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

FORM 10-Q

(Mark One)

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

For the quarterly period ended June 30, 2020 or

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

For the transition period from _____to _____

Commission File Number 001-36283

The New Home Company Inc.

(Exact Name of Registrant as Specified in Its Charter)

Delaware	**27-0560089**
(State or Other Jurisdiction of Incorporation or Organization)	**(I.R.S. Employer Identification No.)**

85 Enterprise, Suite 450
Aliso Viejo, California 92656
(Address of principal executive offices) (Zip Code)
Registrant's telephone number, including area code (949) 382-7800

Not Applicable
(Former name, former address and former fiscal year, if changed since last report)

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

Title of each class	**Trading Symbol(s)**	**Name of each exchange on which registered**
Common Stock, $0.01 par value	NWHM	New York Stock Exchange
Series A Junior Participating Preferred Share Repurchase Rights	--	New York Stock Exchange

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

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

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

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

Registrant's shares of common stock outstanding as of July 29, 2020: 18,231,954

THE NEW HOME COMPANY INC.
FORM 10-Q
INDEX

PART I – FINANCIAL INFORMATION

Item 1. Financial Statements

THE NEW HOME COMPANY INC.
CONDENSED CONSOLIDATED BALANCE SHEETS
(Dollars in thousands, except par value amounts)

	June 30, 2020	December 31, 2019
	(Unaudited)	
Assets		
Cash and cash equivalents	$ 85,588	$ 79,314
Restricted cash	144	117
Contracts and accounts receivable	7,112	15,982
Due from affiliates	140	238
Real estate inventories	370,949	433,938
Investment in and advances to unconsolidated joint ventures	12,931	30,217
Deferred tax asset, net	15,866	17,503
Other assets	48,864	25,880
Total assets	$ 541,594	$ 603,189
Liabilities and equity		
Accounts payable	$ 16,112	$ 25,044
Accrued expenses and other liabilities	33,280	40,554
Senior notes, net	295,124	304,832
Total liabilities	344,516	370,430
Commitments and contingencies (Note 11)		

Equity:		
Stockholders' equity:		
Preferred stock, $0.01 par value, 50,000,000 shares authorized, no shares outstanding	—	—
Common stock, $0.01 par value, 500,000,000 shares authorized, 18,231,954 and 20,096,969, shares issued and outstanding as of June 30, 2020 and December 31, 2019, respectively	182	201
Additional paid-in capital	190,969	193,862
Retained earnings	5,815	38,584
Total stockholders' equity	196,966	232,647
Non-controlling interest in subsidiary	112	112
Total equity	197,078	232,759
Total liabilities and equity	$ 541,594	$ 603,189

See accompanying notes to the unaudited condensed consolidated financial statements.

Table of Contents

THE NEW HOME COMPANY INC.
CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS
(Dollars in thousands, except per share amounts)
(Unaudited)

	Three Months Ended June 30,		Six Months Ended June 30,	
	2020	**2019**	**2020**	**2019**
Revenues:				
Home sales	$ 77,757	$ 140,464	$ 173,416	$ 239,650
Land sales	10	—	157	—
Fee building, including management fees	21,193	22,285	57,420	41,947
	98,960	162,749	230,993	281,597
Cost of Sales:				
Home sales	66,216	123,525	150,938	210,094
Home sales impairments	19,000	—	19,000	—
Land sales	10	—	157	—
Fee building	20,985	21,770	56,482	41,038
	106,211	145,295	226,577	251,132
Gross Margin:				
Home sales	(7,459)	16,939	3,478	29,556
Land sales	—	—	—	—
Fee building	208	515	938	909
	(7,251)	17,454	4,416	30,465
Selling and marketing expenses	(6,386)	(9,683)	(13,852)	(18,362)
General and administrative expenses	(6,892)	(5,841)	(12,915)	(13,232)
Equity in net income (loss) of unconsolidated joint ventures	(19,962)	185	(21,899)	369
Interest expense	(1,271)	—	(1,989)	—
Project abandonment costs	(94)	(14)	(14,130)	(19)
Gain on early extinguishment of debt	702	552	579	969
Other income (expense), net	(68)	(88)	155	(276)
Pretax income (loss)	(41,222)	2,565	(59,635)	(86)
(Provision) benefit for income taxes	16,929	(974)	26,866	(310)
Net income (loss)	(24,293)	1,591	(32,769)	(396)
Net income attributable to non-controlling interest	—	(19)	—	(19)
Net income (loss) attributable to The New Home Company Inc.	$ (24,293)	$ 1,572	$ (32,769)	$ (415)
Earnings (loss) per share attributable to The New Home Company Inc.:				
Basic	$ (1.32)	$ 0.08	$ (1.71)	$ (0.02)
Diluted	$ (1.32)	$ 0.08	$ (1.71)	$ (0.02)
Weighted average shares outstanding:				
Basic	18,341,549	20,070,914	19,146,687	20,028,600
Diluted	18,341,549	20,095,533	19,146,687	20,028,600

See accompanying notes to the unaudited condensed consolidated financial statements.

Table of Contents

THE NEW HOME COMPANY INC.
CONDENSED CONSOLIDATED STATEMENTS OF EQUITY
(Dollars in thousands)
(Unaudited)

	Stockholders' Equity Three Months Ended June 30						
	Number of Shares of Common Stock	Common Stock	Additional Paid-in Capital	Retained Earnings	Total Stockholders' Equity	Non-controlling Interest in Subsidiary	Total Equity
Balance at March 31, 2019	20,049,113	$ 200	$ 192,169	$ 44,634	$ 237,003	$ 76	$ 237,079
Net income	—	—	—	1,572	1,572	19	1,591
Stock-based compensation expense	—	—	523	—	523	—	523
Shares issued through stock plans	47,856	1	(1)	—	—	—	—
Balance at June 30, 2019	20,096,969	$ 201	$ 192,691	$ 46,206	$ 239,098	$ 95	$ 239,193
Balance at March 31, 2020	18,957,165	$ 190	$ 191,926	$ 30,108	$ 222,224	$ 112	$ 222,336
Net loss	—	—	—	(24,293)	(24,293)	—	(24,293)
Stock-based compensation expense	—	—	521	—	521	—	521
Shares net settled with the Company to satisfy employee personal income tax liabilities resulting from share based compensation plans	(546)	—	(1)	—	(1)	—	(1)
Shares issued through stock plans	92,635	1	(1)	—	—	—	—
Repurchase of common stock	(817,300)	(9)	(1,476)	—	(1,485)	—	(1,485)
Balance at June 30, 2020	18,231,954	$ 182	$ 190,969	$ 5,815	$ 196,966	$ 112	$ 197,078

	Stockholders' Equity Six Months Ended June 30						
	Number of Shares of Common Stock	Common Stock	Additional Paid-in Capital	Retained Earnings	Total Stockholders' Equity	Non-controlling Interest in Subsidiary	Total Equity
Balance at December 31, 2018	20,058,904	$ 201	$ 193,132	$ 46,621	$ 239,954	$ 76	$ 240,030
Net income (loss)	—	—	—	(415)	(415)	19	(396)
Stock-based compensation expense	—	—	1,089	—	1,089	—	1,089
Shares net settled with the Company to satisfy employee personal income tax liabilities resulting from share based compensation plans	(85,420)	—	(488)	—	(488)	—	(488)
Shares issued through stock plans	277,401	2	(2)	—	—	—	—
Repurchase of common stock	(153,916)	(2)	(1,040)	—	(1,042)	—	(1,042)
Balance at June 30, 2019	20,096,969	$ 201	$ 192,691	$ 46,206	$ 239,098	$ 95	$ 239,193
Balance at December 31, 2019	20,096,969	$ 201	$ 193,862	$ 38,584	$ 232,647	$ 112	$ 232,759
Net loss	—	—	—	(32,769)	(32,769)	—	(32,769)
Stock-based compensation expense	—	—	1,110	—	1,110	—	1,110
Shares net settled with the Company to satisfy employee personal income tax liabilities resulting from share based compensation plans	(58,644)	—	(304)	—	(304)	—	(304)
Shares issued through stock plans	244,812	2	(2)	—	—	—	—
Repurchase of common stock	(2,051,183)	(21)	(3,697)	—	(3,718)	—	(3,718)
Balance at June 30, 2020	18,231,954	$ 182	$ 190,969	$ 5,815	$ 196,966	$ 112	$ 197,078

See accompanying notes to the unaudited condensed consolidated financial statements.

Table of Contents

THE NEW HOME COMPANY INC.
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(Dollars in thousands)
(Unaudited)

	Six Months Ended June 30,	
	2020	2019
Operating activities:		
Net loss	$ (32,769)	$ (396)
Adjustments to reconcile net loss to net cash provided by operating activities:		
Deferred taxes	1,637	—
Amortization of stock-based compensation	1,110	1,089

Distributions of earnings from unconsolidated joint ventures	—	279
Inventory impairments	19,000	—
Project abandonment costs	14,130	19
Equity in net (income) loss of unconsolidated joint ventures	21,899	(369)
Depreciation and amortization	3,623	5,042
Gain on early extinguishment of debt	(579)	(969)
Net changes in operating assets and liabilities:		
Contracts and accounts receivable	8,870	2,152
Due from affiliates	98	975
Real estate inventories	30,579	24,970
Other assets	(31,133)	(2,240)
Accounts payable	(8,932)	(12,762)
Accrued expenses and other liabilities	(5,510)	1,102
Net cash provided by operating activities	22,023	18,892
Investing activities:		
Purchases of property and equipment	(143)	(8)
Contributions and advances to unconsolidated joint ventures	(3,847)	(4,120)
Distributions of capital and repayment of advances from unconsolidated joint ventures	2,370	4,928
Net cash (used in) provided by investing activities	(1,620)	800
Financing activities:		
Borrowings from credit facility	—	40,000
Repayments of credit facility	—	(41,500)
Repurchases of senior notes	(9,825)	(10,856)
Proceeds from note payable	7,036	—
Repayment of note payable	(7,036)	—
Payment of debt issuance costs	(255)	—
Repurchases of common stock	(3,718)	(1,042)
Tax withholding paid on behalf of employees for stock awards	(304)	(488)
Net cash used in financing activities	(14,102)	(13,886)
Net increase in cash, cash equivalents and restricted cash	6,301	5,806
Cash, cash equivalents and restricted cash – beginning of period	79,431	42,542
Cash, cash equivalents and restricted cash – end of period	$ 85,732	$ 48,348

See accompanying notes to the unaudited condensed consolidated financial statements.

Table of Contents

THE NEW HOME COMPANY INC.
NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

1. Organization and Summary of Significant Accounting Policies

Organization

The New Home Company Inc. (the "Company"), a Delaware corporation, and its subsidiaries are primarily engaged in all aspects of residential real estate development, including acquiring land and designing, constructing and selling homes in California and Arizona.

Based on our public float of $58.9 million at June 28, 2019, we are a smaller reporting company and are subject to reduced disclosure obligations in our periodic reports and proxy statements.

Basis of Presentation

The unaudited condensed consolidated financial statements include the accounts of the Company and its wholly owned subsidiaries. All significant intercompany accounts have been eliminated upon consolidation.

The accompanying unaudited condensed consolidated financial statements have been prepared in accordance with U.S. generally accepted accounting principles ("GAAP") for interim financial information and with the instructions to Form 10-Q and Regulation S-X and should be read in conjunction with the consolidated financial statements and notes thereto included in our Annual Report on Form 10-K for the year ended December 31, 2019. The accompanying unaudited condensed consolidated financial statements include all adjustments (consisting of normal recurring entries) necessary for the fair presentation of our results for the interim period presented. Results for the interim periods are not necessarily indicative of the results to be expected for the full year due to seasonal variations and other factors, such as the effects of the novel coronavirus ("COVID-19") and its impact on our future results.

Unless the context otherwise requires, the terms "we", "us", "our" and "the Company" refer to the Company and its wholly owned subsidiaries, on a consolidated basis.

Use of Estimates

The preparation of the Company's consolidated financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the amounts reported in the accompanying condensed consolidated financial statements and notes. Accordingly, actual results could differ materially from these estimates.

Reclassifications

No items in the prior year condensed consolidated financial statements have been reclassified.

Segment Reporting

ASC 280, *Segment Reporting* ("ASC 280") established standards for the manner in which public enterprises report information about operating segments. The Company's reportable segments are Arizona homebuilding, California homebuilding, and fee building. In accordance with ASC 280, our California homebuilding reportable segment aggregates the Southern California and Northern California homebuilding operating segments based on the similarities in long-term economic characteristics.

Cash and Cash Equivalents

We define cash and cash equivalents as cash on hand, demand deposits with financial institutions, and short term liquid investments with a maturity date of less than three months from the date of purchase.

THE NEW HOME COMPANY INC.
NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

Restricted Cash

Restricted cash of $0.1 million and $0.1 million as of June 30, 2020 and December 31, 2019, respectively, is held in accounts for payments of subcontractor costs incurred in connection with various fee building projects.

The table below shows the line items and amounts of cash and cash equivalents and restricted cash as reported within the Company's condensed consolidated balance sheets for each period shown that sum to the total of the same such amounts at the end of the periods shown in the accompanying condensed consolidated statements of cash flows.

	Six Months Ended June 30,	
	2020	2019
	(Dollars in thousands)	
Cash and cash equivalents	$ 85,588	$ 48,224
Restricted cash	144	124
Total cash, cash equivalents, and restricted cash shown in the statements of cash flows	$ 85,732	$ 48,348

Real Estate Inventories and Cost of Sales

We capitalize pre-acquisition, land, development and other allocated costs, including interest, property taxes and indirect construction costs. Pre-acquisition costs, including nonrefundable land deposits, are expensed to project abandonment costs if we determine continuation of the prospective project is not probable.

Land, development and other common costs are typically allocated to real estate inventories using a methodology that approximates the relative-sales-value method. Home construction costs per production phase are recorded using the specific identification method. Cost of sales for homes closed includes the estimated total construction costs of each home at completion and an allocation of all applicable land acquisition, land development and related common costs (both incurred and estimated to be incurred) based upon the relative-sales-value of the home within each project. Changes in estimated development and common costs are allocated prospectively to remaining homes in the project.

In accordance with ASC 360, *Property, Plant and Equipment* ("ASC 360"), inventory is stated at cost, unless the carrying amount is determined not to be recoverable, in which case inventory is written down to its fair value. We review each real estate asset on a quarterly basis or whenever indicators of impairment exist. Real estate assets include projects actively selling and projects under development or held for future development. Indicators of impairment include, but are not limited to, significant decreases in local housing market values and selling prices of comparable homes, significant decreases in gross margins or sales absorption rates, costs significantly in excess of budget, and actual or projected cash flow losses.

If there are indicators of impairment, we perform a detailed budget and cash flow review of the applicable real estate inventories to determine whether the estimated future undiscounted cash flows of the project are more or less than the asset’s carrying value. If the estimated future undiscounted cash flows exceed the asset’s carrying value, no impairment adjustment is required. However, if the estimated future undiscounted cash flows are less than the asset’s carrying value then the asset is impaired. If the asset is deemed impaired, it is written down to its fair value in accordance with ASC 820, *Fair Value Measurements and Disclosures* ("ASC 820").

When estimating undiscounted future cash flows of a project, we make various assumptions, including: (i) expected sales prices and sales incentives to be offered, including the number of homes available, pricing and incentives being offered by us or other builders in other projects, and future sales price adjustments based on market and economic trends; (ii) expected sales pace and cancellation rates based on local housing market conditions, competition and historical trends; (iii) costs expended to date and expected to be incurred including, but not limited to, land and land development costs, home construction costs, interest costs, indirect construction and overhead costs, and selling and marketing costs; (iv) alternative product offerings that may be offered that could have an impact on sales pace, sales price and/or building costs; and (v) alternative uses for the property.

Many assumptions are interdependent and a change in one may require a corresponding change to other assumptions. For example, increasing or decreasing sales absorption rates has a direct impact on the estimated per unit sales price of a home, and the level of time sensitive costs (such as indirect construction, overhead and carrying costs). Depending on the underlying objective of the project, assumptions could have a significant impact on the projected cash flow analysis. For example, if our objective is to preserve operating margins, our cash flow analysis will be different than if the objective is to increase the velocity of sales. These objectives may vary significantly from project to project and change over time.

THE NEW HOME COMPANY INC.
NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

If a real estate asset is deemed impaired, the impairment is calculated by determining the amount the asset's carrying value exceeds its fair value in accordance with ASC 820. We calculate the fair value of real estate inventories considering a land residual value analysis and a discounted cash flow analysis. Under the discounted cash flow method, the fair value is determined by calculating the present value of future cash flows using a risk adjusted discount rate. Some of the critical assumptions involved with measuring the asset's fair value include estimating future revenues, sales absorption rates, development and construction costs, and other applicable project costs. This evaluation and the assumptions used by management to determine future estimated cash flows and fair value require a substantial degree of judgment, especially with respect to real estate projects that have a substantial amount of development to be completed, have not started selling or are in the early stages of sales, or are longer in duration. Actual revenues, costs and time to complete and sell a community could vary from these estimates which could impact the calculation of fair value of the asset and the corresponding amount of impairment that is recorded in our results of operations. For the three and six months ended June 30, 2020, the Company recorded $19.0 million in home sales impairment charges. For additional information regarding these impairment charges, please see Note 4. No real estate impairments were recorded during the three and six months ended June 30, 2019. In cases where we decide to abandon a project, we will fully expense all costs capitalized to such project and will expense and accrue any additional costs that we are contractually obligated to incur. For the three and six months ended June 30, 2020 and 2019, $0.1 million, $14.1 million, $14,000 and $19,000 in project abandonment costs were incurred, respectively.

Capitalization of Interest

We follow the practice of capitalizing interest to real estate inventories during the period of development and to investments in unconsolidated joint ventures, when applicable, in accordance with ASC 835, *Interest* ("ASC 835"). Interest capitalized as a cost component of real estate inventories is included in cost of home sales as related homes or lots are sold. To the extent interest is capitalized to investment in unconsolidated joint ventures, it is included as a reduction of equity in net income (loss) of unconsolidated joint ventures when the related homes or lots are sold to third parties. In instances where the Company purchases land from an unconsolidated joint venture, the pro rata share of interest capitalized to investment in unconsolidated joint ventures is added to the basis of the land acquired and recognized as a cost of sale upon the delivery of the related homes or land to a third-party buyer. To the extent our debt exceeds our qualified assets as defined in ASC 835, we expense a portion of the interest incurred by us. Qualified assets represent projects that are actively selling or under development as well as investments in unconsolidated joint ventures accounted for under the equity method until such equity investees begin their principal operations.

Revenue Recognition

The Company recognizes revenue in accordance with ASC 606, *Revenue from Contracts with Customers* ("ASC 606"). Under ASC 606, we recognize revenue to depict the transfer of promised goods or services to customers in an amount that reflects the consideration to which the entity expects to be entitled in exchange for those goods or services. To do this, the Company performs the following five steps as outlined in ASC 606: (i) identify the contract(s) with a customer; (ii) identify the performance obligations in the contract; (iii) determine the transaction price; (iv) allocate the transaction price to the performance obligations in the contract; and (v) recognize revenue when (or as) the Company satisfies a performance obligation.

Home Sales and Profit Recognition

In accordance with ASC 606, home sales revenue is recognized when our performance obligations within the underlying sales contracts are fulfilled. We consider our obligations fulfilled when closing conditions are complete, title has transferred to the homebuyer, and collection of the purchase price is reasonably assured. Sales incentives are recorded as a reduction of revenues when the respective home is closed. The profit we record is based on the calculation of cost of sales, which is dependent on our allocation of costs, as described in more detail above in the section entitled "Real Estate Inventories and Cost of Sales." When it is determined that the earnings process is not complete, the related revenue and profit are deferred for recognition in future periods.

Land Sales and Profit Recognition

In accordance with ASC 606, land sales revenue is recognized when our performance obligations within the underlying sales contracts are fulfilled. The performance obligations in land sales contracts are typically satisfied at the point in time consideration and title is transferred through escrow at closing. Total revenue is typically recognized simultaneously with transfer of title to the customer. In instances where material performance obligations may exist after the closing date, a portion of the price is allocated to each performance obligation with revenue recognized as such obligations are completed. Variable consideration, such as profit participation, may be included within the land sales transaction price based on the terms of a contract. The Company includes the estimated amount of variable consideration to which it will be entitled only to the extent it is probable that a significant reversal in the amount of cumulative revenue will not occur when any uncertainty associated with the variable consideration is subsequently resolved.

THE NEW HOME COMPANY INC.
NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

Fee Building

The Company enters into fee building agreements to provide services whereby it builds homes on behalf of third-party property owners. The third-party property owner funds all project costs incurred by the Company to build and sell the homes. The Company primarily enters into cost plus fee contracts where it charges third-party property owners for all direct and indirect costs plus a fee. The fee is typically a per-unit fixed fee or based on a percentage of the cost or home sales revenue of the project, depending on the terms of the agreement with the third-party property owner. For these types of contracts, the Company recognizes revenue based on the actual total costs it has incurred plus the applicable fee. In accordance with ASC 606, we apply the percentage-of-completion method, using the cost-to-cost approach, as it most accurately measures the progress of our efforts in satisfying our obligations within the fee building agreements. Under this approach, revenue is earned in proportion to total costs incurred divided by total costs expected to be incurred. In the course of providing fee building services, the Company routinely subcontracts for services and incurs other direct costs on behalf of the property owners. These costs are passed through to the property owners and, in accordance with GAAP, are included in the Company's revenues and cost of sales.

The Company also provides construction management and coordination services and sales and marketing services as part of agreements with third parties and its unconsolidated joint ventures. In certain contracts, the Company also provides project management and administrative services. For most services provided, the Company fulfills its related obligations as time-based measures, according to the input method guidance described in ASC 606. Accordingly, revenue is recognized on a straight-line basis as the Company's efforts are expended evenly throughout the performance period. The Company may also have an obligation to manage the home or lot sales process as part of providing sales and marketing services. This obligation is considered fulfilled when related homes or lots close escrow, as these events represent milestones reached according to the output method guidance described in ASC 606. Accordingly, revenue is recognized in the period that the corresponding lots or homes close escrow. Costs associated with these services are recognized as incurred.

The Company's fee building revenues have historically been concentrated with a small number of customers. For the three and six months ended June 30, 2020 and 2019, one customer comprised 94%, 97%, 95% and 93%, respectively, of fee building revenue. The balance of the fee building revenues primarily represented management fees earned from unconsolidated joint ventures and third-party customers. As of June 30, 2020 and December 31, 2019, one customer comprised 51% and 65% of contracts and accounts receivable, respectively, with the balance of contracts and accounts receivable primarily representing escrow receivables from home sales.

Variable Interest Entities

The Company accounts for variable interest entities in accordance with ASC 810, *Consolidation* ("ASC 810"). Under ASC 810, a variable interest entity ("VIE") is created when: (a) the equity investment at risk in the entity is not sufficient to permit the entity to finance its activities without additional subordinated financial support provided by other parties, including the equity holders; (b) the entity's equity holders as a group either (i) lack the direct or indirect ability to make decisions about the entity, (ii) are not obligated to absorb expected losses of the entity or (iii) do not have the right to receive expected residual returns of the entity; or (c) the entity's equity holders have voting rights that are not proportionate to their economic interests, and the activities of the entity involve or are conducted on behalf of the equity holder with disproportionately few voting rights.

Once we consider the sufficiency of equity and voting rights of each legal entity, we then evaluate the characteristics of the equity holders' interests, as a group, to see if they qualify as controlling financial interests. Our real estate joint ventures consist of limited partnerships and limited liability companies. For entities structured as limited partnerships or limited liability companies, our evaluation of whether the equity holders (equity partners other than us in each our joint ventures) lack the characteristics of a controlling financial interest includes the evaluation of whether the limited partners or non-managing members (the non-controlling equity holders) lack both substantive participating rights and substantive kick-out rights, defined as follows:

- Participating rights - provide the non-controlling equity holders the ability to direct significant financial and operational decision made in the ordinary course of business that most significantly influence the entity's economic performance.

- Kick-out rights - allow the non-controlling equity holders to remove the general partner or managing member without cause.

If we conclude that any of the three characteristics of a VIE are met, including if equity holders lack the characteristics of a controlling financial interest because they lack both substantive participating rights and substantive kick-out rights, we conclude that the entity is a VIE and evaluate it for consolidation under the variable interest model.

If an entity is deemed to be a VIE pursuant to ASC 810, the enterprise that has both (i) the power to direct the activities of a VIE that most significantly impact the entity's economic performance and (ii) the obligation to absorb the expected losses of the entity or right to receive benefits from the entity that could be potentially significant to the VIE is considered the primary beneficiary and must consolidate the VIE.

THE NEW HOME COMPANY INC.
NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

Under ASC 810, a nonrefundable deposit paid to an entity may be deemed to be a variable interest that will absorb some or all of the entity's expected losses if they occur. Our land purchase and lot option deposits generally represent our maximum exposure to the land seller if we elect not to purchase the optioned property. In some instances, we may also expend funds for due diligence, development and construction activities with respect to optioned land prior to takedown. Such costs are classified as real estate inventories, which we would have to write off should we not exercise the option. Therefore, whenever we enter into a land option or purchase contract with an entity and make a nonrefundable deposit, a VIE may have been created. At June 30, 2020, the Company had outstanding nonrefundable cash deposits of $12.6 million pertaining to land option contracts and purchase contracts.

As of June 30, 2020 and December 31, 2019, the Company was not required to consolidate any VIEs. In accordance with ASC 810, we perform ongoing reassessments of whether we are the primary beneficiary of a VIE.

Non-controlling Interest

During 2013, the Company entered into a joint venture agreement with a third-party property owner. In accordance with ASC 810, the Company analyzed this arrangement and determined that it was not a VIE; however, the Company determined it was required to consolidate the joint venture as the Company has a controlling financial interest with the powers to direct the major decisions of the entity. As of June 30, 2020 and December 31, 2019, the third-party investor had an equity balance of $0.1 million and $0.1 million, respectively.

Investments in and Advances to Unconsolidated Joint Ventures

We use the equity method to account for investments in homebuilding and land development joint ventures when any of the following situations exist: 1) the joint venture qualifies as a VIE and we are not the primary beneficiary, 2) we do not control the joint venture but have the ability to exercise significant influence over its operating and financial policies, or 3) we function as the managing member or general partner of the joint venture and our joint venture partner has substantive participating rights or can replace us as managing member or general partner without cause.

As of June 30, 2020, the Company concluded that none of its joint ventures were VIEs and accounted for these entities under the equity method of accounting.

Under the equity method, we recognize our proportionate share of earnings and losses generated by the joint venture upon the delivery of lots or homes to third parties. Our proportionate share of intra-entity profits and losses are eliminated until the related asset has been sold by the unconsolidated joint venture to third parties. We classify cash distributions received from equity method investees using the cumulative earnings approach consistent with ASC 230, *Statement of Cash Flows* ("ASC 230"). Under the cumulative earnings approach, distributions received are considered returns on investment and is classified as cash inflows from operating activities unless the cumulative distributions received exceed cumulative equity in earnings. When such an excess occurs, the current-period distribution up to this excess is considered a return of investment and is classified as cash inflows from investing activities. Our ownership interests in our unconsolidated joint ventures vary, but are generally less than or equal to 35%. The accounting policies of our joint ventures are consistent with those of the Company.

We review real estate inventory held by our unconsolidated joint ventures for impairment on a quarterly basis, consistent with how we review our real estate inventories as described in more detail above in the section entitled "Real Estate Inventories and Cost of Sales." We also review our investments in and advances to unconsolidated joint ventures for evidence of other-than-temporary declines in value. To the extent we deem any declines in value of our investment in and advances to unconsolidated joint ventures to be other-than-temporary, we impair our investment accordingly. For the three and six months ended June 30, 2020 and 2019, the Company recorded other-than-temporary, noncash impairment charges of $20.0 million, $22.3 million, $0 and $0, respectively, related to our investment in and advances to unconsolidated joint ventures.

Selling and Marketing Expense

Costs incurred for tangible assets directly used in the sales process such as our sales offices, design studios and model landscaping and furnishings are capitalized to other assets in the accompanying condensed consolidated balance sheets under ASC 340, *Other Assets and Deferred Costs* ("ASC 340"). These costs are depreciated to selling and marketing expenses generally over the shorter of 30 months or the actual estimated life of the selling community. All other selling and marketing costs, such as commissions and advertising, are expensed as incurred.

THE NEW HOME COMPANY INC.
NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

Warranty and Litigation Accruals

We offer warranties on our homes that generally cover various defects in workmanship or materials, or structural construction defects for one year. In addition, we provide a more limited warranty, which generally ranges from a minimum of two years up to the period covered by the applicable statute of repose, that covers certain defined construction defects. Estimated future direct warranty costs are accrued and charged to cost of sales in the period when the related homebuilding revenues are recognized. Amounts are accrued based upon the Company's historical claim and expense rates. In addition, the Company has received warranty payments from third-party property owners for certain of its fee building projects that have since closed-out where the Company has the contractual risk of construction. These payments are recorded as warranty accruals. We assess the adequacy of our warranty accrual on a quarterly basis and adjust the amounts recorded if necessary. Our warranty accrual is included in accrued expenses and other liabilities in the accompanying condensed consolidated balance sheets and adjustments to our warranty accrual are recorded through cost of sales.

While our subcontractors who perform our homebuilding work generally provide us with an indemnity for claims relating to their workmanship and materials, we also purchase general liability insurance that covers development and construction activity at each of our communities. Our subcontractors are usually covered by these programs through an owner-controlled insurance program, or "OCIP." Consultants such as engineers and architects are generally not covered by the OCIP but are required to maintain their own insurance. In general, we maintain insurance, subject to deductibles and self-insured retentions, to protect us against various risks associated with our activities, including, among others, general liability, "all-risk" property, construction defects, workers' compensation, automobile, and employee fidelity. Our master general liability policies which cover most of our projects allow for our warranty spend to erode our self-insured retention requirements. We establish a separate reserve for warranty and for known and incurred but not reported ("IBNR") construction defect claims based on our historical claim and expense data. Our warranty accrual and litigation reserves for construction defect claims are presented on a gross basis within accrued expenses and other liabilities in our consolidated financial statements without consideration of insurance recoveries. Expected recoveries from insurance carriers are presented as warranty insurance receivables within other assets in our consolidated financial statements and are recorded based on actual insurance claims and amounts determined using our construction defect claim and warranty accrual estimates, our insurance policy coverage limits for the applicable policy years and historical recovery rates.

Contracts and Accounts Receivable

Contracts and accounts receivable primarily represent the fees earned, but not collected, and reimbursable project costs incurred in connection with fee building agreements. The Company periodically evaluates the collectability of its contracts receivable, and, if it is determined that a receivable might not be fully collectible, an allowance is recorded for the amount deemed uncollectible. This allowance for doubtful accounts is estimated based on management's evaluation of the contracts involved and the financial condition of its customers. Factors considered in such evaluations include, but are not limited to: (i) customer type; (ii) historical contract performance; (iii) historical collection and delinquency trends; (iv) customer credit worthiness; and (v) general economic conditions. In addition to contracts receivable, escrow receivables are included in contracts and accounts receivable in the accompanying condensed consolidated balance sheets. As of June 30, 2020 and December 31, 2019, no allowance was recorded related to contracts and accounts receivable.

Property, Equipment and Capitalized Selling and Marketing Costs

Property, equipment and capitalized selling and marketing costs are recorded at cost and included in other assets in the accompanying condensed consolidated balance sheets. Property and equipment are depreciated to general and administrative expenses using the straight-line method over their estimated useful lives ranging from three to five years. Leasehold improvements are stated at cost and are amortized to general and administrative expenses using the straight-line method generally over the shorter of either their estimated useful lives or the term of the lease. Capitalized selling and marketing costs are depreciated using the straight-line method to selling and marketing expenses over the shorter of either 30 months or the actual estimated life of the selling community.

Income Taxes

Income taxes are accounted for in accordance with ASC 740, *Income Taxes* ("ASC 740"). The consolidated provision for, or benefit from, income taxes is calculated using the asset and liability method, under which deferred tax assets and liabilities are recorded based on the difference between the financial statement and tax basis of assets and liabilities using enacted tax rates in effect for the year in which the differences are expected to reverse.

THE NEW HOME COMPANY INC.
NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

Each quarter we assess our deferred tax asset to determine whether all or any portion of the asset is more likely than not (defined as a likelihood of more than 50%) unrealizable under ASC 740. We are required to establish a valuation allowance for any portion of the tax asset we conclude is more likely than not unrealizable. Our assessment considers, among other things, the nature, frequency and severity of prior cumulative losses, forecasts of future taxable income, the duration of statutory carryforward periods, our utilization experience with net operating losses and tax credit carryforwards and the available tax planning alternatives, to the extent these items are applicable, and the availability of net operating loss carrybacks under certain circumstances. The ultimate realization of deferred tax assets depends primarily on the generation of future taxable income during the periods in which the differences become deductible, as well as the ability to carryback net operating losses in the event that this option becomes available. The value of our deferred tax assets will depend on applicable income tax rates. Judgment is required in determining the future tax consequences of events that have been recognized in our consolidated financial statements and/or tax returns. Differences between anticipated and actual outcomes of these future tax consequences could have a material impact on our consolidated financial statements. At June 30, 2020 a valuation allowance of $0.1 million was recorded against a capital loss and at December 31, 2019, no valuation allowance was recorded.

ASC 740 defines the methodology for recognizing the benefits of uncertain tax return positions as well as guidance regarding the measurement of the resulting tax benefits. These provisions require an enterprise to recognize the financial statement effects of a tax position when it is more likely than not, based on the technical merits, that the position will be sustained upon examination. In addition, these provisions provide guidance on derecognition, classification, interest and penalties, accounting in interim periods, disclosure, and transition. The evaluation of whether a tax position meets the more-likely-than-not recognition threshold requires a substantial degree of judgment by management based on the individual facts and circumstances. At June 30, 2020, the Company has concluded that there were no significant uncertain tax positions requiring recognition in its financial statements.

The Company classifies any interest and penalties related to income taxes assessed as part of income tax expense. As of June 30, 2020, the Company has not been assessed interest or penalties by any major tax jurisdictions related to any open tax periods.

Stock-Based Compensation

We account for share-based awards in accordance with ASC 718, *Compensation – Stock Compensation* ("ASC 718"). ASC 718 requires that the cost resulting from all share-based payment transactions be recognized in a company's financial statements. ASC 718 requires all entities to apply a fair-value-based measurement method in accounting for share-based payment transactions with employees except for equity instruments held by employee share ownership plans. In 2018, the scope of ASC 718 was expanded to include to include share-based payments for acquiring goods and services from nonemployees, with certain exceptions. The Company had one nonemployee equity award that was fully expensed during the 2019 first quarter and was accounted for in accordance with ASC 718.

Share Repurchase and Retirement

When shares are retired, the Company’s policy is to allocate the excess of the repurchase price over the par value of shares acquired to both retained earnings and additional paid-in capital. The portion allocated to additional paid-in capital is determined by applying a percentage, which is determined by dividing the number of shares to be retired by the number of shares issued, to the balance of additional paid-in capital as of the retirement date. The residual, if any, is allocated to retained earnings as of the retirement date.

During the three and six months ended June 30, 2020, the Company repurchased and retired 817,300 and 2,051,183 shares of its common stock at an aggregate purchase price of $1.5 million and $3.7 million, respectively. During the six months ended June 30, 2019, the Company repurchased and retired 153,916 shares of its common stock at an aggregate purchase price of $1.0 million. The purchases were made under a previously announced stock repurchase program that had a remaining purchase authorization of $1.7 million as of June 30, 2020. Repurchases from March 20, 2020 through May 11, 2020 were made pursuant to the Company's 10b5-1 plan. All repurchased shares were returned to the status of authorized but unissued.

THE NEW HOME COMPANY INC.
NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

Tax Benefit Preservation Plan

On May 8, 2020, the Company entered into a Tax Benefit Preservation Plan between the Company and American Stock Transfer & Trust Company, LLC, as rights agent (as amended from time to time, the "Tax Plan") to help preserve the value of certain deferred tax benefits, including those generated by net operating losses and certain other tax attributes (collectively, the "Tax Benefits"). The Tax Plan is intended to act as a deterrent to any person or entity acquiring shares of the Company equal to or exceeding 4.95%. The Tax Plan reduces the likelihood that changes in our investor base have the unintended effect of limiting the use of our Tax Benefits. In connection with its adoption of the Tax Plan, the Board declared a dividend of one preferred stock purchase right (individually, a "Right" and collectively, the "Rights") for each share of Common Stock, par value $0.01 ("Common Stock") of the Company outstanding at the close of business on May 20, 2020. As long as the Rights are attached to the Common Stock, the Company will issue one Right (subject to adjustment) with each new share of the Common Stock so that all such shares will have attached Rights. Each Right has an exercise price of $11.50. Each Right, which is only exercisable if a person or group of affiliated or associated persons acquires beneficial ownership of 4.95% or more of the Common Stock, subject to certain limited exceptions (the "Acquiring Person"), when exercised will entitle the registered holder other than the Acquiring Person the right to acquire that number of shares of Common Stock having a market value of two times the $11.50 exercise price of the Right, or, at the election of the Board, to exchange each right for one share of Common Stock, in each case, subject to adjustment. Unless redeemed or exchanged earlier by the Company or terminated, the rights will expire upon the earliest to occur of (i) the close of business on May 7, 2021, (ii) the close of business on the effective date of the repeal of Section 382 of the Internal Revenue Code of 1986, as amended (the "Code") if the Board determines that the Tax Plan is no longer necessary or desirable for the preservation of the Tax Benefits or (iii) the time at which the Board determines that the Tax Benefits are fully utilized or no longer available under Section 382 of the Code or that an ownership change under Section 382 of the Code would not adversely impact in any material respect the time period in which the Company could use the Tax Benefits, or materially impair the amount of the Tax Benefits that could be used by the Company in any particular time period, for applicable tax purposes.

Dividends

No dividends were paid on our common stock during the three and six months ended June 30, 2020 and 2019. We currently intend to retain our future earnings to finance the development and expansion of our business and, therefore, do not intend to pay cash dividends on our common stock for the foreseeable future. Any future determination to pay dividends will be at the discretion of our board of directors and will depend on our financial condition, results of operations, capital requirements, compliance with Delaware law, restrictions contained in any financing instruments, including but not limited to, our unsecured credit facility and senior notes indenture, and such other factors as our board of directors deem relevant.

Recently Issued Accounting Standards

The Company's status as an "emerging growth company" pursuant to the provisions of the Jumpstart Our Business Startups Act of 2012 (the "JOBS Act") ended on December 31, 2019. Section 102 of the JOBS Act provides that an "emerging growth company" can take advantage of the extended transition period provided in Section 7(a)(2)(B) of the Securities Act of 1933, as amended (the "Securities Act"), for complying with new or revised accounting standards. As previously disclosed and prior to the expiration of its "emerging growth company" status, the Company had chosen, irrevocably, to "opt out" of such extended transition period, and as a result, complied with new or revised accounting standards on the relevant dates on which adoption of such standards was required for non-emerging growth companies.

In June 2016, the FASB issued ASU 2016-13, *Financial Instruments - Credit Losses (Topic 326) - Measurement of Credit Losses on Financial Instruments* ("ASU 2016-13"), which changes the impairment model for most financial assets and certain other instruments from an "incurred loss" approach to a new "expected credit loss" methodology. The FASB followed up with ASU 2019-04, *Codification Improvements to Topic 326, Financial Instruments - Credit Losses, Topic 815, Derivatives and Hedging, and Topic 825, Financial Instruments* in April 2019, ASU 2019-05, *Financial Instruments - Credit Losses (Topic 326)*, in May 2019, ASU 2019-11, *Codification Improvements to Topic 326, Financial Instruments - Credit Losses* in November 2019, and ASU 2020-02, *Financial Instruments - Credit Losses (Topic 326) and Leases (Topic 842)* in February 2020 to provide further clarification on this topic. The standard is effective for annual and interim periods beginning January 1, 2020, and requires full retrospective application upon adoption. During November 2019, the FASB issued ASU 2019-10, *Financial Instruments - Credit Losses (Topic 326), Derivatives and Hedging (Topic 815) and Leases (Topic 842) Effective Dates* that provides for additional implementation time for smaller reporting companies with the standard being effective for fiscal years beginning after December 15, 2022, including interim periods within those fiscal years. Early adoption is permitted. As a smaller reporting company, we are not adopting the requirements of ASU 2016-13 for the year beginning January 1, 2020, however we do not anticipate a material impact to our consolidated financial statements as a result of adoption.

In August 2018, the FASB issued ASU 2018-13, *Fair Value Measurement (Topic 820) - Disclosure Framework - Changes to the Disclosure Requirements for Fair Value Measurement* ("ASU 2018-13"). The amendments in ASU 2018-13 modify certain disclosure requirements of fair value measurements. The Company adopted ASU 2018-13 in the 2020 first quarter with no impact to the condensed consolidated financial statements as a result.

THE NEW HOME COMPANY INC.
NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

In December 2019, the FASB issued ASU 2019-12, *Income Taxes (Topic 740)- Simplifying the Accounting for Income Taxes* ("ASU 2019-12"), which is intended to simplify various aspects related to accounting for income taxes. The pronouncement is effective for fiscal years, and for interim periods within those fiscal years, beginning after December 15, 2020, with early adoption permitted. We are currently in the process of evaluating the effects on our financial statements of adopting ASU 2019-12.

In January 2020, the FASB issued ASU 2020-01, *Investments - Equity Securities (Topic 321), Investments - Equity Method and Joint Ventures (Topic 323), and Derivative and Hedging (Topic 815)* ("ASU 2020-01"). ASU 2020-01 clarifies the interaction of the accounting for equity securities under Topic 321 and investments accounted for under the equity method of accounting in Topic 323 and the accounting for certain forward contracts and purchased options accounted for under Topic 815. The standard is effective for fiscal years beginning after December 31, 2020, and interim periods within those fiscal years, with early adoption permitted. The Company expects no material impact to our consolidated financial statements as a result of adoption.

THE NEW HOME COMPANY INC.
NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

2. Computation of Earnings (Loss) Per Share

The following table sets forth the components used in the computation of basic and diluted loss per share for the three and six months ended June 30, 2020 and 2019:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2020	2019	2020	2019
	(Dollars in thousands, except per share amounts)			
Numerator:				
Net income (loss) attributable to The New Home Company Inc.	$ (24,293)	$ 1,572	$ (32,769)	$ (415)
Denominator:				
Basic weighted-average shares outstanding	18,341,549	20,070,914	19,146,687	20,028,600
Effect of dilutive shares:				
Stock options and unvested restricted stock units	—	24,619	—	—
Diluted weighted-average shares outstanding	18,341,549	20,095,533	19,146,687	20,028,600
Basic earnings (loss) per share attributable to The New Home Company Inc.	$ (1.32)	$ 0.08	$ (1.71)	$ (0.02)
Diluted earnings (loss) per share attributable to The New Home Company Inc.	$ (1.32)	$ 0.08	$ (1.71)	$ (0.02)
Antidilutive stock options and unvested restricted stock units not included in diluted earnings (loss) per share	1,897,100	1,349,106	1,841,463	1,292,726

3. Contracts and Accounts Receivable

Contracts and accounts receivable consist of the following:

	June 30, 2020	December 31, 2019
	(Dollars in thousands)	
Contracts receivable:		
Costs incurred on fee building projects	$ 56,482	$ 93,281
Estimated earnings	938	2,052
	57,420	95,333
Less: amounts collected during the period	(53,642)	(84,979)
Contracts receivable	$ 3,778	$ 10,354
Contracts receivable:		
Billed	$ —	$ —
Unbilled	3,778	10,354
	3,778	10,354
Accounts receivable:		
Escrow receivables	3,151	5,392
Other receivables	183	236
Contracts and accounts receivable	$ 7,112	$ 15,982

Billed contracts receivable represent amounts billed to customers that have yet to be collected. Unbilled contracts receivable represents the contract revenue recognized but not yet invoiced. All unbilled receivables as of June 30, 2020 are expected to be billed and collected within 30 days. Accounts payable at June 30, 2020 and December 31, 2019 includes $2.9 million and $9.6 million, respectively, related to costs incurred under the Company's fee building contracts.

THE NEW HOME COMPANY INC.
NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

4. Real Estate Inventories

Real estate inventories are summarized as follows:

	June 30, 2020	December 31, 2019
	(Dollars in thousands)	
Deposits and pre-acquisition costs	$ 14,142	$ 17,865
Land held and land under development	146,859	180,823
Homes completed or under construction	154,547	183,711
Model homes	55,401	51,539
	$ 370,949	$ 433,938

All of our deposits and pre-acquisition costs are nonrefundable, except for refundable deposits of $0 and $0.1 million as of June 30, 2020 and December 31, 2019, respectively.

Land held and land under development includes land costs and costs incurred during site development such as development, indirects, and permits. Homes completed or under construction and model homes include all costs associated with home construction, including allocated land, development, indirects, permits, materials and labor (except for capitalized selling and marketing costs, which are classified in other assets).

In accordance with ASC 360, inventory is stated at cost, unless the carrying amount is determined not to be recoverable, in which case inventory is written down to its fair value. We review each real estate asset at the community-level on a quarterly basis or whenever indicators of impairment exist. For the three and six months ended June 30, 2020, the Company recognized inventory impairments of $19.0 million in cost of sales resulting in an increase of $17.8 million and $1.2 million in pretax loss for our California and Arizona homebuilding segments, respectively. The fair values for the homebuilding projects impaired were calculated under discounted cash flow models using discount rates ranging from 14%-26%. The following table summarizes inventory impairments recorded during the three and six months ended June 30, 2020 and 2019:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2020	2019	2020	2019
	(Dollars in thousands)			
Inventory impairments:				
Home sales	$ 19,000	$ —	$ 19,000	$ —
Total inventory impairments	$ 19,000	$ —	$ 19,000	$ —
Remaining carrying value of inventory impaired at period end	$ 79,033	$ —	$ 79,033	$ —
Number of projects impaired during the period	5	—	5	—
Total number of projects subject to periodic impairment review during period (1)	27	25	27	27

(1) Represents the peak number of real estate projects that we had during each respective period. The number of projects outstanding at the end of each period may be less than the number of projects listed herein.

The $17.8 million in California home sales impairments recorded in the 2020 second quarter related to four homebuilding communities. Of this total, $6.5 million in charges related to a condominium community in the Sacramento Area, $6.2 million in charges related to a townhome community within Southern California's Inland Empire, $4.5 million in charges related to a townhome community in San Diego, and $0.6 million in charges related to a condominium community in Los Angeles. The $1.2 million in Arizona home sales impairments related to the Company's luxury condominium project in Scottsdale, Arizona. Each of these projects experienced slower absorptions which resulted in increased sales incentives and holding costs for these projects for which the aggregate sales prices for remaining units at each community would be lower than their previous carrying values. In addition, some of these communities experienced higher direct construction costs than originally underwritten and budgeted.

During the 2020 first quarter, the Company terminated its option agreement for a luxury condominium project in Scottsdale, Arizona. Due to the lower demand levels experienced at this community coupled with the substantial investment required to build out the remainder of the project, the Company decided to abandon the future acquisition, development, construction and sale of future phases of the project that were under option. In accordance with ASC 970-360-40-1, the capitalized costs related to the project are expensed and not allocated to other components of the project that the Company did develop. For the six months ended June 30, 2020, the Company recorded an abandonment charge of $14.0 million representing the capitalized costs that have accumulated related to the portion of the project that is being abandoned. This charge is included within project abandonment costs in the accompanying condensed consolidated statement of operations.

THE NEW HOME COMPANY INC.
NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

5. Capitalized Interest

Interest is capitalized to inventory and investment in unconsolidated joint ventures during development and other qualifying activities. Interest capitalized as a cost of inventory is included in cost of sales as related homes and land parcels are closed. Interest capitalized to investment in unconsolidated joint ventures is amortized to equity in net income (loss) of unconsolidated joint ventures as related joint venture homes or lots close, or in instances where lots are sold from the unconsolidated joint venture to the Company, the interest is added to the land basis and included in cost of sales when the related lots or homes are sold to third-party buyers. Interest expense is comprised of interest incurred but not capitalized and is reported as interest expense in our condensed consolidated statements of operations. For the three and six months ended June 30, 2020 and 2019 interest incurred, capitalized and expensed was as follows:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2020	2019	2020	2019
	(Dollars in thousands)			
Interest incurred	$ 6,150	$ 7,606	$ 12,530	$ 15,367
Interest capitalized to inventory	(4,879)	(7,606)	(10,541)	(15,367)
Interest expensed	$ 1,271	$ —	$ 1,989	$ —
Capitalized interest in beginning inventory	$ 25,152	$ 28,600	$ 26,397	$ 25,681
Interest capitalized as a cost of inventory	4,879	7,606	10,541	15,367
Capitalized interest transferred from investment in unconsolidated joint ventures to inventory upon lot acquisition	—	3	—	13
Previously capitalized interest included in cost of home and land sales	(4,601)	(6,301)	(10,747)	(11,153)
Previously capitalized interest included in project abandonment costs	—	—	(761)	—
Capitalized interest in ending inventory	$ 25,430	$ 29,908	$ 25,430	$ 29,908
Capitalized interest in beginning investment in unconsolidated joint ventures	$ 93	$ 672	$ 541	$ 713
Capitalized interest transferred from investment in unconsolidated joint ventures to inventory upon lot acquisition	—	(3)	—	(13)
Previously capitalized interest included in equity in net income (loss) of unconsolidated joint ventures	(31)	(48)	(479)	(79)
Capitalized interest in ending investment in unconsolidated joint ventures	62	621	62	621
Total capitalized interest in ending inventory and investments in unconsolidated joint ventures	$ 25,492	$ 30,529	$ 25,492	$ 30,529
Capitalized interest as a percentage of inventory	6.9%	5.5%	6.9%	5.5%
Interest included in cost of home sales as a percentage of home sales revenue	6.0%	4.4%	6.2%	4.7%
Capitalized interest as a percentage of investment in and advances to unconsolidated joint ventures	0.5%	1.8%	0.5%	1.8%

For the six months ended June 30, 2020, the Company expensed $0.8 million in interest previously capitalized due to the abandonment of the future phases of one of its existing homebuilding communities. For more information, please refer to Note 4.

For the six months ended June 30, 2020, the Company expensed $0.4 million in interest previously capitalized to investments in unconsolidated joint ventures as the result of an other-than-temporary impairment to its investment in one joint venture. For more information, please refer to Note 6.

THE NEW HOME COMPANY INC.
NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

6. Investments in and Advances to Unconsolidated Joint Ventures

As of June 30, 2020 and December 31, 2019, the Company had ownership interests in 10 unconsolidated joint ventures with ownership percentages that generally ranged from 5% to 35%. The condensed combined balance sheets for our unconsolidated joint ventures accounted for under the equity method were as follows:

	June 30, 2020	December 31, 2019
	(Dollars in thousands)	
Cash and cash equivalents	$ 28,375	$ 31,484
Restricted cash	13,250	13,852
Real estate inventories	221,972	241,416
Other assets	3,778	3,843
Total assets	$ 267,375	$ 290,595
Accounts payable and accrued liabilities	$ 11,100	$ 16,778
Notes payable	11,633	28,665
Total liabilities	22,733	45,443
The New Home Company's equity(1)	28,465	27,722
Other partners' equity	216,177	217,430
Total equity	244,642	245,152
Total liabilities and equity	$ 267,375	$ 290,595
Debt-to-capitalization ratio	4.5%	10.5%
Debt-to-equity ratio	4.8%	11.7%

(1) Balance represents the Company's interest, as reflected in the financial records of the respective joint ventures. This balance differs from the investment in and advances to unconsolidated joint ventures balance reflected in the Company's consolidated balance sheets by $15.5 million due to other-than-temporary impairment charges to the Company's investment, interest capitalized to the Company's investment in joint ventures and certain other differences in outside basis.

The condensed combined statements of operations for our unconsolidated joint ventures accounted for under the equity method were as follows:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2020	2019	2020	2019
	(Dollars in thousands)			
Revenues	$ 30,290	$ 59,078	$ 61,937	$ 101,365
Cost of sales and expenses	28,672	57,288	58,957	99,062
Net income of unconsolidated joint ventures	$ 1,618	$ 1,790	$ 2,980	$ 2,303
Equity in net income (loss) of unconsolidated joint ventures reflected in the accompanying condensed consolidated statements of operations	$ (19,962)	$ 185	$ (21,899)	$ 369

The Company reviews its investments in and advances to unconsolidated joint ventures for other-than-temporary declines in value. To the extent we deem any declines in value of our investment in and advances to unconsolidated joint ventures to be other-than-temporary, we impair our investment accordingly. For the three and six months ended June 30, 2020 and 2019, the Company recorded other-than-temporary, noncash impairment charges of $20.0 million, $22.3 million, $0 and $0, respectively. The Company plans to exit from its TNHC Russell Ranch LLC ("Russell Ranch") venture due to low expected financial returns relative to the required future capital contributions and related risks, including the potential impact of COVID-19 on the economy, as well as the Company's opportunity to pursue federal tax loss carryback refund opportunities from the passage of the CARES Act. As a result, the Company determined that its investment in the joint venture was not recoverable. The Company recorded a $20.0 million other-than-temporary impairment charge during the 2020 second quarter to write off its investment in Russell Ranch and to record a liability for its estimated costs to complete the Phase 1 backbone infrastucture costs. The Company believes that exiting the venture preserves capital, reduces its investment concentration within one geographical location, and allows it to pursue federal tax loss carryback refunds. This impairment charge reflects the Company's current estimates but actual losses associated with exiting the joint venture could differ materially based on the ultimate sales price of the underlying asset. The 2020 first quarter impairment charge of $2.3 million related to our investment in the Arantine Hills Holdings LP ("Bedford") joint venture. The Company has agreed to sell its interest in this joint venture to our partner for less than our current carrying value. This transaction is expected to close during the 2020 third quarter. Pursuant to our agreement to sell our interest, the purchase price is approximately $5.1 million for the sale of our partnership interest and we will have an option to purchase at market up to 30% of the lots from the masterplan community. Joint venture impairment charges are included in equity in net income (loss) of unconsolidated joint ventures in the accompanying condensed consolidated statements of operations.

THE NEW HOME COMPANY INC.
NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

As a smaller reporting company, the Company is subject to the provisions of Rule 8-03(b)(3) of Regulation S-X which requires the disclosure of certain financial information for equity investees that constitute 20% or more of the Company's consolidated net income (loss). For the three and six months ended June 30, 2020, the loss allocation from one of the Company's unconsolidated joint ventures accounted for under the equity method exceeded 20% of the Company's consolidated net loss. For the six months ended June 30, 2019, income allocations from two of the Company's unconsolidated joint ventures accounted for under the equity method each exceeded 20% of the Company's consolidated net loss. The table below presents select combined financial information for these three joint ventures for the three and six months ended June 30, 2020 and 2019:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2020	2019	2020	2019
	(Dollars in thousands)			
Revenues	$ 26,198	$ 45,167	$ 45,746	$ 77,463
Cost of home and land sales	24,012	41,352	41,314	70,686
Gross margin	$ 2,186	$ 3,815	$ 4,432	$ 6,777
Expenses	1,243	1,990	2,590	3,852
Net income	$ 943	$ 1,825	$ 1,842	$ 2,925
Equity in net income (loss) of unconsolidated joint ventures reflected in the accompanying consolidated statements of operations	$ (19,926)	$ 247	$ (19,718)	$ 486

In the above table, the Company's net losses for the three and six months ended June 30, 2020 include a $20.0 million other-than-temporary impairment charge related to its interest in one land development joint venture.

For the three and six months ended June 30, 2020 and 2019, the Company earned $0.2 million, $0.6 million, $0.6 million and $1.2 million respectively, in management fees from its unconsolidated joint ventures. For additional detail regarding management fees, please see Note 12.

7. Other Assets

Other assets consist of the following:

	June 30, 2020	December 31, 2019
	(Dollars in thousands)	
Capitalized selling and marketing costs, net(1)	$ 6,758	$ 7,148
Prepaid income taxes(2)	29,328	1,032
Insurance receivable(3)	6,000	10,900
Warranty insurance receivable(4)	1,782	1,852
Prepaid expenses	2,448	2,729
Right-of-use lease assets	2,277	1,988
Other	271	231
	$ 48,864	$ 25,880

(1) Capitalized selling and marketing costs includes costs incurred for tangible assets directly used in the sales process such as our sales offices, design studios and model furnishings, and also includes model landscaping costs, which were $2.5 million and $2.6 million as of June 30, 2020 and December 31, 2019, respectively. The Company depreciated $1.7 million, $3.5 million, $2.3 million and $4.9 million of capitalized selling and marketing costs to selling and marketing expenses during the three and six months ended June 30, 2020 and 2019, respectively.

(2) The amount at June 30, 2020 includes approximately $28.4 million of expected federal income tax refunds due to the recent enactment of the Coronavirus Aid, Relief and Economic Security Act ("CARES Act") signed into law on March 27, 2020 which allows net operating losses generated from 2018 – 2020 to be carried back five years.

(3) At December 31, 2019, the Company recorded insurance receivables of $10.9 million in connection with $10.9 million of litigation reserves recorded. During the six months ended June 30, 2020, $4.7 million was paid by insurance related to two claims and the Company also reduced its insurance receivable estimate by $0.2 million for one of these claims, resulting in an insurance receivable balance of $6.0 million at June 30, 2020, with a corresponding decrease recorded within litigation reserves. For more information, please refer to Note 8.

(4) During the three and six months ended June 30, 2020, the Company adjusted its warranty insurance receivable upward by $0.2 million and $0.3 million, respectively, to true-up the receivable to its estimate of qualifying reimbursable expenditures, which resulted in pretax income of the same amount. During the three and six months ended June 30, 2019, the Company adjusted its warranty insurance receivable by $0.6 million to true-up the receivable to its estimate of qualifying reimbursable expenditures, which resulted in pretax income of the same amount.

THE NEW HOME COMPANY INC.
NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

8. Accrued Expenses and Other Liabilities

Accrued expenses and other liabilities consist of the following:

	June 30, 2020	December 31, 2019
	(Dollars in thousands)	
Warranty accrual (1)	$ 6,740	$ 7,223
Litigation reserves (2)	6,000	10,900
Accrued interest	5,605	5,796
Accrued compensation and benefits	4,216	5,350
Completion reserve	964	3,167
Customer deposits	3,608	3,574
Lease liabilities	2,434	2,243
Other accrued expenses	3,713	2,301
	$ 33,280	$ 40,554

(1) Included in the amount at June 30, 2020 and December 31, 2019 is approximately $1.8 million and $1.9 million, respectively, of warranty liabilities estimated to be recovered by our insurance policies.

(2) During 2019, we recorded litigation reserves totaling $5.9 million related to ordinary course litigation which developed and became probable and estimable within the 2019 fourth quarter. Further, as a result of the development of the construction defect related claims within the litigation reserve and their impact to the Company's litigation reserve estimates for IBNR future construction defect claims, we recorded an additional $5.0 million of IBNR construction defect claim reserves resulting in aggregate litigation reserves totaling $10.9 million as of December 31, 2019. Because the self-insured retention deductibles had been met for each claim covered by the $5.9 million reserve, and the self-insured retention deductibles are expected to be met for the $5.0 million IBNR construction defect claim reserves, the Company recorded estimated insurance receivables of $10.9 million offsetting the litigation reserves as of December 31, 2019. During the six months ended June 30, 2020, $4.7 million was paid by insurance related to two claims and the Company also reduced its litigation reserve estimate by $0.2 million for one of these claims, resulting in a litigation reserve balance of $6.0 million at June 30, 2020, with a corresponding decrease recorded within insurance receivables. Please refer to Note 7.

We maintain general liability insurance designed to protect us against a portion of our risk of loss from construction-related warranty and construction defect claims. Our master general liability policies which cover most of our projects allow for our warranty spend to erode our self-insured retention requirements. We establish and track separately our warranty accrual and litigation reserves for both known and IBNR construction defect claims. Our warranty accrual and litigation reserves for construction defect claims are presented on a gross basis within accrued expenses and other liabilities in the accompanying condensed consolidated financial statements without consideration of insurance recoveries. Expected recoveries from insurance carriers are tracked separately between warranty insurance receivables and insurance receivables related to litigated claims and are presented within other assets in the accompanying condensed consolidated financial statements. Our warranty accrual and related estimated insurance recoveries are based on historical warranty claim and expense data, and expected recoveries from insurance carriers are recorded based on actual insurance claims and amounts determined using our warranty accrual estimates, our insurance policy coverage limits for the applicable policy years and historical recovery rates. Our litigation reserves for both known and IBNR future construction defect claims based on historical claim and expense data, and expected recoveries from insurance carriers are recorded based on actual insurance claims and amounts determined using our construction defect claim accrual estimates, our insurance policy coverage limits for the applicable policy years and historical recovery rates. Because of the inherent uncertainty and variability in these assumptions, our actual costs and related insurance recoveries could differ significantly from amounts currently estimated.

THE NEW HOME COMPANY INC.
NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

Changes in our warranty accrual are detailed in the table set forth below:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2020	2019	2020	2019
	(Dollars in thousands)			
Beginning warranty accrual for homebuilding projects	$ 6,836	$ 6,767	$ 7,195	$ 6,681
Warranty provision for homebuilding projects	357	627	778	1,054
Warranty payments for homebuilding projects	(481)	(581)	(1,261)	(922)
Adjustment to warranty accrual(1)	—	94	—	94
Ending warranty accrual for homebuilding projects	6,712	6,907	6,712	6,907
Beginning warranty accrual for fee building projects	28	178	28	217
Warranty provision for fee building projects	—	—	—	9
Warranty efforts for fee building projects	—	(18)	—	(66)
Adjustment to warranty accrual for fee building projects(1)	—	(18)	—	(18)
Ending warranty accrual for fee building projects	28	142	28	142
Total ending warranty accrual	$ 6,740	$ 7,049	$ 6,740	$ 7,049

(1) During the 2019 second quarter, we recorded an adjustment of $0.1 million to our warranty accrual for homebuilding projects due to higher expected warranty expenditures which is included in "Adjustment to warranty accrual" above and resulted in an increase of the same amount to cost of home sales in the accompanying condensed consolidated statement of operations. Also during the 2019 second quarter, the Company recorded an adjustment of $18,000 due to lower experience rate of expected warranty expenditures for fee building projects which is included in "Adjustment to warranty accrual for fee building projects" above and resulted in a reduction of the same amount to cost of fee building sales in the accompanying condensed consolidated statement of operations.

9. Senior Notes and Unsecured Revolving Credit Facility

Indebtedness consisted of the following:

	June 30, 2020	December 31, 2019
	(Dollars in thousands)	
7.25% Senior Notes due 2022, net	$ 295,124	$ 304,832
Unsecured revolving credit facility	—	—
Total Indebtedness	$ 295,124	$ 304,832

On March 17, 2017, the Company completed the sale of $250 million in aggregate principal amount of 7.25% Senior Notes due 2022 (the "Existing Notes"), in a private placement. The Existing Notes were issued at an offering price of 98.961% of their face amount, which represented a yield to maturity of 7.50%. On May 4, 2017, the Company completed a tack-on private placement offering through the sale of an additional $75 million in aggregate principal amount of the 7.25% Senior Notes due 2022 ("Additional Notes"). The Additional Notes were issued at an offering price of 102.75% of their face amount plus accrued interest since March 17, 2017, which represented a yield to maturity of 6.438%. Net proceeds from the Existing Notes were used to repay all borrowings outstanding under the Company's senior unsecured revolving credit facility with the remainder used for general corporate purposes. Net proceeds from the Additional Notes were used for working capital, land acquisition and general corporate purposes. Interest on the Existing Notes and the Additional Notes (together, the "Notes") is paid semiannually in arrears on April 1 and October 1. The Notes were exchanged in an exchange offer for Notes that are identical to the original Notes, except that they are registered under the Securities Act, and are freely tradeable in accordance with applicable law.

The carrying amount of our Senior Notes listed above at June 30, 2020 is net of the unamortized discount of $0.8 million, unamortized premium of $0.6 million, and unamortized debt issuance costs of $2.2 million, each of which are amortized and capitalized to interest costs on a straight-line basis over the respective terms of the notes which approximates the effective interest method. The carrying amount for the Senior Notes listed above at December 31, 2019, is net of the unamortized discount of $1.1 million, unamortized premium of $0.9 million, and unamortized debt issuance costs of $3.0 million.

THE NEW HOME COMPANY INC.
NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

The Notes are general senior unsecured obligations that rank equally in right of payment to all existing and future senior indebtedness, including borrowings under the Company's senior unsecured revolving credit facility. The Notes contain certain restrictive covenants, including a limitation on additional indebtedness and a limitation on restricted payments. Restricted payments include, among other things, dividends, investments in unconsolidated entities, and stock repurchases. Under the limitation on additional indebtedness, we are permitted to incur specified categories of indebtedness but are prohibited, aside from those exceptions, from incurring further indebtedness if we do not satisfy either a leverage condition or an interest coverage condition. Exceptions to the limitation include, among other things, borrowings of up to $260 million under existing or future bank credit facilities, non-recourse indebtedness, and indebtedness incurred for the purpose of refinancing or repaying certain existing indebtedness. Under the limitation on restricted payments, we are also prohibited from making restricted payments, aside from certain exceptions, if we do not satisfy either condition. In addition, the amount of restricted payments that we can make is subject to an overall basket limitation, which builds based on, among other things, 50% of consolidated net income from January 1, 2017 forward and 100% of the net cash proceeds from qualified equity offerings. Exceptions to the foregoing limitations on our ability to make restricted payments include, among other things, investments in joint ventures and other investments up to 15% of our consolidated tangible net assets and a general basket of $15 million. The Notes are guaranteed, on an unsecured basis, jointly and severally, by all of the Company's 100% owned subsidiaries. See Note 17 for information about the guarantees and supplemental financial statement information about our guarantor subsidiaries group and non-guarantor subsidiaries group.

During the three months ended June 30, 2020, the Company repurchased and retired approximately $5.8 million in face value of the Notes for a cash payment of approximately $5.0 million. Total repurchases of the Notes for the six months ended June 30, 2020 equaled approximately $10.5 million in face value of the Notes for a cash payment of approximately $9.8 million. For the three and six months ended June 30, 2020, the Company recognized a gain on early extinguishment of debt of $0.7 million and $0.6 million, respectively, which included the write off of approximately $49,000 and $95,000, respectively, of unamortized discount, premium and debt issuance costs associated with the Notes retired. During the three months ended June 30, 2019, the Company repurchased and retired approximately $7.0 million in face value of the Notes for a cash payment of approximately $6.3 million. Total repurchases of the Notes for the six months ended June 30, 2019, equaled $12.0 million in face value of the Notes for a cash payment of approximately $10.9 million. For the three and six months ended June 30, 2019, the Company recognized a gain on early extinguishment of debt of $0.6 million and $1.0 million, respectively, which included the write off of approximately $90,000 and $160,000, respectively, of unamortized discount, premium and debt issuance costs associated with the Notes retired.

The Company has an unsecured revolving credit facility ("Credit Facility") with a bank group. On June 26, 2020, the Company entered into a Third Modification Agreement (the “Modification”) to its Amended and Restated Credit Agreement. The Modification, among other things, (i) extended the maturity date of the revolving credit facility to September 30, 2021, (ii) decreased (A) the total commitments under the facility to $60 million from $130 million and (B) the accordion feature to $150 million from $200 million, subject to certain financial conditions, including the availability of bank commitments, (iii) reduced the Company's minimum consolidated tangible net worth covenant from $180 million to $150 million plus 50% of the cumulative consolidated net income earned by the Company and its guarantors from and after March 31, 2020 plus 50% of the aggregate proceeds received by the Company (net of reasonable fees and expenses) in connection with any offering of stock or equity in each fiscal quarter commencing on or after March 31, 2020, (iv) reduced the maximum net leverage ratio (subject to a minimum liquidity amount of $10 million) ("net leverage ratio") from 65% to 60%, (v) modified the restriction on secured indebtedness to an aggregate maximum of $10 million, and (vi) modified the restriction on repurchases of the Company's senior notes as follows:

Net Leverage Ratio	Maximum Repurchases per Quarter
Greater than 55%	None permitted
Less than or equal to 55%	$5,000,000
Less than or equal to 50%	$10,000,000
Less than or equal to 45%	No Restriction

As of June 30, 2020, we had no borrowings outstanding under the credit facility. Interest is payable monthly and is charged at a rate of 1-month LIBOR plus a margin ranging from 3.50% to 4.50% depending on the Company’s leverage ratio as calculated at the end of each fiscal quarter; provided that LIBOR shall be subject to a LIBOR floor. As of June 30, 2020, the interest rate under the Credit Facility was 5.00%. Pursuant to the Credit Facility, the Company is required to maintain certain financial covenants as defined in the Credit Facility, including (i) a minimum tangible net worth; (ii) maximum leverage ratios; (iii) a minimum liquidity covenant; and (iv) a minimum fixed charge coverage ratio based on EBITDA (as detailed in the Credit Facility) to interest incurred or if this test is not met, the Company maintains unrestricted cash equal to not less than the trailing 12 month consolidated interest incurred. As of June 30, 2020, the Company was in compliance with all financial covenants.

THE NEW HOME COMPANY INC.
NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

The Credit Facility, as amended by the Modification, also provides a $10.0 million sublimit for letters of credit, subject to conditions set forth in the agreement. As of June 30, 2020 and December 31, 2019, the Company did not have any outstanding letters of credit issued under the Credit Facility. Debt issuance costs for the unsecured revolving credit facility, which totaled $0.5 million as of June 30, 2020, are included in other assets and amortized and capitalized to interest costs on a straight-line basis over the term of the agreement.

On April 15, 2020, TNHC Realty and Construction, Inc., a wholly-owned operating subsidiary of the Company, received approval and funding pursuant to a promissory note evidencing an unsecured loan in the amount of approximately $7.0 million (the "Loan") under the Paycheck Protection Program (the "PPP"). The PPP was established under the CARES Act and is administered by the U.S. Small Business Administration ("SBA"). The Company intended to use the Loan for qualifying expenses in accordance with the terms of the CARES Act. On April 23, 2020, the SBA, in consultation with the Department of Treasury, issued new guidance that created uncertainty regarding the qualification requirements for a PPP loan. On April 24, 2020, out of an abundance of caution, the Company elected to repay the Loan and initiated a repayment of the full amount of the Loan to the lender.

10. Fair Value Disclosures

ASC 820 defines fair value as the price that would be received for selling an asset or paid to transfer a liability in an orderly transaction between market participants at measurement date and requires assets and liabilities carried at fair value to be classified and disclosed in the following three categories:

- Level 1 – Quoted prices for identical instruments in active markets
- Level 2 – Quoted prices for similar instruments in active markets; quoted prices for identical or similar instruments in markets that are inactive; and model-derived valuations in which all significant inputs and significant value drivers are observable in active markets at measurement date
- Level 3 – Valuations derived from techniques where one or more significant inputs or significant value drivers are unobservable in active markets at measurement date

Fair Value of Financial Instruments

The following table presents an estimated fair value of the Company's Notes and Credit Facility. The Notes are classified as Level 2 and primarily reflect estimated prices obtained from outside pricing sources. The Company's Credit Facility is classified as Level 3 within the fair value hierarchy.

	June 30, 2020		December 31, 2019	
	Carrying Amount	Fair Value	Carrying Amount	Fair Value
	(Dollars in thousands)			
7.25% Senior Notes due 2022, net (1)	$ 295,124	$ 274,458	$ 304,832	$ 298,775
Unsecured revolving credit facility	$ —	$ —	$ —	$ —

(1) The carrying value for the Senior Notes, as presented at June 30, 2020, is net of the unamortized discount of $0.8 million, unamortized premium of $0.6 million, and unamortized debt issuance costs of $2.2 million. The carrying value for the Senior Notes, as presented at December 31, 2019, is net of the unamortized discount of $1.1 million, unamortized premium of $0.9 million, and unamortized debt issuance costs of $3.0 million. The unamortized discount, unamortized premium and debt issuance costs are not factored into the estimated fair value.

The Company considers the carrying value of cash and cash equivalents, restricted cash, contracts and accounts receivable, accounts payable, and accrued expenses and other liabilities to approximate the fair value of these financial instruments based on the short duration between origination of the instruments and their expected realization. The fair value of amounts due from affiliates is not determinable due to the related party nature of such amounts.

Non-Recurring Fair Value Adjustments

Nonfinancial assets and liabilities include items such as real estate inventory and long-lived assets that are measured at cost when acquired and adjusted for impairment to fair value, if deemed necessary. For the three and six months ended June 30, 2020, the Company recognized real estate-related impairment adjustments of $19.0 million related to five homebuilding communities. The impairment adjustments were made using Level 3 inputs and assumptions, and the remaining carrying value of the real estate inventories subject to the impairment adjustments was $79.0 million. For more information on real estate impairments, please refer to Note 4.

For the three and six months ended June 30, 2020 and 2019, the Company recognized other-than-temporary impairments for its investment in unconsolidated joint ventures of $20.0 million, $22.3 million, $0 and $0, respectively. The 2020 second quarter impairment charge recorded related to the Company's intent to exit from its interest in its Russell Ranch joint venture whereby the investment balance was written off. The 2020 first quarter impairment charge related to our agreement to sell our interest in our Bedford joint venture to our partner for less than its current carrying value. This transaction is expected to close during the 2020 third quarter. The 2020 impairment adjustments were made using Level 2 and Level 3 inputs and assumptions. For more information on the investment in unconsolidated joint ventures impairments, please refer to Note 6.

11. Commitments and Contingencies

From time-to-time, the Company is involved in various legal matters arising in the ordinary course of business. These claims and legal proceedings are of a nature that we believe are normal and incidental to a homebuilder. We make provisions for loss contingencies when they are probable and the amount of the loss can be reasonably estimated. Such provisions are assessed at least quarterly and adjusted to reflect the impact of any settlement negotiations, judicial and administrative rulings, advice of legal counsel, and other information and events pertaining to a particular case. During 2019, we recorded litigation reserves totaling $5.9 million related to ordinary course litigation which developed and became probable and estimable within the 2019 fourth quarter. Further, as a result of the development of the construction defect related claims within the litigation reserve and their impact to the Company’s litigation reserve estimates for IBNR future construction defect claims, we recorded an additional $5.0 million of IBNR construction defect claim reserves resulting in aggregate litigation reserves totaling $10.9 million as of December 31, 2019. Because the self-insured retention deductibles had been met for each claim covered by the $5.9 million reserve, and the self-insured retention deductibles are expected to be met for the $5.0 million IBNR construction defect claim reserves, the Company recorded estimated insurance receivables of $10.9 million offsetting the related litigation reserves as of December 31, 2019. During the six months ended June 30, 2020, $4.7 million was paid by insurance related to two claims and the Company also reduced its litigation reserve estimate by $0.2 million for one of these claims, resulting in a litigation reserve and insurance receivable balance of $6.0 million at June 30, 2020. Due to the inherent uncertainty and judgement used in these assumptions, our actual costs and related insurance recoveries could differ significantly from amounts currently estimated. Please refer to Note 1, Note 7 and Note 8 for more information on litigation reserves for construction defect claims and related insurance recoveries. In view of the inherent unpredictability of litigation, we generally cannot predict their ultimate resolution, related timing or eventual loss.

As an owner and developer of real estate, the Company is subject to various environmental laws of federal, state and local governments. The Company is not aware of any environmental liability that could have a material adverse effect on its financial condition or results of operations. However, changes in applicable environmental laws and regulations, the uses and conditions of real estate in the vicinity of the Company’s real estate and other environmental conditions of which the Company is unaware with respect to the real estate could result in future environmental liabilities.

The Company has provided credit enhancements in connection with joint venture borrowings in the form of loan-to-value ("LTV") maintenance agreements in order to secure the joint venture's performance under the loans and maintenance of certain LTV ratios. The Company has also entered into agreements with its partners in each of the unconsolidated joint ventures whereby the Company and its partners are apportioned liability under the LTV maintenance agreements according to their respective capital interest. In addition, the agreements provide the Company, to the extent its partner has an unpaid liability under such credit enhancements, the right to receive distributions from the unconsolidated joint venture that would otherwise be made to the partner. However, there is no guarantee that such distributions will be made or will be sufficient to cover the Company's liability under such LTV maintenance agreements. The loans underlying the LTV maintenance agreements include acquisition and development loans, construction revolvers and model home loans, and the agreements remain in force until the loans are satisfied. Due to the nature of the loans, the outstanding balance at any given time is subject to a number of factors including the status of site improvements, the mix of horizontal and vertical development underway, the timing of phase build outs, and the period necessary to complete the escrow process for homebuyers. As of June 30, 2020 and December 31, 2019, $11.6 million and $28.6 million, respectively, was outstanding under loans that are credit enhanced by the Company through LTV maintenance agreements. Under the terms of the joint venture agreements, the Company's proportionate share of LTV maintenance agreement liabilities was $2.6 million and $5.8 million, respectively, as of June 30, 2020 and December 31, 2019.

THE NEW HOME COMPANY INC.
NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

In addition, the Company has provided completion agreements regarding specific performance for certain projects whereby the Company is required to complete the given project with funds provided by the beneficiary of the agreement. If there are not adequate funds available under the specific project loans, the Company would then be subject to financial liability under such completion agreements. Typically, under such terms of the joint venture agreements, the Company has the right to apportion the respective share of any costs funded under such completion agreements to its partners. However, there is no guarantee that we will be able to recover against our partners for such amounts owed to us under the terms of such joint venture agreements. In connection with joint venture borrowings, the Company also selectively provides (a) an environmental indemnity provided to the lender that holds the lender harmless from and against losses arising from the discharge of hazardous materials from the property and non-compliance with applicable environmental laws; and (b) indemnification of the lender from "bad boy acts" of the unconsolidated entity such as fraud, misrepresentation, misapplication or non-payment of rents, profits, insurance, and condemnation proceeds, waste and mechanic liens, and bankruptcy.

We obtain surety bonds in the normal course of business to ensure completion of certain infrastructure improvements of our projects. As of June 30, 2020 and December 31, 2019, the Company had outstanding surety bonds totaling $41.7 million and $47.6 million, respectively. The estimated remaining costs to complete of such improvements as of June 30, 2020 and December 31, 2019 were $12.9 million and $29.1 million, respectively. The beneficiaries of the bonds are various municipalities, homeowners' associations, and other organizations. In the event that any such surety bond issued by a third party is called because the required improvements are not completed, the Company could be obligated to reimburse the issuer of the bond.

The Company accounts for contracts deemed to contain a lease under ASC 842, *Leases*. At the inception of a lease, or if a lease is subsequently modified, we determine whether the lease is an operating or financing lease. Our lease population is fully comprised of operating leases and includes leases for certain office space and equipment for use in our operations. For all leases with an expected term that exceeds one year, right-of-use assets and lease liabilities are recorded within our consolidated balance sheets. The depreciable lives of right-of-use assets are limited to the expected term which would include any renewal options we expect to exercise. The exercise of lease renewal options is generally at our discretion and we expect that in the normal course of business, leases that expire will be renewed or replaced by other leases. Our lease agreements do not contain any residual value guarantees or material restrictive covenants. Variable lease payments consist of non-lease services related to the lease. Variable lease payments are excluded from the right-of-use asset and lease liabilities and are expensed as incurred. Right-of-use lease assets are included in other assets and lease liabilities are recorded in accrued expenses and other liabilities within the accompanying condensed consolidated balance sheets and total $2.3 million and $2.4 million, respectively, at June 30, 2020

For the three and six months ending June 30, 2020 and 2019 lease costs and cash flow information for leases with terms in excess of one year was as follows:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2020	2019	2020	2019
	(Dollars in thousands)			
Lease cost:				
Lease costs included in general and administrative expenses	$ 314	$ 265	$ 625	$ 620
Lease costs included in real estate inventories	111	207	208	369
Lease costs included in selling and marketing expenses	59	17	98	34
Net lease cost (1)	$ 484	$ 489	$ 931	$ 1,023
Other Information:				
Lease cash flows (included in operating cash flows)(1)	$ 518	$ 563	$ 1,016	$ 1,053

(1) Does not include the cost of short-term leases with terms of less than one year which totaled approximately $30,000, $0.1 million, $0.2 million and $0.5 million for the three and six months ended June 30, 2020 and 2019, respectively, or the benefit from a sublease agreement of one of our office spaces which totaled approximately $59,000, $118,000, $49,000 and $98,000 for the three and six months ended June 30, 2020 and 2019, respectively.

THE NEW HOME COMPANY INC.
NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

Future lease payments under our operating leases are as follows (dollars in thousands):

Remaining for 2020	$	885
2021		852
2022		230
2023		220
2024		210
Thereafter		124
Total lease payments(1)	$	2,521
Less: Interest(2)		87
Present value of lease liabilities(3)	$	2,434

(1) Lease payments include options to extend lease terms that are reasonably certain of being exercised.
(2) Our leases do not provide a readily determinable implicit rate. Therefore, we utilized our incremental borrowing rate for such leases to determine the present value of lease payments at the lease commencement date.
(3) The weighted average remaining lease term and weighted average incremental borrowing rate used in calculating our lease liabilities were 3.0 years and 4.7%, respectively at June 30, 2020.

12. Related Party Transactions

During the three and six months ended June 30, 2020 and 2019, the Company incurred construction-related costs on behalf of its unconsolidated joint ventures totaling $1.0 million, $2.2 million, $1.5 million and $3.2 million, respectively. As of June 30, 2020 and December 31, 2019, $0.1 million and $0.2 million, respectively, are included in due from affiliates in the accompanying condensed consolidated balance sheets related to such costs.

The Company has entered into agreements with its unconsolidated joint ventures to provide management services related to the underlying projects (collectively referred to as the "Management Agreements"). Pursuant to the Management Agreements, the Company receives a management fee based on each project's revenues. During the three and six months ended June 30, 2020 and 2019, the Company earned $0.2 million, $0.6 million, $0.6 million and $1.2 million, respectively, in management fees, which have been recorded as fee building revenues in the accompanying condensed consolidated statements of operations. As of June 30, 2020 and December 31, 2019, $4,000 and $0, respectively, of management fees are included in due from affiliates in the accompanying condensed consolidated balance sheets.

One member of the Company's board of directors beneficially owns more than 10% of the Company's outstanding common stock through an affiliated entity, IHP Capital Partners VI, LLC ("IHP"), and is also affiliated with entities that have investments in two of the Company's unconsolidated joint ventures, TNHC Meridian Investors LLC (which is owner of another entity, TNHC Newport LLC, which entity owned our "Meridian" project) and Russell Ranch. The Company's investment in these two joint ventures was $0.3 million at June 30, 2020 and $13.7 million at December 31, 2019.

During the 2019 second quarter, the Company entered into a second amendment to the limited liability company agreement of Russell Ranch between the Company and IHP. Prior to the execution of the second amendment, each of IHP and the Company had contributed its maximum capital commitments pursuant to the joint venture agreement. Pursuant to the second amendment, the parties agreed to fund additional required capital in the aggregate amount of approximately $26 million for certain remaining backbone improvements for the Project (the "Phase 1 Backbone Improvements") as follows: 50% by IHP and 50% by the Company ("Amendment Additional Capital"). The Amendment Additional Capital will be returned to IHP and the Company ahead of any other contributed capital; provided that none of the Amendment Additional Capital accrues a preferred return that base capital contributions are generally afforded under the joint venture agreement. To the extent of overruns on the Phase 1 Backbone Improvements, the Company is required to fund such overrun capital ("TNHC Overrun Capital"); provided that such contributions shall receive capital account credit. Pursuant to the second amendment, the distribution of cash flow under the agreement was amended to provide that Amendment Additional Capital would be returned prior to TNHC Overrun Capital, which would, in turn, be returned ahead of the base capital preferred return and base capital. The Company previously purchased lots from the Russell Ranch joint venture as described below (the "Phase 1 Purchase"). The parties also amended the purchase and sale contract for the Phase 1 Purchase to provide relief from the profit participation provisions of this transaction under certain circumstances. As discussed in Note 6, in connection with its plan to exit the Russell Ranch joint venture due to the low expected financial returns relative to future capital requirements and related risks, the Company determined that the value of its investment in Russell Ranch declined beyond its current carrying value and recorded a $20.0 million other-than-temporary impairment charge to write off its investment balance and record its estimated remaining costs to complete.

THE NEW HOME COMPANY INC.
NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

TL Fab LP, an affiliate of one of the Company's non-employee directors, was engaged by the Company and some of its unconsolidated joint ventures as a trade contractor to provide metal fabrication services. For the three and six months ended June 30, 2020 and 2019, the Company incurred $7,000, $7,000, $22,000 and $55,000, respectively, for these services. Of these costs, none was due to TL Fab LP from the Company at June 30, 2020 and December 31, 2019.

In its ordinary course of business, the Company enters into agreements to purchase lots from unconsolidated land development joint ventures of which it is a member. In accordance with ASC 360-20, the Company defers its portion of the underlying gain from the joint venture's sale of these lots to the Company. When the Company purchases lots directly from the joint venture, the deferred gain is recorded as a reduction to the Company's land basis on the purchased lots. In this instance, the gain is ultimately recognized when the Company delivers lots to third-party home buyers at the time of the home closing. At June 30, 2020 and December 31, 2019, $0.2 million and $0.2 million, respectively, of deferred gain from lot transactions with the TNHC-HW Cannery LLC ("Cannery") and Bedford unconsolidated joint ventures remained unrecognized and included as a reduction to land basis in the accompanying condensed consolidated balance sheets.

The Company’s land purchase agreement with the Cannery provides for reimbursements of certain fee credits. The Company was reimbursed $15,000 in fee credits from the Cannery during the three and six months ended June 30, 2020 and was not reimbursed any fees credits during the three and six months ended June 30, 2019. As of June 30, 2020 and December 31, 2019, $0 and $15,000, respectively, in fee credits was due to the Company from the Cannery, which is included in due from affiliates in the accompanying condensed consolidated balance sheets.

On June 18, 2015, the Company entered into an agreement that effectively transitioned Joseph Davis' role within the Company from that of Chief Investment Officer to that of a non-employee consultant to the Company effective June 26, 2015 ("Transition Date"). As of the Transition Date, Mr. Davis ceased being an employee of the Company and became an independent contractor performing consulting services. For his services, Mr. Davis was compensated $5,000 per month through June 26, 2019 when his contract was amended to extend its term one year and reduce his scope of services and compensation to $1,000 per month. Mr. Davis' contract was amended on June 26, 2020 to extend the term one year with monthly compensation remaining $1,000 per month. At June 30, 2020, no fees were due to Mr. Davis for his consulting services. Additionally, the Company entered into a construction agreement effective September 7, 2017, with The Joseph and Terri Davis Family Trust Dated August 25, 1999 ("Davis Family Trust") of which Joseph Davis is a trustee. The agreement was a fee building contract pursuant to which the Company acted in the capacity of a general contractor to build a single family detached home on land owned by the Davis Family Trust. Construction of the home was completed during the 2019 first quarter. For its services, the Company received a contractor's fee and the Davis Family Trust reimbursed the Company's field overhead costs. During the three and six months ended June 30, 2019, the Company billed the Davis Family Trust $10,000 and $0.5 million, respectively, including reimbursable construction costs and the Company's contractor's fees which are included in fee building revenues in the accompanying condensed consolidated statements of operations. Contractor's fees comprised $0 and $15,000 of the total billings for the three and six months ended June 30, 2019, respectively. The Company recorded $13,000 and $0.5 million for the three and six months ended June 30, 2019, respectively, for the costs of this fee building revenue which are included in fee building cost of sales in the accompanying condensed consolidated statements of operations. At June 30, 2020 and December 31, 2019, the Company was due $0 from the Davis Family Trust for construction draws.

On February 17, 2017, the Company entered into a consulting agreement that transitioned Wayne Stelmar's role from that of Chief Investment Officer to a non-employee consultant to the Company. While an employee of the Company, Mr. Stelmar served as an employee director of the Company's Board of Directors. The agreement provided that effective upon Mr. Stelmar's termination of employment, he became a non-employee director and received the compensation and was subject to the requirements of a non-employee director pursuant to the Company's policies. For his consulting services, Mr. Stelmar was compensated $0, $0, $18,000 and $36,000 for the three and six months ended June 30, 2020 and 2019, respectively. Additionally, Mr. Stelmar's outstanding restricted stock unit equity award granted in 2016 continued to vest in accordance with its original terms based on his continued provision of consulting services rather than continued employment and fully vested during the 2019 first quarter. Mr. Stelmar's vested stock options remain outstanding based on Mr. Stelmar's continued service as a Board member. The consulting contract expired in August 2019 and was not extended.

On February 14, 2019, the Company entered into a consulting agreement that transitioned Thomas Redwitz's role from that of Chief Investment Officer to a non-employee consultant to the Company effective March 1, 2019. For his consulting services, Mr. Redwitz was compensated $10,000 per month. The agreement originally was set to expire on March 1, 2020 and was extended upon mutual consent of the parties on a month to month basis to a reduced consulting fee of $5,000 per month. At June 30, 2020, no fees were due to Mr. Redwitz for his consulting services.

The Company entered into agreements during 2018 and 2017 to purchase land from affiliates of IHP, which owns more than 10% of the Company's outstanding common stock and is affiliated with one member of the Company's board of directors. Certain land takedowns pursuant to these agreements occurred during 2019 and 2020 or are scheduled to take place during the remainder 2020. Descriptions of these agreements and relevant takedown activity are described below.

THE NEW HOME COMPANY INC.
NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

During 2017, the Company entered into an agreement with an IHP affiliate to purchase lots in Northern California in a phased takedown for a gross purchase price of $16.1 million with profit participation and master marketing fees due to the seller as outlined in the contract. The Company did not takedown any land pursuant to this contract during the three and six months ended June 30, 2020 and 2019. At June 30, 2020, the Company has taken down all of the lots and paid $0.5 million in master marketing fees, and as of December 31, 2019, IHP was no longer affiliated with this development. During 2017, the Company also contracted to purchase finished lots in Northern California from an IHP affiliate, which agreement included customary profit participation and was structured as an optioned takedown. The total purchase price, including the cost for the finished lot development and the option, was expected to be approximately $56.3 million, dependent on the timing of takedowns, as well as our obligation to pay certain fees and costs during the option maintenance period. The Company took down 10% of lots pursuant to this agreement during the three and six months ended June 30, 2019. During the 2019 second quarter, an unrelated third party entered into agreements to purchase from the IHP affiliate some of the lots under the Company's option. The Company in turn entered into an arrangement pursuant to which it agreed to purchase such lots on a rolling take down basis from such unrelated third party. The unrelated third party purchased 67% of the lots originally under contract with the IHP affiliate. Following the purchase of the lots by the unrelated third party in 2019, the Company had no remaining lots to purchase from the IHP affiliate. As of June 30, 2020, the Company (i) had no nonrefundable deposits with the IHP affiliate to be applied to the Company's takedown of lots from the unrelated third party and (ii) has paid (A) $0.2 million for fees and costs, (B) $3.0 million in option payments, and (C) $18.0 million for the purchase of lots directly from the IHP affiliate. During 2018, the Company agreed to purchase land in a master-plan community in Arizona for an estimated purchase price of $3.8 million plus profit participation and marketing fees pursuant to contract terms. During the three and six months ended June 30, 2020, the Company took down approximately 11% of the option lots and as of June 30, 2020, had an outstanding, nonrefundable deposit of $0.3 million related to this contract. As of December 31, 2019, IHP was no longer affiliated with this development.

In the first quarter 2018, the Company entered into an option agreement to purchase lots in phased takedowns with its Bedford joint venture. At the time of the initial agreement in 2018, the Bedford joint venture was affiliated with a former member of the Company's board of directors. As of June 30, 2020, the Company has made a $1.5 million nonrefundable deposit as consideration for this option, with a portion of the deposit applied to the purchase price across the phases. The gross purchase price of the land was $10.0 million with profit participation and master marketing fees due to seller as outlined in the contract. During the 2019 third quarter, the Company entered into an amendment to this agreement to reduce the gross purchase price of the land to $9.3 million. During the three and six months ended June 30, 2020, the Company did not take down any lots underlying this agreement. The Company took down 12% of the lots underlying this agreement during the three and six months ended June 30, 2019. At June 30, 2020, the Company has taken down all of the contracted lots and the deposit was fully applied to the purchase and has paid $0.1 million in master marketing fees. During the fourth quarter 2018, the Company entered into a second option agreement with the Bedford joint venture to purchase lots in phased takedowns. The Company made a $1.4 million nonrefundable deposit as consideration for the option, with a portion of the deposit to be applied to the purchase price across the phases. The gross purchase price of the land is $10.5 million with profit participation and master marketing fees due to the seller pursuant to the agreement. The Company did not take down any optioned lots during the six months ended June 30, 2020 and took down 42% of the lots underlying this agreement during the six months ended June 30, 2019. At June 30, 2020, the Company had taken down approximately 92% of the optioned lots, paid $0.2 million in master marketing fees, and no deposit remained outstanding.

The Company and its partner in the Bedford joint venture agreed in principle to a sale of the Company's interest in the joint venture to its partner during the 2020 first quarter and entered into a purchase and sale agreement for this transaction during the 2020 third quarter. Pursuant to the agreement, the purchase price is approximately $5.1 million for the sale of the Company's partnership interest. During the six months ended June 30, 2020, the Company recorded a $2.3 million other-than-temporary impairment charge to its investment in the Bedford joint venture reflecting the sale of its joint venture investment for less than its current carrying value. The sale is expected to close during the 2020 third quarter and the agreement, among other things, allows for a continuation of the Company's option to purchase at market up to 30% of the remaining lots from the joint venture.

The Company has provided credit enhancements in connection with joint venture borrowings in the form of LTV maintenance agreements in order to secure the joint venture's performance under the loans and maintenance of certain LTV ratios. In addition, the Company has provided completion agreements regarding specific performance for certain projects whereby the Company is required to complete the given project with funds provided by the beneficiary of the agreement. For more information regarding these agreements please refer to Note 11.

13. Stock-Based Compensation

The Company's 2014 Long-Term Incentive Plan (the "2014 Incentive Plan"), was adopted by our board of directors in January 2014. The 2014 Incentive Plan provides for the grant of equity-based awards, including options to purchase shares of common stock, stock appreciation rights, restricted and unrestricted stock awards, restricted stock units and performance awards. The 2014 Incentive Plan will automatically expire on the tenth anniversary of its effective date.

THE NEW HOME COMPANY INC.
NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

The number of shares of our common stock authorized to be issued under the 2014 Incentive Plan is 1,644,875 shares. To the extent that shares of the Company's common stock subject to an outstanding award granted under the 2014 Incentive Plan or any predecessor plan are not issued or delivered by reason of the expiration, termination, cancellation or forfeiture of such award or the settlement of such award in cash, then such shares of common stock generally shall again be available under the 2014 Incentive Plan.

At our 2016 Annual Meeting of Shareholders on May 24, 2016, our shareholders approved the Company's 2016 Incentive Award Plan (the "2016 Incentive Plan"). The 2016 Incentive Plan provides for the grant of stock options, stock appreciation rights, restricted stock, restricted stock units and other stock- or cash-based awards. Non-employee directors of the Company and employees and consultants of the Company or any of its subsidiaries are eligible to receive awards under the 2016 Incentive Plan. On May 22, 2018, our shareholders approved the amended and restated 2016 Incentive Plan which increased the number of shares authorized for issuance under the plan from 800,000 to 2,100,000 shares. The amended and restated 2016 Incentive Plan will expire on April 4, 2028.

The Company has issued stock option and restricted stock unit awards under the 2014 Incentive Plan and stock options, restricted stock unit awards and performance share unit awards under the 2016 Incentive Plan. As of June 30, 2020, 61,443 shares remain available for grant under the 2014 Incentive Plan and 414,737 shares remain available for grant under the 2016 Incentive Plan. The exercise price of stock option awards may not be less than the market value of the Company's common stock on the date of grant. The fair value for stock options is established at the date of grant using the Black-Scholes model for time-based vesting awards. The Company's stock options, restricted stock unit awards, and performance share unit awards typically vest over a one year to three years period and the stock options expire ten years from the date of grant.

A summary of the Company’s common stock option activity as of and for the six months ended June 30, 2020 and 2019 is presented below:

	Six Months Ended June 30,			
	2020		2019	
	Number of Shares	Weighted-Average Exercise Price per Share	Number of Shares	Weighted-Average Exercise Price per Share
Outstanding Stock Option Activity				
Outstanding, beginning of period	1,068,017	$ 9.78	821,470	$ 11.00
Granted	161,479	$ 5.36	249,283	$ 5.76
Exercised	—	$ —	—	$ —
Forfeited	—	$ —	(2,736)	$ 11.00
Outstanding, end of period	1,229,496	$ 9.20	1,068,017	$ 9.78
Exercisable, end of period	901,829	$ 10.52	818,734	$ 11.00

A summary of the Company’s restricted stock unit activity as of and for the six months ended June 30, 2020 and 2019 is presented below:

	Six Months Ended June 30,			
	2020		2019	
	Number of Shares	Weighted-Average Grant-Date Fair Value per Share	Number of Shares	Weighted-Average Grant-Date Fair Value per Share
Restricted Stock Unit Activity				
Outstanding, beginning of period	592,116	$ 6.36	469,227	$ 10.75
Granted	358,869	$ 4.78	230,774	$ 5.28
Vested	(244,812)	$ 7.61	(277,401)	$ 10.50
Forfeited	(428)	$ 11.68	(48,178)	$ 10.91
Outstanding, end of period	705,745	$ 5.12	374,422	$ 7.54

THE NEW HOME COMPANY INC.
NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

A summary of the Company's performance share unit activity as of and for the six months ended June 30, 2020 and 2019 is presented below:

	Six Months Ended June 30,			
	2020		2019	
	Number of Shares	Weighted-Average Grant-Date Fair Value per Share	Number of Shares	Weighted-Average Grant-Date Fair Value per Share
Performance Share Unit Activity				
Outstanding, beginning of period	—	$ —	125,422	$ 11.68
Granted (at target)	—	$ —	—	$ —
Vested	—	$ —	—	$ —
Forfeited	—	$ —	(26,882)	$ 11.68
Outstanding, end of period (at target)	—	$ —	98,540	$ 11.68

The expense related to the Company's stock-based compensation programs, included in general and administrative expense in the accompanying condensed consolidated statements of operations, was as follows:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2020	2019	2020	2019
	(Dollars in thousands)			
Expense related to:				
Stock options	$ 81	$ 50	$ 145	$ 72
Restricted stock units and performance share units	440	473	965	1,017
	$ 521	$ 523	$ 1,110	$ 1,089

The following table presents details of the assumptions used to calculate the weighted-average grant date fair value of common stock options granted by the Company in each year:

	Six Months Ended June 30,	
	2020	2019
Expected term (in years)	6.0	6.0
Expected volatility	41.8%	39.9%
Risk-free interest rate	1.4%	2.5%
Expected dividends	—	—
Weighted-average grant date fair value per share	$ 2.24	$ 2.43

We used the "simplified method" to establish the expected term of the common stock options granted by the Company. Our restricted stock unit awards and performance share unit awards are valued based on the closing price of our common stock on the date of grant. The number of performance share units that would vest ranged from 50%-150% of the target amount awarded based on actual cumulative earnings per share and return on equity growth from 2018-2019, subject to initial achievement of minimum thresholds. We evaluated the probability of achieving the performance targets established under each of the outstanding performance share unit awards quarterly during 2018 and 2019 and estimated the number of underlying units that were probable of being issued. Compensation expense for restricted stock unit and performance share unit awards was being recognized using the straight-line method over the requisite service period, subject to cumulative catch-up adjustments required as a result of changes in the number shares probable of being issued for performance share unit awards. Forfeitures are recognized in compensation cost during the period that the award forfeiture occurs. For the six months ended June 30, 2019, no expense was recognized for our performance share units. At December 31, 2019, the performance targets associated with the outstanding performance share unit awards were not met and all outstanding awards were forfeited.

At June 30, 2020, the amount of unearned stock-based compensation currently estimated to be expensed through 2023 is $3.5 million. The weighted-average period over which the unearned stock-based compensation is expected to be recognized is 2.0 years. If there are any modifications or cancellations of the underlying unvested awards, the Company may be required to accelerate, increase or cancel any remaining unearned stock-based compensation expense.

THE NEW HOME COMPANY INC.
NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

14. Income Taxes

For the three and six months ended June 30, 2020, the Company recorded an income tax benefit of $16.9 million and $26.9 million, respectively. The Company's effective tax rates for the three and six months ended June 30, 2020 include the benefit associated with net operating loss carrybacks to years when the Company was subject to a 35% federal tax rate. The effective tax rates for both 2020 periods differ from the federal statutory rate due the net operating loss carryback benefit, discrete items, state income tax rates and tax credits for energy efficient homes. The discrete benefit for the three months ended June 30, 2020 totaled $1.8 million and was primarily related to the CARES Act signed into law on March 27, 2020. Discrete items for the six months ended June 30, 2020 totaled a $9.9 million benefit, $5.8 million of which related to the $14.0 million project abandonment costs recorded during the 2020 first quarter and a $3.9 million benefit related to the CARES Act. For more information on the abandonment costs, please refer to Note 4. The CARES Act allows companies to carry back net operating losses generated in 2018 through 2020 for five years. For the three and six months ended June 30, 2020, the Company recognized a $1.8 million and $3.9 million discrete benefit, respectively, related to the remeasurement of deferred tax assets originally valued at a 21% federal statutory tax rate which are now available to be carried back to tax years with a 35% federal statutory rate.

For the three and six months ended June 30, 2019, the Company recorded an income tax provision of $1.0 million and $0.3 million, respectively. The Company's effective tax rates for 2019 periods differ from the federal statutory tax rates due to state income taxes, estimated deduction limitations for executive compensation and discrete items. The provision for discrete items totaled $0.3 million for the six months ended June 30, 2019 related to stock compensation and state income tax rate changes.

The components of our deferred tax asset, net are as follows:

	June 30, 2020	December 31, 2019
	(Dollars in thousands)	
Net operating loss	$ 8,080	$ 3,848
Reserves and accruals	2,637	2,563
Share based compensation	1,479	1,392
Inventory	4,278	3,536
Investments in joint ventures	392	7,080
Other	23	27
Capital loss	140	—
Valuation allowance	(140)	—
Depreciation and amortization	(392)	(393)
Right of use asset	(631)	(550)
Deferred tax asset, net	$ 15,866	$ 17,503

15. Segment Information

The Company’s operations are organized into three reportable segments: two homebuilding segments (Arizona and California) and fee building. In determining the most appropriate reportable segments, we considered similar economic and other characteristics, including product types, average selling prices, gross margins, production processes, suppliers, subcontractors, regulatory environments, land position, and underlying demand and supply in accordance with ASC 280. Our California homebuilding reportable segment aggregates the Southern California and Northern California homebuilding operating segments.

Our homebuilding operations acquire and develop land and construct and sell single-family attached and detached homes and may sell land. Our fee building operations build homes and manage construction and sales related activities on behalf of third-party property owners and our joint ventures. In addition, our corporate operations develop and implement strategic initiatives and support our operating segments by centralizing key administrative functions such as accounting, finance and treasury, information technology, insurance and risk management, litigation, marketing and human resources. A portion of the expenses incurred by corporate are allocated to the fee building segment primarily based on its respective percentage of revenues and to each homebuilding segment based on its respective investment in and advances to unconsolidated joint ventures and real estate inventories balances. The assets of our fee building segment primarily consist of cash, restricted cash and contracts and accounts receivable. The majority of our corporate personnel and resources are primarily dedicated to activities relating to our homebuilding segment, and, therefore, the balance of any unallocated corporate expenses are allocated within our homebuilding reportable segments.

THE NEW HOME COMPANY INC.
NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

The reportable segments follow the same accounting policies as our consolidated financial statements described in Note 1. Operational results of each reportable segment are not necessarily indicative of the results that would have been achieved had the reportable segment been an independent, stand-alone entity during the periods presented.

Financial information relating to reportable segments was as follows:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2020	2019	2020	2019
	(Dollars in thousands)			
Homebuilding revenues:				
California home sales	$ 71,597	$ 132,830	$ 154,877	$ 216,162
California land sales	10	—	157	—
Arizona home sales	6,160	7,634	18,539	23,488
Total homebuilding revenues	77,767	140,464	173,573	239,650
Fee building revenues, including management fees	21,193	22,285	57,420	41,947
Total revenues	$ 98,960	$ 162,749	$ 230,993	$ 281,597
Homebuilding pretax income (loss):				
California	$ (38,238)	$ 2,846	$ (42,689)	$ 279
Arizona	(3,192)	(796)	(17,884)	(1,274)
Total homebuilding pretax income (loss)	(41,430)	2,050	(60,573)	(995)
Fee building pretax income, including management fees	208	515	938	909
Total pretax income (loss)	$ (41,222)	$ 2,565	$ (59,635)	$ (86)

	June 30, 2020	December 31, 2019
	(Dollars in thousands)	
Homebuilding assets:		
California	$ 379,199	$ 416,179
Arizona	64,690	82,234
Total homebuilding assets	443,889	498,413
Fee building assets	4,492	11,193
Corporate unallocated assets	93,213	93,583
Total assets	$ 541,594	$ 603,189

16. Supplemental Disclosure of Cash Flow Information

The following table presents certain supplemental cash flow information:

	Six Months Ended June 30,	
	2020	2019
	(Dollars in thousands)	
Supplemental disclosures of cash flow information		
Interest paid, net of amounts capitalized	$ 1,398	$ —
Income taxes paid	$ —	$ 240

THE NEW HOME COMPANY INC.
NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

17. Supplemental Guarantor Information

The Company's Notes are guaranteed, on an unsecured basis, jointly and severally, by all of the Company's 100% owned subsidiaries (collectively, the "Guarantors"). The guarantees are full and unconditional. The Indenture governing the Notes provides that the guarantees of a Guarantor will be automatically and unconditionally released and discharged: (1) upon any sale, transfer, exchange or other disposition (by merger, consolidation or otherwise) of all of the equity interests of such Guarantor after which the applicable Guarantor is no longer a "Restricted Subsidiary" (as defined in the Indenture), which sale, transfer, exchange or other disposition is made in compliance with applicable provisions of the Indenture; (2) upon the proper designation of such Guarantor as an "Unrestricted Subsidiary" (as defined in the Indenture), in accordance with the Indenture; (3) upon request of the Company and certification in an officers' certificate provided to the trustee that the applicable Guarantor has become an "Immaterial Subsidiary" (as defined in the indenture), so long as such Guarantor would not otherwise be required to provide a guarantee pursuant to the Indenture; provided that, if immediately after giving effect to such release the consolidated tangible assets of all Immaterial Subsidiaries that are not Guarantors would exceed 5.0% of consolidated tangible assets, no such release shall occur, (4) if the Company exercises its legal defeasance option or covenant defeasance option under the Indenture or if the obligations of the Company and the Guarantors are discharged in compliance with applicable provisions of the Indenture, upon such exercise or discharge; (5) unless a default has occurred and is continuing, upon the release or discharge of such Guarantor from its guarantee of any indebtedness for borrowed money of the Company and the Guarantors so long as such Guarantor would not then otherwise be required to provide a guarantee pursuant to the Indenture; or (6) upon the full satisfaction of the Company's obligations under the Indenture; provided that in each case if such Guarantor has incurred any indebtedness in reliance on its status as a Guarantor in compliance with applicable provisions of the Indenture, such Guarantor's obligations under such indebtedness, as the case may be, so incurred are satisfied in full and discharged or are otherwise permitted to be incurred by a Restricted Subsidiary (other than a Guarantor) in compliance with applicable provisions of the Indenture. The Company has determined that separate, full financial statements of the Guarantors would not be material to investors and, accordingly, supplemental financial information for the guarantors is presented.

THE NEW HOME COMPANY INC.
NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

SUPPLEMENTAL CONDENSED CONSOLIDATING BALANCE SHEETS

	June 30, 2020				
	NWHM	Guarantor Subsidiaries	Non-Guarantor Subsidiaries	Consolidating Adjustments	Consolidated NWHM
	(Dollars in thousands)				
Assets					
Cash and cash equivalents	$ 39,871	$ 45,543	$ 174	$ —	$ 85,588
Restricted cash	—	144	—	—	144
Contracts and accounts receivable	4	7,525	—	(417)	7,112
Intercompany receivables	259,822	—	—	(259,822)	—
Due from affiliates	1	139	—	—	140
Real estate inventories	—	370,949	—	—	370,949
Investment in and advances to unconsolidated joint ventures	—	12,931	—	—	12,931
Investment in subsidiaries	150,811	—	—	(150,811)	—
Deferred tax asset, net	15,237	629	—	—	15,866
Other assets	37,820	11,017	27	—	48,864
Total assets	$ 503,566	$ 448,877	$ 201	$ (411,050)	$ 541,594
Liabilities and equity					
Accounts payable	$ 127	$ 15,985	$ —	$ —	$ 16,112
Accrued expenses and other liabilities	11,349	22,318	26	(413)	33,280
Intercompany payables	—	259,822	—	(259,822)	—
Due to affiliates	—	4	—	(4)	—
Senior notes, net	295,124	—	—	—	295,124
Total liabilities	306,600	298,129	26	(260,239)	344,516
Total stockholders' equity	196,966	150,748	63	(150,811)	196,966
Non-controlling interest in subsidiary	—	—	112	—	112
Total equity	196,966	150,748	175	(150,811)	197,078
Total liabilities and equity	$ 503,566	$ 448,877	$ 201	$ (411,050)	$ 541,594

THE NEW HOME COMPANY INC.
NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

	December 31, 2019				
	NWHM	Guarantor Subsidiaries	Non-Guarantor Subsidiaries	Consolidating Adjustments	Consolidated NWHM
	(Dollars in thousands)				
Assets					
Cash and cash equivalents	$ 66,166	$ 12,978	$ 170	$ —	$ 79,314
Restricted cash	—	117	—	—	117
Contracts and accounts receivable	3	16,403	—	(424)	15,982
Intercompany receivables	258,372	—	—	(258,372)	—
Due from affiliates	—	238	—	—	238
Real estate inventories	—	433,938	—	—	433,938
Investment in and advances to unconsolidated joint ventures	—	30,217	—	—	30,217
Investment in subsidiaries	198,448	—	—	(198,448)	—
Deferred tax asset, net	17,003	500	—	—	17,503
Other assets	9,505	16,340	35	—	25,880
Total assets	$ 549,497	$ 510,731	$ 205	$ (457,244)	$ 603,189
Liabilities and equity					
Accounts payable	$ 68	$ 24,973	$ 3	$ —	$ 25,044
Accrued expenses and other liabilities	11,950	28,999	26	(421)	40,554
Intercompany payables	—	258,372	—	(258,372)	—
Due to affiliates	—	3	—	(3)	—
Senior notes, net	304,832	—	—	—	304,832
Total liabilities	316,850	312,347	29	(258,796)	370,430
Total stockholders' equity	232,647	198,384	64	(198,448)	232,647
Non-controlling interest in subsidiary	—	—	112	—	112
Total equity	232,647	198,384	176	(198,448)	232,759
Total liabilities and equity	$ 549,497	$ 510,731	$ 205	$ (457,244)	$ 603,189

THE NEW HOME COMPANY INC.
NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

SUPPLEMENTAL CONDENSED CONSOLIDATING STATEMENTS OF OPERATIONS

	Three Months Ended June 30, 2020				
	NWHM	Guarantor Subsidiaries	Non-Guarantor Subsidiaries	Consolidating Adjustments	Consolidated NWHM
	(Dollars in thousands)				
Revenues:					
Home sales	$ —	$ 77,757	$ —	$ —	$ 77,757
Land sales	—	10	—	—	10
Fee building	—	21,193	—	—	21,193
	—	98,960	—	—	98,960
Cost of Sales:					
Home sales	—	66,216	—	—	66,216
Home sales impairments	—	19,000	—	—	19,000
Land sales	—	10	—	—	10
Fee building	—	20,985	—	—	20,985
	—	106,211	—	—	106,211
Gross Margin:					
Home sales	—	(7,459)	—	—	(7,459)
Land sales	—	—	—	—	—
Fee building	—	208	—	—	208
	—	(7,251)	—	—	(7,251)
Selling and marketing expenses	—	(6,386)	—	—	(6,386)
General and administrative expenses	(960)	(5,932)	—	—	(6,892)
Equity in net loss of unconsolidated joint ventures	—	(19,962)	—	—	(19,962)
Equity in net loss of subsidiaries	(25,858)	—	—	25,858	—
Interest expense	—	(1,271)	—	—	(1,271)
Project abandonment costs	—	(94)	—	—	(94)
Gain on early extinguishment of debt	702	—	—	—	702
Other income (expense), net	(38)	(30)	—	—	(68)
Pretax loss	(26,154)	(40,926)	—	25,858	(41,222)
Benefit for income taxes	1,861	15,068	—	—	16,929
Net loss	(24,293)	(25,858)	—	25,858	(24,293)
Net loss attributable to non-controlling interest in subsidiary	—	—	—	—	—
Net loss attributable to The New Home Company Inc.	$ (24,293)	$ (25,858)	$ —	$ 25,858	$ (24,293)

THE NEW HOME COMPANY INC.
NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

	Three Months Ended June 30, 2019				
	NWHM	Guarantor Subsidiaries	Non-Guarantor Subsidiaries	Consolidating Adjustments	Consolidated NWHM
	(Dollars in thousands)				
Revenues:					
Home sales	$ —	$ 140,464	$ —	$ —	$ 140,464
Fee building	—	22,285	—	—	22,285
	—	162,749	—	—	162,749
Cost of Sales:					
Home sales	—	123,582	(57)	—	123,525
Fee building	—	21,770	—	—	21,770
	—	145,352	(57)	—	145,295
Gross Margin:					
Home sales	—	16,882	57	—	16,939
Fee building	—	515	—	—	515
	—	17,397	57	—	17,454
Selling and marketing expenses	—	(9,683)	—	—	(9,683)
General and administrative expenses	617	(6,458)	—	—	(5,841)
Equity in net income of unconsolidated joint ventures	—	185	—	—	185
Equity in net income of subsidiaries	1,087	—	—	(1,087)	—
Project abandonment costs	—	(14)	—	—	(14)
Gain on early extinguishment of debt	552	—	—	—	552
Other income (expense), net	(106)	18	—	—	(88)
Pretax income	2,150	1,445	57	(1,087)	2,565
Provision for income taxes	(578)	(396)	—	—	(974)
Net income	1,572	1,049	57	(1,087)	1,591
Net income attributable to non-controlling interest in subsidiary	—	—	(19)	—	(19)
Net income attributable to The New Home Company Inc.	$ 1,572	$ 1,049	$ 38	$ (1,087)	$ 1,572

THE NEW HOME COMPANY INC.
NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

	Six Months Ended June 30, 2020				
	NWHM	Guarantor Subsidiaries	Non-Guarantor Subsidiaries	Consolidating Adjustments	Consolidated NWHM
			(Dollars in thousands)		
Revenues:					
Home sales	$ —	$ 173,416	$ —	$ —	$ 173,416
Land sales	—	157	—	—	157
Fee building	—	57,420	—	—	57,420
	—	230,993	—	—	230,993
Cost of Sales:					
Home sales	—	150,938	—	—	150,938
Home sales impairments	—	19,000	—	—	19,000
Land sales	—	157	—	—	157
Fee building	—	56,482	—	—	56,482
	—	226,577	—	—	226,577
Gross Margin:					
Home sales	—	3,478	—	—	3,478
Land sales	—	—	—	—	—
Fee building	—	938	—	—	938
	—	4,416	—	—	4,416
Selling and marketing expenses	—	(13,852)	—	—	(13,852)
General and administrative expenses	(739)	(12,176)	—	—	(12,915)
Equity in net loss of unconsolidated joint ventures	—	(21,899)	—	—	(21,899)
Equity in net loss of subsidiaries	(36,388)	—	—	36,388	—
Interest expense	—	(1,989)	—	—	(1,989)
Project abandonment costs	—	(14,130)	—	—	(14,130)
Gain on early extinguishment of debt	579	—	—	—	579
Other income (expense), net	155	—	—	—	155
Pretax loss	(36,393)	(59,630)	—	36,388	(59,635)
Benefit for income taxes	3,624	23,242	—	—	26,866
Net loss	(32,769)	(36,388)	—	36,388	(32,769)
Net loss attributable to non-controlling interest in subsidiary	—	—	—	—	—
Net loss attributable to The New Home Company Inc.	$ (32,769)	$ (36,388)	$ —	$ 36,388	$ (32,769)

THE NEW HOME COMPANY INC.
NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

	Six Months Ended June 30, 2019				
	NWHM	Guarantor Subsidiaries	Non-Guarantor Subsidiaries	Consolidating Adjustments	Consolidated NWHM
			(Dollars in thousands)		
Revenues:					
Home sales	$ —	$ 239,650	$ —	$ —	$ 239,650
Fee building	—	41,947	—	—	41,947
	—	281,597	—	—	281,597
Cost of Sales:					
Home sales	—	210,151	(57)	—	210,094
Fee building	—	41,038	—	—	41,038
	—	251,189	(57)	—	251,132
Gross Margin:					
Home sales	—	29,499	57	—	29,556
Fee building	—	909	—	—	909
	—	30,408	57	—	30,465
Selling and marketing expenses	—	(18,362)	—	—	(18,362)
General and administrative expenses	51	(13,283)	—	—	(13,232)
Equity in net income of unconsolidated joint ventures	—	369	—	—	369
Equity in net loss of subsidiaries	(625)	—	—	625	—
Project abandonment costs	—	(19)	—	—	(19)
Gain on early extinguishment of debt	969	—	—	—	969
Other income (expense), net	(168)	(108)	—	—	(276)
Pretax income (loss)	227	(995)	57	625	(86)
(Provision) benefit for income taxes	(642)	332	—	—	(310)
Net income (loss)	(415)	(663)	57	625	(396)
Net income attributable to non-controlling interest in subsidiary	—	—	(19)	—	(19)
Net income (loss) attributable to The New Home Company Inc.	$ (415)	$ (663)	$ 38	$ 625	$ (415)

THE NEW HOME COMPANY INC.
NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

SUPPLEMENTAL CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS

	Six Months Ended June 30, 2020				
	NWHM	Guarantor Subsidiaries	Non-Guarantor Subsidiaries	Consolidating Adjustments	Consolidated NWHM
	(Dollars in thousands)				
Net cash (used in) provided by operating activities	$ (23,225)	$ 45,377	$ 4	$ (133)	$ 22,023
Investing activities:					
Purchases of property and equipment	(84)	(59)	—	—	(143)
Contributions and advances to unconsolidated joint ventures	—	(3,847)	—	—	(3,847)
Contributions to subsidiaries from corporate	(35,690)	—	—	35,690	—
Distributions of capital from subsidiaries to corporate	46,806	—	—	(46,806)	—
Distributions of capital and repayment of advances from unconsolidated joint ventures	—	2,370	—	—	2,370
Net cash provided by (used in) investing activities	$ 11,032	$ (1,536)	$ —	$ (11,116)	$ (1,620)
Financing activities:					
Repurchase of senior notes	(9,825)	—	—	—	(9,825)
Contributions to subsidiaries from corporate	—	35,690	—	(35,690)	—
Distributions to corporate from subsidiaries	—	(46,939)	—	46,939	—
Proceeds from note payable	7,036	—	—	—	7,036
Repayment of note payable	(7,036)	—	—	—	(7,036)
Payment of debt issuance costs	(255)	—	—	—	(255)
Repurchases of common stock	(3,718)	—	—	—	(3,718)
Tax withholding paid on behalf of employees for stock awards	(304)	—	—	—	(304)
Net cash used in financing activities	$ (14,102)	$ (11,249)	$ —	$ 11,249	$ (14,102)
Net (decrease) increase in cash, cash equivalents and restricted cash	(26,295)	32,592	4	—	6,301
Cash, cash equivalents and restricted cash – beginning of period	66,166	13,095	170	—	79,431
Cash, cash equivalents and restricted cash – end of period	$ 39,871	$ 45,687	$ 174	$ —	$ 85,732

THE NEW HOME COMPANY INC.
NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

	Six Months Ended June 30, 2019				
	NWHM	Guarantor Subsidiaries	Non-Guarantor Subsidiaries	Consolidating Adjustments	Consolidated NWHM
	(Dollars in thousands)				
Net cash (used in) provided by operating activities	$ (36,110)	$ 54,970	$ 32	$ —	$ 18,892
Investing activities:					
Purchases of property and equipment	(1)	(7)	—	—	(8)
Contributions and advances to unconsolidated joint ventures	—	(4,120)	—	—	(4,120)
Contributions to subsidiaries from corporate	(66,575)	—	—	66,575	—
Distributions of capital from subsidiaries to corporate	91,700	—	—	(91,700)	—
Distributions of capital and repayment of advances from unconsolidated joint ventures	—	4,928	—	—	4,928
Net cash provided by investing activities	$ 25,124	$ 801	$ —	$ (25,125)	$ 800
Financing activities:					
Borrowings from credit facility	40,000	—	—	—	40,000
Repayments of credit facility	(41,500)	—	—	—	(41,500)
Repurchase of senior notes	(10,856)	—	—	—	(10,856)
Contributions to subsidiaries from corporate	—	66,575	—	(66,575)	—
Distributions to corporate from subsidiaries	—	(91,700)	—	91,700	—
Repurchases of common stock	(1,042)	—	—	—	(1,042)
Tax withholding paid on behalf of employees for stock awards	(488)	—	—	—	(488)
Net cash used in financing activities	$ (13,886)	$ (25,125)	$ —	$ 25,125	$ (13,886)
Net (decrease) increase in cash, cash equivalents and restricted cash	(24,872)	30,646	32	—	5,806
Cash, cash equivalents and restricted cash – beginning of period	28,877	13,518	147	—	42,542
Cash, cash equivalents and restricted cash – end of period	$ 4,005	$ 44,164	$ 179	$ —	$ 48,348

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

CAUTIONARY NOTE CONCERNING FORWARD-LOOKING STATEMENTS

This quarterly report on Form 10-Q contains forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995, Section 27A of the Securities Act and Section 21E of the Securities Exchange Act of 1934, as amended (the "Exchange Act"). All statements contained in this quarterly report on Form 10-Q other than statements of historical fact, including statements regarding our future results of operations and financial position, our business strategy and plans, our objectives for future operations, and potential adverse impacts of the COVID-19 pandemic are forward-looking statements. These forward-looking statements are frequently accompanied by words such as "believe," "may," "will," "estimate," "continue," "anticipate," "intend," "expect," "goal," "plan," "could," "can," "might," "should," and similar expressions. We have based these forward-looking statements largely on our current expectations and projections about future events and trends that we believe may affect our financial condition, results of operations, business strategy, short-term and long-term business operations and objectives, financial needs, and potential adverse impacts due to COVID-19.

These forward-looking statements are subject to a number of risks, uncertainties, and assumptions, including those described in Part I, Item 1A, "Risk Factors" and Part II, Item 7, "Management's Discussion and Analysis of Financial Condition and Results of Operations" in our annual report on Form 10-K for the year ended December 31, 2019 and Part I, Item 2, "Management's Discussion and Analysis of Financial Condition and Results of Operations" and Part II, Item 1A, "Risk Factors" of this quarterly report on 10-Q. The following factors, among others, may cause our actual results, performance or achievements to differ materially from any future results, performance or achievements expressed or implied by these forward-looking statements.

On March 11, the World Health Organization characterized the outbreak of COVID-19 a global pandemic. We continue to be uncertain of the full magnitude or duration of the business and economic impacts resulting from the measures enacted to contain this outbreak as the impact of the COVID-19 outbreak continues to evolve as of the date of this report. Management is actively monitoring the situation on its financial condition, liquidity, operations, suppliers, customers, industry, and workforce; however, the Company is not able to estimate all the effects the COVID-19 outbreak will have on its results of operations, financial condition or liquidity for the year-ended December 31, 2020 given the rapid evolution of this outbreak and related containment responses. In addition to the following factors, reference is made to Part II, Item 1A of this this quarterly report on Form 10-Q for a discussion of material changes from the risk factors set forth in our annual report on Form 10-K for the year ended December 31, 2019.

- Risks related to our business, including among other things:
  - our geographic concentration primarily in California and the availability of land to acquire and our ability to acquire such land on favorable terms or at all;
  - the cyclical nature of the homebuilding industry which is affected by general economic real estate and other business conditions;
  - the illiquid nature of real estate investments and the inventory risks related to declines in value of such investments which may result in significant impairment charges;
  - our ability to execute our business strategies is uncertain;
  - a reduction in our sales absorption levels may force us to incur and absorb additional community-level costs;
  - shortages of or increased prices for labor, land or raw materials used in housing construction;
  - availability and skill of subcontractors at reasonable rates;
  - construction defect, product liability, warranty, and personal injury claims, including the cost and availability of insurance;
  - the degree and nature of our competition;
  - inefficient or ineffective allocation of capital could adversely affect or operations and/or stockholder value if expected benefits are not realized;
  - delays in the development of communities;
  - increases in our cancellation rate;
  - a large proportion of our fee building revenue being dependent upon one customer;
  - employment-related liabilities with respect to our contractors' employees;
  - increased costs, delays in land development or home construction and reduced consumer demand resulting from adverse weather conditions or other events outside our control;
  - increased cost and reduced consumer demand resulting from power, water and other natural resource shortages or price increases;
  - because of the seasonal nature of our business, our quarterly operating results fluctuate;
  - we may be unable to obtain suitable bonding for the development of our housing projects;
  - inflation could adversely affect our business and financial results;
  - a major health and safety incident relating to our business could be costly in terms of potential liabilities and reputational damage;
  - negative publicity or poor relations with the residents of our communities could negatively impact sales, which could cause our revenues or results of operations to decline; and
  - failure to comply with privacy laws or information systems interruption or breach in security that releases personal identifying information or other confidential information.

- Risks related to laws and regulations, including among other things:
  - mortgage financing, as well as our customer's ability to obtain such financing, interest rate increases or changes in federal lending programs;
  - changes in tax laws can increase the after-tax cost of owning a home, and further tax law changes or government fees could adversely affect demand for the homes we build, increase our costs, or negatively affect our operating results;
  - we may not be able to generate sufficient taxable income to fully realize our net deferred tax asset;
  - new and existing laws and regulations, including environmental laws and regulations, or other governmental actions may increase our expenses,

limit the number of homes that we can build or delay the completion of our projects or otherwise negatively impact our operations;
    - changes in global or regional climate conditions and legislation relating to energy and climate change could increase our costs to construct homes;

- Risks related to financing and indebtedness, including among other things:
    - difficulty in obtaining sufficient capital could prevent us from acquiring land for our developments or increase costs and delays in the completion of our development projects;
    - our level of indebtedness may adversely affect our financial position and prevent us from fulfilling our debt obligations, and we may incur additional debt in the future;
    - the significant amount and illiquid nature of our joint venture partnerships, in which we have less than a controlling interest;
    - our current financing arrangements contain and our future financing arrangements will likely contain restrictive covenants related to our operations;
    - a breach of the covenants under the Indenture or any of the other agreements governing our indebtedness could result in an event of default under the Indenture or other such agreements;
    - potential future downgrades of our credit ratings could adversely affect our access to capital and could otherwise have a material adverse effect on us;
    - interest expense on debt we incur may limit our cash available to fund our growth strategies;
    - we may be unable to repurchase the Notes upon a change of control as required by the Indenture;

- Risks related to our organization and structure, including among other things:
    - our dependence on our key personnel;
    - the potential costly impact termination of employment agreements with members of our management that may prevent a change in control of the Company;
    - our charter and bylaws could prevent a third party from acquiring us or limit the price that investors might be willing to pay for shares of our common stock;

- Risks related to ownership of our common stock, including among other things:
    - that we are eligible to take advantage of reduced disclosure and governance requirements because of our status as a smaller reporting company;
    - the price of our common stock is subject to volatility and our trading volume is relatively low;
    - if securities or industry analysts do not publish, or cease publishing, research or reports about us, our business or our market, or if they change their recommendations regarding our common stock adversely, our stock price and trading volume could decline;
    - we do not intend to pay dividends on our common stock for the foreseeable future;
    - certain stockholders have rights to cause our Company to undertake securities offerings;
    - our senior notes rank senior to our common stock upon bankruptcy or liquidation;
    - certain large stockholders own a significant percentage of our shares and exert significant influence over us;
    - there is no assurance that the existence of a stock repurchase plan will enhance shareholder value;
    - non-U.S. holders of our common stock may be subject to United States income tax on gain realized on the sale of disposition of such shares.

Moreover, we operate in a very competitive and rapidly changing environment. New risks emerge from time to time, such as COVID-19. It is not possible for our management to predict all risks, nor can we assess the impact of all factors on our business or the extent to which any factor, or combination of factors, may cause actual results to differ materially from those contained in any forward-looking statements we may make. In light of these risks, uncertainties and assumptions, the future events and trends discussed in this quarterly report on Form 10-Q may not occur and actual results could differ materially and adversely from those anticipated or implied in the forward-looking statements.

The forward-looking statements in this quarterly report on Form 10-Q speak only as of the date of this quarterly report on Form 10-Q, and we undertake no obligation to revise or publicly release any revision to these forward-looking statements, except as required by law. Given these risks and uncertainties, readers are cautioned not to place undue reliance on such forward-looking statements.

Table of Contents

Non-GAAP Measures

This quarterly report on Form 10-Q includes certain non-GAAP measures, including home sales gross margin before impairments (or homebuilding gross margin before impairments), home sales gross margin before impairments percentage, Adjusted EBITDA, Adjusted EBITDA margin percentage, ratio of Adjusted EBITDA to total interest incurred, net debt, ratio of net debt-to-capital, adjusted net income (loss), adjusted net income (loss) per diluted share, general and administrative costs excluding severance charges, general and administrative costs excluding severance charges as a percentage of home sales revenue, selling, marketing and general and administrative costs excluding severance charges, selling, marketing and general and administrative costs excluding severance charges as a percentage of home sales revenue, adjusted homebuilding gross margin (or homebuilding gross margin before impairments and interest in cost of home sales) and adjusted homebuilding gross margin percentage. For a reconciliation of home sales gross margin before impairments (or homebuilding gross margin before impairments), adjusted homebuilding gross margin (or homebuilding gross margin before impairments and interest in cost of home sales), home sales gross margin before impairments percentage and adjusted homebuilding gross margin percentage to the comparable GAAP measures please see "-- Results of Operations - Homebuilding Gross Margin." For a reconciliation of Adjusted EBITDA, Adjusted EBITDA margin percentage, and the ratio of Adjusted EBITDA to total interest incurred to the comparable GAAP measures please see "-- Selected Financial Information." For a reconciliation of net debt and ratio of net debt-to-capital to the comparable GAAP measures, please see "-- Liquidity and Capital Resources - Debt-to-Capital Ratios." For a reconciliation of adjusted net income (loss) and adjusted net income (loss) per diluted share to the comparable GAAP measure, please see "-- Overview." For a reconciliation of general and administrative costs excluding severance charges, general and administrative expenses excluding severance charges as a percentage of homes sales revenue, selling, marketing and general and administrative expenses excluding severance charges and selling, marketing and general and administrative expenses excluding severance charges as a percentage of home sales revenue, please see "-- Results of Operations - Selling, General and Administrative Expenses."

Selected Financial Information

	Three Months Ended June 30,		Six Months Ended June 30,	
	2020	2019	2020	2019
	(Dollars in thousands)			
Revenues:				
Home sales	$ 77,757	$ 140,464	$ 173,416	$ 239,650
Land sales	10	—	157	—
Fee building, including management fees	21,193	22,285	57,420	41,947
	98,960	162,749	230,993	281,597
Cost of Sales:				
Home sales	66,216	123,525	150,938	210,094
Home sales impairments	19,000	—	19,000	—
Land sales	10	—	157	—
Fee building	20,985	21,770	56,482	41,038
	106,211	145,295	226,577	251,132
Gross Margin:				
Home sales	(7,459)	16,939	3,478	29,556
Land sales	—	—	—	—
Fee building	208	515	938	909
	(7,251)	17,454	4,416	30,465
Home sales gross margin	(9.6)%	12.1%	2.0%	12.3%
Home sales gross margin before impairments(1)	14.8%	12.1%	13.0%	12.3%
Land sales gross margin	—%	N/A	—%	N/A
Fee building gross margin	1.0%	2.3%	1.6%	2.2%
Selling and marketing expenses	(6,386)	(9,683)	(13,852)	(18,362)
General and administrative expenses	(6,892)	(5,841)	(12,915)	(13,232)
Equity in net income (loss) of unconsolidated joint ventures	(19,962)	185	(21,899)	369
Interest expense	(1,271)	—	(1,989)	—
Project abandonment costs	(94)	(14)	(14,130)	(19)
Gain on early extinguishment of debt	702	552	579	969
Other income (expense), net	(68)	(88)	155	(276)
Pretax income (loss)	(41,222)	2,565	(59,635)	(86)
(Provision) benefit for income taxes	16,929	(974)	26,866	(310)
Net income (loss)	(24,293)	1,591	(32,769)	(396)
Net income attributable to non-controlling interest	—	(19)	—	(19)
Net income (loss) attributable to The New Home Company Inc.	$ (24,293)	$ 1,572	$ (32,769)	$ (415)
Interest incurred	$ 6,150	$ 7,606	$ 12,530	$ 15,367
Adjusted EBITDA(2)	$ 6,394	$ 11,071	$ 13,375	$ 17,946
Adjusted EBITDA margin percentage(2)	6.5%	6.8%	5.8%	6.4%

	LTM(3) Ended June 30,	
	2020	2019
Interest incurred	$ 25,982	$ 30,416
Adjusted EBITDA(2)	$ 36,859	$ 46,536
Adjusted EBITDA margin percentage (2)	6.0%	6.9%
Ratio of Adjusted EBITDA to total interest incurred (2)	1.4x	1.5x

(1) Home sales gross margin before impairments (also referred to as homebuilding gross margin before impairments) is a non-GAAP measure. The table below reconciles this non-GAAP financial measure to homebuilding gross margin, the nearest GAAP equivalent.

	Three Months Ended June 30,				Six Months Ended June 30,			
	2020	%	2019	%	2020	%	2019	%
	(Dollars in thousands)							
Home sales revenue	$ 77,757	100.0%	$ 140,464	100.0%	$ 173,416	100.0%	$ 239,650	100.0%
Cost of home sales	85,216	109.6%	123,525	87.9%	169,938	98.0%	210,094	87.7%
Homebuilding gross margin	(7,459)	(9.6)%	16,939	12.1%	3,478	2.0%	29,556	12.3%

Add: Home sales impairments	19,000	24.4%	—	—%	19,000	11.0%	—	—%
Homebuilding gross margin before impairments	$ 11,541	14.8%	$ 16,939	12.1%	$ 22,478	13.0%	$ 29,556	12.3%

(2) Adjusted EBITDA, Adjusted EBITDA margin percentage and ratio of Adjusted EBITDA to total interest incurred are non-GAAP measures. Adjusted EBITDA margin percentage is calculated as a percentage of total revenue. Management believes that Adjusted EBITDA, which is a non-GAAP measure, assists investors in understanding and comparing the operating characteristics of homebuilding activities by eliminating many of the differences in companies' respective capitalization, interest costs, tax position, inventory impairments and other non-recurring items. Due to the significance of the GAAP components excluded, Adjusted EBITDA should not be considered in isolation or as an alternative to net income (loss), cash flows from operations or any other performance measure prescribed by GAAP. The table below reconciles net income (loss), calculated and presented in accordance with GAAP, to Adjusted EBITDA.

	Three Months Ended June 30,		Six Months Ended June 30,		LTM(3) Ended June 30,	
	2020	2019	2020	2019	2020	2019
	(Dollars in thousands)					
Net income (loss)	$ (24,293)	$ 1,591	$ (32,769)	$ (396)	$ (40,374)	$ (14,090)
Add:						
Interest amortized to cost of sales excluding impairment charges, and interest expensed (4)	5,872	6,301	12,736	11,153	28,817	23,317
Provision (benefit) for income taxes	(16,929)	974	(26,866)	310	(30,991)	(4,972)
Depreciation and amortization	1,778	2,386	3,623	5,042	7,538	9,027
Amortization of stock-based compensation	521	523	1,110	1,089	2,281	2,475
Cash distributions of income from unconsolidated joint ventures	—	19	—	279	95	279
Severance charges	1,091	—	1,091	1,788	1,091	1,788
Noncash inventory impairments and abandonments	19,094	14	33,130	19	43,405	10,182
Less:						
Gain on early extinguishment of debt	(702)	(552)	(579)	(969)	(774)	(969)
Equity in net (income) loss of unconsolidated joint ventures	19,962	(185)	21,899	(369)	25,771	19,499
Adjusted EBITDA	$ 6,394	$ 11,071	$ 13,375	$ 17,946	$ 36,859	$ 46,536
Total Revenue	$ 98,960	$ 162,749	$ 230,993	$ 281,597	$ 618,745	$ 670,377
Adjusted EBITDA margin percentage	6.5%	6.8%	5.8%	6.4%	6.0%	6.9%
Interest incurred	$ 6,150	$ 7,606	$ 12,530	$ 15,367	$ 25,982	$ 30,416
Ratio of Adjusted LTM(3) EBITDA to total interest incurred					1.4x	1.5x

(3) "LTM" indicates amounts for the trailing 12 months.
(4) Due to an inadvertent oversight in prior periods, interest amortized to certain inventory impairment charges and to equity in net income (loss) of unconsolidated joint ventures was duplicated in the Adjusted EBITDA calculation. The prior periods have been restated to correct this duplication.

Table of Contents

Overview

The Company made solid progress on a number of fronts in the 2020 second quarter as it generated positive order momentum as the quarter progressed, made additional improvements to its cost structure and improved its balance sheet leverage as compared to the prior year period and continued its pivot to more affordable price points. The Company also addressed certain underperforming assets, which resulted in significant impairments and a loss for the quarter, but should provide a better path forward both from a financial and strategic standpoint.

After experiencing unprecedented uncertainty during the month of April, our monthly absorption pace improved sequentially each month with June ending at 3.6 net orders per community for the month, a 33% increase compared to June 2019. We believe these results were driven by record-low interest rates and pent-up demand for new housing. Year-over-year orders for April and May decreased 56% and 5%, respectively, before increasing 68% in June, marking the highest monthly net order total in our Company's history. Our more-affordable communities led the way with an absorption pace 4.3 net orders per community for the month of June. Consistent with our strategic shift to more-affordable product, we opened three new entry-level communities in Gilbert, Arizona in May and ended the 2020 second quarter with 25 active selling communities, up 25% compared to the prior year. The stronger demand later in the quarter contributed to a 14% increase in homes in backlog compared to the 2019 second quarter and positioned us for a better second half of 2020.

Total revenues for the 2020 second quarter were $99.0 million compared to $162.7 million in the prior year period. The year-over-year drop in revenues was driven largely by a lower beginning backlog and slower sales during April resulting from a temporary drop in demand from the pandemic, which impacted our ability to sell and deliver homes during the quarter. During the 2020 second quarter, the Company realized a $41.2 million pretax loss as compared to pretax income of $2.6 million in the prior year period. The 2020 second quarter included $19.0 million in inventory impairment charges, a $20.0 million joint venture impairment charge related to a land development joint venture in Northern California, and $1.1 million in severance charges. Net loss attributable to the Company for the 2020 second quarter was $24.3 million, or ($1.32) per diluted share, compared to net income of $1.6 million, or $0.08 per diluted share, for the prior year period. Excluding the impairment and severance charges and a $1.8 million net deferred tax asset remeasurement benefit, adjusted net loss for the 2020 second quarter was ($0.7) million*, or ($0.04)* per diluted share. Other factors contributing to the year-over-year increase in net loss for the 2020 second quarter included a 45% decrease in home sale revenues and a $1.3 million increase in interest expense.

The Company generated operating cash flow of $4.7 million for the 2020 second quarter and ended the quarter with $85.6 million in cash and cash equivalents and no borrowings outstanding under its revolving credit facility. The Company also strengthened its balance sheet by extending the maturity date of its bank credit facility to September 30, 2021 and repurchased and retired $5.8 million in principal of its 7.25% Senior Notes due 2022 at a discount. The Company repurchased 817,300 shares of our common stock during the 2020 second quarter for $1.5 million, or an average price of $1.80 per share. At June 30, 2020, the Company had a debt-to-capital ratio of 60.0% and a net debt-to-capital ratio of 51.5*%, which represented a 620-basis point improvement compared to the 2019 second quarter.

As the COVID-19 pandemic is still impacting lives around the world and in our markets, we continue to prioritize the health and safety of our employees, trade partners and home buyers. Despite the uncertainty related to this pandemic, we believe pent up demand for housing continues to be strong and that The New Home Company is on more solid footing moving forward.

*Net debt-to-capital ratio, adjusted net loss and adjusted net loss per diluted share are non-GAAP measures. For a reconciliation of net debt-to-capital to the appropriate GAAP measure, please see "-- Liquidity and Capital Resources - Debt-to-Capital Ratios." For a reconciliation of adjusted net loss and adjusted net loss per diluted share to the appropriate GAAP measures, please see below.

Table of Contents

Non-GAAP Footnote (continued)

	Three Months Ended June 30,		Six Months Ended June 30,	
	2020	2019	2020	2019
	(Dollars in thousands, except per share amounts)			
Net income (loss) attributable to The New Home Company Inc.	$ (24,293)	$ 1,572	$ (32,769)	$ (415)
Inventory impairments, abandoned project costs, joint venture impairments and severance charges, net of tax	25,414	—	34,847	1,113
Noncash deferred tax asset remeasurement	(1,827)	—	(3,941)	—
Adjusted net income (loss) attributable to The New Home Company Inc.	$ (706)	$ 1,572	$ (1,863)	$ 698
Earnings (loss) per share attributable to The New Home Company Inc.:				
Basic	$ (1.32)	$ 0.08	$ (1.71)	$ (0.02)
Diluted	$ (1.32)	$ 0.08	$ (1.71)	$ (0.02)
Adjusted earnings (loss) per share attributable to The New Home Company Inc.:				
Basic	$ (0.04)	$ 0.08	$ (0.10)	$ 0.03
Diluted	$ (0.04)	$ 0.08	$ (0.10)	$ 0.03
Weighted average shares outstanding:				
Basic	18,341,549	20,070,914	19,146,687	20,028,600
Diluted	18,341,549	20,095,533	19,146,687	20,082,018(1)
Inventory impairments	$ 19,000	$ —	$ 19,000	$ —
Abandoned project costs related to Arizona luxury condominium community	—	—	14,000	—
Joint venture impairments related to joint venture exits	20,038	—	22,325	—
Severance charges	1,091	—	1,091	1,788
Less: Related tax benefit	(14,715)	—	(21,569)	(675)
Inventory impairments, abandoned project costs, joint venture impairments and severance charges, net of tax	$ 25,414	$ —	$ 34,847	$ 1,113

(1) Applicable only for diluted earnings per share for adjusted earning per share calculation.

Table of Contents

Results of Operations

Net New Home Orders

	Three Months Ended June 30,		Increase/(Decrease)		Six Months Ended June 30,		Increase/(Decrease)	
	2020	2019	Amount	%	2020	2019	Amount	%
Net new home orders:								
Southern California	75	90	(15)	(17)%	137	148	(11)	(7)%
Northern California	60	53	7	13%	128	98	30	31%
Arizona	29	11	18	164%	31	20	11	55%
Total net new home orders	164	154	10	6%	296	266	30	11%
Monthly sales absorption rate per community: (1)								
Southern California	2.3	2.5	(0.2)	(8)%	2.1	2.0	0.1	5%
Northern California	1.9	2.3	(0.4)	(17)%	2.1	2.2	(0.1)	(5)%
Arizona	3.2	1.8	1.4	78%	2.2	1.7	0.5	29%
Total monthly sales absorption rate per community (1)	2.2	2.4	(0.2)	(8)%	2.1	2.0	0.1	5%
Cancellation rate	11%	11%	—%	NA	14%	12%	2%	NA
Selling communities at end of period:								
Southern California					11	11	—	—%
Northern California					10	7	3	43%
Arizona					4	2	2	100%
Total selling communities					25	20	5	25%
Average selling communities:								
Southern California	11	12	(1)	(8)%	11	12	(1)	(8)%
Northern California	11	8	3	38%	10	8	2	25%

Arizona	3	2	1	50%	2	2	—	—%
Total average selling communities	25	22	3	14%	23	22	1	5%

(1) Monthly sales absorption represents the number of net new home orders divided by the number of average selling communities for the period.

Net new home orders for the 2020 second quarter increased 6% as compared to the same period in 2019 primarily due to a 14% increase in total average selling communities, partially offset by a decline in the monthly sales absorption rate due to slow sales activity in the early part of the quarter as a result of the stay-at-home orders implemented in the latter part of the 2020 first quarter related to COVID-19. However, sales increased substantially in June 2020 as COVID-19 restrictions eased and the 2020 second quarter monthly absorption pace increased 10% sequentially over the 2020 first quarter. Historically low interest rates and a shortage of resale inventory due to restricted accessibility from the pandemic contributed to increased buyer demand and the Company recorded the highest sales month in its history during June 2020 with net new orders up 68% compared to June 2019. The Company has also benefited from the success of its enhanced virtual selling platform from which a large portion of our net new orders generated during the 2020 second quarter. Home buyers are demonstrating an increased level of comfort with shopping for homes online allowing our sales team to identify qualified, motivated buyers and convert those leads into sales in a much more cost-effective way versus the traditional sales model.

Partially offsetting the decline in the monthly sales absorption pace for our California communities was a 78% increase in the monthly sales pace for Arizona, attributable to the successful opening of its entry-level masterplan community in Gilbert, Arizona during the 2020 second quarter, which had a combined monthly sales pace of 4.0 for its three selling communities. The decline in monthly sales absorption pace for Southern California was primarily due to the 2019 second quarter benefiting from strong order volume from our community of attached court homes located in the Inland Empire, which experienced its highest sales pace since its opening during that prior period. Northern California sales pace also decreased in the 2020 second quarter compared to the prior year period, due to weakened demand for some of our Sacramento communities, especially early in the quarter. Notwithstanding the decrease in sales pace for Northern California, the increase in average selling communities contributed to an increase in net new home orders for the 2020 second quarter.

Net new home orders for the six months ended June 30, 2020 increased 11% as compared to the same period in 2019, as a pick up in demand during the latter part of the 2020 second quarter resulted in a 5% increase in the monthly sales absorption rate. A 5% year-over-year increase in average selling communities also contributed to the increase in orders for the 2020 year-to-date period and resulted in an ending community count of 25 compared to 20 for the prior year period.

Demand was strongest during the six months ended June 30, 2020 for our more-affordable, entry-level product, which averaged a monthly sales pace of 2.6 per community compared to a total of 2.1 per community for the company wide average. We opened six new communities during 2020, the majority of which fall under our entry-level product category. The sales pace for our entry-level product benefited the most from an existing Northern California masterplan community in Vacaville as well as a popular community of paired homes in Rancho Mission Viejo in Southern California. In addition to the success with our entry-level product, the sales pace for our first time move up product increased 38% year-over-year, primarily due to strong order volume from our recently opened single family detached community in Rancho Mission Viejo, as each phase release continues to sell well.

The Company’s cancellation rate for the 2020 second quarter was flat with the prior year at 11%. The cancellation rate for the six months ended June 30, 2020 was 14%, a modest increase from 12% for the comparable prior year period. The increase in the cancellation rate was due to increased cancellations occurring in March and April as a result of the economic impact COVID-19 had on our buyers' confidence.

Backlog

	As of June 30,								
	2020			2019			% Change		
	Homes	Dollar Value	Average Price	Homes	Dollar Value	Average Price	Homes	Dollar Value	Average Price
		(Dollars in thousands)							
Southern California	91	$ 74,547	$ 819	86	$ 92,438	$ 1,075	6%	(19)%	(24)%
Northern California	117	81,909	700	85	71,648	843	38%	14%	(17)%
Arizona	27	12,337	457	36	37,503	1,042	(25)%	(67)%	(56)%
Total	235	$ 168,793	$ 718	207	$ 201,589	$ 974	14%	(16)%	(26)%

Backlog reflects the number of homes, net of cancellations, for which we have entered into sales contracts with customers, but for which we have not yet delivered the homes. The number of homes in backlog as of June 30, 2020 was up 14% as compared to the prior year period primarily due to a lower quarterly backlog conversion rate for the 2020 second quarter coupled with a 6% increase in net orders resulting from a higher average community count. The decrease in the conversion rate to 59% for the 2020 second quarter as compared to 74% in the prior year period resulted from a lower beginning backlog to start the 2020 second quarter due to weaker demand and higher cancellations in March and April stemming from economic volatility from COVID-19, including severe job losses and turmoil in the financial and mortgage markets, which resulted in a temporary decline in consumer confidence and housing demand. The dollar value of backlog at the end of the 2020 second quarter was down 16% year-over-year to $168.8 million, primarily due to a 26% decrease in average selling price as the Company continues its pivot to more-affordable product.

The year-over-year decline in backlog dollar value and average price was greatest in Arizona, due to the 2020 second quarter opening of a mini masterplan in Gilbert consisting of an entry-level neighborhood with three distinct selling communities, which have average base selling prices starting around $300,000. Prior year backlog units for Arizona were mainly comprised of homes from our higher-end, closed-out community in Gilbert, Arizona where the average price of homes in backlog was $1.0 million at June 30, 2019. The 25% decrease in the number of homes in backlog for Arizona was primarily due to a low beginning backlog as a

result of two nearly closed-out communities with limited inventory and low order volume. Northern California's 38% increase in backlog units was the highest of the divisions due to higher beginning backlog units, a decrease in backlog conversion rate to 46% for the 2020 second quarter from 62% in the prior year period, and a 13% increase in orders from a higher number of average selling communities. The increase in the number of homes in Northern California backlog contributed to a 14% increase in backlog dollar value, which was partially offset by a 17% decrease in the average price as the division's community growth has been concentrated within the more-affordable Sacramento region. In Southern California, the increase in ending backlog units for the 2020 second quarter was offset by a decrease in total backlog dollar value as a result of the 24% decrease in average selling price. The mix of homes in Southern California ending backlog shifted to more-affordable communities, as the prior year had a higher number of homes in backlog with average selling prices over $1.0 million, including a large concentration at a luxury community in south Orange County which was near close-out at June 30, 2020.

Due to the uncertainty surrounding the COVID-19 pandemic, we could experience higher cancellation rates compared to prior periods related to homes within our backlog as of June 30, 2020.

Table of Contents

Lots Owned and Controlled

	As of June 30,		Increase/(Decrease)	
	2020	2019	Amount	%
Lots Owned:				
Southern California	397	581	(184)	(32)%
Northern California	558	729	(171)	(23)%
Arizona	397	294	103	35%
Total	1,352	1,604	(252)	(16)%
Lots Controlled:(1)				
Southern California	415	200	215	108%
Northern California	210	503	(293)	(58)%
Arizona	262	477	(215)	(45)%
Total	887	1,180	(293)	(25)%
Total Lots Owned and Controlled - Wholly Owned	2,239	2,784	(545)	(20)%
Fee Building Lots(2)	892	1,231	(339)	(28)%

(1) Includes lots that we control under purchase and sale agreements or option agreements that are subject to customary conditions and have not yet closed. There can be no assurance that such acquisitions will occur.
(2) Lots owned by third party property owners for which we perform general contracting or construction management services.

The Company's wholly owned lots owned and controlled decreased 20% year-over-year to 2,239 lots, of which 40% were controlled through option contracts compared to 42% optioned in the prior year period. The decrease in wholly owned lots owned and controlled was due to more deliveries in the last twelve months ended June 30, 2020 than lots contracted during the same period, the sale of certain lots in Northern California as part of a strategic decision to generate cash flow and reduce our concentration of capital investments in certain markets, and the termination of a purchase contract for lots in Northern California that the Company decided to no longer pursue. The Company reduced the level of land acquisition over the last year as a result of its focus to generate cash flows and reduce its leverage.

The decrease in fee building lots at June 30, 2020 as compared to the prior year period was primarily attributable to the delivery of 377 homes to customers during the last twelve months ended June 30, 2020, partially offset by a new contract for 38 lots located in Irvine, California in the same period.

Home Sales Revenue and New Homes Delivered

	Three Months Ended June 30,								
	2020			2019			% Change		
	Homes	Dollar Value	Average Price	Homes	Dollar Value	Average Price	Homes	Dollar Value	Average Price
	(Dollars in thousands)								
Southern California	50	$ 41,440	$ 829	91	$ 95,534	$ 1,050	(45)%	(57)%	(21)%
Northern California	48	30,156	628	53	37,296	704	(9)%	(19)%	(11)%
Arizona	5	6,161	1,232	7	7,634	1,091	(29)%	(19)%	13%
Total	103	$ 77,757	$ 755	151	$ 140,464	$ 930	(32)%	(45)%	(19)%

	Six Months Ended June 30,								
	2020			2019			% Change		
	Homes	Dollar Value	Average Price	Homes	Dollar Value	Average Price	Homes	Dollar Value	Average Price
	(Dollars in thousands)								
Southern California	118	$ 104,457	$ 885	152	$ 160,127	$ 1,053	(22)%	(35)%	(16)%
Northern California	77	50,420	655	81	56,035	692	(5)%	(10)%	(5)%
Arizona	15	18,539	1,236	17	23,488	1,382	(12)%	(21)%	(11)%
Total	210	$ 173,416	$ 826	250	$ 239,650	$ 959	(16)%	(28)%	(14)%

New home deliveries decreased 32% for the 2020 second quarter compared to the prior year period. The decrease in deliveries was the result of lower beginning backlog coupled with a lower backlog conversion rate during the 2020 second quarter as a result of the slowdown in sales at the beginning of the quarter which led to fewer speculative homes sold and delivered during the quarter. The 2019 second quarter had a higher backlog conversion rate due to success with selling and delivering more speculative homes during this quarter. Home sales revenue for the three months ended June 30, 2020 declined 45% compared to the same period in 2019, primarily due to the decrease in new home deliveries, and to a lesser extent, a 19% decrease in average sales price per delivery for the period. The decrease in average selling price for the period was consistent with the Company's strategic shift to more-affordable product.

Table of Contents

The decrease in home sales revenue was primarily driven by Southern California, where homes sales revenue was down 57% year-over-year due to 45% less deliveries in the 2020 second quarter and a 21% decline in average selling price. Southern California deliveries were down due to lower beginning backlog, a 17% year-over-year decrease in orders and a lower backlog conversion rate compared to the 2019 second quarter. A product mix shift in our 2020 second quarter deliveries to our more-affordable Inland Empire communities from higher-priced, close-out communities in Orange County and Los Angeles during the 2019 second quarter drove the decrease in average selling price for Southern California. In Northern California, 2020 second quarter home sales revenue was down 19% due to a 9% decrease in homes delivered and an 11% decline in average selling price related to a shift in deliveries from the higher-priced Bay Area to the more-affordable Sacramento region. The decrease in home sales revenue for Arizona was primarily due to fewer units delivered, but was partially offset by a 13% increase in average sales price due to product mix.

New home deliveries decreased 16% for the six months ended June 30, 2020 compared to the prior year period due to a lower number of homes in backlog at the beginning of the period. Home sales revenue for the six months ended June 30, 2020 decreased 28% compared to the same period in 2019, due to the decrease in new home deliveries and a 14% decrease in average sales price per delivery for the period. Average selling price was down in Southern California due to the 2019 period including deliveries from several higher-priced, closed-out Orange County and Los Angeles communities. Average selling price in Northern California slightly declined due to the increase in deliveries from more-affordable communities and fewer Bay Area deliveries, which generally are high-priced, during the first half of 2020 as compared to the prior year period. In Arizona, the decrease in average sales price was primarily due to the decline in average sales price for our luxury condominium project in Scottsdale, Arizona as a result of significantly higher sales incentives during the 2020 period.

Homebuilding Gross Margin

Homebuilding gross margin for the 2020 second quarter was (9.6%) compared to 12.1% for the prior period. Homebuilding gross margin for the 2020 second quarter included $19.0 million in noncash inventory impairment charges related to five homebuilding communities experiencing slower sales pace due to the COVID-19 pandemic, resulting in higher incentives and carrying costs for these projects. No inventory impairment charges were recorded during the 2019 second quarter. For more information on these impairments, please refer to Note 4 of the Notes to our condensed consolidated financial statements. Excluding impairment charges, homebuilding gross margin was 14.8% for the 2020 second quarter as compared to 12.1% for the prior year period. The 270 basis point increase was primarily due to a $2.2 million benefit from a profit participation settlement related to two communities during the 2020 second quarter and a product mix shift. The positive product mix shift was driven by a higher percentage of our total homes sales revenue generated at more affordably-priced communities, which have had higher gross margins. These items were partially offset by a 160 basis point increase in interest costs included in cost of home sales. Adjusted homebuilding gross margin, which excludes homes sales impairments and interest in cost of home sales, was 20.8% and 16.5% for the 2020 and 2019 second quarters, respectively. Adjusted homebuilding gross margin is a non-GAAP measure. See the table below reconciling this non-GAAP measure to homebuilding gross margin, the nearest GAAP equivalent. Excluding the impact of impairment charges and interest in cost of sales, the 430 basis point improvement in the 2020 second quarter was a result of the profit participation settlement and a product mix shift.

Homebuilding gross margin for the six months ended June 30, 2020 and 2019 was 2.0% and 12.3%, respectively. The 2020 period included $19.0 million in inventory impairment charges as discussed above while the 2019 period included no impairments. Excluding impairments, homebuilding gross margin was 13.0% compared to 12.3% for the six months ended June 30, 2020 and 2019, respectively. The 70 basis point increase was due to a $2.2 million benefit from a profit participation settlement during the 2020 second quarter and a product mix shift, partially offset by higher interest in cost of home sales. Adjusted homebuilding gross margin, which excludes impairments and interest in cost of home sales, was 19.2% and 17.0% for the six months ended June 30, 2020 and 2019, respectively. The 220 basis point increase in adjusted homebuilding gross margin for the 2020 period was primarily a result of the profit participation settlement and a product mix shift.

	Three Months Ended June 30,				Six Months Ended June 30,			
	2020	%	2019	%	2020	%	2019	%
	(Dollars in thousands)							
Home sales revenue	$ 77,757	100.0%	$ 140,464	100.0%	$ 173,416	100.0%	$ 239,650	100.0%
Cost of home sales	85,216	109.6%	123,525	87.9%	169,938	98.0%	210,094	87.7%
Homebuilding gross margin	(7,459)	(9.6)%	16,939	12.1%	3,478	2.0%	29,556	12.3%
Add: Home sales impairments	19,000	24.4%	—	—%	19,000	11.0%	—	—%
Homebuilding gross margin before impairments(1)	11,541	14.8%	16,939	12.1%	22,478	13.0%	29,556	12.3%
Add: Interest in cost of home sales	4,601	6.0%	6,301	4.4%	10,747	6.2%	11,153	4.7%
Adjusted homebuilding gross margin(1)	$ 16,142	20.8%	$ 23,240	16.5%	$ 33,225	19.2%	$ 40,709	17.0%

(1) Homebuilding gross margin before impairments (also referred to as homebuilding gross margin excluding impairments) and adjusted homebuilding gross margin (or homebuilding gross margin excluding impairments and interest in cost of homes sales) are non-GAAP financial measures. We believe this information is meaningful as it isolates the impact that impairments, leverage, and our cost of debt capital have on homebuilding gross margin and permits investors to make better comparisons with our competitors who also break out and adjust gross margins in a similar fashion.

Table of Contents

Land Sales

During the three and six months ended June 30, 2020, the Company recognized $10,000 and $157,000 of deferred revenue, respectively, for the remaining completed work on a land sale that initially occurred in the 2019 third quarter. There was no land sales revenue for the same period in 2019.

Fee Building

	Three Months Ended June 30,				Six Months Ended June 30,			
	2020	%	2019	%	2020	%	2019	%
	(Dollars in thousands)							
Fee building revenues	$ 21,193	100.0%	$ 22,285	100.0%	$ 57,420	100.0%	$ 41,947	100.0%
Cost of fee building	20,985	99.0%	21,770	97.7%	56,482	98.4%	41,038	97.8%
Fee building gross margin	$ 208	1.0%	$ 515	2.3%	$ 938	1.6%	$ 909	2.2%

In the 2020 second quarter, fee building revenues decreased 5% from the prior year period, driven by a slowdown in construction activity at fee building communities in Irvine, California as a result of lower demand levels in that market. Additionally, management fees from joint ventures and construction management fees from third parties, which are included in fee building revenue, decreased year-over-year by $0.7 million for the 2020 second quarter. Included in fee building revenues for the three months ended June 30, 2020 and 2019 were (i) $20.8 million and $21.2 million of billings to land owners, respectively, and (ii) $0.4 million and $1.1 million of management fees from our unconsolidated joint ventures and third-party land owners, respectively. Our fee building revenues have historically been concentrated with a small number of customers. For the three months ended June 30, 2020 and 2019, one customer comprised 94% and 95%, respectively, of fee building revenue.

The cost of fee building decreased 4% in the 2020 second quarter compared to the prior year period primarily due to lower allocated G&A expenses, and to a lesser extent, the decrease in fee building activity, which was partially offset by accrued severance for a reduction in force of fee building personnel due to a production slowdown. The amount of G&A expenses included in the cost of fee building was $0.8 million and $1.5 million for the 2020 and 2019 second quarters, respectively. Fee building gross margin decreased to $0.2 million for the three months ended June 30, 2020 from $0.5 million in the prior year period primarily due to $0.2 million of severance charges included in the cost of fee building during the 2020 second quarter.

For the six months ended June 30, 2020, fee building revenues increased 37% from the prior year period, due to an increase in construction activity at fee building communities in Irvine, California during the 2020 first quarter, which subsequently slowed due to COVID-19 in the 2020 second quarter. Included in fee building revenues for the six months ended June 30, 2020 and 2019 were (i) $56.5 million and $39.6 million of billings to land owners, respectively, and (ii) $0.9 million and $2.3 million of management fees from our unconsolidated joint ventures and third-party land owners, respectively. Our fee building revenues have historically been concentrated with a small number of customers. For the six months ended June 30, 2020 and 2019, one customer comprised 97% and 93%, respectively, of fee building revenue.

The cost of fee building increased for the six months ended June 30, 2020 compared to the same period in 2019 primarily due to the increase in fee building activity and severance costs mentioned above, partially offset by lower allocated G&A expenses due to lower joint venture activity and management fees. The amount of G&A expenses included in the cost of fee building was $1.8 million and $3.0 million for the six months ended June 30, 2020 and 2019, respectively. Fee building gross margin percentage decreased to 1.6% for the six months ended June 30, 2020 from 2.2% in the prior year period primarily due to the decrease in management fees from unconsolidated joint ventures and third-party land owners and the $0.2 million of severance charges included in the 2020 second quarter, as previously mentioned, partially offset by the decrease in allocated G&A expenses.

Table of Contents

Selling, General and Administrative Expenses

	Three Months Ended June 30,		As a Percentage of Home Sales Revenue		Six Months Ended June 30,		As a Percentage of Home Sales Revenue	
	2020	2019	2020	2019	2020	2019	2020	2019
	(Dollars in thousands)							
Selling and marketing expenses	$ 6,386	$ 9,683	8.2%	6.9%	$ 13,852	$ 18,362	8.0%	7.7%
General and administrative expenses ("G&A")	6,892	5,841	8.9%	4.2%	12,915	13,232	7.4%	5.5%
Total selling, marketing and G&A ("SG&A")	$ 13,278	$ 15,524	17.1%	11.1%	$ 26,767	$ 31,594	15.4%	13.2%
G&A	$ 6,892	$ 5,841	8.9%	4.2%	$ 12,915	$ 13,232	7.4%	5.5%
Less: Severance charges	(873)	—	(1.2)%	—%	(873)	(1,788)	(0.5)%	(0.8)%
G&A, excluding severance charges	$ 6,019	$ 5,841	7.7%	4.2%	$ 12,042	$ 11,444	6.9%	4.7%
Selling and marketing expenses	$ 6,386	$ 9,683	8.2%	6.9%	$ 13,852	$ 18,362	8.0%	7.7%
G&A, excluding severance charges	6,019	5,841	7.7%	4.2%	12,042	11,444	6.9%	4.7%
SG&A, excluding severance charges	$ 12,405	$ 15,524	15.9%	11.1%	$ 25,894	$ 29,806	14.9%	12.4%

During the 2020 second quarter, our SG&A rate as a percentage of home sales revenue was 17.1% as compared to 11.1% in the prior year period. The 600 basis point increase was primarily due to a 45% drop in home sales revenue during the 2020 second quarter and to a lesser extent, $0.9 million in pretax severance charges in the 2020 second quarter related to staffing reductions made to lower headcount as a result of lower revenue volumes which were negatively impacted by COVID-19. Excluding severance charges, the Company's SG&A rate for the 2020 second quarter was 15.9% as compared to 11.1% in the prior year period. The 480 basis point increase was primarily due to the decline in home sales revenue, as overall SG&A spend was down year-over-year, as well as a $0.7 million

reduction in G&A expenses allocated to fee building cost of sales during the 2020 second quarter. These items were partially offset by lower amortization of capitalized selling and marketing costs, advertising and model operation cost savings, and a reduction in personnel costs.

During the six months ended June 30, 2020, our SG&A rate as a percentage of home sales revenue was 15.4%, up 220 basis points from the comparable prior year period. The 2020 period included $0.9 million in pretax severance charges, as mentioned above. The 2019 period included $1.8 million in pretax severance charges taken in the 2019 first quarter related to reducing headcount, including the departure of one of our executive officers. Excluding these severance charges, the Company's SG&A rate for the six months ended June 30, 2020 was 14.9% compared to 12.4% in the prior year period. The 250 basis point increase was due to the decrease in home sales revenue and a $1.2 million year-over-year reduction in G&A expenses allocated to fee building cost of sales, which was partially offset by lower amortization of capitalized selling and marketing costs, advertising and model operation cost savings, and a reduction in personnel costs.

SG&A excluding severance charges as a percentage of home sales revenue is a non-GAAP measure. See the table above reconciling this non-GAAP financial measure to SG&A as a percentage of home sales revenue, the nearest GAAP equivalent. We believe removing the impact of these charges from our SG&A rate is relevant to provide investors with a better comparison to rates that do not include these charges.

Equity in Net Income (Loss) of Unconsolidated Joint Ventures

As of June 30, 2020 and 2019, we had ownership interests in 10 unconsolidated joint ventures, five of which have active homebuilding or land development operations. We own interests in our unconsolidated joint ventures that generally range from 5% to 35% and these interests vary by entity.

The Company's joint venture activity for the three months ended June 30, 2020 and 2019 resulted in pretax loss of $20.0 million and pretax income of $0.2 million, respectively. For the for the six months ended June 30, 2020 and 2019, the Company's joint venture activity resulted in $21.9 million of pretax loss and $0.4 million of pretax income, respectively. The year-over-year decrease in joint venture income for the 2020 second quarter and year-to-date periods was primarily related to other-than-temporary impairment charges taken by the Company related to its investments in two unconsolidated land development joint ventures. During the 2020 second quarter, the Company recognized a $20.0 million other-than-temporary impairment charge in connection with its intent to exit the Russell Ranch land development joint venture in Folsom, California. The Company determined that the expected financial returns relative to the required future capital contributions did not outweigh the related market and cost risks for this development. In addition, exiting the venture allows the Company to pursue certain federal tax loss carryback refund opportunities form the passage of the CARES Act as well as preserve future capital. As a result, the Company determined that the value of its investment is not recoverable and wrote off its investment balance and recorded its remaining costs to complete. This impairment charge reflects the Company's current estimates but actual losses associated with exiting the joint venture could differ materially based on the ultimate sales price of the underlying asset. In addition, the Company recorded a $2.3 million impairment charge during the 2020 first quarter related to its investment in the Bedford joint venture as the result of an agreement by the Company to sell its interest in this joint venture to our partner for less than our current carrying value.

Table of Contents

The following sets forth supplemental operational and financial information about our unconsolidated joint ventures. Such information is not included in our financial data for GAAP purposes, but is reflected in our results as a component of equity in net income (loss) of unconsolidated joint ventures. This data is included for informational purposes only.

	Three Months Ended June 30,		Increase/(Decrease)		Six Months Ended June 30,		Increase/(Decrease)	
	2020	2019	Amount	%	2020	2019	Amount	%
	(Dollars in thousands)							
Unconsolidated Joint Ventures - Operational Data								
Net new home orders	3	28	(25)	(89)%	15	64	(49)	(77)%
New homes delivered	30	53	(23)	(43)%	50	90	(40)	(44)%
Average sales price of homes delivered	$ 873	$ 954	$ (81)	(8)%	$ 915	$ 985	(70)	(7)%
Home sales revenue	$ 26,198	$ 50,567	$ (24,369)	(48)%	$ 45,746	$ 88,694	$ (42,948)	(48)%
Land sales revenue[1]	4,092	8,511	(4,419)	(52)%	16,191	12,671	3,520	28%
Total revenues	$ 30,290	$ 59,078	$ (28,788)	(49)%	$ 61,937	$ 101,365	$ (39,428)	(39)%
Net income	$ 1,618	$ 1,790	$ (172)	(10)%	$ 2,980	$ 2,303	$ 677	29%
Selling communities at end of period					2	6	(4)	(67)%
Backlog (dollar value)					$ 11,683	$ 44,775	$ (33,092)	(74)%
Backlog (homes)					14	50	(36)	(72)%
Average sales price of backlog					$ 835	$ 896	$ (61)	(7)%
Homebuilding lots owned and controlled					24	121	(97)	(80)%
Land development lots owned and controlled					1,768	1,924	(156)	(8)%
Total lots owned and controlled					1,792	2,045	(253)	(12)%

(1) Land sales revenue for the six months ended June 30, 2020 includes $7.0 million of revenues related to the sale of a mixed use building sold by a homebuilding joint venture.

Interest Expense

During the three and six months ended June 30, 2020, we expensed $1.3 million and $2.0 million of interest costs related to the portion of our debt in excess

of our qualified assets in accordance with ASC 835, *Interest*. To the extent our debt exceeds our qualified inventory in the future, we will expense a portion of the interest related to such debt.

Project Abandonment Costs

During the 2020 first quarter, the Company terminated its option agreement for a luxury condominium project in Scottsdale, Arizona due to lower demand levels experienced at this community, substantial investment required to build out the remainder of the project, uncertainty associated with the economic impacts of COVID-19, and the opportunity to recognize a tax benefit from the resulting net operating loss carrybacks. As a result of this strategic decision to forgo developing the balance of the property, we recorded a project abandonment charge of $14.0 million related to the capitalized costs, including interest, associated with the portion of the project that was abandoned.

Gain on Early Extinguishment of Debt

During the three months ended June 30, 2020, the Company repurchased and retired approximately $5.8 million in face value of its 7.25% Senior Notes due 2022 for a cash payment of approximately $5.0 million. During the six months ended June 30, 2020, the Company repurchased and retired approximately $10.5 million of its Notes for a cash payment of approximately $9.8 million. The Company recognized a gain on early extinguishment of debt of $0.7 million and $0.6 million for the three and six months ended June 30, 2020, respectively, which included the respective write-off of approximately $49,000 and $95,000 of unamortized discount, premium and debt issuance costs associated with the Notes retired. During the three months ended June 30, 2019, the Company repurchased and retired approximately $7.0 million in face value of the Notes for a cash payment of approximately $6.3 million. During the six months ended June 30, 2019, the Company repurchased and retired approximately $12.0 million of its Notes for a cash payment of approximately $10.9 million. For the three and six months ended June 30, 2019, the Company recognized a total gain on early extinguishment of debt of $0.6 million and $1.0 million, respectively, which included the write-off of approximately $90,000 and $160,000, respectively, of unamortized discount, premium and debt issuance costs associated with the Notes retired.

Table of Contents

Provision/Benefit for Income Taxes

For the three and six months ended June 30, 2020. the Company recorded an income tax benefit of $16.9 million and $26.9 million, respectively. The Company's effective tax rates for the three and six months ended June 30, 2020, include the benefit associated with net operating loss carrybacks to years when the Company was subject to a 35% federal tax rate. The effective tax rates for both 2020 periods differ from the federal statutory rate due the net operating loss carryback benefit, discrete items, state income tax rates and tax credits for energy efficient homes. The discrete benefit for the three months ended June 30, 2020 totaled $1.8 million and was primarily related to the Coronavirus Aid, Relief and Economic Security Act (the "CARES Act") signed into law on March 27, 2020. Discrete items for the six months ended June 30, 2020 totaled a $9.9 million benefit, $5.8 million of which related to the $14.0 million project abandonment noncash charge recorded during the 2020 first quarter and a $3.9 million benefit related to the CARES Act. For more information on the abandonment costs, please refer to Note 4 of the Notes to our condensed consolidated financial statements. The CARES Act allows companies to carry back net operating losses generated in 2018 through 2020 for five years. For the three and six months ended June 30, 2020, the Company recognized a $1.8 million and $3.9 million discrete benefit, respectively, related to the remeasurement of deferred tax assets originally valued at a 21% federal statutory tax rate which are now available to be carried back to tax years with a 35% federal statutory rate.

For the three and six months ended June 30, 2019, the Company recorded an income tax provision of $1.0 million and $0.3 million, respectively. The Company's effective tax rates for 2019 periods differ from the federal statutory tax rates due to state income taxes, estimated deduction limitations for executive compensation and discrete items. The provision for discrete items totaled $0.3 million for the six months ended June 30, 2019 related to stock compensation and state income tax rate changes.

Trends and Uncertainties

On March 11, the World Health Organization characterized the outbreak of COVID-19 a global pandemic. There continues to be uncertainty regarding the impact and the duration of disruption that the COVID-19 outbreak and related containment and economic relief efforts will have on the economy, capital markets, consumer confidence, buyer demand for homes and availability of mortgage lending. The magnitude to which these factors will impact our business and results of operations is highly uncertain and cannot be predicted.

The health and safety of our employees remains our primary focus during this pandemic. We have implemented the following actions in response to the pandemic: several health and safety protocols to protect our employees, trade partners and customers as required by state and local government agencies and taking into consideration the CDC and other public health authorities' guidelines. While over the past several months, state and local governments began to relax certain "stay-at-home" and similar public health mandates that were implemented in response to the COVID-19 pandemic, with the resurgence of COVID-19 cases in many of the markets in which we operate, there is no assurance as to what level of activity may be permitted to continue. We have been able to continue most of our homebuilding operations during the government-mandated "stay-at-home" orders as residential construction was designated as an essential business as part of critical infrastructure in most jurisdictions in which we operate and homebuilding operations are continuing at all of our jobsites with appropriate safety measures in place. In late June 2020, our model home sales offices reopened to the public with appropriate enhanced sanitation and social-distancing measures in place. While appointments are not necessary, they are still encouraged, and our sales operations continue to leverage our virtual sales tools to connect with our customers online. Our customer care warranty activities are limited to emergency and urgent work orders as well as request for exterior work to limit public contact. Although we allowed our corporate and divisional offices to reopen at limited capacity during June 2020, we actively encourage our employees to utilize a work-from-home model where practicable to further limit capacity. During the reopening process, we instituted several safety protocols, such as distancing and personal protective equipment requirements and enhanced premises cleaning, all in accordance with applicable public health orders and advice.

While all of the above-referenced steps are necessary and appropriate in light of the COVID-19 pandemic, they do impact our ability to operate our business in its ordinary and traditional course. These actions, combined with a reduction in the availability, capacity, and efficiency of municipal and private services necessary to progress land development, homebuilding, mortgage loan originations, and home sales, which in each case has varied by market depending on the

scope of the restrictions local authorities have established, have tempered our sales pace and delayed home construction and deliveries for certain projects during the latter part of March and through much of the second quarter. The potential magnitude or duration of the business, operational and economic impacts from the unprecedented public health effort to contain and combat the spread of COVID-19 are uncertain and include, among other things, significant volatility in financial markets and a sharp decrease in the value of equity securities, including our common stock. In addition, we can provide no assurance as to whether the COVID-19 public health effort will be intensified to such an extent that we will not be able to conduct any business operations in certain of our served markets or at all for an indefinite period.

Table of Contents

We are, however, encouraged by our ability at the end of the 2020 second quarter to effectively resume nearly all of our operations and the recent improvements in net new orders and our cancellation rate, which we believe are indicators of underlying strength in the overall housing market and the markets in which we operate. During the 2020 second quarter, net new orders increased 6% on a year-over-year basis. This increase was led by June new orders which were driven by a 33% increase in sales pace. Our cancellation rate for the 2020 second quarter also returned closer to a more normalized level of 11%, which is even with the 2019 second quarter rate and down sequentially from 16% for the 2020 first quarter. Our year-over-year order improvement and even cancellation rate for the 2020 second quarter are not necessarily indicative of future results due to various factors including seasonality, anticipated community openings and closeouts, and continued uncertainty surrounding the economic and housing market environments due to the impacts of the ongoing COVID-19 pandemic and the related COVID-19 control responses, as further discussed below under Part II, Item 1A - Risk Factors.

As the economy and housing markets continue to recover from the severe impacts of the pandemic and related COVID-19 control responses, we hope employment, consumer confidence and other fundamental business factors will also improve. However, the speed, trajectory and strength of any such recovery remains highly uncertain, and could be slowed or reversed by a number of factors, including a possible widespread resurgence in COVID-19 infections in many states, including the markets in which we operate without the availability of generally effective therapeutics or a vaccine for the disease. Given this uncertainty, the Company has taken steps to preserve capital by implementing additional cost cutting measures, curtailing the acquisition and development of land, renegotiating lot takedown arrangements and limiting the number of speculative homes under construction. Additionally, during the six months ended June 30, 2020, strategic decisions were made to (i) structure an exit from a land development joint venture in Northern California which resulted in a $20.0 million other-than-temporary impairment charge in 2020 second quarter, (ii) to walk away from further development at a wholly owned community in Scottsdale, Arizona resulting in a $14.0 million project abandonment charge during the 2020 first quarter, and (iii) agree to exit a land development joint venture in Southern California which resulted in a $2.3 million other-than-temporary impairment charge in the 2020 first quarter. By not continuing with these projects, the Company will avoid significant capital outlays and help preserve capital for the future, as well as be able to seek federal tax refunds and receive a payment of approximately $5.1 million in the case of our Southern California joint venture exit.

Further discussion of the potential impacts on our business, results of operations, financial condition and cash flows from the COVID-19 pandemic is provided below under Part II, Item 1A “Risk Factors.”

We will continue to closely monitor any updates from the CDC and guidance from federal and local and government and public health agencies and adjust our operations accordingly. While we cannot reasonably estimate the length or severity of this pandemic, an extended economic slowdown in the U.S. could materially impact our results of operations in fiscal 2020 and potentially beyond.

Liquidity and Capital Resources

Overview

Our principal sources of capital for the six months ended June 30, 2020 were cash generated from home sales activities, distributions from our unconsolidated joint ventures, and management fees from our fee building agreements. Our principal uses of capital for the six months ended June 30, 2020 were land purchases, land development, home construction, repurchases of the Company's common stock and bonds, contributions and advances to our unconsolidated joint ventures, and payment of operating expenses, interest and routine liabilities.

Cash flows for each of our communities depend on their stage in the development cycle, and can differ substantially from reported earnings. Early stages of development or expansion require significant cash outlays for land acquisitions, entitlements and other approvals, and construction of model homes, roads, utilities, general landscaping and other amenities. Because these costs are a component of our real estate inventories and not recognized in our consolidated statement of operations until a home is delivered, we incur significant cash outlays prior to our recognition of earnings. In the later stages of community development, cash inflows may significantly exceed earnings reported for financial statement purposes, as the cash outflows associated with home and land construction were previously incurred. From a liquidity standpoint, we are generally active in acquiring and developing lots to maintain or grow our lot supply and community count. We expect cash outlays for land purchases, land development and home construction at times to exceed cash generated by operations. We are currently focused on reducing our debt levels and leverage and are reducing spend in response to the economic uncertainty produced by the COVID-19 pandemic and therefore expect to spend less on land purchases than we have over the last few years.

During the six months ended June 30, 2020, we generated cash flows from operating activities of $22.0 million. We ended the second quarter of 2020 with $85.6 million of cash and cash equivalents, a $6.3 million increase from December 31, 2019. Generally, we intend to continue reducing our debt levels within our target net leverage ranges in the near term, and then to deploy a portion of cash generated from the sale of inventory to acquire and develop strategic, well-positioned lots that represent opportunities to generate future income and cash flows. However, the uncertainty of the COVID-19 pandemic may impact our ability to generate cash flows from operations which may limit our debt reduction and land acquisition efforts in the near to mid-term.

As of June 30, 2020 and December 31, 2019, we had $2.9 million and $9.6 million, respectively, in accounts payable that related to costs incurred under our fee building agreements. Funding to pay these amounts is the obligation of the third-party land owner, which is generally funded on a monthly basis. Similarly, contracts and accounts receivable as of the same dates included $3.8 million and $10.4 million, respectively, related to the payment of the above payables.

We intend to utilize both debt and equity as part of our ongoing financing strategy, coupled with redeployment of cash flows from operations, to operate our business. As of June 30, 2020, we had outstanding borrowings of $297.5 million in aggregate principal related to our Notes and no borrowings outstanding under our credit facility. We will consider a number of factors when evaluating our level of indebtedness and when making decisions regarding the incurrence of new indebtedness, including the purchase price of assets to be acquired with debt financing, the estimated market value of our assets and the ability of particular assets, and our Company as a whole, to generate cash flow to cover the expected debt service. In addition, our debt contains certain financial covenants, among others, that limit the amount of leverage we can maintain, and minimum tangible net worth and liquidity requirements.

We intend to finance future acquisitions and developments with what we believe to be the most advantageous source of capital available to us at the time of the transaction, which may include unsecured corporate level debt, property-level debt, and other public, private or bank debt, seller land banking arrangements, or common and preferred equity.

While the COVID-19 pandemic and related mitigation efforts have created significant uncertainty as to general economic and housing market conditions for the remainder of 2020 and beyond, we believe that we will be able to fund our current and foreseeable liquidity needs with our cash on hand, cash generated from operations, and cash expected to be available from our revolving line of credit or through accessing debt or equity capital, as needed, although no assurance can be provided that such additional debt or equity capital will be available or on acceptable terms, especially in light of the current COVID-19 pandemic.

Senior Notes Due 2022

On March 17, 2017, the Company completed the sale of $250 million in aggregate principal amount of 7.25% Senior Unsecured Notes due 2022 (the "Existing Notes"), in a private placement. The Notes were issued at an offering price of 98.961% of their face amount, which represented a yield to maturity of 7.50%. On May 4, 2017, the Company completed a tack-on private placement offering through the sale of an additional $75 million in aggregate principal amount of the 7.25% Senior Notes due 2022 ("Additional Notes"). The Additional Notes were issued at an offering price of 102.75% of their face amount plus accrued interest since March 17, 2017, which represented a yield to maturity of 6.438%. Net proceeds from the Existing Notes were used to repay all borrowings outstanding under the Company's revolving credit facility with the remainder used for general corporate purposes. Net proceeds from the Additional Notes were used for working capital, land acquisition and general corporate purposes. Interest on the Existing Notes and the Additional Notes (together, the "Notes") is payable semiannually in arrears on April 1 and October 1. The maturity date of the Notes is April 1, 2022. The Notes were exchanged in an exchange offer for Notes that are identical to the original Notes, except that they are registered under the Securities Act of 1933 and are freely tradeable in accordance with applicable law. During the six months ended June 30, 2020, the Company repurchased approximately $10.5 million of the Notes at 93.57% of face value reducing the outstanding aggregate principal amount to $297.5 million.

The Company is entitled at its option to redeem all or a portion of the Notes at any time on and after October 1, 2019, upon not less than 30 nor more than 60 days' notice, at the redemption prices (expressed in percentages of principal amount on the redemption date), plus accrued interest to the redemption date (subject to the right of holders of record of the Notes on the relevant record date to receive interest due on the relevant interest payment date), if redeemed during the 12 or 6 month period, as applicable, commencing on each of the dates set forth below:

Period	Redemption Price
October 1, 2019	103.625%
October 1, 2020	101.813%
April 1, 2021	100.000%

The Notes contain certain restrictive covenants, including a limitation on additional indebtedness and a limitation on restricted payments. Restricted payments include, among other things, dividends, investments in unconsolidated entities, and stock repurchases. Under the limitation on additional indebtedness, we are permitted to incur specified categories of indebtedness but are prohibited, aside from those exceptions, from incurring further indebtedness if we do not satisfy either a leverage condition or an interest coverage condition. The leverage and interest coverage conditions are summarized in the table below, as described and defined further in the indenture for the Notes. Exceptions to the additional indebtedness limitation include, among other things, borrowings of up to $260 million under existing or future bank credit facilities, non-recourse indebtedness, and indebtedness incurred for the purpose of refinancing or repaying certain existing indebtedness. Under the limitation on restricted payments, we are also prohibited from making restricted payments, aside from certain exceptions, if we do not satisfy either condition. In addition, the amount of restricted payments that we can make is subject to an overall basket limitation, which builds based on, among other things, 50% of consolidated net income from January 1, 2017 forward and 100% of the net cash proceeds from qualified equity offerings. Exceptions to the foregoing limitations on our ability to make restricted payments include, among other things, investments in joint ventures and other investments up to 15% of our consolidated tangible net assets and a general basket of $15 million. The Notes are guaranteed by all of the Company's 100% owned subsidiaries, for more information about these guarantees, please see Note 17 of the Notes to our condensed consolidated financial statements.

	June 30, 2020	
Financial Conditions	Actual	Requirement
Fixed Charge Coverage Ratio: EBITDA to Consolidated Interest Incurred; or	1.4	> 2.0 : 1.0
Leverage Ratio: Indebtedness to Tangible Net Worth	1.50	< 2.25 : 1.0

As of June 30, 2020, we were able to satisfy the leverage condition.

Senior Unsecured Revolving Credit Facility

The Company has an unsecured revolving credit facility ("Credit Facility") with a bank group. On June 26, 2020, the Company entered into a Third Modification Agreement (the "Modification") to its Amended and Restated Credit Agreement. The Modification, among other things, (i) extended the maturity date of the revolving credit facility to September 30, 2021, (ii) decreased (A) the total commitments under the facility to $60 million from $130 million and (B) the accordion feature to $150 million from $200 million, subject to certain financial conditions, including the availability of bank commitments, (iii) reduces the Company's minimum consolidated tangible net worth covenant from $180 million to $150 million plus 50% of the cumulative consolidated net income earned by the Company and its guarantors from and after March 31, 2020 plus 50% of the aggregate proceeds received by the Company (net of reasonable fees and expenses) in connection with any offering of stock or equity in each fiscal quarter commencing on or after March 31, 2020, (iv) reduces the maximum net leverage ratio (subject to a minimum liquidity amount of $10 million) ("net leverage ratio") from 65% to 60%, (v) modifies the restriction on secured indebtedness to an aggregate maximum of $10 million, and (vi) modifies the restriction on repurchases of the Company's senior notes as follows:

Net Leverage Ratio	Maximum Repurchases per Quarter
Greater than 55%	None permitted
Less than or equal to 55%	$5,000,000
Less than or equal to 50%	$10,000,000
Less than or equal to 45%	No Restriction

As of June 30, 2020, we had no borrowings outstanding under the Credit Facility. Interest is payable monthly and is charged at a rate of 1-month LIBOR plus a margin ranging from 3.50% to 4.50% depending on the Company's leverage ratio as calculated at the end of each fiscal quarter; provided that LIBOR shall be subject to a LIBOR floor. As of June 30, 2020, the interest rate under the Credit Facility was 5.00%. Pursuant to the Credit Facility, the Company is required to maintain certain financial covenants as defined in the Credit Facility, including, but not limited to, those listed in the following table:

	June 30, 2020	
Financial Covenants	Actual	Covenant Requirement
	(Dollars in thousands)	
Unencumbered Liquid Assets (Minimum Liquidity Covenant)	$ 85,588	$ 10,000 (1)
EBITDA to Interest Incurred(2)	1.41	> 1.75 : 1.0
Tangible Net Worth(3)	$ 196,966	$ 150,000
Net Leverage Ratio	52.7%	< 60%

(1) So long as the Company is in compliance with the interest coverage test (see Note 2 below), the minimum unencumbered liquid assets that the Company must maintain as of the quarter end measurement date is $10 million.

(2) If the EBITDA to Interest Incurred test is not met, it will not be considered an event of default so long as the Company maintains unrestricted cash equal to not less than the trailing 12 month consolidated interest incurred (as defined in the Credit Facility agreement) which was $26.0 million as of June 30, 2020. The Company was in compliance with this requirement with an unrestricted cash balance of $85.6 million at June 30, 2020.

(3) Our consolidated tangible net worth is reduced by an adjustment equal to the aggregate amount of investments in and advances to unconsolidated joint ventures that exceed 35% of consolidated tangible net worth as calculated without giving effect to this adjustment (the "Adjustment Amount"). The Adjustment Amount was considered in the calculation of consolidated tangible net worth.

The Credit Facility also contains certain restrictive covenants including limitations on incurrence of liens, dividends and other distributions, asset dispositions and investments in entities that are not guarantors, and limitations on fundamental changes. The Credit Facility contains customary events of default, subject to cure periods in certain circumstances, that would result in the termination of the commitments and permit the Lenders to accelerate payment on outstanding borrowings and require cash collateralization of letters of credit. These events of default include nonpayment of principal, interest and fees or other amounts; violation of covenants; inaccuracy of representations and warranties; cross default to certain other indebtedness; unpaid judgments; change in control; and certain bankruptcy and other insolvency events. As of June 30, 2020, we were in compliance with all covenants under our Credit Facility.

Table of Contents

Letters of Credit and Surety Bonds

The following table summarizes our letters of credit and surety bonds as of the dates indicate:

	June 30, 2020	December 31, 2019
	(Dollars in thousands)	
Letters of credit(1)	$ —	$ —
Surety bonds(2)	41,711	47,593
Total outstanding letters of credit and surety bonds	$ 41,711	$ 47,593

(1) As of June 30, 2020, there is a $10.0 million sublimit for letters of credit available under our Credit Facility.

(2) The estimated remaining costs to complete as of June 30, 2020 and December 31, 2019 were $12.9 million and $29.1 million, respectively.

Stock Repurchase Program

On May 10, 2018, our board of directors approved a stock repurchase program (the "Repurchase Program") authorizing the repurchase of the Company's common stock with an aggregate value of up to $15 million. Repurchases of the Company's common stock may be made in open-market transactions, effected through a broker-dealer at prevailing market prices, in privately negotiated transactions, in block trades or by other means in accordance with federal securities laws, including pursuant to any trading plan that may be adopted in accordance with Rule 10b5-1 of the Securities Exchange Act of 1934. The Repurchase Program does not obligate the Company to repurchase any particular amount or number of shares of common stock, and it may be modified, suspended or

discontinued at any time. The timing and amount of repurchases are determined by the Company's management at its discretion and be based on a variety of factors, such as the market price of the Company's common stock, corporate and contractual requirements, general market and economic conditions and legal requirements. During the three and six months ended June 30, 2020, the Company repurchased and retired 817,300 and 2,051,183 shares of its common stock at an aggregate purchase price of $1.5 million and $3.7 million, respectively. During the six months ended June 30, 2019, the Company repurchased and retired 153,916 shares of its common stock at an aggregate purchase price of $1.0 million. The purchases were made under a previously announced stock repurchase program that had a remaining purchase authorization of $1.7 million as of June 30, 2020. Repurchases made from March 20, 2020 through May 11, 2020 were made pursuant to the Company's 10b5-1 plan. All repurchased shares were returned to the status of authorized but unissued.

Debt-to-Capital Ratios

We believe that debt-to-capital ratios provide useful information to the users of our financial statements regarding our financial position and leverage. Net debt-to-capital ratio is a non-GAAP financial measure. See the table below reconciling this non-GAAP measure to debt-to-capital ratio, the nearest GAAP equivalent.

	June 30, 2020	December 31, 2019
	(Dollars in thousands)	
Total debt, net of unamortized discount, premium and debt issuance costs	$ 295,124	$ 304,832
Equity, exclusive of non-controlling interest	196,966	232,647
Total capital	$ 492,090	$ 537,479
Ratio of debt-to-capital(1)	60.0%	56.7%
Total debt, net of unamortized discount, premium and debt issuance costs	$ 295,124	$ 304,832
Less: Cash, cash equivalents and restricted cash	85,732	79,431
Net debt	209,392	225,401
Equity, exclusive of non-controlling interest	196,966	232,647
Total capital	$ 406,358	$ 458,048
Ratio of net debt-to-capital(2)	51.5%	49.2%

(1) The ratio of debt-to-capital is computed as the quotient obtained by dividing total debt, net of unamortized discount, premium and debt issuance costs by total capital (the sum of total debt, net of unamortized discount, premium and debt issuance costs plus equity), exclusive of non-controlling interest.

(2) The ratio of net debt-to-capital is computed as the quotient obtained by dividing net debt (which is total debt, net of unamortized discount, premium and debt issuance costs less cash, cash equivalents and restricted cash to the extent necessary to reduce the debt balance to zero) by total capital, exclusive of non-controlling interest. The most directly comparable GAAP financial measure is the ratio of debt-to-capital. We believe the ratio of net debt-to-capital is a relevant financial measure for investors to understand the leverage employed in our operations and as an indicator of our ability to obtain financing. We believe that by deducting our cash from our debt, we provide a measure of our indebtedness that takes into account our cash liquidity. We believe this provides useful information as the ratio of debt-to-capital does not take into account our liquidity and we believe that the ratio net of cash provides supplemental information by which our financial position may be considered. Investors may also find this to be helpful when comparing our leverage to the leverage of our competitors that present similar information.

Table of Contents

Cash Flows — Six Months Ended June 30, 2020 Compared to Six Months Ended June 30, 2019

For the six months ended June 30, 2020 as compared to the six months ended June 30, 2019, the comparison of cash flows is as follows:

- Net cash provided by operating activities was $22.0 million for the six months ended June 30, 2020 compared to $18.9 million for the six months ended June 30, 2019. The year-over-year change was primarily a result of a net increase in cash inflow related to contracts and accounts receivable collected of $6.7 million and the reduction in real estate inventories resulting in a cash inflow of $30.6 million as compared to $25.0 million for the 2019 period. The change in real estate inventories cash flow was driven by a decrease in land acquisition and development spend. The year-over year decrease in net income reduced cash inflow by $32.4 million, but was offset by $19.0 million of noncash inventory impairments, noncash project abandonment costs of $14.0 million, and $22.3 million of noncash impairments to the Company's investment in two unconsolidated joint ventures recorded during the six months ended June 30, 2020.
- Net cash used in investing activities was $1.6 million for the six months ended June 30, 2020 compared to $0.8 million of net cash provided by investing activities for the six months ended June 30, 2019. For the six months ended June 30, 2020, net contributions and advances to unconsolidated joint ventures were $1.5 million compared to net distributions from unconsolidated joint ventures of $0.8 million for the six months ended June 30, 2019. The increase in net contributions for the 2020 period was primarily due to a year-over-year reduction in joint venture distributions from our Avanti and Mountain Shadows joint ventures.
- Net cash used in financing activities was $14.1 million for the six months ended June 30, 2020 compared to $13.9 million for the six months ended June 30, 2019. The increased outflow in 2020 is primarily related to $3.7 million for the repurchase of the Company's common stock compared to $1.0 million of common stock repurchases in the prior year period. The increase in cash outflow was partially offset by a decrease in cash paid during 2020 to repurchase and retire our notes and a decrease in net repayments on the Company's credit facility.

Off-Balance Sheet Arrangements and Contractual Obligations

Option Contracts

In the ordinary course of business, we enter into land option contracts in order to procure lots for the construction of our homes. We are subject to customary obligations associated with entering into contracts for the purchase of land and improved lots. These purchase contracts typically require a cash deposit and the purchase of properties under these contracts is generally contingent upon satisfaction of certain requirements by the sellers, including obtaining applicable

property and development entitlements. We also utilize option contracts with land sellers and financial intermediaries as a method of acquiring land in staged takedowns, to help us manage the financial and market risk associated with land holdings, to reduce the use of funds from our corporate financing sources, and to enhance our return on capital. Option contracts generally require a nonrefundable deposit for the right to acquire lots over a specified period of time at pre-determined prices. We generally have the right at our discretion to terminate our obligations under both purchase contracts and option contracts by forfeiting our cash deposit with no further financial responsibility to the land seller or financial intermediary. In some instances, we may also expend funds for due diligence and development activities with respect to our option contracts prior to purchase which we would have to write off should we not purchase the land. As of June 30, 2020, we had $12.6 million of nonrefundable and $0 of refundable cash deposits pertaining to land option contracts and purchase contracts with an estimated aggregate remaining purchase price of $65.9 million, net of deposits. These cash deposits are included as a component of our real estate inventories in our condensed consolidated balance sheets.

Our utilization of land option contracts is dependent on, among other things, the availability of land sellers willing to enter into option arrangements, the availability of capital to financial intermediaries to finance the development of optioned lots, general housing market conditions, and local market dynamics. Options may be more difficult to procure from land sellers in strong housing markets and are more prevalent in certain geographic regions.

Joint Ventures

We enter into land development and homebuilding joint ventures from time to time as means of:

- leveraging our capital base
- accessing larger lot positions
- expanding our market opportunities
- managing financial and market risk associated with land holdings

Table of Contents

These joint ventures have historically obtained secured acquisition, development and/or construction financing which reduces the use of funds from our corporate financing sources.

We are subject to certain contingent obligations in connection with our unconsolidated joint ventures. The Company has provided credit enhancements in connection with joint venture borrowings in the form of loan-to-value ("LTV") maintenance agreements in order to secure the joint venture's performance under the loans and maintenance of certain LTV ratios. The Company has also entered into agreements with its partners in each of the unconsolidated joint ventures whereby the Company and its partners are apportioned liability under the LTV maintenance agreements according to their respective capital interest. In addition, the agreements provide the Company, to the extent its partner has an unpaid liability under such credit enhancements, the right to receive distributions from the unconsolidated joint venture that would otherwise be made to the partner. However, there is no guarantee that such distributions will be made or will be sufficient to cover the Company's liability under such LTV maintenance agreements. The loans underlying the LTV maintenance agreements include acquisition and development loans, construction revolvers and model home loans, and the agreements remain in force until the loans are satisfied. Due to the nature of the loans, the outstanding balance at any given time is subject to a number of factors including the status of site improvements, the mix of horizontal and vertical development underway, the timing of phase build outs, and the period necessary to complete the escrow process for homebuyers. As of June 30, 2020 and December 31, 2019, $11.6 million and $28.6 million, respectively, was outstanding under loans that are credit enhanced by the Company through LTV maintenance agreements. Under the terms of the joint venture agreements, the Company's proportionate share of LTV maintenance agreement liabilities was $2.6 million and $5.8 million as of June 30, 2020 and December 31, 2019, respectively.

In addition, the Company has provided completion agreements regarding specific performance for certain projects whereby the Company is required to complete the given project with funds provided by the beneficiary of the agreement. If there are not adequate funds available under the specific project loans, the Company would then be subject to financial liability under such completion guaranties. Typically, under such terms of the joint venture agreements, the Company has the right to apportion the respective share of any costs funded under such completion guaranties to its partners. However, there is no guarantee that we will be able to recover against our partners for such amounts owed to us under the terms of such joint venture agreements. In connection with joint venture borrowings, the Company also selectively provides (a) an environmental indemnity provided to the lender that holds the lender harmless from and against losses arising from the discharge of hazardous materials from the property and non-compliance with applicable environmental laws; and (b) indemnification of the lender from customary "bad boy acts" of the unconsolidated entity such as fraud, misrepresentation, misapplication or non-payment of rents, profits, insurance, and condemnation proceeds, waste and mechanic liens, and bankruptcy. Additionally, in some cases, under our joint venture agreements, our shares of profits and losses are greater than our contribution percentage.

For more information about our off-balance sheet arrangements, please see Note 11 of the Notes to our condensed consolidated financial statements.

Table of Contents

As of June 30, 2020, we held membership interests in 10 unconsolidated joint ventures, six of which related to homebuilding activities and four related to land development as noted below. Of the 10 joint ventures, five have active homebuilding or land development activities ongoing and the balance are effectively inactive with only warranty activities. We were a party to two loan-to-value maintenance agreements related to unconsolidated joint ventures as of June 30, 2020. The following table reflects certain financial and other information related to our unconsolidated joint ventures as of June 30, 2020:

			June 30, 2020								
				Total Joint Venture					Loan-to-Value		
Joint Venture (Project Name)	Year Formed	Location	Contribution %(1)	Assets	Debt(2)	Equity	NWHM Equity(3)	Debt-to-Total Capitalization	Maintenance Agreement	Estimated Future Capital Commitment(4)	Lots Owned and Controlled
			(Dollars in 000's)								
TNHC-HW San Jose LLC (Orchard Park)	2012	San Jose, CA	15%	$ 2,105	$ —	$ 330	$ 99	—%	N/A	$ —	—

TNHC-TCN Santa Clarita LP (Villa Metro)(5)	2012	Santa Clarita, CA	10%	851	—	205	51	—%	N/A	—	—
TNHC Newport LLC (Meridian)(5)	2013	Newport Beach, CA	12%	1,198	—	1,072	254	—%	N/A	—	—
Encore McKinley Village LLC (McKinley Village)	2013	Sacramento, CA	10%	16,667	1,740	11,869	1,188	13%	Yes	—	12
TNHC Russell Ranch LLC (Russell Ranch)(5)(6)(7)	2013	Folsom, CA	35%	64,773	—	63,902	13,682	—%	N/A	1,100	631
TNHC-HW Foster City LLC (Foster Square)(6)	2013	Foster City, CA	35%	323	—	322	150	—%	N/A	—	—
Calabasas Village LP (Avanti)(5)	2013	Calabasas, CA	10%	4,937	—	3,594	359	—%	N/A	—	—
TNHC-HW Cannery LLC (Cannery)(6)	2013	Davis, CA	35%	1,790	—	1,788	626	—%	N/A	—	3
Arantine Hills Holdings LP (Bedford)(5)(6)(8)	2014	Corona, CA	5%	143,579	—	141,742	7,087	—%	N/A	—	1,134
TNHC Mountain Shadows LLC (Mountain Shadows)	2015	Paradise Valley, AZ	25%	31,152	9,893	19,818	4,969	33%	Yes	—	12
Total Unconsolidated Joint Ventures				$ 267,375	$ 11,633	$ 244,642	$ 28,465	5%		$ 1,100	1,792

(1) Actual equity interests may differ due to current phase of underlying project's life cycle. The contribution percentage reflects the percentage of capital we are generally obligated to contribute (subject to adjustment under the joint venture agreement) and generally (subject to waterfall provisions) aligns with our percentage of distributions. In some cases our share of profit and losses may be greater than our contribution percentage.

(2) Scheduled maturities of the unconsolidated joint venture debt as of June 30, 2020 are as follows: $9.9 million matures in 2020 and $1.7 million matures in 2021. The $9.9 million of Mountain Shadows debt was due December 14, 2019; however, pursuant to the loan agreement, advances made related to the construction of a presold home shall be due and payable 12 months after the initial advance of such loan with the option to extend an additional three months (provided no event of default has occurred). During July 2020, the Bedford loan (of which there was no balance outstanding at June 30, 2020) was modified to extend the maturity date to January 27, 2021 and release the Company from all obligations associated with this loan in connection with our closing the sale of our joint venture interest at Bedford.

(3) Represents the Company's equity in unconsolidated joint ventures, as reflected in the financial records of the respective joint ventures. Equity does not include $15.5 million of other-than-temporary impairment charges to the Company's investment, interest capitalized to certain investments in unconsolidated joint ventures and certain basis differences, which along with equity, are included in investment in and advances to unconsolidated joint ventures in the accompanying condensed consolidated balance sheets.

(4) Estimated future capital commitment represents our proportionate share of estimated future contributions to the respective unconsolidated joint ventures as of June 30, 2020. Actual contributions may differ materially.

(5) Certain current and former members of the Company's board of directors are affiliated with entities that have an investment in these joint ventures. See Note 12 to the Notes to our condensed consolidated financial statements.

(6) Land development joint venture.

(7) The Company's share of capital contributions for certain improvements in the aggregate maximum amount of approximately $26 million is 50%, or $13 million, of which the Company has funded $9.7 million as of June 30, 2020.

(8) The Company has agreed to sell our interest in this joint venture to our partner and exit the joint venture. This transaction is expected to close during the 2020 third quarter. The purchase price is approximately $5.1 million for the sale of our partnership interest and we will have an option to purchase at market up to 30% of the lots from this masterplan community.

As of June 30, 2020, the unconsolidated joint ventures were in compliance with their respective loan covenants, where applicable, and we were not required to make any loan-to-value maintenance related payments during the three and six months ended June 30, 2020.

Table of Contents

Inflation

Our homebuilding and fee building segments can be adversely impacted by inflation, primarily from higher land, financing, labor, material and construction costs. In addition, inflation can lead to higher mortgage rates, which can significantly affect the affordability of mortgage financing to homebuyers. While we attempt to pass on cost increases to customers through increased prices, when weak housing market conditions exist, we may be unable to offset cost increases with higher selling prices.

Seasonality

Historically, the homebuilding industry experiences seasonal fluctuations in quarterly operating results and capital requirements. We typically experience the highest new home order activity in late winter and spring, although this activity also highly depends on the number of active selling communities, timing of new community openings and other market factors. Since it typically takes five to nine months to construct a new home, depending on the nature of the product and whether it is single-family detached or multi-family attached, we typically deliver more homes in the second half of the year as late winter and spring home orders convert to home deliveries. Because of this seasonality, home starts, construction costs and related cash outflows have historically been highest in the second and third quarters, and the majority of cash receipts from home deliveries occur during the second half of the year, particularly in the fourth quarter. We expect this seasonal pattern to continue over the long-term, although it may be affected by volatility in the homebuilding industry and the opening and closeout of communities. In addition, as a result of the ongoing uncertainties and evolution of COVID-19, our traditional seasonal pattern is expected to be significantly impacted during 2020 (which, depending on the long-term impacts of the pandemic, may continue into 2021 and beyond).

Critical Accounting Policies

The preparation of financial statements in conformity with accounting policies generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities at the date of the consolidated financial statements and the reported amounts of revenue and expenses during the reporting period. Management bases its estimates and judgments on historical experience and on various other factors that are believed to be reasonable under the circumstances, the results of which form the basis for making judgments about the carrying value of assets and liabilities that are not readily apparent from other sources. Management evaluates such estimates and judgments on an on-going basis and makes adjustments as deemed necessary. Actual results could differ from these estimates if conditions are significantly different in the future.

Our critical accounting estimates and policies have not changed from those reported in Management’s Discussion and Analysis of Financial Condition and Results of Operations in our Annual Report on Form 10-K for the year ended December 31, 2019.

Recently Issued Accounting Standards

The portion of Note 1 to the accompanying notes to unaudited condensed consolidated financial statements under the heading "Recently Issued Accounting

Standards" included in this quarterly report on Form 10-Q is incorporated herein by reference.

Table of Contents

Item 3. **Quantitative and Qualitative Disclosures About Market Risk**

This item has been omitted as we qualify as a smaller reporting company as defined by Rule 12b-2 of the Exchange Act.

Item 4. **Controls and Procedures**

Evaluation of Disclosure Controls and Procedures

We maintain disclosure controls and procedures that are designed to ensure that information required to be disclosed in our Exchange Act reports is recorded, processed, summarized and reported within the time periods specified by the SEC's rules and forms and is accumulated and communicated to our management, including our Chief Executive Officer and Chief Financial Officer, as appropriate to allow timely decisions regarding required disclosure based on the definition of "disclosure controls and procedures" in Rules 13a-15(e) and 15d-15(e) of the Exchange Act. Our disclosure controls and procedures are designed to provide a reasonable level of assurance of reaching our desired disclosure control objectives. In designing controls and procedures specified in the SEC's rules and forms, and evaluating the disclosure controls and procedures, management recognizes that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving the desired control objectives, and management necessarily was required to apply its judgment in evaluating the cost-benefit relationship of possible controls and procedures. Because of the inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that all control issues and instances of fraud, if any, have been detected. These inherent limitations include the realities that judgments in decision-making can be faulty and that breakdowns can occur because of simple error and mistake. Additionally, controls can be circumvented by the individual acts of some persons, by collusion of two or more people or by management override of controls.

At the end of the period being reported upon, we carried out an evaluation, under the supervision and with the participation of our management, including our Chief Executive Officer and Chief Financial Officer, of the effectiveness of the design and operation of our disclosure controls and procedures. Based on the foregoing, our Chief Executive Officer and Chief Financial Officer concluded that our disclosure controls and procedures were effective at the reasonable assurance level as of June 30, 2020.

Changes in Internal Controls

There was no change in the Company’s internal control over financial reporting that occurred during our most recent fiscal quarter that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

Table of Contents

PART II - OTHER INFORMATION

Item 1. **Legal Proceedings**

We are involved in various claims, legal and regulatory proceedings, and litigation arising in the ordinary course of business, including, without limitation warranty claims and litigation and arbitration proceedings alleging construction defects. We do not believe that any such claims and litigation will materially affect our results of operations or financial position. For a discussion of our legal matters and associated reserves, please see Note 11, *Commitments and Contingencies* to the accompanying notes to our condensed unaudited consolidated financial statements included in this Quarterly Report on Form 10-Q which is incorporated herein by reference.

Item 1A. **Risk Factors**

Except as set forth below, as of the date of this report, there have been no material changes to the risk factors set forth in Part I, Item 1A of the Company's Annual Report on Form 10-K for the year ended December 31, 2019.

The following risk factor is added to the Risk Factors set forth in the Company’s Annual Report on Form 10-K for the year ended December 31, 2019 under the heading “Risks Related to Our Business.”

Our business has been materially and adversely disrupted by the present COVID-19 outbreak and could be materially and adversely disrupted by another pandemic, epidemic or outbreak of infectious disease, or similar public health threat, or fear of such an event, in the United States or elsewhere, and the measures implemented to address such an event by government agencies and authorities.

A pandemic, epidemic or similar serious public health issue, such as the present outbreak of COVID-19, and the measures taken by international, federal, state and local governments, and other authorities to address it, could significantly disrupt our business in the ordinary course for an extended period. Further, a significant outbreak of contagious diseases, such as COVID-19, could result in a widespread health crisis that could adversely affect the global economy and financial markets, resulting in an economic downturn. As a result, consumer confidence may wane and demand for our homes may decline having a material adverse impact on our consolidated financial statements.

On March 11, 2020, the World Health Organization characterized the outbreak of COVID-19 a global pandemic and recommended containment and

mitigation measures. On March 13, 2020, the United States declared a national emergency concerning the outbreak, and most states and municipalities have declared public health emergencies including the states in which we operate, California and Arizona. Along with these declarations, California and Arizona have enacted, at various times, “stay-at-home”, "shelter-in-place" and other restrictive orders to contain and combat the outbreak and spread of COVID-19 that substantially restricted daily activities for individuals and many businesses to curtail or cease normal operations.

In response to the stay-at-home and shelter-in-place orders in California and Arizona, our model homes and design studios were closed to the public and operated on an appointment-only basis, as permitted, following recommended distancing and other health and safety protocols when meeting in person with a customer. Associates at our corporate and divisional offices moved to a work-from-home model for nearly all employees. Construction activities at our job sites within most of the jurisdictions in which we operate were permitted to continue during the stay-at-home and shelter-in-place orders, however, careful protocols were set in place to protect our employees and trade partners that impacted operational efficiency. The restrictions the Company has taken to contain outbreak as well as a reduction in the availability, capacity and efficiency of municipal and private services necessary to operations has and may continue to temper our sales pace and delay the delivery of our homes at certain communities.

As conditions started to improve in late May as state and local governments in our markets began relaxing the public health restrictions described above and we began to gradually take steps to effectively resume nearly all of our operations (with enhanced safety measures), including reopening our model homes and design studios and expanding construction and customer care service activities to the extent permitted. However, in late May, the states in which we operate each began to experience a severe spike in transmissions of COVID-19. Since this time, state and local authorities in California and Arizona have taken various actions to pause the relaxation on restrictions and in some cases re-implement similar restrictive measures and closure orders. Accordingly, we remain uncertain of the potential full magnitude or duration of the business and economic impacts from the unprecedented public health effort to contain and combat the spread of COVID-19, which include, among other things, a recession, high unemployment levels, and significant volatility in financial markets and the price of our common stock. In addition, we can provide no assurance as to whether the COVID-19 public health effort will be intensified to such an extent, particularly in response to the current or any resurgence in infections, that we will not be able to conduct any business operations in certain of our markets or at all for an indefinite period.

Our business can be negatively impacted as a result of a number of additional factors influenced by the COVID-19 pandemic, including as a result of an unwillingness of customers to visit model homes or employees to return to work due to fears about illness, school closures or other concerns; disruptions to the supply chain for building materials; disruptions in the mortgage financing markets; illness of key executives; inefficiencies due to safety protocols and social distancing; and costs incurred to disinfect contaminated employee work spaces, model homes or construction work sites.

Table of Contents

We are uncertain of the potential full magnitude or duration of the business and economic impacts from the unprecedented public health effort to contain and combat the spread of COVID-19, which include, among other things, significant volatility in financial markets and a sharp decrease in the value of equity securities, including our common stock. In addition, we can provide no assurance as to whether the COVID-19 public health effort will be intensified to such an extent that we will no longer be designated an essential business or that we will not be able to conduct any business operations in certain of our served markets or at all for an indefinite period.

Our business could also be negatively impacted over the medium-to-longer term if the disruptions related to COVID-19 decrease consumer confidence generally or with respect to purchasing a home; cause civil unrest, similar to what arose at the end of May related to efforts to institute law enforcement and other social and political reforms and which may also affect our business in the short and/or medium-to-longer term; negatively impact mortgage availability or the federal government's mortgage loan-related programs; or precipitate a prolonged economic downturn and/or an extended rise in unemployment or tempering of wage growth, any of which could lower demand for our products as occurred during the later part of the 2020 first quarter and earlier months of the 2020 second quarter; impair our ability to sell and build homes in a typical manner, or at all, generate revenues and cash flows, and/or access capital or lending markets (or significantly increase the costs of doing so), as may be necessary to sustain our business; increase our use of sales incentives and concessions which could adversely affect our margins; increase the costs or decrease the supply of building materials or the availability of subcontractors and other talent, including as a result of infections or medically necessary or recommended self-quarantining, or governmental mandates to direct production activities to support public health efforts; and/or result in our recognizing charges in current and future periods, which may be material, for inventory impairments or land option contract abandonments, or both, related to our current inventory assets. For example, during the 2020 first quarter, the Company decided to terminate its option contract for a luxury condominium project in Scottsdale, Arizona in large part due to significant economic uncertainty related to COVID-19 and recorded an abandonment charge of $14.0 million related to the capitalized costs that have accumulated to the portion of the project that is being abandoned. Circumstances related to the COVID-19 pandemic and associated economic relief measures were considered in the Company’s 2020 second quarter decision to exit its Russell Ranch joint venture which resulted in a $20.0 million other-than-temporary impairment charge for the period. The long-term economic impact and near-term financial impacts may cause us to incur other abandonment or impairment charges in the future, but the impact of COVID-19 cannot be reliably quantified or estimated at this time.

Should the adverse impacts described above (or others that are currently unknown) occur, whether individually or collectively, we would expect to experience, among other things, decreases in our net orders, homes delivered, average selling prices, revenues and profitability, as we have in the 2020 second quarter, and such impacts could be material to our financial statements in the third quarter and beyond. In addition, should the COVID-19 public health effort intensify to such an extent that we cannot operate in most or all of our served markets, we could generate few or no orders and deliver few, if any, homes during the applicable period, which could be prolonged. Along with a potential increase in cancellations of home purchase contracts, if there are prolonged government restrictions on our business and our customers, and/or an extended economic recession, we could be unable to produce revenues and cash flows sufficient to conduct our business; meet the terms of our covenants and other requirements under the Credit Facility and Notes. Such a circumstance could, among other things, exhaust our available liquidity (and ability to access liquidity sources) and/or trigger an acceleration to pay a significant portion or all of our then-outstanding debt obligations, which we may be unable to do.

The following Risk Factor under the heading “Risks Related to Our Business” below amends and restates the Risk Factor set forth in the Company’s Annual Report on Form 10-K for the year ended December 31, 2019 under the heading “*Failure to comply with privacy laws or an information systems interruption or breach in security that releases personal identifying information or other confidential information could adversely affect us.”*

Failure to comply with privacy laws or an information systems interruption or breach in security that releases personal identifying information or other

confidential information could adversely affect us.

Privacy, security, and compliance concerns have continued to increase as technology has evolved. We use information technology and other computer resources to carry out important operational and marketing activities and to maintain our business records. Furthermore, as part of our normal business activities, we collect and store personal identifying information, including information about employees, homebuyers, customers, vendors and suppliers and may share information with vendors who assist us with certain aspects of our business. The regulatory environment in California and throughout the U.S. surrounding information security and privacy is increasingly demanding. We may share some of this confidential information with our vendors, such as escrow companies and related title services enterprises, who partner with us to support certain aspects of our business. The information technology systems we use are dependent upon global communications providers, web browsers, third-party software and data storage providers and other aspects of the Internet infrastructure that have experienced security breaches, cyber-attacks, ransomware attacks, significant systems failures and service outages in the past. A material breach in the security of our information technology systems or other data security controls could include the theft or release of customer, employee, vendor or company data. A data security breach, a significant and extended disruption in the functioning of our information technology systems or a breach of any of our data security controls could disrupt our business operations, damage our reputation and cause us to lose customers, adversely impact our sales and revenue and require us to incur significant expense to address and remediate or otherwise resolve these kinds of issues. The release of confidential information as a result of a security breach could also lead to litigation or other proceedings against us by affected individuals or business partners, or by regulators, and the outcome of such proceedings, which could include penalties or fines, could have a significant negative impact on our business. We may also be required to

Table of Contents

incur significant costs to protect against damages caused by information technology failures or security breaches in the future. We provide employee awareness training of cybersecurity threats and routinely utilize information technology consultants to assist us in our evaluations of the effectiveness of the security of our information technology systems, and we regularly enhance our security measures to protect our systems and data. However, because methods used to obtain unauthorized access, disable or degrade systems evolve frequently and often are not recognized until launched against a target, we may be unable to anticipate these attacks or to implement adequate preventative measures. Consequently, we cannot eliminate the risk that a security breach, cyber-attack, ransomware attack, data theft or other significant systems or security failures will occur in the future, and such occurrences could have a material and adverse effect on our consolidated results of operations or financial position. In addition, the cost and operational consequences of implementing further data or system protection measure could be significant and our efforts to deter, identify, mitigate and/or eliminate any security breaches or incidents may not be successful.

With the outbreak of COVID-19 and the federal and state mandates implemented to control its spread, we have taken steps to allow our workforce to perform critical business functions remotely. Many of these measures are being deployed for the first time and there is no guarantee the data security and privacy safeguards we have put in place will be completely effective or that we will not encounter some of the common risks associated with employees accessing Company data and systems remotely. Despite our implementation of security measures, techniques used to obtain unauthorized access or to sabotage systems change frequently. As a result, we may be unable to anticipate these techniques or to implement adequate preventative measures. Any compromise or perceived compromise of our security could damage our reputation and our relationship with our customers, could reduce demand for our services and could subject us to significant liability as well as regulatory action.

In addition to the risks described above, the COVID-19 pandemic may also have the effect of heightening other risks disclosed in the Risk Factors section of our Annual Report on Form 10-K, including, but not limited to, risks related to deterioration in homebuilding and general economic conditions, our geographic concentration, competition, availability of mortgage financing, inventory risks and impairments, supply and/or labor shortages, access to capital markets (including the debt and secondary mortgage markets), impact on joint ventures, compliance with the terms of our indebtedness (including the Credit Facility and the indenture governing our Notes), potential downgrades of credit ratings, and our leverage.

Item 2. Unregistered Sales of Equity Securities and Use of Proceeds

None.

Purchases of Equity Securities by the Issuer

	Total number of shares purchased	Average price paid per share	Total number of shares purchased as part of publicly announced plans or programs(1)	Approximate dollar value of shares that may yet be purchased under the plans or programs (in thousands)(1)
April 1, 2020 to April 30, 2020(2)	652,300	$ 1.68	652,300	$ 2,099
May 1, 2020 to May 31, 2020(2)	165,000	$ 2.25	165,000	$ 1,728
June 1, 2020 to June 30, 2020	—	$ —	—	$ 1,728
	817,300	$ 1.80	817,300	

(1) On May 10, 2018, our board of directors approved a stock repurchase program (the "Repurchase Program") authorizing the repurchase of the Company's common stock with an aggregate value of up to $15 million. The Repurchase Program was announced on May 14, 2018. Repurchases of the Company's common stock may be made in open-market transactions, effected through a broker-dealer at prevailing market prices, in privately negotiated transactions, in block trades or by other means in accordance with federal securities laws, including pursuant to any trading plan that may be adopted in accordance with Rule 10b5-1 of the Securities Exchange Act of 1934. The board of directors did not fix any expiration date for the Repurchase Program.

(2) Starting March 20, 2020, our repurchases made were done pursuant to a 10b5-1 plan entered into by the Company which covered the period March 20, 2020 through May 11, 2020.

Item 3. Defaults Upon Senior Securities

None.

Item 4. Mine Safety Disclosures

Not applicable.

Table of Contents

Item 5. Other Information

None.

Table of Contents

Item 6. Exhibits

Exhibit Number	*Exhibit Description*
3.1	Amended and Restated Certificate of Incorporation of The New Home Company Inc. (incorporated by reference to Exhibit 3.1 of the Company's Annual Report on Form 10-K for the year ended December 31, 2013)
3.2	State of Delaware Certificate of Change of Registered Agent and/or Registered Office (incorporated by reference to Exhibit 3.1 of the Company's Current Report on Form 8-K filed on August 1, 2016)
3.3	Amended and Restated Bylaws of The New Home Company Inc. (incorporated by reference to Exhibit 3(ii) of the Company's Current Report on Form 8-K filed on November 1, 2019)
3.4	Certificate of Designations of Series A Junior Participating Preferred Stock of The New Home Company Inc., filed with the Secretary of State of Delaware on May 8, 2020 (incorporated by reference to Exhibit 3.1 of the Company's Current Report on Form 8-K filed on May 8, 2020)
4.1	Specimen Common Stock Certificate of The New Home Company Inc. (incorporated by reference to Exhibit 4.1 of the Company's Registration Statement on Form S-1 (Amendment No. 10, filed on January 24, 2014))
4.2	Investor Rights Agreement among The New Home Company Inc., TNHC Partners LLC, IHP Capital Partners VI, LLC, WATT/TNHC LLC, TCN/TNHC LP and collectively H. Lawrence Webb, Wayne J. Stelmar, Joseph D. Davis and Thomas Redwitz (incorporated by reference to Exhibit 4.2 of the Company's Annual Report on Form 10-K for the year ended December 31, 2013)
4.3	Amendment No. 1 to Investor Rights Agreement among The New Home Company Inc., TNHC Partners LLC, IHP Capital Partners VI, LLC, WATT/TNHC, LLC, TCN/TNHC LP and collectively H. Lawrence Webb, Wayne J. Stelmar, Joseph D. Davis and Thomas Redwitz (incorporated by reference to Exhibit 10.1 of the Company's Current Report on Form 8-K filed on May 23, 2018)
4.4	Amendment No. 2 to Investor Rights Agreement among The New Home Company Inc., TNHC Partners LLC, IHP Capital Partners VI, LLC, WATT/TNHC, LLC, TCN/TNHC LP and collectively H. Lawrence Webb, Wayne J. Stelmar, Joseph D. Davis and Thomas Redwitz (incorporated by reference to Exhibit 4.4 of the Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2020).
4.5*	Sixth Supplemental Indenture dated as of July 16, 2020, among TNHC Holdings LLC, TNHC Holdings 1 LLC and U.S. Bank National Association
4.6	Tax Benefit Preservation Plan, dated as of May 8, 2020, between The New Home Company Inc. and American Stock Transfer & Trust Company, LLC, which includes the Form of Certificate of Designations of Series A Junior Participating Preferred Stock as Exhibit A, the Form of Right Certificate as Exhibit B and the Summary of Rights to Purchase Preferred Shares as Exhibit C (incorporated by reference to Exhibit 4.1 of the Company's Current Report on Form 8-K filed on May 8, 2020)
10.1*	Third Modification Agreement, dated as of June 26, 2020, among The New Home Company Inc., U.S. Bank National Association, d/b/a Housing Capital Company, and the lenders party thereto.
31.1*	Chief Executive Officer Section 302 Certification of Periodic Report
31.2*	Chief Financial Officer Section 302 Certification of Periodic Report
32.1**	Chief Executive Officer Section 906 Certification of Periodic Report
32.2**	Chief Financial Officer Section 906 Certification of Periodic Report
101*	The following materials from The New Home Company Inc.'s Quarterly Report on Form 10-Q for the quarter ended June 30, 2020, formatted in

	Inline eXtensible Business Reporting Language (XBRL): (i) Condensed Consolidated Balance Sheets, (ii) Condensed Consolidated Statements of Operations, (iii) Condensed Consolidated Statements of Equity, (iv) Condensed Consolidated Statements of Cash Flows, and (v) Notes to Unaudited Condensed Consolidated Financial Statements.
101.INS	XBRL Instance Document - the instance document does not appear in the Interactive Data File because its XBRL tags are embedded within the Inline XBRL document.
104*	Cover Page Interactive Data File - the cover page XBRL tags are embedded within the Inline XBRL document.

Table of Contents

* Filed herewith

** Furnished herewith. The information in Exhibits 32.1 and 32.2 shall not be deemed "filed" for purposes of Section 18 of the Exchange Act, or otherwise subject to the liabilities of that section, nor shall they be deemed incorporated by reference in any filing under the Securities Act, or the Exchange Act (including this Report), unless the Registrant specifically incorporates the foregoing information into those documents by reference.

Table of Contents

SIGNATURES

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

The New Home Company Inc.

By: /s/ Leonard S. Miller
Leonard S. Miller
President and Chief Executive Officer

By: /s/ John M. Stephens
John M. Stephens
Executive Vice President and Chief Financial Officer

Date: July 30, 2020

Exhibit 4.5

SIXTH SUPPLEMENTAL INDENTURE

SIXTH SUPPLEMENTAL INDENTURE (this "Sixth Supplemental Indenture"), dated as of July 16, 2020, by and between The New Home Company Inc., a Delaware corporation (the "Company"), the guarantors party hereto (the "Guarantors") and U.S. Bank National Association, as trustee under the Indenture referred to below (in such capacity, the "Trustee").

RECITALS

WHEREAS, the Company and the Guarantors have heretofore executed and delivered to the Trustee an indenture, dated as of March 17, 2017 (as amended and supplemented by the First Supplemental Indenture, dated April 28, 2017, the Second Supplemental Indenture, dated July 28, 2017, the Third Supplemental Indenture, dated September 18, 2017, the Fourth Supplemental Indenture, dated October 27, 2017, and the Fifth Supplemental Indenture, dated March 5, 2018, the "Indenture"), providing for the issuance of the Company's 7.250% Senior Notes due 2022 (the "Notes");

WHEREAS, Section 9.01(1) of the Indenture provides that, without notice to or consent of the Holders, the Company, the Guarantors and the Trustee may amend the Indenture to cure any ambiguity, defect or inconsistency;

WHEREAS, the Company and the Guarantors desire to execute and deliver this Sixth Supplemental Indenture, in accordance with the terms of the Indenture, for the purpose of amending certain provisions in the Indenture in accordance with Section 9.01(1) of the Indenture;

WHEREAS, pursuant to Article 9 of the Indenture, the Trustee is authorized to execute and deliver this Sixth Supplemental Indenture;

WHEREAS, the Company has provided to the Trustee the items required in Section 11.04 of the Indenture;

WHEREAS, pursuant to Section 9.06 of the Indenture, the Company has requested that the Trustee join in the execution of this Sixth Supplemental Indenture;

WHEREAS, the Company has satisfied all conditions precedent, if any, provided under the Indenture to enable the Company, the Guarantors and the Trustee to enter into this Sixth Supplemental Indenture; and

WHEREAS, all things and acts necessary to make this Sixth Supplemental Indenture the legal, valid and binding obligation of the Company have been done.

NOW THEREFORE, in consideration of the above premises, each party hereby agrees, for the benefit of the others and for the equal and ratable benefit of the Holders, as follows:

ARTICLE I
AMENDMENTS TO THE INDENTURE

SECTION 1.1 AMENDMENTS. The Indenture is hereby amended as follows:

A. Section 4.04(a)(3)(B)(y). Section 4.04(a)(3)(B)(y) of the Indenture is hereby amended and restated in its entirety as follows:

"net cash proceeds received by the Issuer from the issue and sale of its Equity Interests or capital contributions to the extent an amount equal to such net cash proceeds has been applied to redeem Notes in compliance with the provisions set forth under the third paragraph of "Optional Redemption"; plus"

ARTICLE II
MISCELLANEOUS PROVISIONS

SECTION 2.1 DEFINED TERMS. For all purposes of this Sixth Supplemental Indenture, except as otherwise defined or unless the context otherwise requires, terms used in capitalized form in this Sixth Supplemental Indenture and defined in the Indenture have the meanings specified in the Indenture.

SECTION 2.2 INDENTURE. Except as amended hereby, the Indenture is in all respects ratified and confirmed and all the terms thereof shall remain in full force and effect. This Sixth Supplemental Indenture shall form a part of the Indenture for all purposes, and every Holder of Notes heretofore or hereafter authenticated and delivered under the Indenture shall be bound by the Indenture as amended hereby and all terms and conditions of both shall be read together as though they constitute a single agreement, except that in the case of conflict between the Indenture and this Sixth Supplemental Indenture, the provisions of this Sixth Supplemental Indenture shall control. In case of a conflict between the terms and conditions contained in the Notes and those contained in the Indenture, as modified and amended by this Sixth Supplemental Indenture, the provisions of the Indenture, as modified and amended by this Sixth Supplemental Indenture, shall control. On and after the effective date of this Sixth Supplemental Indenture, each reference to the Indenture to "this Indenture," "hereunder," "hereof," or "herein" or the like shall mean and be a reference to the Indenture as supplemented by this Sixth Supplemental Indenture unless the context otherwise requires.

SECTION 2.3 GOVERNING LAW. THIS SIXTH SUPPLEMENTAL INDENTURE AND THE NOTES SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, THE UNITED STATES OF AMERICA.

SECTION 2.4 SUCCESSORS. All agreements of the Company, the Guarantors and the Trustee in this Sixth Supplemental Indenture and the Notes shall bind their respective successors and assigns.

SECTION 2.5 COUNTERPARTS. The parties may sign any number of copies of this Sixth Supplemental Indenture. Each signed copy shall be an original, but all of them together represent the same agreement.

SECTION 2.6 SEVERABILITY. In case any one or more of the provisions in this Sixth Supplemental Indenture or in the Notes shall be held invalid, illegal or unenforceable, in any respect for any reason, the validity, legality and enforceability of any such provision in every other respect and of the remaining provisions shall not in any way be affected or impaired thereby, it being intended that all of the provisions hereof shall be enforceable to the full extent permitted by law.

SECTION 2.7 THE TRUSTEE. The Trustee shall not be responsible in any manner whatsoever for or in respect of the validity or sufficiency of this Sixth Supplemental Indenture or for or in respect of the recitals contained herein, all of which recitals are made solely by the Company.

SECTION 2.8 EFFECTIVENESS; OPERATIVENESS. This Sixth Supplemental Indenture will become effective and binding upon the Company, the Trustee and the holders of the Notes immediately upon execution and delivery thereof by the parties hereto.

SECTION 2.9 EFFECT OF HEADINGS. The Section headings herein are for convenience only and shall not affect the construction hereof.

[Signatures appear on the following page]

IN WITNESS WHEREOF, the parties hereto have caused this Sixth Supplemental Indenture to be duly executed and attested, all as of the date first above written.

THE NEW HOME COMPANY INC.

/s/ John M. Stephens

Name: John M. Stephens

Its: Chief Financial Officer

[Signatures continue on the following page]

GUARANTORS

TNHC REALTY AND CONSTRUCTION INC.
a Delaware corporation

THE NEW HOME COMPANY SOUTHERN CALIFORNIA LLC
a Delaware limited liability company

THE NEW HOME COMPANY NORTHERN CALIFORNIA LLC
a Delaware limited liability company

TNHC LAND COMPANY LLC
a Delaware limited liability company

TNHC ARIZONA LLC
a Delaware limited liability company

TNHC-SANTA CLARITA GP, LLC
a Delaware limited liability company

TNHC SAN JUAN LLC
a Delaware limited liability company

LR8 INVESTORS, LLC
a Delaware limited liability company

LR8 OWNER, LLC
a Delaware limited liability company

TNHC-CALABASAS GP LLC
a Delaware limited liability company

TNHC GROVE INVESTMENT LLC
a Delaware limited liability company

TNHC CANYON OAKS LLC
a Delaware limited liability company

TNHC-ARANTINE GP LLC
a Delaware limited liability company

By: /s/ John M. Stephens
Name: John M. Stephens
Its: Chief Financial Officer

[SIGNATURES CONTINUE ON THE FOLLOWING PAGE]

GUARANTORS *cont*.

LARKSPUR LAND 8 OWNER, LLC
a Delaware limited liability companyn

LARKSPUR LAND 8 INVESTORS, LLC
a Delaware limited liability company

DMB/TNHC LLC
a Delaware limited liability company

TNHC TIDELANDS LLC
a Delaware limited liability company

TNHC ARIZONA MARKETING LLC
a Delaware limited liability company

TNHC HOLDINGS LLC,
a Delaware limited liability company

TNHC HOLDINGS 1 LLC,
a Delaware limited liability company

By: /s/ John M. Stephens
Name: John M. Stephens
Its: Chief Financial Officer

[SIGNATURES CONTINUE ON THE FOLLOWING PAGE]

U.S. BANK NATIONAL ASSOCIATION,
AS TRUSTEE

By: /s/ Donald T. Hurrelbrink
Name: Donald T. Hurrelbrink
Title: Vice President

Exhibit 10.1

THIRD MODIFICATION AGREEMENT

This Third Modification Agreement (***"Agreement"***) is made as of June 26, 2020, by and among THE NEW HOME COMPANY INC., a Delaware corporation (***"Borrower"***), each lender from time to time party to the Credit Agreement described below (individually, a ***"Lender"*** and collectively, the ***"Lenders"***), and U.S. BANK NATIONAL ASSOCIATION, a national banking association, d/b/a HOUSING CAPITAL COMPANY, as Administrative Agent for the Lenders (in such capacity, ***"Administrative Agent"***).

RECITALS

A. Under that certain Amended and Restated Credit Agreement dated as of May 10, 2016, by and among Lenders, Borrower and Administrative Agent, as modified by that certain Modification Agreement dated as of September 27, 2017, and that certain Second Modification Agreement dated as of August 7, 2019 (the ***"Second Modification Agreement"***) (collectively, as amended, restated or otherwise modified, the ***"Existing Credit Agreement"***), Lenders agreed to make a revolving loan to Borrower (the ***"Loan"***). Capitalized terms used herein without definition have the meanings ascribed to them in the Amended Credit Agreement (as defined below).

B. The Loan is evidenced by a note dated May 7, 2015 and certain notes dated May 10, 2016, each made payable to a Lender in the aggregate original principal amount of Two Hundred Sixty Million and No/100 Dollars ($260,000,000.00) (collectively, the ***"Notes"***). Pursuant to the Second Modification Agreement, the Aggregate Commitments were reduced to a maximum amount of One Hundred Thirty Million and No/100 Dollars ($130,000,000.00).

C. In connection with the Loan, the Subsidiaries of Borrower identified on Exhibit A attached hereto (the ***"Guarantors"***) have executed that certain Guaranty dated as of June 26, 2014 in favor of Administrative Agent and the Lenders (as supplemented on February 24, 2016, May 10, 2016, March 17, 2017, September 27, 2017, November 8, 2017 and March 1, 2018, and as further amended, restated, supplemented or otherwise modified, the ***"Guaranty"***), pursuant to which the Guarantors have guaranteed to Administrative Agent and Lenders, on a joint and several basis, the payment and performance of Borrower's obligations under the Loan Documents.

D. As of the date hereof, the outstanding principal balance of the Loan is $0.00 and no Letters of Credit are outstanding.

E. Borrower has requested, and Administrative Agent and Lenders have agreed, to extend the maturity of the Loan and make certain other changes to the Loan, all on the terms and conditions set forth herein.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, including the mutual venants herein contained,

Administrative Agent, Lenders and Borrower hereby agree to the following terms and conditions:

1. Recitals. The recitals set forth above in the Recitals are true, accurate and correct.

2. Reaffirmation of Loan. Borrower reaffirms all of its obligations under the Loan Documents, and Borrower acknowledges that it has no claims, offsets or defenses with respect to the payment of sums due under the Amended Credit Agreement, the Notes or any other Loan Document.

3. Modification of Loan Documents. The Existing Credit Agreement is, as of the date hereof, hereby amended to be as set forth in the conformed copy of the credit agreement attached hereto as Exhibit B (the Existing Credit Agreement, as so amended, is referred to herein as the ***"Amended Credit Agreement"***).

4. Conditions Precedent. This Agreement shall become effective as of the first date (the ***"Modification Date"***) when each of the following conditions shall have been satisfied or waived in writing by the Administrative Agent:

(a) Administrative Agent shall have received fully executed originals of this Agreement.

(b) Administrative Agent shall have received a Consent and Reaffirmation of Guaranty in form and substance satisfactory to Administrative Agent executed by each Guarantor identified on Exhibit A as an "Existing Guarantor."

(c) Administrative Agent shall have received the fully executed original fee letter of even date herewith executed by Borrower.

(d) Administrative Agent shall have received a Certificate of the Secretary or an Assistant Secretary of each Loan Party certifying (i) that there have been no changes in the charter document of such Loan Party, as attached thereto and as certified as of a recent date by the Secretary of State (or analogous governmental entity) of the jurisdiction of its organization, since the date of the certification thereof by such governmental entity, (ii) that there have been no changes in the Operating Agreement or other organizational document of such Loan Party since the date previously delivered to Administrative Agent, or otherwise as attached thereto, (iii) resolutions of the Board of Directors or other governing body of such Loan Party authorizing the execution, delivery and performance of this Agreement (or, in the case of a Guarantor, the Consent and Reaffirmation of Guaranty), (iv) the Good Standing Certificate (or analogous documentation if applicable) for such Loan Party from the Secretary of State (or analogous governmental entity) of the jurisdiction of its organization, to the extent generally available in such jurisdiction and (v) and the names and true signatures of the incumbent officers of each Loan Party authorized to sign the Loan Documents to which it is a party.

(e) Administrative Agent shall have received a Certificate of an Authorized Officer of Borrower certifying that the representations and warranties contained in the Loan Documents and this Agreement are true and correct in all material respects as of the effective

date of this Agreement, except to the extent any such representation or warranty is stated to relate solely to an earlier date, in which case such representation or warranty shall have been true and correct in all material respects on and as of such earlier date.

(f) All payments due and owing to Administrative Agent and Lenders under the Loan Documents have been paid current as of the effective date of this Agreement.

(g) No Event of Default shall have occurred and be continuing and no event shall have occurred and be continuing which, with notice or the passage of time or both, would be an Event of Default.

(h) Administrative Agent shall have received reimbursement, in immediately available funds, of all costs and expenses incurred by Administrative Agent in connection with this Agreement, including, to the extent invoiced, legal fees and expenses of Administrative Agent's counsel.

5. Representations and Warranties. Borrower represents and warrants to Administrative Agent and Lenders as follows:

(a) Loan Documents. All representations and warranties made and given by Borrower in the Loan Documents are true and correct in all material respects as of the date of this Agreement, except (i) to the extent any such representation or warranty is stated to relate solely to an earlier date, in which case such representation or warranty shall have been true and correct in all material respects on and as of such earlier date, and (ii) to the extent any such representation or warranty is expressly qualified as to materiality, in which case such representation or warranty is true and correct in all respects.

(b) No Event of Default. No Event of Default has occurred and is continuing and no event has occurred and is continuing which, with notice or the passage of time or both, would be an Event of Default.

6. Incorporation. This Agreement shall form a part of each Loan Document, and all references to a given Loan Document shall mean that document as hereby modified.

7. Effect of this Agreement. The terms and conditions of the Loan Documents are modified only to the extent specifically set forth in Exhibit B attached hereto (or as otherwise set forth herein) and on the condition that such modification shall not prejudice any other existing or future rights, remedies, benefits or powers belonging or accruing to Administrative Agent and Lenders under the terms of the Loan Documents, as hereby modified. Administrative Agent and Lenders reserve, without limitation, all rights which it has against any indemnitor, guarantor, or endorser of the Loan.

8. No Impairment; Reaffirmation and Ratification. Except as set forth in Exhibit B attached hereto (or as otherwise set forth herein), the terms of the Notes and the other Loan Documents shall remain in full force and effect and apply to this Agreement, and the Notes and the other Loan Documents are ratified and affirmed by the parties hereto.

9. Successors and Assigns. The terms and conditions of this Agreement are binding upon Borrower and its representatives, successors, interests, and assigns, and shall survive the termination of this Agreement, the Notes and the other Loan Documents.

10. Purpose and Effect of Lenders' Approval. Administrative Agent's and/or Lenders' approval of any matter in connection with the Loan shall be for the sole purpose of protecting Administrative Agent's and Lenders' security and rights. Neither the execution and delivery of this Agreement by Administrative Agent and Lenders, nor any approval by any of them of any matter in connection with the Loan shall result in a waiver of any Default or Event of Default by Borrower or Guarantor. In no event shall Administrative Agent's or Lenders' approval be a representation of any kind with regard to the matter being approved.

11. NO ORAL MODIFICATION. THIS AGREEMENT, THE NOTES AND THE OTHER LOAN DOCUMENTS REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. NOTWITHSTANDING ANY PRIOR PRACTICE to the contrary and for the avoidance of doubt, the parties hereto acknowledge and agree that THERE MAY BE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

12. Integration. The Loan Documents, including this Agreement, embody the entire agreement and understanding among the Borrower, the Administrative Agent, any LC Issuer and the Lenders and supersede all prior agreements and understandings among the Borrower, the Administrative Agent, the LC Issuer and the Lenders relating to the subject matter thereof other than those contained in the Fee Letters which shall survive and remain in full force and effect during the term of this Agreement. If there is any conflict between the terms, conditions and provisions of this Agreement and those of any other agreement or instrument, including any of the other Loan Documents, the terms, conditions and provisions of this Agreement shall prevail.

13. Miscellaneous. This Agreement may be executed in counterparts, and all counterparts shall constitute but one and the same document. Any provision in any Loan Document that is held to be inoperative, unenforceable, or invalid in any jurisdiction shall, as to that jurisdiction, be inoperative, unenforceable, or invalid without affecting the remaining provisions in that jurisdiction or the operation, enforceability, or validity of that provision in any other jurisdiction, and to this end the provisions of all Loan Documents are declared to be severable. This Agreement shall be construed in accordance with the internal laws (without regard to conflicts of law provisions) of the State of California, but giving effect to federal laws applicable to national banks.

[Signatures Begin on the Following Page]

IN WITNESS WHEREOF, Borrower, Administrative Agent, LC Issuer and the Lenders have executed this Agreement as of the date first above written.

BORROWER:

THE NEW HOME COMPANY INC.,
a Delaware corporation

By: /s/ John M. Stephens
Name: John M. Stephens
Title: Chief Financial Officer

[Signatures Continue on the Following Page]

U.S. BANK NATIONAL ASSOCIATION,
a national banking association, d/b/a Housing Capital Company,
as a Lender, a Swing Line Lender, an LC Issuer and Administrative Agent

By: /s/ Julie MacHale
Name: Julie MacHale
Title: Senior Vice President

[Signatures Continue on the Following Page]

CITIBANK, N.A.,
a national banking association,
as a Lender

By: /s/ Michael Vondriska
Name: Michael Vondriska
Title: Vice President

[Signatures Continue on the Following Page]

JPMORGAN CHASE BANK, N.A.,
as a Lender

By: /s/ Nadeige Dang
Name: Nadeige Dang
Title: Executive Director

[Signatures Continue on the Following Page]

CREDIT SUISSE AG, CAYMAN ISLANDS BRANCH,
as a Lender

By: /s/ William O'Daly
Name: William O'Daly
Title: Authorized Signatory

By: /s/ Christopher Zybrick
Name: Christopher Zybrick
Title: Authorized Signatory

[Signatures Continue on the Following Page]

ZIONS BANCORPORATION, N.A. (FKA ZB, N.A.)
DBA CALIFORNIA BANK & TRUST,
as a Lender

By: /s/ Aegea Lee
Name: Aegea Lee
Title: Executive Vice President

[Signatures Continue on the Following Page]

BANK OF THE WEST,
a California banking corporation,
as a Lender

By: /s/ David Vazquez
Name: David Vazquez
Title: Director

[Signatures Continue on the Following Page]

CITY NATIONAL BANK,
a national banking association,
as a Lender

By: /s/ Geoff Ramirez
Name: Geoff Ramirez
Title: Vice President

EXHIBIT A

Guarantors

Existing Guarantors:

DMB/TNHC LLC

Larkspur Land 8 Investor, LLC

Larkspur Land 8 Owner, LLC

LR8 Investors, LLC

LR8 Owner, LLC

The New Home Company Northern California LLC

The New Home Company Southern California LLC

TNHC-Arantine GP LLC

TNHC Arizona LLC

TNHC Arizona Marketing LLC

TNHC - Calabasas GP LLC

TNHC Canyon Oaks LLC

TNHC Grove Investment LLC

TNHC Land Company LLC

TNHC Realty and Construction Inc.

TNHC San Juan LLC

TNHC - Santa Clarita GP, LLC

TNHC Tidelands LLC

TNHC Holdings LLC

TNHC Holdings 1 LLC

EXHIBIT B

Amended Credit Agreement

[See Attached]

Deal CUSIP 64536VAA8
Revolving Facility CUSIP 64536VAB6

CONFORMED COPY REFLECTING MODIFICATIONS
MADE PURSUANT TO THAT CERTAIN THIRD MODIFICATION AGREEMENT
DATED AS OF JUNE 26, 2020

AMENDED AND RESTATED CREDIT AGREEMENT

DATED AS OF MAY 10, 2016

BETWEEN

THE NEW HOME COMPANY INC.,
a Delaware corporation

U.S. BANK NATIONAL ASSOCIATION
D/B/A HOUSING CAPITAL COMPANY,
a national banking association,
as Administrative Agent, lead arranger and book manager,

U.S. BANK NATIONAL ASSOCIATION
D/B/A HOUSING CAPITAL COMPANY,
a national banking association,
as a Lender and LC Issuer,

AND

The other Lenders from
Time to Time Parties Hereto

Table of Contents

AMENDED AND RESTATED CREDIT AGREEMENT

This Amended and Restated Credit Agreement (the ***"Agreement"***), dated as of May 10, 2016, as modified by that certain Modification Agreement dated as of September 27, 2017, that certain Second Modification Agreement dated as of August 7, 2019 and that certain Third Modification Agreement dated as of June 26, 2020, is among The New Home Company Inc., a Delaware corporation, as Borrower, the Lenders and U.S. Bank National Association d/b/a Housing Capital Company, a national banking association, as LC Issuer and Administrative Agent.

RECITALS

A. Lenders have made a revolving loan to Borrower (the ***"Loan"***) on the terms and conditions set forth herein.

B. In connection with the Loan, the Guarantors have executed the Guaranty in favor of Administrative Agent and the Lenders, pursuant to which Guarantors have guaranteed to Administrative Agent and Lenders, on a joint and several basis, the payment and performance of Borrower's obligations under the Loan Documents.

C. Now, therefore, in consideration of the premises, and in further consideration of the mutual covenants and agreements herein set forth, the parties covenant and agree as follows:

ARTICLE 1

DEFINITIONS

Section 1.1 Definitions. As used in this Agreement:

"Acquisition" means any transaction, or any series of related transactions, consummated on or after the date of this Agreement, by which the Borrower or any of its Guarantors (i) acquires any going business or all or substantially all of the assets of any firm, corporation or limited liability company, or division thereof, whether through purchase of assets, merger or otherwise or (ii) directly or indirectly acquires (in one transaction or as the most recent transaction in a series of transactions) at least a majority (in number of votes) of the securities of a corporation which have ordinary voting power for the election of directors (other than securities having such power only by reason of the happening of a contingency) or a majority (by percentage or voting power) of the outstanding ownership interests of a partnership or limited liability company.

"Act" is defined in Section 9.14.

"Administrative Agent" means U.S. Bank in its capacity as contractual representative of the Lenders pursuant to ARTICLE X, and not in its individual capacity as a Lender, and any successor Administrative Agent appointed pursuant to ARTICLE X.

"Advance" means a borrowing hereunder, (i) made by some or all of the Lenders on the same Borrowing Date, or (ii) converted or continued by the Lenders on the same date of

conversion or continuation, consisting, in either case, of the aggregate amount of the several Loans of the same Type and, in the case of Eurocurrency Loans, for e same Interest Period.

"Affected Lender" is defined in Section 2.20.

"Affiliate" of any Person means any other Person directly or indirectly controlling, controlled by or under common control with such Person, including, without limitation, such Person's Subsidiaries.

"Aggregate Commitment" means the aggregate of the Commitments of all the Lenders, as increased or reduced from time to time pursuant to the terms hereof. As of the date of this Agreement, the Aggregate Commitment is Sixty Million Dollars ($60,000,000.00).

"Aggregate Outstanding Credit Exposure" means, at any time, the aggregate of the Outstanding Credit Exposure of all the Lenders.

"Agreement" means this Credit Agreement, as it may be amended or modified and in effect from time to time.

"Agreement Accounting Principles" is defined in Section 9.8.

"Alternate Base Rate" means, for any day, a rate of interest per annum equal to (a) the highest of (i) three-quarters of one percent (0.75%), (ii) the Prime Rate for such day, and (iii) the sum of the Federal Funds Effective Rate for such day *plus* 0.50% per annum, plus (b) the Applicable Margin. Any change in the Alternate Base Rate due to a change in the Prime Rate or the Federal Funds Effective Rate shall be effective from the effective date of such change.

"Alternate Base Rate Advance" means an Advance which bears interest at the Alternate Base Rate.

"Alternate Base Rate Loan" means a Loan which bears interest at the Alternate Base Rate.

"Anti-Corruption Laws" means all laws, rules, and regulations of any jurisdiction applicable to the Borrower or its Subsidiaries from time to time concerning or relating to bribery or corruption.

"Applicable Fee Rate" means, at any time, the percentage rate per annum at which Commitment Fees are accruing on the Available Aggregate Commitment at such time as set forth in the Pricing Schedule.

"Applicable Margin" means, with respect to Advances of any Type at any time, the percentage rate per annum which is applicable at such time with respect to Advances of such Type as set forth in the Pricing Schedule.

"Approved Fund" means any Fund that is administered or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that administers or manages a Lender.

"Arranger" means U.S. Bank, in its capacity as Lead Arranger and Book Runner.

"Article" means an article of this Agreement unless another document is specifically referenced.

"Assignee Lenders" is defined in Section 12.3(a).

"Augmenting Lender" is defined in Section 2.25.

"Authorized Officer" means any of the President, Chief Executive Officer, Chief Financial Officer, Senior Vice President of Finance, Vice President of Finance and Corporate Controller of the Borrower, and such other officers of the Borrower as the Borrower may designate from time to time in writing, in each case, acting singly.

"Available Aggregate Commitment" means, at any time, the Aggregate Commitment then in effect *minus* the Aggregate Outstanding Credit Exposure at such time.

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

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

"Base Rate" means, for any day, a rate of interest per annum equal to the Eurocurrency Rate for a one month Interest Period on such day (or if such day is not a Business Day, the immediately preceding Business Day) for Dollars, *provided* that, for the avoidance of doubt, the Eurocurrency Rate for any day shall be based on the rate reported by the applicable financial information service at approximately 11:00 a.m. London time on such day. Administrative Agent's internal records of applicable interest rates shall be determinative in the absence of manifest error. Each change in the Base Rate shall become effective without prior notice to Borrower automatically as of the opening of business on the date of such change in the Base Rate.

"Base Rate Advance" means an Advance which, except as otherwise provided in Section 2.11, bears interest at the Base Rate.

"Base Rate Loan" means a Loan which, except as otherwise provided in Section 2.11, bears interest at the Base Rate.

"Benchmark Replacement" means the sum of: (a) an alternative benchmark rate that has been selected by the Administrative Agent and the Borrower giving due consideration to (i) any selection or recommendation of a replacement rate or the mechanism for determining such a rate by the Relevant Governmental Body and (ii) any evolving or then-prevailing market convention for determining a rate of interest as a replacement to LIBOR for U.S. syndicated credit facilities denominated in Dollars or in the applicable Agreed Currency that are substantially similar to the credit facilities under this Agreement and (b) the Benchmark Replacement Adjustment; provided that, if the Benchmark Replacement as so determined would be less than three-quarters of one

percent (0.75%), the Benchmark Replacement will be deemed to be three-quarters of one percent (0.75%) for the purposes of this Agreement.

"Benchmark Replacement Adjustment" means, with respect to any replacement under this Agreement of LIBOR with an alternative benchmark rate, for each applicable Interest Period, the spread adjustment, or method for calculating or determining such spread adjustment, (which may be a positive or negative value or zero) that has been selected by the Administrative Agent and the Borrower giving due consideration to (a) any selection or recommendation of a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of LIBOR with an alternative benchmark rate by the Relevant Governmental Body and (b) any evolving or then-prevailing market convention for determining a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of LIBOR with an alternative benchmark rate at such time for U.S. syndicated credit facilities denominated in Dollars that are substantially similar to the credit facilities under this Agreement, which adjustment or method for calculating or determining such spread adjustment pursuant to clause (b) is published on an information service as selected by the Administrative Agent from time to time and as may be updated periodically.

"Benchmark Replacement Conforming Changes" means, with respect to any Benchmark Replacement, any technical, administrative or operational changes (including changes to the definition of "Base Rate," the definition of "Interest Period," timing and frequency of determining rates and making payments of interest and other administrative matters) that the Administrative Agent decides may be appropriate to reflect the adoption and implementation of such Benchmark Replacement and to permit the administration thereof by the Administrative Agent in a manner substantially consistent with then-prevailing market practice (or, if the Administrative Agent decides that adoption of any portion of such market practice is not administratively feasible or if the Administrative Agent determines that no market practice for the administration of the Benchmark Replacement exists, in such other manner of administration as the Administrative Agent decides is reasonably necessary in connection with the administration of this Agreement).

"Benchmark Replacement Date" means the earliest to occur of the following events with respect to LIBOR:

(a) in the case of clauses (ii), (iii) or (iv) of Section 3.3(b), the later of:

(i) the date of the public statement or publication of information referenced therein; and

(ii) the date on which the administrator of LIBOR permanently or indefinitely ceases to provide LIBOR;

(b) in the case of clause (i) of Section 3.3(b), the earlier of

(i) the date of the public statement or publication of information referenced therein; and

(ii) the date specified by the Administrative Agent or the Required Lenders, as applicable, by notice to the Borrower, the Administrative Agent (in the case of such determination and notice by the Required Lenders) and the Lenders; or

(c) in the case of clause (v) of Section 3.3(b), the date specified by the Administrative Agent or the Required Lenders, as applicable, by written notice to the Borrower, the Administrative Agent (in the case of such determination and notice by the Required Lenders) and the Lenders, which date shall be no earlier than ninety (90) days from the date of such notice.

"Benchmark Transition Event" is defined in Section 3.3(b).

"Benchmark Unavailability Period" means, if a Benchmark Transition Event and its related Benchmark Replacement Date have occurred with respect to LIBOR and solely to the extent that LIBOR has not been replaced hereunder with a Benchmark Replacement, the period (y) beginning at the time that such Benchmark Replacement Date has occurred if, at such time, no Benchmark Replacement has replaced LIBOR for all purposes under this Agreement and the other Loan Documents in accordance with Section 3.3(b) and (z) ending at the time that a Benchmark Replacement has replaced LIBOR for all purposes under this Agreement and the other Loan Documents pursuant to Section 3.3(b).

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

"Beneficial Ownership Regulation" means 31 C.F.R. § 1010.230.

"BHC Act Affiliate" of a party means an "affiliate" (as such term is defined under, and interpreted in accordance with, 12 U.S.C. 1841(k)) of such party.

"Book Value" means, with respect to any Property at any time, the book value of such Property as determined in accordance with GAAP at such time; provided, however, that the "Book Value" of Model Units shall (a) include the incurred cost to build such Model Unit, plus all hardscape, landscape and other costs for improvements that are permanent fixtures, and (b) exclude costs for furnishings, sales offices and other personal property or improvements that are not permanent fixtures attached to such Model Unit.

"Borrower" means The New Home Company Inc., a Delaware corporation, and its successors and assigns.

"Borrowing Base" means an amount equal to the sum (without duplication) of the following assets of the Borrower and each Guarantor (but only to the extent that such assets, except with respect to clauses (i) and (ii) below, are Qualified Real Property Inventory, and are not subject to any Liens other than Permitted Liens):

(i) one hundred percent (100%) of Unrestricted Cash in excess of the Minimum Liquidity Amount;

(ii) ninety percent (90%) of escrow receivables payable to Borrower in connection with Housing Unit Closings;

(iii) the Book Value of Presold Units (excluding Presold Units located in Designated Condominium Projects), multiplied by ninety percent (90%); plus

(iv) the Book Value of Model Units (excluding Model Units located in Designated Condominium Projects), multiplied by eighty percent (80%); plus

(v) the Book Value of Spec Units (excluding (A) Spec Units located in Designated Condominium Projects and (B) such Spec Units, if any, as are excluded from the Borrowing Base pursuant to the provisions of Section 6.20(f)), multiplied by eighty percent (80%); plus

(vi) the Book Value of Presold Units located in Designated Condominium Projects, multiplied by seventy-five percent (75%); plus

(vii) the Book Value of Model Units located in Designated Condominium Projects, multiplied by seventy-five percent (75%); plus

(viii) the Book Value of Spec Units located in Designated Condominium Projects (excluding such Spec Units, if any, as are excluded from the Borrowing Base pursuant to the provisions of Section 6.20(f)), multiplied by seventy-five percent (75%); plus

(ix) the Book Value of Finished Lots, multiplied by sixty-five percent (65%); plus

(x) the Book Value of Land Under Development, multiplied by sixty-five percent (65%); plus

(xi) the Book Value of Entitled Land, multiplied by fifty percent (50%);

provided, however, for purposes of (a) and (b) above:

(1) the Borrowing Base shall not include any amounts for Finished Lots, Land Under Development and Entitled Land to the extent the aggregate of such amounts exceed 40% of the Borrowing Base;

(2) the amount included in the Borrowing Base for Entitled Land shall not exceed 12.5% of the Borrowing Base;

(3) the advance rate for Spec Units (other than Model Units) shall decrease to 25% for any Housing Unit that has been a Spec Unit for more than 12 months; provided, however, that, notwithstanding the foregoing, the advance rate for Spec Units (other than Model Units) located in any Designated Condominium Project shall not decrease to 25% until such Housing Unit has been a Spec Unit for more than 24 months; and

(4) the advance rate for Model Units shall decrease to 0% for any Housing Unit that has been a Model Unit for more than 180 days following the sale of the last production Housing Unit in the applicable project relating to such Model Unit.

"Borrowing Base Certificate" means a certificate executed by an Authorized Officer, substantially in the form of the pro forma certificate attached hereto as Exhibit H (with such modifications to such form as may be reasonably requested by the Administrative Agent or the Required Lenders from time to time), setting forth the Borrowing Base and the component calculations in respect of the foregoing.

"Borrowing Base Debt" at any date, without duplication (a) all indebtedness for borrowed money of the Loan Parties and their respective Subsidiaries determined on a consolidated basis (including, without limitation, all Loans); plus (b) all indebtedness for borrowed money with recourse to any limited or general partnership in which any Loan Party or any of their respective Subsidiaries is a general partner; plus (c) the sum of (i) all reimbursement obligations with respect to drawn Financial Letters of Credit and drawn Performance Letters of Credit (excluding any portion of the actual or potential obligations that are secured by cash collateral) and (ii) the maximum amount available to be drawn under all undrawn Financial Letters of Credit, in each case issued for the account of, or guaranteed by, any Loan Party or any of their respective Subsidiaries (excluding any portion of the actual or potential obligations that are secured by cash collateral); plus (d) the aggregate outstanding principal balance of indebtedness for borrowed money of third parties covered by repayment guarantees of any Loan Party or any of their respective Subsidiaries (excluding, however, any repayment guarantees of Secured Project Debt); plus (e) all Obligations (including all Rate Management Obligations to the extent due and owing) of any Loan Party and any of their respective Subsidiaries; and plus (f) Contingent Obligations that are due and payable at the time of determination; provided, however, "Borrowing Base Debt" excludes (i) Indebtedness of any Non-Guarantor Subsidiary or any other Person (other than the Borrower or a Guarantor) the assets of which are included in the consolidated balance sheet of the Borrower prepared in accordance with GAAP, (ii) Indebtedness of the Borrower to a Guarantor, a Guarantor to the Borrower, or a Guarantor to another Guarantor, (iii) Secured Project Debt permitted pursuant to Section 6.12, (iv) Subordinated Indebtedness permitted pursuant to Section 6.12, and (v) Non-Recourse Indebtedness permitted under Section 6.12; and provided further, however, that the amount included in the calculation of "Borrowing Base Debt" under clause (b) above, shall be limited, in each instance, to an amount not to exceed (1) the lesser of (A) the net assets of the Loan Party (or the applicable Subsidiary, as the case may be) that is the general partner of such partnership as of the most-recent completed fiscal quarter for which internal financial statements are available to Borrower, and (B) the amount of such indebtedness for borrowed money to the extent that there is recourse, by contract or operation of law, to the property or assets of such Loan Party (or the applicable Subsidiary, as the case may be); or (2) if less than the amount determined pursuant to clause (1) immediately above, the actual amount of such indebtedness for borrowed money that is recourse to such Loan Party (or the applicable Subsidiary, as the case may be), if the indebtedness is evidenced by a writing and is for a determinable amount.

"Borrowing Date" means a date on which an Advance is made or a Facility LC is issued hereunder.

"Borrowing Notice" is defined in Section 2.8.

"Business Day" means (i) with respect to any borrowing, payment or rate selection of Eurocurrency Advances, a day (other than a Saturday or Sunday) on which banks generally are open in New York City, New York and London, England for the conduct of substantially all of their commercial lending activities, interbank wire transfers can be made on the Fedwire system and dealings in Dollars are carried on in the London interbank market and (ii) for all other purposes, a day (other than a Saturday or Sunday) on which banks generally are open in New York City, New York for the conduct of substantially all of their commercial lending activities and interbank wire transfers can be made on the Fedwire system.

"Capital Stock" means any and all shares, interests, rights to purchase, warrants, options, participations or other equivalents of or interests in (however designated) equity of any Person, including any preferred stock, but excluding any debt securities convertible into such equity.

"Capitalized Lease" of a Person means any lease of Property by such Person as lessee which would be capitalized on a balance sheet of such Person prepared in accordance with Agreement Accounting Principles.

"Capitalized Lease Obligations" of a Person means the amount of the obligations of such Person under Capitalized Leases which would be shown as a liability on a balance sheet of such Person prepared in accordance with Agreement Accounting Principles (utilizing GAAP as in effect on December 31, 2018).

"Cash Collateralize" means to deposit in the Facility LC Collateral Account or to pledge and deposit with or deliver to the Administrative Agent, for the benefit of one or more of the applicable LC Issuers or Lenders, as collateral for LC Obligations or obligations of Lenders to fund participations in respect of LC Obligations, cash or deposit account balances or, if the Administrative Agent and the applicable LC Issuers shall agree in their sole discretion, other credit support, in each case pursuant to documentation in form and substance satisfactory to the Administrative Agent and the applicable LC Issuers.

"Cash Collateral" shall have a meaning correlative to the foregoing and shall include the proceeds of such cash collateral and other credit support.

"Cash Equivalents" means Investments that would be set forth in a consolidated balance sheet of Borrower in conformity with Agreement Accounting Principles under the heading "cash and cash equivalents."

"CC&Rs" means covenants, conditions and restrictions relating to the ownership, development or operation of real property.

"Change in Control" means (i) the acquisition by any Person, or two or more Persons acting in concert, of beneficial ownership (within the meaning of Rule 13d-3 of the U.S. Securities and Exchange Commission under the Securities Exchange Act of 1934) of 50% or more of the outstanding shares of voting stock of the Borrower on a fully diluted basis; or (ii) a "change in control" or "fundamental change" (or any other defined term having a similar purpose) as defined in the documents governing any Material Indebtedness and giving rise to a

right to payment or purchase prior to scheduled maturity or an exercise of rights and remedies thereunder or in respect thereof.

"Change in Law" is defined in Section 3.1.

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

"Collateral Shortfall Amount" is defined in Section 8.1.

"Commitment" means, for each Lender, the obligation of such Lender to make Loans to, and participate in Facility LCs issued upon the application of, the Borrower, in an amount not exceeding the amount set forth in Schedule 1, as it may be modified (i) pursuant to Section 2.7, (ii) as a result of any assignment that has become effective pursuant to Section 12.3(c) or (iii) otherwise from time to time pursuant to the terms hereof.

"Commitment Fee" is defined in Section 2.5.

"Commodity Exchange Act" means the Commodity Exchange Act (7 U.S.C. §1 et seq.), as amended from time to time, and any successor statute.

"Computation Date" is defined in Section 2.2.

"Consolidated EBITDA" means, for any period, without duplication, the following, all as determined on a consolidated basis for the Borrower in conformity with Agreement Accounting Principles,

(i) Consolidated Net Income, plus

(ii) to the extent deducted from revenues in determining the Consolidated Net Income of the Borrower, (a) Consolidated Interest Expense, (b) penses for income taxes paid or accrued, (c) depreciation expense, (d) amortization expense, (e) other non-cash charges and expenses, (f) any losses arising outside the ordinary course of business, and (g) transaction costs and restructuring charges required to be expensed under ASC 805, less

(iii) to the extent added to revenues in determining the Consolidated Net Income of the Borrower, any gains arising outside of the ordinary course of siness.

"Consolidated Indebtedness" means, at any date, the sum of (i) all Borrowing Base Debt, plus (ii) all Secured Project Debt, plus (iii) all Non-Recourse Indebtedness, plus (iv) all Subordinated Indebtedness, plus (v) the amount of all liabilities (without duplication of any liabilities included in Borrowing Base Debt, Secured Project Debt, Non-Recourse Indebtedness or Subordinated Indebtedness) reflected on the most recently delivered consolidated balance sheet of the Borrower prepared in conformity with Agreement Accounting Principles, but excluding all liabilities (other than indebtedness for financing insurance premiums) from such balance sheet consisting of the amounts listed under the line items for (1) "Accounts Payable," (2) "Accrued Liabilities," and (3) "Other" or any other line item for similar liabilities, including, without limitation, liabilities related to inventory not owned, warranty reserves, legal reserves,

accrued tax liabilities and accrued payroll liabilities; provided, however, that in no event shall the amounts described in this clause (3) include any indebtedness for borrowed money.

"Consolidated Interest Expense" means, for any period and without duplication, the aggregate amount of interest which, in conformity with Agreement Accounting Principles, would be set opposite the caption "interest expense" or any like caption on a consolidated income statement for the Borrower and its Subsidiaries, including, without limitation, imputed interest included on Capitalized Lease Obligations, all commissions, discounts and other fees and charges owed with respect to Letters of Credit and bankers' acceptance financing, the net costs associated with Rate Management Transactions, amortization of other financing fees and expenses, the interest portion of any deferred payment obligation, amortization of discount or premiums, if any, and all other noncash interest expense, other than interest and other charges amortized to cost of sales. Consolidated Interest Expense includes, with respect to the Borrower and its Subsidiaries, without duplication, all interest included as a component of cost of sales for such period.

"Consolidated Interest Incurred" means, for any period and without duplication and determined in each case in accordance with Agreement Accounting Principles on a consolidated basis, the aggregate amount of interest incurred, whether such interest was expensed or capitalized, paid, accrued or scheduled to be paid or accrued during such period, by the Borrower, including, without limitation, imputed interest included on Capitalized Lease Obligations, all commissions, discounts and other fees and charges owed with respect to Letters of Credit and bankers' acceptance financing, the net costs associated with Rate Management Transactions, amortization of other financing fees and expenses, the interest portion of any deferred payment obligation, amortization of discount or premiums, if any, and all other noncash interest expense, but excluding interest and other charges amortized to cost of sales. Consolidated Interest Incurred includes, with respect to the Borrower and Guarantors, without duplication, all interest attributable to discontinued operations for such period and all interest actually paid by the Borrower or any Guarantor under any Contingent Obligation during such period.

"Consolidated Net Income" means, for any period, the net income of the Borrower on a consolidated basis for such period, determined in conformity with Agreement Accounting Principles.

"Consolidated Tangible Net Worth" means, at any date, (a) the stockholders' equity of the Borrower (or other Person to the extent the context so requires) determined on a consolidated basis in conformity with Agreement Accounting Principles (but excluding any such stockholders' equity of the Borrower in any Financial Services Subsidiary) less (b) (i) its consolidated intangible assets determined in accordance with Agreement Accounting Principles (but excluding any such intangible assets of the Borrower in any Financial Services Subsidiary), and (ii) loans and advances to directors, officers and employees of the Borrower (excluding (A) loans for purposes of exercising options to purchase capital stock in the Borrower to the extent not otherwise netted out in the determination of stockholders' equity, (B) any arms-length mortgage loans made by any Subsidiary in the ordinary course of such Subsidiary's business, and (C) any advances made to employees in the ordinary course of business for travel and other items not to exceed $500,000 outstanding in the aggregate at any one time); provided, however, that, the Consolidated Tangible Net Worth shall be reduced by the amount of the CTNW

Adjustment, if any. ***"CTNW Adjustment"*** equals, for any quarter, the amount by which the aggregate amount of Investments of cash and other property in unconsolidated Joint Ventures (valued in accordance with GAAP, and net of any returns of capital with respect to such Investments (including by dividend, distribution or sale)); for the avoidance of doubt, any undistributed earnings of a Joint Venture shall not constitute an Investment therein), exceeds 35% of Consolidated Tangible Net Worth as calculated pursuant to the foregoing sentence (without giving effect to the proviso).

By way of example, if Consolidated Tangible Net Worth equals $250 million, of which $90 million is Investments of cash and other property in unconsolidated Joint Ventures, then the CTNW Adjustment shall be calculated as follows:

$250 million x 35% = $87.5 million

$90 million - $87.5 million = $2.5 million = CTNW Adjustment

$250 million - $2.5 million (CTNW Adjustment) = $247.5 million = Consolidated Tangible Net Worth, as adjusted for purposes of financial covenant calculations under this Agreement

"Consolidated Tangible Net Worth Test" is defined in Section 6.20(a).

"Contingent Obligation" of a Person means any agreement, undertaking or arrangement by which such Person assumes, guarantees, endorses, contingently agrees to purchase or provide funds for the payment of, or otherwise becomes or is contingently liable upon, the obligation or liability of any other Person, or agrees to maintain the net worth or working capital or other financial condition of any other Person, or otherwise assures any creditor of such other Person against loss, including, without limitation, any operating agreement or the obligations of any such Person as general partner of a partnership with respect to the liabilities of the partnership.

"Controlled Substances Act" means the Controlled Substances Act (21 U.S.C. Sections 801 et seq.), as amended from time to time, and any successor statute.

"Conversion/Continuation Notice" is defined in Section 2.9.

"Covered Entity" means any of the following:

(i) a "covered entity" as that term is defined in, and interpreted in accordance with, 12 C.F.R. §252.82(b);

(ii) a "covered bank" as that term is defined in, and interpreted in accordance with, 12 C.F.R. §47.3(b); or

(iii) a "covered FSI" as that term is defined in, and interpreted in accordance with, 12 C.F.R. §382.2(b).

"Credit Extension" means the making of an Advance or the issuance of a Facility LC hereunder.

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

"Default" means an event which but for the lapse of time or the giving of notice, or both, would constitute an Event of Default.

"Defaulting Lender" means, subject to Section 2.22(b), any Lender that (a) has failed to (i) fund all or any portion of its Loans within two (2) Business Days after the date such Loans were required to be funded hereunder unless such Lender notifies the Administrative Agent and the Borrower in writing that such failure is the result of such Lender's determination that one or more conditions precedent to funding (each of which conditions precedent, together with any applicable default, shall be specifically identified in such writing) has not been satisfied or waived, or (ii) pay to the Administrative Agent, the LC Issuers or any other Lender any other amount required to be paid by it hereunder (including in respect of its participation in Facility LCs) within two (2) Business Days after the date when due, (b) has notified the Borrower, the Administrative Agent or the LC Issuers in writing that it does not intend to comply with its funding obligations hereunder, or has made a public statement to that effect (unless such writing or public statement relates to such Lender's obligation to fund a Loan hereunder and states that such position is based on such Lender's determination that a condition precedent to funding (which condition precedent, together with any applicable default, shall be specifically identified in such writing or public statement) cannot be satisfied), (c) has failed, within three (3) Business Days after written request by the Administrative Agent or the Borrower, to confirm in writing to the Administrative Agent and the Borrower that it will comply with its prospective funding obligations hereunder (*provided* that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon receipt of such written confirmation by the Administrative Agent and the Borrower), or (d) has, or has a direct or indirect parent company that has, (i) become the subject of a proceeding under any Debtor Relief Law, (ii) had appointed for it a receiver, custodian, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or assets (other than an Undisclosed Administration), including the Federal Deposit Insurance Corporation or any other state or federal regulatory authority acting in such a capacity, or (iii) become the subject of a Bail-in Action; *provided* that a Lender shall not be a Defaulting Lender solely by virtue of the ownership or acquisition of any Capital Stock in that Lender or any direct or indirect parent company thereof by a Governmental Authority so long as such ownership interest does not result in or provide such Lender with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Lender (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Lender. Any determination by the Administrative Agent that a Lender is a Defaulting Lender under any one or more of clauses (a) through (d) above shall be conclusive and binding absent manifest error, and such Lender shall be deemed to be a Defaulting Lender (subject to Section 2.22(b)) upon delivery of written notice of such determination to the Borrower, the LC Issuers and each Lender.

"Default Right" has the meaning assigned to that term in, and shall be interpreted in accordance with, 12 C.F.R. § 252.81, 47.2 or 382.1, as applicable.

"Designated Condominium Project" means any residential project owned by a Loan Party that includes (a) stacked flat or podium condominium units located in a multi-story building, and/or (b) any other attached building with ten (10) or more units.

"Designated Subsidiary" means each wholly-owned Subsidiary (other than a Financial Services Subsidiary).

"Dollar" and ***"$"*** means the lawful currency of the United States of America.

"Dollar Amount" means, on any date of determination, with respect to any amount in Dollars, such amount.

"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.

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

"Effective Date" means the date on which all of the conditions specified in Section 4.1 and all conditions precedent to effectiveness specified in the Modification Agreement are satisfied.

"Eligible Assignee" means (i) a Lender (ii) an Approved Fund; (iii) a commercial bank organized under the laws of the United States, or any state thereof, and having total assets in excess of $3,000,000,000, calculated in accordance with the accounting principles prescribed by the regulatory authority applicable to such bank in its jurisdiction of organization; (iv) a commercial bank organized under the laws of any other country that is a member of the OECD or a political subdivision of any such country, and having total assets in excess of $3,000,000,000, calculated in accordance with the accounting principles prescribed by the regulatory authority applicable to such bank in its jurisdiction of organization, so long as such bank is acting through a branch or agency located in the country in which it is organized or another country that is described in this clause (iv); or (v) the central bank of any country that is a member of the OECD; provided, however, that neither the Borrower nor an Affiliate of the Borrower shall qualify as an Eligible Assignee.

"Entitled Land" means one or more parcels of land owned by the Borrower or any Guarantor which are zoned for the construction of single-family dwellings, whether detached or attached (excluding mobile homes); *provided, however*, that the term "Entitled Land" shall not include Land Under Development, Finished Lots or any real property upon which the construction of Housing Units has commenced (as described in the definition of "Housing Unit").

"Environmental Laws" means any and all federal, state, local and foreign statutes, laws, judicial decisions, regulations, ordinances, rules, judgments, orders, decrees, plans, injunctions, permits, concessions, grants, franchises, licenses, agreements and other governmental restrictions relating to (i) the protection of the environment, (ii) personal injury or property damage relating to the release or discharge of Hazardous Materials, (iii) emissions, discharges or releases of pollutants, contaminants, hazardous substances or wastes into surface water, ground water or land, or (iv) the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of pollutants, contaminants, hazardous substances or wastes or the clean-up or other remediation thereof.

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended from time to time, and any rule or regulation issued thereunder.

"*ERISA Affiliate****"*** means any trade or business (whether or not incorporated) that, together with the Borrower, is treated as a single employer under Section 414(b) or (c) of the Code or, solely for purposes of Section 302 of ERISA and Section 412 of the Code, is treated as a single employer under Section 414 of the Code.

"*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 30-day notice period 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), whether or not waived; (c) the filing pursuant to Section 412(c) of the Code or Section 303(c) of ERISA of an application for a waiver of the minimum funding standard with respect to any Plan; (d) the incurrence by the Borrower or any of its ERISA Affiliates of any liability under Title IV of ERISA with respect to the termination of any Plan; (e) the receipt by the Borrower or any ERISA Affiliate from the PBGC or a plan administrator of any notice relating to an intention to terminate any Plan or Plans or to appoint a trustee to administer any Plan; (f) the incurrence by the Borrower or any of its ERISA Affiliates of any liability with respect to the withdrawal or partial withdrawal of the Borrower or any of its ERISA Affiliates from any Plan or Multiemployer Plan; or (g) the receipt by the Borrower or any ERISA Affiliate of any notice, or the receipt by any Multiemployer Plan from the Borrower or any ERISA Affiliate of any notice, concerning the imposition upon the Borrower or any of its ERISA Affiliates of withdrawal liability under Section 4201 of ERISA or a determination that a Multiemployer Plan is, or is expected to be, insolvent or in reorganization, within the meaning of Title IV of ERISA.

"Eurocurrency Advance" means an Advance which, except as otherwise provided in Section 2.11, bears interest at the applicable Eurocurrency Rate.

"Eurocurrency Base Rate" means, for the relevant Interest Period, the greater of (a) three-quarters of one percent (0.75%) and (b) the applicable interest settlement rate for deposits

in Dollars administered by ICE Benchmark Administration (or any other Person that takes over the administration of such rate) appearing on the applicable Reuters Screen (or on any successor or substitute page) as of 11:00 a.m. (London time) on the Quotation Date for such Interest Period, and having a maturity equal to such Interest Period; provided that, if the applicable Reuters Screen (or any successor or substitute page) is not available to the Administrative Agent for any reason, the applicable Eurocurrency Base Rate for the relevant Interest Period shall instead be the applicable interest settlement rate for deposits in Dollars administered by ICE Benchmark Administration (or any other Person that takes over the administration of such rate) as reported by any other generally recognized financial information service selected by the Administrative Agent as of 11:00 a.m. (London time) on the Quotation Date for such Interest Period, and having a maturity equal to such Interest Period.

"Eurocurrency Loan" means a Loan which, except as otherwise provided in Section 2.11, bears interest at the applicable Eurocurrency Rate.

"Eurocurrency Rate" means, with respect to a Eurocurrency Advance for the relevant Interest Period, the sum of (i) the quotient of (a) the Eurocurrency Base Rate applicable to such Interest Period, *divided by* (b) one *minus* the Reserve Requirement (expressed as a decimal) applicable to such Interest Period, *plus* (ii) the Applicable Margin.

"Event of Default" is defined in ARTICLE VII.

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

"Excluded Taxes" means any of the following Taxes imposed on or with respect to a Lender or applicable Lending Installation, the LC Issuers, and the Administrative Agent (each a ***"Recipient"***) or required to be withheld or deducted from a payment to a Recipient, (a) Taxes (i) imposed on assets, capital or liabilities, or imposed on or measured by its overall net income (however denominated), gross income, gross receipts, profits, gross profits, franchise Taxes, and branch profits Taxes imposed as a result of such Recipient being organized under the laws of, or having its principal office or, in the case of any Lender, its applicable lending office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are Other Connection Taxes, (b) in the case of a Lender, any withholding tax that is imposed on amounts payable to such Lender pursuant to the laws in effect at the time such Lender becomes a party to this Agreement or designates a new Lending Installation, except in each case to the extent that, pursuant to Section 3.5(a), 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 Installation, or is attributable to the Non-U.S. Lender's failure to comply with Section 3.5(f), (c) Taxes attributable to such Recipient's failure to comply with Section 3.5(f) and (d) any U.S. federal withholding taxes imposed by FATCA.

"Exhibit" refers to an exhibit to this Agreement, unless another document is specifically referenced.

"Facility LC" means any Letter of Credit issued by an LC Issuer in accordance with Section 2.19.

"Facility LC Application" is defined in Section 2.19(c).

"Facility LC Collateral Account" is defined in Section 2.19(k).

"Facility LC Sublimit" means Ten Million and No/100 Dollars ($10,000,000.00).

"Facility Termination Date" means September 30, 2021, or any earlier date on which the Aggregate Commitment is reduced to zero or otherwise terminated pursuant to the terms hereof.

"FATCA" means Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), and any current or future regulations or official interpretations thereof.

"Federal Funds Effective Rate" means, for any day, an interest rate per annum equal to the greater of (a) zero percent (0%), and (b) the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers on such day, as published for such day (or, if such day is not a Business Day, for the immediately preceding Business Day) by the Federal Reserve Bank of New York, or, if such rate is not so published for any day which is a Business Day, the average of the quotations at approximately 11:00 a.m. (Pacific time) on such day on such transactions received by the Administrative Agent from three (3) Federal funds brokers of recognized standing selected by the Administrative Agent in its sole discretion.

"Federal Reserve Bank of New York's Website" means the website of the Federal Reserve Bank of New York at http://www.newyorkfed.org, or any successor source.

"Fee Letter" is defined in Section 10.13.

"Financial Letter of Credit" means a Letter of Credit that is not a Performance Letter of Credit.

"*Financial Services Subsidiary*" means a Subsidiary engaged exclusively in mortgage banking (including mortgage origination, loan servicing, mortgage broker and title and escrow businesses), homeowners' insurance, warranty coverage, mortgage servicing, securities issuance, bond administration and management services and related activities, including, without limitation, a Subsidiary which facilitates the financing of mortgage loans and mortgage-backed securities and the securitization of mortgage-backed bonds and other activities ancillary thereto.

"Finished Lots" means one or more parcels of land owned by the Borrower or any Guarantor which are divided into legally conveyable lots designated for residential construction and use (excluding mobile homes) and as to which (a) a final subdivision plat or map has been approved by all Governmental Authorities and recorded in the official records of the county in which such lot is located, (b) utilities have been stubbed and utility services are available, (c) vehicle access is available to and from a publicly dedicated street or from a private road, and (d) building permits for the construction of Homes may be issued without satisfaction of additional conditions, other than the payment of applicable fees; *provided, however*, that the term "Finished Lots" shall not include any real property upon which the construction of a Housing Unit has commenced (as described in the definition of "Housing Unit").

"Fitch" means Fitch, Inc.

"Fronting Exposure" means, at any time there is a Defaulting Lender, with respect to an LC Issuer, such Defaulting Lender's ratable share of the LC Obligations with respect to Facility LCs issued by such LC Issuer other than LC Obligations as to which such Defaulting Lender's participation obligation has been reallocated to other Lenders or Cash Collateralized in accordance with the terms hereof.

"Fund" means any Person (other than a natural person) that is (or will be) engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of its business.

"GAAP" means generally accepted accounting principles as in effect from time to time in the United States, applied in a manner consistent with that used in preparing the financial statements referred to in Section 5.4, subject at all times to Section 9.8.

"Governmental Authority" means the government of the United States of America or any other nation, or of any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including, without limitation, any supra-national bodies such as the European Union or the European Central Bank) and any group or body charged with setting financial accounting or regulatory capital rules or standards (including, without limitation, the Financial Accounting Standards Board, the Bank for International Settlements or the Basel Committee on Banking Supervisory Practices or any successor or similar authority to any of the foregoing).

"Guarantor" means the Subsidiaries listed on Schedule 3 hereto, and each Subsidiary that becomes a party to the Guaranty after the date hereof pursuant to the terms of Section 6.21(a), and their respective successors and assigns (excluding any Guarantor released from the Guaranty in accordance with the terms of this Agreement).

"Guaranty" means that Guaranty, in the form attached hereto as Exhibit E, dated as of June 26, 2014 executed or joined by each Guarantor in favor of Administrative Agent and the Lenders, as supplemented on February 24, 2016, May 10, 2016, March 17, 2017, September 27, 2017, November 8, 2017 and March 1, 2018, as amended, restated, supplemented or otherwise modified, renewed or replaced from time to time pursuant to the terms hereof and thereof.

"Hazardous Material" means any explosive or radioactive substances or wastes, any hazardous or toxic substances, wastes or other pollutants, including petroleum or petroleum distillates, asbestos or asbestos containing materials, polychlorinated biphenyls, radon gas, infectious or medical wastes and any other substances or wastes of any nature regulated pursuant to any Environmental Law.

"Highest Lawful Rate" means, on any day, the maximum non-usurious rate of interest permitted for that day by applicable federal or state law, stated as a rate per annum.

"Housing Unit" means a single-family dwelling (where construction has commenced), whether detached or attached (including condominiums but excluding mobile homes), including the parcel of land on which such dwelling is located, that is or will be available for sale by the Borrower or a Guarantor. The construction of a Housing Unit shall be deemed to have commenced upon commencement of the trenching for the foundation of the Housing Unit. Each "Housing Unit" is either a Presold Unit, a Spec Unit or a Model Unit.

"Housing Unit Closing" means a closing of the sale of a Housing Unit by the Borrower or a Guarantor to a bona fide purchaser for value.

"Increasing Lender" is defined in Section 2.25.

"Indebtedness" means, with respect to a Person, at the time of computation thereof, of a Person means, without duplication, such Person's

(i) obligations for borrowed money,

(ii) obligations representing the deferred purchase price of Property or services (other than (A) trade accounts payable and accrued expenses arising or occurring in the ordinary course of such Person's business, and (B) obligations evidenced by the Permitted Liens described in clause (vi) of the definition of Permitted Liens, and (C) any earn-out, profit participation or other contingent purchase price obligation until such obligation appears or should appear in the liabilities section of the balance sheet of such Person and is not paid within 30 days of such date),

(iii) obligations, whether or not assumed, secured by Liens on, or payable out of the proceeds or production from, Property now or hereafter owned or acquired by such Person (other than the obligations evidenced by the Permitted Liens described in clause (vi) of the definition of Permitted Liens),

(iv) obligations which are evidenced by notes, bonds, debentures, or other similar instruments,

(v) Capitalized Lease Obligations,

(vi) Net Mark-to-Market Exposure under Rate Management Transactions,

(vii) Contingent Obligations, including all liabilities and obligations of others of the kind described in clauses (i) through (vi) and (viii) that such Person has guaranteed, or that are secured by Liens on Property now or hereafter owned or

acquired by such Person (other than the obligations evidenced by the Permitted Liens described in clause (vi) of the definition of Permitted Liens) or that are otherwise the legal liability of such Person,

(viii) reimbursement obligations for which such Person is obligated with respect to a Letter of Credit (which shall be included in the face amount of such Letter of Credit, whether or not such reimbursement obligations are due and payable), *provided, however*, that any Performance Letter of Credit shall not be included in Indebtedness unless and until such Letter of Credit is drawn upon and such draw is not reimbursed within 10 Business Days following such draw, and

(ix) all funded debt with recourse to any limited or general partnership in which any Loan Party or any of their respective Subsidiaries is a general partner.

Indebtedness includes, without limitation, in the case of the Borrower, the Obligations (subject to clause (viii) above).

"Indemnified Taxes" means Taxes imposed on or with respect to any payment made by or on account of any obligation of any Loan Party under any Loan Document, other than Excluded Taxes and Other Taxes.

"Indenture" means the Indenture dated March 17, 2017, among Borrower, the guarantors party thereto and U.S. Bank National Association, as Trustee, as amended, restated, supplemented or otherwise modified from time to time.

"Interest Coverage Ratio" means, as of the last day of any fiscal quarter, (a) Consolidated EBITDA for the period of four consecutive fiscal quarters ending on such date to (b) Consolidated Interest Incurred for the period of four consecutive fiscal quarters ending on such date.

"Interest Coverage Test" is defined in Section 6.20(e).

"Interest Period" means, with respect to a Eurocurrency Advance, a period of one (1), two (2) or three (3) months commencing on a Business Day selected by the Borrower pursuant to this Agreement. Such Interest Period shall end on the day which corresponds numerically to such date one (1), two (2) or three (3) months thereafter, *provided*, *however*, that if there is no such numerically corresponding day in such next, second or third succeeding month, such Interest Period shall end on the last Business Day of such next, second or third succeeding month. If an Interest Period would otherwise end on a day which is not a Business Day, such Interest Period shall end on the next succeeding Business Day, *provided*, *however*, that if said next succeeding Business Day falls in a new calendar month, such Interest Period shall end on the immediately preceding Business Day.

"Inventory Valuation Date" means the last day of the most recent calendar month with respect to which the Borrower has or is required to have delivered a Borrowing Base Certificate pursuant to Section 6.1(f) hereof.

"Investment" of a Person means (a) any loan, advance (other than commission, travel and similar advances to officers and employees made in the ordinary course of business), extension of credit (other than accounts receivable arising in the ordinary course of business on terms customary in the trade) or contribution of capital by such Person; (b) stocks, bonds, mutual funds, partnership interests, notes, debentures or other securities (including warrants or options to purchase securities) owned by such Person; (c) any deposit accounts and certificate of deposit owned by such Person; and (d) structured notes, derivative financial instruments and other similar instruments or contracts owned by such Person.

"Joint Venture" means a joint venture (whether in the form of a corporation, a partnership, limited liability company or otherwise) (a) to which the Borrower or any other Loan Party is or becomes a party (other than tenancies in common), and (b) whether or not Borrower is required to consolidate the joint venture in its financial statements in accordance with the Agreement Accounting Principles. For the purposes of this definition, the Borrower's or other Loan Party's investment in a joint venture shall be deemed to include any Capital Stock of the joint venture owned by the Borrower or such Loan Party, any loans or advances to the Borrower or such Loan Party from the joint venture, any contractual commitment, arrangement or other agreement by the Borrower or such Loan Party to provide funds or credit to the joint venture.

"Land Under Development" means one or more parcels of land owned by the Borrower or any Guarantor which are zoned for the construction of single-family dwelling units, whether attached or detached (excluding mobile homes) and upon which the construction of site improvements has commenced and is proceeding; *provided, however*, that the term "Land Under Development" shall not include (i) Finished Lots, (ii) Entitled Land, (iii) any real property upon which the construction of a Housing Unit has commenced, or (iv) vacant land held by the Borrower or any Guarantor for future development or sale and designated as inactive land in the footnotes to the Borrower's or such Guarantor's financial statements.

"LC Fee" is defined in Section 2.19(d).

"LC Issuer" means each Lender that agrees, at the Borrower's request, to issue Facility LCs hereunder (or any subsidiary or affiliate of such Lender designated by such Lender), each in its capacity as issuer of Facility LCs hereunder. As of the date hereof, U.S. Bank National Association is the sole LC Issuer.

"LC Issuer's LC Limit" means, with respect to a Lender, the amount with respect to such Lender set forth in Schedule 4 hereto or such higher or lower amount as shall be agreed by such Lender and the Borrower (but not to exceed, in the aggregate as to all LC Issuers, $10,000,000).

"LC Obligations" means, at any time, the sum, without duplication, of (i) the aggregate undrawn stated amount under all Facility LCs outstanding at such time *plus* (ii) the aggregate unpaid amount at such time of all Reimbursement Obligations.

"LC Payment Date" is defined in Section 2.19(e).

"Lenders" means the lending institutions listed on the signature pages of this Agreement and their respective successors and assigns.

"Lending Installation" means, with respect to a Lender or the Administrative Agent, the office, branch, subsidiary or affiliate of such Lender or the Administrative Agent listed on the signature pages hereof (in the case of the Administrative Agent) or on its Administrative Questionnaire (in the case of a Lender) or otherwise selected by such Lender or the Administrative Agent pursuant to Section 2.17.

"Letter of Credit" of a Person means a letter of credit or similar instrument which is issued upon the application of such Person or upon which such Person is an account party or for which such Person is in any way liable.

"Leverage Ratio" means, as of any date of calculation, the ratio (expressed as a percentage) of (i) (A) Consolidated Indebtedness outstanding on such date *less* (B) Unrestricted Cash in excess of the Minimum Liquidity Amount on such date to (ii) (A) the sum of Consolidated Indebtedness on such date *plus* (B) Consolidated Tangible Net Worth on such date *less* (C) Unrestricted Cash in excess of the Minimum Liquidity Amount on such date.

"Leverage Test" is defined in Section 6.20(b).

"LIBOR" means the London interbank offered rate.

"Lien" means any lien (statutory or other), mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance or preference, priority or other security agreement or preferential arrangement of any kind or nature whatsoever (including, without limitation, the interest of a vendor or lessor under any conditional sale, Capitalized Lease or other title retention agreement).

"Loan" means a Revolving Loan.

"Loan Documents" means this Agreement, the Facility LC Applications, the Guaranty, any Note or Notes executed by the Borrower in connection with this Agreement and payable to a Lender, now or in the future, the Reference Agreement and any other instruments, documents and agreements executed by the Borrower or the Guarantors for the benefit of the Administrative Agent or any Lender in connection with this Agreement.

"Loan Party" or ***"Loan Parties"*** means, individually or collectively, the Borrower and the Guarantors.

"Marketable Securities" means Investments that would be set forth in a consolidated balance sheet of Borrower (in a manner consistent with the financial statements referenced in Section 5.4) under the heading "marketable securities."

"Material Adverse Effect" means a material adverse effect, based on commercially reasonable standards, on (i) the business, Property, financial condition, or results of operations of the Borrower and Guarantors, taken as a whole, (ii) the ability of the Borrower and the Guarantors, taken as a whole, to perform their payment obligations under the Loan Documents, or (iii) the validity or enforceability under applicable law of any of the Loan Documents or the rights or remedies of Administrative Agent, Lenders or any LC Issuer thereunder (except that, as to clause (iii), a Material Adverse Effect may not result solely from the acts or omissions of the

Administrative Agent or any Lender). Items disclosed by the Borrower in its form 10-Q and form 10-K or any other filings with the Securities and Exchange Commission shall not be deemed to have a Material Adverse Effect solely because of such disclosure, and the existence and content of such disclosure shall not be prima facie evidence of a Material Adverse Effect.

"Material Indebtedness" means Indebtedness (excluding Non-Recourse Indebtedness) of the Borrower or any Guarantor in an outstanding principal amount of $7,000,000 or more in the aggregate (or the equivalent thereof in any currency other than Dollars).

"Material Indebtedness Agreement" means any agreement under which any Material Indebtedness was created or is governed or which provides for the incurrence of Indebtedness in an amount which would constitute Material Indebtedness (whether or not an amount of Indebtedness constituting Material Indebtedness is outstanding thereunder).

"Material Non-Recourse Indebtedness" means Non-Recourse Indebtedness (other than purchase money Non-Recourse Indebtedness) of the Borrower or any Guarantor in an outstanding principal amount of $20,000,000 or more in the aggregate (or the equivalent thereof in any currency other than Dollars).

"Material Non-Recourse Indebtedness Agreement" means any agreement under which any Material Non-Recourse Indebtedness was created or is governed or which provides for the incurrence of Non-Recourse Indebtedness in an amount which would constitute Material Non-Recourse Indebtedness (whether or not an amount of Non-Recourse Indebtedness constituting Material Non-Recourse Indebtedness is outstanding thereunder).

"Material Portion" has the meaning set forth in Section 6.14(c).

"Minimum Collateral Amount" means, with respect to a Defaulting Lender, at any time, (i) with respect to Cash Collateral consisting of cash or deposit account balances, an amount equal to 103% of the Fronting Exposure of each LC Issuer with respect to such Defaulting Lender for all Facility LCs issued and outstanding at such time and (ii) otherwise, such lesser amount determined by the Administrative Agent and the applicable LC Issuer in their sole discretion.

"Minimum Liquidity Amount" has the meaning set forth in Section 6.20(d).

"Model Unit" means a Housing Unit constructed initially for inspection by prospective purchasers that is not intended to be sold until all or substantially all other Housing Units in the applicable subdivision are sold.

"Modification Agreement" means that certain Third Modification Agreement dated as of June 26, 2020, by and among Borrower, Lenders and Administrative Agent.

"Modify" and ***"Modification"*** are defined in Section 2.19(a).

"Monthly Payment Date" means the first (1st) day of each month, *provided*, that if such day is not a Business Day, the Monthly Payment Date shall be the immediately succeeding Business Day.

"Moody's" means Moody's Investors Service, Inc.

"Multiemployer Plan" means a Plan maintained pursuant to a collective bargaining agreement or any other arrangement to which the Borrower or any ERISA Affiliate is a party to which more than one employer is obligated to make contributions.

"Net Leverage Ratio" means, as of any date of calculation, the ratio (expressed as a percentage) of (i) (A) Consolidated Indebtedness outstanding on such date less (B) Unrestricted Cash to (ii) (A) the sum of Consolidated Indebtedness on such date less (B) Unrestricted Cash plus (C) the stockholders' equity of the Borrower (or other Person to the extent the context so requires) determined on a consolidated basis in conformity with Agreement Accounting Principles (but excluding any such stockholders' equity of the Borrower in any Financial Services Subsidiary on such date.

"Net Mark-to-Market Exposure" of a Person means, as of any date of determination, the excess (if any) of all unrealized losses over all unrealized profits of such Person arising from Rate Management Transactions. ***"Unrealized losses"*** means the fair market value of the cost to such Person of replacing such Rate Management Transaction as of the date of determination (assuming the Rate Management Transaction were to be terminated as of that date), and ***"unrealized profits"*** means the fair market value of the gain to such Person of replacing such Rate Management Transaction as of the date of determination (assuming such Rate Management Transaction were to be terminated as of that date).

"Net Worth" means, at any date as to each Designated Subsidiary, the sum of (A) all stockholders' equity of such Designated Subsidiary, less (B) all loans or advances made by such Designated Subsidiary to the Borrower or any Guarantor and outstanding at such date, all as determined on a consolidated basis in conformity with Agreement Accounting Principles.

"Non-Cash Collateralized Letters of Credit" is defined in Section 2.19(l).

"Non-Defaulting Lender" means, at any time, each Lender that is not a Defaulting Lender at such time.

"Non-Guarantor Subsidiary" means each Subsidiary of the Borrower that is not a Guarantor.

"Non-Recourse Indebtedness" means, with respect to any Person, Indebtedness of such Person (i) for which the sole legal recourse for collection of principal and interest on such Indebtedness is against the specific property identified in the instruments evidencing or securing such Indebtedness and for which no other assets of such Person may be realized upon in collection of principal or interest on such Indebtedness, or (ii) that refinances Indebtedness described in clause (i) and for which the recourse is limited to the same extent described in clause (i). Indebtedness that is otherwise Non-Recourse Indebtedness will not lose its character as Non-Recourse Indebtedness because there is recourse for (i) environmental warranties or indemnities, (ii) indemnities for and liabilities arising from fraud, misrepresentation, misapplication or non-payment of rents, profits, insurance and condemnation proceeds and other sums actually received by the obligor from secured assets to be paid to the lender, waste and mechanics liens or (iii) similar matters customarily excluded by institutional lenders from

exculpation provisions and/or included in separate indemnification agreements in non-recourse financing of real estate.

"Non-U.S. Lender" means a Lender that is not a United States person as defined in Section 7701(a)(30) of the Code.

"Note" is defined in Section 2.13(d).

"Obligations" means all unpaid principal of and accrued and unpaid interest on the Loans, all LC Obligations, all Rate Management Obligations provided to the Borrower or any Guarantor by the Administrative Agent or any other Lender or any Affiliate of any of the foregoing, all accrued and unpaid fees, and all expenses, reimbursements, indemnities and other obligations of the Borrower to the Lenders or to any Lender, the Administrative Agent, any LC Issuer or any indemnified party arising under the Loan Documents; *provided*, that obligations in respect of Rate Management Obligations shall only constitute "Obligations" if owed to the Administrative Agent or an Affiliate of the Administrative Agent or if the Administrative Agent shall have received notice from the relevant Lender not later than sixty (60) days after such Rate Management Obligations have been provided; *provided, further,* that "Obligations" shall exclude all Excluded Swap Obligations.

"OFAC" means the U.S. Department of the Treasury's Office of Foreign Assets Control, and any successor thereto.

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

"Other Taxes" means all present or future stamp, documentary, intangible, recording, filing or similar Taxes that arise from any payment made under, from the execution, delivery, performance or enforcement of, from the receipt or perfection of a security interest under, or otherwise with respect to, any Loan Document, except any such Taxes that are Other Connection Taxes imposed with respect to a Lender's assignment of its interest in the Loan that would not otherwise be owing but for such assignment.

"Outstanding Credit Exposure" means, as to any Lender at any time, the sum of (i) the aggregate principal Dollar Amount of its Revolving Loans outstanding at such time, *plus* (ii) an amount equal to its Pro Rata Share of the LC Obligations at such time.

"***PAPA***" means an arrangement which provides for future payments due to the sellers of real property, which future payments may be made at the time of the sale of homes constructed on such real property (or on a date related to the sale or failure to sell such homes) and which payments may be contingent on the sale price of such homes, which arrangement may include (a) adjustments to the land purchase price, (b) profit participations, (c) community marketing fees and community enhancement fees and (d) reimbursable costs paid by the land developer.

"Participants" is defined in Section 12.2(a).

"Participant Register" is defined in Section 12.2(c).

"PATRIOT Act" means the USA PATRIOT Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)), as amended from time to time, and any successor statute and any regulations promulgated thereunder.

"PBGC" means the Pension Benefit Guaranty Corporation, or any successor thereto.

"Performance Letter of Credit" means any Letter of Credit issued: (a) on behalf of a Person in favor of a Governmental Authority, including, without limitation, any utility, water, or sewer authority, or other similar entity, for the purpose of assuring such Governmental Authority that such Person or other Loan Party will properly and timely complete work it has agreed to perform for the benefit of such Governmental Authority; (b) in lieu of cash deposits to obtain a license, in place of a utility deposit, or for land option contracts; or (c) in lieu of other contract performance, to secure performance warranties payable upon breach, and to secure the performance of labor and materials, including, without limitation, construction, bid, and performance bonds.

"Permitted Acquisition" means any Acquisition of or Investment in a business or entity (including Investments in Joint Ventures) made by the Borrower or any of its Subsidiaries, *provided* that, (a) as of the date of the consummation of such Acquisition or Investment, no Event of Default shall have occurred and be continuing or would result from such Acquisition or Investment, and the representation and warranty contained in Section 5.11 shall be true both before and after giving effect to such Acquisition or Investment, (b) the business to be invested in or acquired in such Investment or Acquisition is in a Related Business or, if not in a Related Business, such transaction is in compliance with the provisions of Section 6.15(v), and (c) the Borrower shall have furnished to the Administrative Agent a certificate, signed by an Authorized Officer (i) certifying that, taking into account such Acquisition, no Event of Default exists and, (ii) demonstrating in reasonable detail, as of the last day of the quarter most recently ended prior to the date of such Acquisition or Investment, pro forma compliance with the Consolidated Tangible Net Worth Test and the Leverage Test, in each case calculated as if such Acquisition or Investment, including the consideration therefor, had been consummated on such day.

"***Permitted Dispositions***" means, as to the Borrower or any Guarantor, any of the following:

(i) Dispositions of assets in the ordinary course of business, together with any disposition of operations or divisions discontinued or to be discontinued.

(ii) Any involuntary condemnation, seizure or taking, by exercise of the power of eminent domain or otherwise, or confiscation or requisition of use of property.

(iii) The lapse or abandonment of intellectual property of the Borrower or any Guarantor to the extent, as determined by the Borrower in the exercise of its commercial judgment, not economically desirable in the conduct of their business.

(iv) The use of cash and Cash Equivalents to the extent not otherwise prohibited by this Agreement.

(v) Dispositions of Property to the extent that (A) such Property is exchanged for credit against the purchase price of other Property or (B) the proceeds of such disposition are promptly applied to the purchase price of such other Property.

(vi) Any merger or consolidation permitted by Section 6.13 hereof.

(vii) The sale or issuance of any Capital Stock by a Subsidiary to the Borrower or a Wholly-Owned Subsidiary.

(viii) Any single transaction or series of related transactions that involves Property having a fair market value of less than $25,000.

"Permitted Liens" means, as to the Borrower or any Guarantor, any of the following:

(i) Liens for taxes, assessments or governmental charges or levies on the Borrower's or such Guarantor's Property if the same (A) shall not at the time be delinquent or thereafter can be paid without penalty, or (B) are not being foreclosed (or any such proceedings have been stayed), are being contested in good faith and by appropriate proceedings, the encumbered Property is not (in Administrative Agent's reasonable determination) in danger of being lost or forfeited by reason thereof, and for which adequate reserves shall have been established on the Borrower's or such Guarantor's books in accordance with Agreement Accounting Principles.

(ii) Liens imposed by law, such as carriers', warehousemen's, mechanics' and materialmen's Liens and other similar Liens arising in the ordinary course of business with respect to amounts that either (A) are not yet delinquent, or (B) are delinquent but are not being foreclosed (or any such proceedings have been stayed), are being contested in a timely manner in good faith by appropriate proceedings and the encumbered Property is not, in Administrative Agent's reasonable determination, in danger of being lost or forfeited by reason thereof, and for which adequate reserves shall have been established on the Borrower's or Guarantor's books in accordance with Agreement Accounting Principles.

(iii) Utility easements, rights of way, zoning restrictions, CC&Rs, reservations, and such other burdens, encumbrances or charges against real property, or other minor irregularities of title, as are of a nature generally existing with respect to properties of a similar character and which do not in any material way interfere with the use or value thereof or the sale thereof in the ordinary course of business of the Borrower or such Guarantor.

(iv) Easements, dedications, assessment district or similar Liens in connection with municipal financing and other similar encumbrances or charges, in each case reasonably necessary or appropriate for the development of real property of the Borrower or such Guarantor, and which are granted in the ordinary course of the

business of the Borrower or such Guarantor, and which in the aggregate do not materially burden or impair the fair market value, sale or use of such real property (or the project to which it is related) for the purposes for which it is or may reasonably be expected to be held.

(v) Any option or right of first refusal to purchase real property granted to the master developer or the seller of real property that arises as a result of the non-use or non-development of such real property, including Liens granted to secure the foregoing obligations.

(vi) (A) Any agreement or contract to participate in the income or revenue or to pay lot premiums, in each case derived from the sale of real Property and granted in the ordinary course of business, (B) any other PAPA, and (C) any Liens granted to secure the obligations described in the preceding clauses (A) or (B).

(vii) Easements, exceptions, reservations, or other agreements for the purpose of facilitating the joint or common use of property affecting real property which in the aggregate do not materially burden or impair the fair market value or use of such Property for the purposes for which it is or may reasonably be expected to be held, together with Liens securing obligations arising in connection with joint development agreements with third parties to perform and/or pay for or reimbursement the costs of construction and/or development related to or benefiting the real property of the Borrower or a Guarantor, as the case may be, on the one hand, and the property of a third party, on the other hand.

(viii) Liens for homeowner and property owner association developments and assessments if (A) the obligations secured by such Liens are not delinquent or thereafter can be paid without penalty, or (B) such Liens are not being foreclosed (or any such proceedings have been stayed), are being contested in good faith and by appropriate proceedings, the Property encumbered thereby is not in danger of being lost or forfeited by reason thereof, and adequate reserves therefor shall have been established on the Borrower's or such Guarantor's books in accordance with Agreement Accounting Principles.

(ix) Liens securing the Obligations.

"Person" means any natural person, corporation, firm, joint venture, partnership, limited liability company, association, enterprise, trust or other entity or organization, or any government or political subdivision or any agency, department or instrumentality thereof.

"Plan" means an employee pension benefit plan which is covered by Title IV of ERISA or subject to the minimum funding standards under Section 412 of the Code as to which the Borrower or any ERISA Affiliate may have any liability.

"Presold Unit" means a Housing Unit owned by the Borrower or any Guarantor that is subject to a bona fide written agreement between the Borrower or such Guarantor and a third Person purchaser for sale in the ordinary course of the Borrower's or such Guarantor's business of such Housing Unit and the related lot, accompanied by a cash earnest money deposit or down

payment in an amount that is customary, and subject only to ordinary and customary contingencies to the purchaser's obligation to buy the Housing Unit and related lot.

"Pricing Schedule" means the Schedule attached hereto identified as such.

"Prime Rate" means a rate per annum equal to the prime rate of interest announced from time to time by the Administrative Agent or its parent (which is not necessarily the lowest rate charged to any customer), changing when and as said prime rate changes.

"Property" of a Person means any and all property, whether real, personal, tangible, intangible, or mixed, of such Person, or other assets owned, leased or operated by such Person.

"Pro Rata Share" means, with respect to a Lender, a portion equal to a fraction the numerator of which is such Lender's Commitment and the denominator of which is the Aggregate Commitment, *provided, however*, if all of the Commitments are terminated pursuant to the terms of this Agreement, then "Pro Rata Share" means the percentage obtained by dividing (a) such Lender's Outstanding Credit Exposure at such time by (b) the Aggregate Outstanding Credit Exposure at such time; and *provided, further*, that when a Defaulting Lender shall exist, "Pro Rata Share" shall mean the percentage of the Aggregate Commitment (disregarding any Defaulting Lender's Commitment) represented by such Lender's Commitment (except that no Lender is required to fund or participate in Revolving Loans or Facility LCs to the extent that, after giving effect thereto, the aggregate amount of its outstanding Revolving Loans and funded or unfunded participations in Facility LCs would exceed the amount of its Commitment (determined as though no Defaulting Lender existed)).

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

"***Public Indebtedness***" means Indebtedness evidenced by notes, debentures, or other similar instruments issued after the date of this Agreement pursuant to either (i) a registered public offering or (ii) a private placement of such instruments in accordance with an exemption from registration under the Securities Act of 1933 and/or the Securities Exchange Act of 1934 or similar law.

"QFC" has the meaning assigned to the term "qualified financial contract" in, and shall be interpreted in accordance with, 12 U.S.C. § 5390(c)(8)(D).

"Qualified Bank" means (a) any Lender or any Affiliate of a Lender, or (b) a bank that has, or is a wholly-owned subsidiary of a corporation that has, (i) an unsecured long-term debt rating of not less than BBB+ from S&P or Baa1 from Moody's and (ii) if its unsecured short-term debt is rated, an unsecured short-term debt rating of A2 from S&P or P2 from Moody's. For the avoidance of doubt, neither the Borrower nor an Affiliate of the Borrower shall qualify as a Qualified Bank.

"Qualified Real Property Inventory" means, as of any date, Real Property Inventory that is not subject to or encumbered by any deed of trust, mortgage, judgment Lien, or any other Lien (other than the Permitted Liens), and which (i) is not subject to any pending condemnation proceeding, (ii) is not subject to or impaired by any environmental contamination or problem,

soils problem or other problem or issue that would materially impair the value thereof or make it unsuitable for a residential project, and (iii) is in compliance in all material respects with all Environmental Laws.

"Quarterly Payment Date" means the first (1st) day of each calendar quarter, *provided*, that if such day is not a Business Day, the Quarterly Payment Date shall be the immediately succeeding Business Day.

"Quotation Date" means, in relation to any Interest Period for which an interest rate is to be determined, two (2) Business Days before the first day of that period.

"Rate Management Obligations" means any and all obligations of the Borrower or any Guarantor, whether absolute or contingent and howsoever and whensoever created, arising, evidenced or acquired (including all renewals, extensions and modifications thereof and substitutions therefor), under (i) any and all Rate Management Transactions, and (ii) any and all cancellations, buy backs, reversals, terminations or assignments of any Rate Management Transactions.

"Rate Management Transaction" means any transaction (including an agreement with respect thereto) now existing or hereafter entered into by the Borrower or any Guarantor (or other Person as the context may require) which is a rate swap, basis swap, forward rate transaction, commodity swap, commodity option, equity or equity index swap, equity or equity index option, bond option, interest rate option, foreign exchange transaction, cap transaction, floor transaction, collar transaction, forward transaction, currency swap transaction, cross-currency rate swap transaction, currency option or any other similar transaction (including any option with respect to any of these transactions) or any combination thereof, whether linked to one or more interest rates, foreign currencies, commodity prices, equity prices or other financial measures.

"Rating Agencies" means Fitch, Moody's and S&P.

"Real Property Inventory" means, as of any date, land that is owned by any Loan Party, which land is being developed or held for future development or sale of residential housing projects, together with the right, title and interest of the Loan Party in and to the streets, the land lying in the bed of any streets, roads or avenues, open or proposed, in or of, the air space and development rights pertaining thereto and the right to use such air space and development rights, all rights of way, privileges, liberties, tenements, hereditaments and appurtenances belonging in or in any way appertaining thereto, all fixtures, all easements now or hereafter benefiting such land and all royalties and rights appertaining to the use and enjoyment of such land necessary for the residential development of such land, together with all of the buildings and other improvements now or hereafter erected on such land, and any fixtures appurtenant thereto and all related personal property.

"Reference Agreement" means the California Judicial Reference Agreement dated as of June 26, 2014 executed by the Borrower, the Guarantors, the Administrative Agent and Lenders, as amended, restated, supplemented or otherwise modified, renewed or replaced from time to time pursuant to the terms hereof and thereof.

"Register" is defined in Section 12.3(g).

"Regulation D" means Regulation D of the Board of Governors of the Federal Reserve System as from time to time in effect and any successor thereto or other regulation or official interpretation of said Board of Governors relating to reserve requirements applicable to member banks of the Federal Reserve System.

"Regulation U" means Regulation U of the Board of Governors of the Federal Reserve System as from time to time in effect and any successor or other regulation or official interpretation of said Board of Governors relating to the extension of credit by banks for the purpose of purchasing or carrying margin stocks applicable to member banks of the Federal Reserve System.

"Reimbursement Obligations" means, at any time, the aggregate of all obligations of the Borrower then outstanding under Section 2.19 to reimburse the LC Issuers for amounts paid by the LC Issuers in respect of any one or more drawings under Facility LCs.

"Related Business" means any of the following lines of business or business activity of the type conducted by the Borrower and its Subsidiaries on the date hereof: (i) the home building business, (ii) the residential mortgage loan business, (iii) the real estate development business, (iv) the insurance business, (v) the title insurance agency and settlement business, (vi) the insurance agency business, and (vii) any line of business ancillary, complementary, or reasonably related to, or a reasonable extension, development, or expansion of, or necessary to, the businesses described in clauses (i) through (vi) of this definition.

"Relevant Governmental Body" means the Federal Reserve Board and/or the Federal Reserve Bank of New York, or a committee officially endorsed or convened by the Federal Reserve Board and/or the Federal Reserve Bank of New York or any successor thereto.

"Replacement Lender" is defined in Section 2.20.

"Reports" is defined in Section 9.6(a).

"Required Lenders" means Lenders in the aggregate having greater than 66 2/3% of the Aggregate Commitment or, if the Aggregate Commitment has been terminated, Lenders in the aggregate holding greater than 66 2/3% of the Aggregate Outstanding Credit Exposure. The Commitments and Outstanding Credit Exposure of any Defaulting Lender shall be disregarded in determining Required Lenders at any time.

"Reserve Requirement" means, with respect to an Interest Period, the maximum aggregate reserve requirement (including all basic, supplemental, marginal and other reserves) which is imposed under Regulation D on Eurocurrency liabilities.

"Restricted Payment" means any dividend or other distribution (whether in cash, securities or other Property) with respect to any Capital Stock in the Borrower or any Subsidiary, or any payment (whether in cash, securities or other Property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of any such Capital Stock in the Borrower or any Subsidiary thereof or any option,

warrant or other right to acquire any such Capital Stock in the Borrower or any Subsidiary thereof.

"Revolving Loan" means, with respect to a Lender, such Lender's loan made pursuant to its commitment to lend set forth in Section 2.1 (or any conversion or continuation thereof).

"Risk-Based Capital Guidelines" means (i) the risk-based capital guidelines in effect in the United States on the date of this Agreement, including transition rules, and (ii) the corresponding capital regulations promulgated by regulatory authorities outside the United States, including transition rules, and, in each case, any amendments to such regulations.

"Sanctions" means economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by (a) the U.S. government, including those administered by OFAC or the U.S. Department of State or (b) the United Nations Security Council, the European Union, any European Union member state or Her Majesty's Treasury of the United Kingdom.

"S&P" means Standard & Poor's Ratings Services, a Standard & Poor's Financial Services LLC business.

"Schedule" refers to a specific schedule to this Agreement, unless another document is specifically referenced.

"Section" means a numbered section of this Agreement, unless another document is specifically referenced.

"Secured Project Debt" means Indebtedness for borrowed money of (including any Contingent Obligations issued in support thereof by) the Borrower or any Subsidiary of Borrower secured by any Property of the Borrower or any other Loan Parties.

"Senior Notes" means the notes issued under the Indenture.

"Senior Officer" means each of the Authorized Officers and the General Counsel of Borrower.

"Significant Designated Subsidiary" means any Designated Subsidiary that (a) has a Net Worth equal to or exceeding $1,000,000, or (b) is a guarantor of any of Borrower's obligations under the Senior Notes.

"Spec Unit" means any Housing Unit owned by the Borrower or any Guarantor that is not a Presold Unit or a Model Unit.

"Spec Unit Inventory Test" is defined in Section 6.20(f).

"Stated Rate" is defined in Section 2.21.

"***Subordinated Indebtedness***" of a Person means any Indebtedness of such Person the payment of which is contractually subordinated in right of payment to the payment of the Obligations (a) in the case of Indebtedness constituting Public Indebtedness, pursuant to market

and generally accepted subordination terms governing such Public Indebtedness and (b) in all other cases, pursuant to subordination terms reasonably satisfactory to the Required Lenders and (in each case) none of the principal of which is payable until at least 180 days after the Facility Termination Date (other than pursuant to customary change of control and asset sale redemption provisions). Subordinated Indebtedness shall specifically not include Indebtedness of any Guarantor to Borrower or Borrower to any Guarantor.

"Subsidiary" of a Person means (i) any corporation more than 50% of the outstanding securities having ordinary voting power of which shall at the time be owned or controlled, directly or indirectly, by such Person or by one or more of its Subsidiaries or by such Person and one or more of its Subsidiaries, or (ii) any partnership, limited liability company, association, joint venture or similar business organization more than 50% of the ownership interests having ordinary voting power of which shall at the time be so owned or controlled. Unless otherwise expressly provided, all references herein to a "Subsidiary" shall mean a Subsidiary of the Borrower.

"Substantial Portion" means, with respect to the Property of the Borrower and the Guarantors, Property which represents more than 10% of the consolidated assets of the Borrower taken as a whole as would be shown in the consolidated financial statements of the Borrower as at the beginning of the fiscal quarter in which such determination is made.

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

"Taxes" means any and all present or future taxes, duties, levies, imposts, deductions, fees, assessments, charges or withholdings, and any and all liabilities with respect to the foregoing, including interest, additions to tax and penalties applicable thereto, imposed by any Governmental Authority.

"Type" means, with respect to any Advance, its nature as a Base Rate Advance or a Eurocurrency Advance and with respect to any Loan, its nature as a Base Rate Loan or a Eurocurrency Loan.

"Undisclosed Administration" means in relation to a Lender the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official by a supervisory authority or regulator under or based on the law in the country where such Lender is subject to home jurisdiction supervision if applicable law requires that such appointment is not to be publicly disclosed.

"Unrestricted Cash" means cash, Cash Equivalents and Marketable Securities of the Borrower and the Guarantors that are free and clear of all Liens (other than Liens in favor of Administrative Agent and Lenders securing the Obligations) and not subject to any restrictions (other than with respect to costs of liquidating certain Cash Equivalents prior to maturity).

"U.S. Bank" means U.S. Bank National Association d/b/a Housing Capital Company, a national banking association, in its individual capacity, and its successors.

"Wholly-Owned Subsidiary" of a Person means (i) any Subsidiary of which 100% of the beneficial ownership interests shall at the time be owned or controlled, directly or indirectly, by such Person or one or more Wholly-Owned Subsidiaries of such Person, or by such Person and one or more Wholly-Owned Subsidiaries of such Person, or (ii) any partnership, limited liability company, association, joint venture or similar business organization of which 100% of the beneficial ownership interests shall at the time be so owned or controlled.

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

Section 1.2 Loan Classes. The foregoing definitions shall be equally applicable to both the singular and plural forms of the defined terms. For purposes of this Agreement, Loans may be classified and referred to by Type (e.g., a "Eurocurrency Loan" or "Eurocurrency Revolving Loan"). Advances also may be classified and referred to by Type (e.g., a "Eurocurrency Advance" or a "Eurocurrency Revolving Advance").

Section 1.3 Other Definitional Terms; Interpretative Provisions. The words "hereof," "herein" and "hereunder" and words of similar import refer to this Agreement as a whole and not to any particular provision. References to Sections, Articles, Exhibits, and Schedules are to this Agreement unless otherwise expressly provided. The words "include," "includes" and "including" shall be deemed to be followed by the phrase "without limitation." The terms "shall" and "will" have the same meaning as the term "must." Unless the context otherwise clearly requires, "or" has the inclusive meaning represented by the phrase "and/or." All covenants, terms, definitions or other provisions incorporated by reference to other agreements are incorporated into this Agreement as if fully set forth herein, and such incorporation includes all necessary definitions and related provisions from such other agreements, but includes only amendments thereto agreed to by the Lenders, and survives any termination of such other agreements until the Obligations are irrevocably paid in full (other than inchoate indemnity obligations and Obligations that have been Cash Collateralized), all Letters of Credit have expired without renewal or been returned to applicable LC Issuer, and the Commitments are terminated. Any reference to any law includes all statutory and regulatory provisions consolidating, amending, replacing or interpreting such law and, unless otherwise specified, refers to such law as amended, modified, supplemented, replaced, or succeeded from time to time. references to any document, instrument or agreement (a) include all exhibits, schedules and other attachments thereto, (b) include all documents, instruments or agreements issued or executed in replacement thereof, to the extent permitted hereby and (c) mean such document, instrument or agreement, or replacement or predecessor thereto, as amended, supplemented, restated or otherwise modified from time to time to the extent not otherwise stated herein or prohibited hereby and in effect at any given time.

Section 1.4 Reserved.

Section 1.5 LIBOR Notification. The interest rate on Eurocurrency Advances and Base Rate Advances is determined by reference to the Eurocurrency Base Rate, which is derived from LIBOR. Section 3.3(b) provides a mechanism for (a) determining an alternative rate of interest if LIBOR is no longer available or in the other circumstances set forth in Section 3.3(b)

and (b) modifying this Agreement to give effect to such alternative rate of interest. Administrative Agent does not warrant or accept any responsibility for, and shall not have any liability with respect to, the administration, submission or any other matter related to LIBOR or other rates in the definition of Eurocurrency Base Rate or Base Rate, as applicable, or with respect to any alternative or successor rate thereto, or replacement rate thereof, including without limitation, whether any such alternative, successor or replacement reference rate, as it may or may not be adjusted pursuant to Section 3.3(b), will have the same value as, or be economically equivalent to, the Eurocurrency Base Rate or the Base Rate, as applicable.

ARTICLE II

THE CREDITS

Section 2.1 Commitment. From and including the date of this Agreement and prior to the Facility Termination Date, each Lender severally agrees, on the terms and conditions set forth in this Agreement, to make Revolving Loans to the Borrower in Dollars and participate in Facility LCs issued upon the request of the Borrower, *provided* that after giving effect to the making of each such Loan and the issuance of each such Facility LC, (i) the Dollar Amount of such Lender's Outstanding Credit Exposure shall not exceed its Commitment, and (ii) the aggregate amount of all Borrowing Base Debt shall not exceed the Borrowing Base determined as of the most recent Inventory Valuation Date. Subject to the terms of this Agreement, the Borrower may borrow, repay and reborrow the Revolving Loans at any time prior to the Facility Termination Date. Commitments shall terminate on the Facility Termination Date. Each LC Issuer will issue Facility LCs hereunder on the terms and conditions set forth in Section 2.19.

Section 2.2 Determination of Dollar Amounts; Required Payments; Termination. The Administrative Agent will determine the Dollar Amount of: (a) each Advance as of the date three (3) Business Days prior to the Borrowing Date or, if applicable, date of conversion/continuation of such Advance, and (b) all outstanding Advances on and as of the last Business Day of each quarter and on any other Business Day elected by the Administrative Agent in its discretion or upon instruction by the Required Lenders. Each day upon or as of which the Administrative Agent determines Dollar Amounts as described in the preceding clauses (a) and (b) is herein described as a "Computation Date" with respect to each Advance for which a Dollar Amount is determined on or as of such day. If at any time either (i) the Aggregate Outstanding Credit Exposure exceeds the Aggregate Commitment or (ii) the aggregate amount of all Borrowing Base Debt exceeds the Borrowing Base determined as of the most recent Inventory Valuation Date, then the Borrower shall within three (3) Business Days after notice from the Administrative Agent make a payment on the Loans or Cash Collateralize LC Obligations in an account with the Administrative Agent pursuant to Section 2.19(k) sufficient to eliminate such excess. The Aggregate Outstanding Credit Exposure (other than LC Obligations that are Cash Collateralized in accordance with this Agreement) and all other unpaid Obligations under this Agreement and the other Loan Documents shall be paid in full by the Borrower on the Facility Termination Date.

Section 2.3 Ratable Loans; Types of Advances. Each Advance hereunder shall consist of Revolving Loans made from the several Lenders ratably according to their Pro Rata Shares. The Revolving Advances may be Base Rate Advances or Eurocurrency Advances, or a combination thereof, selected by the Borrower in accordance with Section 2.8 and Section 2.9.

Section 2.4 Reserved.

Section 2.5 Commitment Fee. The Borrower agrees to pay to the Administrative Agent for the account of each Lender according to its Pro Rata Share a Commitment Fee (the ***"Commitment Fee"***) from the date hereof to and including the Facility Termination Date, which Commitment Fee shall accrue on a daily basis in an amount equal to (a) the Available Aggregate Commitment on such day, multiplied by (b) the Applicable Fee Rate then in effect, divided by (c) 360. The accrued Commitment Fee shall be payable in arrears on each Quarterly Payment Date hereafter and on the Facility Termination Date.

Section 2.6 Minimum Amount of Each Advance. Each Eurocurrency Advance shall be in the minimum amount of $1,000,000 and incremental amounts in integral multiples of $100,000, and each Base Rate Advance shall be in the minimum amount of $500,000 and incremental amounts in integral multiples of $50,000, *provided, however*, that any Base Rate Advance may be in the amount of the Available Aggregate Commitment or, if less, the maximum amount permitted to be advanced under clause (ii) of Section 2.1.

Section 2.7 Reductions in Aggregate Commitment; Optional Principal Payments. The Borrower may permanently reduce the Aggregate Commitment in whole, or in part ratably among the Lenders in integral multiples of $5,000,000 (but not less than $25,000,000), upon at least five (5) Business Days' prior written notice to the Administrative Agent by 10:00 a.m. (Pacific time), which notice shall specify the amount of any such reduction, *provided, however*, that the amount of the Aggregate Commitment may not be reduced below the Aggregate Outstanding Credit Exposure. All accrued Commitment Fees shall be payable on the effective date of any termination of the obligations of the Lenders to make Credit Extensions hereunder. The Borrower may from time to time pay, without penalty or premium, all outstanding Base Rate Advances, or, in a minimum aggregate amount of $500,000 and incremental amounts in integral multiples of $50,000 (or the aggregate amount of the outstanding Revolving Loans at such time), any portion of the aggregate outstanding Base Rate Advances upon same day notice by 10:00 a.m. (Pacific time) to the Administrative Agent. The Borrower may from time to time pay, subject to the payment of any funding indemnification amounts required by Section 3.4 but without penalty or premium, all outstanding Eurocurrency Advances, or, in a minimum aggregate amount of $1,000,000 and incremental amounts in integral multiples of $100,000 (or the aggregate amount of the outstanding Revolving Loans at such time), any portion of the aggregate outstanding Eurocurrency Advances upon at least two (2) Business Days' prior written notice to the Administrative Agent by 10:00 a.m. (Pacific time). Any notice of prepayment may be conditioned upon the effectiveness of other credit facilities or the occurrence of another transaction, in which case such notice may be revoked or delayed by the Borrower if such condition is not satisfied so long as Borrower reimburses Administrative Agent and Lenders for any reasonable out-of-pocket costs incurred because of such revocation or delay.

Section 2.8 Method of Selecting Types and Interest Periods for New Revolving Advances. The Borrower shall select the Type of Advance and, in the case of each Eurocurrency Advance, the Interest Period applicable thereto from time to time. The Borrower shall give the Administrative Agent irrevocable notice in the form of Exhibit D (a ***"Borrowing Notice"***) executed by an Authorized Officer not later than 10:00 a.m. (Pacific time) on the Borrowing Date of each Base Rate Advance, two (2) Business Days before the Borrowing Date for each Eurocurrency Advance in Dollars, specifying:

(i) the Borrowing Date, which shall be a Business Day, of such Advance,

(ii) the aggregate amount of such Advance,

(iii) the Type of Advance selected, and

(iv) in the case of each Eurocurrency Advance, the Interest Period applicable thereto.

Not later than 12:00 noon (Pacific time) on each Borrowing Date, each Lender shall make available its Loan or Loans in funds immediately available to the Administrative Agent at its address specified pursuant to ARTICLE XIII. The Administrative Agent will make the funds so received from the Lenders available to the Borrower at the Administrative Agent's aforesaid address.

Section 2.9 Conversion and Continuation of Outstanding Advances; Maximum Number of Interest Periods. Base Rate Advances shall continue as Base Rate Advances unless and until such Base Rate Advances are converted into Eurocurrency Advances pursuant to this Section 2.9 or are repaid in accordance with Section 2.7. Each Eurocurrency Advance shall continue as a Eurocurrency Advance until the end of the then applicable Interest Period therefor, at which time such Eurocurrency Advance shall be automatically converted into a Base Rate Advance unless (x) such Eurocurrency Advance is or was repaid in accordance with Section 2.7 or (y) the Borrower shall have given the Administrative Agent a Conversion/Continuation Notice (as defined below) requesting that, at the end of such Interest Period, such Eurocurrency Advance continue as a Eurocurrency Advance for the same or another Interest Period. Subject to the terms of Section 2.6, the Borrower may elect from time to time to convert all or any part of a Base Rate Advance into a Eurocurrency Advance. The Borrower shall give the Administrative Agent irrevocable notice (a ***"Conversion/Continuation Notice"***) of each conversion of a Base Rate Advance into a Eurocurrency Advance, conversion of a Eurocurrency Advance to a Base Rate Advance, or continuation of a Eurocurrency Advance not later than 10:00 a.m. (Pacific time) at least two (2) Business Days prior to the date of the requested conversion or continuation, specifying:

(i) the requested date, which shall be a Business Day, of such conversion or continuation,

(ii) the Type of the Advance which is to be converted or continued, and

(iii) the amount of such Advance which is to be converted into or continued as a Eurocurrency Advance and the duration of the Interest Period applicable thereto.

After giving effect to all Advances, all conversions of Advances from one Type to another and all continuations of Advances of the same Type, there shall be no more than five (5) Interest Periods in effect hereunder.

Section 2.10 Interest Rates. Each Base Rate Advance shall bear interest on the outstanding principal amount thereof, for each day from and including the date such Advance is made or is automatically converted from a Eurocurrency Advance into a Base Rate Advance pursuant to Section 2.9, to but excluding the date it becomes due or is converted into a Eurocurrency Advance pursuant to Section 2.9 hereof, at a rate per annum equal to the Base Rate for such day. Changes in the rate of interest on that portion of any Advance maintained as a Base Rate Advance will take effect simultaneously with each change in the Base Rate. Each Eurocurrency Advance shall bear interest on the outstanding principal amount thereof from and including the first day of the Interest Period applicable thereto to (but not including) the last day of such Interest Period at the interest rate determined by the Administrative Agent as applicable to such Eurocurrency Advance based upon the Borrower's selections under Sections 2.8 and 2.9 and the Pricing Schedule. No Interest Period may end after the Facility Termination Date.

Section 2.11 Rates Applicable After Event of Default. Notwithstanding anything to the contrary contained in Sections 2.8, 2.9 or 2.10, during the continuance of a Default or Event of Default the Required Lenders may, at their option, by notice from the Administrative Agent to the Borrower (which notice may be revoked at the option of the Required Lenders notwithstanding any provision of Section 8.3 requiring unanimous consent of the Lenders to changes in interest rates), declare that no Advance may be made as, converted into or continued as a Eurocurrency Advance. During the continuance of an Event of Default the Required Lenders may, at their option, by notice from the Administrative Agent to the Borrower (which notice may be revoked at the option of the Required Lenders notwithstanding any provision of Section 8.3 requiring unanimous consent of the Lenders to changes in interest rates), declare that (i) each Eurocurrency Advance shall bear interest for the remainder of the applicable Interest Period at the rate otherwise applicable to such Interest Period *plus* 2.00% per annum, and (ii) each Base Rate Advance shall bear interest at a rate per annum equal to the Base Rate in effect from time to time *plus* 2.00% per annum, *provided* that, during the continuance of an Event of Default under Section 7.1(f) or Section 7.1(g), the interest rates set forth in clauses (i) and (ii) above shall be applicable to all Credit Extensions without any election or action on the part of the Administrative Agent or any Lender. After an Event of Default has been waived (in the sole discretion of Administrative Agent and Required Lenders, the interest rate applicable to advances shall revert to the rates applicable prior to the occurrence of an Event of Default.

Section 2.12 Method of Payment. Each Advance shall be repaid and each payment of interest thereon shall be paid in the currency in which such Advance was made. All payments of the Obligations under this Agreement and the other Loan Documents shall be made, without setoff, deduction, or counterclaim, in immediately available funds to the Administrative Agent at the Administrative Agent's address specified pursuant to ARTICLE XIII, or at any other Lending Installation of the Administrative Agent specified in writing by the Administrative Agent to the Borrower, by 10:00 a.m. (Pacific time) on the date when due and shall (except (i) in the case of Reimbursement Obligations for which the LC Issuers have not been fully indemnified by the Lenders, or (ii) as otherwise specifically required hereunder) be applied ratably by the Administrative Agent among the Lenders. Each payment delivered to the Administrative Agent for the account of any Lender shall be delivered promptly by the Administrative Agent to such Lender in the same type of funds that the Administrative Agent received at its address specified pursuant to Article XIII or at any Lending Installation specified in a notice received by the Administrative Agent from such Lender. The Administrative Agent is hereby authorized

to charge the account of the Borrower maintained with U.S. Bank National Association for each payment of principal, interest, Reimbursement Obligations and fees as it becomes due hereunder. Each reference to the Administrative Agent in this Section 2.12 shall also be deemed to refer, and shall apply equally, to the LC Issuers, in the case of payments required to be made by the Borrower to the LC Issuers pursuant to Section 2.19(f).

Section 2.13 Noteless Agreement; Evidence of Indebtedness.

(a) Each Lender shall maintain in accordance with its usual practice an account or accounts evidencing the Indebtedness of the Borrower to such Lender resulting from each Loan made by such Lender from time to time, including the amounts of principal and interest payable and paid to such Lender from time to time hereunder.

(b) The Administrative Agent shall also maintain accounts in which it will record (i) the amount of each Loan made hereunder and Type thereof and the Interest Period with respect thereto, (ii) the amount of any principal or interest due and payable or to become due and payable from the Borrower to each Lender hereunder, (iii) the original stated amount of each Facility LC and the amount of LC Obligations outstanding at any time, and (iv) the amount of any sum received by the Administrative Agent hereunder from the Borrower and each Lender's share thereof.

(c) The entries maintained in the accounts maintained pursuant to paragraphs (a) and (b) above shall be *prima facie* evidence of the existence and amounts of the Obligations therein recorded; *provided, however*, that the failure of the Administrative Agent or any Lender to maintain such accounts or any error therein shall not in any manner affect the obligation of the Borrower to repay the Obligations in accordance with their terms.

(d) Any Lender may request that its Loans be evidenced by a promissory note substantially in the form of Exhibit F (each a ***"Note"***). In such event, the Borrower shall prepare, execute and deliver to such Lender such Note or Notes payable to the order of such Lender in a form supplied by the Administrative Agent. Thereafter, the Loans evidenced by such Note and interest thereon shall at all times (prior to any assignment pursuant to Section 12.3) be represented by one or more Notes payable to the order of the payee named therein, except to the extent that any such Lender subsequently returns any such Note for cancellation and requests that such Loans once again be evidenced as described in clauses (b) (i) and (ii) above.

Section 2.14 Telephonic Notices. The Borrower hereby authorizes the Lenders and the Administrative Agent to extend, convert or continue Advances, effect selections of Types of Advances and to transfer funds based on telephonic notices made by any Person or Persons the Administrative Agent or any Lender in good faith believes to be acting on behalf of the Borrower, it being understood that the foregoing authorization is specifically intended to allow Borrowing Notices and Conversion/Continuation Notices to be given telephonically. The Borrower agrees to deliver promptly to the Administrative Agent a written confirmation (which may include e-mail) of each telephonic notice authenticated by an Authorized Officer. If the written confirmation differs in any material respect from the action taken by the Administrative Agent and the Lenders, the records of the Administrative Agent and the Lenders shall govern

absent manifest error. The parties agree to prepare appropriate documentation to correct any such error within ten (10) days after discovery by any party to this Agreement.

Section 2.15 Interest Payment Dates; Interest and Fee Basis. Interest accrued on each Base Rate Advance shall be payable on each Monthly Payment Date, commencing with the first such Monthly Payment Date to occur after the date hereof and at maturity. Interest accrued on each Eurocurrency Advance shall be payable on the last day of its applicable Interest Period, on any date on which the Eurocurrency Advance is prepaid, whether by acceleration or otherwise, and at maturity. Interest accrued on each Eurocurrency Advance having an Interest Period longer than three (3) months, if any, shall also be payable on the last day of each three-month interval during such Interest Period. Interest accrued pursuant to Section 2.11 shall be payable on demand. Interest on all Advances and fees shall be calculated for actual days elapsed on the basis of a 360-day year. Interest shall be payable for the day an Advance is made but not for the day of any payment on the amount paid if payment is received prior to 10:00 a.m. (Pacific time) at the place of payment. If any payment of principal of or interest on an Advance shall become due on a day which is not a Business Day, such payment shall be made on the next succeeding Business Day.

Section 2.16 Notification of Advances, Interest Rates, Prepayments and Commitment Reductions. Promptly after receipt thereof, the Administrative Agent will notify each Lender of the contents of each Commitment reduction notice, Borrowing Notice, Conversion/Continuation Notice, and repayment notice received by it hereunder. Promptly after notice from an LC Issuer, the Administrative Agent will notify each Lender of the contents of each request for issuance of a Facility LC hereunder. The Administrative Agent will notify each Lender of the interest rate applicable to each Eurocurrency Advance promptly upon determination of such interest rate and will give each Lender prompt notice of each change in the Base Rate.

Section 2.17 Lending Installations. Each Lender may book its Advances and its participation in any LC Obligations and each LC Issuer may book the Facility LCs at any Lending Installation selected by such Lender or such LC Issuer, as the case may be, and may change its Lending Installation from time to time. All terms of this Agreement shall apply to any such Lending Installation and the Loans, Facility LCs, participations in LC Obligations and any Notes issued hereunder shall be deemed held by each Lender or each LC Issuer, as the case may be, for the benefit of any such Lending Installation. Each Lender and each LC Issuer may, by written notice to the Administrative Agent and the Borrower in accordance with ARTICLE XIII, designate replacement or additional Lending Installations through which Loans will be made by it or Facility LCs will be issued by it and for whose account Loan payments or payments with respect to Facility LCs are to be made.

Section 2.18 Non-Receipt of Funds by the Administrative Agent. Unless the Borrower or a Lender, as the case may be, notifies the Administrative Agent prior to the date on which it is scheduled to make payment to the Administrative Agent of (i) in the case of a Lender, the proceeds of a Loan or (ii) in the case of the Borrower, a payment of principal, interest or fees to the Administrative Agent for the account of the Lenders, that it does not intend to make such payment, the Administrative Agent may assume that such payment has been made. The Administrative Agent may, but shall not be obligated to, make the amount of such payment available to the intended recipient in reliance upon such assumption. If such Lender or the Borrower, as the case may be, has not in fact made such payment to the Administrative Agent,

the recipient of such payment shall, on demand by the Administrative Agent, repay to the Administrative Agent the amount so made available together with interest thereon in respect of each day during the period commencing on the date such amount was so made available by the Administrative Agent until the date the Administrative Agent recovers such amount at a rate per annum equal to (y) in the case of payment by a Lender, the Federal Funds Effective Rate for such day for the first three (3) days and, thereafter, the interest rate applicable to the relevant Loan or (z) in the case of payment by the Borrower, the interest rate applicable to the relevant Loan.

Section 2.19 Facility LCs

(a) Issuance. Each LC Issuer hereby agrees, within the limits of its LC Issuer's LC Limit and on the terms and conditions set forth in this Agreement, to issue standby Letters of Credit denominated in Dollars for the account of the Borrower (or the joint account of the Borrower and one or more of its Subsidiaries or other Persons in which the Borrower (directly or indirectly) owns any Capital Stock) (each, a ***"Facility LC"***) and to renew, extend, increase, decrease or otherwise modify each Facility LC (***"Modify,"*** and each such action a ***"Modification"***), from time to time from and including the date of this Agreement and prior to the Facility Termination Date upon the request of the Borrower; *provided* that immediately after each such Facility LC is issued or Modified, (i) the aggregate maximum amount then available for drawing under Facility LCs issued by such LC Issuer shall not exceed its LC Issuer's LC Limit, (ii) the aggregate Dollar Amount of the outstanding LC Obligations shall not exceed the Facility LC Sublimit, (iii) the Aggregate Outstanding Credit Exposure shall not exceed the Aggregate Commitment and (iv) the aggregate amount of all Borrowing Base Debt shall not exceed the Borrowing Base determined as of the most recent Inventory Valuation Date. No Facility LC shall have an expiry date later than the fifth Business Day prior to the Facility Termination Date; *provided, however*, that the expiry date of a Facility LC may be up to one (1) year later than the fifth Business Day prior to the Facility Termination Date if the Borrower has Cash Collateralized such Facility LC in accordance with Section 2.19(l).

(b) Participations. Upon the issuance or Modification by an LC Issuer of a Facility LC in accordance with this Section 2.19, such LC Issuer shall be deemed, without further action by any party hereto, to have unconditionally and irrevocably sold to each Lender, and each Lender shall be deemed, without further action by any party hereto, to have unconditionally and irrevocably purchased from such LC Issuer, a participation in such Facility LC (and each Modification thereof) and the related LC Obligations in proportion to its Pro Rata Share.

(c) Notice. Subject to Section 2.19(a), the Borrower shall give the Administrative Agent notice prior to 10:00 a.m. (Pacific time) at least five (5) Business Days prior to the proposed date of issuance or Modification of each Facility LC, specifying the applicable LC Issuer, the beneficiary, the proposed date of issuance (or Modification) and the expiry date of such Facility LC, and describing the proposed terms of such Facility LC and the nature of the transactions proposed to be supported thereby. Upon receipt of such notice, the Administrative Agent shall promptly notify the applicable LC Issuer and each Lender of the contents thereof and of the amount of such

Lender's participation in such proposed Facility LC. The issuance or Modification by an LC Issuer of any Facility LC shall, in addition to the conditions precedent set forth in Article IV, be subject to the conditions precedent that such Facility LC shall be satisfactory to such LC Issuer and that the Borrower shall have executed and delivered such application agreement and/or such other instruments and agreements relating to such Facility LC as such LC Issuer shall have reasonably requested (each, a ***"Facility LC Application"***). No LC Issuer shall have any independent duty to ascertain whether the conditions set forth in ARTICLE IV have been satisfied; *provided*, *however*, that no LC Issuer shall issue a Facility LC if, on or before the proposed date of issuance, such LC Issuer shall have received notice from the Administrative Agent or the Required Lenders that any such condition has not been satisfied or waived. In the event of any conflict between the terms of this Agreement and the terms of any Facility LC Application, the terms of this Agreement shall control.

(d) LC Fees. The Borrower shall pay to the Administrative Agent, for the account of the Lenders ratably in accordance with their respective Pro Rata Shares, with respect to each Facility LC, a letter of credit fee at a per annum rate equal to the Applicable Margin in effect from time to time on the average daily undrawn face amount of such Facility LC for the period from the date of issuance to the scheduled expiration date of such Facility LC, such fee to be payable in arrears on each Quarterly Payment Date (the ***"LC Fee"***). The Borrower shall also pay to each LC Issuer for its own account, (x) a fronting fee in an amount equal to 0.125% per annum of the average daily undrawn amount under such Facility LC issued by it, such fee to be payable in arrears on each Quarterly Payment Date and (y) on demand, all amendment, drawing and other fees regularly charged by such LC Issuer to its letter of credit customers and all out-of-pocket expenses incurred by such LC Issuer in connection with the issuance, Modification, administration or payment of any Facility LC.

(e) Administration; Reimbursement by Lenders. Upon receipt from the beneficiary of any Facility LC of any demand for payment under such Facility LC, the applicable LC Issuer shall notify the Administrative Agent and the Administrative Agent shall promptly notify the Borrower and each other Lender as to the amount to be paid by such LC Issuer as a result of such demand and the proposed payment date (the "***LC Payment Date***"). The responsibility of each LC Issuer to the Borrower and each Lender shall be only to determine that the documents (including each demand for payment) delivered under each Facility LC in connection with such presentment shall be in conformity in all material respects with such Facility LC. Each LC Issuer shall endeavor to exercise the same care in the issuance and administration of the Facility LCs as it does with respect to letters of credit in which no participations are granted, it being understood that in the absence of any gross negligence or willful misconduct by such LC Issuer, each Lender shall be unconditionally and irrevocably liable without regard to the occurrence of any Event of Default or any condition precedent whatsoever, to reimburse such LC Issuer on demand for (i) such Lender's Pro Rata Share of the amount of each payment made by such LC Issuer under each Facility LC to the extent such amount is not reimbursed by the Borrower pursuant to Section 2.19(f) below and there are not funds available in the Facility LC Collateral Account to cover the same, *plus* (ii) interest on the foregoing amount to be reimbursed by such Lender, for each day from the date of such LC Issuer's

demand for such reimbursement (or, if such demand is made after 9:00 a.m. (Pacific time) on such date, from the next succeeding Business Day) to the date on which such Lender pays the amount to be reimbursed by it, at a rate of interest per annum equal to the Federal Funds Effective Rate for the first three (3) days and, thereafter, at a rate of interest equal to the rate applicable to Base Rate Advances.

(f) Reimbursement by the Borrower. The Borrower shall be irrevocably and unconditionally obligated to reimburse each LC Issuer on or before the applicable LC Payment Date (provided that the Borrower has received notice from the Administrative Agent of such LC Payment Date not later than 11:00 a.m. (Pacific time) on the LC Payment Date, otherwise such payment shall be due on the Business Day immediately following the date on which the Borrower receives such notice) for any amounts to be paid by such LC Issuer upon any drawing under any Facility LC, without presentment, demand, protest or other formalities of any kind; *provided* that neither the Borrower nor any Lender shall hereby be precluded from asserting any claim for direct (but not consequential) damages suffered by the Borrower or such Lender to the extent, but only to the extent, caused by (i) the willful misconduct or gross negligence of such LC Issuer in determining whether a request presented under any Facility LC issued by it complied with the terms of such Facility LC or (ii) such LC Issuer's failure to pay under any Facility LC issued by it after the presentation to it of a request strictly complying with the terms and conditions of such Facility LC. All such amounts paid by an LC Issuer and remaining unpaid by the Borrower shall bear interest, payable on demand, for each day until paid at a rate per annum equal to (x) the rate applicable to Base Rate Advances for such day if such day falls on or before the applicable LC Payment Date and (y) the sum of 2.00% per annum *plus* the rate applicable to Base Rate Advances for such day if such day falls after such LC Payment Date. Each LC Issuer will pay to each Lender ratably in accordance with its Pro Rata Share all amounts received by it from the Borrower for application in payment, in whole or in part, of the Reimbursement Obligation in respect of any Facility LC issued by such LC Issuer, but only to the extent such Lender has made payment to such LC Issuer in respect of such Facility LC pursuant to Section 2.19(e). Subject to the terms and conditions of this Agreement (including without limitation the submission of a Borrowing Notice in compliance with Section 2.8 and the satisfaction of the applicable conditions precedent set forth in Article IV), the Borrower may request an Advance hereunder for the purpose of satisfying any Reimbursement Obligation.

(g) Obligations Absolute. The Borrower's obligations under this Section 2.19 shall be absolute and unconditional under any and all circumstances and irrespective of any setoff, counterclaim or defense to payment which the Borrower may have or have had against any LC Issuer, any Lender or any beneficiary of a Facility LC. The Borrower further agrees with the LC Issuers and the Lenders that the LC Issuers and the Lenders shall not be responsible for, and the Borrower's Reimbursement Obligation in respect of any Facility LC shall not be affected by, among other things, the validity or genuineness of documents or of any endorsements thereon, even if such documents should in fact prove to be in any or all respects invalid, fraudulent or forged, or any dispute between or among the Borrower, any of its Affiliates, the beneficiary of any Facility LC or any financing institution or other party to whom any Facility LC may be transferred or any claims or defenses whatsoever of the Borrower or of any of its Affiliates against the

beneficiary of any Facility LC or any such transferee. The LC Issuers shall not be liable for any error, omission, interruption or delay in transmission, dispatch or delivery of any message or advice, however transmitted, in connection with any Facility LC. The Borrower agrees that any action taken or omitted by any LC Issuer or any Lender under or in connection with each Facility LC and the related drafts and documents, if done without gross negligence or willful misconduct, shall be binding upon the Borrower and shall not put any LC Issuer or any Lender under any liability to the Borrower. Nothing in this Section 2.19(g) is intended to limit the right of the Borrower to make a claim against an LC Issuer for damages as contemplated by the proviso to the first sentence of Section 2.19(f).

(h) Actions of LC Issuers. Each LC Issuer shall be entitled to rely, and shall be fully protected in relying, upon any Facility LC, draft, writing, resolution, notice, consent, certificate, affidavit, letter, cablegram, telegram, facsimile, telex, teletype or electronic mail message, statement, order or other document believed by it to be genuine and correct and to have been signed, sent or made by the proper Person or Persons, and upon advice and statements of legal counsel, independent accountants and other experts selected by such LC Issuer. Each LC Issuer shall be fully justified in failing or refusing to take any action under this Agreement unless it shall first have received such advice or concurrence of the Required Lenders as it reasonably deems appropriate or it shall first be indemnified to its reasonable satisfaction by the Lenders against any and all liability and expense which may be incurred by it by reason of taking or continuing to take any such action. Notwithstanding any other provision of this Section 2.19, each LC Issuer shall in all cases be fully protected in acting, or in refraining from acting, under this Agreement in accordance with a request of the Required Lenders, and such request and any action taken or failure to act pursuant thereto shall be binding upon the Lenders and any future holders of a participation in any Facility LC.

(i) Indemnification. The Borrower hereby agrees to indemnify and hold harmless each Lender, each LC Issuer and the Administrative Agent, and their respective directors, officers, agents and employees from and against any and all claims and damages, losses, liabilities, costs or expenses (including reasonable counsel fees and disbursements) which such Lender, such LC Issuer or the Administrative Agent may incur (or which may be claimed against such Lender, such LC Issuer or the Administrative Agent by any Person whatsoever) by reason of or in connection with the issuance, execution and delivery or transfer of or payment or failure to pay under any Facility LC or any actual or proposed use of any Facility LC, including, without limitation, any claims, damages, losses, liabilities, costs or expenses (including reasonable counsel fees and disbursements) which such LC Issuer may incur (i) by reason of or in connection with the failure of any other Lender to fulfill or comply with its obligations to such LC Issuer hereunder (but nothing herein contained shall affect any rights the Borrower may have against any Defaulting Lender) or (ii) by reason of or on account of such LC Issuer issuing any Facility LC which specifies that the term "Beneficiary" included therein includes any successor by operation of law of the named Beneficiary, but which Facility LC does not require that any drawing by any such successor Beneficiary be accompanied by a copy of a legal document, satisfactory to such LC Issuer, evidencing the appointment of such successor Beneficiary; *provided* that the

Borrower shall not be required to indemnify any Lender, any LC Issuer or the Administrative Agent for any claims, damages, losses, liabilities, costs or expenses to the extent, but only to the extent, caused by (x) the willful misconduct or gross negligence of an LC Issuer in determining whether a request presented under any Facility LC complied with the terms of such Facility LC or (y) an LC Issuer's failure to pay under any Facility LC after the presentation to it of a request strictly complying with the terms and conditions of such Facility LC. Nothing in this Section 2.19(i) is intended to limit the obligations of the Borrower under any other provision of this Agreement.

(j) Lenders' Indemnification. Each Lender shall, ratably in accordance with its Pro Rata Share, indemnify each LC Issuer, its affiliates and their respective directors, officers, agents and employees (to the extent not reimbursed by the Borrower) against any cost, expense (including reasonable counsel fees and disbursements), claim, demand, action, loss or liability (except such as result from such indemnitees' gross negligence or willful misconduct or such LC Issuer's failure to pay under any Facility LC issued by it after the presentation to it of a request strictly complying with the terms and conditions of such Facility LC) that such indemnitees may suffer or incur in connection with this Section 2.19 or any action taken or omitted by such indemnitees hereunder.

(k) Facility LC Collateral Account. The Borrower agrees that it will, upon the request of the Administrative Agent or the Required Lenders and until the final expiration date of any Facility LC and thereafter as long as any amount is payable to any LC Issuer or the Lenders in respect of any Facility LC, maintain a special collateral account pursuant to arrangements satisfactory to the Administrative Agent (the "Facility LC Collateral Account"), in the name of the Borrower but under the sole dominion and control of the Administrative Agent, for the benefit of the Lenders and in which the Borrower shall have no interest other than as set forth in Section 8.1. The Borrower hereby pledges, assigns and grants to the Administrative Agent, on behalf of and for the ratable benefit of the Lenders and the LC Issuers, a security interest in all of the Borrower's right, title and interest in and to all funds which may from time to time be on deposit in the Facility LC Collateral Account to secure the prompt and complete payment and performance of the Obligations. The Administrative Agent will invest any funds on deposit from time to time in the Facility LC Collateral Account in certificates of deposit of U.S. Bank National Association having a maturity not exceeding thirty (30) days. Nothing in this Section 2.19(k) shall either (i) obligate Borrower to deposit any funds in the Facility LC Collateral Account, (ii) obligate the Administrative Agent to require the Borrower to deposit any funds in the Facility LC Collateral Account or (iii) limit the right of the Administrative Agent to release any funds held in the Facility LC Collateral Account, in each case other than as required by Section 2.2, Section 2.19(l), Section 2.22 or Section 8.1.

(l) Cash Collateralization. If the expiration date of any Facility LC is (i) later than the Facility Termination Date, (ii) in the case of a Facility LC issued by a Defaulting Lender, which Defaulting Lender is replaced pursuant to Section 2.20 or (iii) in the case of a Facility LC otherwise issued by an Affected Lender that is replaced pursuant to Section 2.20, later than the date of such replacement, the Borrower shall (y) in the case of clause (i) above, either, (A) Cash Collateralize such Facility LC not less than thirty (30) days prior to the Facility Termination Date or (B) if acceptable to the applicable LC

Issuer in its sole discretion, provide collateral or other alternatives acceptable to such LC Issuer in its sole discretion (in the case of clause (B), "Non-Cash Collateralized Letters of Credit") (provided that the obligations of the Lenders to make payments to the Administrative Agent for the account of an LC Issuer under Section 2.19(e) in respect of Non-Cash Collateralized Letters of Credit and the obligation of the Borrower to pay the LC Fees and other fees required under Section 2.19(d) hereof in respect of Non-Cash Collateralized Letters of Credit shall in each case terminate on the Facility Termination Date and the Non-Cash Collateralized Letters of Credit shall cease to be Facility LCs hereunder) or (z) in the case of clause (ii) or (iii) above, Cash Collateralize such Facility LC no later than the date of replacement of a Defaulting Lender or Affected Lender pursuant to Section 2.20. In addition, the Borrower shall Cash Collateralize Facility LCs when required by and in accordance with Section 2.2, Section 2.22 and Section 8.1.

(m) Rights as a Lender. In its capacity as a Lender, each LC Issuer shall have the same rights and obligations as any other Lender.

(n) Letters of Credit Must Relate to the Related Business. Notwithstanding anything contained in this Agreement which may be construed to the contrary, each LC Issuer shall be obligated only to issue letters of credit in connection with the Related Business; and in no event shall any of the LC Issuers (or any other Lender hereunder) have any obligation to issue trade letters of credit or other letters of credit that are not related to the Related Business.

(o) Letters of Credit Issued for Subsidiaries. Notwithstanding that a Letter of Credit issued or outstanding hereunder is in support of any obligations of, or is for the account of, a Subsidiary or other Person in which the Borrower (directly or indirectly) owns any Capital Stock, the Borrower shall be obligated to reimburse the LC Issuer hereunder for any and all drawings under such Letter of Credit. The Borrower hereby acknowledges that the issuance of Letters of Credit for the account of any such Subsidiary or other Person inures to the benefit of the Borrower.

Section 2.20 Replacement of Lender. If (a) the Borrower is required pursuant to Sections 3.1, 3.2 or 3.5 to make any additional payment to any Lender or (b) if any Lender's obligation to make or continue, or to convert Base Rate Advances into Eurocurrency Advances shall be suspended pursuant to Section 3.3 or (c) if any Lender defaults in its obligation to make a Loan, reimburse the LC Issuers pursuant to Section 2.19(e) or (d) if any Lender declines to approve an amendment or waiver that is approved by the Required Lenders or (e) if any Lender otherwise becomes a Defaulting Lender (any Lender so affected, an ***"Affected Lender"***), the Borrower may elect, if the circumstances resulting in such Lender being an Affected Lender continue, to replace such Affected Lender as a Lender party to this Agreement, *provided* that no Default or Event of Default shall have occurred and be continuing at the time of such replacement, and *provided further* that, concurrently with such replacement, (i) another bank or other entity which is reasonably satisfactory to the Borrower and the Administrative Agent and which is either a Qualified Bank or reasonably satisfactory to each LC Issuer (a ***"Replacement Lender"***) shall agree, as of such date, to purchase for cash at par the Advances and other Obligations due to the Affected Lender under this Agreement and the other Loan Documents pursuant to an assignment substantially in the form of Exhibit C and to become a Lender for all purposes under this Agreement and to assume all obligations of the Affected Lender to be

terminated as of such date and to comply with the requirements of Section 12.3 applicable to assignments; and (ii) the Borrower shall pay to such Affected Lender in same day funds on the day of such replacement (A) all interest, fees and other amounts then accrued but unpaid to such Affected Lender by the Borrower hereunder to and including the date of termination, including without limitation payments due to such Affected Lender under Sections 3.1, 3.2, 3.4 and 3.5, and (B) an amount, if any, equal to the payment which would have been due to such Lender under Section 3.4 on the day of such replacement had the Loans of such Affected Lender been prepaid on such date rather than sold to the replacement Lender.

Section 2.21 Limitation of Interest. The Borrower, the Administrative Agent and the Lenders intend to strictly comply with all applicable laws, including applicable usury laws. Accordingly, the provisions of this Section 2.21 shall govern and control over every other provision of this Agreement or any other Loan Document which conflicts or is inconsistent with this Section 2.21, even if such provision declares that it controls. As used in this Section 2.21, the term "interest" includes the aggregate of all charges, fees, benefits or other compensation which constitute interest under applicable law, *provided* that, to the maximum extent permitted by applicable law, (a) any non-principal payment shall be characterized as an expense or as compensation for something other than the use, forbearance or detention of money and not as interest, and (b) all interest at any time contracted for, reserved, charged or received shall be amortized, prorated, allocated and spread, in equal parts during the full term of this Agreement. In no event shall the Borrower or any other Person be obligated to pay, or any Lender have any right or privilege to reserve, receive or retain, (a) any interest in excess of the maximum amount of nonusurious interest permitted under the applicable laws (if any) of the United States or of the State of California, or (b) total interest in excess of the amount which such Lender could lawfully have contracted for, reserved, received, retained or charged had the interest been calculated for the full term of this Agreement at the Highest Lawful Rate. On each day, if any, that the interest rate (the ***"Stated Rate"***) called for under this Agreement or any other Loan Document exceeds the Highest Lawful Rate, the rate at which interest shall accrue shall automatically be fixed by operation of this sentence at the Highest Lawful Rate for that day, and shall remain fixed at the Highest Lawful Rate for each day thereafter until the total amount of interest accrued equals the total amount of interest which would have accrued if there were no such ceiling rate as is imposed by this sentence. Thereafter, interest shall accrue at the Stated Rate unless and until the Stated Rate again exceeds the Highest Lawful Rate when the provisions of the immediately preceding sentence shall again automatically operate to limit the interest accrual rate. The daily interest rates to be used in calculating interest at the Highest Lawful Rate shall be determined by dividing the applicable Highest Lawful Rate per annum by the number of days in the calendar year for which such calculation is being made. None of the terms and provisions contained in this Agreement or in any other Loan Document which directly or indirectly relate to interest shall ever be construed without reference to this Section 2.21, or be construed to create a contract to pay for the use, forbearance or detention of money at an interest rate in excess of the Highest Lawful Rate. If the term of any Loan or any other Obligation outstanding hereunder or under the other Loan Documents is shortened by reason of acceleration of maturity as a result of any Event of Default or by any other cause, or by reason of any required or permitted prepayment, and if for that (or any other) reason any Lender at any time, including but not limited to, the stated maturity, is owed or receives (and/or has received) interest in excess of interest calculated at the Highest Lawful Rate, then and in any such event all of any such excess interest shall be canceled automatically as of the date of such acceleration, prepayment or other event which produces the

excess, and, if such excess interest has been paid to such Lender, it shall be credited *pro tanto* against the then-outstanding principal balance of the Borrower's Obligations to such Lender, effective as of the date or dates when the event occurs which causes it to be excess interest, until such excess is exhausted or all of such principal has been fully paid and satisfied, whichever occurs first, and any remaining balance of such excess shall be promptly refunded to its payor.

Section 2.22 Defaulting Lenders.

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

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

(ii) Defaulting Lender Waterfall. Any payment of principal, interest, fees or other amounts received by the Administrative Agent for the account of such Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to ARTICLE VII or otherwise) or received by the Administrative Agent from a Defaulting Lender pursuant to Section 11.1 shall be applied at such time or times as may be determined by the Administrative Agent as follows: *first*, to the payment of any amounts owing by such Defaulting Lender to the Administrative Agent hereunder; *second*, to the payment on a pro rata basis of any amounts owing by such Defaulting Lender to any LC Issuer hereunder; *third*, to Cash Collateralize each LC Issuer's Fronting Exposure with respect to such Defaulting Lender in accordance with Section 2.22(d); *fourth*, as the Borrower may request (so long as no Default or Event of Default exists), to the funding of any Loan in respect of which such Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by the Administrative Agent; *fifth*, if so determined by the Administrative Agent and the Borrower, to be held in a deposit account (including the Facility LC Collateral Account) and released pro rata in order to (x) satisfy such Defaulting Lender's potential future funding obligations with respect to Loans under this Agreement and (y) Cash Collateralize each LC Issuer's future Fronting Exposure with respect to such Defaulting Lender with respect to future Facility LCs issued under this Agreement, in accordance with Section 2.22(d); *sixth*, to the payment of any amounts owing to the Lenders or the LC Issuers as a result of any judgment of a court of competent jurisdiction obtained by any Lender or any LC Issuer against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; *seventh*, so long as no Default or Event of Default exists, to the payment of any amounts owing to the Borrower as a result of any judgment of a court of competent jurisdiction obtained by the Borrower against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; *eighth*, if so determined by the Administrative Agent, distributed to the Lenders other than the Defaulting Lender until the ratio of the Outstanding Credit Exposures of such Lenders to the Aggregate Outstanding Credit Exposure

of all Lenders equals such ratio immediately prior to the Defaulting Lender's failure to fund any portion of any Loans or participations in Facility LCs; and *ninth*, to such Defaulting Lender or as otherwise directed by a court of competent jurisdiction; *provided* that if (x) such payment is a payment of the principal amount of any Loans or Facility LC issuances in respect of which such Defaulting Lender has not fully funded its appropriate share, and (y) such Loans were made or the related Facility LCs were issued at a time when the conditions set forth in Section 4.2 were satisfied or waived, such payment shall be applied solely to pay the Credit Extensions of all Non-Defaulting Lenders on a pro rata basis prior to being applied to the payment of any Credit Extensions of such Defaulting Lender until such time as all Loans and funded and unfunded participations in LC Obligations are held by the Lenders pro rata in accordance with the Commitments without giving effect to Section 2.22(a)(iv). Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender or to post Cash Collateral pursuant to this Section 2.22(a)(ii) shall be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto. If there is more than one LC Issuer, amounts in respect of the Fronting Exposure of each LC Issuer under this Section 2.22(a)(ii) shall be determined on a pro rata basis based on the respective Fronting Exposures of each such LC Issuer.

(iii) Certain Fees.

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

(B) Each Defaulting Lender shall be entitled to receive LC Fees for any period during which that Lender is a Defaulting Lender only to the extent allocable to its ratable share of the stated amount of Facility LCs for which it has provided Cash Collateral pursuant to Section 2.22(d).

(C) With respect to any Commitment Fee or LC Fee not required to be paid to any Defaulting Lender pursuant to clause (A) or (B) above, the Borrower shall (x) pay to each Non-Defaulting Lender that portion of any such fee otherwise payable to such Defaulting Lender with respect to such Defaulting Lender's participation in LC Obligations that has been reallocated to such Non-Defaulting Lender pursuant to clause (iv) below, (y) pay to each LC Issuer the amount of any such fee otherwise payable to such Defaulting Lender to the extent allocable to such LC Issuer's Fronting Exposure to such Defaulting Lender, and (z) not be required to pay the remaining amount of any such fee.

(iv) Reallocation of Participations to Reduce Fronting Exposure. All or any part of such Defaulting Lender's participation in LC Obligations shall be reallocated among the Non-Defaulting Lenders in accordance with their

respective Pro Rata Shares (calculated without regard to such Defaulting Lender's Commitment) but only to the extent that (y) the conditions set forth in Section 4.2 are satisfied at the time of such reallocation (and, unless the Borrower shall have otherwise notified the Administrative Agent at such time, the Borrower shall be deemed to have represented and warranted that such conditions are satisfied at such time), and (z) such reallocation does not cause the aggregate Outstanding Credit Exposure of any Non-Defaulting Lender to exceed such Non-Defaulting Lender's Commitment. Subject to Section 16.1, no reallocation hereunder shall constitute a waiver or release of any claim of any party hereunder against a Defaulting Lender arising from that Lender having become a Defaulting Lender, including any claim of a Non-Defaulting Lender as a result of such Non-Defaulting Lender's increased exposure following such reallocation.

(v) Cash Collateral. If the reallocation described in clause (iv) above cannot, or can only partially, be effected, the Borrower shall, without prejudice to any right or remedy available to it hereunder or under law, Cash Collateralize each LC Issuer's Fronting Exposure in accordance with the procedures set forth in Section 2.22(d).

(b) Defaulting Lender Cure. If the Borrower, the Administrative Agent and the LC Issuers agree in writing that a Lender is no longer a Defaulting Lender, the Administrative Agent will so notify the parties hereto, whereupon as of the effective date specified in such notice and subject to any conditions set forth therein (which may include arrangements with respect to any Cash Collateral), that Lender will, to the extent applicable, purchase at par that portion of outstanding Loans of the other Lenders or take such other actions as the Administrative Agent may determine to be necessary to cause the Loans and funded and unfunded participations in Facility LCs to be held pro rata by the Lenders in accordance with the Commitments (without giving effect to Section 2.22(a)(iv)), whereupon such Lender will cease to be a Defaulting Lender; *provided* that no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of the Borrower while that Lender was a Defaulting Lender; and *provided*, *further*, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender.

(c) New Facility LCs. So long as any Lender is a Defaulting Lender, no LC Issuer shall be required to issue, extend, renew or increase any Facility LC unless it is satisfied that it will have no Fronting Exposure after giving effect thereto.

(d) Cash Collateral. At any time that there shall exist a Defaulting Lender, within one (1) Business Day following the written request of the Administrative Agent or any LC Issuer (with a copy to the Administrative Agent) the Borrower shall Cash Collateralize such LC Issuer's Fronting Exposure with respect to such Defaulting Lender (determined after giving effect to Section 2.22(a)(iv) and any Cash Collateral provided by such Defaulting Lender) in an amount not less than the Minimum Collateral Amount.

(i) Grant of Security Interest. The Borrower, and to the extent provided by any Defaulting Lender, such Defaulting Lender, hereby grant(s) to the Administrative Agent, for the benefit of the LC Issuers, and agree(s) to maintain, a first priority security interest in all such Cash Collateral as security for the Defaulting Lender's obligation to fund participations in respect of LC Obligations, to be applied pursuant to clause (ii) below. If at any time the Administrative Agent determines that Cash Collateral is subject to any right or claim of any Person other than the Administrative Agent and the LC Issuers as herein provided, or that the total amount of such Cash Collateral is less than the Minimum Collateral Amount, the Borrower will, promptly upon demand by the Administrative Agent, pay or provide to the Administrative Agent additional Cash Collateral in an amount sufficient to eliminate such deficiency (after giving effect to any Cash Collateral provided by the Defaulting Lender).

(ii) Application. Notwithstanding anything to the contrary contained in this Agreement, Cash Collateral provided under this Section 2.22 in respect of Facility LCs shall be applied to the satisfaction of the Defaulting Lender's obligation to fund participations in respect of LC Obligations (including, as to Cash Collateral provided by a Defaulting Lender, any interest accrued on such obligation) for which the Cash Collateral was so provided, prior to any other application of such Property as may otherwise be provided for herein.

(iii) Termination of Requirement. Cash Collateral (or the appropriate portion thereof) provided to reduce an LC Issuer's Fronting Exposure shall no longer be required to be held as Cash Collateral pursuant to this Section 2.22(d) following (i) the elimination of the applicable Fronting Exposure (including by the termination of Defaulting Lender status of the applicable Lender), or (ii) the determination by the Administrative Agent and the applicable LC Issuers that there exists excess Cash Collateral; provided that, subject to this Section 2.22 the Person providing Cash Collateral and the applicable LC Issuer may agree that Cash Collateral shall be held to support future anticipated Fronting Exposure or other obligations.

(e) Borrower's Rights. Without limitation of the foregoing, Borrower shall have such rights and remedies against a Defaulting Lender as are available at law or in equity.

Section 2.23 Returned Payments. If after receipt of any payment which is applied to the payment of all or any part of the Obligations, the Administrative Agent or any Lender is for any reason compelled to surrender such payment or proceeds to any Person because such payment or application of proceeds is invalidated, declared fraudulent, set aside, determined to be void or voidable as a preference, impermissible setoff, or a diversion of trust funds, or for any other reason, then the Obligations or part thereof intended to be satisfied shall be revived and continued and this Agreement shall continue in full force as if such payment or proceeds had not been received by the Administrative Agent or such Lender. The provisions of this Section 2.23 shall be and remain effective notwithstanding any contrary action which may have been taken by the Administrative Agent or any Lender in reliance upon such payment or application of proceeds. The provisions of this Section 2.23 shall survive the termination of this Agreement.

Section 2.24 Intentionally Omitted.

Section 2.25 Increase Option. Subject to the prior written consent of Administrative Agent (not to be unreasonably withheld), Borrower may elect (but in no event more than twice), to increase the Commitments, in an integral multiple of $5,000,000 or such lower amount as Borrower and Administrative Agent agree upon, so long as, after giving effect thereto, the amount of such increase (when added to the existing Aggregate Commitment) does not exceed $150,000,000. Borrower may arrange for any such increase to be provided by one or more Lenders (each Lender so agreeing to an increase in its Commitment, an ***"Increasing Lender"***), or by one or more new Eligible Assignees (each such new Eligible Assignee, an ***"Augmenting Lender"***), to increase their existing Commitments, or provide new Commitments, as the case may be; provided that (i) each Augmenting Lender and each Increasing Lender shall be subject to the approval of Borrower and Administrative Agent, in each case not to be unreasonably withheld, and shall be either a Qualified Bank or approved by each LC Issuer, such approval not to be unreasonably withheld, (ii) all new or increased Commitments pursuant to this Section 2.25 shall be provided to Borrower on the same terms as are applicable with respect to the existing Commitments under this Agreement, and (iii) (y) in the case of an Increasing Lender, Borrower and such Increasing Lender shall execute an agreement substantially in the form of Exhibit I hereto, and (z) in the case of an Augmenting Lender, Borrower and such Augmenting Lender shall execute an agreement substantially in the form of Exhibit J hereto. In no event shall any Lender become an Increasing Lender or an Augmenting Lender without such Lender's prior written consent (in its sole discretion). No consent of any Lender (other than Administrative Agent and the Lenders participating in the increase) shall be required for any increase in Commitments pursuant to this Section 2.25. Increases and new Commitments created pursuant to this Section 2.25 shall become effective on the date agreed by Borrower, Administrative Agent and the relevant Increasing Lenders or Augmenting Lenders, and Administrative Agent shall notify each Lender thereof. Notwithstanding the foregoing, no increase in the Commitments (or in the Commitment of any Lender) shall become effective under this paragraph unless, (1) on the proposed date of the effectiveness of such increase, the conditions set forth in paragraphs (a) and (b) of Section 4.2 shall be satisfied (or waived by the Required Lenders) and Administrative Agent shall have received a certificate to that effect dated such date and executed by an Authorized Officer of Borrower, and (2) Administrative Agent shall have received documents consistent with those delivered on the Effective Date as to the corporate power and authority of Borrower to borrow hereunder after giving effect to such increase, as well as such documents as Administrative Agent may reasonably request (including, without limitation, customary opinions of counsel and affirmations of Loan Documents and pro forma compliance with the financial covenants set forth in Section 6.20). On the effective date of any increase in the Commitments, (aa) each relevant Increasing Lender and Augmenting Lender shall make available to Administrative Agent such amounts in immediately available funds as the Administrative Agent shall determine, for the benefit of the other Lenders, as being required in order to cause, after giving effect to such increase and the use of such amounts to make payments to such other Lenders, each Lender's portion of the outstanding Revolving Loans of all Lenders to equal its Pro Rata Share of such outstanding Revolving Loans, and (bb) Borrower shall be deemed to have repaid and reborrowed all outstanding Revolving Loans as of the date of any increase in the Commitments (with such reborrowing to consist of the Types of Revolving Loans, with related Interest Periods if applicable, specified in a notice delivered by Borrower, in accordance with the requirements of Section 2.8). The deemed payments made pursuant to

clause (bb) above shall be accompanied by payment of all accrued interest on the amount prepaid and, in respect of each Eurocurrency Loan, shall be subject to indemnification by the Borrower pursuant to the provisions of Section 3.4 if the deemed payment occurs other than on the last day of the related Interest Periods. Nothing contained in this Section 2.25 shall constitute, or otherwise be deemed to be, a commitment on the part of any Lender to increase its Commitment hereunder at any time.

ARTICLE III

YIELD PROTECTION; TAXES

Section 3.1 Yield Protection. If, after the date of this Agreement, there occurs any adoption of or change in any law, governmental or quasi-governmental rule, regulation, policy, guideline, interpretation, or directive (whether or not having the force of law) or in the interpretation, promulgation, implementation or administration thereof by any Governmental or quasi-Governmental Authority, central bank or comparable agency charged with the interpretation or administration thereof, including, notwithstanding the foregoing, all requests, rules, guidelines or directives (x) in connection with the Dodd-Frank Wall Street Reform and Consumer Protection Act or (y) promulgated by the Bank for International Settlements, the Basel Committee on Banking Regulations and Supervisory Practices (or any successor or similar authority) or the United States financial regulatory authorities, in each case of clauses (x) and (y), regardless of the date enacted (subject to Section 3.7 below), adopted, issued, promulgated or implemented, or compliance by any Lender or applicable Lending Installation or any LC Issuer with any request or directive (whether or not having the force of law) of any such authority, central bank or comparable agency (any of the foregoing, a ***"Change in Law"***) which:

(a) subjects any Lender or any applicable Lending Installation, any LC Issuer, or the Administrative Agent to any Taxes (other than with respect to Indemnified Taxes, Excluded Taxes, and Other Taxes) on its loans, loan principal, letters of credit, commitments, or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto, or

(b) imposes or increases or deems applicable any reserve, assessment, insurance charge, special deposit or similar requirement against assets of, deposits with or for the account of, or credit extended by, any Lender or any applicable Lending Installation or LC Issuer (other than reserves and assessments taken into account in determining the interest rate applicable to Eurocurrency Advances), or

(c) imposes any other condition (other than Taxes) the result of which is to increase the cost to any Lender or any applicable Lending Installation or LC Issuer of making, funding or maintaining its Eurocurrency Loans, or of issuing or participating in Facility LCs, or reduces any amount receivable by any Lender or any applicable Lending Installation or LC Issuer in connection with its Eurocurrency Loans, Facility LCs or participations therein, or requires any Lender or any applicable Lending Installation or LC Issuer to make any payment calculated by reference to the amount of Eurocurrency Loans, Facility LCs or participations therein held or interest or LC Fees received by it, by an amount deemed material by such Lender or LC Issuer, as the case may be,

and the result of any of the foregoing is to increase the cost to such Person of making or maintaining its Loans or Commitment or of issuing or participating in Facility LCs or to reduce the amount received by such Person in connection with such Loans or Commitment, Facility LCs or participations therein, then, within fifteen (15) days after demand by such Person, the Borrower shall pay such Person, as the case may be, such additional amount or amounts as will compensate such Person for such increased cost or reduction in amount received.

Section 3.2 Changes in Capital Adequacy Regulations. If a Lender or LC Issuer determines that the amount of capital or liquidity required or expected to be maintained by such Lender or LC Issuer, any Lending Installation of such Lender or LC Issuer, or any corporation or holding company controlling such Lender or LC Issuer is increased as a result of (i) a Change in Law or (ii) any change after the date of this Agreement in the Risk-Based Capital Guidelines, then, within fifteen (15) days after demand by such Lender or LC Issuer, the Borrower shall pay such Lender or the LC Issuer the amount necessary to compensate for any shortfall in the rate of return on the portion of such increased capital or liquidity which such Lender or LC Issuer determines is attributable to this Agreement, its Outstanding Credit Exposure or its Commitment to make Loans and issue or participate in Facility LCs, as the case may be, hereunder (after taking into account such Lender's or LC Issuer's policies as to capital adequacy or liquidity), in each case that is attributable to such Change in Law or change in the Risk-Based Capital Guidelines, as applicable.

Section 3.3 Availability of Types of Borrowings; Adequacy of Interest Rate

(a) Notwithstanding anything to the contrary in this Agreement or any other Loan Document, if the Administrative Agent determines (which determination shall be conclusive absent manifest error), or the Required Lenders notify the Administrative Agent that the Required Lenders have determined, that:

(i) deposits of a type and maturity appropriate to match fund Eurocurrency Loans are not available to such Lenders in the relevant market, or

(ii) the interest rate applicable to Eurocurrency Loans for any requested Interest Period is not ascertainable or available (including, without limitation, because the applicable Reuters Screen (or on any successor or substitute page on such screen) is unavailable) or does not adequately and fairly reflect the cost of making or maintaining Eurocurrency Loans,

then the Administrative Agent shall suspend the availability of Eurocurrency Loans and Base Rate Loans and require any affected Eurocurrency Loans and Base Rate Loans to be repaid or converted to Alternate Base Rate Loans, subject to the payment of any funding indemnification amounts required by Section 3.4 with respect to any Eurocurrency Loans.

(b) Notwithstanding the foregoing or anything to the contrary in this Agreement or any other Loan Document, if the Administrative Agent determines (which determination shall be conclusive absent manifest error), or the Required Lenders notify the Administrative Agent (with a copy to the Borrower) that the Required Lenders have

determined, that any one or more of the following (each, a ***"Benchmark Transition Event"***) has occurred:

(i) the circumstances set forth in Section 3.3(a)(ii) have arisen (including, without limitation, a public statement or publication of information by the regulatory supervisor for the administrator of LIBOR described in clause (ii) of this Section 3.3(b) announcing that LIBOR is no longer representative) and such circumstances are unlikely to be temporary,

(ii) ICE Benchmark Administration (or any Person that has taken over the administration of LIBOR for deposits in Dollars that is acceptable to the Administrative Agent) discontinues its administration and publication of LIBOR for deposits in Dollars,

(iii) a public statement or publication of information by or on behalf of the administrator of LIBOR described in clause (ii) of this Section 3.3(b) announcing that such administrator has ceased or will cease as of a specific date to provide LIBOR (permanently or indefinitely); provided that, at the time of such statement, there is no successor administrator that is acceptable to the Administrative Agent that will continue to provide LIBOR after such specified date,

(iv) a public statement by the supervisor for the administrator of LIBOR described in clause (ii) of this Section 3.3(b), the U.S. Federal Reserve System, an insolvency official with jurisdiction over such administrator for LIBOR, a resolution authority with jurisdiction over such administrator for LIBOR or a court or an entity with similar insolvency or resolution authority over such administrator for LIBOR, which states that such administrator of LIBOR has ceased or will cease as of a specific date to provide LIBOR (permanently or indefinitely); provided that, at the time of such statement or publication, there is no successor administrator that is acceptable to the Administrative Agent that will continue to provide LIBOR after such specified date; or

(v) syndicated credit facilities substantially similar to the credit facilities under this Agreement being executed at such time, or that include language substantially similar to that contained in this Section 3.3(b), are being executed or amended, as the case may be, to incorporate or adopt a new benchmark interest rate to replace LIBOR for deposits in Dollars,

then Administrative Agent and Borrower may amend this Agreement to replace the Eurocurrency Base Rate and the Base Rate with a Benchmark Replacement. Notwithstanding anything to the contrary in Section 8.3, any such amendment with respect to a Benchmark Transition Event (A) pursuant to any of clauses (i) through (iv) of this Section 3.3(b) will become effective without any further action or consent of any other party to this Agreement at 5:00 p.m. (New York City time) on the fifth Business Day after Administrative Agent has posted such proposed amendment to all Lenders and Borrower so long as Administrative Agent has not received, by such time, written notice of objection to such amendment from Lenders comprising the Required Lenders or (B)

pursuant to clause (v) of this Section 3.3(b), will become effective without any further action or consent of any other party to this Agreement on the date that Lenders comprising the Required Lenders have delivered to Administrative Agent written notice that such Required Lenders accept such amendment; provided that, if the notice of a Benchmark Trigger Event pursuant to clause (v) has been provided by the Required Lenders and not Administrative Agent and such notice specifies the Benchmark Replacement, then the Lenders comprising the Required Lenders shall be deemed to have accepted such amendment on the date such amendment has been posted by Administrative Agent to all Lenders. No replacement of LIBOR with a Benchmark Replacement pursuant to this Section 3.3(b) will occur prior to the date set forth in the applicable amendment.

In connection with the implementation of a Benchmark Replacement, Administrative Agent will have the right to make Benchmark Replacement Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Loan Document, any amendments implementing such Benchmark Replacement Conforming Changes will become effective without any further action or consent of any other party to this Agreement.

Administrative Agent will promptly notify Borrower and the Lenders of (1) any occurrence of a Benchmark Transition Event (other than pursuant to clause (v) of this Section 3.3(b)), (2) the implementation of any Benchmark Replacement, (3) the effectiveness of any Benchmark Replacement Conforming Changes and (4) the commencement or conclusion of any Benchmark Unavailability Period. Any determination, decision or election that may be made by Administrative Agent or Lenders pursuant to this Section 3.3(b), including any determination with respect to a tenor, rate or adjustment or of the occurrence or non-occurrence of an event, circumstance or date and any decision to take or refrain from taking any action, will be conclusive and binding absent manifest error and may be made in its or their sole discretion and without consent from any other party hereto, except, in each case, as expressly required pursuant to this Section 3.3(b).

Upon notice to Borrower by Administrative Agent in accordance with Section 13.1 of the commencement of a Benchmark Unavailability Period and until a Benchmark Replacement is determined in accordance with this Section 3.3(b), (A) any request pursuant to Section 2.9 that requests the conversion of any Advance to, or continuation of any Advance as, a Eurocurrency Advance or a Base Rate Advance may be revoked by Borrower and if not revoked shall be ineffective and any such Advance shall be continued as or converted to, as the case may be, an Alternate Base Rate Advance, and (B) if any request pursuant to Section 2.8 requests a Eurocurrency Advance or a Base Rate Advance, such request may be revoked by Borrower and if not revoked such Advance shall be made as an Alternate Base Rate Advance.

Section 3.4 Funding Indemnification. If (a) any payment of a Eurocurrency Advance occurs on a date which is not the last day of the applicable Interest Period, whether because of acceleration, prepayment or otherwise, (b) a Eurocurrency Advance is not made on the date specified by the Borrower for any reason other than default by the Lenders, (c) a Eurocurrency Loan is converted other than on the last day of the Interest Period applicable thereto, (d) the

Borrower fails to borrow, convert, continue or prepay any Eurocurrency Loan on the date specified in any notice delivered pursuant hereto, or (e) any Eurocurrency Loan is assigned other than on the last day of the Interest Period applicable thereto as a result of a request by the Borrower pursuant to Section 2.20, the Borrower will indemnify each Lender for such Lender's costs and expenses (including any loss or expense arising from the liquidation or redeployment of funds obtained by it to maintain a Eurocurrency Loan or from fees payable to terminate the deposits from which such funds were obtained, but excluding any loss of anticipated profits) incurred as a result of any such prepayment.

Section 3.5 Taxes.

(a) Any and all payments by or on account of any obligation of any Loan Party under any Loan Document shall be made without deduction or withholding for any Taxes, except as required by applicable law. If any applicable law requires the deduction or withholding of any Tax from any such payment, then the applicable Loan Party shall be entitled to make such deduction or withholding and shall timely pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with applicable law and, if such Tax is an Indemnified Tax or Other Tax, then the sum payable by the applicable Loan Party shall be increased as necessary so that after such deduction or withholding has been made (including such deductions and withholdings applicable to additional sums payable under this Section 3.5) the applicable Lender, LC Issuer or the Administrative Agent receives an amount equal to the sum it would have received had no such deduction or withholding been made.

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

(c) The Loan Parties shall indemnify each Lender, LC Issuer or the Administrative Agent, within fifteen (15) days after demand therefor, for the full amount of any Indemnified Taxes and Other Taxes (including Indemnified Taxes and Other Taxes imposed or asserted on or attributable to amounts payable under this Section 3.5) payable or paid by such Lender, LC Issuer or the Administrative Agent or required to be withheld or deducted from a payment to such Lender, LC Issuer or the Administrative Agent and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes and Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to the Borrower by a Lender or LC Issuer (with a copy to the Administrative Agent), or by the Administrative Agent on its own behalf or on behalf of a Lender or LC Issuer, shall be conclusive absent manifest error.

(d) Each Lender shall severally indemnify the Administrative Agent, within fifteen (15) days after demand therefor, for (i) any Indemnified Taxes and Other Taxes attributable to such Lender (but only to the extent that any Loan Party has not already indemnified the Administrative Agent for such Indemnified Taxes and Other Taxes and without limiting the obligation of the Loan Parties to do so), (ii) any Taxes attributable to such Lender's failure to comply with the provisions of Section 12.2(c) relating to the maintenance of a Participant Register, and (iii) any Excluded Taxes attributable to such

Lender, in each case, that are payable or paid by the Administrative Agent in connection with any Loan Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under any Loan Document or otherwise payable by the Administrative Agent to the Lender from any other source against any amount due to the Administrative Agent under this paragraph (d).

(e) As soon as practicable after any payment of Taxes by any Loan Party to a Governmental Authority pursuant to this Section 3.5, such Loan Party shall deliver to the Administrative Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(f) Any Lender that is entitled to an exemption from or reduction of withholding Tax with respect to payments made under any Loan Document shall deliver to the Borrower and the Administrative Agent, at the time or times reasonably requested by the Borrower or the Administrative Agent, such properly completed and executed documentation reasonably requested by the Borrower or the Administrative Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender, if reasonably requested by the Borrower or the Administrative Agent, shall deliver such other documentation prescribed by applicable law or reasonably requested by the Borrower or the Administrative Agent as will enable the Borrower or the Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation set forth in Section 3.5(f)(ii)(A), (ii)(B) and (ii)(D) below) shall not be required if in the Lender's reasonable judgment such completion, execution or submission would subject such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender.

(i) Without limiting the generality of the foregoing,

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

(B) any Non-U.S. Lender shall, to the extent it is legally entitled to do so, deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to

the date on which such Non-U.S. Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), whichever of the following is applicable:

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

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

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

(4) to the extent a Non-U.S. Lender is not the beneficial owner, executed originals of IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BEN, IRS Form W-8BEN-E, IRS Form W-8IMY or IRS Form W-9, and/or other certification documents from each beneficial owner, as applicable.

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

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

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

(g) If any party determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified pursuant to this Section 3.5 (including by the payment of additional amounts pursuant to this Section 3.5), it shall pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under this Section with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) of such indemnified party and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund). Such indemnifying party, upon the request of such indemnified party, shall repay to such indemnified party the amount paid over pursuant to this paragraph (g) (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) in the event that such indemnified party is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this paragraph (g), in no event will the indemnified party be required to pay any amount to an indemnifying party pursuant to this paragraph (g) the payment of which would place the indemnified party in a less favorable net after-Tax position than the indemnified party would have been in if the indemnification payments or additional amounts giving rise to such refund had never been paid. This paragraph shall not be construed to require any indemnified party to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to the indemnifying party or any other Person.

(h) Each party's obligations under this Section 3.5 shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all obligations under any Loan Document.

(i) For purposes of determining withholding Taxes imposed under FATCA, the Borrower and Administrative Agent may treat (and the Lenders hereby authorize Administrative Agent to treat) the Loans as not qualifying as "grandfathered obligations" within the meaning of Treasury Regulation Section 1.1471-2(b)(2)(i).

(j) For purposes of Section 3.5(d) and (f), the term "Lender" includes the LC Issuer.

Section 3.6 Selection of Lending Installation; Mitigation Obligations; Lender Statements; Survival of Indemnity. To the extent reasonably possible, each Lender shall designate an alternate Lending Installation with respect to its Eurocurrency Loans to reduce any liability of the Borrower to such Lender under Sections 3.1, 3.2 and 3.5 or to avoid the unavailability of Eurocurrency Advances under Section 3.3, so long as such designation is not, in the judgment of such Lender, disadvantageous to such Lender. Each Lender shall deliver a written statement of such Lender to the Borrower (with a copy to the Administrative Agent) as to the amount due, if any, under Section 3.1, 3.2, 3.4 or 3.5. Such written statement shall set forth in reasonable detail the calculations upon which such Lender determined such amount and shall be final, conclusive and binding on the Borrower in the absence of manifest error. Determination of amounts payable under such Sections in connection with a Eurocurrency Loan shall be calculated as though each Lender funded its Eurocurrency Loan through the purchase of a deposit of the type and maturity corresponding to the deposit used as a reference in determining the Eurocurrency Rate applicable to such Loan, whether in fact that is the case or not. Unless otherwise provided herein, the amount specified in the written statement of any Lender shall be due within ten (10) days after receipt by the Borrower of such written statement. The obligations of the Borrower under Sections 3.1, 3.2, 3.4, 3.5 and 3.7 shall survive payment of the Obligations and termination of this Agreement.

Section 3.7 Cutoff. Failure or delay on the part of the Administrative Agent or any Lender, Lending Installation, or LC Issuer to demand compensation pursuant to Section 3.1 or 3.2 shall not constitute a waiver of such Person's right to demand such compensation; provided that Borrower shall not be required to compensate any such Person for any increased costs or reductions incurred more than 360 days prior to the date that such Person notifies Borrower of the event giving rise to such increased costs or reductions and of such Person's intention to claim compensation therefor; provided further that, if the event giving rise to such increased costs or reductions is retroactive, then the 360-day period referred to above shall be extended to include the period of retroactive effect thereof.

ARTICLE IV

CONDITIONS PRECEDENT

Section 4.1 Initial Credit Extension. The Lenders shall not be required to make the initial Credit Extension hereunder unless each of the following conditions is satisfied:

(a) The Administrative Agent shall have received executed counterparts of each of this Agreement and the Guaranty.

(b) The Administrative Agent shall have received a certificate, signed by the chief financial officer of the Borrower, stating that on the date of the initial Credit Extension (1) no Default or Event of Default has occurred and is continuing and (2) the representations and warranties contained in ARTICLE V are true and correct in all material respects (except to the extent already qualified by materiality, in which case said representations and warranties are true and correct in all respects) as of such date except to the extent any such representation or warranty is stated to relate solely to an earlier date, in which case such representation or warranty shall have been true and correct in all material respects (except to the extent already qualified by materiality, in which case said representations and warranties are true and correct in all respects) on and as of such earlier date.

(c) The Administrative Agent shall have received a written opinion of the Borrower's counsel addressed to the Lenders, in a form approved by Administrative Agent.

(d) The Administrative Agent shall have received any Notes requested by a Lender pursuant to Section 2.13 payable to the order of each such requesting Lender.

(e) The Administrative Agent shall have received such documents and certificates relating to the organization, existence and good standing of the Borrower and each current Guarantor, the authorization of the transactions contemplated hereby and any other legal matters relating to the Borrower and such Guarantors, the Loan Documents or the transactions contemplated hereby, all in form and substance satisfactory to the Administrative Agent and its counsel and as further described in the list of closing documents attached as Exhibit G.

(f) If the initial Credit Extension will include the issuance of a Facility LC, the applicable LC Issuer shall have received a properly completed Facility LC Application.

(g) The Administrative Agent shall have received all fees and other amounts due and payable on or prior to the Effective Date, including, to the extent invoiced, reimbursement or payment of all out-of-pocket expenses required to be reimbursed or paid by the Borrower hereunder.

(h) There shall not have occurred a material adverse change (x) in the business, Property, liabilities (actual and contingent), operations or financial condition, or results of operations of the Borrower and the Guarantors taken as a whole, since March 31, 2019 or (y) in the facts and information regarding such entities as represented by such entities to date.

(i) The Administrative Agent shall have received evidence of all governmental, equity holder and third party consents and approvals (if any) necessary in connection with the contemplated financing and all applicable waiting periods shall have expired without any action being taken by any authority that would be reasonably likely to restrain, prevent or impose any material adverse conditions on the Borrower and the

Guarantors, taken as a whole, and no law or regulation shall be applicable which in the reasonable judgment of the Administrative Agent could have such effect.

(j) No action, suit, investigation or proceeding is pending or, to the knowledge of the Borrower, threatened in any court or before any arbitrator or Governmental Authority that would reasonably be expected to result in a Material Adverse Effect or which seeks to prevent, enjoin or delay the making of any Credit Extensions.

(k) The Administrative Agent shall have received unaudited consolidated financial statements of the Borrower and its Subsidiaries for the fiscal quarter ended March 31, 2019.

(l) Upon the reasonable request of any Lender made at least ten days prior to the Effective Date, the Borrower must have provided to such Lender the documentation and other information so requested in connection with applicable "know your customer" and anti-money-laundering rules and regulations, including the PATRIOT Act, in each case at least five days prior to the Effective Date.

(m) At least five days prior to the Effective Date, if Borrower qualifies as a "legal entity customer" under the Beneficial Ownership Regulation, Borrower shall have delivered a Beneficial Ownership Certification in relation to Borrower.

Section 4.2 Each Credit Extension. The Lenders shall not be required to make any Credit Extension (other than pursuant to a Conversion/Continuation Notice, which shall be subject only to clauses (a) and (c) below) unless on the applicable Borrowing Date:

(a) There exists no Default or Event of Default, nor would a Default or Event of Default result from such Credit Extension.

(b) The representations and warranties contained in ARTICLE V are true and correct in all material respects (except to the extent already qualified by materiality, in which case said representations and warranties are true and correct in all respects) as of such Borrowing Date except to the extent any such representation or warranty is stated to relate solely to an earlier date, in which case such representation or warranty shall have been true and correct in all material respects (except to the extent already qualified by materiality, in which case said representations and warranties are true and correct in all respects) on and as of such earlier date.

(c) Following the making of the requested Credit Extension, the aggregate amount of all Borrowing Base Debt would not exceed the Borrowing Base (determined as of the most recent Inventory Valuation Date).

It is not a condition to each Credit Extension that the Borrower tender an updated Borrowing Base Certificate. Each Borrowing Notice or request for issuance of a Facility LC with respect to each such Credit Extension shall constitute a representation and warranty by the Borrower that the conditions contained in Sections 4.2(a), (b) and (c) have been satisfied.

ARTICLE V

REPRESENTATIONS AND WARRANTIES

The Borrower represents and warrants to the Lenders that:

Section 5.1 Existence and Standing. Each of the Borrower and Guarantors is a corporation or (in the case of Guarantors only) partnership or limited liability company duly and properly incorporated, organized or formed, as the case may be, validly existing and (to the extent such concept applies to such entity) in good standing under the laws of its jurisdiction of incorporation, organization or formation, as applicable, and has all requisite authority to conduct its business in each jurisdiction in which its business is conducted (except to the extent that a failure to maintain such existence, good standing or authority would not reasonably be expected to have and does not have a Material Adverse Effect).

Section 5.2 Authorization and Validity. The Borrower has the corporate power and authority and legal right to execute and deliver the Loan Documents to which it is a party and to perform its obligations thereunder. The execution and delivery by the Borrower of the Loan Documents to which it is a party and the performance of its obligations thereunder have been duly authorized by proper corporate proceedings, and the Loan Documents to which the Borrower is a party constitute legal, valid and binding obligations of the Borrower enforceable against the Borrower in accordance with their terms, except as enforceability may be limited by bankruptcy, insolvency or similar laws affecting the enforcement of creditors' rights generally and general principles of equity. Each Guarantor has the corporate, limited liability company or limited partnership (as applicable) power and authority to execute and deliver the Guaranty delivered by it and to perform its obligations thereunder. The execution and delivery by each Guarantor of such Guaranty and the performance of its obligations thereunder have been duly authorized, and each Guaranty constitutes the legal, valid and binding obligations of such Guarantor enforceable against such Guarantor in accordance with its terms, subject to bankruptcy, insolvency or similar laws affecting the enforcement of creditors' rights generally and general principles of equity.

Section 5.3 No Conflict; Government Consent. Neither the execution and delivery by the Borrower or any Guarantor of the Loan Documents to which it is a party, nor the consummation of the transactions therein contemplated, nor compliance with the provisions thereof will violate in any material respect (i) any law, rule, regulation, order, writ, judgment, injunction, decree or award binding on the Borrower or any Guarantor or (ii) the Borrower's or any Guarantor's articles or certificate of incorporation, partnership agreement, certificate of partnership, articles or certificate of organization, by-laws, or operating or other management agreement, as the case may be, or (iii) the provisions of any indenture, instrument or agreement to which the Borrower or any Guarantor is a party or is subject, or by which it, or its Property, is bound, or conflict with or constitute a default thereunder, or result in, or require, the creation or imposition of any Lien in, of or on the Property of the Borrower or any Guarantor pursuant to the terms of any such indenture, instrument or agreement. No order, consent, adjudication, approval, license, authorization, or validation of, or filing, recording or registration with, or exemption by, or other action in respect of any governmental or public body or authority, or any subdivision thereof, which has not been obtained by the Borrower or any Guarantor, is required to be obtained by the Borrower or any Guarantor in connection with the execution and delivery of the

Loan Documents, the borrowings under this Agreement, the payment and performance by the Borrower or any Guarantor of the Obligations or the legality, validity, binding effect or enforceability of any of the Loan Documents.

Section 5.4 Financial Statements. The March 31, 2020 consolidated financial statements of the Borrower, heretofore delivered to the Lenders were prepared in accordance with GAAP in effect on the date such statements were prepared and fairly present, in all material respects, the consolidated financial condition and operations of the Borrower at such date and the consolidated results of their operations for the period then ended.

Section 5.5 Material Adverse Change. Since the date of the most recent audited financial statements of the Borrower delivered to the Administrative Agent, there has been no change in the business, Property, financial condition or results of operations of the Borrower and the Guarantors which could reasonably be expected to have a Material Adverse Effect.

Section 5.6 Taxes. The Borrower and Guarantors have filed all United States federal and state income Tax returns and all other material Tax returns which are required to be filed by them and have paid all United States federal and state income Taxes and all other material Taxes due from the Borrower and Guarantors pursuant to such returns or pursuant to any assessment received by the Borrower or any Guarantor, except such Taxes, if any, as are being contested in good faith and as to which adequate reserves have been provided. No Tax Liens have been filed and no claims are being asserted with respect to any such Taxes that have had or would reasonably be expected to have a Material Adverse Effect. The charges, accruals and reserves on the books of the Borrower and the Guarantors in respect of any Taxes or other governmental charges are adequate.

Section 5.7 Litigation and Contingent Obligations. There is no litigation, arbitration, governmental investigation, proceeding or inquiry pending or, to the knowledge of any Senior Officer, threatened in writing against or affecting the Borrower or any Guarantor which would reasonably be expected to have a Material Adverse Effect or which seeks to prevent, enjoin or delay the making of any Credit Extensions. As of the Effective Date, the Borrower has no material Contingent Obligations not provided for or disclosed in the financial statements referred to in Section 5.4, except as would not reasonably be expected to have a Material Adverse Effect.

Section 5.8 Subsidiaries. As of the Effective Date, Schedule 5.8 contains an accurate list of all Subsidiaries of the Borrower as of the date of this Agreement, setting forth their respective jurisdictions of organization and the percentage of their respective capital stock or other ownership interests owned by the Borrower or other Subsidiaries. All of the issued and outstanding shares of capital stock or other ownership interests of such Subsidiaries have been (to the extent such concepts are relevant with respect to such ownership interests) duly authorized and validly issued and are fully paid and non-assessable. All of the Significant Designated Subsidiaries are Guarantors (or in the process of becoming Guarantors in accordance with the requirements of Section 6.21(a)).

Section 5.9 ERISA. With respect to each Plan, the Borrower and all ERISA Affiliates have paid all required minimum contributions and installments on or before the due dates provided under Section 430(j) of the Code and could not reasonably be subject to a lien under Section 430(k) of the Code or Title IV of ERISA. Neither the Borrower nor any ERISA Affiliate

has filed, pursuant to Section 412(c) of the Code or Section 302(c) of ERISA, an application for a waiver of the minimum funding standard. No ERISA Event has occurred or is reasonably expected to occur that, when taken together with all other such ERISA Events for which liability is reasonably expected to occur, would reasonably be expected to result in a Material Adverse Effect.

Section 5.10 Accuracy of Information. None of the written information, exhibits or reports furnished by the Borrower or any of its Guarantors (taken as a whole) to the Administrative Agent or to any Lender in connection with the negotiation of, or compliance with, the Loan Documents (taken as a whole) contained any material misstatement of fact or omitted to state a material fact or any fact necessary to make the statements (taken as a whole) contained therein not misleading at the time the statements are furnished or dated (after giving effect to all modifications and supplements to such written information, exhibits or reports, in each case, furnished after the date on which such written information or such written data was originally delivered); it being understood that for purposes of this Section 5.10, such written information and written data shall not include projections, pro forma financial information, financial estimates, forecasts, forward-looking information or information of a general economic or general industry nature.

Section 5.11 Regulation U. Neither Borrower nor any Guarantor is engaged principally, or as one of its important activities, in the business of extending credit for the purpose, whether immediate, incidental or ultimate, of buying or carrying "margin stock" within the meaning of Regulation U of the Board of Governors of the Federal Reserve System.

Section 5.12 Material Agreements. Neither the Borrower nor any Guarantor is a party to any agreement or instrument or subject to any charter or other corporate limited liability company or partnership restriction which would reasonably be expected to have a Material Adverse Effect. Neither the Borrower nor any Guarantor is in default in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in (i) any agreement to which it is a party or (ii) any agreement or instrument evidencing or governing Indebtedness, which default (in the case of clauses (i) and (ii)) would reasonably be expected to have a Material Adverse Effect.

Section 5.13 Compliance With Laws. The Borrower and the Guarantors are in compliance with all applicable statutes, rules, regulations, orders and restrictions (including, without limitation, the Controlled Substances Act) of any domestic or foreign government or any instrumentality or agency thereof having jurisdiction over the conduct of their respective businesses or the ownership of their respective Property, the violation of which would reasonably be expected to have a Material Adverse Effect. The Borrower will maintain in effect and enforce policies and procedures designed to ensure compliance by the Borrower, its Subsidiaries and their respective directors, officers, employees and agents with Anti-Corruption Laws and applicable Sanctions and the Controlled Substances Act.

Section 5.14 Ownership of Properties. On the date of this Agreement, the Borrower and the Guarantors will have good title, free of all Liens other than those permitted by Section 6.16, to all of the Property and assets reflected in the Borrower's most recent consolidated financial statements provided to the Administrative Agent as owned by the Borrower and its Subsidiaries (except to the extent that (i) they may have been disposed of in a manner permitted

by Section 6.14(a) or (ii) the failure to have such title has not had and would not reasonably be expected to have a Material Adverse Effect).

Section 5.15 Plan Assets; Prohibited Transactions. The Borrower is not an entity deemed to hold "plan assets" within the meaning of 29 C.F.R. § 2510.3-101 of an employee benefit plan (as defined in Section 3(3) of ERISA) which is subject to Title I of ERISA or any plan (within the meaning of Section 4975 of the Code), and neither the execution of this Agreement nor the making of Credit Extensions hereunder gives rise to a prohibited transaction within the meaning of Section 406 of ERISA or Section 4975 of the Code.

Section 5.16 Environmental Matters. In the ordinary course of its business, the officers of the Borrower consider the effect of Environmental Laws on the business of the Borrower and its Subsidiaries, in the course of which they identify and evaluate potential risks and liabilities accruing to the Borrower due to Environmental Laws. On the basis of this consideration, the Borrower has concluded its Property and operations and those of its Subsidiaries are in material compliance with applicable Environmental Laws and that none of the Borrower or any of its Subsidiaries is subject to any liability under Environmental Laws that individually or in the aggregate would reasonably be expected to have a Material Adverse Effect. Neither the Borrower nor any Subsidiary has received any notice to the effect that its Property and/or operations are not in material compliance with any of the requirements of applicable Environmental Laws or are the subject of any federal or state investigation evaluating whether any remedial action is needed to respond to a release of any Hazardous Material, which non-compliance or remedial action would reasonably be expected to have a Material Adverse Effect.

Section 5.17 Investment Company Act. Neither the Borrower nor any Guarantor is an "investment company" or a company "controlled" by an "investment company", within the meaning of the Investment Company Act of 1940, as amended.

Section 5.18 Insurance. The Borrower maintains, and has caused each Guarantor to maintain, with financially sound and reputable insurance companies insurance on all their Property, liability insurance and environmental insurance in such amounts, subject to such deductibles and self-insurance retentions and covering such Properties and risks as is consistent with sound business practice.

Section 5.19 Intentionally Omitted.

Section 5.20 Solvency.

(a) Immediately after the consummation of the transactions to occur on the Effective Date and immediately following the making of each Credit Extension, if any, made on the Effective Date and after giving effect to the application of the proceeds of such Credit Extensions, (i) the fair value of the assets of the Borrower on a consolidated basis, at a fair valuation, will exceed the debts and liabilities, subordinated, contingent or otherwise, of the Borrower on a consolidated basis; (ii) the present fair value of the Property of the Borrower on a consolidated basis will be greater than the amount that will be required to pay the probable liability of the Borrower on a consolidated basis on their debts and other liabilities, subordinated, contingent or otherwise, as such debts and other liabilities become due and matured; (iii) the Borrower on a consolidated basis will be able

to pay their debts and liabilities, subordinated, contingent or otherwise, as such debts and liabilities become due and matured; and (iv) the Borrower on a consolidated basis will not have unreasonably small capital with which to conduct the businesses in which they are engaged as such businesses are now conducted and are proposed to be conducted after the Effective Date. For the purposes hereof, the amount of any contingent obligation at any time shall be computed as the amount that, in light of all the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability.

(b) The Borrower does not intend to, or to permit any Guarantors to, and does not believe that it or any Guarantors will, incur debts beyond its or any such Guarantor's ability to pay such debts as they mature, taking into account the timing of and amounts of cash to be received by it or any such Guarantor and the timing of the amounts of cash to be payable on or in respect of its Indebtedness or the Indebtedness of any such Guarantor.

Section 5.21 No Default. No Default or Event of Default has occurred and is continuing.

Section 5.22 Anti-Corruption Laws; Sanctions. The Borrower, each Guarantor and their respective Subsidiaries and their respective officers and directors and to the knowledge of Borrower and each such Guarantor, their respective employees, are in compliance with Anti-Corruption Laws and applicable Sanctions in all material respects. The Borrower and each Guarantor have implemented and maintain in effect for themselves and their respective Subsidiaries policies and procedures to ensure compliance by the Borrower, each Guarantor, their respective Subsidiaries, and their respective officers, employees and directors with Anti-Corruption Laws and applicable Sanctions. None of the Borrower, any Guarantor, any of their respective Subsidiaries or, to the knowledge of the Borrower or any Guarantor, any directors, officer, employee, agent, or affiliate of the Borrower or any Guarantor or any of their respective Subsidiaries is an individual or entity that is, or is 50% or more owned (individually or in the aggregate, directly or indirectly) or controlled by individuals or entities (including any agency, political subdivision or instrumentality of any government) that are (i) the target of any Sanctions or (ii) located, organized or resident in a country or territory that is, or whose government is, the subject of Sanctions (as of the Effective Date, Crimea, Cuba, Iran, North Korea and Syria). No Loan or Facility LC, use of the proceeds of any Loan or Facility LC or other transactions contemplated hereby will violate Anti-Corruption Laws or applicable Sanctions.

ARTICLE VI

COVENANTS

During the term of this Agreement, unless the Required Lenders shall otherwise consent in writing:

Section 6.1 Financial Reporting. The Borrower will maintain, for itself and each Subsidiary, a system of accounting established and administered in accordance with GAAP, and furnish to the Administrative Agent (for prompt delivery by the Administrative Agent to each Lender):

(a) Within 120 days after the close of each of its fiscal years, an unqualified (except for qualifications (i) relating to changes in accounting principles or practices reflecting changes in GAAP or (ii) reasonably approved by the Administrative Agent) audit report, with no going concern modifier (other than a "going concern" or like qualification for any period within the twelve-month period prior to the end of the term of this Agreement arising solely from the impending maturity of the Loans), certified by one of the "Big Four" accounting firms or other nationally recognized independent certified public accountants reasonably acceptable to the Administrative Agent, prepared in accordance with GAAP on a consolidated basis for itself and its Subsidiaries, including balance sheets as of the end of such period (which shall include a footnote to the amounts listed under the line item for "Other Assets" set forth therein which separates costs for hardscape, landscape and other improvements included in the Book Value of Model Units from the other amounts included in "Other Assets" including costs for furnishings, sales offices and other personal property or improvements which are excluded from the Book Value of Model Units), related profit and loss and stockholders' equity statement, and a statement of cash flows and income from operations, accompanied by any management letter issued by said accountants to the Borrower in connection with the foregoing.

(b) Within 60 days after the close of the first three (3) quarterly periods of each of its fiscal years, for itself and its Subsidiaries, consolidated unaudited balance sheets as at the close of each such period (which shall include a footnote to the amounts listed under the line item for "Other Assets" set forth therein which separates costs for hardscape, landscape and other improvements included in the Book Value of Model Units from the other amounts included in "Other Assets" including costs for furnishings, sales offices and other personal property or improvements which are excluded from the Book Value of Model Units) and consolidated profit and loss and stockholders' equity statements and a statement of cash flows and income from operations for the period from the beginning of such fiscal year to the end of such quarter, all certified by its chief financial officer or other Authorized Officer as having been prepared in accordance with GAAP, except for year-end adjustments and the absence of footnotes.

(c) Together with the financial statements required under Sections 6.1(a) and (b), (i) a compliance certificate in substantially the form of Exhibit B signed by its chief financial officer or other Authorized Officer showing the calculations necessary to determine compliance with Sections 6.20(a) through (e) and stating that no Default or Event of Default exists, or if any Default or Event of Default exists, stating the nature and status thereof, and (ii) a schedule describing in reasonable detail all Investments constituting Contingent Obligations made during the applicable reporting period.

(d) Within seventy-five (75) days after the end of each fiscal year, Borrower's current plan and forecast, including Borrower's projected balance sheet, profit and loss and stockholders' equity statement, and a statement of cash flows and income from operations for the current fiscal year.

(e) Within seven (7) days after the end of each calendar month, a sales report for such calendar month.

(f) Within thirty (30) days after the end of each calendar month, a Borrowing Base Certificate of an Authorized Officer of the Borrower, with respect to the Inventory Valuation Date occurring on the last day of such calendar month.

(g) Promptly upon the furnishing thereof to the shareholders of the Borrower, copies of all financial statements, reports and proxy statements so furnished.

(h) Promptly upon the filing thereof, copies of all registration statements (except Form S-8) and annual, quarterly, or other periodic reports, with the exception of exhibits (unless otherwise requested by the Administrative Agent), which the Borrower or any of its Subsidiaries files with the U.S. Securities and Exchange Commission.

(i) Such other information (including, without limitation, additional financial information, non-financial information and environmental reports) as the Administrative Agent may from time to time reasonably request.

Any financial statement required to be furnished pursuant to Section 6.1(a) or Section 6.1(b) or any document required to be delivered pursuant to Section 6.1(g) or Section 6.1(h) shall be deemed to have been furnished on the date on which the Administrative Agent receives notice that the Borrower has filed such financial statement with the U.S. Securities and Exchange Commission and is available on the EDGAR website on the Internet at www.sec.gov or any successor government website that is freely and readily available to the Administrative Agent and the Lenders without charge. Notwithstanding the foregoing, the Borrower shall deliver paper or electronic copies of any such financial statement to the Administrative Agent if the Administrative Agent requests the Borrower to furnish such paper or electronic copies until written notice to cease delivering such paper or electronic copies is given by the Administrative Agent. If any information which is required to be furnished to the Administrative Agent under this Section 6.1 is required by law or regulation to be filed by the Borrower with a government body on an earlier date, then the information required hereunder shall be furnished to the Administrative Agent at such earlier date.

Section 6.2 Use of Proceeds. The Borrower will, and will cause each Subsidiary to, use the proceeds of the Credit Extensions for general corporate purposes. The Borrower will not, nor will it permit any Subsidiary to, use any of the proceeds of the Advances to purchase or carry any "margin stock" (as defined in Regulation U) (a) in violation of Regulation T, U or X or (b) outside the ordinary course of business (unless, in the case of (b), in connection with a Permitted Acquisition). The Borrower will not request any Advance or Facility LC, and will not use, and the Borrower will ensure that its Subsidiaries and its or their respective directors, officers, employees and agents do not use, the proceeds of any Advance or Facility LC in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any Person in violation of any Anti-Corruption Laws. The Borrower will not, directly or knowingly indirectly, use the proceeds of the Advances, or lend, contribute or otherwise make available such proceeds to any subsidiary, joint venture partner or other Person, (i) to fund any activities or business of or with any Person, or in any country or territory, that, at the time of such funding, is, or whose government is, the subject of Sanctions, or (ii) in any other manner that would result in a violation of Sanctions by any Person (including any Person participating in the Advances, whether as underwriter, advisor, investor, or otherwise).

Section 6.3 Notice of Material Events. The Borrower will, and will cause each Guarantor to, give notice in writing to the Administrative Agent (for prompt delivery by Administrative Agent to each Lender), promptly and in any event within ten (10) days after a Senior Officer of the Borrower obtains knowledge thereof, of the occurrence of any of the following:

(a) any Default or Event of Default;

(b) the filing or commencement of any action, suit or proceeding by or before any arbitrator or Governmental Authority (including pursuant to any applicable Environmental Laws) against or affecting the Borrower or any Guarantor that, if adversely determined, would reasonably be expected to result in a Material Adverse Effect or which seeks to prevent, enjoin or delay the making of any Credit Extensions;

(c) with respect to a Plan, (i) any failure to pay all required minimum contributions and installments on or before the due dates provided under Section 430(j) of the Code or (ii) the filing pursuant to Section 412(c) of the Code or Section 302(c) of ERISA, of an application for a waiver of the minimum funding standard;

(d) the occurrence of any ERISA Event that, alone or together with any other ERISA Events that have occurred, would reasonably be expected to result in a Material Adverse Effect; and

(e) any other development, financial or otherwise, which would reasonably be expected to have a Material Adverse Effect.

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

Section 6.4 Conduct of Business. Except as otherwise permitted under this Agreement, the Borrower shall at all times engage principally in the Related Businesses, and shall cause each Guarantor to at all times engage principally in the Related Businesses. Borrower shall, and shall cause each Guarantor to, do all things necessary to remain duly incorporated, validly existing and in good standing as a domestic corporation, limited liability company or limited partnership (as applicable) in their respective jurisdictions of incorporation or formation and maintain all requisite authority to conduct business in each jurisdiction in which business is conducted, except where the failure to maintain such authority would not reasonably be expected to have a Material Adverse Effect; provided, however, that nothing contained herein shall prohibit the dissolution of any Guarantor as long as the Borrower or another Guarantor succeeds to the assets, liabilities and business of the dissolved Guarantor. Without limitation of the foregoing, the Borrower shall, and shall cause each Guarantor to, at all times engage principally in the Related Businesses.

Section 6.5 Taxes. The Borrower will, and will cause each Guarantor to, timely file complete and correct United States federal and applicable foreign, state and local tax returns required by law and pay when due all taxes, assessments and governmental charges and levies upon it or its income, profits or Property, except those which are being contested in good faith by

appropriate proceedings, with respect to which adequate reserves have been set aside in accordance with GAAP, or which would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect.

Section 6.6 Insurance. The Borrower will, and will cause each Guarantor to, maintain with financially sound and reputable insurance companies insurance on all their Property in such amounts and covering such risks as is consistent with sound business practice, and the Borrower will furnish to Administrative Agent upon request full information as to the insurance carried.

Section 6.7 Compliance with Laws and Material Contractual Obligations.

(a) The Borrower will, and will cause each Guarantor to, perform its obligations under material agreements to which it is a party, except where the failure to comply therewith or perform such obligations would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect.

(b) The Borrower will, and will cause each Guarantor to, comply with all laws, rules, regulations, orders, writs, judgments, injunctions, decrees or awards to which it may be subject including, without limitation, all Environmental Laws, except where the failure to comply therewith or perform such obligations would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect.

(c) The Borrower will, and will cause each of its Subsidiaries to, comply in all material respects with all Anti-Corruption Laws and applicable Sanctions. Borrower and each Guarantor will maintain in effect and enforce policies and procedures designed to ensure compliance by Borrower, each Guarantor, their respective Subsidiaries and their respective directors, officers, employees and agents with Anti-Corruption Laws and applicable Sanctions. Borrower and Guarantor will, and will cause their respective Subsidiaries and Affiliates to, provide such information and take such actions as are reasonably requested by Administrative Agent or any Lender in order to assist Administrative Agent and the Lenders in maintaining compliance with anti-money laundering Laws.

Section 6.8 Intentionally Omitted.

Section 6.9 Maintenance of Properties. The Borrower and each Guarantor will do all things necessary to maintain, preserve, protect and keep its Property in good repair, working order and condition, except to the extent that the failure to do so would not reasonably be expected to have and does not have a Material Adverse Effect.

Section 6.10 Books and Records; Inspection. The Borrower will, and will cause each of the Guarantors to, keep proper books of record and account in which full, true and correct entries are made of all dealings and transactions in relation to its business and activities. The Borrower will, and will cause each Guarantor to, permit the Administrative Agent, by it or its representatives and agents to inspect any of the Property, books and financial records of the Borrower and each Guarantor, to examine and make copies of the books of accounts and other financial records of the Borrower and each Guarantor, and to discuss the affairs, finances and accounts of the Borrower and each Guarantor with, and to be advised as to the same by, their

respective officers at such reasonable times and intervals as the Administrative Agent may designate. At any time that a Default exists, such inspections and examinations shall be at Borrower's expense.

Section 6.11 Payment of Obligations. The Borrower will, and will cause each Guarantor to, pay its obligations, including Tax liabilities, that, if not paid, would reasonably be expected to result in a Material Adverse Effect before the same shall become delinquent or in default, except where (a) the validity or amount thereof is being contested in good faith by appropriate proceedings, and (b) the Borrower or such Guarantor has set aside on its books adequate reserves with respect thereto in accordance with GAAP.

Section 6.12 Restrictions on Aggregate Secured Indebtedness. At no time shall the aggregate amount of all outstanding Indebtedness of all Loan Parties (including, without limitation, all Secured Project Debt) secured by Liens on real property (excluding Permitted Liens) and all other obligations of all Loan Parties secured by Liens on real property (excluding Permitted Liens) exceed Ten Million Dollars ($10,000,000.00) on a pro forma basis as of the date of any such incurrence.

Section 6.13 Merger; Division. Neither the Borrower nor any Guarantor will (a) divide, or (b) merge or consolidate with or into any other Person, unless, with respect to any such merger or consolidation:

(i) (A) any Guarantor is merging with any other Guarantor; (B) any Guarantor is merging with the Borrower, and the Borrower is the continuing Person; (C) any Guarantor is merging with a Person that is not a Subsidiary of the Borrower and (1) if the Guarantor is not the continuing Person, such transaction is in compliance with the provisions of Section 6.14(b) or the successor Person becomes a Guarantor hereunder or (2) if the Guarantor is the continuing Person, such transaction is a Permitted Acquisition or otherwise permitted under Section 6.15; or (D) a Non-Guarantor Subsidiary is merging with the Borrower or any Guarantor, and the Borrower or a Guarantor, as applicable, is the continuing Person; and

(ii) no Event of Default shall exist or shall occur after giving effect to such transaction; and

(iii) after giving effect to such transaction, the Borrower shall be in compliance with the Consolidated Tangible Net Worth Test and the Leverage Test; and

(iv) the transaction is not otherwise prohibited under this Agreement.

Section 6.14 Sale of Assets.

(a) Neither the Borrower nor any Guarantor will lease, sell or otherwise dispose of its Property, in a single transaction or a series of transactions, to any other Person (other than the Borrower or another Guarantor) except for (i) sales or leases in the ordinary course of business (including, without limitation, any Permitted Disposition),

(ii) leases, sales or other dispositions of its Property that, together with all other Property of the Borrower and Guarantors previously leased, sold or disposed of (other than any disposition described in clauses (i), (iii) or (iv) of this Section 6.14(a)) as permitted by this Section during the fiscal quarter in which any such lease, sale or other disposition occurs, do not constitute a Material Portion of the Property of the Borrower and Guarantors (taken as a whole), (iii) transfers of assets by a Guarantor to another Guarantor (including any Subsidiary that becomes a Guarantor by executing and delivering a Guaranty to Administrative Agent at the time at which such assets are transferred to such Subsidiary) and (iv) dispositions of Investments in Joint Ventures to the extent required by, or made pursuant to customary buy/sell arrangements between, the joint venture parties set forth in the organizational documents governing such Joint Venture and similar binding agreements.

(b) The Borrower shall not sell or transfer or cause to be sold or transferred (other than to the Borrower or another Guarantor, including any Subsidiary that becomes a Guarantor by executing and delivery a Guaranty to Administrative Agent at the time at which such assets are transferred to such Subsidiary), in a single transaction or a series of transactions (i) all or substantially all of the assets of any Guarantor or (ii) such securities or other ownership interests in a Guarantor as would result in such Guarantor ceasing to be a Subsidiary of the Borrower (whether by merger, consolidation, sale, assignment or otherwise) unless (A) any such transaction is (and, if it were the sale of all of the assets of such Guarantor, such transaction would be) in compliance with the provisions of Section 6.14(a) and (B) following such transaction and the release of such Guarantor provided for below, the Borrower would be in compliance with its obligations under this Agreement. Upon not less than thirty (30) days' (or such shorter period as Administrative Agent in its sole discretion may accept) prior written request from the Borrower, accompanied by a certificate of the Borrower certifying as to the foregoing, Administrative Agent shall deliver, at the time of the consummation of such transaction, a release of such Guarantor from its obligations under the Guaranty, and such entity shall cease to be a Guarantor hereunder.

(c) For purposes of this Section 6.14, ***"Material Portion"*** means, with respect to the Property of the Borrower and Guarantors (taken as a whole), Property which represents more than 20% of the book value of all assets of the Borrower and Guarantors (taken as a whole). If a Material Portion of the Property of the Borrower and Guarantors (taken as a whole) is leased, sold or disposed of in violation of this Section 6.14, the Borrower shall pay to Administrative Agent for the benefit of Lenders at the time of such lease, sale or disposal, all amounts owed by the Borrower pursuant to Section 2.2, taking into account the effect of such lease, sale or disposal.

Notwithstanding anything else that could be construed to the contrary in this Section 6.14, the provisions of this Section 6.14 do not govern the circumstances under which Liens may be granted, created or otherwise permitted to exist (which shall be governed by Section 6.16) nor shall this Section 6.14 govern the circumstances under which Investments or Restricted Payments may be made (which shall be governed by Section 6.15 and 6.19, respectively).

Section 6.15 Investments and Acquisitions. Neither the Borrower nor any Guarantor will make or suffer to exist any Investments (including without limitation, loans and advances to,

and other Investments in, Subsidiaries), or commitments therefor, or to create any Subsidiary or to become or remain a partner in any partnership or joint venture, or to make any Acquisition of any Person, except:

(i) Investments in Cash Equivalents and/or Marketable Securities.

(ii) Loans or advances made to officers, directors or employees of the Borrower or any Guarantor or any Subsidiary not to exceed $500,000 in the aggregate outstanding at any one time.

(iii) Investments (A) in contract rights granted by, entitlements granted by, interests in securities issued by, or tangible assets of, political subdivisions or enterprises thereof related to the home building or real estate operations of the Borrower or any Guarantor or any Subsidiary, including without limitation Investments in special districts, (B) arising in connection with the incurrence of homeowners association obligations or otherwise in respect of community facility district bonds, metro district bonds, mello-roos bonds and subdivision improvement bonds and similar bonding requirements arising in the ordinary course of business, and (C) constituting guarantee or indemnification obligations (other than for the payment of borrowed money) entered into in the ordinary course of business and incurred for the benefit of any adjoining landowner, seller of real property or municipal government authority (or enterprises thereof) in connection with the acquisition, entitlement and development of real property.

(iv) Investments in existing Subsidiaries (subject, in the case of Non-Guarantor Subsidiaries, to the provisions of Section 6.15(v)) and other Investments in existence on the date hereof.

(v) Investments in (including Acquisitions of) (A) Non-Guarantor Subsidiaries or (B) other Persons, so long as, immediately after giving effect to such Investment, (1) on the date of, and taking into account, the consummation of such Investment or Acquisition, there shall exist no Event of Default under this Agreement and the Borrower is in pro forma compliance with the financial covenants set forth in Section 6.20, and (2) with respect to any such Investment or Acquisition in excess of $10,000,000 (other than with respect to any such Investment constituting a Contingent Obligation, which shall be reported when required pursuant to Section 6.1(c)(ii) above), the Borrower shall deliver to Administrative Agent a certificate, signed by an Authorized Officer, certifying to the best knowledge of the Borrower, that, on the date of, and taking into account, the consummation of such Investment or Acquisition, and based on the reasonable assumptions set forth in such Certificate, no Event of Default has occurred and is continuing, and the Borrower is in pro forma compliance with the financial covenants set forth in Section 6.20.

(vi) Permitted Acquisitions.

(vii) The creation of new Subsidiaries engaged primarily in a Related Business (or the purpose of which is principally to preserve the use of a name in

which such business is conducted), subject to the limitations contained in Section 6.15(v).

(viii) Pledges or deposits in cash by the Borrower or a Guarantor to support, and guaranty and indemnification obligations arising in connection with surety bonds, performance bonds or guarantees of completion in the ordinary course of business.

(ix) Investments in Borrower, any Guarantor and/or any Subsidiary (including any Contingent Obligations to the extent constituting an Investment), subject to the limitations contained in Section 6.15(v).

(x) Investments pursuant to the Borrower's or a Guarantor's employment compensation plans or agreements.

(xi) Payments on account of the purchase, redemption or other acquisition or retirement for value, or any payment in respect of any amendment (in anticipation of or in connection with any such retirement, acquisition or defeasance) in whole or in part, of any shares of Capital Stock or other securities of the Borrower, but only to the extent the same is permitted under the definitive documentation governing any Public Indebtedness of the Borrower.

(xii) Investments received in connection with a disposition otherwise permitted under Section 6.14 hereof.

(xiii) Investments received in connection with any bankruptcy or reorganization proceeding, or as a result of foreclosure, perfection or enforcement of any Lien or any judgment or settlement of any Person in exchange for or satisfaction of Indebtedness or other obligations or other Property received from such Person, or for other liabilities or obligations of such Person owing to the Borrower or any Guarantor.

(xiv) Prepaid expenses, negotiable instruments held for collection and insurance deposits, lease deposits, utility deposits, workers' compensation deposits, performance deposits and other similar deposits, in each case made in the ordinary course of business.

(xv) Investments arising under Rate Management Transactions under which the Borrower or Guarantor are a counterparty.

(xvi) Investments, in addition to those enumerated above in this Section 6.15, in an aggregate amount outstanding at any time not to exceed Five Million Dollars ($5,000,000).

Section 6.16 Liens. Without limitation of the requirements of Section 6.12, neither the Borrower nor any Guarantor will create, incur, or suffer to exist any Lien in, of or on the Property of the Borrower or any Guarantor, except:

(i) Permitted Liens.

(ii) Liens for taxes, assessments or governmental charges or levies which solely encumber property abandoned or in the process of being abandoned and with respect to which there is no recourse to the Borrower or any Guarantor or any Subsidiary.

(iii) Judgments and similar Liens arising in connection with court proceedings; *provided* the execution or enforcement thereof is stayed and the claim is being contested in good faith, with adequate reserves therefor being maintained by the Borrower or such Guarantor in accordance with GAAP.

(iv) Liens securing Indebtedness of the Borrower or any Guarantor.

(v) Liens arising out of pledges or deposits under worker's compensation laws, unemployment insurance, old age pensions, or other social security or retirement benefits, or similar legislation.

(vi) Liens incurred or deposits made to secure the performance of tenders, bids, leases, statutory obligations, surety and appeal bonds, progress payments, government contracts, utility services and other obligations of like nature in each case incurred in the ordinary course of business.

(vii) Leases or subleases granted to others not materially interfering with the ordinary course of business of the Borrower or any Guarantor.

(viii) (A) Any interest in or title of a lessor to property subject to any Capitalized Lease Obligations, and (B) Liens securing purchase money indebtedness.

(ix) Any option, contract or other agreement to sell or purchase an asset or participate in the income or revenue derived therefrom, together with any Liens granted to secure the obligations incurred in respect of any of the foregoing.

(x) Any legal right of, or right granted in good faith to, a lender or lenders to which the Borrower or a Guarantor may be indebted to offset against, or appropriate and apply to the payment of, such Indebtedness any and all balances, credits, deposits, accounts, or monies of the Borrower or a Guarantor with or held by such lender or lenders, including, without limitation, in respect of cash management obligations and similar arrangements in the ordinary course of business.

(xi) Any pledge or deposit of cash or property by the Borrower or any Guarantor in conjunction with obtaining surety and performance bonds and letters of credit required to engage in constructing on-site and off-site improvements or as otherwise required by political subdivisions or other governmental authorities in the ordinary course of business.

(xii) Liens incurred in the ordinary course of business as security for the Borrower's or any Guarantor's obligations with respect to indemnification in favor of title insurance providers.

(xiii) Letters of Credit, bonds or other assets pledged to secure insurance (including deductibles, retentions and other obligations to insurance providers) in the ordinary course of business.

(xiv) Liens on assets securing warehouse lines of credit and repurchase agreements and other credit facilities to finance the operations of the Borrower's mortgage lending Subsidiaries, insurance subsidiaries and/or financial asset management Subsidiaries and Liens related to issuances of CMOs and mortgage-related securities, so long as such assets are owned by such mortgage lending Subsidiaries and financial asset Subsidiaries.

(xv) Liens on real property that (A) is not related to Housing Units and does not constitute Land Under Development, Finished Lots or Entitled Land, and (B) is owned by the Borrower or a Guarantor, which Liens secure Indebtedness of the Borrower or such Guarantor, provided (x) each such Lien attaches only to such real property and (y) the obligation secured by such Lien is limited to such Indebtedness.

(xvi) Any put and call arrangements or restrictions on disposition related to the Capital Stock set forth in the applicable organizational documents of any joint venture or less-than Wholly-Owned Subsidiary or any related joint venture or similar agreement.

(xvii) (A) Pledges or deposits in the ordinary course of business in connection with workers' compensation, unemployment insurance and other social security legislation and (B) pledges and deposits in the ordinary course of business securing liability for reimbursement or indemnification obligations of (including obligations in respect of letters of credit or bank guarantees for the benefit of) insurance carriers providing property, casualty or liability insurance to the Borrower or any Subsidiaries.

(xviii) Liens existing on property at the time of its acquisition or existing on the property of any Person at the time such Person becomes a Subsidiary; provided that (A) such Acquisition is a Permitted Acquisition, and (B) such Lien does not extend to or cover any other assets or property (other than the proceeds or products thereof).

(xix) Liens on insurance policies and the proceeds thereof securing the financing of the premiums with respect thereto.

(xx) Liens securing Non-Recourse Indebtedness.

(xxi) Licenses of intellectual property granted in the ordinary course of business and not interfering in any material respect with the ordinary conduct of business of the Borrower and its Subsidiaries.

(xxii) Liens, encumbrances or other restrictions contained in any joint venture agreement entered into by the Borrower or a Guarantor with respect to the Capital Stock issued by the relevant joint venture or the assets of such joint venture.

(xxiii) Customary Liens in favor of a trustee on cash, Cash Equivalents and Marketable Securities supporting the repayment of Public Indebtedness in any case arising in connection with the defeasance, discharge or redemption of such Indebtedness.

(xxiv) Customary Liens in favor of a trustee on all money or personal property held or collected by the trustee pursuant to any indenture governing Public Indebtedness, to the extent such Liens secure only customary compensation and reimbursement obligations of such trustee.

(xxv) Assignments of insurance or condemnation proceeds provided to landlords (or their mortgagees) pursuant to the terms of any lease and Liens and rights reserved in any lease for rent or for compliance with the terms of such lease.

(xxvi) Liens consisting of pledges or deposits of property to secure performance in connection with operating leases made in the ordinary course of business to which the Borrower or a Guarantor is a party as lessee.

(xxvii) Liens arising by operation of law in favor of issuers of letters of credit in the documents presented under a letter of credit.

(xxviii) Other Liens securing obligations (other than Indebtedness for borrowed money) in an aggregate amount outstanding at any time not to exceed Five Million Dollars ($5,000,000.00).

Notwithstanding the foregoing, except as provided in Section 6.16(iii) above, none of the stock, partnership interests, membership interests or other ownership or equity interest in any Loan Party (including all rights to any dividend or distribution, or other payment to Persons holding an ownership interest in such Loan Party (including, without limitation, any redemptions, share repurchases, returns of capital or payments of any amounts due to any preferred equity holders)) shall be subject to any Lien.

Section 6.17 Affiliates. Neither the Borrower nor any Guarantor will enter into any transaction (including, without limitation, the purchase or sale of any Property or service) with, or make any payment or transfer to, any Affiliate (other than a Subsidiary) except (i) in the ordinary course of business and pursuant to the reasonable requirements of the Borrower's or such Guarantor's business and upon fair and reasonable terms no less favorable to the Borrower or such Guarantor than the Borrower or such Guarantor could reasonably obtain in a comparable

arms-length transaction, (ii) Investments permitted under Section 6.15, (iii) pursuant to employment compensation plans and agreements, (iv) with officers, directors and employees of the Borrower or any Subsidiary so long as the same are duly authorized pursuant to the articles of incorporation or bylaws (or procedures conducted in accordance therewith) of such Guarantor or the Borrower, (v) transactions between or among the Borrower or any Subsidiary or any entity that becomes a Subsidiary as a result of such transaction, (vi) the issuance or transfer of Capital Stock of the Borrower to any Affiliate of the Borrower or any former, current or future officer, director, manager, employee or consultant (or any spouses, former spouses, successors, executors, administrators, heirs, legatees or distributees of any of the foregoing) of the Borrower or any of its Subsidiaries to the extent such issuance or transfer does not result in an Event of Default pursuant to Section 7.1(k) at the time of such issuance or transfer; (vii) Restricted Payments or other actions permitted pursuant to Section 6.19, and (viii) sales or other transfers of real property to a Loan Party from an Affiliate at or below the fair market value of such real property.

Section 6.18 PATRIOT Act Compliance. From time to time, with reasonable promptness, Borrower must, and must cause each Guarantor to, deliver (a) information and documentation reasonably requested by the Administrative Agent or any Lender for purposes of compliance with applicable "know your customer" requirements under the PATRIOT Act or other applicable anti-money laundering laws; and (b) notify the Administrative Agent of any change in its status as exempt from the reporting requirements of the Beneficial Ownership Regulation and, upon request of the Administrative Agent or any Lender, deliver to the Administrative Agent or directly to the applicable Lender a completed Beneficial Ownership Certification in form and substance reasonably satisfactory to Administrative Agent.

Section 6.19 Restricted Payment; Repurchase of Stock; Prepayment, Redemption or Purchase of Senior Notes.

(a) The Borrower will not, directly or indirectly, declare, make or pay, or incur any liability to make or pay, or cause or permit to be declared, made or paid, any Restricted Payment, or purchase, or incur any obligation to purchase, any capital stock of the Borrower if, prior to or after giving effect to the declaration and payment of any Restricted Payment or purchase of such stock, (i) there shall exist any Event of Default under this Agreement, or (ii) there shall exist any violation of the Consolidated Tangible Net Worth Test or the Leverage Test.

(b) Without limitation of Section 6.19(a) above, Borrower may, directly or indirectly, declare, make or pay, or incur any liability to make or pay, or cause or permit to be declared, made or paid, Restricted Payments, or purchase, or incur any obligation to purchase, any capital stock of the Borrower (1) during any calendar quarter if, prior to or after giving effect to the declaration and payment of any Restricted Payment or purchase of such stock or the incurrence of any such obligation to pay or purchase, the Net Leverage Ratio (calculated as of the last day of the most recently completed fiscal quarter, as adjusted to give effect to such declaration and payment of any Restricted Payment or purchase of such stock or the incurrence of any such obligation to pay or purchase) is greater than fifty percent (50%) but less than or equal to fifty-five percent (55%), in an amount not to exceed the lesser of (A) Two Million Five Hundred Thousand Dollars ($2,500,000), and (B) an amount equal to Five Million Dollars ($5,000,000), less

the aggregate amount of all Restricted Payments and stock purchases made (or liability incurred therefor) after the Effective Date (provided that, if the amount so calculated under this clause (B) is less than zero, such amount shall be deemed to be zero for the purposes hereof), and (2) during any calendar quarter if, prior to or after giving effect to the declaration and payment of any Restricted Payment or purchase of such stock or the incurrence of any such obligation to pay or purchase, the Net Leverage Ratio (calculated as of the last day of the most recently completed fiscal quarter, as adjusted to give effect to such declaration and payment of any Restricted Payment or purchase of such stock or the incurrence of any such obligation to pay or purchase) is less than or equal to fifty percent (50%), in an amount not to exceed the lesser of (A) Five Million Dollars ($5,000,000), and (B) an amount equal to Ten Million Dollars ($10,000,000), less the aggregate amount of all Restricted Payments and stock purchases made (or liability incurred therefor) after the Effective Date (provided that, if the amount calculated under this clause (B) is less than zero, such amount shall be deemed to be zero for the purposes hereof). For the avoidance of doubt, Borrower may not, at any time, directly or indirectly, declare, make or pay, or incur any liability to make or pay, or cause or permit to be declared, made or paid, any Restricted Payments, or purchase, or incur any obligation to purchase, any capital stock of the Borrower if, prior to or after giving effect to the declaration and payment of any such Restricted Payment or purchase of such stock or the incurrence of any such obligation to pay or purchase, the Net Leverage Ratio (calculated as of the last day of the most recently completed fiscal quarter, as adjusted to give effect to such declaration and payment of any Restricted Payment or purchase of such stock or the incurrence of any such obligation to pay or purchase) is greater than fifty-five percent (55%). As used in this Section 6.19(b) only, "Restricted Payments" excludes (aa) dividends or distributions by Borrower funded solely by the issuance of capital stock in Borrower, (bb) dividends or distributions by any Subsidiary to its equity owner(s) on a pro rata basis in accordance with such equity ownership, and (cc) purchases and/or redemptions of capital stock in Borrower or any Subsidiary in connection with the payment of Taxes by any employee of Borrower or any Subsidiary with respect to the exercise by such employee of any vested restricted stock unit, performance share unit or similar equity awards under any employee incentive plan in Borrower or any Subsidiary.

(c) The Borrower will not, directly or indirectly, purchase, redeem or retire any Senior Notes, except as otherwise required under any Senior Notes, or prepay any outstanding principal not then due, or not otherwise required to be made or incurred, under any Senior Notes, or incur any obligation to purchase, redeem or retire prior to maturity, except as otherwise required under any Senior Notes, or to prepay any outstanding principal not then due, or not otherwise required to be made or incurred, under any Senior Notes, if, prior to or after giving effect to such purchase, redemption, retirement or prepayment, (i) there shall exist any Event of Default under this Agreement, (ii) there shall exist any violation of the Consolidated Tangible Net Worth Test or the Leverage Test, or (iii) the Net Leverage Ratio (calculated as of the last day of the most recently completed fiscal quarter, as adjusted to give effect to such purchase, redemption, retirement or prepayment) exceeds fifty-five percent (55%). Without limitation of the foregoing, Borrower may, directly or indirectly, purchase, redeem or retire any Senior Notes prior to maturity, except as otherwise required under any Senior Notes, or prepay

any outstanding principal amounts not then due, or not otherwise required to be made or incurred, under, any Senior Notes, or incur an obligation to purchase, redeem, retire prior to maturity, except as otherwise required under any Senior Notes, or to prepay outstanding principal not then due, or not otherwise required to be made or incurred, under, any Senior Notes, if, prior to or after giving effect to such purchase, redemption, retirement or prepayment, the Net Leverage Ratio (calculated as of the last day of the most recently completed fiscal quarter, as adjusted to give effect to such purchase, redemption, retirement or prepayment) is less than or equal to fifty-five percent (55%); provided, however, that the aggregate amount of all such purchases, retirements, redemptions and prepayments during any fiscal quarter shall not exceed the maximum amount set forth below based on the Net Leverage Ratio (calculated as of the last day of the most recently completed fiscal quarter, as adjusted to give effect to such purchase, redemption, retirement or prepayment):

Net Leverage Ratio	Maximum Amount Per Quarter
≤ 55%, but > 50%	$5,000,000
≤ 50%, but > 45%	$10,000,000
≤ 45%	Unlimited

Notwithstanding anything in this Section 6.19(c) to the contrary, the Borrower may refinance any Senior Notes so long as none of the refinanced principal shall have a scheduled due date prior to the current maturity of the Senior Notes.

Section 6.20 Financial Covenants and Tests.

(a) Consolidated Tangible Net Worth Test. The Borrower will not permit Consolidated Tangible Net Worth (monitored and tested quarterly as of the last day of each fiscal quarter) to be less than (i) $150,000,000 plus (ii) 50% of the cumulative Consolidated Net Income for each fiscal quarter commencing on or after March 31, 2020 (excluding any quarter in which there is a loss but applying Consolidated Net Income thereafter first to such loss before determining 50% of such amount for purposes of this calculation) plus (iii) 50% of the aggregate proceeds received by the Borrower (net of reasonable fees and expenses) in connection with any offering of stock or equity in each fiscal quarter after commencing on or after March 31, 2020 (the ***"Consolidated Tangible Net Worth Test"***).

(b) Leverage Test. Borrower shall not permit the Leverage Ratio (monitored and tested quarterly as of the last day of each fiscal quarter) to exceed sixty percent (60%) (the ***"Leverage Test"***).

(c) Reserved.

(d) Minimum Liquidity Amount. Borrower shall not, on any date of determination, permit Borrower's Unrestricted Cash (monitored and tested quarterly as of the last day of each fiscal quarter) to be less than Ten Million Dollars ($10,000,000) (such greater amount being referred to herein as the ***"Minimum Liquidity Amount"***).

(e) Interest Coverage Test. Borrower shall not, on any date of determination, permit the Interest Coverage Ratio (monitored and tested quarterly as of the last day of each fiscal quarter) to be less than 1.75 to 1.0 (the ***"Interest Coverage Test"***); however, if the Interest Coverage Test was not satisfied on the last day of any fiscal quarter, Borrower shall not be in Default hereunder so long as Borrower shall maintain at any date of determination during the period the Interest Coverage Test remains unsatisfied Unrestricted Cash of Borrower in an amount equal to not less than an amount equal to the trailing twelve month Consolidated Interest Incurred.

(f) Spec Unit Inventory Test. The Borrower shall not at any time permit the aggregate number of Spec Units (monitored and tested quarterly as of the last day of each fiscal quarter) owned by the Borrower or any Guarantor to exceed the greater of (i) 50% of the number of Housing Unit Closings during the preceding twelve (12) months or (ii) 100% of the number of Housing Unit Closings during the preceding six (6) months (the ***"Spec Unit Inventory Test"***). A failure to comply with the Spec Unit Inventory Test shall not be an Event of Default or a Default, but any excess Spec Units shall be excluded from the Borrowing Base, as of the last day of the quarter in which such non-compliance occurs.

Section 6.21 Guaranty.

(a) Guaranty by Significant Designated Subsidiaries. As promptly as possible but in any event within thirty (30) days (or such later date as may be agreed by the Administrative Agent in its sole discretion) after a Significant Designated Subsidiary is organized or acquired, or any Person becomes a Significant Designated Subsidiary pursuant to the definition thereof, the Borrower shall provide the Administrative Agent with written notice thereof setting forth information in reasonable detail describing the material assets of such Significant Designated Subsidiary and shall cause each such Subsidiary to deliver to the Administrative Agent a joinder to the Guaranty (in the form contemplated thereby) pursuant to which such Significant Designated Subsidiary agrees to be bound by the terms and provisions thereof, each such Guaranty joinder to be accompanied by an updated Schedule 5.8 hereto designating such Significant Designated Subsidiary as such, appropriate corporate or limited liability company resolutions, other corporate or limited liability company documentation and (if so requested by Administrative Agent) legal opinions, in each case in form and substance reasonably satisfactory to the Administrative Agent and its counsel, and such other documentation as the Administrative Agent may reasonably request.

(b) Release of Guarantor. The Administrative Agent is authorized to and shall release and discharge from the Guaranty any Guarantor requested in writing by the Borrower, provided that:

(i) no Default or Event of Default exists or would result from release of such Guarantor;

(ii) the Guarantor being released has a Net Worth of less than $1,000,000; and

(iii) no Property owned by such Guarantor remains in, or is counted in the calculation of, the Borrowing Base;

provided further that, in each such case, the Borrower has delivered to the Administrative Agent a certificate of an Authorized Officer stating that all conditions precedent provided for in this Section have been complied with and that such release is authorized and permitted under the Agreement.

Section 6.22 Negative Pledge. Neither the Borrower nor any Guarantor will directly or indirectly enter into any agreement (other than this Agreement) with any Person that prohibits or restricts or limits the ability of the Borrower or Guarantors to create, incur, pledge or suffer to exist any Lien in favor of Lenders granted pursuant to the terms of this Agreement upon any real property assets of the Borrower or any Guarantor; provided, however, that those agreements creating Liens permitted under Sections 6.16(iii), (iv), (vii), (viii), (ix), (xv), (xviii) and (xx) may prohibit, restrict or limit other Liens on those assets encumbered by the Liens created by such agreements, and provided further that the foregoing shall not (a) apply to restrictions and conditions imposed by the Loan Documents, (b) prohibit the requirement of granting pari passu (equal and ratable) Liens in favor of any holder of any public Indebtedness if the Obligations hereunder are required to be secured, (c) apply to restrictions and conditions contained in agreements relating to any disposition permitted hereby pending such disposition, provided such restrictions and conditions apply only to the assets subject to such disposition, (d) apply to restrictions and conditions contained in leases or other agreements that are customary and restrict the assignment (or subletting) thereof and relate only to the assets subject thereto.

Section 6.23 Operating Accounts. Borrower shall at all times maintain a major depository relationship with U.S. Bank National Association, a national banking association.

ARTICLE VII

DEFAULTS

Section 7.1 Events of Default. The occurrence of any one or more of the following events shall constitute an Event of Default (each, an ***"Event of Default"***):

(a) Any representation or warranty made or deemed made by or on behalf of the Borrower or any of its Guarantors to the Lenders or the Administrative Agent under or in connection with this Agreement, any Credit Extension, or any certificate or information delivered in connection with this Agreement or any other Loan Document shall be materially false on the date made or confirmed and, with respect to any matter which is reasonably capable of being cured, Borrower or such Guarantor, as applicable, shall have failed to cure the occurrence causing the representation or warranty to be

materially false within thirty (30) days after notice thereof by Administrative Agent to Borrower.

(b) Nonpayment of (i) principal of any Loan when due, or (ii) any Reimbursement Obligation, interest upon any Loan, any Commitment Fee or LC Fee within five (5) days of written notice (which may include the invoice therefor) from Administrative Agent or the applicable LC Issuer or Lender, or (iii) any other obligation under any of the Loan Documents within five (5) days after written notice (which may include the invoice therefor) from Administrative Agent that the same is due.

(c) The breach of any of the covenants set forth in Section 6.20 (other than as provided in Section 6.20(f)), Section 6.2 or Section 6.7(c).

(d) The breach by the Borrower (other than a breach which constitutes an Event of Default under another Section of this ARTICLE VII) of any of the terms or provisions of this Agreement which is not remedied within thirty (30) days after the earlier of (i) any Senior Officer becoming aware of any such breach and (ii) the Administrative Agent notifying the Borrower of any such breach.

(e) Failure of the Borrower or any Guarantor to pay when due any payment of principal or interest or any other material amount in respect of any Material Indebtedness within fifteen (15) days (or such greater applicable grace period as is provided in the applicable Material Indebtedness Agreement) of the date when due; or the default by the Borrower or any Guarantor in the performance (beyond the greater of thirty (30) days or the applicable grace period with respect thereto, if any, provided in such Material Indebtedness) of any material term, provision or condition contained in the applicable Material Indebtedness Agreement if the effect of which default is to permit the holder(s) of such Material Indebtedness or the lender(s) under the applicable Material Indebtedness Agreement to cause ten percent (10%) or more of such Material Indebtedness to become due prior to its stated maturity or any commitment to lend under any such applicable Material Indebtedness Agreement to be terminated prior to its stated expiration date; or ten percent (10%) or more of the Material Indebtedness of the Borrower or any Guarantor shall be declared to be due and payable or required to be prepaid or repurchased (other than by a regularly scheduled payment) prior to the stated maturity thereof; or the Borrower or any Guarantor shall not pay, or shall admit in writing its inability to pay, its debts generally as they become due.

(f) The Borrower or any Guarantor shall (i) have an order for relief entered with respect to it under the Federal bankruptcy laws as now or hereafter in effect, (ii) make an assignment for the benefit of creditors, (iii) apply for, seek, consent to, or acquiesce in, the appointment of a receiver, custodian, trustee, examiner, liquidator or similar official for it or any Substantial Portion of its Property, (iv) institute any proceeding seeking an order for relief under the Federal bankruptcy laws as now or hereafter in effect or seeking to adjudicate it a bankrupt or insolvent, or seeking dissolution, winding up, liquidation, reorganization, arrangement, adjustment or composition of it or its debts under any law relating to bankruptcy, insolvency or reorganization or relief of debtors or fail to file an answer or other pleading denying the material allegations of any such proceeding filed against it, (v) take any corporate,

limited liability company or partnership action to authorize or effect any of the foregoing actions set forth in this Section 7.1(f) or (vi) fail to contest in good faith any appointment or proceeding described in Section 7.1(g).

(g) Without the application, approval or consent of the Borrower or any Guarantor, a receiver, trustee, examiner, liquidator or similar official shall be appointed for the Borrower or any Guarantor or any Substantial Portion of their Property, or a proceeding described in Section 7.1(f)(iv) shall be instituted against the Borrower or any Guarantor and such appointment continues undischarged or such proceeding continues undismissed or unstayed for a period of sixty (60) consecutive days.

(h) Any court, government or governmental agency shall condemn, seize or otherwise appropriate, or take custody or control of, all or any portion of the Property of the Borrower and the Guarantors which, when taken together with all other Property of the Borrower and the Guarantors so condemned, seized, appropriated, or taken custody or control of, during the twelve-month period ending with the month in which any such action occurs, constitutes a Substantial Portion.

(i) The Borrower or any Guarantor shall fail within thirty (30) days to pay, obtain a stay with respect to, or otherwise discharge one or more (i) judgments or orders for the payment of money in excess of $2,000,000 (or the equivalent thereof in currencies other than Dollars) in the aggregate (net of amounts fully covered by insurance as to which the applicable insurance provider has acknowledged such coverage in writing), or (ii) nonmonetary judgments or orders which, individually or in the aggregate, would reasonably be expected to have a Material Adverse Effect, which judgment(s), in any such case, is/are not stayed on appeal or otherwise being appropriately contested in good faith, or any action shall be legally taken by a judgment creditor to attach or levy upon any assets of the Borrower or any Guarantor to enforce any such judgment.

(j) (i) With respect to a Plan, the Borrower or an ERISA Affiliate is subject to a lien in excess of $2,000,000 pursuant to Section 430(k) of the Code or Section 302(c) of ERISA or Title IV of ERISA, or (ii) an ERISA Event shall have occurred that, in the opinion of the Required Lenders, when taken together with all other ERISA Events that have occurred, would reasonably be expected to result in a Material Adverse Effect.

(k) Any Change in Control shall occur.

(l) The occurrence of any "default," as defined in any Loan Document (other than this Agreement) or the breach of any of the terms or provisions of any Loan Document (other than this Agreement), which default or breach continues beyond any period of grace therein provided.

(m) Any Loan Document shall fail to remain in full force or effect or any action shall be taken by any Guarantor to discontinue or to assert the invalidity or unenforceability of any Guaranty, or any Guarantor shall deny that it has any further liability under any Guaranty to which it is a party, or shall give notice to such effect.

(n) Failure of the Borrower or any Guarantor to pay when due any payment of principal or interest or any other material amount in respect of any Material Non-Recourse Indebtedness within fifteen (15) days (or such greater applicable grace period as is provided in the applicable Material Non-Recourse Indebtedness Agreement) of the date when due; or the default by the Borrower or any Guarantor in the performance (beyond the greater of thirty (30) days or the applicable grace period with respect thereto, if any, provided in such Material Non-Recourse Indebtedness) of any material term, provision or condition contained in the applicable Material Non-Recourse Indebtedness Agreement if the effect of which default is to permit the holder(s) of such Material Non-Recourse Indebtedness or the lender(s) under the applicable Material Non-Recourse Indebtedness Agreement to cause ten percent (10%) or more of such Material Non-Recourse Indebtedness to become due prior to its stated maturity or any commitment to lend under any such applicable Material Non-Recourse Indebtedness Agreement to be terminated prior to its stated expiration date; or ten percent (10%) or more of the Material Non-Recourse Indebtedness of the Borrower or any Guarantor shall be declared to be due and payable or required to be prepaid or repurchased (other than by a regularly scheduled payment) prior to the stated maturity thereof; or the Borrower or any Guarantor shall not pay, or shall admit in writing its inability to pay, its debts generally as they become due.

Section 7.2 No Defaults. The breach of the Spec Unit Inventory Test shall specifically not be an Event of Default or a Default under this Agreement (except that the same shall result in the exclusion of certain assets from the Borrowing Base to the extent provided for in Section 6.20(f)).

ARTICLE VIII

ACCELERATION, WAIVERS, AMENDMENTS AND REMEDIES

Section 8.1 Acceleration; Remedies. If any Event of Default described in Section 7.1(f) or Section 7.1(g) occurs with respect to the Borrower, the obligations of the Lenders to make Loans hereunder and the obligation and power of the LC Issuers to issue Facility LCs shall automatically terminate and the Obligations under this Agreement and the other Loan Documents shall immediately become due and payable without any election or action on the part of the Administrative Agent, any LC Issuer or any Lender and the Borrower will be and become thereby unconditionally obligated, without any further notice, act or demand, to pay to the Administrative Agent an amount in immediately available funds, which funds shall be held in the Facility LC Collateral Account, equal to the difference of (y) the amount of LC Obligations at such time, less (z) the amount on deposit in the Facility LC Collateral Account at such time which is free and clear of all rights and claims of third parties and has not been applied against the Obligations under this Agreement and the other Loan Documents (such difference, the ***"Collateral Shortfall Amount"***). If any other Event of Default occurs, the Administrative Agent may, and at the request of the Required Lenders shall, (a) terminate or suspend the obligations of the Lenders to make Loans hereunder and the obligation and power of the LC Issuers to issue Facility LCs, or declare the Obligations under this Agreement and the other Loan Documents to be due and payable, or both, whereupon the Obligations under this Agreement and the other Loan Documents shall become immediately due and payable, without presentment, demand, protest or notice of any kind, all of which the Borrower hereby expressly waives, and (b) upon notice to the Borrower and in addition to the continuing right to demand payment of all amounts

payable under this Agreement, make demand on the Borrower to pay, and the Borrower will, forthwith upon such demand and without any further notice or act, pay to the Administrative Agent the Collateral Shortfall Amount, which funds shall be deposited in the Facility LC Collateral Account.

(a) If at any time while any Event of Default is continuing, the Administrative Agent determines that the Collateral Shortfall Amount at such time is greater than zero, the Administrative Agent may make demand on the Borrower to pay, and the Borrower will, forthwith upon such demand and without any further notice or act, pay to the Administrative Agent the Collateral Shortfall Amount, which funds shall be deposited in the Facility LC Collateral Account.

(b) The Administrative Agent may at any time or from time to time after funds are deposited in the Facility LC Collateral Account, apply such funds to the payment of the Obligations under this Agreement and the other Loan Documents and any other amounts as shall from time to time have become due and payable by the Borrower to the Lenders or the LC Issuers under the Loan Documents, as provided in Section 8.2.

(c) At any time while any Event of Default is continuing, neither the Borrower nor any Person claiming on behalf of or through the Borrower shall have any right to withdraw any of the funds held in the Facility LC Collateral Account. After all of the Obligations under this Agreement and the other Loan Documents have been paid in full (other than contingent indemnification obligations for which no claim has been made), the Aggregate Commitment has been terminated, and all issued Facility LCs have expired or been returned, undrawn, to the applicable LC Issuer, any funds remaining in the Facility LC Collateral Account shall be returned by the Administrative Agent to the Borrower or paid to whomever may be legally entitled thereto at such time.

(d) If, within thirty (30) days after acceleration of the maturity of the Obligations under this Agreement and the other Loan Documents or termination of the obligations of the Lenders to make Loans and the obligation and power of the LC Issuers to issue Facility LCs hereunder as a result of any Event of Default (other than any Event of Default as described in Section 7.1(f) or Section 7.1(g) with respect to the Borrower) and before any judgment or decree for the payment of the Obligations due under this Agreement and the other Loan Documents shall have been obtained or entered, the Required Lenders (in their sole discretion) shall so direct, the Administrative Agent shall, by notice to the Borrower, rescind and annul such acceleration and/or termination.

(e) Upon the occurrence and during the continuation of any Event of Default, the Administrative Agent may, and at the request of the Required Lenders shall, exercise all rights and remedies under the Loan Documents and enforce all other rights and remedies under applicable law.

Section 8.2 Application of Funds. After the exercise of remedies provided for in Section 8.1 (or after the Obligations under this Agreement and the other Loan Documents have automatically become immediately due and payable as set forth in the first sentence of Section 8.1(a)), any amounts received by the Administrative Agent on account of the Obligations shall be applied by the Administrative Agent in the following order:

(a) First, to payment of fees, indemnities, expenses and other amounts (including fees, charges and disbursements of counsel to the Administrative Agent and amounts payable under ARTICLE III) payable to the Administrative Agent in its capacity as such;

(b) Second, to payment of fees, indemnities and other amounts (other than principal, interest, LC Fees and Commitment Fees) payable to the Lenders and the LC Issuers (including fees, charges and disbursements of counsel to the respective Lenders and the LC Issuers as required by Section 9.6 and amounts payable under ARTICLE III);

(c) Third, to payment of accrued and unpaid LC Fees, Commitment Fees and interest on the Loans and Reimbursement Obligations, ratably among the Lenders and the LC Issuers in proportion to the respective amounts described in this Section 8.2(c) payable to them;

(d) Fourth, to payment of all Obligations ratably among the Lenders;

(e) Fifth, to the Administrative Agent for deposit to the Facility LC Collateral Account in an amount equal to the Collateral Shortfall Amount (as defined in Section 8.1(a)), if any; and

(f) Last, the balance, if any, to the Borrower or as otherwise required by law.

Section 8.3 Amendments. Subject to the provisions of this Section 8.3 and subject to Section 3.3(b), the Required Lenders (or the Administrative Agent with the consent in writing of the Required Lenders) and the Borrower may enter into agreements supplemental hereto for the purpose of adding or modifying any provisions to this Agreement or the Guaranty or changing in any manner the rights of the Lenders or the Borrower hereunder or thereunder or waiving any Default or Event of Default hereunder; *provided*, *however*, that no such supplemental agreement shall:

(a) without the consent of each Lender directly affected thereby, extend the final maturity of any Loan, or extend the expiry date of any Facility LC to a date after the Facility Termination Date or postpone any regularly scheduled payment of principal of any Loan or forgive all or any portion of the principal amount thereof or any Reimbursement Obligation related thereto, or reduce the rate or extend the time of payment of interest or fees thereon or Reimbursement Obligations related thereto or increase the amount of the Commitment of such Lender hereunder.

(b) without the consent of all of the Lenders, reduce the percentage specified in the definition of Required Lenders.

(c) without the consent of all of the Lenders, amend this Section 8.3.

(d) without the consent of all of the Lenders, release all or substantially all of the Guarantors of the Obligations (except as provided in Section 6.21(b)).

No amendment of any provision of this Agreement relating to the Administrative Agent shall be effective without the written consent of the Administrative Agent, and no

amendment of any provision relating to the LC Issuers shall be effective without the written consent of the LC Issuers. The Administrative Agent may waive payment of the fee required under Section 12.3(c) without obtaining the consent of any other party to this Agreement. Notwithstanding anything to the contrary herein, the Administrative Agent may, with the consent of the Borrower only, amend, modify or supplement this Agreement or any of the other Loan Documents to cure any ambiguity, omission, mistake, defect or inconsistency of a technical or immaterial nature, as determined in good faith by the Administrative Agent.

Section 8.4 Preservation of Rights. No delay or omission of the Lenders, the LC Issuers or the Administrative Agent to exercise any right under the Loan Documents shall impair such right or be construed to be a waiver of any Event of Default or an acquiescence therein, and the making of a Credit Extension notwithstanding the existence of an Event of Default or the inability of the Borrower to satisfy the conditions precedent to such Credit Extension shall not constitute any waiver or acquiescence. Any single or partial exercise of any such right shall not preclude other or further exercise thereof or the exercise of any other right, and no waiver, amendment or other variation of the terms, conditions or provisions of the Loan Documents whatsoever shall be valid unless in writing signed by the Lenders required pursuant to Section 8.3, and then only to the extent in such writing specifically set forth. All remedies contained in the Loan Documents or by law afforded shall be cumulative and all shall be available to the Administrative Agent, the LC Issuers and the Lenders until the Obligations have been paid in full.

ARTICLE IX

GENERAL PROVISIONS

Section 9.1 Survival of Representations. All representations and warranties of the Borrower contained in this Agreement shall survive the making of the Credit Extensions herein contemplated.

Section 9.2 Governmental Regulation. Anything contained in this Agreement to the contrary notwithstanding, neither any LC Issuer nor any Lender shall be obligated to extend credit to the Borrower in violation of any limitation or prohibition provided by any applicable statute or regulation.

Section 9.3 Headings. Section headings in the Loan Documents are for convenience of reference only, and shall not govern the interpretation of any of the provisions of the Loan Documents.

Section 9.4 Entire Agreement. The Loan Documents embody the entire agreement and understanding among the Borrower, the Administrative Agent, any LC Issuer and the Lenders and supersede all prior agreements and understandings among the Borrower, the Administrative Agent, the LC Issuer and the Lenders relating to the subject matter thereof other than those contained in the Fee Letters which shall survive and remain in full force and effect during the term of this Agreement.

Section 9.5 Several Obligations; Benefits of this Agreement. The respective obligations of the Lenders hereunder are several and not joint and no Lender shall be the partner

or agent of any other (except to the extent to which the Administrative Agent is authorized to act as such). The failure of any Lender to perform any of its obligations hereunder shall not relieve any other Lender from any of its obligations hereunder. This Agreement shall not be construed so as to confer any right or benefit upon any Person other than the parties to this Agreement and their respective successors and assigns, *provided*, *however*, that the parties hereto expressly agree that the Arranger shall enjoy the benefits of the provisions of Sections 9.6, 9.10 and 10.11 to the extent specifically set forth therein and shall have the right to enforce such provisions on its own behalf and in its own name to the same extent as if it were a party to this Agreement.

Section 9.6 Expenses; Indemnification.

(a) The Borrower shall reimburse the Administrative Agent for all reasonable and documented out-of-pocket expenses paid or incurred by the Administrative Agent, including, without limitation, filing and recording costs and fees, costs of any environmental review, and consultants' fees, travel expenses, cusip costs and reasonable fees, charges and disbursements of outside counsel to the Administrative Agent and/or the allocated costs of in-house counsel incurred from time to time, in connection with the due diligence, preparation, administration, negotiation, execution, delivery, syndication, distribution (including, without limitation, via DebtX and any other internet service selected by the Administrative Agent), review, amendment, modification, and administration of the Loan Documents. The Borrower also agrees to reimburse the Administrative Agent, the LC Issuers and the Lenders for any costs, internal charges and out-of-pocket expenses, including, without limitation, filing and recording costs and fees, costs of any environmental review, and consultants' fees, travel expenses and reasonable fees, charges and disbursements of outside counsel to the Administrative Agent, the LC Issuers and the Lenders and/or the allocated costs of in-house counsel incurred from time to time, paid or incurred by the Administrative Agent, any LC Issuer or any Lender in connection with the collection and enforcement of the Loan Documents. Expenses being reimbursed by the Borrower under this Section include, without limitation, costs and expenses incurred in connection with the Reports described in the following sentence. The Borrower acknowledges that from time to time Administrative Agent may prepare and may distribute to the Lenders (but shall have no obligation or duty to prepare or to distribute to the Lenders) certain audit reports (the ***"Reports"***) pertaining to the Borrower's assets for internal use by Administrative Agent from information furnished to it by or on behalf of the Borrower, after Administrative Agent has exercised its rights of inspection pursuant to this Agreement.

(b) The Borrower hereby further agrees to indemnify and hold harmless the Administrative Agent, the Arranger, each LC Issuer, each Lender, their respective affiliates, and each of their directors, officers and employees, agents and advisors (each an ***"Indemnitee"***) against all losses, claims, damages, penalties, judgments, liabilities and expenses (including, without limitation, reasonable attorneys' fees, charges and disbursements and settlement costs (including, without limitation, all expenses of litigation or preparation therefor) whether or not the Administrative Agent, the Arranger, any LC Issuer, any Lender or any affiliate is a party thereto) which any of them may pay or incur arising out of or relating to this Agreement, the other Loan Documents, the transactions contemplated hereby, any actual or alleged presence or release of Hazardous Materials on or from any Property owned or operated by the Borrower or any of its

Subsidiaries, any environmental liability related in any way to the Borrower or any of its Subsidiaries, or any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by a third party or by the Borrower or any of its Subsidiaries, or the direct or indirect application or proposed application of the proceeds of any Credit Extension hereunder, *provided* that such indemnity shall not, as to any Indemnitee, apply to losses, claims, damages, liabilities or related expenses to the extent such losses, claims, damages, liabilities or related expenses (i) that result from the willful misconduct, bad faith or gross negligence of such Indemnitee or any of its controlled affiliates or controlling persons or any of the officers, directors, employees, partners, successors, agents, advisors or representatives of any of the foregoing (in each case, (A) as determined by a court of competent jurisdiction in a final and non-appealable judgment and (B) with respect to any controlled affiliate, partner, agent, advisor or representative, only if such person acted pursuant to the expressed direction of such Indemnitee), or (ii) have arisen out of any dispute that does not involve an act or omission of any Borrower or Guarantor and that is brought by an Indemnitee against another Indemnitee (excluding any such claims against the relevant Indemnitee in its capacity or in fulfilling its role as Administrative Agent, bookrunner or lead arranger, as applicable, or any similar role relating to the Loans). The obligations of the Borrower under this Section 9.6 shall survive the termination of this Agreement.

Section 9.7 Numbers of Documents. All statements, notices, closing documents, and requests hereunder shall be furnished to the Administrative Agent with sufficient counterparts so that the Administrative Agent may furnish one to each of the Lenders.

Section 9.8 Accounting. Except as provided to the contrary herein, all accounting terms used herein shall be interpreted and all accounting determinations hereunder shall be made in accordance with GAAP applied on a basis consistent with the consolidated audited financial statements of Borrower as of December 31, 2018 (***"Agreement Accounting Principles"***). If any change in GAAP from the principles used in preparing such statements would have a material effect upon the results of any calculation required by or compliance with any provision of this Agreement, and the Borrower, the Administrative Agent or the Required Lenders shall so request, the Administrative Agent, the Lenders and the Borrower shall negotiate in good faith to amend such ratio or requirement to preserve the original intent thereof in light of such change in GAAP (subject to the approval of the Required Lenders), provided that, until so amended, such calculation shall continue to be made or calculated and compliance with such provision shall be determined using accounting principles used in preparing the consolidated audited financial statements of the Borrower as of December 31, 2018.

Section 9.9 Severability of Provisions. Any provision in any Loan Document that is held to be inoperative, unenforceable, or invalid in any jurisdiction shall, as to that jurisdiction, be inoperative, unenforceable, or invalid without affecting the remaining provisions in that jurisdiction or the operation, enforceability, or validity of that provision in any other jurisdiction, and to this end the provisions of all Loan Documents are declared to be severable.

Section 9.10 Nonliability of Lenders. The relationship between the Borrower on the one hand and the Lenders, the LC Issuer and the Administrative Agent on the other hand shall be solely that of the borrower and lender. Neither the Administrative Agent, the Arranger, any LC Issuer nor any Lender shall have any fiduciary responsibilities to the Borrower. Neither the Administrative Agent, the Arranger, any LC

Issuer nor any Lender undertakes any responsibility to the Borrower to review or inform the Borrower of any matter in connection with any phase of the Borrower's business or operations. The Borrower agrees that neither the Administrative Agent, the Arranger, any LC Issuer nor any Lender shall have liability to the Borrower (whether sounding in tort, contract or otherwise) for losses suffered by the Borrower in connection with, arising out of, or in any way related to, the transactions contemplated and the relationship established by the Loan Documents, or any act, omission or event occurring in connection therewith, unless it is determined in a final non-appealable judgment by a court of competent jurisdiction that such losses resulted from the gross negligence or willful misconduct of the party from which recovery is sought. Neither the Administrative Agent, the Arranger, any LC Issuer nor any Lender shall have any liability with respect to, and the Borrower hereby waives, releases and agrees not to sue for, any special, indirect, consequential or punitive damages suffered by the Borrower in connection with, arising out of, or in any way related to the Loan Documents or the transactions contemplated thereby. It is agreed that the Arranger shall, in its capacity as such, have no duties or responsibilities under the Agreement or any other Loan Document. Each Lender acknowledges that it has not relied and will not rely on the Arranger in deciding to enter into the Agreement or any other Loan Document or in taking or not taking any action.

Section 9.11 Confidentiality. The Administrative Agent and each Lender agrees to hold any confidential information which it may receive from the Borrower in connection with this Agreement in confidence, except for disclosure (i) to its Affiliates and to the Administrative Agent and any other Lender and their respective Affiliates (it being understood that the Persons to whom disclosure is made will be informed of the confidential nature of such information and instructed to keep such information confidential (***"Confidentiality Direction"***)), (ii) to legal counsel, accountants, and other professional advisors to the Administrative Agent or such Lender, who will receive the Confidentiality Direction, (iii) as provided in Section 12.3(e), (iv) to regulatory officials, (v) to any Person as requested pursuant to or as required by law, regulation, or legal process, (vi) to any Person in connection with any legal proceeding to which it is a party, (vii) to its direct or indirect contractual counterparties in swap agreements or to legal counsel, accountants and other professional advisors to such counterparties, who will receive the Confidentiality Direction, (viii) to Rating Agencies if requested or required by such Rating Agencies in connection with a rating relating to the Advances hereunder (it being understood that, prior to any such disclosure, such Rating Agency shall undertake to preserve the confidentiality of the information), (ix) in connection with the exercise of any remedies hereunder or any suit, action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder, to the extent reasonably necessary, (x) to any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights or obligations under this Agreement, who will receive the Confidentiality Direction, and (xi) to the extent such information (1) becomes publicly available other than as a result of a breach of this Section or (2) becomes available to the Administrative Agent, any LC Issuer or any other Lender on a non-confidential basis from a source other than the Borrower. Without limiting Section 9.4, the Borrower agrees that the terms of this Section 9.11 shall set forth the entire agreement between the Borrower and the Administrative Agent and each Lender with respect to any confidential information previously or hereafter received by the Administrative Agent or such Lender in connection with this Agreement, and this Section 9.11

shall supersede any and all prior confidentiality agreements entered into by the Administrative Agent or any Lender with respect to such confidential information.

Section 9.12 Nonreliance. Each Lender hereby represents that it is not relying on or looking to any margin stock (as defined in Regulation U) for the repayment of the Credit Extensions provided for herein.

Section 9.13 Disclosure. The Borrower and each Lender hereby acknowledge and agree that U.S. Bank and/or its Affiliates from time to time may hold investments in, make other loans to or have other relationships with the Borrower and its Affiliates.

Section 9.14 USA PATRIOT ACT NOTIFICATION. The following notification is provided to the Borrower pursuant to Section 326 of the PATRIOT Act:

> Each Lender hereby notifies Borrower that pursuant to the requirements of the PATRIOT Act, it is required to obtain, verify and record information that identifies Borrower, which information includes the name and address of Borrower and other information that will allow the Lenders to identify Borrower in accordance with the PATRIOT Act.

Section 9.15 Reallocations on Effective Date. The Administrative Agent, Borrower and each Lender agree that upon the effectiveness of this Agreement, the amount of the Commitment of each Lender is as set forth on Schedule 1 attached hereto. Simultaneously with the effectiveness of this Agreement, the Commitments of each of the Lenders as in effect immediately prior to the effectiveness of this Agreement shall be reallocated among the Lenders pro rata in accordance with their respective Commitments as set forth on Schedule 1. The Lenders shall make such cash settlements among themselves, through the Administrative Agent, as the Administrative Agent may direct (after giving effect to the making of any Advances to be made on the Effective Date and any netting transactions effected by the Administrative Agent) with respect to such reallocations and assignments so that the Aggregate Outstanding Credit Exposure shall be held by the Lenders pro rata in accordance with the amount of the Commitments of the Lenders.

Section 9.16 Divisions. For all purposes under the Loan Documents, in connection with any division or plan of division under Delaware law (or any comparable event under a different jurisdiction's laws): (a) if any asset, right, obligation or liability of any Person becomes the asset, right, obligation or liability of a different Person, then it shall be deemed to have been transferred from the original Person to the subsequent Person, and (b) if any new Person comes into existence, such new Person shall be deemed to have been organized on the first date of its existence by the holders of its ownership or equity interest at such time.

Section 9.17 Acknowledgement Regarding Any Supported QFCs. To the extent that the Loan Documents provide support, through a guarantee or otherwise, for Swap Obligations or any other agreement or instrument that is a QFC (such support, ***"QFC Credit Support"*** and each such QFC a ***"Supported QFC"***), the parties acknowledge and agree as follows with respect to the resolution power of the Federal Deposit Insurance Corporation under the Federal Deposit Insurance Act and Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (together with the regulations promulgated thereunder, the ***"U.S. Special Resolution Regimes"***)

in respect of such Supported QFC and QFC Credit Support (with the provisions below applicable notwithstanding that the Loan Documents and any Supported QFC may in fact be stated to be governed by the laws of the State of New York and/or of the United States or any other state of the United States):

In the event a Covered Entity that is party to a Supported QFC (each, a ***"Covered Party"***) becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer of such Supported QFC and the benefit of such QFC Credit Support (and any interest and obligation in or under such Supported QFC and such QFC Credit Support, and any rights in property securing such Supported QFC or such QFC Credit Support) from such Covered Party will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if the Supported QFC and such QFC Credit Support (and any such interest, obligation and rights in property) were governed by the laws of the United States or a state of the United States. In the event a Covered Party or a BHC Act Affiliate of a Covered Party becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights under the Loan Documents that might otherwise apply to such Supported QFC or any QFC Credit Support that may be exercised against such Covered Party are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if the Supported QFC and the Loan Documents were governed by the laws of the United States or a state of the United States. Without limitation of the foregoing, it is understood and agreed that rights and remedies of the parties with respect to a Defaulting Lender shall in no event affect the rights of any Covered Party with respect to a Supported QFC or any QFC Credit Support.

ARTICLE X

THE ADMINISTRATIVE AGENT

Section 10.1 Appointment; Nature of Relationship. U.S. Bank National Association d/b/a Housing Capital Company is hereby appointed by each of the Lenders as its contractual representative (herein referred to as the ***"Administrative Agent"***) hereunder and under each other Loan Document, and each of the Lenders irrevocably authorizes the Administrative Agent to act as the contractual representative of such Lender with the rights and duties expressly set forth herein and in the other Loan Documents. The Administrative Agent agrees to act as such contractual representative upon the express conditions contained in this ARTICLE X. Notwithstanding the use of the defined term "Administrative Agent," it is expressly understood and agreed that the Administrative Agent shall not have any fiduciary responsibilities to any Lender by reason of this Agreement or any other Loan Document and that the Administrative Agent is merely acting as the contractual representative of the Lenders with only those duties as are expressly set forth in this Agreement and the other Loan Documents. In its capacity as the Lenders' contractual representative, the Administrative Agent (i) does not hereby assume any fiduciary duties to any of the Lenders and (ii) is acting as an independent contractor, the rights and duties of which are limited to those expressly set forth in this Agreement and the other Loan Documents. Each of the Lenders hereby agrees to assert no claim against the Administrative Agent on any agency theory or any other theory of liability for breach of fiduciary duty, all of which claims each Lender hereby waives.

Section 10.2 Powers. The Administrative Agent shall have and may exercise such powers under the Loan Documents as are specifically delegated to the Administrative Agent by

the terms of each thereof, together with such powers as are reasonably incidental thereto. The Administrative Agent shall have no implied duties to the Lenders, or any obligation to the Lenders to take any action thereunder except any action specifically provided by the Loan Documents to be taken by the Administrative Agent.

Section 10.3 General Immunity. Neither the Administrative Agent nor any of its directors, officers, agents or employees shall be liable to the Borrower, the Lenders or any Lender for any action taken or omitted to be taken by it or them hereunder or under any other Loan Document or in connection herewith or therewith except to the extent such action or inaction is determined in a final non-appealable judgment by a court of competent jurisdiction to have arisen from the gross negligence or willful misconduct of such Person.

Section 10.4 No Responsibility for Loans, Recitals, etc. Neither the Administrative Agent nor any of its directors, officers, agents or employees shall be responsible for or have any duty to ascertain, inquire into, or verify (a) any statement, warranty or representation made in connection with any Loan Document or any borrowing hereunder; (b) the performance or observance of any of the covenants or agreements of any obligor under any Loan Document, including, without limitation, any agreement by an obligor to furnish information directly to each Lender; (c) the satisfaction of any condition specified in ARTICLE IV, except receipt of items required to be delivered solely to the Administrative Agent; (d) the existence or possible existence of any Default or Event of Default; (e) the validity, enforceability, effectiveness, sufficiency or genuineness of any Loan Document or any other instrument or writing furnished in connection therewith; (f) the value, sufficiency, creation, perfection or priority of any Lien in any collateral security; or (g) the financial condition of the Borrower or any guarantor of any of the Obligations or of any of the Borrower's or any such guarantor's respective Subsidiaries.

Section 10.5 Action on Instructions of Lenders. The Administrative Agent shall in all cases be fully protected in acting, or in refraining from acting, hereunder and under any other Loan Document in accordance with written instructions signed by the Required Lenders, and such instructions and any action taken or failure to act pursuant thereto shall be binding on all of the Lenders. The Lenders hereby acknowledge that the Administrative Agent shall be under no duty to take any discretionary action permitted to be taken by it pursuant to the provisions of this Agreement or any other Loan Document unless it shall be requested in writing to do so by the Required Lenders. The Administrative Agent shall be fully justified in failing or refusing to take any action hereunder and under any other Loan Document unless it shall first be indemnified to its satisfaction by the Lenders pro rata against any and all liability, cost and expense that it may incur by reason of taking or continuing to take any such action.

Section 10.6 Employment of Agents and Counsel. The Administrative Agent may execute any of its duties as Administrative Agent hereunder and under any other Loan Document by or through employees, agents, and attorneys-in-fact and shall not be answerable to the Lenders, except as to money or securities received by it or its authorized agents, for the default or misconduct of any such agents or attorneys-in-fact selected by it with reasonable care. The Administrative Agent shall be entitled to advice of counsel concerning the contractual arrangement between the Administrative Agent and the Lenders and all matters pertaining to the Administrative Agent's duties hereunder and under any other Loan Document.

Section 10.7 Reliance on Documents; Counsel. The Administrative Agent shall be entitled to rely upon any Note, notice, consent, certificate, affidavit, letter, telegram, facsimile, telex, electronic mail message, statement, paper or document believed by it to be genuine and correct and to have been signed or sent by the proper Person or Persons, and, in respect to legal matters, upon the opinion of counsel selected by the Administrative Agent, which counsel may be employees of the Administrative Agent. For purposes of determining compliance with the conditions specified in Sections 4.1 and 4.2, each Lender that has signed this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to a Lender unless the Administrative Agent shall have received notice from such Lender prior to the applicable date specifying its objection thereto.

Section 10.8 Administrative Agent's Reimbursement and Indemnification. The Lenders agree to reimburse and indemnify the Administrative Agent ratably in proportion to their respective Pro Rata Shares (disregarding, for the avoidance of doubt, the exclusion of Defaulting Lenders therein) (i) for any amounts not reimbursed by the Borrower for which the Administrative Agent is entitled to reimbursement by the Borrower under the Loan Documents, (ii) for any other expenses incurred by the Administrative Agent on behalf of the Lenders, in connection with the preparation, execution, delivery, administration and enforcement of the Loan Documents (including, without limitation, for any expenses incurred by the Administrative Agent in connection with any dispute between the Administrative Agent and any Lender or between two or more of the Lenders) and (iii) for any liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind and nature whatsoever which may be imposed on, incurred by or asserted against the Administrative Agent in any way relating to or arising out of the Loan Documents or any other document delivered in connection therewith or the transactions contemplated thereby (including, without limitation, for any such amounts incurred by or asserted against the Administrative Agent in connection with any dispute between the Administrative Agent and any Lender or between two or more of the Lenders), or the enforcement of any of the terms of the Loan Documents or of any such other documents, *provided* that (i) no Lender shall be liable for any of the foregoing to the extent any of the foregoing is found in a final non-appealable judgment by a court of competent jurisdiction to have resulted from the gross negligence or willful misconduct of the Administrative Agent and (ii) any indemnification required pursuant to Section 3.5(d) shall, notwithstanding the provisions of this Section 10.8, be paid by the relevant Lender in accordance with the provisions thereof. The obligations of the Lenders under this Section 10.8 shall survive payment of the Obligations and termination of this Agreement.

Section 10.9 Notice of Event of Default. The Administrative Agent shall not be deemed to have knowledge or notice of the occurrence of any Default or Event of Default hereunder unless the Administrative Agent has received written notice from a Lender or the Borrower referring to this Agreement describing such Default or Event of Default and stating that such notice is a "notice of default". In the event that the Administrative Agent receives such a notice, the Administrative Agent shall give prompt notice thereof to the Lenders; *provided* that, except as expressly set forth in the Loan Documents, the Administrative Agent shall not have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Borrower or any of its Subsidiaries that is communicated to or obtained by the bank serving as Administrative Agent or any of its Affiliates in any capacity.

Section 10.10 Rights as a Lender. In the event the Administrative Agent is a Lender, the Administrative Agent shall have the same rights and powers hereunder and under any other Loan Document with respect to its Commitment and its Loans as any Lender and may exercise the same as though it were not the Administrative Agent, and the term "Lender" or "Lenders" shall, at any time when the Administrative Agent is a Lender, unless the context otherwise indicates, include the Administrative Agent in its individual capacity. The Administrative Agent and its Affiliates may accept deposits from, lend money to, and generally engage in any kind of trust, debt, equity or other transaction, in addition to those contemplated by this Agreement or any other Loan Document, with the Borrower or any of its Subsidiaries in which the Borrower or such Subsidiary is not restricted hereby from engaging with any other Person.

Section 10.11 Lender Credit Decision, Legal Representation.

(a) Each Lender acknowledges that it has, independently and without reliance upon the Administrative Agent, the Arranger or any other Lender and based on the financial statements prepared by the Borrower and such other documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement and the other Loan Documents. Each Lender also acknowledges that it will, independently and without reliance upon the Administrative Agent, the Arranger or any other Lender and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under this Agreement and the other Loan Documents. Except for any notice, report, document or other information expressly required to be furnished to the Lenders by the Administrative Agent or Arranger hereunder, neither the Administrative Agent nor the Arranger shall have any duty or responsibility (either initially or on a continuing basis) to provide any Lender with any notice, report, document, credit information or other information concerning the affairs, financial condition or business of the Borrower or any of its Affiliates that may come into the possession of the Administrative Agent or Arranger (whether or not in their respective capacity as Administrative Agent or Arranger) or any of their Affiliates.

(b) Each Lender further acknowledges that it has had the opportunity to be represented by legal counsel in connection with its execution of this Agreement and the other Loan Documents, that it has made its own evaluation of all applicable laws and regulations relating to the transactions contemplated hereby, and that the counsel to the Administrative Agent represents only the Administrative Agent and not the Lenders in connection with this Agreement and the transactions contemplated hereby.

Section 10.12 Successor Administrative Agent. The Administrative Agent may resign at any time by giving written notice thereof to the Lenders and the Borrower, such resignation to be effective upon the appointment of a successor Administrative Agent or, if no successor Administrative Agent has been appointed, thirty (30) days after the retiring Administrative Agent gives notice of its intention to resign. Upon any such resignation, the Required Lenders shall have the right to appoint, on behalf of the Borrower and the Lenders, a successor Administrative Agent. If no successor Administrative Agent shall have been so appointed by the Required Lenders within fifteen (15) days after the resigning Administrative Agent's giving notice of its intention to resign, then the resigning Administrative Agent may appoint, on behalf of the Borrower and the Lenders, a successor Administrative Agent. Notwithstanding the previous

sentence, the Administrative Agent may at any time without the consent of the Borrower or any Lender, appoint any of its Affiliates which is a commercial bank as a successor Administrative Agent hereunder. If the Administrative Agent has resigned and no successor Administrative Agent has been appointed, the Lenders may perform all the duties of the Administrative Agent hereunder and the Borrower shall make all payments in respect of the Obligations to the applicable Lender and for all other purposes shall deal directly with the Lenders. No successor Administrative Agent shall be deemed to be appointed hereunder until such successor Administrative Agent has accepted the appointment. Any such successor Administrative Agent shall be a commercial bank having capital and retained earnings of at least $100,000,000. Upon the acceptance of any appointment as Administrative Agent hereunder by a successor Administrative Agent, such successor Administrative Agent shall thereupon succeed to and become vested with all the rights, powers, privileges and duties of the resigning Administrative Agent. Upon the effectiveness of the resignation of the Administrative Agent, the resigning Administrative Agent shall be discharged from its duties and obligations hereunder and under the Loan Documents. After the effectiveness of the resignation of an Administrative Agent, the provisions of this ARTICLE X shall continue in effect for the benefit of such Administrative Agent in respect of any actions taken or omitted to be taken by it while it was acting as the Administrative Agent hereunder and under the other Loan Documents. In the event that there is a successor to the Administrative Agent by merger, or the Administrative Agent assigns its duties and obligations to an Affiliate pursuant to this Section 10.12, then the term "Prime Rate" as used in this Agreement shall mean the prime rate, base rate or other analogous rate of the new Administrative Agent.

Section 10.13 Administrative Agent and Arranger Fees. The Borrower agrees to pay to U.S. Bank the fees agreed to by U.S. Bank and the Borrower, pursuant to that certain letter agreement of even date herewith between U.S. Bank and the Borrower (the ***"Fee Letter"***). Lenders and Borrower understand and agree that, except only as may otherwise be set forth in a separate side letter between U.S. Bank and any other Lender (if at all), U.S. Bank shall have no obligation to share any such fees paid to U.S. Bank pursuant to the Fee Letter with any of the other Lenders.

Section 10.14 Delegation to Affiliates. The Borrower and the Lenders agree that the Administrative Agent may delegate any of its duties under this Agreement to any of its Affiliates. Any such Affiliate (and such Affiliate's directors, officers, agents and employees) which performs duties in connection with this Agreement shall be entitled to the same benefits of the indemnification, waiver and other protective provisions to which the Administrative Agent is entitled under ARTICLES IX and X.

Section 10.15 Arranger and Book Runner. None of the Lenders identified in this Agreement as an "Arranger" or "Book Runner" shall have any right, power, obligation, liability, responsibility or duty under this Agreement other than those applicable to all Lenders as such, *provided*, however, that nothing in this Section 10.15 shall affect the rights, powers, obligations, liabilities, responsibilities or duties of the Administrative Agent in such capacity under this Agreement and the other Loan Documents. Without limiting the foregoing, none of such Lenders shall have or be deemed to have a fiduciary relationship with any Lender. Each Lender hereby makes the same acknowledgments with respect to such Lenders as it makes with respect to the Administrative Agent in Section 10.11.

Section 10.16 No Advisory or Fiduciary Responsibility. In connection with all aspects of each transaction contemplated hereby (including in connection with any amendment, waiver or other modification hereof or of any other Loan Document), the Borrower acknowledges and agrees that: (i) (A) the arranging and other services regarding this Agreement provided by the Lenders are arm's-length commercial transactions between the Borrower and its Affiliates, on the one hand, and the Lenders, on the other hand, (B) the Borrower has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (C) the Borrower is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated hereby and by the other Loan Documents; (ii) (A) each of the Lenders is and has been acting solely as a principal and, except as expressly agreed in writing by the relevant parties, has not been, is not, and will not be acting as an advisor, agent or fiduciary for the Borrower or any of its Affiliates, or any other Person and (B) no Lender has any obligation to the Borrower or any of its Affiliates with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Loan Documents; and (iii) each of the Lenders and their respective Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Borrower and its Affiliates, and no Lender has any obligation to disclose any of such interests to the Borrower or its Affiliates. To the fullest extent permitted by law, the Borrower hereby waives and releases any claims that it may have against each of the Lenders with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transaction contemplated hereby.

Section 10.17 Certain ERISA Matters

(a) Each Lender (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent and not, for the avoidance of doubt, to or for the benefit of the Borrower or any Guarantor, that at least one of the following is and will be true:

(i) such Lender is not using "plan assets" (within the meaning of Section 3(42) of ERISA or otherwise) of one or more Benefit Plans with respect to such Lender's entrance into, participation in, administration of and performance of the Loans, the Facility LCs, the Commitments or this Agreement,

(ii) the transaction exemption set forth in one or more PTEs, such as PTE 84-14 (a class exemption for certain transactions determined by independent qualified professional asset managers), PTE 95-60 (a class exemption for certain transactions involving insurance company general accounts), PTE 90-1 (a class exemption for certain transactions involving insurance company pooled separate accounts), PTE 91-38 (a class exemption for certain transactions involving bank collective investment funds) or PTE 96-23 (a class exemption for certain transactions determined by in-house asset managers), is applicable with respect to such Lender's entrance into, participation in, administration of and performance of the Loans, the Facility LCs, the Commitments and this Agreement,

(iii) (A) such Lender is an investment fund managed by a "Qualified Professional Asset Manager" (within the meaning of Part VI of PTE 84-14), (B)

such Qualified Professional Asset Manager made the investment decision on behalf of such Lender to enter into, participate in, administer and perform the Loans, the Facility LCs, the Commitments and this Agreement, (C) the entrance into, participation in, administration of and performance of the Loans, the Facility LCs, the Commitments and this Agreement satisfies the requirements of sub-sections (b) through (g) of Part I of PTE 84-14 and (D) to the best knowledge of such Lender, the requirements of subsection (a) of Part I of PTE 84-14 are satisfied with respect to such Lender's entrance into, participation in, administration of and performance of the Loans, the Facility LCs, the Commitments and this Agreement, or

(iv) such other representation, warranty and covenant as may be agreed in writing between the Administrative Agent, in its sole discretion, and such Lender.

(b) In addition, unless either (1) sub-clause (i) in the immediately preceding clause (a) is true with respect to a Lender or (2) a Lender has provided another representation, warranty and covenant in accordance with sub-clause (iv) in the immediately preceding clause (a), such Lender further (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent and not, for the avoidance of doubt, to or for the benefit of the Borrower or any Guarantor, that the Administrative Agent is not a fiduciary with respect to the assets of such Lender involved in such Lender's entrance into, participation in, administration of and performance of the Loans, the Facility LCs, the Commitments and this Agreement (including in connection with the reservation or exercise of any rights by the Administrative Agent under this Agreement, any Loan Document or any documents related hereto or thereto).

ARTICLE XI

RATABLE PAYMENTS

Section 11.1 Ratable Payments. If any Lender, whether by setoff or otherwise, has payment made to it upon its Outstanding Credit Exposure (other than payments received pursuant to Section 3.1, 3.2, 3.4 or 3.5) in a greater proportion than that received by any other Lender, such Lender agrees, promptly upon demand, to purchase a portion of the Aggregate Outstanding Credit Exposure held by the other Lenders so that after such purchase each Lender will hold its Pro Rata Share of the Aggregate Outstanding Credit Exposure. If any Lender, whether in connection with setoff or amounts which might be subject to setoff or otherwise, receives collateral or other protection for its Obligations or such amounts which may be subject to setoff, such Lender agrees, promptly upon demand, to take such action necessary such that all Lenders share in the benefits of such collateral or other protection ratably in proportion to their respective Pro Rata Shares of the Aggregate Outstanding Credit Exposure. In case any such payment is disturbed by legal process, or otherwise, appropriate further adjustments shall be made.

ARTICLE XII

BENEFIT OF AGREEMENT; ASSIGNMENTS; PARTICIPATIONS

Section 12.1 Successors and Assigns. The terms and provisions of the Loan Documents shall be binding upon and inure to the benefit of the Borrower and the Lenders and their respective successors and assigns permitted hereby, except that (i) the Borrower shall not have the right to assign its rights or obligations under the Loan Documents without the prior written consent of each Lender, (ii) any assignment by any Lender must be made in compliance with Section 12.3, and (iii) any transfer by participation must be made in compliance with Section 12.2. Any attempted assignment or transfer by any party not made in compliance with this Section 12.1 shall be null and void, unless such attempted assignment or transfer is treated as a participation in accordance with the terms of this Agreement. The parties to this Agreement acknowledge that clause (ii) of this Section 12.1 relates only to absolute assignments and this Section 12.1 does not prohibit assignments by any Lender creating security interests, including, without limitation, (x) any pledge or assignment by any Lender of all or any portion of its rights under this Agreement and any Note to a Federal Reserve Bank or (y) in the case of a Lender which is a Fund, any pledge or assignment of all or any portion of its rights under this Agreement and any Note to its trustee in support of its obligations to its trustee; *provided*, *however*, that no such pledge or assignment creating a security interest shall release the transferor Lender from its obligations hereunder unless and until the parties thereto have complied with the provisions of Section 12.3. The Administrative Agent may treat the Person which made any Loan or which holds any Note as the owner thereof for all purposes hereof unless and until such Person complies with Section 12.3; *provided, however*, that the Administrative Agent may in its discretion (but shall not be required to) follow instructions from the Person which made any Loan or which holds any Note to direct payments relating to such Loan or Note to another Person. Any assignee of the rights to any Loan or any Note agrees by acceptance of such assignment to be bound by all the terms and provisions of the Loan Documents. Any request, authority or consent of any Person, who at the time of making such request or giving such authority or consent is the owner of the rights to any Loan (whether or not a Note has been issued in evidence thereof), shall be conclusive and binding on any subsequent holder or assignee of the rights to such Loan.

Section 12.2 Participations.

(a) Permitted Participants; Effect. Any Lender may at any time sell to one or more entities (***"Participants"***) participating interests in any Outstanding Credit Exposure owing to such Lender, any Note held by such Lender, any Commitment of such Lender or any other interest of such Lender under the Loan Documents. In the event of any such sale by a Lender of participating interests to a Participant, such Lender's obligations under the Loan Documents shall remain unchanged, such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations, such Lender shall remain the owner of its Outstanding Credit Exposure and the holder of any Note issued to it in evidence thereof for all purposes under the Loan Documents, all amounts payable by the Borrower under this Agreement shall be determined as if such Lender had not sold such participating interests, and the Borrower and the Administrative Agent shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under the Loan Documents.

(b) Voting Rights. Each Lender shall retain the sole right to approve, without the consent of any Participant, any amendment, modification or waiver of any provision of the Loan Documents *provided* that each such Lender may agree in its participation agreement with its Participant that such Lender will not vote to approve any amendment, modification or waiver with respect to any Outstanding Credit Exposure or Commitment in which such Participant has an interest which would require consent of all of the Lenders pursuant to the terms of Section 8.3 or of any other Loan Document.

(c) Benefit of Certain Provisions. The Borrower further agrees that each Participant shall be entitled to the benefits of Sections 3.1, 3.2, 3.4, 3.5, 9.6 and 9.10 to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to Section 12.3, *provided* that (i) a Participant shall not be entitled to receive any greater payment under Section 3.1 or 3.2 than the Lender who sold the participating interest to such Participant would have received had it retained such interest for its own account, unless the sale of such interest to such Participant is made with the prior written consent of the Borrower, (ii) each Participant shall be subject to the provisions of Section 3.7 and (iii) a Participant shall not be entitled to receive any greater payment under Section 3.5 than the Lender who sold the participating interest to such Participant would have received had it retained such interest for its own account (A) except to the extent such entitlement to receive a greater payment results from a change in treaty, law or regulation (or any change in the interpretation or administration thereof by any Governmental Authority) that occurs after the Participant acquired the applicable participation and (B), in the case of any Participant that would be a Non-U.S. Lender if it were a Lender, such Participant agrees to comply with the provisions of Section 3.5 to the same extent as if it were a Lender (it being understood that the documentation required under Section 3.5(f) shall be delivered to the participating Lender). Each Lender that sells a participation shall, acting solely for this purpose as an agent of the Borrower, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each Participant's interest in any Outstanding Credit Exposure, any Note, any Commitment or any other obligations under the Loan Documents (the ***"Participant Register"***); *provided* that no Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a Participant's interest in any Outstanding Credit Exposure, any Note, any Commitment or any other obligations under the Loan Documents) to any Person except to the extent that such disclosure is necessary to establish that such Outstanding Credit Exposure, any Note, any Commitment or any other obligations under the Loan Documents is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. For the avoidance of doubt, the Administrative Agent (in its capacity as Administrative Agent) shall have no responsibility for maintaining a Participant Register.

Section 12.3 Assignments.

(a) Permitted Assignments. Any Lender may, upon the prior approval of Administrative Agent and LC Issuer, assign to any affiliate of such Lender all or a

portion of its respective Commitment, in such a manner as to create privity of contract between such affiliate and the Borrower and to make such affiliate a Lender for all purposes hereunder. Any Lender may, upon the prior approval of Administrative Agent and LC Issuer, assign to any entity which meets the following conditions (***"Assignee Lender"***) all or a portion of its respective Commitment, in such a manner as to create privity of contract between such person and the Borrower and to make such person a Lender for all purposes hereunder:

(i) The minimum portion of the total commitment which the assigning Lender may assign to an Assignee Lender shall be Five Million Dollars ($5,000,000.00).

(ii) Without limiting the power of consent in subsection (iv) below, an Assignee Lender (or its direct or indirect parent) shall be either (A) a commercial lender organized under the laws of the United States, or any state thereof, and having total assets in excess of Two Billion Dollars ($2,000,000,000) or (B) a commercial bank organized under the laws of any other country which has total assets in excess of Ten Billion Dollars ($10,000,000,000) or (C) any other financial institution which has total assets in excess of Ten Billion Dollars ($10,000,000,000).

(iii) The senior unsecured debt of an Assignee Lender (or its direct or indirect parent) shall have a rating of Baa-2 or higher from Moody's or a comparable rating agency.

(iv) Such assignment shall have been approved by Administrative Agent and each LC Issuer, which approvals shall not be unreasonably withheld.

(v) The Assignee Lender shall have paid to the Administrative Agent an administrative fee of $3,500.00 to process the admission of such Assignee Lender.

(vi) The Assignee Lender shall not be Borrower or any of Borrower's Affiliates.

(vii) Borrower's consent shall have been obtained; provided, however, that, during the existence of any Event of Default, Borrower's consent shall not be required in connection with any sale, transfer, assignment or syndication of any portion of the Loan or any Lender's interest therein.

(b) Assignment and Assumption. The Borrower and Administrative Agent may continue to deal solely and directly with the assigning Lender in connection with the interest so assigned to an Assignee Lender (or to an affiliate of such Lender) until such time as (i) written notice of such assignment, together with payment instructions, addresses and related information with respect to the Assignee Lender (or such affiliate) shall have been given to the Borrower and Administrative Agent by the assigning Lender and the Assignee Lender (or such affiliate); (ii) the assigning Lender and the Assignee Lender (or such affiliate) shall have delivered to the Borrower and Administrative Agent

an Assignment and Assumption. Upon request, Borrower will execute and deliver to Administrative Agent an appropriate replacement promissory note or replacement promissory notes in favor of each assignee (and assignor, if such assignor is retaining a portion of its Commitment and advances) reflecting such assignee's (and assignor's) portion of the Commitment. Upon execution and delivery of such replacement promissory note(s) the original promissory note or notes evidencing all or a portion of the Commitment being assigned shall be canceled and returned to Borrower.

(c) Notice by Administrative Agent. Promptly following receipt by Administrative Agent of an executed Assignment and Assumption, Administrative Agent shall give notice to the Borrower and to the Lenders of: (i) the effectiveness of the assignment by the assigning Lender to the Assignee Lender (or the affiliate of the Lender); and (ii) the revised Pro Rata Shares and maximum amounts of the Commitment in effect as a result of such assignment.

(d) Adjustment of Shares. Immediately upon delivery of the Assignment and Assumption to Administrative Agent, this Agreement shall be deemed to be amended to the extent, but only to the extent, necessary to reflect the addition of the Assignee Lender (or affiliate of the Lender) and the resulting adjustment of the Pro Rata Shares and maximum amounts of the Lenders' Commitment arising therefrom. The portion of the Commitment assigned to each Assignee Lender (or such affiliate) shall reduce the Commitment of the assigning Lender by a like amount.

(e) Rights of Assignee. From and after the date upon which Administrative Agent notifies the assigning Lender that it has received an executed Assignment and Assumption: (1) the Assignee Lender (or the Lender's affiliate) thereunder shall be a party to this Agreement and, to the extent that rights and obligations hereunder have been assigned to it pursuant to such Assignment and Assumption, shall have the rights and obligations of a Lender under this Agreement; and (2) the assigning Lender shall, to the extent that rights and obligations under this Agreement have been assigned by it pursuant to such Assignment and Assumption, relinquish its rights and be released from its obligations under this Agreement.

(f) Assignee's Agreements. By executing and delivering an Assignment and Assumption, the Assignee Lender (or the Lender's affiliate) thereunder confirms and agrees as follows: (1) other than as provided in such Assignment and Assumption, the assigning Lender makes no representation or warranty and assumes no responsibility with respect to any statements, warranties or representations made in or in connection with this Agreement or the execution, legality, validity, enforceability, genuineness, sufficiency or value of this Agreement, the Note or any other instrument or document furnished pursuant to the Loan; (2) the assigning Lender makes no representation or warranty and assumes no responsibility with respect to the financial condition of the Borrower or any other parties or the performance or observance by the Borrower of any of its obligations under the Note and this Agreement; (3) the Assignee Lender (or such affiliate) has received a copy of this Agreement, together with such other documents and information as the Assignee Lender (or such affiliate) has deemed appropriate to make its own credit analysis and decision to enter into the Assignment and Assumption; (4) the Assignee Lender (or such affiliate) will, independently and without reliance upon Administrative

Agent, continue to make its own credit decisions in taking or not taking action under this Agreement; (5) the Assignee Lender (or such affiliate) hereby appoints and authorizes Administrative Agent to take such action as administrative agent on its behalf and to exercise such powers under the Loan Documents and this Agreement as are delegated to Administrative Agent thereunder and hereunder, together with such powers as are reasonably incidental thereto; and (6) the Assignee Lender (or such affiliate) agrees that it will perform all of the obligations which by the terms of this Agreement are required to be performed by it as a Lender and confirms the representations and warranties of the assigning Lender under this Agreement. Any assignment in violation of this Section 12.3 shall be deemed to be a participation under Section 12.2 of this Agreement.

(g) Register. Administrative Agent shall maintain at one of its offices in the State of California a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amounts (and stated interest) of the Loans owing to, each Lender pursuant to the terms hereof from time to time (the "***Register***"). The entries in the Register shall be conclusive absent manifest error, and the Borrower, Administrative Agent and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement. The Register shall be available for inspection by the Borrower and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

ARTICLE XIII

NOTICES

Section 13.1 Notices; Effectiveness; Electronic Communication.

(a) Notices Generally. Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in paragraph (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail as follows:

(i) if to the Borrower, to it at The New Home Company Inc., 85 Enterprise, Suite 450, Aliso Viejo, CA 92656, Attention: John Stephens, Chief Financial Officer;

(ii) if to the Administrative Agent, to it at U.S. Bank National Association d/b/a Housing Capital Company, 3200 Bristol Street, Suite 800, Costa Mesa, CA 92626, Attention: Julie MacHale;

(iii) if to a Lender or LC Issuer, to it at its address set forth in its Administrative Questionnaire.

Notices sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices sent by facsimile shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient,

shall be deemed to have been given at the opening of business on the next Business Day for the recipient). Notices delivered through electronic communications to the extent provided in paragraph (b) below, shall be effective as provided in said paragraph (b).

(b) Electronic Communications. Notices and other communications to the Lenders and the LC Issuers hereunder may be delivered or furnished by electronic communication (including e-mail and internet or intranet websites) pursuant to procedures approved by the Administrative Agent or as otherwise determined by the Administrative Agent, *provided* that the foregoing shall not apply to notices to any Lender or LC Issuer pursuant to Article II if such Lender or LC Issuer, as applicable, has notified the Administrative Agent that it is incapable of receiving notices under such Article by electronic communication. The Administrative Agent or the Borrower may, in its respective discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it or as it otherwise determines, *provided* that such determination or approval may be limited to particular notices or communications.

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

(c) Change of Address, Etc. Any party hereto may change its address or number for notices and other communications hereunder by notice to the other parties hereto given in the manner set forth in this Section 13.1.

ARTICLE XIV

COUNTERPARTS; INTEGRATION; EFFECTIVENESS; ELECTRONIC EXECUTION

Section 14.1 Counterparts; Effectiveness. This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. Except as provided in ARTICLE IV, this Agreement shall become effective when it shall have been executed by the Administrative Agent, and when the Administrative Agent shall have received counterparts hereof which, when taken together, bear the signatures of each of the parties hereto, and thereafter shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. Delivery of an executed counterpart of a signature page of this Agreement by telecopy shall be effective as delivery of a manually executed counterpart of this Agreement.

Section 14.2 Electronic Execution of Assignments. The words "execution," "signed," "signature," and words of like import in any assignment and assumption agreement shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, or any other state laws based on the Uniform Electronic Transactions Act.

ARTICLE XV

CHOICE OF LAW; CONSENT TO JURISDICTION; WAIVER OF JURY TRIAL

Section 15.1 **CHOICE OF LAW**. **THE LOAN DOCUMENTS (OTHER THAN THOSE CONTAINING A CONTRARY EXPRESS CHOICE OF LAW PROVISION) SHALL BE CONSTRUED IN ACCORDANCE WITH THE INTERNAL LAWS (WITHOUT REGARD TO THE CONFLICT OF LAWS PROVISIONS) OF THE STATE OF CALIFORNIA, BUT GIVING EFFECT TO FEDERAL LAWS APPLICABLE TO NATIONAL BANKS.**

Section 15.2 **CONSENT TO JURISDICTION**. **THE BORROWER HEREBY IRREVOCABLY SUBMITS TO THE NON-EXCLUSIVE JURISDICTION OF ANY UNITED STATES FEDERAL OR STATE COURT SITTING IN ORANGE COUNTY, CALIFORNIA IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO ANY LOAN DOCUMENTS AND THE BORROWER HEREBY IRREVOCABLY AGREES THAT ALL CLAIMS IN RESPECT OF SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN ANY SUCH COURT AND IRREVOCABLY WAIVES ANY OBJECTION IT MAY NOW OR HEREAFTER HAVE AS TO THE VENUE OF ANY SUCH SUIT, ACTION OR PROCEEDING BROUGHT IN SUCH A COURT OR THAT SUCH COURT IS AN INCONVENIENT FORUM. NOTHING HEREIN SHALL LIMIT THE RIGHT OF THE ADMINISTRATIVE AGENT, ANY LC ISSUER OR ANY LENDER TO BRING PROCEEDINGS AGAINST THE BORROWER IN THE COURTS OF ANY OTHER JURISDICTION. ANY JUDICIAL PROCEEDING BY THE BORROWER AGAINST THE ADMINISTRATIVE AGENT, ANY LC ISSUER OR ANY LENDER OR ANY AFFILIATE OF THE ADMINISTRATIVE AGENT, ANY LC ISSUER OR ANY LENDER INVOLVING, DIRECTLY OR INDIRECTLY, ANY MATTER IN ANY WAY ARISING OUT OF, RELATED TO, OR CONNECTED WITH ANY LOAN DOCUMENT SHALL BE BROUGHT ONLY IN A COURT IN ORANGE COUNTY, CALIFORNIA.**

Section 15.3 **WAIVER OF JURY TRIAL. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE BORROWER, THE ADMINISTRATIVE AGENT, EACH LC ISSUER AND EACH LENDER HEREBY WAIVE TRIAL BY JURY IN ANY JUDICIAL PROCEEDING INVOLVING, DIRECTLY OR INDIRECTLY, ANY MATTER (WHETHER SOUNDING IN TORT, CONTRACT OR OTHERWISE) IN ANY WAY ARISING OUT OF, RELATED TO, OR CONNECTED WITH ANY LOAN DOCUMENT OR THE RELATIONSHIP ESTABLISHED THEREUNDER.**

ARTICLE XVI

BAIL-IN OF EEA FINANCIAL INSTITUTIONS

Section 16.1 Acknowledgement and Consent to Bail-In of EEA Financial Institutions. Notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any EEA Financial Institution arising under any Loan Document, to the extent such liability is unsecured, may be subject to the write-down and conversion powers of an EEA Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

(a) the application of any Write-Down and Conversion Powers by an EEA Resolution Authority to any such liabilities arising hereunder which may be payable to it by any party hereto that is an EEA Financial Institution; and

(b) the effects of any Bail-in Action on any such liability, including, if applicable:

(i) a reduction in full or in part or cancellation of any such liability;

(ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such EEA Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document; or

(iii) the variation of the terms of such liability in connection with the exercise of the write-down and conversion powers of any EEA Resolution Authority.

[Signature Pages Follow]

IN WITNESS WHEREOF, the Borrower, the Lenders, the LC Issuer and the Administrative Agent have executed this Agreement as of the date first above written.

THE NEW HOME COMPANY INC.,
a Delaware corporation

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

[Signatures Continue on the Following Page]

U.S. BANK NATIONAL ASSOCIATION,
D/B/A HOUSING CAPITAL COMPANY
as a Lender, an LC Issuer and Administrative Agent

By: _____
Name: Julie MacHale
Title: Senior Vice President

[Signatures Continue on the Following Page]

CITIBANK, N.A.,
a national banking association,
as a Lender

By: _____
Name: _____
Title: _____

[Signatures Continue on the Following Page]

JPMORGAN CHASE BANK, N.A.,
a national banking association,
as a Lender

By: _____
Name: _____
Title: _____

[Signatures Continue on the Following Page]

CREDIT SUISSE AG, CAYMAN ISLANDS BRANCH,
as a Lender

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

[Signatures Continue on the Following Page]

ZIONS BANCORPORATION, N.A. (FKA ZB, N.A.)
DBA CALIFORNIA BANK & TRUST,
as a Lender

By: _____
Name: _____
Title: _____

[Signatures Continue on the Following Page]

BANK OF THE WEST,
a California banking corporation,
as a Lender

By: _____
Name: _____
Title: _____

[Signatures Continue on the Following Page]

CITY NATIONAL BANK,
a national banking association,
as a Lender

By: _____
Name: _____
Title: _____

PRICING SCHEDULE

The Applicable Margin and Applicable Fee Rate shall be determined in accordance with the following table based on the Borrower's Leverage Ratio as reflected in the then most recent Financials:

Level	Leverage Ratio	Applicable Margin – Eurocurrency Rate, Base Rate and LC Fees	Applicable Margin – Alternate Base Rate	Applicable Fee Rate
I	≤30%	3.50%	2.50%	0.35%
II	>30%, ≤40%	3.75%	2.75%	0.60%
III	>40%, ≤50%	4.25%	3.25%	0.70%
IV	>50%	4.50%	3.50%	0.80%

Adjustments, if any, to the Applicable Margin or Applicable Fee Rate, to the extent determined on the basis of the Leverage Ratio, shall be effective from and after the first day of the first fiscal month immediately following the date on which the delivery of the Financials is required until the first day of the first fiscal month immediately following the next such date on which delivery of such Financials of the Borrower is so required. If the Borrower fails to deliver the Financials to the Administrative Agent at the time required pursuant to Section 6.1, then the Applicable Margin and Applicable Fee Rate shall be the highest Applicable Margin and Applicable Fee Rate set forth in the foregoing table until five (5) days after such Financials are so delivered.

"Financials" means the annual or quarterly financial statements of the Borrower and the related compliance certificates delivered pursuant to Section 6.1(a) or (b) and Section 6.1(c), as applicable.

Without limitation of the rights of the Administrative Agent and the Lenders pursuant to Sections 2.11 and 7.2, if any financial statement or certification is shown to be inaccurate (regardless of whether this Agreement or the Commitments are in effect when such inaccuracy is discovered), and such inaccuracy, if corrected, would have led to the application of a higher Applicable Margin for any period (an ***"Applicable Period"***) than the Applicable Margin applied for such Applicable Period, Borrower shall immediately (a) deliver to the Administrative Agent a corrected compliance certificate for such Applicable Period, (b) determine the Applicable Margin for such Applicable Period based upon the corrected compliance certificate, and (c) promptly pay to the Administrative Agent for the benefit of the Lenders the accrued additional interest and other fees owing as a result of such increased Applicable Margin for such Applicable Period, which payment shall be promptly distributed by the Administrative Agent to the Lenders entitled thereto.

SCHEDULE 1
Commitments

As of the Effective Date:

Lender:	Commitment:	Percentage:
U.S. Bank National Association d/b/a Housing Capital Company	$18,000,000.00	30.000000000%
Citibank, N.A.	$9,000,000.00	15.000000000%
Credit Suisse AG, Cayman Islands Branch	$7,800,000.00	13.000000000%
Bank of the West	$7,800,000.00	13.000000000%
JPMorgan Chase Bank, N.A.	$6,600,000.00	11.000000000%
City National Bank	$5,400,000.00	9.000000000%
Zion Bancorporation, N.A.	$5,400,000.00	9.000000000%
TOTAL COMMITMENTS	$60,000,000.00	100.000000000%

SCHEDULE 2

Intentionally Omitted

SCHEDULE 3
Guarantors

As of the Effective Date:

DMB/TNHC LLC

Larkspur Land 8 Investor, LLC

Larkspur Land 8 Owner, LLC

LR8 Investors, LLC

LR8 Owner, LLC

The New Home Company Northern California LLC

The New Home Company Southern California LLC

TNHC - Arantine GP LLC

TNHC - Calabasas GP LLC

TNHC - Santa Clarita GP, LLC

TNHC Arizona LLC

TNHC Arizona Marketing LLC

TNHC Canyon Oaks LLC

TNHC Grove Investment LLC

TNHC Land Company LLC

TNHC Realty and Construction Inc.

TNHC San Juan LLC

TNHC Tidelands LLC

TNHC Holdings, LLC

TNHC Holdings 1, LLC

SCHEDULE 4
LC Issuer's LC Limits

LC Issuer	LC Limit
U.S. Bank National Association d/b/a Housing Capital Company	$10,000,000.00

SCHEDULE 5.8
Subsidiaries

As of the Effective Date:

Name of Subsidiary	Jurisdiction of Formation	Percentage of Stock Owned	Owner
DMB/TNHC LLC	Delaware	100%	TNHC Arizona LLC
Larkspur Land 8 Investors, LLC	Delaware	100%	The New Home Company Northern California LLC (99%) TNHC Realty and Construction Inc. (1%)
Larkspur Land 8 Owner, LLC	Delaware	100%	Larkspur Land 8 Investors, LLC
LR8 Investors, LLC	Delaware	100%	The New Home Company Southern California LLC
LR8 Owner, LLC	Delaware	100%	LR8 Investors, LLC
The New Home Company Northern California LLC	Delaware	100%	The New Home Company Inc.
The New Home Company Southern California LLC	Delaware	100%	The New Home Company Inc.
TNHC - Arantine GP LLC	Delaware	100%	TNHC Land Company LLC
TNHC - Calabasas GP LLC	Delaware	100%	The New Home Company Southern California LLC
TNHC - Santa Clarita GP, LLC	Delaware	100%	The New Home Company Southern California LLC

TNHC Arizona LLC	Delaware	100%	The New Home Company Inc.
TNHC Canyon Oaks LLC	Delaware	100%	TNHC Land Company LLC
TNHC Grove Investment LLC	Delaware	100%	The New Home Company Northern California LLC
TNHC Land Company LLC	Delaware	100%	The New Home Company Inc.
TNHC Realty and Construction Inc.	Delaware	100%	The New Home Company Inc.
TNHC San Juan LLC	Delaware	100%	The New Home Company Southern California LLC
TNHC Tidelands LLC	Delaware	100%	The New Home Company Northern California LLC
TNHC Arizona Marketing LLC	Delaware	100%	The New Home Company Inc.
TNHC Holdings LLC	Delaware	100%	TNHC Land Company LLC
TNHC Holdings 1 LLC	Delaware	100%	TNHC Land Company LLC

EXHIBIT A

Intentionally Omitted

EXHIBIT B

FORM OF COMPLIANCE CERTIFICATE

To: The Lenders parties to the
Credit Agreement Described Below

This Compliance Certificate is furnished pursuant to that certain Amended and Restated Credit Agreement dated as of May 10, 2016, as modified by that certain Modification Agreement dated as of September 27, 2017, that certain Second Modification Agreement dated as of August 7, 2019 and that certain Third Modification Agreement dated as of June 26, 2020 (as further amended, modified, renewed or extended from time to time, the ***"Agreement"***) among The New Home Company Inc., a Delaware corporation (the ***"Borrower"***), the Lenders party thereto and U.S. Bank National Association d/b/a Housing Capital Company, as Administrative Agent for the Lenders. Unless otherwise defined herein, capitalized terms used in this Compliance Certificate have the meanings ascribed thereto in the Agreement.

THE UNDERSIGNED HEREBY CERTIFIES THAT:

1. I am the duly elected [_____] of the Borrower;

2. I have reviewed the terms of the Agreement and I have made, or have caused to be made under my supervision, a detailed review of the transactions and conditions of the Borrower and its Subsidiaries during the accounting period covered by the attached financial statements;

3. The examinations described in paragraph 2 did not disclose, and I have no knowledge of, the existence of any condition or event which constitutes a Default or Event of Default during or at the end of the accounting period covered by the attached financial statements or as of the date of this Certificate, except as set forth below; and

4. Schedule I attached hereto sets forth financial data and computations evidencing the Borrower's compliance with certain covenants of the Agreement, all of which data and computations are true, complete and correct in all material respects.

5. Schedule II attached hereto sets forth the various reports and deliveries which are required at this time under the Credit Agreement and the other Loan Documents and the status of compliance.

6. Schedule III attached hereto is a specification of any change in the identity of the Subsidiaries of Borrower (including each such new Subsidiary's jurisdiction of organization, the percentage of its respective capital stock or other ownership interests owned by the Borrower or other Subsidiaries, and specification of whether such Subsidiary is a Significant Designated Subsidiary) at the end of the fiscal period to which this certificate relates from the respective identities of the Subsidiaries of Borrower as of the most recent prior fiscal period.

Described below are the exceptions, if any, to paragraph 3 by listing, in detail, the nature of the condition or event, the period during which it has existed and the action which the Borrower has taken, is taking, or proposes to take with respect to each such condition or event:

[_____

_____

_____

_____

The foregoing certifications, together with the computations set forth in Schedule I and Schedule II hereto and the financial statements delivered with this Certificate in support hereof, are made and delivered this [__] day of [_____], 20[__].

THE NEW HOME COMPANY INC.,
a Delaware corporation

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

SCHEDULE I TO COMPLIANCE CERTIFICATE

Compliance as of [_____], 20[__] with
Provisions of Sections 6.19 and 6.20 of
the Agreement

[insert relevant calculations]

SCHEDULE II TO COMPLIANCE CERTIFICATE

Reports and Deliveries Currently Due

SCHEDULE III TO COMPLIANCE CERTIFICATE

Changes to Identity of Subsidiaries

Name of Subsidiary	Jurisdiction of Formation	Percentage of Stock Owned	Owner	Significant Designated Subsidiary
				Y / N

EXHIBIT C

FORM OF ASSIGNMENT AND ASSUMPTION AGREEMENT

This Assignment and Assumption (the **"*Assignment and Assumption*"**) is dated as of the Effective Date set forth below and is entered into by and between [*Insert name of Assignor*] (the **"*Assignor*"**) and [*Insert name of Assignee*] (the **"*Assignee*"**). Capitalized terms used but not defined herein shall have the meanings given to them in the Credit Agreement identified below (as amended, the **"*Credit Agreement*"**), receipt of a copy of which is hereby acknowledged by the Assignee. The Terms and Conditions set forth in Annex 1 attached hereto are hereby agreed to and incorporated herein by reference and made a part of this Assignment and Assumption as if set forth herein in full.

For an agreed consideration, the Assignor hereby irrevocably sells and assigns to the Assignee, and the Assignee hereby irrevocably purchases and assumes from the Assignor, subject to and in accordance with the Terms and Conditions and the Credit Agreement, as of the Effective Date inserted by the Administrative Agent as contemplated below, the interest in and to all of the Assignor's rights and obligations in its capacity as a Lender under the Credit Agreement and any other documents or instruments delivered pursuant thereto that represents the amount and percentage interest identified below of all of the Assignor's outstanding rights and obligations under the respective facilities identified below (including without limitation any letters of credit and guaranties included in such facilities and, to the extent permitted to be assigned under applicable law, all claims (including without limitation contract claims, tort claims, malpractice claims, statutory claims and all other claims at law or in equity), suits, causes of action and any other right of the Assignor against any Person whether known or unknown arising under or in connection with the Credit Agreement, any other documents or instruments delivered pursuant thereto or the loan transactions governed thereby) (the **"*Assigned Interest*"**). Such sale and assignment is without recourse to the Assignor and, except as expressly provided in this Assignment and Assumption, without representation or warranty by the Assignor.

1.	Assignor:	[_____]
2.	Assignee:	[_____][and is an Affiliate/ Approved Fund of [*identify Lender*][1]
3.	Borrower(s):	The New Home Company Inc.
4.	Administrative Agent:	U.S. Bank National Association d/b/a Housing Capital Company, as the agent under the Credit Agreement.

[1]Select as applicable.

5. Credit Agreement: The $60,000,000.00 Amended and Restated Credit Agreement dated as of May 10, 2016 among The New Home Company Inc., the Lenders party thereto, U.S. Bank National Association d/b/a Housing Capital Company, as Administrative Agent, and the other agents party thereto, as modified by that certain Modification Agreement dated as of September 27, 2017, that certain Second Modification Agreement dated as of August 7, 2019 and that certain Third Modification Agreement dated as of June 26, 2020.

6. Assigned Interest:

Aggregate Amount of Commitment/Loans for all Lenders[2]	Amount of Commitment/Loans Assigned[3]	Percentage Assigned of Commitment/Loans[4]
$[_____]	$[_____]	[_____]%
$[_____]	$[_____]	[_____]%
$[_____]	$[_____]	[_____]%

7. Trade Date: [_____][5]

Effective Date: [_____], 20[__] [TO BE INSERTED BY ADMINISTRATIVE AGENT AND WHICH SHALL BE THE EFFECTIVE DATE OF RECORDATION OF TRANSFER BY THE ADMINISTRATIVE AGENT.]

The terms set forth in this Assignment and Assumption are hereby agreed to:

ASSIGNOR
[NAME OF ASSIGNOR]

By: _____
Title:

ASSIGNEE
[NAME OF ASSIGNEE]

By: _____
Title:

[2] Amount to be adjusted by the counterparties to take into account any payments or prepayments made between the Trade Date and the Effective Date.

[3] Amount to be adjusted by the counterparties to take into account any payments or prepayments made between the Trade Date and the Effective Date.

[4] Set forth, to at least 9 decimals, as a percentage of the Commitment/Loans of all Lenders thereunder.

[5] Insert if satisfaction of minimum amounts is to be determined as of the Trade Date.

[Consented to and][6] Accepted:

U.S. BANK NATIONAL ASSOCIATION
D/B/A HOUSING CAPITAL COMPANY, as Administrative Agent

By:_____
Title:

[Consented to:][7]

[NAME OF RELEVANT PARTY]

By:_____
Title:

[6] To be added only if the consent of the Administrative Agent is required by the terms of the Credit Agreement.

[7] To be added only if the consent of the Borrower and/or other parties (e.g. LC Issuer) is required by the terms of the Credit Agreement.

ANNEX 1
TERMS AND CONDITIONS FOR
ASSIGNMENT AND ASSUMPTION

1. Representations and Warranties.

1.1 Assignor. The Assignor represents and warrants that (i) it is the legal and beneficial owner of the Assigned Interest, (ii) the Assigned Interest is free and clear of any lien, encumbrance or other adverse claim and (iii) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption and to consummate the transactions contemplated hereby. Neither the Assignor nor any of its officers, directors, employees, agents or attorneys shall be responsible for (i) any statements, warranties or representations made in or in connection with the Credit Agreement or any other Loan Document, (ii) the execution, legality, validity, enforceability, genuineness, sufficiency, perfection, priority, collectibility, or value of the Loan Documents or any collateral thereunder, (iii) the financial condition of the Borrower, any of its Subsidiaries or Affiliates or any other Person obligated in respect of any Loan Document, (iv) the performance or observance by the Borrower, any of its Subsidiaries or Affiliates or any other Person of any of their respective obligations under any Loan Documents, (v) inspecting any of the Property, books or records of the Borrower, or any guarantor, or (vi) any mistake, error of judgment, or action taken or omitted to be taken in connection with the Loans or the Loan Documents.

1.2. Assignee. The Assignee (a) represents and warrants that (i) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption and to consummate the transactions contemplated hereby and to become a Lender under the Credit Agreement, (ii) from and after the Effective Date, it shall be bound by the provisions of the Credit Agreement as a Lender thereunder and, to the extent of the Assigned Interest, shall have the obligations of a Lender thereunder, (iii) agrees that its payment instructions and notice instructions are as set forth in Schedule 1 to this Assignment and Assumption, (iv) confirms that none of the funds, monies, assets or other consideration being used to make the purchase and assumption hereunder are "plan assets" as defined under ERISA and that its rights, benefits and interests in and under the Loan Documents will not be "plan assets" under ERISA, (v) agrees to indemnify and hold the Assignor harmless against all losses, costs and expenses (including, without limitation, reasonable attorneys' fees) and liabilities incurred by the Assignor in connection with or arising in any manner from the Assignee's non-performance of the obligations assumed under this Assignment and Assumption, (vi) it has received a copy of the Credit Agreement, together with copies of financial statements and such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into this Assignment and Assumption and to purchase the Assigned Interest on the basis of which it has made such analysis and decision independently and without reliance on the Administrative Agent or any other Lender, and (vii) attached as Schedule 1 to this Assignment and Assumption is any documentation required to be delivered by the Assignee with respect to its tax status pursuant to the terms of the Credit Agreement, duly completed and executed by the Assignee and (b) agrees that (i) it will, independently and without reliance on the Administrative Agent, the Assignor or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under the Loan Documents, and (ii) it will perform in accordance with

their terms all of the obligations which by the terms of the Loan Documents are required to be performed by it as a Lender.

2. Payments. The Assignee shall pay the Assignor, on the Effective Date, the amount agreed to by the Assignor and the Assignee. From and after the Effective Date, the Administrative Agent shall make all payments in respect of the Assigned Interest (including payments of principal, interest, Reimbursement Obligations, fees and other amounts) to the Assignor for amounts which have accrued to but excluding the Effective Date and to the Assignee for amounts which have accrued from and after the Effective Date.

3. General Provisions. This Assignment and Assumption shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns. This Assignment and Assumption may be executed in any number of counterparts, which together shall constitute one instrument. Delivery of an executed counterpart of a signature page of this Assignment and Assumption by telecopy shall be effective as delivery of a manually executed counterpart of this Assignment and Assumption. This Assignment and Assumption shall be governed by, and construed in accordance with, the law of the State of California.

EXHIBIT D

FORM OF BORROWING NOTICE

TO: U.S. Bank National Association d/b/a Housing Capital Company, as Administrative Agent (the **"*Administrative Agent*"**) under that certain Amended and Restated Credit Agreement (as amended, restated, supplemented or otherwise modified from time to time, the **"*Credit Agreement*"**), dated as of May 10, 2016 among The New Home Company Inc. (the **"*Borrower*"**), the financial institutions party thereto, as lenders (the **"*Lenders*"**), and the Administrative Agent, as modified by that certain Modification Agreement dated as of September 27, 2017, that certain Second Modification Agreement dated as of August 7, 2019 and that certain Third Modification Agreement dated as of June 26, 2020.

Capitalized terms used herein shall have the meanings ascribed to such terms in the Credit Agreement.

The undersigned Borrower hereby gives to the Administrative Agent a request for borrowing pursuant to Section 2.8 of the Credit Agreement, and the Borrower hereby requests to borrow on [_____], 20[__] (the **"*Borrowing Date*"**) from the Lenders, on a pro rata basis, an aggregate principal Dollar Amount of $[_____] in Revolving Loans as:

1. ☐ a Base Rate Advance
2. ☐ a Eurocurrency Advance with an Interest Period of [_____] month(s)

The undersigned hereby certifies to the Administrative Agent and the Lenders that (i) the representations and warranties contained in Article V of the Credit Agreement are true and correct in all material respects (except to the extent already qualified by materiality, in which case said representations and warranties are true and correct in all respects) as of such date except to the extent any such representation or warranty is stated to relate solely to an earlier date, in which case such representation or warranty shall have been true and correct in all material respects (except to the extent already qualified by materiality, in which case said representations and warranties are true and correct in all respects) on and as of such earlier date; (ii) at the time of and immediately after giving effect to such Advance, no Default or Event of Default shall have occurred and be continuing; and (iii) all other relevant conditions set forth in Section 4.2 of the Credit Agreement have been satisfied.

******

IN WITNESS WHEREOF, the undersigned has caused this Borrowing Notice to be executed by its authorized officer as of the date set forth below.

Dated: [_____], 20[__]

THE NEW HOME COMPANY INC.,
a Delaware corporation

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

EXHIBIT E

FORM OF GUARANTY

GUARANTY

THIS GUARANTY (as the same may be amended, restated, supplemented or otherwise modified from time to time, this ***"Guaranty"***) is made as of June 26, 2014 by and among each of the Persons listed on the signature pages hereto (each an ***"Initial Guarantor"***) and those additional Persons which become parties to this Guaranty by executing a supplement hereto (a ***"Guaranty Supplement"***) in the form attached hereto as Annex I (such additional Persons, together with the Initial Guarantors, the ***"Guarantors"***), in favor of U.S. Bank National Association d/b/a Housing Capital Company, as Administrative Agent (the ***"Administrative Agent"***), for the benefit of Lenders under the Credit Agreement described below. Unless otherwise defined herein, capitalized terms used herein and not defined herein shall have the meanings ascribed to such terms in the Credit Agreement.

W I T N E S S E T H :

WHEREAS, The New Home Company Inc., a Delaware corporation (***"Borrower"***), the financial institutions from time to time party thereto (collectively, the ***"Lenders"***), and the Administrative Agent have entered into that certain Credit Agreement of even date herewith (as the same may be amended, restated, supplemented or otherwise modified from time to time, the ***"Credit Agreement"***), which Credit Agreement provides, subject to the terms and conditions thereof, for extensions of credit and other financial accommodations (the ***"Loan"***) to be made by the Lenders to or for the benefit of the Borrower;

WHEREAS, it is a condition precedent to the extensions of credit by the Lenders under the Credit Agreement that each of the Guarantors execute and deliver this Guaranty, whereby each of the Guarantors, without limitation and with full recourse, shall guarantee the payment when due of all Obligations, including, without limitation, all principal, interest, letter of credit reimbursement obligations and other amounts that shall be at any time payable by the Borrower under the Credit Agreement or the other Loan Documents; and

WHEREAS, in consideration of the direct and indirect financial and other support and benefits that the Borrower has provided, and such direct and indirect financial and other support and benefits as the Borrower may in the future provide, to the Guarantors, and in consideration of the increased ability of each Guarantor to receive funds through contributions to capital, and for each Guarantor to receive funds through intercompany advances or otherwise, from funds provided to the Borrower pursuant to the Credit Agreement and the flexibility provided by the Credit Agreement for each Guarantor to do so which significantly facilitates the business operations of the Borrower and each Guarantor and in order to induce the Lenders and the Administrative Agent to enter into the Credit Agreement, and to make the Loans and the other financial accommodations to the Borrower and to issue the Facility LCs described in the Credit Agreement, each of the Guarantors is willing to guarantee the Obligations under the Credit Agreement and the other Loan Documents;

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

1. Representations, Warranties and Covenants. Each of the Guarantors represents and warrants to each Lender and the Administrative Agent as of the date of this Guaranty, giving effect to the consummation of the transactions contemplated by the Loan Documents on the Effective Date, and thereafter on each date as required by Section 4.2 of the Credit Agreement that:

(a) It (i) is a corporation, partnership or limited liability company duly incorporated or organized, as the case may be, validly existing and (to the extent such concept applies to such entity) in good standing under the laws of its jurisdiction of incorporation or organization, (ii) is duly qualified to do business as a foreign entity and is in good standing (to the extent such concept is applicable) under the laws of each jurisdiction where the business conducted by it makes such qualification necessary, and (iii) has all requisite corporate, partnership or limited liability company power and authority, as the case may be, to own, operate and encumber its property and to conduct its business in each jurisdiction in which its business is conducted, except to the extent that the failure to maintain such existence status, or authority would not reasonably be expected to result in a Material Adverse Effect.

(b) It has the requisite corporate, limited liability company or limited partnership, as applicable, power and authority and legal right to execute and deliver this Guaranty and to perform its obligations hereunder. The execution and delivery by it of this Guaranty and the performance of its obligations hereunder have been duly authorized by proper corporate, limited liability company or partnership proceedings, including any required shareholder, member or partner approval, and this Guaranty constitutes a legal, valid and binding obligation of such Guarantor, enforceable against such Guarantor, in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, or similar laws affecting the enforcement of creditors' rights generally and general principles of equity.

(c) Neither the execution and delivery by it of this Guaranty, nor the consummation by it of the transactions herein contemplated, nor compliance by it with the terms and provisions hereof, will (i) conflict with the charter or other organizational documents of such Guarantor, (ii) in any material respect conflict with, result in a breach of or constitute (with or without notice or lapse of time or both) a default under any law, rule, regulation, order, writ, judgment, injunction, decree or award binding on such Guarantor or any provisions of any indenture, instrument or agreement to which the Guarantor is party or is subject or by which it or its property is bound, (iii) result in the creation or imposition of any Lien whatsoever upon any of the property or assets of such Guarantor, other than Liens permitted or created by the Loan Documents, or (iv) require any approval of such Guarantor's board of directors, shareholders, members or partners except such as have been obtained. The execution, delivery and performance by such Guarantor of each of the Loan Documents to which such Guarantor is a party do not and will not require any registration with, consent or approval of, or notice to, or other action

to, with or by any Governmental Authority, except filings, consents or notices which have been made.

In addition to the foregoing, each of the Guarantors covenants that, so long as any Lender has any Commitment or Facility LC outstanding under the Credit Agreement or any amount payable under the Credit Agreement or any other Obligations shall remain unpaid, it will fully comply with those covenants and agreements of the Borrower applicable to such Guarantor set forth in the Credit Agreement.

2. The Guaranty. Each of the Guarantors hereby irrevocably and unconditionally guarantees, jointly and severally with the other Guarantors, the full and punctual payment when due (whether at stated maturity, upon acceleration or otherwise) of the Obligations, including, without limitation, (i) the principal of and interest on each Loan made to the Borrower pursuant to the Credit Agreement, (ii) obligations owing under or in connection with Facility LCs, and (iii) all other amounts payable by the Borrower under the Credit Agreement and the other Loan Documents, and including, without limitation, all Rate Management Obligations (but excluding, for the avoidance of doubt, all Excluded Swap Obligations) (all of the foregoing being referred to collectively as the ***"Guaranteed Obligations"***). Upon the failure by the Borrower to pay punctually any such amount, subject to any applicable grace or notice and cure period, each of the Guarantors agrees that it shall forthwith on demand pay such amount at the place and in the manner specified in the Credit Agreement or the relevant other Loan Document, as the case may be. Each of the Guarantors hereby agrees that this Guaranty is an absolute, irrevocable and unconditional guaranty of payment and is not a guaranty of collection. Each of the Guarantors hereby waives any and all benefits and defenses under CC Section 2810 and agrees that by doing so Guarantors shall be liable even if Borrower had no liability at the time of execution of any of the Loan Documents or thereafter ceases to be liable. Each of the Guarantors hereby waives any and all benefits and defenses under CC Section 2809 and agrees that by doing so Guarantors' liability may be larger in amount and more burdensome than that of Borrower Notwithstanding any other provision of this Guaranty, the amount guaranteed by each Guarantor hereunder shall be limited to the extent, if any, required so that its obligations hereunder shall not be subject to avoidance under Section 548 of the Bankruptcy Code or under any applicable state Uniform Fraudulent Transfer Act, Uniform Fraudulent Conveyance Act or similar statute or common law. In determining the limitations, if any, on the amount of any Guarantor's obligations hereunder pursuant to the preceding sentence, it is the intention of the parties hereto that any rights of subrogation, indemnification or contribution which such Guarantor may have under this Guaranty, any other agreement or applicable law shall be taken into account.

3. Guaranty Unconditional. The obligations of each of the Guarantors hereunder shall be unconditional and absolute and, without limiting the generality of the foregoing, shall not be released, discharged or otherwise affected by:

(a) any extension, renewal, settlement, indulgence, compromise, waiver or release of or with respect to the Guaranteed Obligations or any part thereof or any agreement relating thereto, or

with respect to any obligation of any other guarantor of any of the Guaranteed Obligations, whether (in any such case) by operation of law or otherwise, or any failure or omission to enforce any right, power or remedy with respect to the Guaranteed Obligations or any part thereof or any agreement relating thereto, or with respect to any obligation of any other guarantor of any of the Guaranteed Obligations;

(b) any modification or amendment of or supplement to the Credit Agreement, any agreement evidencing Rate Management Transactions or any other Loan Document, including, without limitation, any such amendment which may increase the amount of, or the interest rates applicable to, any of the Guaranteed Obligations guaranteed hereby;

(c) any release, surrender, compromise, settlement, waiver, subordination or modification, with or without consideration, of any collateral securing the Guaranteed Obligations or any part thereof, any other guaranties with respect to the Guaranteed Obligations or any part thereof, or any other obligation of any Person or entity with respect to the Guaranteed Obligations or any part thereof, or any nonperfection or invalidity of any direct or indirect security for the Guaranteed Obligations, any impairment or any diminution or loss of value of any security or collateral for the Loan, or any disability or other defense of Borrower or any other Guarantor;

(d) any change in the corporate, partnership, limited liability company or other existence, structure or ownership of the Borrower or any other guarantor of any of the Guaranteed Obligations, or any insolvency, bankruptcy, reorganization or other similar proceeding affecting the Borrower or any other guarantor of the Guaranteed Obligations, or any of their respective assets or any resulting release or discharge of any obligation of the Borrower or any other guarantor of any of the Guaranteed Obligations;

(e) the existence of any claim, setoff or other rights which the Guarantors may have at any time against the Borrower, any other guarantor of any of the Guaranteed Obligations, the Administrative Agent, any Lender or any other Person, whether in connection herewith or in connection with any unrelated transactions, provided that nothing herein shall prevent the assertion of any such claim by separate suit or compulsory counterclaim;

(f) the enforceability or validity of the Guaranteed Obligations or any part thereof or the genuineness, enforceability or validity of any agreement relating thereto or with respect to any collateral securing the Guaranteed Obligations or any part thereof, or any other invalidity or unenforceability relating to or against the Borrower or any other guarantor of any of the Guaranteed Obligations, for any reason related to the Credit Agreement, any agreement evidencing Rate Management Transactions or any provision of applicable law, decree, order or regulation purporting to prohibit the payment by the Borrower or any other guarantor of the Guaranteed Obligations, of any of the Guaranteed Obligations or otherwise affecting any term of any of the Guaranteed Obligations;

(g) the failure of the Administrative Agent to take any steps to perfect and maintain any security interest in, or to preserve any rights to, any security or collateral for the Guaranteed Obligations, if any;

(h) the election by, or on behalf of, any one or more of the Lenders, in any proceeding instituted under Chapter 11 of Title 11 of the United States Code (11 U.S.C. 101 et seq.) (or any successor statute, the ***"Bankruptcy Code"***), of the application of Section 1111(b)(2) of the Bankruptcy Code;

(i) any borrowing or grant of a security interest by the Borrower, as debtor-in-possession, under Section 364 of the Bankruptcy Code;

(j) the disallowance, under Section 502 of the Bankruptcy Code, of all or any portion of the claims of the Lenders or the Administrative Agent for repayment of all or any part of the Guaranteed Obligations;

(k) the failure of any other guarantor to sign or become party to this Guaranty or any amendment, change, or reaffirmation hereof; or

(l) any other act or omission to act or delay of any kind by the Borrower, any other guarantor of the Guaranteed Obligations, the Administrative Agent, any Lender or any other Person or any other circumstance whatsoever which might, but for the provisions of this Section 3, constitute a legal or equitable discharge of any Guarantor's obligations hereunder or otherwise reduce, release, prejudice or extinguish its liability under this Guaranty.

4. Discharge Only Upon Payment In Full; Reinstatement In Certain Circumstances. Each of the Guarantors' obligations hereunder shall remain in full force and effect until all Guaranteed Obligations shall have been paid in full in cash (other than Unliquidated Obligations) and the Commitments and all Facility LCs shall have terminated or expired or, in the case of all Facility LCs, are fully collateralized on terms reasonably acceptable to the Administrative Agent, at which time, subject to all the foregoing conditions, the guarantees made hereunder shall automatically terminate. Each of the Guarantors agrees that Administrative Agent and Lenders may enforce this Guaranty without the necessity of resorting to or exhausting any security or collateral (including, without limitation, pursuant to a judicial or nonjudicial foreclosure), if any, and without the necessity of proceeding against Borrower or any other Guarantor. Each of the Guarantors hereby waives any and all benefits under CC Sections 2845, 2849 and 2850, including, without limitation, the right to require Administrative Agent or Lenders to proceed against Borrower, to proceed against any other Guarantor, to foreclose any lien on any real or personal property, to exercise any right or remedy under the Loan Documents, to draw upon any letter of credit issued in connection herewith, or to pursue any other remedy or to enforce any other right. For purposes of this Guaranty ***"Unliquidated Obligations"*** means at any time, any Obligations (or portion thereof) that are contingent in nature or unliquidated at such time, including any Obligation that is: (i) an obligation under the Credit Agreement to reimburse each LC Issuer for drawings not yet made under a Facility LC issued by it; (ii) any other obligation (including any guarantee) under the Credit Agreement that is contingent in nature at such time; or (iii) an obligation under the Credit Agreement to provide collateral to secure any of the foregoing types of obligations. If at any time any payment of the principal of or interest on any Loan Obligation, or any other amount payable by the Borrower or any other party under the Credit Agreement, any agreement evidencing Rate Management Transactions or any other Loan Document is rescinded or must be otherwise restored or returned upon the insolvency,

bankruptcy or reorganization of the Borrower or otherwise (including pursuant to any settlement entered into by a Lender in its discretion), each of the Guarantors' obligations hereunder with respect to such payment shall be reinstated as though such payment had been due but not made at such time.

5. General Waivers; Additional Waivers.

(a) General Waivers.

(i) Each of the Guarantors irrevocably waives acceptance hereof, presentment, demand or action on delinquency, protest, the benefit of any statutes of limitations and, to the fullest extent permitted by law, any notice not provided for herein or under the other Loan Documents, as well as any requirement that at any time any action be taken by any Person against the Borrower, any other guarantor of the Guaranteed Obligations, or any other Person.

(ii) Each of the Guarantors waives any and all rights of subrogation, reimbursement, indemnification and contribution, and any other rights and defenses that are or may become available to Guarantors by reason of CC Sections 2787 to 2855, inclusive, 2899 and 3433 including, without limitation, any and all rights or defenses Guarantors may have by reason of protection afforded to the principal with respect to any of the Guaranteed Obligations or to any other guarantor of any of the Guaranteed Obligations with respect to such guarantor's obligations under its guaranty, in either case, pursuant to the antideficiency or other laws of this state limiting or discharging the principal's indebtedness or such other guarantor's obligations, including, without limitation, California Code of Civil Procedure (***"CCP"***) Sections 580a, 580b, 580d or 726.

(iii) Each of the Guarantors waives all rights and defenses that Guarantors may have because Borrower's debt is, or at any time may be, secured by real property. This means, among other things:

(A) Administrative Agent and Lenders may collect from Guarantors without first foreclosing on any real or personal property collateral (if any) pledged by Borrower;

(B) If Administrative Agent or any Lender forecloses on any real property collateral pledged by Borrower:

(1) The amount of the debt may be reduced only by the price for which that collateral is sold at the foreclosure sale, even if the collateral is worth more than the sale price;

(2) Administrative Agent and Lenders may collect from Guarantors even if Administrative Agent or any Lender, by foreclosing on the real property collateral, has destroyed any right Guarantors may have to collect from Borrower.

This is an unconditional and irrevocable waiver of any rights and defenses Guarantors may have because Borrower's debt is secured by real property. These rights and defenses include, but are not limited to, any rights or defenses based upon CCP Sections 580a, 580b, 580d, or 726.

(iv) Each of the Guarantors waives all rights and defenses arising out of an election of remedies by Administrative Agent or Lenders, even though that election of remedies, such as a nonjudicial foreclosure with respect to security for the Guaranteed Obligations, if any, has destroyed Guarantors' rights of subrogation and reimbursement against Borrower by the operation of CCP Section 580d or otherwise, and even though that election of remedies by Administrative Agent or Lenders has destroyed Guarantors' rights of contribution against another guarantor of any of the Guaranteed Obligations.

(v) Each of the Guarantors hereby waives any right it might otherwise have under Section 2822 of the California Civil Code or similar law or otherwise to have Borrower designate the portion of any such obligation to be satisfied in the event that Borrower provides partial satisfaction of such obligation. Each of the Guarantors acknowledges and agrees that Borrower may already have agreed with Administrative Agent, or may hereafter agree, that in any such event the designation of the portion of the obligation to be satisfied shall, to the extent not expressly made by the terms of the Loan Documents, be made by Administrative Agent rather than by Borrower.

No other provision of this Guaranty shall be construed as limiting the generality of any of the covenants and waivers set forth in this Section 5(a).

(b) Additional Waivers. Notwithstanding anything herein to the contrary, each of the Guarantors hereby absolutely, unconditionally, knowingly, and expressly waives, to the fullest extent permitted by law:

(i) any right it may have to revoke this Guaranty as to future indebtedness or notice of acceptance hereof;

(ii) (1) notice of acceptance hereof; (2) notice of any Loans, Facility LCs or other financial accommodations made or extended under the Loan Documents or the creation or existence of any Guaranteed Obligations; (3) notice of the amount of the Guaranteed Obligations, subject, however, to each Guarantor's right to make inquiry of the Administrative Agent and the Lenders to ascertain the amount of the Guaranteed Obligations at any reasonable time; (4) notice of any adverse change in the financial condition of the Borrower or of any other fact that might increase such Guarantor's risk hereunder; (5) notice of presentment for payment, demand, protest, and notice thereof as to any instruments among the Loan Documents; (6) notice of any Default or Event of Default; and (7) all other notices (except if such notice is specifically required to be given to such Guarantor hereunder or under the other Loan Documents) and demands to which each Guarantor might otherwise be entitled;

(iii) its right, if any, to require the Administrative Agent and the other Lenders to institute suit against, or to exhaust any rights and remedies which the Administrative Agent and the other Lenders has or may have against, the other Guarantors or any third party; and each Guarantor further waives any defense arising by reason of any disability or other defense (other than the defense that the Guaranteed Obligations shall have been fully and finally performed and indefeasibly paid in full in cash) of the other Guarantors or by reason of the cessation from any cause whatsoever of the liability of the other Guarantors in respect thereof;

(iv) (a) any rights to assert against the Administrative Agent and the other Lenders defense (legal or equitable), set-off, counterclaim, or claim which such Guarantor may now or at any time hereafter have against the other Guarantors or any other party liable to the Administrative Agent and the other Lenders; (b) any defense, set-off, counterclaim, or claim, of any kind or nature, arising directly or indirectly from the present or future lack of perfection, sufficiency, validity, or enforceability of the Guaranteed Obligations or any security therefor; (c) any defense such Guarantor has to performance hereunder, and any right such Guarantor has to be exonerated, arising by reason of: (1) the impairment or suspension of the Administrative Agent's and the other Lenders' rights or remedies against the other guarantor of the Guaranteed Obligations; (2) the alteration by the Administrative Agent and the other Lenders of the Guaranteed Obligations; (3) any discharge of the other Guarantors' obligations to the Administrative Agent and the other Lenders by operation of law as a result of the Administrative Agent's and the other Lenders' intervention or omission; or (4) the acceptance by the Administrative Agent and the other Lenders of anything in partial satisfaction of the Guaranteed Obligations; and (d) the benefit of any statute of limitations affecting such Guarantor's liability hereunder or the enforcement thereof, and any act which shall defer or delay the operation of any statute of limitations applicable to the Guaranteed Obligations shall similarly operate to defer or delay the operation of such statute of limitations applicable to such Guarantor's liability hereunder; and

(v) any defense arising by reason of or deriving from (a) any claim or defense based upon an election of remedies by the Administrative Agent and the Lenders; or (b) any election by the Administrative Agent and the other Lenders under the Bankruptcy Code, to limit the amount of, or any collateral securing, its claim against the Guarantors.

(vi) Without limiting the generality of the foregoing, each of the Guarantors hereby expressly waives any and all benefits and defenses under (i) CCP Section 580a (which Section, if Guarantors had not given this waiver, would otherwise limit Guarantors' liability after a nonjudicial foreclosure sale to the difference between the obligations guaranteed herein and the fair market value of the property or interests sold at such nonjudicial foreclosure sale), (ii) CCP Sections 580b and 580d (which Sections, if Guarantors had not given this waiver, would otherwise limit Agent's and Lenders' right to recover a deficiency

judgment with respect to purchase money obligations and after a nonjudicial foreclosure sale, respectively), and (iii) CCP Section 726 (which Section, if Guarantors had not given this waiver, among other things, would otherwise require Agent and Lenders to exhaust all of its security before a personal judgment may be obtained for a deficiency). Notwithstanding any foreclosure of the lien of any deed of trust or security agreement with respect to any or all of the real or personal property secured thereby (if any), whether by the exercise of the power of sale contained therein, by an action for judicial foreclosure or by an acceptance of a deed in lieu of foreclosure, Guarantors shall remain bound under this Guaranty.

6. Subordination of Subrogation; Subordination of Intercompany Indebtedness.

(a) Subordination of Subrogation. Until the Guaranteed Obligations have been fully and finally performed and indefeasibly paid in full in cash (other than Unliquidated Obligations), the Guarantors waive all benefits and defenses under CC Sections 2847, 2848 and 2849 and agree Guarantors (i) shall have no right of subrogation with respect to such Guaranteed Obligations and (ii) waive any right to enforce any remedy which any LC Issuer, any of the Lenders or the Administrative Agent now have or may hereafter have against the Borrower, any endorser or any guarantor of all or any part of the Guaranteed Obligations or any other Person, and until such time the Guarantors waive any benefit of, and any right to participate in, any security or collateral given to the Lenders, any LC Issuer and the Administrative Agent to secure the payment or performance of all or any part of the Guaranteed Obligations or any other liability of the Borrower to the Lenders, any LC Issuer or the Administrative Agent. Should any Guarantor have the right, notwithstanding the foregoing, to exercise its subrogation rights, each Guarantor hereby expressly and irrevocably (A) subordinates any and all rights at law or in equity to subrogation, reimbursement, exoneration, contribution, indemnification or set off that such Guarantor may have to the payment in full in cash of the Guaranteed Obligations until the Guaranteed Obligations are indefeasibly paid in full in cash (other than Unliquidated Obligations) and (B) waives any and all defenses available to a surety, guarantor or accommodation co-obligor until the Guaranteed Obligations are indefeasibly paid in full in cash (other than Unliquidated Obligations). Each Guarantor acknowledges and agrees that this subordination is intended to benefit the Administrative Agent and the Lenders and shall not limit or otherwise affect such Guarantor's liability hereunder or the enforceability of this Guaranty, and that the Administrative Agent, the Lenders and their respective successors and assigns are intended third party beneficiaries of the waivers and agreements set forth in this Section 6(a).

(b) Subordination of Intercompany Indebtedness. Each Guarantor agrees that any and all claims of such Guarantor against the Borrower or any other Guarantor hereunder (each an ***"Obligor"***) with respect to any Intercompany Indebtedness (as hereinafter defined), any endorser, obligor or any other guarantor of all or any part of the Guaranteed Obligations, or against any of its properties shall be subordinate and subject in right of payment to the prior payment, in full and in cash, of all Guaranteed Obligations; provided that, as long as no Event of Default has occurred and is continuing,

such Guarantor may receive payments of principal and interest from any Obligor with respect to Intercompany Indebtedness. Notwithstanding any right of any Guarantor to ask, demand, sue for, take or receive any payment from any Obligor, all rights, liens and security interests of such Guarantor, whether now or hereafter arising and howsoever existing, in any assets of any other Obligor shall be and are subordinated to the rights of the Lenders and the Administrative Agent in those assets. No Guarantor shall have any right to possession of any such asset or to foreclose upon any such asset, whether by judicial action or otherwise, unless and until all of the Guaranteed Obligations shall have been fully paid and satisfied (in cash) and all financing arrangements pursuant to any Loan Document and any agreement evidencing Rate Management Transactions have been terminated. If all or any part of the assets of any Obligor, or the proceeds thereof, are subject to any distribution, division or application to the creditors of such Obligor, whether partial or complete, voluntary or involuntary, and whether by reason of liquidation, bankruptcy, arrangement, receivership, assignment for the benefit of creditors or any other action or proceeding, or if the business of any such Obligor is dissolved or if substantially all of the assets of any such Obligor are sold, then, and in any such event (such events being herein referred to as an ***"Insolvency Event"***), any payment or distribution of any kind or character, either in cash, securities or other property, which shall be payable or deliverable upon or with respect to any indebtedness of any Obligor to any Guarantor (***"Intercompany Indebtedness"***) shall be paid or delivered directly to the Administrative Agent for application on any of the Guaranteed Obligations, due or to become due, until such Guaranteed Obligations shall have first been fully paid and satisfied (in cash). Should any payment, distribution, security or instrument or proceeds thereof be received by the applicable Guarantor upon or with respect to the Intercompany Indebtedness after any Insolvency Event and prior to the satisfaction of all of the Guaranteed Obligations and the termination of all financing arrangements pursuant to any Loan Document among the Borrower and the Lenders, such Guarantor shall receive and hold the same in trust, as trustee, for the benefit of the Lenders and shall forthwith deliver the same to the Administrative Agent, for the benefit of the Lenders, in precisely the form received (except for the endorsement or assignment of the Guarantor where necessary), for application to any of the Guaranteed Obligations, due or not due, and, until so delivered, the same shall be held in trust by the Guarantor as the property of the Lenders. If any such Guarantor fails to make any such endorsement or assignment to the Administrative Agent, the Administrative Agent or any of its officers or employees is irrevocably authorized to make the same. Each Guarantor agrees that until the Guaranteed Obligations (other than Unliquidated Obligations) have been paid in full (in cash) and satisfied and all financing arrangements pursuant to any Loan Document among the Borrower and the Lenders have been terminated, no Guarantor will assign or transfer to any Person (other than the Administrative Agent) any claim any such Guarantor has or may have against any Obligor.

7. Contribution with Respect to Guaranteed Obligations.

(a) To the extent that any Guarantor shall make a payment under this Guaranty (a ***"Guarantor Payment"***) which, taking into account all other Guarantor Payments then previously or concurrently made by any other Guarantor, exceeds the amount which otherwise would have been paid by or attributable to such Guarantor if

each Guarantor had paid the aggregate Guaranteed Obligations satisfied by such Guarantor Payment in the same proportion as such Guarantor's Allocable Amount (as defined below) (as determined immediately prior to such Guarantor Payment) bore to the aggregate Allocable Amounts of each of the Guarantors as determined immediately prior to the making of such Guarantor Payment, then, following indefeasible payment in full in cash of the Guarantor Payment and the Guaranteed Obligations (other than Unliquidated Obligations), termination or expiration of all Commitments and Facility LCs or, in the case of all Facility LCs, full collateralization on terms reasonably acceptable to the Administrative Agent, termination of the Credit Agreement and satisfaction of all outstanding obligations under the agreements evidencing Rate Management Transactions, such Guarantor shall be entitled to receive contribution and indemnification payments from, and be reimbursed by, each other Guarantor for the amount of such excess, pro rata based upon their respective Allocable Amounts in effect immediately prior to such Guarantor Payment.

(b) As of any date of determination, the ***"Allocable Amount"*** of any Guarantor shall be equal to the excess of the value of the property of such Guarantor at a fair valuation over the total liabilities of such Guarantor (including the maximum amount reasonably expected to become due in respect of contingent liabilities, calculated, without duplication, assuming each other Guarantor that is also liable for such contingent liability pays its ratable share thereof), giving effect to all payments made by other Guarantors as of such date in a manner to maximize the amount of such contributions.

(c) This Section 7 is intended only to define the relative rights of the Guarantors, and nothing set forth in this Section 7 is intended to or shall impair the obligations of the Guarantors, jointly and severally, to pay any amounts as and when the same shall become due and payable in accordance with the terms of this Guaranty.

(d) The parties hereto acknowledge that the rights of contribution and indemnification hereunder shall constitute assets of the Guarantor or Guarantors to which such contribution and indemnification is owing.

(e) The rights of the indemnifying Guarantors against other Guarantors under this Section 7 shall be exercisable upon the full and indefeasible payment of the Guaranteed Obligations in cash (other than Unliquidated Obligations) and the termination or expiry (or in the case of all Facility LCs, full collateralization), on terms reasonably acceptable to the Administrative Agent, of the Commitments and all Facility LCs and the termination of the Credit Agreement and the satisfaction of all outstanding obligations under the agreements evidencing Rate Management Transactions.

8. Stay of Acceleration. If acceleration of the time for payment of any amount payable by the Borrower under the Credit Agreement, any counterparty to any agreement evidencing Rate Management Transactions or any other Loan Document is stayed upon the insolvency, bankruptcy or reorganization of the Borrower or any of its Affiliates, all such amounts otherwise subject to acceleration under the terms of the Credit Agreement, any agreement evidencing Rate Management Transactions or any other Loan Document shall

nonetheless be payable by each of the Guarantors hereunder forthwith on demand by the Administrative Agent.

9. Notices. All notices, requests and other communications to any party hereunder shall be given in the manner prescribed in Section 13.1 of the Credit Agreement with respect to the Administrative Agent at its notice address therein and, with respect to any Guarantor, in the care of the Borrower at the address of the Borrower set forth in the Credit Agreement, or such other address or telecopy number as such party may hereafter specify for such purpose in accordance with the provisions of Section 13.1 of the Credit Agreement.

10. No Waivers. No failure or delay by the Administrative Agent or any Lender in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies provided in this Guaranty, the Credit Agreement, any agreement evidencing Rate Management Transactions and the other Loan Documents shall be cumulative and not exclusive of any rights or remedies provided by law.

11. Successors and Assigns. This Guaranty is for the benefit of the Administrative Agent and the Lenders and their respective successors and permitted assigns, provided that, except with respect to any sale of a Guarantor as permitted under the Credit Agreement, no Guarantor shall have any right to assign its rights or obligations hereunder without the consent of the Administrative Agent, and any such assignment in violation of this Section 11 shall be null and void; and in the event of an assignment of any amounts payable under the Credit Agreement, any agreement evidencing Rate Management Transactions or the other Loan Documents in accordance with the respective terms thereof, the rights hereunder, to the extent applicable to the indebtedness so assigned, may be transferred with such indebtedness. This Guaranty shall be binding upon each of the Guarantors and their respective successors and assigns.

12. Changes in Writing. Other than in connection with the addition of other Guarantors, which become parties hereto by executing a Guaranty Supplement hereto in the form attached as Annex I, neither this Guaranty nor any provision hereof may be changed, waived, discharged or terminated orally, but only in writing signed by each of the Guarantors and the Administrative Agent and in accordance with Section 8.3 of the Credit Agreement.

13. Governing Law; Jurisdiction.

(a) **THIS GUARANTY SHALL BE CONSTRUED IN ACCORDANCE WITH THE INTERNAL LAWS (WITHOUT REGARD TO THE CONFLICT OF LAWS PROVISIONS) OF THE STATE OF CALIFORNIA, BUT GIVING EFFECT TO FEDERAL LAWS APPLICABLE TO NATIONAL BANKS.**

(b) **EACH GUARANTOR HEREBY IRREVOCABLY SUBMITS TO THE EXCLUSIVE JURISDICTION OF ANY UNITED STATES FEDERAL OR STATE COURT SITTING IN ORANGE COUNTY, CALIFORNIA IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS GUARANTY OR ANY OTHER LOAN DOCUMENT AND EACH GUARANTOR HEREBY IRREVOCABLY AGREES THAT ALL CLAIMS IN RESPECT OF**

SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN ANY SUCH COURT AND IRREVOCABLY WAIVES ANY OBJECTION IT MAY NOW OR HEREAFTER HAVE AS TO THE VENUE OF ANY SUCH SUIT, ACTION OR PROCEEDING BROUGHT IN SUCH A COURT OR THAT SUCH COURT IS AN INCONVENIENT FORUM. NOTHING HEREIN SHALL LIMIT THE RIGHT OF THE ADMINISTRATIVE AGENT, ANY LC ISSUER OR ANY LENDER TO BRING PROCEEDINGS AGAINST ANY GUARANTOR IN THE COURTS OF ANY OTHER JURISDICTION. ANY JUDICIAL PROCEEDING BY ANY GUARANTOR AGAINST THE ADMINISTRATIVE AGENT, ANY LC ISSUER OR ANY LENDER OR ANY AFFILIATE OF THE ADMINISTRATIVE AGENT, ANY LC ISSUER OR ANY LENDER INVOLVING, DIRECTLY OR INDIRECTLY, ANY MATTER IN ANY WAY ARISING OUT OF, RELATED TO, OR CONNECTED WITH THIS GUARANTY OR ANY OTHER LOAN DOCUMENT SHALL BE BROUGHT ONLY IN A COURT IN ORANGE COUNTY, CALIFORNIA.

(c) Each party to this Guaranty irrevocably consents to service of process in the manner provided for notices in Section 9 of this Guaranty, and each of the Guarantors hereby appoints the Borrower as its agent for service of process. Nothing in this Guaranty or any other Loan Document will affect the right of any party to this Guaranty to serve process in any other manner permitted by law.

14. **WAIVER OF JURY TRIAL; WAIVER OF CERTAIN DAMAGES. TO THE EXTENT PERMITTED BY APPLICABLE LAW, EACH PARTY TO THIS GUARANTY HEREBY WAIVES TRIAL BY JURY IN ANY JUDICIAL PROCEEDING INVOLVING, DIRECTLY OR INDIRECTLY, ANY MATTER (WHETHER SOUNDING IN TORT, CONTRACT OR OTHERWISE) IN ANY WAY ARISING OUT OF, RELATED TO, OR CONNECTED WITH THIS GUARANTY OR ANY OTHER LOAN DOCUMENT OR THE RELATIONSHIP ESTABLISHED HEREUNDER OR THEREUNDER. EACH GUARANTOR (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER GUARANTOR HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER GUARANTOR WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER GUARANTORS HAVE BEEN INDUCED TO ENTER INTO THIS GUARANTY AND THE OTHER LOAN DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 14. TO THE EXTENT PERMITTED BY APPLICABLE LAW, EACH GUARANTOR SHALL NOT ASSERT, AND HEREBY WAIVES, ANY CLAIM AGAINST ADMINISTRATIVE AGENT OR ANY LENDER, ON ANY THEORY OF LIABILITY, FOR SPECIAL, INDIRECT, CONSEQUENTIAL OR PUNITIVE DAMAGES (AS OPPOSED TO DIRECT OR ACTUAL DAMAGES) ARISING OUT OF, IN CONNECTION WITH, OR AS A RESULT OF, THIS GUARANTY, THE GUARANTEED OBLIGATIONS, THE LOAN DOCUMENTS, THE TRANSACTIONS DESCRIBED THEREIN, THE LOAN OR THE USE OF THE PROCEEDS THEREOF.**

15. No Strict Construction. The parties hereto have participated jointly in the negotiation and drafting of this Guaranty. In the event an ambiguity or question of intent or interpretation arises, this Guaranty shall be construed as if drafted jointly by the parties hereto and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provisions of this Guaranty.

16. Taxes, Expenses of Enforcement, Etc.

(a) Taxes.

(i) Any and all payments by or on account of any obligation of any Guarantor under any Loan Document shall be made without deduction or withholding for any Taxes, except as required by applicable law. If any applicable law requires the deduction or withholding of any Tax from any such payment, then the applicable Guarantor shall be entitled to make such deduction or withholding and shall timely pay the full amount deducted or withheld to the relevant governmental authority in accordance with applicable law and, if such Tax is an Indemnified Tax or Other Tax, then the sum payable by the applicable Guarantor shall be increased as necessary so that after such deduction or withholding has been made (including such deductions and withholdings applicable to additional sums payable under this Section 16) the applicable Lender or the Administrative Agent receives an amount equal to the sum it would have received had no such deduction or withholding been made.

(ii) The Guarantor shall timely pay to the relevant governmental authority in accordance with applicable law or, at the option of the Administrative Agent, timely reimburse it for the payment of, any Other Taxes.

(iii) The Guarantor shall indemnify each Lender or the Administrative Agent, within fifteen (15) days after demand therefor, for the full amount of any Indemnified Taxes and Other Taxes (including Indemnified Taxes and Other Taxes imposed or asserted on or attributable to amounts payable under this Section 16) payable or paid by such Lender or the Administrative Agent or required to be withheld or deducted from a payment to such Lender or the Administrative Agent and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes and Other Taxes were correctly or legally imposed or asserted by the relevant governmental authority. A certificate as to the amount of such payment or liability delivered to the Guarantor by a Lender (with a copy to the Administrative Agent), or by the Administrative Agent on its own behalf or on behalf of a Lender, shall be conclusive absent manifest error.

(iv) As soon as practicable after any payment of Taxes by any Guarantor to a governmental authority pursuant to this Section 16, such Guarantor shall deliver to the Administrative Agent the original or a certified copy of a receipt issued by such governmental authority evidencing such payment, a copy

of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(b) Expenses of Enforcement, Etc. The Guarantors agree to reimburse the Administrative Agent and the other Lenders for any reasonable costs and out-of-pocket expenses (including attorneys' fees) paid or incurred by the Administrative Agent or any other Lenders in connection with the collection and enforcement of amounts due under the Loan Documents, including without limitation this Guaranty.

17. Financial Information. Each Guarantor hereby assumes responsibility for keeping itself informed of the financial condition of the Borrower, the other Guarantors and any and all endorsers and/or other guarantors of all or any part of the Guaranteed Obligations, and of all other circumstances bearing upon the risk of nonpayment of the Guaranteed Obligations, or any part thereof, that diligent inquiry would reveal, and each Guarantor hereby agrees that none of the Lenders or the Administrative Agent shall have any duty to advise such Guarantor of information known to any of them regarding such condition or any such circumstances. In the event any Lender or the Administrative Agent, in its sole discretion, undertakes at any time or from time to time to provide any such information to a Guarantor, such Lender or the Administrative Agent shall be under no obligation (i) to undertake any investigation not a part of its regular business routine, (ii) to disclose any information which such Lender or the Administrative Agent, pursuant to accepted or reasonable commercial finance or banking practices, wishes to maintain confidential or (iii) to make any other or future disclosures of such information or any other information to such Guarantor.

18. Severability. Wherever possible, each provision of this Guaranty shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Guaranty shall be prohibited by or invalid under such law, such provision shall be ineffective to the extent of such prohibition or invalidity without invalidating the remainder of such provision or the remaining provisions of this Guaranty.

19. Merger; No Oral Agreements. This Guaranty represents the final agreement of each of the Guarantors with respect to the matters contained herein and may not be contradicted by evidence of prior or contemporaneous agreements, or subsequent oral agreements, between each such Guarantor and any Lender or the Administrative Agent. Each Guarantor, by executing this Guaranty (or the Supplement to Guaranty), expressly represents and warrants that it did not rely on any representation, assurance or agreement, oral or written, not expressly set forth in this Guaranty in reaching its decisions to enter into this Guaranty and that no promises or other representations have been made to such Guarantor which conflict with the written terms of this Guaranty. No course of prior dealing among the parties, no usage of trade, and no parol or extrinsic evidence of any nature may be used to supplement, modify or vary any of the terms hereof. There are no conditions to the full effectiveness of this Guaranty.

20. Headings. Section headings in this Guaranty are for convenience of reference only and shall not govern the interpretation of any provision of this Guaranty.

21. Keepwell. Each Qualified ECP Guarantor (as hereinafter defined) hereby jointly and severally, absolutely, unconditionally and irrevocably undertakes to provide such funds or

other support as may be needed from time to time by each other Guarantor to honor all of its obligations under this Guaranty in respect of all Swap Obligations (provided, however, that each Qualified ECP Guarantor shall only be liable under this Section 21 for the maximum amount of such liability that can be hereby incurred without rendering its obligations under this Section 21, or otherwise under this Guaranty, voidable under applicable law relating to fraudulent conveyance or fraudulent transfer, and not for any greater amount). The obligations of each Qualified ECP Guarantor under this Section 21 shall remain in full force and effect until all Guaranteed Obligations shall have been fully and finally performed and indefeasibly paid in full in cash (other than Unliquidated Obligations) and the Commitments and all Facility LCs shall have terminated or expired or, in the case of all Facility LCs, are fully collateralized on terms reasonably acceptable to the Administrative Agent. Each Qualified ECP Guarantor intends that this Section 21 constitute, and this Section 21 shall be deemed to constitute, a "keepwell, support, or other agreement" for the benefit of each other Guarantor for all purposes of Section 1a(18)(A)(v)(II) of the Commodity Exchange Act. Notwithstanding anything herein to the contrary, if a Guarantor or a counterparty under any swap makes a written representation to the Lenders in connection with this Guaranty, a swap, or any master agreement governing a swap to the effect that such Guarantor is or will be an "eligible contract participant" as defined in the Commodity Exchange Act on the date the Guaranty becomes effective with respect to such swap (this date shall be the date of the execution of the swap if the corresponding Guaranty is then in effect, and otherwise it shall be the date of execution and delivery of such Guaranty unless the Guaranty specifies a subsequent effective date), and such representation proves to have been incorrect when made or deemed to have been made, the Lenders reserve all of their contractual and other rights and remedies, at law or in equity, including (to the extent permitted by applicable law) the right to claim, and pursue a separate cause of action, for damages as a result of such misrepresentation, provided that such Guarantor's liability for such damages shall not exceed the amount of the Excluded Swap Obligations with respect to such swap. As used herein, ***"Qualified ECP Guarantor"*** means, in respect of any Swap Obligation, each Guarantor that has total assets exceeding $10,000,000 at the time the relevant guarantee or grant of the relevant security interest becomes effective with respect to such Swap Obligation or such other Person as constitutes an "eligible contract participant" under the Commodity Exchange Act or any regulations promulgated thereunder and can cause another Person to qualify as an "eligible contract participant" at such time by entering into a keepwell under Section 1a(18)(A)(v)(II) of the Commodity Exchange Act.

[SIGNATURE PAGES TO FOLLOW]

IN WITNESS WHEREOF, each Initial Guarantor has caused this Guaranty to be duly executed by its authorized officer as of the day and year first above written.

THE NEW HOME COMPANY
SOUTHERN CALIFORNIA LLC,
a Delaware limited liability company

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

THE NEW HOME COMPANY
NORTHERN CALIFORNIA LLC,
a Delaware limited liability company

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

TNHC LAND COMPANY LLC,
a Delaware limited liability company

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

Acknowledged and Agreed to:

U.S. BANK NATIONAL ASSOCIATION,
D/B/A HOUSING CAPITAL COMPANY,
as Administrative Agent

By: _____
Name: _____
Title: _____

ANNEX I

SUPPLEMENT TO GUARANTY

Reference is hereby made to the Guaranty (as the same may be amended, restated, supplemented or otherwise modified from time to time, the ***"Guaranty"***), dated as of June 26, 2014, made by the Persons listed on the signature pages thereto (each an ***"Initial Guarantor,"*** and together with any additional Persons which become parties to the Guaranty by executing Guaranty Supplements thereto substantially similar in form and substance hereto, the ***"Guarantors"***), in favor of the Administrative Agent, for the ratable benefit of the Lenders, under the Credit Agreement. Each capitalized term used herein and not defined herein shall have the meaning given to it in the Guaranty.

By its execution below, the undersigned, [NAME OF NEW GUARANTOR], a [_____] [corporation] [partnership] [limited liability company] (the ***"New Guarantor"***), unconditionally agrees to become, and does hereby become, a Guarantor under the Guaranty and a party to the Reference Agreement, and agrees to be bound by all the terms, conditions, obligations, liabilities and undertakings of each Guarantor or to which each Guarantor is subject under such Guaranty and the Reference Agreement as if originally a party thereto, all with the same force and effect as if the undersigned were an original signatory to the Guaranty and the Reference Agreement. By its execution below, the undersigned represents and warrants as to itself that all of the representations and warranties contained in Section 1 of the Guaranty are true and correct in all respects as of the date hereof. The undersigned hereby acknowledges and affirms as of the date hereof with respect to itself, its properties and its affairs each of the waivers, representations, warranties, acknowledgements and certifications applicable to any Guarantor contained in the Guaranty.

IN WITNESS WHEREOF, the New Guarantor has executed and delivered this Supplement to Guaranty as of this _____ day of _____, 20___.

[NAME OF NEW GUARANTOR]

By: _____
Name:
Title:

EXHIBIT F

FORM OF NOTE

[_____], 20[__]

The New Home Company Inc., a Delaware corporation (the ***"Borrower"***), promises to pay to the order of [_____] (the ***"Lender"***) the principal sum of [_____] AND NO/100 DOLLARS ($[_____].00), or such lesser amount of the aggregate outstanding and unpaid principal amount of all Loans made by the Lender to the Borrower pursuant to Section 2.1 of the Agreement (as hereinafter defined), in immediately available funds at the applicable office of U.S. Bank National Association d/b/a Housing Capital Company, as Administrative Agent, together with interest on the unpaid principal amount hereof at the rates and on the dates set forth in the Agreement. The Borrower shall pay the principal of and accrued and unpaid interest on the Loans in full on the Facility Termination Date.

The Lender shall, and is hereby authorized to, record on the schedule attached hereto, or to otherwise record in accordance with its usual practice, the date and amount of each Loan and the date and amount of each principal payment hereunder.

This Note is one of the Notes issued pursuant to, and is entitled to the benefits of, the Amended and Restated Credit Agreement dated as of May 10, 2016 (which, as it may be amended or modified and in effect from time to time, is herein called the ***"Agreement"***), among the Borrower, the lenders party thereto, including the Lender, and U.S. Bank National Association d/b/a Housing Capital Company, as Administrative Agent, to which Agreement reference is hereby made for a statement of the terms and conditions governing this Note, including the terms and conditions under which this Note may be prepaid or its maturity date accelerated. This Note is guaranteed pursuant to the Guaranty, all as more specifically described in the Agreement, and reference is made thereto for a statement of the terms and provisions thereof. Capitalized terms used herein and not otherwise defined herein are used with the meanings attributed to them in the Agreement.

In the event of default hereunder, the undersigned agree to pay all costs and expenses of collection, including reasonable attorneys' fees. The undersigned waive demand, presentment, notice of nonpayment, protest, notice of protest and notice of dishonor.

THE VALIDITY, CONSTRUCTION AND ENFORCEABILITY OF THIS NOTE SHALL BE GOVERNED BY THE INTERNAL LAWS OF THE STATE OF CALIFORNIA WITHOUT GIVING EFFECT TO THE CONFLICT OF LAWS PRINCIPLES THEREOF, BUT GIVING EFFECT TO FEDERAL LAWS OF THE UNITED STATES APPLICABLE TO NATIONAL BANKS.

THE NEW HOME COMPANY INC.,
a Delaware corporation

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title:

SCHEDULE OF LOANS AND PAYMENTS OF PRINCIPAL
TO
NOTE OF [_____],
DATED [_____], 20[__]

Date	Principal Amount of Loan	Maturity of Interest Period	Principal Amount Paid	Unpaid Balance

EXHIBIT G

LIST OF CLOSING DOCUMENTS

THE NEW HOME COMPANY INC.

CREDIT FACILITIES

LIST OF CLOSING DOCUMENTS[8*]

A. LOAN DOCUMENTS

1. Amended and Restated Credit Agreement dated as of May 10, 2016, among The New Home Company Inc., a Delaware corporation (the ***"Borrower"***), the Lenders party thereto and U.S. Bank National Association d/b/a Housing Capital Company, as Administrative Agent (in such capacity, the ***"Administrative Agent"***), evidencing a revolving credit facility to the Borrower from the Lenders in an initial aggregate principal amount of up to $260,000,000.

SCHEDULES

Pricing Schedule
Schedule 1 – Commitments
Schedule 2 – Intentionally Omitted
Schedule 3 – Guarantors
Schedule 4 – LC Issuer's LC Limits
Schedule 5.8 – Subsidiaries

EXHIBITS

Exhibit A – Intentionally Omitted
Exhibit B – Form of Compliance Certificate
Exhibit C – Form of Assignment and Assumption Agreement
Exhibit D – Form of Borrowing Notice
Exhibit E – Form of Guaranty
Exhibit F – Form of Note
Exhibit G – List of Closing Documents
Exhibit H – Form of Borrowing Base Certificate
Exhibit I – Form of Increasing Lender Supplement
Exhibit J – Form of Augmenting Lender Supplement

2. Notes executed by the Borrower in favor of each of the Augmenting/Increasing Lenders, if any, which has requested a note pursuant to Section 2.13(d) of the Credit Agreement.

[8*] Each capitalized term used herein and not defined herein shall have the meaning assigned to such term in the above-defined Credit Agreement. Items appearing in **bold** and *italics* shall be prepared and/or provided by the Borrower and/or Borrower's counsel.

3. A Consent and Reaffirmation of Guaranty executed by each Guarantor (collectively with the Borrower, the ***"Loan Parties"***).

B. CORPORATE DOCUMENTS

4. Certificate of the Secretary or an Assistant Secretary of each Loan Party certifying (i) that there have been no changes in the charter document of such Loan Party, as attached thereto and as certified as of a recent date by the Secretary of State (or analogous governmental entity) of the jurisdiction of its organization, since the date of the certification thereof by such governmental entity, (ii) the Operating Agreement or other organizational document, as attached thereto, of such Loan Party as in effect on the date of such certification, (iii) resolutions of the Board of Directors or other governing body of such Loan Party authorizing the execution, delivery and performance of each Loan Document to which it is a party, (iv) the Good Standing Certificate (or analogous documentation if applicable) for such Loan Party from the Secretary of State (or analogous governmental entity) of the jurisdiction of its organization, to the extent generally available in such jurisdiction and (v) the names and true signatures of the incumbent officers of each Loan Party authorized to sign the Loan Documents to which it is a party, and (in the case of the Borrower) authorized to request an Advance or the issuance of a Facility LC under the Credit Agreement.

C. OPINIONS

5. Opinion of Gibson, Dunn & Crutcher LLP, counsel for the Loan Parties.

D. CLOSING CERTIFICATES AND MISCELLANEOUS

6. A Certificate signed by an Authorized Officer of the Borrower certifying the following: on the Effective Date (1) no Default or Event of Default has occurred and is continuing and (2) the representations and warranties contained in Article V of the Credit Agreement are true and correct in all material respects (except to the extent already qualified by materiality, in which case said representations and warranties are true and correct in all respects) as of such date except to the extent any such representation or warranty is stated to relate solely to an earlier date, in which case such representation or warranty shall have been true and correct in all material respects (except to the extent already qualified by materiality, in which case said representations and warranties are true and correct in all respects) on and as of such earlier date.

EXHIBIT H

PRO FORMA BORROWING BASE CERTIFICATE

_____, 20___

The undersigned herby certifies that as of the above date, Borrower (as defined below) is in compliance with the financial covenants and tests set forth in Section 6.20 of the Credit Agreement (as defined below). Borrower is in compliance with all covenants, terms and conditions applicable to Borrower and each Guarantor under or pursuant to the Credit Agreement and other Loan Documents described therein. Other than as hereinafter disclosed there exists no Default or Event of Default by the Borrower or Guarantors under the Credit Agreement or other Loan Documents. In addition, this Borrowing Base Certificate is in compliance with all terms of the Amended and Restated Credit Agreement dated as of May 10, 2016, as modified by that certain Modification Agreement dated as of September 27, 2017, that certain Second Modification Agreement dated as of August 7, 2019 and that certain Third Modification Agreement dated as of June 26, 2020 (as further amended, modified, renewed or extended from time to time) among The New Home Company Inc. (***"Borrower"***), the Lenders party thereto and U.S. Bank National Association d/b/a Housing Capital Company, as Administrative Agent for the Lenders and LC Issuer(s) (the ***"Credit Agreement"***). Capitalized terms used but not otherwise defined herein shall have the meanings used and defined in the Credit Agreement. Attached hereto as Schedule 1 is a reconciliation of the calculations set forth below to the amounts set forth in Borrower's financial statements most recently delivered to Administrative Agent pursuant to Section 6.1(a) or (b), as applicable.

BORROWING BASE AVAILABILITY -

"Borrowing Base" Availability Calculation

(i) Unrestricted Cash

Cash and Cash Equivalents		
Less: Min Liquidity Req		
Subtotal	-	-

(ii) Escrow Receivables

(iii) Presold Units (excluding Designated Condominium Projects)

(iv) Model Units (excluding Designated Condominium Projects)

(v) Spec Units (excluding Designated Condominium Projects)

(vi) Presold Units in Designated Condominium Projects

(vii) Model Units in Designated Condominium Projects

(viii) Spec Units in Designated Condominium Projects

(ix-x) Finished Lots / Land Under Dev't

(xi) Entitled Land

Subtotal		-

Deductions (see calc below):

(a)	FinLot/LUD/Land > 40%	-	
(b)	Land > 12.5%	-	
(c)	Spec Advance Rate reduces to 25% after 360 days (excluding each Designated Condominium Project, which reduce to 25% after 24 months)		
(d)	Models unsold 180 days after last production sold		-

"Borrowing Base" Availability Limitation Tests

(a)

Borrowing Base subtotal	-	
50%	-	
Sum of Fin Lots, LUD & Land (ix, x & xi)	-	
Excess Amt over 50%	-	-

(b)

Borrowing Base subtotal	-	
12.5%	-	
Land (xi)	-	
Excess Amt over 12.5%	-	-

(d) Models unsold 180d after last production sold

Project	-	
Amt to deduct	-	-

SCHEDULE 1

[ATTACH RECONCILIATION TO FINANCIAL STATEMENTS]

EXHIBIT I

FORM OF INCREASING LENDER SUPPLEMENT

INCREASING LENDER SUPPLEMENT, dated as of [_____], 20[__] (this ***"Supplement"***), by and among each of the signatories hereto, to the Amended and Restated Credit Agreement, dated as of May 10, 2016, as modified by that certain Modification Agreement dated as of September 27, 2017, that certain Second Modification Agreement dated as of August 7, 2019 and that certain Third Modification Agreement dated as of June 26, 2020 (as further amended, restated, supplemented or otherwise modified from time to time, the ***"Credit Agreement"***), among The New Home Company Inc., a Delaware corporation (***"Borrower"***), the Lenders party thereto and U.S. Bank National Association, d/b/a Housing Capital Company, as Administrative Agent (in such capacity, ***"Administrative Agent"***).

W I T N E S E T H

WHEREAS, pursuant to Section 2.25 of the Credit Agreement, Borrower has the right, subject to the terms and conditions thereof, to effectuate an increase in the Aggregate Commitment under the Credit Agreement by requesting one or more Lenders to increase the amount of its Commitment;

WHEREAS, Borrower has given notice to the Administrative Agent of its intention to increase the Aggregate Commitment pursuant to such Section 2.25 of the Credit Agreement; and

WHEREAS, pursuant to Section 2.25 of the Credit Agreement, the undersigned Increasing Lender now desires to increase the amount of its Commitment under the Credit Agreement by executing and delivering to the Borrower and the Administrative Agent this Supplement;

NOW, THEREFORE, each of the parties hereto hereby agrees as follows:

1. The undersigned Increasing Lender agrees, subject to the terms and conditions of the Credit Agreement, that on the date of this Supplement it shall have its Commitment increased by $[_____], thereby making the aggregate amount of its total Commitment equal to $[_____].

2. The Borrower hereby represents and warrants that no Default or Event of Default has occurred and is continuing on and as of the date hereof.

3. Terms defined in the Credit Agreement shall have their defined meanings when used herein.

4. This Supplement shall be governed by, and construed in accordance with, the laws of the State of California.

5. This Supplement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same document.

IN WITNESS WHEREOF, each of the undersigned has caused this Supplement to be executed and delivered by a duly authorized officer on the date first above written.

[INSERT NAME OF INCREASING LENDER]

By: _____
Name:
Title:

Accepted and agreed to as of the date first written above:

THE NEW HOME COMPANY INC.,
a Delaware corporation

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

Acknowledged as of the date first written above:

U.S. BANK NATIONAL ASSOCIATION,
d/b/a Housing Capital Company,
as Administrative Agent and a Lender

By: _____
Name: _____
Title: _____

EXHIBIT J

FORM OF AUGMENTING LENDER SUPPLEMENT

AUGMENTING LENDER SUPPLEMENT, dated as of [_____], 20[__] (this ***"Supplement"***), to the Amended and Restated Credit Agreement, dated as of May 10, 2016, as modified by that certain Modification Agreement dated as of September 27, 2017, that certain Second Modification Agreement dated as of August 7, 2019 and that certain Third Modification Agreement dated as of June 26, 2020 (as amended, restated, supplemented or otherwise modified from time to time, the ***"Credit Agreement"***), among The New Home Company Inc., a Delaware corporation (***"Borrower"***), the Lenders party thereto and U.S. Bank National Association, d/b/a Housing Capital Company, as Administrative Agent (in such capacity, ***"Administrative Agent"***).

W I T N E S E T H

WHEREAS, the Credit Agreement provides in Section 2.25 thereof that any bank, financial institution or other entity may extend Commitments under the Credit Agreement subject to the approval of Borrower and Administrative Agent, by executing and delivering to Borrower and Administrative Agent a supplement to the Credit Agreement in substantially the form of this Supplement; and

WHEREAS, the undersigned Augmenting Lender was not an original party to the Credit Agreement but now desires to become a party thereto;

NOW, THEREFORE, each of the parties hereto hereby agrees as follows:

1. The undersigned Augmenting Lender agrees to be bound by the provisions of the Credit Agreement and agrees that it shall, on the date of this Supplement, become a Lender for all purposes of the Credit Agreement to the same extent as if originally a party thereto, with a Commitment of $[_____].

2. The undersigned Augmenting Lender (a) represents and warrants that it is legally authorized to enter into this Supplement and that none of the funds, monies, assets or other consideration being used to fund its Loans are "plan assets" as defined under ERISA and that is rights, benefits and interests in and under the Loan Documents will not be "plan assets" under ERISA; (b) confirms that it has received a copy of the Credit Agreement, together with copies of the most recent financial statements delivered pursuant to Section 6.1 thereof, as applicable, and has reviewed such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into this Supplement; (c) agrees that it will, independently and without reliance upon the Administrative Agent or any other Lender and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under the Credit Agreement or any other instrument or document furnished pursuant hereto or thereto; (d) appoints and authorizes the Administrative Agent to take such action as agent on its behalf and to exercise such powers and discretion under the Credit Agreement or any other instrument or document furnished pursuant hereto or thereto as are delegated to the Administrative Agent by the terms thereof,

together with such powers as are incidental thereto; and (e) agrees that it will be bound by the provisions of the Credit Agreement and will perform in accordance with its terms all the obligations which by the terms of the Credit Agreement are required to be performed by it as a Lender.

3. The undersigned's address for notices for the purposes of the Credit Agreement is as follows:

[_____]

4. Borrower hereby represents and warrants that no Default or Event of Default has occurred and is continuing on and as of the date hereof.

5. Terms defined in the Credit Agreement shall have their defined meanings when used herein.

6. This Supplement shall be governed by, and construed in accordance with, the laws of the State of California.

7. This Supplement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same document.

[remainder of this page intentionally left blank]

IN WITNESS WHEREOF, each of the undersigned has caused this Supplement to be executed and delivered by a duly authorized officer on the date first above written.

[INSERT NAME OF AUGMENTING LENDER]

By: _____
Name:
Title:

Accepted and agreed to as of the date first written above:

THE NEW HOME COMPANY INC.,
a Delaware corporation

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

Acknowledged as of the date first written above:

U.S. BANK NATIONAL ASSOCIATION,
d/b/a Housing Capital Company,
as Administrative Agent and a Lender

By: _____
Name: _____
Title: _____

Exhibit 31.1

Section 302 CERTIFICATION

I, Leonard S. Miller, certify that:

(1) I have reviewed this quarterly report on Form 10-Q of The New Home Company Inc.;

(2) Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

(3) Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

(4) The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15(d)-15(f)) for the registrant and have:

a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

(5) The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: July 30, 2020

/s/ Leonard S. Miller

Leonard S. Miller
President and Chief Executive Officer (Principal Executive Officer)

Exhibit 31.2

Section 302 CERTIFICATION

I, John M. Stephens, certify that:

(1) I have reviewed this quarterly report on Form 10-Q of The New Home Company Inc.;

(2) Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

(3) Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

(4) The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15(d)-15(f)) for the registrant and have:

a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

(5) The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: July 30, 2020

/s/ John M. Stephens

John M. Stephens
Executive Vice President and Chief Financial Officer (Principal Financial Officer)

Exhibit 32.1

CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Quarterly Report on Form 10-Q of The New Home Company Inc. (the "Company") for the period ended June 30, 2020 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Leonard S. Miller, President and Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that:

1. The Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

2. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: July 30, 2020

/s/ Leonard S. Miller
Leonard S. Miller
President and Chief Executive Officer (Principal Executive Officer)

Exhibit 32.2

CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Quarterly Report on Form 10-Q of The New Home Company Inc. (the "Company") for the period ended June 30, 2020 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, John M. Stephens, Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that:

1. The Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

2. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: June 30, 2020

/s/ John M. Stephens
John M. Stephens
Executive Vice President and Chief Financial Officer (Principal Financial Officer)