The Seller will not cause or permit the Buyer to amend, modify, waive or terminate any provision the Buyer's Constituent Documents except in accordance with the Credit and Security Agreement.

(f) Changes in Payment Instructions to Obligors. The Seller will not add or terminate any Covered Account or make any change in its instructions to the administrative agent under each Transferred Asset or the applicable Obligors thereof if no administrative agent exists, regarding payments to be made with respect to the Transferred Assets to any Covered Account, unless the Administrative Agent has consented to such addition, termination or change (which consent shall not be unreasonably withheld).

(g) Extension or Amendment of Transferred Assets. Except as otherwise permitted under the Credit and Security Agreement, the Seller will not extend, amend or otherwise modify the terms of any Transferred Assets (including the Underlying Assets).

## ARTICLE VI

### REMOVAL OR REPLACEMENT OF WARRANTY COLLATERAL LOANS

If on any day a Collateral Loan is (or becomes) a Warranty Collateral Loan, no later than five (5) Business Days following the earlier of knowledge by the Seller of such Collateral Loan becoming a Warranty Collateral Loan or receipt by the Seller from the Buyer of written notice thereof, the Seller shall either: (a) make a deposit to the Collection Account in immediately available funds in an amount equal to the sum of (i) the Repurchase Amount of such Collateral Loan at such time, (ii) any expenses or fees with respect to such Collateral Loan and (iii) costs and damages incurred by the Administrative Agent or by any Lender in connection with any violation by such Collateral Loan of any Applicable Law; or (b) substitute for such Warranty Collateral Loan a Substituted Collateral Loan so long as, in each case, (1) no Event of Default has occurred and is continuing and, immediately after giving effect to such substitution, no Default or Event of Default shall have occurred, (2) such Substituted Collateral Loan is an Eligible Loan, (3) all applicable conditions precedent set forth in Section 3.1 have been satisfied with respect to each Substituted Collateral Loan to be acquired by the Borrower in connection with such substitution, and (4) the Borrowing Base Test shall be satisfied immediately after giving effect to such substitution. In either of the foregoing instances, the Seller may (in its discretion) accept retransfer of each such Warranty Collateral Loan and any related Underlying Assets. Upon the transfer of each Warranty Collateral Loan, the Buyer shall (if and when the Seller elects to accept the retransfer of such Warranty Collateral Loan or directs the Buyer to transfer such Collateral Loan to a third party) automatically and without further action be deemed to transfer, assign and set-over to or at the direction of the Seller, without recourse, representation or warranty, all the right, title and interest of the Buyer in, to and under such Warranty Collateral Loan and all future monies due or to become due with respect thereto, the Underlying Assets, all Proceeds of such Warranty Collateral Loan, all rights to security for any such Warranty Collateral Loan, and all Proceeds and products of the foregoing. The Buyer shall (if and when the Seller elects to accept the retransfer of such Warranty Collateral Loan or directs the Buyer to transfer such Collateral Loan to a third party), at the request and sole expense of the Seller, execute such documents and instruments of transfer, assignment and release as may be prepared by the Seller and take other such actions as shall reasonably be requested by the Seller to effect the transfer of such Warranty Collateral Loan pursuant to this Article VI. It is understood and agreed that, with respect to a Warranty Collateral Loan, repurchase of such Warranty Collateral Loan by the Seller (or a third party) or substitution by the Seller of a Substitute Collateral Loan for such Warranty Collateral Loan shall be the sole remedies available to the Buyer and its assignees hereunder and any other beneficiary of the Buyer's rights hereunder (but shall not limit any claims under Section 9.1 in respect of any Indemnified Amounts).

**ARTICLE VII**  
**ADDITIONAL RIGHTS AND OBLIGATIONS IN RESPECT OF THE TRANSFERRED ASSETS**

**Section 7.1**     **Rights of the Buyer.**

(a)        The Seller hereby authorizes the Buyer, the Collateral Manager, the Collateral Agent and the Administrative Agent, on behalf of the Secured Parties, and/or their respective designees or assignees to each take any and all steps in the Seller's name and on behalf of the Seller that the Buyer, the Collateral Manager, the Collateral Agent and/or the Administrative Agent, on behalf of the Secured Parties, and/or their respective designees or assignees determine are reasonably necessary or appropriate to collect all amounts due under any and all Transferred Assets and to enforce or protect the Buyer's, the Administrative Agent's and the Collateral Agent's, on behalf of the Secured Parties, rights under this Agreement, including endorsing the name of the Seller on checks and other instruments representing Collections and enforcing such Transferred Assets.

(b)        Except as set forth in the Credit and Security Agreement, the Buyer shall have no obligation to account for, replace, substitute or return any Transferred Assets to the Seller.

(c)        The Buyer shall have the unrestricted right to further assign, transfer, deliver, hypothecate, subdivide or otherwise deal with the Transferred Assets and all of the Buyer's right, title and interest in, to and under this Agreement, on whatever terms the Buyer shall determine, subject to the Credit and Security Agreement.

(d)        The Buyer shall have the sole right to retain any gains or profits created by buying, selling or holding the Transferred Assets and shall have the sole risk of and responsibility for losses or damages created by such buying, selling or holding.

**Section 7.2**      **Responsibilities of the Seller.**

Notwithstanding anything to the contrary contained herein, the Seller agrees to deliver directly to the Custodian (for the Buyer's account), within two (2) Business Days after receipt thereof, any Collections that it receives, in the form so received, and agrees that all such Collections shall be deemed to be received in trust for the Buyer and shall be maintained and segregated separate and apart from all other funds and monies of the Seller until delivery of such Collections to the applicable Covered Account.

**Section 7.3**      **Rights With Respect to Loan Files.**

At any time when a Collateral Manager other than Oxford Square Capital Corp. has been designated a Collateral Manager pursuant to Section 14.07 or 14.08 of the Credit and Security Agreement, the Seller shall, at the request of the Buyer and the Collateral Agent, assemble copies of all of the Loan Files in its possession which evidence the Transferred Assets originated by the Seller, or which are otherwise necessary or desirable to collect such Transferred Assets, and make the same available to the Buyer or the Collateral Agent at a place selected by the Collateral Agent.

**Section 7.4**      **Notice to Administrative Agent and Collateral Agent.**

The Seller agrees that, concurrently with its delivery to the Buyer, copies of all notices, reports, documents and other information required to be delivered by the Seller to the Buyer hereunder shall be delivered by the Seller to the Administrative Agent and the Collateral Agent.

**ARTICLE VIII**

**SURVIVAL**

**Section 8.1**      **Survival of Certain Provisions.**

Notwithstanding any provision contained herein to the contrary, the Seller's representations, covenants and obligations set forth in Articles IV, V, VI and VII create and constitute the continuing obligation of the parties hereto in accordance with its terms, and shall remain in full force and effect until the Final Maturity Date; provided that the rights and remedies with respect to any breach of any representation and warranty made or deemed made by the Seller pursuant to Article IV and the provisions of Article VI, the indemnification and payment provisions of Article IX and the provisions of Sections 9.1, 10.3, 10.6, 10.7, 10.8 and 10.16 shall be continuing and shall survive any termination of this Agreement.

## ARTICLE IX

### INDEMNIFICATION

#### Section 9.1 Indemnification by the Seller.

(a) Without limiting any other rights that the Buyer, any assignee of the Buyer or any of such Persons' respective shareholders, officers, employees, agents, or Affiliates (each an "Indemnified Party") may have hereunder or under Applicable Law, the Seller hereby agrees to indemnify each Indemnified Party from and against any and all damages, losses, claims, liabilities and related costs and expenses, including reasonable attorneys' fees and disbursements (all of the foregoing being collectively referred to as "Indemnified Amounts"), awarded against or incurred by such Indemnified Party or any of them as a result of any of the Indemnified Matters (as defined below), excluding, however, (a) Indemnified Amounts to the extent resulting from the gross negligence, bad faith or willful misconduct on the part of the applicable Indemnified Party, and (b) Indemnified Amounts that have the effect of recourse for non-payment of the Transferred Assets due to credit problems of the Obligors (including bankruptcy or insolvency). If the Seller has made any indemnity payment pursuant to this Section 9.1 and such payment fully indemnified the recipient thereof and the recipient thereafter collects any payments from others in respect of such Indemnified Amounts, then the recipient shall repay to the Seller an amount equal to the amount it has collected from others in respect of such indemnified amounts. As used herein, "Indemnified Matters" means:

- (i) any representation or warranty made or deemed made by the Seller, or any of its officers under or in connection with this Agreement, which shall have been false, incorrect or misleading in any material respect when made or deemed made or delivered;
- (ii) the failure by the Seller to comply with any term, provision or covenant contained in this Agreement or any agreement executed in connection with this Agreement, or with any Applicable Law, with respect to any Transferred Assets or the nonconformity of any Transferred Assets with any such Applicable Law, or any breach by the Seller of its contractual obligations with respect to any Transferred Assets;
- (iii) the failure to vest and maintain vested in the Buyer, an ownership interest in the Transferred Assets, together with all Collections, free and clear of any Lien (other than Permitted Liens or other Liens to which the Administrative Agent has consented in its sole discretion) whether existing at the time of the Purchase or at any time thereafter;
- (iv) the failure to file, or any delay in filing, financing statements, continuation statements or other similar instruments or documents under the UCC of any applicable jurisdiction or other Applicable Laws with respect to any Transferred Assets, whether at the time of the Purchase or at any subsequent time which are required by this Agreement or the other Facility Documents;
- (v) at the time of conveyance of a Transferred Asset, the existence of any dispute, claim, offset or defense (other than the discharge in bankruptcy of an Obligor) of an Obligor to the payment with respect to any Transferred Assets (including a defense based on the Transferred Assets not being a legal, valid and binding obligation of such Obligor enforceable against it in accordance with its terms);
- (vi) any inability to obtain any judgment in, or utilize the court or other adjudication system of, any state in which an Obligor may be located as a result of the failure of the Seller to qualify to do business or file any notice or business activity report or any similar report;
- (vii) any action taken by the Seller in the enforcement or collection of any Transferred Assets;
- (viii) any claim, suit or action of any kind arising out of or in connection with Environmental Laws that arose prior to the date any Transferred Asset was sold or otherwise transferred to Buyer, including any vicarious liability resulting from any act or omission of the Seller;

(ix) the failure by Seller to pay when due any Taxes for which the Seller is liable, including sales, excise or personal property taxes payable in connection with the Transferred Assets;

(x) any repayment by the Indemnified Party of any amount previously distributed hereunder or under any Facility Document to the Seller, in each case which amount the Indemnified Party believes in good faith is required to be repaid;

(xi) the comingling of Collections on the Transferred Assets at any time with other funds of the Seller;

(xii) any investigation, litigation or proceeding related to this Agreement arising from any act or omission of the Seller or the Seller's use of proceeds of Purchases or the security interest in the Transferred Assets;

(xiii) the failure of the Seller or any of its agents or representatives to remit to the Buyer Collections on the Transferred Assets remitted to the Seller or any such agent or representative as provided in this Agreement; or

(xiv) any attempt by the Seller, any creditor of Seller or any trustee or debtor-in-possession for the Seller to void the purchases made hereunder under statutory provisions or common law or equitable action.

(b) Any amounts subject to the indemnification provisions of this Section 9.1 shall be paid by the Seller to the Indemnified Party within five (5) Business Days following such Person's demand therefor.

(c) If for any reason the indemnification provided above in this Section 9.1 is unavailable to the Indemnified Party or is insufficient to hold an Indemnified Party harmless, then the Seller shall contribute to 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 not only the relative benefits received by such Indemnified Party on the one hand and the Seller, on the other hand, but also the relative fault of such Indemnified Party as well as any other relevant equitable considerations; provided that the Seller shall have no contribution obligation under this Section 9.1(c) if the payment of any such amounts would have the effect of recourse for nonpayment of the Collateral Loans included in the Transferred Assets due to credit problems of the related Obligors.

(d) The obligations of the Seller under this Section 9.1 shall survive the termination of this Agreement.

(e) Indemnification under Section 9.1 shall be in an amount necessary to make the Indemnified Party whole after taking into account any tax consequences to the Indemnified Party of the receipt of the indemnity provided hereunder, including the effect of such tax or refund on the amount of tax measured by net income or profits that is or was payable by the Indemnified Party.



**Section 9.2**      **Assignment of Indemnities.**

The Seller acknowledges that, pursuant to the Credit and Security Agreement, the Buyer shall assign its rights of indemnity granted hereunder to the Collateral Agent, for the benefit of the Secured Parties. Upon such assignment, (i) the Collateral Agent, on behalf of the Secured Parties, shall have all rights of the Buyer hereunder and may in turn assign such rights as permitted under the Credit and Security Agreement, and (ii) the obligations of the Seller under this Article IX shall inure to the Collateral Agent. The Seller agrees that, upon such assignment, the Lenders, the other Secured Parties, and the Collateral Agent or the assignee of any such Person, as applicable, may enforce directly, without joinder of the Buyer, the indemnities set forth in this Article IX.

**ARTICLE X**

**MISCELLANEOUS**

**Section 10.1**      **Amendments and Waivers.**

Except as provided in this Section 10.1, no amendment, waiver or other modification of any provision of this Agreement shall be effective unless signed by the Buyer and Seller and consented to in writing by the Administrative Agent, other than an amendment to this Agreement to incorporate by reference a Loan List on the related Purchase Date. The Buyer shall provide not less than ten (10) Business Days' prior written notice of any such amendment to the Administrative Agent.

**Section 10.2**      **Notices, Etc.**

All notices and other communications provided for hereunder shall, unless otherwise stated herein, be in writing (including communication by facsimile copy or electronic mail) and mailed, e-mailed, transmitted or delivered, as to each party hereto, at its address set forth below or at such other address as shall be designated by such party in a written notice to the other parties hereto.

To the Seller:

Oxford Square Capital Corp.  
8 Sound Shore Drive, Suite 255  
Greenwich, CT 06830  
Attention: Saul Rosenthal  
Tel: (203) 983-5275  
Fax: (203) 983-5290

To the Buyer:

Oxford Square Funding 2018, LLC  
c/o Oxford Square Capital Corp.  
8 Sound Shore Drive, Suite 255  
Greenwich, CT 06830  
Attention: Saul Rosenthal  
Tel: (203) 983-5275  
Fax: (203) 983-5290

With a copy to:

Oxford Square Capital Corp.  
8 Sound Shore Drive, Suite 255  
Greenwich, CT 06830  
Attention: Saul Rosenthal  
Tel: (203) 983-5275  
Fax: (203) 983-5290  
To the Administrative Agent:

Citibank, N.A.  
390 Greenwich Street, 4th Floor  
New York, New York 10013  
Attention: Victoria Chant  
Tel: (212) 723-6078  
Fax: (646) 291-5779

To the Collateral Agent:

The Bank of New York Mellon Trust Company, National Association  
601 Travis Street, 16th Floor  
Houston, TX 77002  
Attention: Global Corporate Trust – Oxford Square Funding 2018, LLC  
Tel: (713) 483-6000  
Fax: (713) 483-6001

To the Collateral Manager:

Oxford Square Capital Corp.  
8 Sound Shore Drive, Suite 255  
Greenwich, CT 06830  
Attention: Saul Rosenthal  
Tel: (203) 983-5275  
Fax: (203) 983-5290

All such notices and communications shall be effective, upon receipt, or in the case of (a) notice by mail, five (5) days after being deposited in the United States mail, first class postage prepaid, (b) notice by e-mail, when verbal communication of receipt is obtained, or (c) notice by facsimile copy, when verbal communication of receipt is obtained.

**Section 10.3 Binding Effect; Benefit of Agreement.**

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns. The Collateral Agent, the Administrative Agent, the Lenders and the other Secured Parties shall be third-party beneficiaries of this Agreement.

**Section 10.4 GOVERNING LAW; CONSENT TO JURISDICTION; WAIVER OF OBJECTION TO VENUE.**

THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK. EACH OF THE PARTIES HERETO HEREBY AGREES TO THE NON-EXCLUSIVE JURISDICTION OF ANY FEDERAL COURT LOCATED WITHIN THE STATE OF NEW YORK. EACH OF THE PARTIES HERETO HEREBY WAIVES ANY OBJECTION BASED ON FORUM NON CONVENIENS, AND ANY OBJECTION TO VENUE OF ANY ACTION INSTITUTED HEREUNDER IN ANY OF THE AFOREMENTIONED COURTS AND CONSENTS TO THE GRANTING OF SUCH LEGAL OR EQUITABLE RELIEF AS IS DEEMED APPROPRIATE BY SUCH COURT.

**Section 10.5 WAIVER OF JURY TRIAL.**

TO THE EXTENT PERMITTED BY APPLICABLE LAW, EACH OF THE PARTIES HERETO HEREBY WAIVES ANY RIGHT TO HAVE A JURY PARTICIPATE IN RESOLVING ANY DISPUTE, WHETHER SOUNDING IN CONTRACT, TORT, OR OTHERWISE BETWEEN THE PARTIES HERETO ARISING OUT OF, CONNECTED WITH, RELATED TO, OR INCIDENTAL TO THE RELATIONSHIP BETWEEN ANY OF THEM IN CONNECTION WITH THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY. INSTEAD, ANY SUCH DISPUTE RESOLVED IN COURT WILL BE RESOLVED IN A BENCH TRIAL WITHOUT A JURY.

**Section 10.6 Costs, Expenses and Taxes.**

(a) In addition to the rights of indemnification granted under Article IX hereof, the Seller agrees to pay on demand all reasonable costs and expenses of the Buyer or its assignees incurred in connection with the preparation, execution, delivery, administration (including periodic auditing), renewal, amendment or modification of, or any waiver or consent issued in connection with, this Agreement and the other documents to be delivered hereunder or in connection herewith, including the reasonable fees and out-of-pocket expenses of counsel with respect thereto and with respect to advising the Buyer or its assignees as to its rights and remedies under this Agreement and the other documents to be delivered hereunder or in connection herewith, and all reasonable costs and expenses, if any (including reasonable counsel fees and expenses), incurred by the Buyer or its assignees in connection with the enforcement of this Agreement and the other documents to be delivered hereunder or in connection herewith.

(b) The Seller shall pay on demand any and all stamp, sales, excise and other taxes and fees payable or determined to be payable to any Governmental Authority in connection with the execution, delivery, filing and recording of this Agreement and the other documents to be delivered hereunder.

(c) The Seller shall pay on demand all other reasonable costs, expenses and Taxes (excluding income taxes) incurred by the Buyer or its assignees under or in connection with this Agreement.

**Section 10.7 No Proceedings.**

The Seller hereby agrees that it will not institute against, or join any other Person in instituting against, the Buyer any Insolvency Proceeding so long as there shall not have elapsed one year and one day since the Final Maturity Date.

**Section 10.8 Recourse Against Certain Parties.**

(a) No recourse under or with respect to any obligation, covenant or agreement (including, without limitation, the payment of any fees or any other obligations) of the Seller as contained in this Agreement or any other agreement, instrument or document entered into by it pursuant hereto or in connection herewith shall be had against any partner, stockholder, incorporator, authorized representative, officer, employee or director of the Seller by the enforcement of any assessment or by any legal or equitable proceeding, by virtue of any statute or otherwise it being expressly agreed and understood that the agreements of the Seller contained in this Agreement and all of the other agreements, instruments and documents entered into by it pursuant hereto or in connection herewith are, in each case, solely the corporate obligations of the Seller, and that no personal liability whatsoever shall attach to or be incurred by any partner, stockholder, incorporator, authorized representative, officer, employee or director of the Seller, or any of them, under or by reason of any of the obligations, covenants or agreements of the Seller contained in this Agreement or in any other such instruments, documents or agreements, or which are implied therefrom, and that any and all personal liability of each partner, stockholder, incorporator, authorized representative, officer, employee or director of the Seller, or any of them, for breaches by the Seller of any such obligations, covenants or agreements, which liability may arise either at common law or at equity, by statute or constitution, or otherwise, is hereby expressly waived as a condition of and in consideration for the execution of this Agreement. The provisions of this Section 10.8(a) shall survive the termination of this Agreement.

(b) No recourse under or with respect to any obligation, covenant or agreement (including, without limitation, the payment of any fees or any other obligations) of the Buyer as contained in this Agreement or any other agreement, instrument or document entered into by it pursuant hereto or in connection herewith shall be had against any member, manager, authorized representative, officer, employee or director of the Buyer by the enforcement of any assessment or by any legal or equitable proceeding, by virtue of any statute or otherwise it being expressly agreed and understood that the agreements of the Buyer contained in this Agreement and all of the other agreements, instruments and documents entered into by it pursuant hereto or in connection herewith are, in each case, solely the limited liability company obligations of the Buyer, and that no personal liability whatsoever shall attach to or be incurred by any authorized representative, member, manager, officer, employee or director of the Buyer or any of them, under or by reason of any of the obligations, covenants or agreements of the Buyer contained in this Agreement or in any other such instruments, documents or agreements, or which are implied therefrom, and that any and all personal liability of each authorized representative, member, manager, officer, employee or director of the Buyer, or any of them, for breaches by the Buyer of any such obligations, covenants or agreements, which liability may arise either at common law or at equity, by statute or constitution, or otherwise, is hereby expressly waived as a condition of and in consideration for the execution of this Agreement. The provisions of this Section 10.8(b) shall survive the termination of this Agreement.

**Section 10.9 Protection of Right, Title and Interest in the Transferred Assets; Further Action Evidencing Purchases.**

(a) The Seller shall cause this Agreement, all amendments hereto and/or all financing statements and continuation statements and any other necessary documents covering the Buyer's right, title and interest to the Transferred Assets to be promptly recorded, registered and filed, and at all times to be kept recorded, registered and filed, all in such manner and in such places as may be required by law fully to preserve and protect the right, title and interest of the Buyer hereunder to all property comprising the Transferred Assets. The Seller shall deliver to the Buyer the file-stamped copies of, or filing receipts for, any document recorded, registered or filed as provided above, as soon as available following such recording, registration or filing. The Seller shall cooperate fully with the Buyer in connection with the obligations set forth above and will execute any and all documents reasonably required to fulfill the intent of this Section 10.9(a).

(b) The Seller agrees that from time to time, at its expense, it will promptly execute and deliver all instruments and documents, and take all actions, that the Buyer, the Collateral Agent, on behalf of the Secured Parties, may reasonably request in order to perfect, protect or more fully evidence the Purchases hereunder and the security and/or interest granted in the Transferred Assets, or to enable the Buyer or the Collateral Agent, as applicable, to exercise and enforce their rights and remedies hereunder or under any Facility Document. At any time the Buyer or the Collateral Agent may direct the Seller or any Collateral Manager to notify each administrative agent under each Transferred Asset or the applicable Obligors thereof if no administrative agent exists, at the Seller's expense, of the interest of the Buyer and the interest of the Collateral Agent for the benefit of the Secured Parties in the Transferred Assets under this Agreement and may direct that payments of all amounts due or that become due under any or all of the Transferred Assets be made directly to the Buyer or the Collateral Agent, on behalf of the Secured Parties.

(c) If the Seller fails to perform any of its obligations hereunder, the Buyer or the Collateral Agent may (but shall not be required to) perform, or cause performance of, such obligation; and the Buyer's or the Collateral Agent's costs and expenses incurred in connection therewith shall be payable by the Seller as provided in Article IX. The Seller irrevocably authorizes the Buyer or the Collateral Agent at any time and from time to time at the Buyer's or the Collateral Agent's sole discretion and appoints the Collateral Agent as its attorney-in-fact to act on behalf of the Seller (i) to execute on behalf of the Seller and to file financing statements on behalf of the Seller, as debtor, necessary or desirable in the Collateral Agent's sole discretion to perfect and to maintain the perfection and priority of the interest of the Buyer (and its assignees) in the Transferred Assets and (ii) to file a carbon, photographic or other reproduction of this Agreement or any financing statement with respect to the Transferred Assets as a financing statement in such offices as the Collateral Agent in its sole discretion deems necessary or desirable to perfect and to maintain the perfection and priority of the interests of the Buyer (and its assignees) in the Transferred Assets. This appointment is coupled with an interest and is irrevocable.

**Section 10.10 Execution in Counterparts; Severability; Integration.**

This Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts (including by facsimile), 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. In case any provision in or obligation under this Agreement shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby. This Agreement and any agreements or letters (including fee letters) executed in connection herewith contains 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.

**Section 10.11 Waiver of Setoff.**

(a) The Seller's obligations under this Agreement shall not be affected by any right of setoff, counterclaim, recoupment, defense or other right the Seller might have against the Buyer, the Collateral Agent, the Lenders, the other Secured Parties or any assignee of such Persons, all of which rights are hereby waived by the Seller.

(b) The Buyer shall have the right to set-off against the Seller any amounts to which the Seller may be entitled hereunder and to apply such amounts to any claims the Buyer may have against the Seller from time to time under this Agreement. Upon any such set-off, the Buyer shall give notice of the amount thereof and the reasons therefor to the Seller.

**Section 10.12 Heading and Exhibits.**

The headings herein are for purposes of references only and shall not otherwise affect the meaning or interpretation of any provision hereof. The schedules and exhibits attached hereto and referred to herein shall constitute a part of this Agreement and are incorporated into this Agreement for all purposes.

**Section 10.13 Rights of Inspection.**

Prior to the First Amendment Effective Date and periodically thereafter at the discretion of the Buyer, the Seller will permit the Buyer to review the Collateral Manager's collection and administration of the Transferred Assets in order to assess compliance by the Collateral Manager with the Credit and Collection Policy, as well as with this Agreement and may conduct an audit of the Transferred Assets and Required Loan Documents in conjunction with such a review. Such review shall be reasonable in scope and shall be completed in a reasonable period of time. The Seller shall be required to bear the expense of no more than two such reviews within any 12-month period and any additional reviews shall be at the expense of the Buyer. Without limiting the foregoing provisions of this Section 10.13, from time to time on request of the Buyer, the Seller shall permit certified public accountants or other auditors acceptable to the Buyer to conduct, at the Seller's expense, a review of the Required Loan Documents and all other documentation regarding the Transferred Assets.

**Section 10.14 Assignment.**

Notwithstanding anything to the contrary contained herein, this Agreement may not be assigned by the Buyer or the Seller except as permitted by this Section 10.14 or by the Credit and Security Agreement. Simultaneously with the execution and delivery of this Agreement, the Buyer shall assign all of its right, title and interest herein to the Collateral Agent for the benefit of the Secured Parties, to which assignment the Seller hereby expressly consents. Upon assignment, the Seller agrees to perform its obligations hereunder for the benefit of the Collateral Agent for the benefit of the Secured Parties and the Collateral Agent, in such capacity, shall be a third party beneficiary hereof. The Collateral Agent on behalf of the Secured Parties under the Credit and Security Agreement upon such assignment may enforce the provisions of this Agreement, exercise the rights of the Buyer and enforce the obligations of the Seller hereunder without joinder of the Buyer.

**Section 10.15 No Waiver; Cumulative Remedies.**

No failure to exercise and no delay in exercising, on the part of the Buyer or the Seller, any right, remedy, power or privilege hereunder, shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided are cumulative and not exhaustive of any rights, remedies, powers and privileges provided by law. Any waiver of this Agreement shall be effective only in the specific instance and for the specific purpose for which given.

[Signatures appear on following page.]

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.

**BUYER:**

**OXFORD SQUARE FUNDING 2018, LLC**

By: \_\_\_\_\_  
Jonathan H. Cohen  
Manager

**SELLER:**

**OXFORD SQUARE CAPITAL CORP.**

By: \_\_\_\_\_  
Saul Rosenthal  
President

[Signature Page to Sale, Contribution and Master Participation Agreement]

---

[\(Back To Top\)](#)