FORM 8-K

Current report filing

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

FORM 8-K

CURRENT REPORT

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

Date of Report (Date of earliest event reported): November 2, 2021

INOTIV, INC.

(Exact name of registrant as specified in its charter)

Indiana	0-23357	35-1345024
(State or other jurisdiction of incorporation or organization)	(Commission File Number)	(I.R.S. Employer Identification No.)

2701 KENT AVENUE WEST LAFAYETTE, INDIANA	47906-1382
(Address of principal executive offices)	(Zip Code)

Registrant's telephone number, including area code: (765) 463-4527

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

☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)

☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)

☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))

☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

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

Title of each class	Ticker symbol(s)	Name of each exchange on which registered
Common Shares	NOTV	NASDAQ Capital Market

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

Emerging growth company ☐

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

Item 1.01 Entry into a Material Definitive Agreement.

Shareholders Agreement

As previously disclosed, on September 21, 2021, Inotiv, Inc., (the "Company", "Inotiv", "we", "our", "us") entered into a definitive agreement and plan of merger (the "Merger Agreement") pursuant to which it agreed, subject to certain closing conditions, to acquire Envigo RMS Holding Corp. ("Envigo") by merger of Envigo with a newly formed, wholly owned subsidiary of ours (the "Envigo Acquisition").

The consummation of the Envigo Acquisition is conditioned upon our entering into a Shareholders Agreement with certain stockholders of Envigo (the "Shareholders Agreement"), including Jermyn Street Associates LLC ("Jermyn Street") and Savanna Holdings LLC ("Savanna Holdings and, together with Jermyn Street, the "Nominating Holders"). The Nominating Holders owned, in the aggregate, approximately 72.6% of the outstanding voting stock of Envigo. The Shareholders Agreement provides that, at the effective time of the Envigo Acquisition, (i) our Board of Directors (the "Board") will consist of our CEO, our Chief Strategy Officer, our three current independent directors, one person to be designated by Jermyn Street and one person to be designated by Savanna Holdings, and (ii) Richard A. Johnson, Ph.D. will tender his resignation from the Board, to be effective automatically upon notice to Dr. Johnson from the Company that the Board is prepared to elect the Approved Director as provided in the Shareholders Agreement. The "Approved Director" is a person designated by our Nominating and Corporate Governance Committee and approved by the Nominating Holders. After the consummation of the Envigo Acquisition and for so long as a Nominating Holder beneficially owns five percent or more of our outstanding voting shares, the Nominating Holder will have the right to designate one nominee for election to our Board upon the expiration of the term of the initial designee or any subsequent designee of that Nominating Holder and to approve our nominee for the Board seat held by the Approved Director or any subsequent Approved Director upon expiration of the Approved Director's term. Pursuant to the Shareholders Agreement, we agreed that we will include the nominees designated by the Nominating Holders and the Approved Director in management's slate of directors for the applicable meeting, solicit proxies to approve the election of those persons to the Board and recommend to our shareholders that those persons be elected as directors. Board vacancies occurring due to the death, resignation, retirement, disqualification or removal from office as a member of the Board of a director designated by a Nominating Holder are to be filled by a person designated by that Nominating Holder.

The Shareholders Agreement requires the shareholders who are parties thereto to refrain from selling or otherwise transferring the shares they receive in the Envigo Acquisition, subject to certain exceptions set forth in the Shareholders Agreement, for a period of 180 days after the effective time of the Envigo Acquisition. The Shareholders Agreement also restricts each Nominating Holder, until such Nominating Holder no longer holds 5% or more of our outstanding common shares, a change of control transaction, a material breach of the Shareholders Agreement by us, or any winding up, dissolution or liquidation or bankruptcy (subject to certain permitted exceptions) from (i) transferring shares to our competitors or to persons who, after the transfer, would own more than 10% of our outstanding common shares, subject to certain permitted exceptions; (ii) making any public announcement, proposal or offer, with respect to (a) acquisitions of additional common shares, (b) any restructuring, recapitalization, liquidation or similar transaction, (c) the election of directors other than the Nominating Holders' designees, or (d) changes to our Board and calling of special meetings; (iii) publicly seeking a change in the composition or size of our Board; (iv) acquiring beneficial ownership of additional voting securities of ours; (v) calling for, initiating, proposing or requiring a call for any general or special meeting of our shareholders, (vi) publicly stating an intention, plan or arrangement to do any of the foregoing or assisting, instigating, encouraging or facilitating any third party to do any of the foregoing.

The Shareholders Agreement requires the shareholders who are parties thereto to cause all voting securities owned by them to be present at any annual or special meeting at which directors are to be elected, to vote such securities either as recommended by our Board, or in the same proportions as votes cast by other voting securities with respect to director nominees or other nominees and in favor of any director nominee of the Nominating Holders, and not to vote in favor of a change of control transaction pursuant to which the Nominating Holders would receive consideration that is different in amount or form from other shareholders unless approved by our Board.

The Shareholders Agreement requires us to file with the SEC, and use our commercially reasonable efforts to cause to become effective no later than 180 days after the effective time of the Envigo Acquisition, a registration statement to register for resale the common shares received in the Envigo Acquisition by the shareholders who are party to the Shareholders Agreement and any other securities issued by or issuable with respect to such common shares by way of a

stock split, stock dividend, reclassification, subdivision or reorganization, recapitalization or similar event. The Shareholders Agreement also entitles the shareholders who are party to the Shareholders Agreement to require us to file additional registration statements after we become eligible to use Form S-3 for such registrations. The Shareholders Agreement sets forth certain customary procedures to be followed and provides for customary rights and obligations of us and the holders in connection with the registration of the shareholders' shares and provides that we may delay filing of such registration statements in certain circumstances set forth in the Shareholders Agreement.

The foregoing description of the Shareholders Agreement does not purport to be complete and is qualified in its entirety by reference to the full text of the Shareholders Agreement filed as Exhibit 10.1 to this Current Report on Form 8-K.

Credit Agreement

On November 5, 2021, the Company, certain of subsidiaries of the Company (the "Subsidiary Guarantors"), the lenders party thereto, and Jefferies Finance LLC, as administrative agent, entered into a Credit Agreement (the "Credit Agreement"). The Credit Agreement provides for a term loan facility in the original principal amount of $165 million, a delayed draw term loan facility in the original principal amount of $35 million (available to be drawn up to 18 months from the date of the Credit Agreement), and a revolving loan facility in the original principal amount of $15 million. In addition, the Credit Agreement provides for an aggregate combined increase of the revolving loan facility and the term loan facility of up to $25 million, which amount will be available to be drawn once the delayed draw term loan facility is no longer available. On November 5, 2021, the Company borrowed the full amount of the term loan facility, but did not borrower any amounts on the delayed draw term loan facility or the revolving loan facility.

The Company may elect to borrow on each of the loan facilities at either an adjusted LIBOR rate of interest or an adjusted prime rate of interest. Adjusted LIBOR rate loans shall accrue interest at an annual rate equal to the LIBOR rate plus a margin of between 6.00% and 6.50%, depending on the Company's then current Secured Leverage Ratio (as defined in the Credit Agreement). The initial adjusted LIBOR rate of interest is the LIBOR rate plus 6.25%. Adjusted prime rate loans shall accrue interest at an annual rate equal to the prime rate plus a margin of between 5.00% and 5.50%, depending on the Company's then current Secured Leverage Ratio. The initial adjusted prime rate of interest is the prime rate plus 5.25%.

The Company shall pay (i) a fee based on a percentage per annum equal to 0.50% on the average daily undrawn portion of the commitments in respect of the revolving loan facility and (ii) a fee based on a percentage per annum equal to 1.00% on the average daily undrawn portion of the commitments in respect of the delayed drawn loan facility. In each case, such fee shall be paid quarterly in arrears.

Each of the term loan facility and delayed draw term loan facility require annual principal payments in an amount equal to 1.0% of their respective original principal amounts. The Company shall also repay the term loans on an annual basis in an amount equal to a percentage of its Excess Cash Flow (as defined in the Credit Agreement), which percentage will be determined by its then current Secured Leverage Ratio. Each of the loan facilities may be repaid at any time with premium or penalty.

The Company is required to maintain an initial Secured Leverage Ratio of not more than 4.25 to 1.00. The maximum permitted Secured Leverage Ratio shall reduce to 3.00 to 1.00 beginning with the Company's fiscal quarter ending March 31, 2025. The Company is required to maintain a minimum Fixed Charge Coverage Ratio (as defined in the Credit Agreement), which ratio shall be 1.00 to 1.00 during the first year of the Credit Agreement and shall be 1.10 to 1.00 from and after the Credit Agreement's first anniversary.

Each of the loan facilities is secured by all assets (other than certain excluded assets) of the Company and each of the Subsidiary Guarantors. Repayment of each of the loan facilities is guaranteed by each of the Subsidiary Guarantors.

Each of the loan facilities shall mature on November 5, 2026.

The foregoing description of the Credit Agreement does not purport to be complete and is qualified in its entirety by reference to the full text of the Credit Agreement filed as Exhibit 10.2 to this Current Report on Form 8-K.

Item 2.01 Completion of Acquisition or Disposition of Assets.

On November 5, 2021, the Company completed the Envigo Acquisition by merger of a wholly owned subsidiary of the Company with and into Envigo. The aggregate consideration paid to the holders of outstanding capital stock in Envigo in the merger consisted of cash consideration of $271.0 million, including adjustments for net working capital and cash balances as provided in the merger agreement of approximately $13.0 million and $48.0 million, respectively, and 9,036,538 Inotiv common shares. The common shares included in the merger consideration include 790,620 shares issuable upon the exercise of certain Envigo stock options that were assumed by the Company in the transaction.

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

The information in Item 1.01 regarding the Credit Agreement is incorporated by reference in response to this Item 2.03.

Item 3.02 Unregistered Sales of Equity Securities.

On November 5, 2021, pursuant to the Merger Agreement, the Company issued 8,245,918 of the Company's common shares to the stockholders of Envigo at the closing of the Envigo Acquisition. The shares were issued in reliance upon the exemption from the registration requirements of the Securities Act of 1933, as amended (the "Securities Act"), provided by Section 4(a)(2) of the Securities Act and Regulation D thereunder as sales by an issuer not involving any public offering.

Item 4.01 Changes in Registrant's Certifying Accountant.

(a) Decision to Dismiss Independent Registered Public Accountants.

On November 2, 2021, the Audit Committee (the "Audit Committee") of the Board of Directors of Inotiv, Inc. (the "Company") approved the decision to change its independent registered public accounting firm. On November 2, 2021, the Company dismissed RSM US LLP ("RSM") effective upon the completion of RSM's audit of the Company's consolidated financial statements for the fiscal year ending September 30, 2021 (the "2021 Audit"), which is expected to occur in December 2021. This decision was made pursuant to the authority of the Audit Committee as specified in its Charter.

Neither of the audit reports of RSM on the Company's consolidated financial statements for the fiscal years ended September 30, 2019 and September 30, 2020 contained an adverse opinion or a disclaimer of opinion, and neither such audit report was qualified or modified as to uncertainty, audit scope or accounting principles, with the exception of the audit report for the fiscal year ended September 30, 2020, which was modified to highlight the Company's adoption of Accounting Standards Codification 842 Leases.

During the fiscal years ended September 30, 2019 and September 30, 2020, and the subsequent interim period through November 2, 2021, there were no disagreements between the Company and RSM on any matter of accounting principles or practices, financial statement disclosure or auditing scope or procedure, which, if not resolved to RSM's satisfaction, would have caused it to make reference to the subject matter of such a disagreement in connection with its audit reports on the Company's consolidated financial statements for such years. During the fiscal years ended September 30, 2019 and September 30, 2020, and the subsequent interim period through November 2, 2021, there were no reportable events, as defined in Item 304(a)(1)(v) of Securities and Exchange Commission Regulation S-K ("Regulation S-K").

The Company has provided RSM with a copy of the foregoing disclosures. Attached as Exhibit 16.1 is a copy of RSM's letter, dated November 5, 2021, stating that it agrees with such statements.

(b) Decision Regarding New Independent Registered Public Accountants.

On November 2, 2021, the Audit Committee approved the engagement of Ernst & Young LLP ("EY") as its new independent registered public accountants for the fiscal year ending September 30, 2022, subject to

completion of EY's standard client acceptance process, including independence procedures and execution of an engagement letter, to be

effective immediately following the completion by RSM of the 2021 Audit, as described above. This decision was made pursuant to the authority of the Audit Committee as specified in its Charter.

During the fiscal years ended September 30, 2019 and September 30, 2020, and the subsequent interim period through November 2, 2021, neither the Company nor anyone acting on the Company's behalf consulted with EY on (i) any matters regarding the application of accounting principles to a specified transaction, either completed or proposed, or the type of audit opinion that might be rendered with respect to the Company's consolidated financial statements, and no written report or oral advice was provided to the Company that EY concluded was an important factor considered in reaching a decision as to any accounting, auditing or financial reporting issue, or (ii) any matter that was the subject of any disagreement as defined in Item 304(a)(1)(iv) of Regulation S-K or a reportable event as defined in Item 304(a)(1)(v) of Regulation S-K.

Item 5.02 Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.

(b) On November 5, 2021, Richard A. Johnson, Ph.D. tendered his resignation as a director of the Company, to be effective automatically upon notice to Dr. Johnson from the Company that the Board is prepared to elect the Approved Director as provided in the Shareholders Agreement. Dr. Johnson's resignation fulfilled one of the Company's obligations under the Shareholders Agreement.

(d) On November 4, 2021, the Board of Directors of the Company (the "Board") expanded the size of the Board to seven members and appointed Nigel Brown, Ph.D. and Scott Cragg to the Board pursuant to the terms of the Shareholders Agreement, which is described in detail in Item 1.01 above.

Dr. Brown will serve on the Audit Committee and the Nominating and Corporate Governance Committee of the Board and Mr. Cragg will serve of the Compensation Committee of the Board.

Both of the new directors will be eligible to participate in the Company's compensation package for non-employee directors, which is comprised of annual cash retainers and historically has included stock option awards and/or restricted stock awards. Actual annual pay varies among directors based on Board committee memberships and committee chair responsibilities. The Company has not adopted guidelines with respect to non-employee director ownership of common shares. Effective upon their election to the Board, Dr. Brown and Mr. Cragg each received a grant of 440 restricted common shares under the Company's 2018 Equity Incentive Plan, which will vest at the 2023 annual meeting of shareholders of the Company, in accordance with and subject to the terms of the plan and the related award agreements.

Directors are reimbursed for their business expenses related to their attendance at Board and committee meetings. Directors are also encouraged to attend educational programs related to Board issues and corporate governance, which are reimbursed by the Company.

Mr. Cragg is a principal of Jermyn Street Associates LLC, which is a party to the Shareholders Agreement as a Nominating Holder. Mr. Cragg was designated for election to the Board by Jermyn Street Associates LLC. Dr. Brown was designated for election to the Board by Savanna Holdings LLC.

(e) On November 4, 2021, the Company's shareholders approved an amendment to the Company's 2018 Equity Incentive Plan to increase the number of shares available for awards thereunder by 1,500,000 shares and to make certain corresponding changes to the plan.

Item 5.03 Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year.

On November 4, 2021, the Company's shareholders approved an amendment to the Company's Second Amended and Restated Articles of Incorporation to increase the number of authorized Common Shares from 20,000,000 shares, consisting of 19,000,000 Common Shares and 1,000,000 Preferred Shares, to 75,000,000 shares, consisting of 74,000,000 Common Shares and 1,000,000 Preferred Shares. The amendment was effective on November 4, 2021.

Item 5.07 Submission of Matters to a Vote of Security Holders

On November 4, 2021, the Company held a special meeting of shareholders. A total of 11,917,450 of the Company's common shares outstanding and entitled to vote were present at the meeting in person or by proxy. The following is a summary of matters voted on at the meeting:

a. A proposal to approve an amendment to the Company's Second Amended and Restated Articles of Incorporation to increase the number of authorized shares of the Company to 75,000,000 shares, consisting of 74,000,000 Common Shares and 1,000,000 Preferred Shares (the "Authorized Share Increase Proposal"):

Vote Type	Voted
For	11,795,172
Against	110,312
Abstain	11,966

b. A proposal to approve the issuance of the Company's Common Shares pursuant to the Merger Agreement, pursuant to NASDAQ Rule 5635(a) (the "Merger Share Issuance Proposal"):

Vote Type	Voted
For	11,889,053
Against	16,329
Abstain	12,068

c. A proposal to approve an amendment to the Company's 2018 Equity Incentive Plan to increase the number of Company's Common Shares available for awards thereunder by 1,500,000 shares and to make corresponding changes to certain limitations in the Plan:

Vote Type	Voted
For	11,365,318
Against	425,988
Abstain	126,144

d. A proposal to approve the issuance of the Company's Common Shares issuable upon conversion of the Company's 3.25% Convertible Senior Notes due 2027, pursuant to NASDAQ Rule 5635(a):

Vote Type	Voted
For	11,570,362
Against	333,582
Abstain	13,506

Item 7.01 Regulation FD Disclosure.

On November 4, 2021, the Company issued a press release with respect to the shareholder approval of the Envigo Acquisition, a copy of which is attached to this Current Report on Form 8-K as Exhibit 99.1 and is incorporated herein by reference.

On November 5, 2021, the Company issued a press release with respect to the closing of the Envigo Acquisition, a copy of which is attached to this Current Report on Form 8-K as Exhibit 99.1 and is incorporated herein by reference.

The information in these press releases shall not be deemed "filed" for purposes of Section 18 of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), or incorporated by reference in any filing under the Securities Act of 1933, as amended, or the Exchange Act, except as shall be expressly set forth by specific reference in such a filing.

Item 9.01 Financial Statements and Exhibits.

(a) Financial Statements of Businesses or Funds Acquired.

The Company intends to file the financial statements required by Item 9.01(a) as part of an amendment to this Current Report on Form 8-K not later than 71 calendar days after the date that this Current Report on Form 8-K is required to be filed.

(b) Pro Forma Financial Information.

The Company intends to file the pro forma financial information required by Item 9.01(b) as part of an amendment to this Current Report on Form 8-K not later than 71 calendar days after the date that this Current Report on Form 8-K is required to be filed.

(c) None.

(d) Exhibits

The following exhibits are being filed as part of this report:

Exhibit No.	Description
3.1	Second Amended and Restated Articles of Incorporation of Inotiv, Inc., as amended
10.1	Shareholders Agreement, dated November 5, 2021, by and among Inotiv, Inc. and the shareholders signatory thereto
10.2	Credit Agreement, dated as of November 5, 2021, by and among Inotiv, Inc, certain subsidiaries of Inotiv, Inc., the lenders party thereto and Jefferies Finance LLC, as administrative agent and collateral agent
10.3	Inotiv, Inc. 2018 Equity Incentive Plan, as amended through November 4, 2021
16.1	Letter from RSM US LLP
99.1	Press Release, dated November 4, 2021
99.2	Press Release, dated November 5, 2021
104	Cover Page Interactive Data File (embedded within the Inline XBRL document).

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.

INOTIV, INC.

Date: November 5, 2021

By: /s/ Beth A. Taylor
Chief Financial Officer and Vice President - Finance

EXHIBIT 3.1

SECOND AMENDED AND RESTATED
ARTICLES OF INCORPORATION
OF
INOTIV, INC.
(as amended through November 4, 2021)

This corporation ("Corporation") is governed by the applicable provisions of the Indiana Business Corporation Law ("Act").

ARTICLE I
NAME

The name of the Corporation is Inotiv, Inc.

ARTICLE II
SHARES

Section 2.1. **Number**. The total number of shares which the Corporation is authorized to issue is 75,000,000 shares.

Section 2.2. **Classes**. There shall be two classes of shares of the Corporation. One class shall be designated as "Common Shares" and shall consist of 74,000,000 of the authorized shares, and the other class shall be designated as "Preferred Shares", and shall consist of one million of the authorized shares.

Section 2.3. **Relative Rights, Preferences, Limitations and Restrictions of Shares**.

a) **Common Shares**. Except to the extent granted to the Preferred Shares, the Common Shares shall have all of the rights accorded to shares under the Act including but not limited to voting rights and all rights to distribution of the net assets of the Corporation upon dissolution.

b) **Preferred Shares**. By amendment of these Second Restated Articles of Incorporation in the manner provided in the Act, the Preferred Shares shall have such preferences, limitations, restrictions and relative voting and other rights as may be determined, in whole or in part, by the Board of Directors prior to the issuance thereof.

Section 2.4. **Voting Rights of Common Shares**. Each holder of Common Shares shall be entitled to one vote for each share owned of record on the books of the Corporation on each matter submitted to a vote of the holders of Common Shares.

ARTICLE II-A

PREFERENCES, RIGHTS AND LIMITATIONS OF 6% SERIES A CONVERTIBLE PREFERRED SHARES

Section 2-A.1. Definitions. For the purposes hereof, the following terms shall have the following meanings:

"Affiliate" means any Person that, directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with a Person, as such terms are used in and construed under Rule 405 of the Securities Act.

"Alternate Consideration" shall have the meaning set forth in Section 2-A.7(e).

"Beneficial Ownership Limitation" shall have the meaning set forth in Section 2-A.6(d).

"Business Day" means any day except any Saturday, any Sunday, any day which is a federal legal holiday in the United States or any day on which banking institutions in the State of New York are authorized or required by law or other governmental action to close.

"Buy-In" shall have the meaning set forth in Section 2-A.6(c)(iv).

"Change of Control Transaction" means the occurrence after the date hereof of any of (a) an acquisition after the date hereof by an individual or legal entity or "group" (as described in Rule 13d-5(b)(1) promulgated under the Exchange Act) of effective control (whether through legal or beneficial ownership of capital stock of the Corporation, by contract or otherwise) of in excess of 33% of the voting securities of the Corporation (other than by means of conversion or exercise of Preferred Stock and the Securities issued together with the Preferred Stock), (b) the Corporation merges into or consolidates with any other Person, or any Person merges into or consolidates with the Corporation and, after giving effect to such transaction, the stockholders of the Corporation immediately prior to such transaction own less than 66% of the aggregate voting power of the Corporation or the successor entity of such transaction, (c) the Corporation sells or transfers all or substantially all of its assets to another Person and the stockholders of the Corporation immediately prior to such transaction own less than 66% of the aggregate voting power of the acquiring entity immediately after the transaction, (d) a replacement at one time or within a one year period of more than one-half of the members of the Board of Directors which is not approved by a majority of those individuals who are members of the Board of Directors on the Original Issue Date (or by those individuals who are serving as members of the Board of Directors on any date whose nomination to the Board of Directors was approved by a majority of the members of the Board of Directors who are members on the Original Issue Date), or (e) the execution by the Corporation of an agreement to which the Corporation is a party or by which it is bound, providing for any of the events set forth in clauses (a) through (d) above.

"Class A Warrants" means, collectively, the Common Stock purchase warrants delivered to the Holder at the Closing in accordance with Section 2.2(a) of the Purchase Agreement, which Class A Warrants shall be exercisable immediately and have a term of exercise equal to five years, in the form of Exhibit C attached to the Purchase Agreement.

"Class B Warrants" means, collectively, the Common Stock purchase warrants delivered to the Holder at the Closing in accordance with Section 2.2(a) of the Purchase Agreement, which Class B Warrants shall be exercisable immediately and have a term of exercise equal to one year, in the form of Exhibit C attached to the Purchase Agreement.

"Closing" means the closing of the purchase and sale of the Securities pursuant to Section 2.1 of the Purchase Agreement.

"Closing Date" means the Trading Day on which all of the Transaction Documents have been executed and delivered by the applicable parties thereto and all conditions precedent to (i) each Holder's obligations to pay the Subscription Amount and (ii) the Corporation's obligations to deliver the Securities have been satisfied or waived.

"Commission" means the United States Securities and Exchange Commission.

"Common Stock" means the Corporation's common stock, no par value per share, and stock of any other class of securities into which such securities may hereafter be reclassified or changed.

"Common Stock Equivalents" means any securities of the Corporation or the Subsidiaries which would entitle the holder thereof to acquire at any time Common Stock, including, without limitation, any debt, preferred stock, rights, options, warrants or other instrument that is at any time convertible into or exercisable or exchangeable for, or otherwise entitles the holder thereof to receive, Common Stock.

"Conversion Amount" means the sum of the Stated Value at issue.

"Conversion Date" shall have the meaning set forth in Section 2-A.6(a).

"Conversion Price" shall have the meaning set forth in Section 2-A.6(b).

"Conversion Shares" means, collectively, the shares of Common Stock issuable upon conversion of the shares of Preferred Stock in accordance with the terms hereof.

"Dividend Conversion Rate" means 90% of the average of the VWAPs for the 20 consecutive Trading Days ending on the Trading Day that is immediately prior to the applicable Dividend Payment Date.

"Dividend Notice Period" shall have the meaning set forth in Section 2-A.3(a).

"Dividend Payment Date" shall have the meaning set forth in Section 2-A.3(a).

"Dividend Share Amount" shall have the meaning set forth in Section 2-A.3(a).

"Equity Conditions" means, during the period in question, (a) the Corporation shall have duly honored all conversions scheduled to occur or occurring by virtue of one or more Notices of Conversion of the applicable Holder on or prior to the dates so requested or required, if any, (b) the Corporation shall have paid all liquidated damages and other amounts owing to the applicable Holder in respect of the Preferred Stock, (c)(i) there is an effective registration statement pursuant to which the Corporation may issue Conversion Shares (and, as applicable, shares of Common Stock in satisfaction of the Make-Whole Payment and in lieu of cash payment of dividends) or (ii), with respect to conversions that occur after May 11, 2014, all of the Conversion Shares may be issued to the Holder pursuant to Section 3(a)(9) of the Securities Act and immediately resold without restriction, (d) the Common Stock is trading on a Trading Market and all of the shares issuable pursuant to the Transaction Documents are listed or quoted for trading on such Trading Market (and the Corporation believes, in good faith, that trading of the Common Stock on a Trading Market will continue uninterrupted for the foreseeable future), (e) there is a sufficient number of authorized, but unissued and otherwise unreserved, shares of Common Stock for the issuance of all of the shares then issuable pursuant to the Transaction Documents, (f) the issuance of the shares in question to the applicable Holder would not violate the limitations set forth in Section 2-A.6(d) herein, (g) there has been no public announcement of a pending or proposed Fundamental Transaction or Change of Control Transaction that has not been consummated, (h) the applicable Holder is not in possession of any information provided by the Corporation that constitutes, or may constitute, material non-public information, and (i) the average daily trading volume for a period of 20 consecutive Trading Days prior to the applicable date in question, exceeds 20,000 shares per Trading Day (subject to adjustment for forward and reverse stock splits, stock dividends and the like); provided, however, that paragraph (g) shall not apply after May 11, 2014.

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

"Forced Conversion Amount" means the sum of (a) 100% of the aggregate Stated Value then outstanding, (b) accrued but unpaid dividends and (c) all liquidated damages and other amounts due in respect of the Preferred Stock.

"Forced Conversion Date" shall have the meaning set forth in Section 2-A.8(c).

"Forced Conversion Notice" shall have the meaning set forth in Section 2-A.8(c).

"Forced Conversion Notice Date" shall have the meaning set forth in Section 2-A.8(c).

"Fundamental Transaction" shall have the meaning set forth in Section 2-A.7(e).

"GAAP" means United States generally accepted accounting principles.

"Holder" means the Person in whose name a security is registered on the books of the Corporation.

"Junior Securities" means the Common Stock and all other Common Stock Equivalents of the Corporation other than those securities which are explicitly senior or pari passu to the Preferred Stock in dividend rights or liquidation preference.

"Liens" means a lien, charge, security interest, encumbrance, right of first refusal, preemptive right or other restriction.

"Liquidation" shall have the meaning set forth in Section 2-A.5.

"Make-Whole Payment" shall have the meaning set forth in Section 2-A.3(a).

"New York Courts" shall have the meaning set forth in Section 2-A.9(d).

"Notice of Conversion" shall have the meaning set forth in Section 2-A.6(a).

"Optional Redemption" shall have the meaning set forth in Section 2-A.8(a).

"Optional Redemption Amount" means the sum of (a) 120% of the aggregate Stated Value then outstanding, (b) accrued but unpaid dividends and (c) all liquidated damages and other amounts due in respect of the Preferred Stock.

"Optional Redemption Date" shall have the meaning set forth in Section 2-A.8(a).

"Optional Redemption Notice" shall have the meaning set forth in Section 2-A.8(a).

"Optional Redemption Notice Date" shall have the meaning set forth in Section 2-A.8(a).

"Original Issue Date" means the date of the first issuance of any shares of the Preferred Stock regardless of the number of transfers of any particular shares of Preferred Stock and regardless of the number of certificates which may be issued to evidence such Preferred Stock.

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

"Preferred Stock" shall have the meaning set forth in Section 2-A.2.

"Purchase Agreement" means the Securities Purchase Agreement, dated as of May 5, 2011, among the Corporation and the original Holders, as amended, modified or supplemented from time to time in accordance with its terms.

"Securities" means the Preferred Stock, the Warrants, the Warrant Shares and the Underlying Shares.

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

"Share Delivery Date" shall have the meaning set forth in Section 2-A.6(c).

"Stated Value" shall have the meaning set forth in Section 2-A.2.

"Subscription Amount" shall mean, as to each Holder, the aggregate amount to be paid for the Preferred Stock purchased pursuant to the Purchase Agreement as specified below such Holder's name on the signature page of the Purchase Agreement and next to the heading "Subscription Amount," in United States dollars and in immediately available funds.

"Subsidiary" means any subsidiary of the Corporation as set forth on Schedule 3.1(a) of the Purchase Agreement and shall, where applicable, also include any direct or indirect subsidiary of the Corporation formed or acquired after the date of the Purchase Agreement.

"Successor Entity" shall have the meaning set forth in Section 2-A.7(e).

"Threshold Period" shall have the meaning set forth in Section 2-A.8(c).

"Trading Day" means a day on which the New York Stock Exchange is open for business.

"Trading Market" means any of the following markets or exchanges on which the Common Stock is listed or quoted for trading on the date in question: the NYSE AMEX, the Nasdaq Capital Market, the Nasdaq Global Market, the Nasdaq Global Select Market, or the New York Stock Exchange (or any successors to any of the foregoing).

"Transaction Documents" shall have the meaning set forth in the Purchase Agreement.

"Transfer Agent" means Computershare, the current transfer agent of the Company, with a mailing address of 250 Royall Street, Canton, MA 02021 and a facsimile number of (781) 575-3602, and any successor transfer agent of the Company.

"Underlying Shares" means the shares of Common Stock issued and issuable upon conversion of the Preferred Stock, upon exercise of the Warrants.

"VWAP" means, for any date, the price determined by the first of the following clauses that applies: (a) if the Common Stock is then listed or quoted on a Trading Market, the daily volume weighted average price of the Common Stock for such date (or the nearest preceding date) on the Trading Market on which the Common Stock is then listed or quoted as reported by Bloomberg L.P. (based on a Trading Day from 9:30 a.m. (New York City time) to 4:02 p.m. (New York City time)), (b) if the OTC Bulletin Board is not a Trading Market, the volume weighted average price of the Common Stock for such date (or the nearest preceding date) on the OTC Bulletin Board, (c) if the Common Stock is not then listed or quoted for trading on the OTC Bulletin Board and if prices for the Common Stock are then reported in the "Pink Sheets" published by Pink OTC Markets, Inc. (or a similar organization or agency succeeding to its functions of reporting prices), the most recent bid price per share of the Common Stock so reported, or (d) in all other cases, the fair market value of a share of Common Stock as determined by an independent appraiser selected in good faith by the Holders of a majority in interest of the Securities then outstanding and reasonably acceptable to the Corporation, the fees and expenses of which shall be paid by the Corporation.

"Warrants" means, collectively, the Class A Warrants and the Class B Warrants.

"Warrant Shares" means the shares of Common Stock issuable upon exercise of the Warrants.

Section 2-A.2. Designation, Amount and Par Value. The series of Preferred Shares shall be designated as its 6% Series A Convertible Preferred Shares (the "Preferred Stock") and the number of shares so designated shall be up to 6,000 (which shall not be subject to increase without the written consent of the Holders of a majority of the outstanding shares of the Preferred Stock. Each share of Preferred Stock shall have a stated value equal to $1,000 (the "Stated Value").

Section 2-A.3. Dividends and Make-Whole Payment.

a) **Dividends in Cash or in Kind**.

(A) From the Original Issue Date until May 11, 2014, the Holders shall be entitled to receive, and the Corporation shall pay, cumulative dividends at the rate per share (as a percentage of the Stated Value per share) of 6% per annum**,** payable quarterly on January 1, April 1, July 1 and October 1, beginning on the first such date after the Original Issue Date and on each Conversion Date (with respect only to Preferred Stock being converted) (each such date, a "Dividend Payment Date") (if any Dividend Payment Date is not a Trading Day, the applicable payment shall be due on the next succeeding Trading Day) in cash, or at the Corporation's option, in duly authorized, validly issued, fully paid and non-assessable shares of Common Stock as set forth in this Section 2-A.3(a), or a combination thereof (the dollar amount to be paid in shares of Common Stock, the "Dividend Share Amount"). In addition, upon the conversion of Preferred Stock (voluntary or via a Forced Conversion) prior to May 11, 2014, the Corporation shall also pay to the Holders of the Preferred Stock so converted cash, or at the Corporation's option, subject to Equity Conditions, in duly authorized, validly issued, fully paid and non-assessable shares of Common Stock as set forth in this Section 2-A.3(a), or a combination thereof, with respect to the Preferred Stock so converted an amount equal to $180 per $1,000 of Stated Value of the Preferred Stock, less the amount of any quarterly dividend paid on such Preferred Stock on or before the relevant Conversion Date (the "Make-Whole Payment"). The form of dividend payments and Make-Whole Payments to each Holder shall be determined in the following order of priority: (i) if the Equity Conditions have not been met during the 20 consecutive Trading Days immediately prior to the applicable Dividend Payment Date or Conversion Date (the "Dividend Notice Period"), in cash only, (ii) if the payment of dividends or the Make-Whole Payment, as applicable, is not limited by IC 23-1-28-3 and the Equity Conditions have been met during the Dividend Notice Period, at the election of the Corporation, in cash or shares of Common Stock which shall be valued solely for such purpose at 90% of the average of the VWAPs for the 20 consecutive Trading Days ending on the Trading Day that is immediately prior to the applicable Dividend Payment Date or Conversion Date, (iii) if the payment of dividends or the Make-Whole Payment, as applicable, is limited by IC 23-1-28-3 and the Equity Conditions have been met during the Dividend Notice Period, in shares of Common Stock which shall be valued solely for such purpose at 90% of the average of the VWAPs for the 20 consecutive Trading Days ending on the Trading Day that is immediately prior to the applicable Dividend Payment Date or Conversion Date, or (iv) if the payment of dividends or the Make-Whole Payment, as applicable, is limited by IC 23-1-28-3 and the Equity Conditions have not been met during the applicable Dividend Notice Period, then such dividends shall accrue to the next applicable Dividend Payment Date or Conversion Date, as applicable. In addition, if requested by a Holder, as a condition to paying dividends in shares of Common Stock, as to such Dividend Payment Date, prior to such Dividend Notice Period (but not more than five (5) Trading Days prior to the commencement of such Dividend Notice Period), the Corporation shall have delivered to such Holder's account with The Depository Trust Company a number of shares of Common Stock to be applied against such Dividend Share Amount equal to the quotient of (x) the applicable Holder's Dividend Share Amount divided by (y) the Dividend Conversion Rate assuming for such purposes that the Dividend Payment Date is the Trading Day immediately prior to the commencement of the Dividend Notice Period (the "Dividend Conversion Shares"). The Holders shall have the same rights and remedies with respect to the delivery of any such shares as if such shares were being issued pursuant to Section 2-A.6.

(B) From and after May 11, 2014, Holders shall be entitled to receive, and the Corporation shall pay, dividends on shares of Preferred Stock equal (on an as-if-converted-to-Common-Stock basis) to and in the same form as dividends (other than dividends in the form of Common Stock) actually paid on shares of the Common Stock when, as and if such dividends (other than dividends in the form of Common Stock) are paid on shares of the Common Stock. Other than as set forth in the previous sentence, no other dividends shall be paid on shares of Preferred Stock; and the Corporation shall pay no dividends (other than dividends in the form of Common Stock) on shares of the Common Stock unless it simultaneously complies with the previous sentence.

b) **Corporation's Ability to Pay Dividends and Make-Whole Payments in Cash or Kind**. On the Closing Date, the Corporation shall have notified the Holders whether or not the payment of cash dividends on the Preferred Stock is limited by IC 23-1-28-3 as of the Closing Date. The Corporation shall promptly notify the Holders at any time the Corporation shall become able or unable, as the case may be, to pay cash dividends or cash Make-Whole Payments. If at any time the Corporation has the right to pay dividends in cash or shares of Common Stock, the Corporation must provide the Holders with at least 20 Trading Days' notice of its election to pay a regularly scheduled dividend in shares of Common Stock (the Corporation may indicate in such notice that the election contained in such notice shall continue for later periods until revised by a subsequent notice), and with respect to a Make-Whole Payment, the Corporation shall notify a Holder on either (i) the date it receives the applicable Notice of Conversion, if such Notice of Conversion is received by 12:00 PM Eastern Time on such date, or (ii) on the Business Day immediately following the date it receives the applicable Notice of Conversion, if such Notice of Conversion is received after 12:00 PM Eastern Time on such date, whether it elects to make such payment in cash or through the issuance of shares of Common Stock (the Corporation may indicate in such notice that the election contained in such notice shall continue for later periods until revised by a subsequent notice). The aggregate number of shares of Common Stock otherwise issuable to a Holder on a Dividend Payment Date shall be reduced by the number of shares of Common Stock previously issued to a Holder in connection with such Dividend Payment Date. If any Dividend Conversion Shares are issued to a Holder in connection with a Dividend Payment Date and are not applied against a Dividend Share Amount, then such Holder shall promptly return such excess shares to the Corporation.

c) **Dividend Calculations**. Dividends on the Preferred Stock shall be calculated on the basis of a 360-day year, consisting of twelve 30 calendar day periods, and shall accrue daily commencing on the Original Issue Date, and shall be deemed to accrue from such date whether or not earned or declared. Payment of dividends in shares of Common Stock shall otherwise occur pursuant to Section 2-A.6(c)(i) herein and, solely for purposes of the payment of dividends in shares, the Dividend Payment Date shall be deemed the Conversion Date. Dividends shall cease to accrue with respect to any Preferred Stock converted, provided that, the Corporation actually delivers the Conversion Shares within the time period required by Section 2-A.6(c)(i) herein. Except as otherwise provided herein, if at any time the Corporation pays dividends partially in cash and partially in shares, then such payment shall be distributed ratably among the Holders based upon the number of shares of Preferred Stock held by each Holder on such Dividend Payment Date.

d) **Late Fees**. Unless the Corporation is required to defer such dividend payment as described in clause (iv) of Section 2-A.3(a)(A) above, any dividends or Make-Whole Payments, whether paid in cash or shares of Common Stock, that are not paid within three Trading Days following a Dividend Payment Date or Conversion Date, as applicable, shall continue to accrue and shall entail a late fee, which must be paid in cash, at the rate of 18% per annum or the lesser rate permitted by applicable law which shall accrue daily from the Dividend Payment Date or Conversion Date, as applicable through and including the date of actual payment in full.

e) **Other Securities**. So long as any Preferred Stock shall remain outstanding, neither the Corporation nor any Subsidiary thereof shall redeem, purchase or otherwise acquire directly or indirectly any Junior Securities. So long as any Preferred Stock shall remain outstanding, neither the Corporation nor any Subsidiary thereof shall directly or indirectly pay or declare any dividend or make any distribution upon (other than a dividend or distribution described in Section 2-A.6 or dividends due and paid in the ordinary course on preferred stock of the Corporation at such times when the Corporation is in compliance with its payment and other obligations hereunder), nor shall any distribution be made in respect of, any Junior Securities as long as any dividends due on the Preferred Stock remain unpaid, nor shall any monies be set aside for or applied to the purchase or redemption (through a sinking fund or otherwise) of any Junior Securities or shares pari passu with the Preferred Stock.

Section 2-A.4. **Voting Rights**. Except as otherwise provided herein or as otherwise required by law, the Preferred Stock shall have no voting rights. However, as long as any shares of Preferred Stock are outstanding, the Corporation shall not, without the affirmative vote of the Holders of 67% or more of the then outstanding shares of the Preferred Stock, (a) alter or change adversely the powers, preferences or rights given to the Preferred Stock or alter or amend this Certificate of Designation, (b) authorize or create any class of stock ranking as to dividends, redemption or distribution of assets upon a Liquidation (as defined in Section 2-A.5) senior to, or otherwise pari passu with, the Preferred Stock, (c) amend its articles of incorporation or other charter documents in any manner that adversely affects any rights of the Holders, (d) increase the number of authorized shares of Preferred Stock, or (e) enter into any agreement with respect to any of the foregoing. In addition, any matters requiring class voting by the shareholders of the Corporation under the Indiana Business Corporation Law shall require the affirmative vote of the Holders of 67% or more of the then outstanding shares of Preferred Stock.

Section 2-A.5. Liquidation. Upon any liquidation, dissolution or winding-up of the Corporation, whether voluntary or involuntary (a "Liquidation"), the Holders shall be entitled to receive out of the assets of the Corporation available for distribution to the shareholders of the Corporation an amount equal to the Stated Value, plus any accrued and unpaid dividends thereon and any other fees or liquidated damages then due and owing thereon under this Certificate of Designation, for each share of Preferred Stock before any distribution or payment shall be made to the holders of any Junior Securities, and if the assets of the Corporation shall be insufficient to pay in full such amounts, then the entire assets to be distributed to the Holders shall be ratably distributed among the Holders in accordance with the respective amounts that would be payable on such shares if all amounts payable thereon were paid in full. A Fundamental Transaction or Change of Control Transaction shall not be deemed a Liquidation. The Corporation shall mail written notice of any such Liquidation, not less than 45 days prior to the payment date stated therein, to each Holder.

Section 2-A.6. Conversion.

a) **Conversions at Option of Holder**. Each share of Preferred Stock shall be convertible, at any time and from time to time from and after the Original Issue Date at the option of the Holder thereof, into that number of shares of Common Stock (subject to the limitations set forth in Section 2-A.6(d)) determined by dividing the Stated Value of such share of Preferred Stock by the Conversion Price. Holders shall effect conversions by providing the Corporation with the form of conversion notice attached hereto as Annex A (a "Notice of Conversion"). Each Notice of Conversion shall specify the number of shares of Preferred Stock to be converted, the number of shares of Preferred Stock owned prior to the conversion at issue, the number of shares of Preferred Stock owned subsequent to the conversion at issue and the date on which such conversion is to be effected, which date may not be prior to the date the applicable Holder delivers by facsimile such Notice of Conversion to the Corporation (such date, the "Conversion Date"). If no Conversion Date is specified in a Notice of Conversion, the Conversion Date shall be the date that such Notice of Conversion to the Corporation is deemed delivered hereunder. The calculations and entries set forth in the Notice of Conversion shall control in the absence of manifest or mathematical error. To effect conversions of shares of Preferred Stock, a Holder shall not be required to surrender the certificate(s) representing the shares of Preferred Stock to the Corporation unless all of the shares of Preferred Stock represented thereby are so converted, in which case such Holder shall deliver the certificate representing such shares of Preferred Stock promptly following the Conversion Date at issue. Each such Holder and the Corporation shall maintain records showing the number of Conversion Shares issued upon conversion of the Preferred Stock held by it and the date of such conversions. In the event of any dispute or discrepancy, with respect to such conversions, the records of the Corporation shall be controlling and determinative in the absence of manifest error. The Corporation shall deliver any objection to any Notice of Conversion within one (1) Business Day of receipt of such notice. Shares of Preferred Stock converted into Common Stock or redeemed in accordance with the terms hereof shall be canceled and shall not be reissued.

b) **Conversion Price**. The conversion price for the Preferred Stock shall equal $2.00, subject to adjustment as set forth herein (the "Conversion Price").

c) **Mechanics of Conversion**

i. Delivery of Certificate Upon Conversion. Not later than three (3) Trading Days after each Conversion Date (the "Share Delivery Date"), the Corporation shall deliver, or cause to be delivered, to the converting Holder (A) a certificate or certificates which shall be free of restrictive legends and trading restrictions, representing the number of Conversion Shares being acquired upon the conversion of the Preferred Stock (including, (x) if the Corporation has given continuous notice pursuant to Section 2-A.3(b) for payment of dividends in shares of Common Stock at least 20 Trading Days prior to the date on which the Notice of Conversion is delivered to the Corporation, shares of Common Stock representing the payment of accrued dividends otherwise determined pursuant to Section 2-A.3(a) but assuming that the Dividend Notice Period is the 20 Trading Days period immediately prior to the date on which the Notice of Conversion is delivered to the Corporation and excluding for such issuance the condition that the Corporation deliver the Dividend Share Amount as to such dividend payment prior to the commencement of the Dividend Notice Period and (y) shares of Common Stock in lieu of Make-Whole Payments, if applicable), and (B) a bank check in the amount of accrued and unpaid dividends and the Make-Whole Payment (if the Corporation has elected or is required to pay the Make-Whole Payment and accrued dividends in cash). The Corporation shall use its best efforts to deliver any certificate or certificates representing the Conversion Shares required to be delivered by the Corporation under this Section 2-A.6 electronically through the Depository Trust Company or another established clearing corporation performing similar functions.

ii. Failure to Deliver Certificates. If, in the case of any Notice of Conversion, such certificate or certificates are not delivered to or as directed by the applicable Holder by the Share Delivery Date, the Holder shall be entitled to elect by written notice to the Corporation at any time on or before its receipt of such certificate or certificates, to rescind such Notice of Conversion, in which event the Corporation shall promptly return to the Holder any original Preferred Stock certificate delivered to the Corporation, and the Holder shall promptly return to the Corporation the Common Stock certificates and cash issued or paid to such Holder pursuant to the rescinded Notice of Conversion.

iii. Obligation Absolute; Partial Liquidated Damages. The Corporation's obligation to issue and deliver the Conversion Shares upon conversion of Preferred Stock in accordance with the terms hereof are absolute and unconditional, irrespective of any action or inaction by a Holder to enforce the same, any waiver or consent with respect to any provision hereof, the recovery of any judgment against any Person or any action to enforce the same, or any setoff, counterclaim, recoupment, limitation or termination, or any breach or alleged breach by such Holder or any other Person of any obligation to the Corporation or any violation or alleged violation of law by such Holder or any other person, and irrespective of any other circumstance which might otherwise limit such obligation of the Corporation to such Holder in connection with the issuance of such Conversion Shares; provided, however, that such delivery shall not operate as a waiver by the Corporation of any such action that the Corporation may have against such Holder. In the event a Holder shall elect to convert any or all of the Stated Value of its Preferred Stock, the Corporation may not refuse conversion based on any claim that such Holder or any one associated or affiliated with such Holder has been engaged in any violation of law, agreement or for any other reason, unless an injunction from a court, on notice to Holder, restraining and/or enjoining conversion of all or part of the Preferred Stock of such Holder shall have been sought and obtained, and the Corporation posts a surety bond for the benefit of such Holder in the amount of 150% of the Stated Value of Preferred Stock which is subject to the injunction, which bond shall remain in effect until the completion of arbitration/litigation of the underlying dispute and the proceeds of which shall be payable to such Holder to the extent it obtains judgment. In the absence of such injunction, the Corporation shall issue Conversion Shares and, if applicable, cash, upon a properly noticed conversion. If the Corporation fails to deliver to a Holder such certificate or certificates representing the Conversion Shares pursuant to Section 2-A.6(c)(i) on the second Trading Day after the Share Delivery Date applicable to such conversion, the Corporation shall pay to such Holder, in cash, as liquidated damages and not as a penalty, for each $5,000 of Stated Value of Preferred Stock being converted, $50 per Trading Day (increasing to $100 per Trading Day on the third Trading Day and increasing to $200 per Trading Day on the sixth Trading Day after such damages begin to accrue) for each Trading Day after such second Trading Day after the Share Delivery Date until such certificates are delivered or Holder rescinds such conversion. Nothing herein shall limit a Holder's right to pursue actual damages or declare a Triggering Event pursuant to Section 2-A.10 hereof for the Corporation's failure to deliver Conversion Shares within the period specified herein and such Holder shall have the right to pursue all remedies available to it hereunder, at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief. The exercise of any such rights shall not prohibit a Holder from seeking to enforce damages pursuant to any other Section hereof or under applicable law.

iv. Compensation for Buy-In on Failure to Timely Deliver Certificates Upon Conversion. In addition to any other rights available to the Holder, if the Corporation fails for any reason to deliver to a Holder the applicable certificate or certificates representing the Conversion Shares by the Share Delivery Date pursuant to Section 2-A.6(c)(i), and if after such Share Delivery Date such Holder is required by its brokerage firm to purchase (in an open market transaction or otherwise), or the Holder's brokerage firm otherwise purchases, shares of Common Stock to deliver in satisfaction of a sale by such Holder of the Conversion Shares which such Holder was entitled to receive upon the conversion relating to such Share Delivery Date (a "Buy-In"), then the Corporation shall (A) pay in cash to such Holder (in addition to any other remedies available to or elected by such Holder) the amount, if any, by which (x) such Holder's total purchase price (including any brokerage commissions) for the Common Stock so purchased exceeds (y) the product of (1) the aggregate number of shares of Common Stock that such Holder was entitled to receive from the conversion at issue multiplied by (2) the actual sale price at which the sell order giving rise to such purchase obligation was executed (including any brokerage commissions) and (B) at the option of such Holder, either reissue (if surrendered) the shares of Preferred Stock equal to the number of shares of Preferred Stock submitted for conversion (in which case, such conversion shall be deemed rescinded) or deliver to such Holder the number of shares of Common Stock that would have been issued if the Corporation had timely complied with its delivery requirements under Section 2-A.6(c)(i). For example, if a Holder purchases shares of Common Stock having a total purchase price of $11,000 to cover a Buy-In with respect to an attempted conversion of shares of Preferred Stock with respect to which the actual sale price of the Conversion Shares (including any brokerage commissions) giving rise to such purchase obligation was a total of $10,000 under clause (A) of the immediately preceding sentence, the Corporation shall be required to pay such Holder $1,000. The Holder shall provide the Corporation written notice indicating the amounts payable to such Holder in respect of the Buy-In and, upon request of the Corporation, evidence of the amount of such loss. Nothing herein shall limit a Holder's right to pursue any other remedies available to it hereunder, at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief with respect to the Corporation's failure to timely deliver certificates representing shares of Common Stock upon conversion of the shares of Preferred Stock as required pursuant to the terms hereof.

v. Reservation of Shares Issuable Upon Conversion. The Corporation covenants that it will at all times reserve and keep available out of its authorized and unissued shares of Common Stock for the sole purpose of issuance upon conversion of the Preferred Stock and payment of dividends on the Preferred Stock, each as herein provided, free from preemptive rights or any other actual contingent purchase rights of Persons other than the Holder (and the other holders of the Preferred Stock), not less than such aggregate number of shares of the Common Stock as shall (subject to the terms and conditions set forth in the Purchase Agreement) be issuable (taking into account the adjustments and restrictions of Section 2-A.7) upon the conversion of the then outstanding shares of Preferred Stock and payment of dividends hereunder. The Corporation covenants that all shares of Common Stock that shall be so issuable shall, upon issue, be duly authorized, validly issued, fully paid and nonassessable.

vi. Fractional Shares. No fractional shares or scrip representing fractional shares shall be issued upon the conversion of the Preferred Stock. As to any fraction of a share which the Holder would otherwise be entitled to purchase upon such conversion, the Corporation shall at its election, either pay a cash adjustment in respect of such final fraction in an amount equal to such fraction multiplied by the Conversion Price or round up to the next whole share.

vii. Transfer Taxes. The issuance of certificates for shares of the Common Stock on conversion of this Preferred Stock shall be made without charge to any Holder for any documentary stamp or similar taxes that may be payable in respect of the issue or delivery of such certificates, provided that the Corporation shall not be required to pay any tax that may be payable in respect of any transfer involved in the issuance and delivery of any such certificate upon conversion in a name other than that of the Holders of such shares of Preferred Stock and the Corporation shall not be required to issue or deliver such certificates unless or until the Person or Persons requesting the issuance thereof shall have paid to the Corporation the amount of such tax or shall have established to the satisfaction of the Corporation that such tax has been paid.

d) **Beneficial Ownership Limitation**. The Corporation shall not effect any conversion of the Preferred Stock, and a Holder shall not have the right to convert any portion of the Preferred Stock, to the extent that, after giving effect to the conversion set forth on the applicable Notice of Conversion, such Holder (together with such Holder's Affiliates, and any Persons acting as a group together with such Holder or any of such Holder's Affiliates) would beneficially own in excess of the Beneficial Ownership Limitation (as defined below). For purposes of the foregoing sentence, the number of shares of Common Stock beneficially owned by such Holder and its Affiliates shall include the number of shares of Common Stock issuable upon conversion of the Preferred Stock with respect to which such determination is being made, but shall exclude the number of shares of Common Stock which are issuable upon (i) conversion of the remaining, unconverted Stated Value of Preferred Stock beneficially owned by such Holder or any of its Affiliates and (ii) exercise or conversion of the unexercised or unconverted portion of any other securities of the Corporation subject to a limitation on conversion or exercise analogous to the limitation contained herein (including, without limitation, the Preferred Stock or the Warrants) beneficially owned by such Holder or any of its Affiliates. Except as set forth in the preceding sentence, for purposes of this Section 2-A.6(d), beneficial ownership shall be calculated in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder. To the extent that the limitation contained in this Section 2-A.6(d) applies, the determination of whether the Preferred Stock is convertible (in relation to other securities owned by such Holder together with any Affiliates) and of how many shares of Preferred Stock are convertible shall be in the sole discretion of such Holder, and the submission of a Notice of Conversion shall be deemed to be such Holder's determination of whether the shares of Preferred Stock may be converted (in relation to other securities owned by such Holder together with any Affiliates) and how many shares of the Preferred Stock are convertible, in each case subject to the Beneficial Ownership Limitation. To ensure compliance with this restriction, each Holder will be deemed to represent to the Corporation each time it delivers a Notice of Conversion that such Notice of Conversion has not violated the restrictions set forth in this paragraph and the Corporation shall have no obligation to verify or confirm the accuracy of such determination. In addition, a determination as to any group status as contemplated above shall be determined in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder. For purposes of this Section 2-A.6(d), in determining the number of outstanding shares of Common Stock, a Holder may rely on the number of outstanding shares of Common Stock as stated in the most recent of the following: (i) the Corporation's most recent periodic or annual report filed with the Commission, as the case may be, (ii) a more recent public announcement by the Corporation or (iii) a more recent written notice by the Corporation or the Transfer Agent setting forth the number of shares of Common Stock outstanding. Upon the written or oral request of a Holder, the Corporation shall within two Trading Days confirm orally and in writing to such Holder the number of shares of Common Stock then outstanding. In any case, the number of outstanding shares of Common Stock shall be determined after giving effect to the conversion or exercise of securities of the Corporation, including the Preferred Stock, by such Holder or its Affiliates since the date as of which such number of outstanding shares of Common Stock was reported. The "Beneficial Ownership Limitation" shall be 4.99% of the number of shares of the Common Stock outstanding immediately after giving effect to the issuance of shares of Common Stock issuable upon conversion of Preferred Stock held by the applicable Holder. A Holder, upon not less than 61 days' prior notice to the Corporation, may increase or decrease the Beneficial Ownership Limitation provisions of this Section 2-A.6(d) applicable to its Preferred Stock provided that the Beneficial Ownership Limitation in no event exceeds 9.99% of the number of shares of the Common Stock outstanding immediately after giving effect to the issuance of shares of Common Stock upon conversion of this Preferred Stock held by the Holder and the provisions of this Section 2-A.6(d) shall continue to apply. Any such

increase or decrease will not be effective until the 61st day after such notice is delivered to the Corporation and shall only apply to such Holder and no other Holder. The provisions of this paragraph shall be construed and implemented in a manner otherwise than in strict conformity with the terms of this Section 2-A.6(d) to correct this paragraph (or any portion hereof) which may be defective or inconsistent

with the intended Beneficial Ownership Limitation contained herein or to make changes or supplements necessary or desirable to properly give effect to such limitation. The limitations contained in this paragraph shall apply to a successor holder of Preferred Stock.

Section 2-A.7. Certain Adjustments.

a) **Stock Dividends and Stock Splits**. If the Corporation, at any time while the Preferred Stock is outstanding: (i) pays a stock dividend or otherwise makes a distribution or distributions payable in shares of Common Stock on shares of Common Stock or any other Common Stock Equivalents (which, for avoidance of doubt, shall not include any shares of Common Stock issued by the Corporation upon conversion of, or payment of a dividend or a Make-Whole Payment on, the Preferred Stock), (ii) subdivides outstanding shares of Common Stock into a larger number of shares, (iii) combines (including by way of a reverse stock split) outstanding shares of Common Stock into a smaller number of shares, or (iv) issues, in the event of a reclassification of shares of the Common Stock, any shares of capital stock of the Corporation, then the Conversion Price shall be multiplied by a fraction of which the numerator shall be the number of shares of Common Stock (excluding any treasury shares of the Corporation) outstanding immediately before such event, and of which the denominator shall be the number of shares of Common Stock outstanding immediately after such event. Any adjustment made pursuant to this Section 2-A.7(a) shall become effective immediately after the record date for the determination of stockholders entitled to receive such dividend or distribution and shall become effective immediately after the effective date in the case of a subdivision, combination or re-classification.

b) **[RESERVED]**

c) **Subsequent Rights Offerings**. In addition to any adjustments pursuant to the other subsections of this Section 2-A.7, if at any time the Corporation grants, issues or sells any Common Stock Equivalents or rights to purchase stock, warrants, securities or other property pro rata to the record holders of any class of shares of Common Stock (the "Purchase Rights"), then each Holder will be entitled to acquire, upon the terms applicable to such Purchase Rights, the aggregate Purchase Rights which such Holder could have acquired if such Holder had held the number of shares of Common Stock acquirable upon complete conversion of such Holder's Preferred Stock (without regard to any limitations on exercise thereof, including without limitation, the Beneficial Ownership Limitation) immediately before the date on which a record is taken for the grant, issuance or sale of such Purchase Rights, or, if no such record is taken, the date as of which the record holders of shares of Common Stock are to be determined for the grant, issue or sale of such Purchase Rights (provided, however, to the extent that a Holder's right to participate in any such Purchase Right would result in such Holder exceeding the Beneficial Ownership Limitation, then such Holder shall not be entitled to participate in such Purchase Right to such extent (or beneficial ownership of such shares of Common Stock as a result of such Purchase Right to such extent) and such Purchase Right to such extent shall be held in abeyance for such Holder until the earlier of (i) the first date on which such Holder no longer holds any shares of Preferred Stock and (ii) such time, if ever, as its right thereto would not result in such Holder exceeding the Beneficial Ownership Limitation).

d) **Pro Rata Distributions**. If the Corporation, at any time while the Preferred Stock is outstanding, distributes to all holders of Common Stock (and not to the Holders) evidences of its indebtedness or assets (including cash and cash dividends) or rights or warrants to subscribe for or purchase any security, then in each such case the Conversion Price shall be adjusted by multiplying such Conversion Price in effect immediately prior to the record date fixed for determination of stockholders entitled to receive such distribution by a fraction of which the denominator shall be the VWAP determined as of the record date mentioned above, and of which the numerator shall be such VWAP on such record date less the then fair market value at such record date of the portion of such assets or evidence of indebtedness or rights or warrants so distributed applicable to one outstanding share of the Common Stock as determined by the Board of Directors of the Corporation in good faith. In either case the adjustments shall be described in a statement delivered to the Holders describing the portion of assets or evidences of indebtedness so distributed or such subscription rights applicable to one share of Common Stock. Such adjustment shall be made whenever any such distribution is made and shall become effective immediately after the record date mentioned above.

e) **Fundamental Transaction**. If, at any time while the Preferred Stock is outstanding, (i) the Corporation, directly or indirectly, in one or more related transactions effects any merger or consolidation of the Corporation with or into another Person, (ii) the Corporation, directly or indirectly, effects any sale, lease, license, assignment, transfer, conveyance or other disposition of all or substantially all of its assets in one or a series of related transactions, (iii) any, direct or indirect, purchase offer, tender offer or exchange offer (whether by the Corporation or another Person) is completed pursuant to which holders of Common Stock are permitted to sell, tender or exchange their shares for other securities, cash or property and has been accepted by the holders of 50% or more of the outstanding Common Stock, (iv) the Corporation, directly or indirectly, in one or more related transactions effects any reclassification, reorganization or recapitalization of the Common Stock or any compulsory share exchange pursuant to which the Common Stock is effectively converted into or exchanged for other securities, cash or property, (v) the Corporation, directly or indirectly, in one or more related transactions consummates a stock or share purchase agreement or other business combination (including, without limitation, a reorganization, recapitalization, spin-off or scheme of arrangement) with another Person whereby such other Person acquires more than 50% of the outstanding shares of Common Stock (not including any shares of Common Stock held by the other Person or other Persons making or party to, or associated or affiliated with the other Persons making or party to, such stock or share purchase agreement or other business combination) (each a "Fundamental Transaction"), then, upon any subsequent conversion of this Preferred Stock, the Holder shall have the right to receive, for each Conversion Share that would have been issuable upon such conversion immediately prior to the occurrence of such Fundamental Transaction (without regard to any limitation in Section 2-A.6(d) on the conversion of this Preferred Stock), the number of shares of Common Stock of the successor or acquiring corporation or of the Corporation, if it is the surviving corporation, and any additional consideration (the "Alternate Consideration") receivable as a result of such Fundamental Transaction by a holder of the number of shares of Common Stock for which this Preferred Stock is convertible immediately prior to such Fundamental Transaction (without regard to any limitation in Section 2-A.6(d) on the conversion of this Preferred Stock). For purposes of any such conversion, the determination of the Conversion Price shall be appropriately adjusted to apply to such Alternate Consideration based on the amount of Alternate Consideration issuable in respect of one share of Common Stock in such Fundamental Transaction, and the Corporation shall apportion the Conversion Price among the Alternate Consideration in a reasonable manner reflecting the relative value of any different components of the Alternate Consideration. If holders of Common Stock are given any choice as to the securities, cash or property to be received in a Fundamental Transaction, then the Holder shall be given the same choice as to the Alternate Consideration it receives upon any conversion of this Preferred Stock following such Fundamental Transaction. To the extent necessary to effectuate the foregoing provisions, any successor to the Corporation or surviving entity in such Fundamental Transaction shall file a new Certificate of Designation with the same terms and conditions and issue to the Holders new preferred stock consistent with the foregoing provisions and evidencing the Holders' right to convert such preferred stock into Alternate Consideration. The Corporation shall cause any successor entity in a Fundamental Transaction in which the Corporation is not the survivor (the "Successor Entity") to assume in writing all of the obligations of the Corporation under this Certificate of Designation and the other Transaction Documents (as defined in the Purchase Agreement) in accordance with the provisions of this Section 2-A.7(e) pursuant to written agreements in form and substance reasonably satisfactory to the Holder and approved by the Holder (without unreasonable delay) prior to such Fundamental Transaction and shall, at the option of the holder of this Preferred Stock, deliver to the Holder in exchange for this Preferred Stock a security of the Successor Entity evidenced by a written instrument substantially similar in form and substance to this Preferred Stock which is convertible for a corresponding number of shares of capital stock of such Successor Entity (or its parent entity) equivalent to the shares of Common Stock acquirable and receivable upon conversion of this Preferred Stock (without regard to any limitations on the conversion of this Preferred Stock) prior to such Fundamental Transaction, and with a conversion price which applies the conversion price hereunder to such shares of capital stock (but taking into account the relative value of the shares of Common Stock pursuant to such Fundamental Transaction and the value of such shares of capital stock, such number of shares of capital stock and such conversion price being for the purpose of protecting the economic value of this Preferred Stock immediately prior to the consummation of such Fundamental Transaction), and which is reasonably satisfactory in form and substance to the Holder. Upon the occurrence of any such Fundamental Transaction, the Successor Entity shall succeed to, and be substituted for (so that from and after the date of such Fundamental Transaction, the provisions of this Certificate of Designation and the other Transaction Documents referring to the "Corporation" shall refer instead to the Successor Entity), and may exercise every right and power of the Corporation and shall assume all of the obligations of the Corporation under this Certificate of Designation and the other Transaction Documents with the same effect as if such Successor Entity had been named as the Corporation herein.

f) **Calculations**. All calculations under this Section 2-A.7 shall be made to the nearest cent or the nearest 1/100th of a share, as the case may be. For purposes of this Section 2-A.7, the number of shares of Common Stock deemed to be issued and outstanding as of a given date shall be the sum of the number of shares of Common Stock (excluding any treasury shares of the Corporation) issued and outstanding.

g) **Notice to the Holders**.

i. Adjustment to Conversion Price. Whenever the Conversion Price is adjusted pursuant to any provision of this Section 2-A.7, the Corporation shall promptly deliver to each Holder a notice setting forth the Conversion Price after such adjustment and setting forth a brief statement of the facts requiring such adjustment.

ii. Notice to Allow Conversion by Holder. If (A) the Corporation shall declare a dividend (or any other distribution in whatever form) on the Common Stock, (B) the Corporation shall declare a special nonrecurring cash dividend on or a redemption of the Common Stock, (C) the Corporation shall authorize the granting to all holders of the Common Stock of rights or warrants to subscribe for or purchase any shares of capital stock of any class or of any rights, (D) the approval of any stockholders of the Corporation shall be required in connection with any reclassification of the Common Stock, any consolidation or merger to which the Corporation is a party, any sale or transfer of all or substantially all of the assets of the Corporation, or any compulsory share exchange whereby the Common Stock is converted into other securities, cash or property or (E) the Corporation shall authorize the voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Corporation, then, in each case, the Corporation shall cause to be filed at each office or agency maintained for the purpose of conversion of the Preferred Stock, and shall cause to be delivered to each Holder at its last address as it shall appear upon the stock books of the Corporation, at least twenty (20) calendar days prior to the applicable record or effective date hereinafter specified, a notice stating (x) the date on which a record is to be taken for the purpose of such dividend, distribution, redemption, rights or warrants, or if a record is not to be taken, the date as of which the holders of the Common Stock of record to be entitled to such dividend, distributions, redemption, rights or warrants are to be determined or (y) the date on which such reclassification, consolidation, merger, sale, transfer or share exchange is expected to become effective or close, and the date as of which it is expected that holders of the Common Stock of record shall be entitled to exchange their shares of the Common Stock for securities, cash or other property deliverable upon such reclassification, consolidation, merger, sale, transfer or share exchange, provided that the failure to deliver such notice or any defect therein or in the delivery thereof shall not affect the validity of the corporate action required to be specified in such notice. To the extent that any notice provided hereunder constitutes, or contains, material, non-public information regarding the Corporation or any of the Subsidiaries, the Corporation shall simultaneously file such notice with the Commission pursuant to a Current Report on Form 8-K. The Holder shall remain entitled to convert the Conversion Amount of this Preferred Stock (or any part hereof) during the 20-day period commencing on the date of such notice through the effective date of the event triggering such notice except as may otherwise be expressly set forth herein.

Section 2-A.8. Optional Redemption and Forced Conversion.

a) **Optional Redemption at Election of Corporation**. Notwithstanding anything herein to the contrary, subject to the provisions of this Section 2-A.8, if after Original Issue Date the VWAP for each of any 20 consecutive Trading Day period, which 20 consecutive Trading Day period shall have commenced only after the Original Issue Date, exceeds 200% of the then effective Conversion Price, the Corporation may deliver a notice to the Holders (an "Optional Redemption Notice" and the date such notice is deemed delivered hereunder, the "Optional Redemption Notice Date") of its irrevocable election to redeem all of the then outstanding Preferred Stock, for cash in an amount equal to the Optional Redemption Amount on the 20th Trading Day following the Optional Redemption Notice Date (such date, the "Optional Redemption Date" and such redemption, the "Optional Redemption"). The Optional Redemption Amount is payable in full on the Optional Redemption Date. Prior to the three-year anniversary of the Original Issue Date, the Corporation may only effect an Optional Redemption if each of the Equity Conditions shall have been met on each Trading Day occurring during the 20 Trading Day period commencing on the Optional Redemption Notice Date through to the Optional Redemption Date and through and including the date payment of the Optional Redemption Amount is actually made. Prior to the three-year anniversary of the Original Issue Date, if any of the Equity Conditions shall cease to be satisfied at any time during the 20 Trading Day period commencing on the Optional Redemption Notice Date, then a Holder may elect to nullify the Optional Redemption Notice as to such Holder by notice to the Corporation within 3 Trading Days after the first day on which any such Equity Condition has not been met (provided that if, by a provision of the Transaction Documents, the Corporation is obligated to notify the Holders of the non-existence of an Equity Condition, such notice period shall be extended to the third Trading Day after proper notice from the Corporation) in which case the Optional Redemption Notice shall be null and void, ab initio. From and after the three-year anniversary of the Original Issue Date, the Corporation may exercise an Optional Redemption regardless of whether or not it then satisfies the Equity Conditions, but otherwise in accordance with the terms hereof. The Corporation covenants and agrees that it will honor all Notices of Conversion tendered from the time of delivery of the Optional Redemption Notice through the date the Optional Redemption Amount is paid in full.

b) **Redemption Procedure**. The payment of cash pursuant to an Optional Redemption shall be made on the Optional Redemption Date. If any portion of the cash payment for an Optional Redemption has not been paid by the Corporation on the Optional Redemption Date, interest shall accrue thereon until such amount is paid in full at a rate equal to the lesser of 18% per annum or the maximum rate permitted by applicable law.

c) **Forced Conversion**. Notwithstanding anything herein to the contrary, if the VWAP for 20 Trading Days during any consecutive 30 Trading Day period ("Threshold Period"), which Threshold Period shall have commenced only after the Original Issue Date, exceeds 200% of the then effective Conversion Price, the Corporation may, within 1 Trading Day after the end of any such Threshold Period, deliver a written notice to all Holders (a "Forced Conversion Notice" and the date such notice is delivered to all Holders, the "Forced Conversion Notice Date") to cause each Holder to convert all or part of such Holder's Preferred Stock (as specified in such Forced Conversion Notice) plus all accrued but unpaid dividends thereon and all liquidated damages and other amounts due in respect of the Preferred Stock pursuant to Section 2-A.6, it being agreed that the "Conversion Date" for purposes of Section 2-A.6 shall be deemed to occur on the third Trading Day following the Forced Conversion Notice Date (such third Trading Day, the "Forced Conversion Date"). The Corporation may not deliver a Forced Conversion Notice, and any Forced Conversion Notice delivered by the Corporation shall not be effective, unless all of the Equity Conditions have been met on each of at least 20 Trading Days during the applicable Threshold Period and through the Trading Day after the date that the Conversion Shares issuable pursuant to such Forced Conversion are actually delivered to the Holders pursuant to the Forced Conversion Notice. Any Forced Conversion Notices shall be applied ratably to all of the Holders based on each Holder's initial purchases of Preferred Stock hereunder, provided that any voluntary conversions by a Holder shall be applied against such Holder's pro rata allocation, thereby decreasing the aggregate amount forcibly converted hereunder if less than all shares of the Preferred Stock are forcibly converted. For purposes of clarification, a Forced Conversion shall be subject to all of the provisions of Section 2-A.6, including, without limitation, the provisions requiring payment of liquidated damages and limitations on conversions.

Section 2-A.9. Miscellaneous.

a) **Notices**. Any and all notices or other communications or deliveries to be provided by the Holders hereunder including, without limitation, any Notice of Conversion, shall be in writing and delivered personally, by electronic mail, facsimile, or sent by a nationally recognized overnight courier service, addressed to the Corporation, at 2701 Kent Avenue, West Lafayette, IN 47906, Attention: Chief Financial Officer, email address: vp.finance@basinc.com, facsimile number (765) 497-1102, or such other facsimile number, e-mail address or address as the Corporation may specify for such purposes by notice to the Holders delivered in accordance with this Section 2-A.9. Any and all notices or other communications or deliveries to be provided by the Corporation hereunder shall be in writing and delivered personally, by facsimile, e-mail, or sent by a nationally recognized overnight courier service addressed to each Holder at the facsimile number, e-mail address or address of such Holder appearing on the books of the Corporation, or if no such facsimile number, email address or address appears on the books of the Corporation, at the principal place of business of such Holder, as set forth in the Purchase Agreement. Any notice or other communication or deliveries hereunder shall be deemed given and effective on the earliest of (i) the date of transmission, if such notice or communication is delivered via facsimile or e-mail at the facsimile number or e-mail address, as applicable, set forth in this Section prior to 5:30 p.m. (New York City time) on any date, (ii) the next Trading Day after the date of transmission, if such notice or communication is delivered via facsimile or e-mail at the facsimile number or e-mail address, as applicable, set forth in this Section on a day that is not a Trading Day or later than 5:30 p.m. (New York City time) on any Trading Day, (iii) the second Trading Day following the date of mailing, if sent by U.S. nationally recognized overnight courier service, or (iv) upon actual receipt by the party to whom such notice is required to be given.

b) **Absolute Obligation**. Except as expressly provided herein, no provision of this Certificate of Designation shall alter or impair the obligation of the Corporation, which is absolute and unconditional, to pay liquidated damages, accrued dividends and accrued interest, as applicable, on the shares of Preferred Stock at the time, place, and rate, and in the coin or currency, herein prescribed.

c) **Lost or Mutilated Preferred Stock Certificate**. If a Holder's Preferred Stock certificate shall be mutilated, lost, stolen or destroyed, the Corporation shall execute and deliver, in exchange and substitution for and upon cancellation of a mutilated certificate, or in lieu of or in substitution for a lost, stolen or destroyed certificate, a new certificate for the shares of Preferred Stock so mutilated, lost, stolen or destroyed, but only upon receipt of evidence of such loss, theft or destruction of such certificate, and of the ownership thereof reasonably satisfactory to the Corporation.

d) **Governing Law**. All questions concerning the construction, validity, enforcement and interpretation of this Certificate of Designation shall be governed by and construed and enforced in accordance with the internal laws of the State of Indiana, without regard to the principles of conflict of laws thereof. Each party agrees that all legal proceedings concerning the interpretation, enforcement and defense of the transactions contemplated by any of the Transaction Documents (whether brought against a party hereto or its respective Affiliates, directors, officers, shareholders, employees or agents) shall be commenced in the state and federal courts sitting in the City of New York, Borough of Manhattan (the "New York Courts"). Each party hereto hereby irrevocably submits to the exclusive jurisdiction of the New York Courts for the adjudication of any dispute hereunder or in connection herewith or with any transaction contemplated hereby or discussed herein (including with respect to the enforcement of any of the Transaction Documents), and hereby irrevocably waives, and agrees not to assert in any suit, action or proceeding, any claim that it is not personally subject to the jurisdiction of such New York Courts, or such New York Courts are improper or inconvenient venue for such proceeding. Each party hereby irrevocably waives personal service of process and consents to process being served in any such suit, action or proceeding by mailing a copy thereof via registered or certified mail or overnight delivery (with evidence of delivery) to such party at the address in effect for notices to it under this Certificate of Designation and agrees that such service shall constitute good and sufficient service of process and notice thereof. Nothing contained herein shall be deemed to limit in any way any right to serve process in any other manner permitted by applicable law. Each party hereto hereby irrevocably waives, to the fullest extent permitted by applicable law, any and all right to trial by jury in any legal proceeding arising out of or relating to this Certificate of Designation or the transactions contemplated hereby. If any party shall commence an action or proceeding to enforce any provisions of this Certificate of Designation, then the prevailing party in such action or proceeding shall be reimbursed by the other party for its attorneys' fees and other costs and expenses incurred in the investigation, preparation and prosecution of such action or proceeding.

e) **Waiver**. Any waiver by the Corporation or a Holder of a breach of any provision of this Certificate of Designation shall not operate as or be construed to be a waiver of any other breach of such provision or of any breach of any other provision of this Certificate of Designation or a waiver by any other Holders. The failure of the Corporation or a Holder to insist upon strict adherence to any term of this Certificate of Designation on one or more occasions shall not be considered a waiver or deprive that party (or any other Holder) of the right thereafter to insist upon strict adherence to that term or any other term of this Certificate of Designation on any other occasion. Any waiver by the Corporation or a Holder must be in writing.

f) **Severability**. If any provision of this Certificate of Designation is invalid, illegal or unenforceable, the balance of this Certificate of Designation shall remain in effect, and if any provision is inapplicable to any Person or circumstance, it shall nevertheless remain applicable to all other Persons and circumstances. If it shall be found that any interest or other amount deemed interest due hereunder violates the applicable law governing usury, the applicable rate of interest due hereunder shall automatically be lowered to equal the maximum rate of interest permitted under applicable law.

g) **Next Business Day**. Whenever any payment or other obligation hereunder shall be due on a day other than a Business Day, such payment shall be made on the next succeeding Business Day.

h) **Headings**. The headings contained herein are for convenience only, do not constitute a part of this Certificate of Designation and shall not be deemed to limit or affect any of the provisions hereof.

i) **Status of Converted or Redeemed Preferred Stock**. Shares of Preferred Stock may only be issued pursuant to the Purchase Agreement. If any shares of Preferred Stock shall be converted, redeemed or reacquired by the Corporation, such shares shall resume the status of authorized but unissued Preferred Shares and shall no longer be designated as 6% Series A Convertible Preferred Shares.

ARTICLE III
REGISTERED OFFICE AND REGISTERED AGENT

Section 3.1. **Registered Office**. The street address of the Corporation's registered office is 2701 Kent Avenue, West Lafayette, Indiana 47906.

Section 3.2. **Registered Agent**. The name of the Corporation's registered agent at such registered office is Peter T. Kissinger.

ARTICLE IV
BOARD OF DIRECTORS

Section 4.1. **Number, Terms**. The total number of directors shall be that specified in or fixed in accordance with these Second Restated Articles of Incorporation or in the By-Laws. In the absence of a provision in the By-Laws specifying the number of directors or setting forth the manner in which such number shall be fixed, the number of directors shall be nine. The By-Laws may provide for staggering the terms of directors into two or three groups in the manner provided in the Act.

Section 4.2. **Election by Voting Groups**. The terms of Preferred Shares may provide for the election of one or more directors by the holders of Common Shares and/or by the holders of one or more series of Preferred Shares.

Section 4.3. **Removal of Directors**. One or more directors may be removed with or without cause by the vote of the holders of a majority of the outstanding Common Shares, subject to any limitation on the removal of directors contained in the terms of Preferred Shares.

ARTICLE V
INDEMNIFICATION

Section 5.1. **General**. The Corporation shall, to the fullest extent to which it is empowered to do so by the Act, or any other applicable law, as from time to time in effect, indemnify any person who was or is a party, or is threatened to be made a party, to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative and whether formal or informal, by reason of the fact that he or she is or was a Director, Officer, employee or agent of the Corporation, or who, while serving as such Director, Officer, employee or agent of the Corporation, is or was serving at the request of the Corporation as a director, officer, partner, trustee, employee or agent of another corporation, partnership, joint venture, trust, employee benefit plan or other enterprise, whether for profit or not, against expenses (including counsel fees), judgments, settlements, penalties and fines (including excise taxes assessed with respect to employee benefit plans) actually or reasonably incurred by him in accordance with such action, suit or proceeding, if he acted in good faith and in a manner he reasonably believed, in the case of conduct in his official capacity, was in the best interests of the Corporation, and in all other cases, was not opposed to the best interests of the Corporation, and, with respect to any criminal action or proceeding, he either had reasonable cause to believe his conduct was lawful or no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement or conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not meet the prescribed standard of conduct.

Section 5.2. **Authorization of Indemnification**. To the extent that a Director, Officer, employee or agent of the Corporation has been successful, on the merits or otherwise, in the defense of any action, suit or proceeding referred to in Section 5.1 of this Article V, or in the defense of any claim, issue or matter therein, the Corporation shall indemnify that person against expenses (including counsel fees) actually and reasonably incurred by that person in connection therewith. Any other indemnification under Section 5.1 of this Article V (unless ordered by a court) shall be made by the Corporation only as authorized in the specific case, upon a determination that indemnification of the Director, Officer, employee or agent is permissible in the circumstances because he has met the applicable standard of conduct. Such determination shall be made (a) by the Board of Directors by a majority vote of a quorum consisting of Directors who were not at the time parties to such action, suit or proceeding; or (b) if a quorum cannot be obtained under subdivision (a), by a majority vote of a committee duly designated by the Board of Directors (in which designation Directors who are parties may participate), consisting solely of two (2) or more Directors not at the time parties to such action, suit or proceeding; or (c) by special legal counsel: (i) selected by the Board of Directors or its committee in the manner prescribed in subdivision (a) or (b), or (ii) if a quorum of the Board of Directors cannot be obtained under subdivision (a) and a committee cannot be designated under subdivision (b), selected by a majority vote of the full Board of Directors (in which selection Directors who are parties may participate), or (iii) by the Shareholders, but shares owned by or voted under the control of Directors who are at the time parties to such action, suit or proceeding may not be voted on the determination. Authorization of indemnification and evaluation as to reasonableness of expenses shall be made in the same manner as the determination that indemnification is permissible, except that if the determination is made by special legal counsel, authorization of indemnification and evaluation as to reasonableness of expenses shall be made by those entitled under subdivision (c) to select counsel.

Section 5.3. **Good Faith Defined**. For purposes of any determination under Section 5.1 of this Article V, a person shall be deemed to have acted in good faith and to have otherwise met the applicable standard of conduct set forth in Section 5.1 if his action is based on information, opinions, reports or statements, including financial statements and other financial data, if prepared or presented by (a) one or more Officers or employees of the Corporation or another enterprise whom he reasonably believes to be reliable and competent in the matters presented; (b) legal counsel, public accountants, appraisers or other persons as to matters he reasonably believes are within the person's professional or expert competence; or (c) a committee of the Board of Directors of the Corporation or another enterprise of which the person is not a member if he reasonably believes the committee merits confidence. The term "another enterprise" as used in this Section 5.3 shall mean any other corporation or any partnership, joint venture, trust, employee benefit plan or other enterprise of which the person is or was serving at the request of the Corporation as a director, officer, partner, trustee, employee or agent. The provisions of this Section 5.3 shall not be deemed to be exclusive or to limit in any way the circumstances in which a person may be deemed to have met the applicable standards of conduct set forth in Section 5.1 of this Article V.

Section 5.4. **Payment of Expenses in Advance**. Expenses incurred in connection with any civil or criminal action, suit or proceeding may be paid for or reimbursed by the Corporation in advance of the final disposition of such action, suit or proceeding, as authorized in the specific case in the same manner described in Section 5.2 of this Article V, upon receipt of a written affirmation of the Director, Officer, employee or agent's good faith belief that he has met the standard of conduct described in Section 5.1 of this Article V and upon receipt of a written undertaking by or on behalf of the Director, Officer, employee or agent to repay such amount if it shall ultimately be determined that he did not meet the standard of conduct set forth in Section 5.1 of this Article V, and a determination is made that the facts then known to those making the determination would not preclude indemnification under this Article V.

Section 5.5. **Provisions Not Exclusive**. The indemnification provided by this Article V shall not be deemed exclusive of any other rights to which a person seeking indemnification may be entitled under these Articles, the Corporation's Amended and Restated Bylaws, any resolution of the Board of Directors or Shareholders, any other authorization, whenever adopted, after notice, by a majority vote of all voting stock then outstanding, or any contract, both as to action in his official capacity and as to action in another capacity while holding that office, and shall continue as to a person who has ceased to be a Director, Officer, employee or agent, and shall inure to the benefit of the heirs, executors and administrators of that person.

Section 5.6. **Vested Right to Indemnification**. The right of any individual to indemnification under this Article V shall vest at the time of occurrence or performance of any event, act or omission giving rise to any action, suit or proceeding of the nature referred to in Section 5.1 of this Article V and, once vested, shall not later be impaired as a result of any amendment, repeal, alteration or other modification of any or all of these provisions. Notwithstanding the foregoing, the indemnification afforded under this Article V shall be applicable to all alleged prior acts or omissions of any individual seeking indemnification hereunder, regardless of the fact that such alleged acts or omissions may have occurred prior to the adoption of this Article V. To the extent such prior acts or omissions cannot be deemed to be covered by this Article V, the right of any individual to indemnification shall be governed by the indemnification provisions in effect at the time of the prior acts or omissions.

Section 5.7. **Insurance**. The Corporation may purchase and maintain insurance on behalf of any person who is or was a Director, Officer, employee or agent of the Corporation, or who is or was serving at the request of the Corporation as a director, officer, partner, trustee, employee or agent of another corporation, partnership, joint venture, trust, employee benefit plan or other enterprise, against any liability asserted against or incurred by the individual in that capacity or arising from the individual's status as a Director, Officer, employee or agent, whether or not the Corporation would have power to indemnify the individual against the same liability under this Article V.

Section 5.8. **Additional Definitions**. For purposes of this Article V, references to the "Corporation" shall include any domestic or foreign predecessor entity of the Corporation in a merger or other transaction in which the predecessor's existence ceased upon consummation of the transaction.

For purposes of this Article V, "serving an employee benefit plan at the request of the Corporation" shall include any service as a Director, Officer, employee or agent of the Corporation which imposes duties on, or involves services by that Director, Officer, employee, or agent with respect to an employee benefit plan, its participants, or beneficiaries. A person who acted in good faith and in a manner he reasonably believed to be in the best interests of the participants and beneficiaries of an employee benefit plan shall be deemed to have acted in a manner "not opposed to the best interest of the Corporation" referred to in this Article V.

For purposes of this Article V, "party" includes any individual who is or was a plaintiff, defendant or respondent in any action, suit or proceeding, or who is threatened to be made a named defendant or respondent in any action, suit or proceeding.

For purposes of this Article V, "official capacity," when used with respect to a Director, shall mean the position of director of the Corporation; and when used with respect to an individual other than a Director, shall mean the office in the Corporation held by the Officer or the employment or agency relationship undertaken by the employee or agent on behalf of the Corporation.

"Official capacity" does not include service for any other foreign or domestic corporation or any partnership, joint venture, trust, employee benefit plan, or other enterprise, whether for profit or not.

Section 5.9. **Payments a Business Expense**. Any payments made to any indemnified party under this Article V under any other right to indemnification shall be deemed to be an ordinary and necessary business expense of the Corporation, and payment thereof shall not subject any person responsible for the payment, or the Board of Directors, to any action for corporate waste or to any similar action.

ANNEX A

NOTICE OF CONVERSION

(TO BE EXECUTED BY THE REGISTERED HOLDER IN ORDER TO CONVERT SHARES OF PREFERRED STOCK)

The undersigned hereby elects to convert the number of shares of 6% Series A Convertible Preferred Shares (the "Preferred Stock") indicated below into Common Shares (the "Common Stock"), of Inotiv, Inc., an Indiana corporation (the "Corporation"), according to the conditions hereof, as of the date written below. If shares of Common Stock are to be issued in the name of a Person other than the undersigned, the undersigned will pay all transfer taxes payable with respect thereto and is delivering herewith such certificates and opinions as may be required by the Corporation in accordance with the Purchase Agreement. No fee will be charged to the Holders for any conversion, except for any such transfer taxes. Capitalized terms used in this Notice Conversion have the meanings specified in the Certificate of Designation for the Preferred Stock.

Conversion calculations:

Date to Effect Conversion: _____

Number of shares of Preferred Stock owned prior to Conversion: _____

Number of shares of Preferred Stock to be Converted: _____

Stated Value of shares of Preferred Stock to be Converted: _____

Applicable Conversion Price: _____

Number of shares of Common Stock to be Issued: _____

Number of shares of Preferred Stock subsequent to Conversion: _____

Address for Delivery: _____
or
DWAC Instructions:
Broker no: _____
Account no: _____

[HOLDER]

By: _____
Name:
Title:

Exhibit 10.1

Execution Version

SHAREHOLDERS AGREEMENT
OF
INOTIV, INC.

Dated as of November 5, 2021

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SHAREHOLDERS AGREEMENT

This Shareholders Agreement, dated as of November 5, 2021 (as it may be amended from time to time, this "Agreement"), is made by and among Inotiv, Inc., an Indiana corporation (the "Company") and each of the Persons named on Schedule I (collectively, the "Shareholders", and each an "Shareholder").

R E C I T A L S

WHEREAS, the Company and Envigo RMS Holding Corp. ("Envigo") have entered into an Agreement and Plan of Merger, dated as of September 21, 2021 providing for the acquisition of Envigo by the Company through the merger of a wholly owned subsidiary of the Company with Envigo (the "Merger Agreement" and the transactions contemplated by the Merger Agreement, the "Merger");

WHEREAS, the Merger Agreement provides that the stockholders of Envigo immediately prior to the effective time of the Merger, including the Shareholders, will receive common shares of the Company ("Common Shares") as part of the merger consideration in exchange for their to the stockholders of Envigo;

WHEREAS, as a condition to the consummation of the Merger and the issuance of Common Shares to the Shareholders in connection with the Merger Agreement, the Company and the Shareholders have agreed to enter into this Agreement to set forth certain terms and conditions regarding the Shareholders' ownership of the Common Shares issuable or issued to the Shareholders in accordance with the Merger Agreement (such Common Shares, the "Shares") and certain rights and obligations related thereto.

NOW, THEREFORE, in consideration of the mutual covenants, representations, warranties and agreements contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the parties agree as follows:

ARTICLE I
GOVERNANCE MATTERS

1.1 Board Composition; Representation.

(a) As of the effective time of the Merger, the Company shall take any and all necessary action to increase the number of directors on the Board of Directors of the Company (the "Board") from five (5) to seven (7), and to cause the Board to be comprised of a total of seven (7) authorized directorships. As of the effective time of the Merger, (A) Richard A. Johnson, Ph.D. will tender his resignation from the Board, to be effective automatically upon notice to Dr. Johnson from the Company that the Board is prepared to elect an Approved Director as provided herein, and (B) the Company will cause to be appointed to the Board in the vacancies created by the Board the Shareholder Representative designated by Jermyn Street Associates LLC ("Jermyn") not less than five (5) Business Days prior to the effective time of the Merger (who is named on Exhibit A) and the Shareholder Representative designated by Savanna Holdings LLC ("Savanna") not less than five (5) Business Days prior to the effective time of the Merger (who is named on Exhibit A), with

the result that, as of the effective time of the Merger, the Board shall be comprised of: (i) the Shareholder Representatives so designated; and (ii) the five (5) other directors to be continued on the Board, as listed in Exhibit A. The members of the Board at the Effective Time shall be members of the Board Classes, (x) in the case of the Shareholder Representatives and the Approved Director, determined by the Company, Jermyn and Savanna and set forth on Exhibit A, and (y) in the case of directors to be continued on the Board, as set forth in Exhibit A.

(b) From and after the effective time of the Merger, the manner for selecting the Company's nominees for election to the Board will be as follows:

(i) In connection with each annual meeting of shareholders of the Company at which the term of the Shareholder Representative designated by a Nominating Holder pursuant to Section 1.1(a) or any successor Shareholder Representative designated by such Nominating Holder pursuant to this Section 1.1(b) expires and at any special meeting at which one of the matters to be considered is the election of a director to fill the seat of such Shareholder Representative or successor (each such annual or special meeting, an "Election Meeting"), for so long as a Shareholder's Percentage Interest is greater than or equal to five percent (5%) on the date of such designation and on the record date for such Election Meeting, such Shareholder shall have the right to designate for nomination one (1) Shareholder Representative pursuant to this Agreement. For the avoidance of doubt, at any time a Shareholder's Percentage Interest is less than five percent (5%), such Shareholder shall have no right to designate a Shareholder Representative for nomination pursuant to this Agreement. All nominees for director other than those designated by the Shareholders pursuant to this Section 1.1(b) shall be nominated by the Company's Nominating and Corporate Governance Committee (the "Governance Committee"); provided that, for each Election Meeting prior to the Board Designation Expiration Date at which the Approved Director's term expires, the Shareholders shall have the right to approve the person nominated to fill the Approved Director's seat on the Board (such approval not to be unreasonably withheld, conditioned or delayed).

(ii) Each Shareholder having the right to designate a Shareholder Representative (a "Nominating Holder") shall give written notice to the Governance Committee, identifying its Shareholder Representative within a reasonable amount of time prior to the date on which the proxy statement relating to each Election Meeting at which its incumbent Shareholder Representative's term is to expire (and in any event at least 60 days prior to the later of (i) a date provided by the Company as the expected date on which a proxy statement for such Election Meeting is expected to be filed and (ii) the first anniversary of the mailing date of the proxy statement for the annual meeting of the Company's shareholders for the prior year); provided, that if a Nominating Holder fails to give such notice in a timely manner, such Nominating Holder shall be deemed to have nominated the incumbent Shareholder Representative previously designated by it in a timely manner. Following provision of such notice, the Nominating Holder shall use its commercially reasonable efforts to provide, or cause such individual to provide, to the Company such information about such individuals at such times as the Company may reasonably request in order to ensure compliance with the listing rules of Nasdaq and the rules and regulations of the SEC to the same extent as requested from the other director nominees of the Company in connection with the applicable Election Meeting (the "Required Information"); provided, that if the Nominating Holder fails to provide or cause to be provided the Required Information in a timely manner, the Nominating Holder shall be deemed to have nominated the incumbent Shareholder Representative

previously designated by it in a timely manner. If the Company reasonably determines that the nomination or election of an individual identified by a Nominating Holder would violate the listing rules of Nasdaq or the rules and regulations of the SEC, it shall promptly notify the applicable Nominating Holder and such Nominating Holder may identify a replacement for such individual. Any nomination procedures set forth in the Company Organizational Documents shall not apply to the nomination of the Shareholder Representatives; provided, that the Shareholders shall only designate an individual to be an Shareholder Representative who is (x) not prohibited from or disqualified from serving as a director of the Company pursuant to the listing rules of Nasdaq or the rules and regulations of the SEC, and (y) not engaged, directly or indirectly, in any Competitive Enterprise.

(iii) The Company shall give written notice to each Shareholder, identifying its proposed nominee to be elected as the Approved Director within a reasonable amount of time prior to (A) with respect to the election of the first Approved Director, the date on which the Company proposes to elect the Approved Director, and (B) thereafter, the date on which the proxy statement relating to each Election Meeting at which the incumbent Approved Director's term is to expire (and in any event at least 60 days prior to the expected date on which a proxy statement for such Election Meeting is expected to be filed); provided, that if the Company fails to give such notice in a timely manner, the Governance Committee shall be deemed to have nominated the incumbent Approved Director. Promptly (and in any event no more than 15 days) following provision of such notice, the Shareholders shall inform the Company in writing of their approval or disapproval of such nominee. If the Shareholders approve the nominee proposed by the Governance Committee, such person shall be the nominee for the Approved Director seat and the Company shall have the same obligations with respect to the election of such person as are set forth in Section 1.1(c) for Shareholder Representatives. If the Shareholders do not approve the nominee proposed by the Company (which failure or refusal to approve must be reasonable), the Governance Committee shall identify to the Shareholders one or more alternative nominees for election as the Approved Director. If the Shareholders do not approve a nominee for election as the Approved Director prior to the date that is fifteen (15) days prior to the expected mailing date of the proxy statement for the Election Meeting, then, unless the incumbent Approved Director is able and willing to continue to serve as a director, the Board shall take such action as shall be necessary to reduce the size of the Board by one member until such time as the Governance Committee identifies, and the Shareholders approve, an alternative nominee, whereupon the Board shall take such action as is necessary to expand the size of the Board by one person and to elect such alternative nominee as the Approved Director.

(c) From and after the effective time of the Merger until the Board Designation Expiration Date, the Company shall take all actions necessary (to the extent such actions are permitted by Law) to cause the Board to include the Shareholder Representative(s) entitled to be designated by the Shareholders pursuant to Section 1.1(b) and otherwise to reflect the Board composition contemplated by Section 1.1, including the following: (i) at each Election Meeting at which a Shareholder Representative's term expires, include for election to the Board the Shareholder Representative entitled to be designated by the Nominating Holder who designated the Shareholder Representative whose term is expiring pursuant to Section 1.1(b) as part of the Company's slate of nominees for election as directors, (ii) solicit proxies in order to obtain shareholder approval of the election of such Shareholder Representative, including causing officers of the Company who hold proxies (unless otherwise directed by the Company shareholder

submitting such proxy) to vote such proxies in favor of the election of such Shareholder Representative, (iii) recommend that the Company's shareholders vote in favor of such Shareholder Representative in any proxy statement used by the Company to solicit the vote of its shareholders in connection with each Election Meeting and (iv) use and/or provide the same level of effort and same level of support as is used and/or provided for the other director nominees of the Company in connection with each Election Meeting.

(d) If at any time a Nominating Holder is no longer entitled to designate a Shareholder Representative to serve on the Board under this Section 1.1, then, the Shareholder Representative designated by such Nominating Holder shall serve the remainder of his or her term on the Board, and the Company shall have no obligation to nominate such Shareholder Representative for another Board term.

1.2 Vacancies.

(a) Subject to Sections 1.1 and 1.4, in the event of any vacancy on the Board occurring due to the death, resignation, retirement, disqualification or removal from office as a member of the Board of a Shareholder Representative, the Board shall take all action (to the extent permitted by Law) required to fill the vacancy resulting therefrom with such replacement designated by the Nominating Holder who designated the departing Shareholder Representative as promptly as practicable.

(b) In the event of any vacancy on the Board occurring due to the death, resignation, retirement, disqualification or removal from office as a member of the Board of any director of the Company other than the Shareholder Representatives, the Board shall take all action (to the extent permitted by Law) required to fill the vacancy resulting therefrom with such replacement selected by the Governance Committee as promptly as practicable; provided that the filling of any vacancy caused by the death, resignation, retirement, disqualification or removal from office as a member of the Board of the Approved Director shall be subject to the procedures set forth in Section 1.1(b)(iii).

1.3 Selection of Shareholder Representatives. For purposes of this Agreement, "Shareholder Representative" means any person designated by a Nominating Holder to be elected or appointed to the Board in accordance with this Agreement, or his or her replacement designated in accordance with Section 1.2, provided, that such person's service as a director must not be prohibited by Law. Until the Board Designation Expiration Date, the Company shall cause each committee of the Board to include one Shareholder Representative, subject in each case to meeting the applicable requirements for service on such committee as set forth in the listing rules of Nasdaq, the rules and regulations of the SEC, the Company's historical corporate governance guidelines applicable to all of the members of such committee and such committee's charter.

1.4 Compensation; Expense Reimbursement; Indemnification. Each Shareholder Representative shall be entitled to the same expense reimbursement and advancement, exculpation, indemnification and insurance in connection with his or her role as a director as the other members of the Board (which shall be primary over any other indemnification or insurance available to such Shareholder Representative), as well as reimbursement for documented, reasonable out-of-pocket expenses incurred in attending meetings of the Board or any committee of the Board of which such

Shareholder Representative is a member, if any, in each case to the same extent as the other members of the Board. Each Shareholder Representative shall be also entitled to any retainer, equity compensation or other fees or compensation paid to the non-employee directors of the Company for their services as a director, including any service on any committee of the Board. For so long as either Shareholder is entitled to designate a Shareholder Representative, the Company shall not amend, alter, repeal or waive (a) any right to indemnification or exculpation covering or benefiting any Shareholder Representative nominated pursuant to this Agreement (whether such right is contained in the Company Organizational Documents or another document) or (b) any provision of the Company Organizational Documents, if such amendment, alteration, repeal or waiver adversely affects the rights or obligations of the Shareholders or the Shareholder Representative pursuant to this Agreement. The Company shall maintain directors' and officers' liability insurance covering each Shareholder Representative to the maximum extent of the coverage available to the most favorably insured of the other directors serving on the Board.

1.5 Election. A Shareholder may elect upon written notice to the Company to irrevocably terminate any or all of their rights under this Article I at any time.

ARTICLE II
RESTRICTED ACTIVITIES; VOTING

2.1 Transfer Restrictions.

(a) Prior to the date that is one hundred eighty (180) days after the effective time of the Merger (such period, the "Restricted Period"), without the consent of the Company, no Shareholder shall Transfer any Common Shares acquired by it in the Merger (such shares, the "Transaction Shares"), except for Transfers (A) in connection with any merger or other consolidation or reorganization, tender or exchange offer, or any other similar transaction generally available to all holders of outstanding Common Shares or any transaction that has received Board Approval, (B) to an Affiliate of the Transferring Shareholder (provided that such Affiliate remains an Affiliate of the Transferring Shareholder throughout the Restricted Period) or to a Permitted Transferee, (C) by means of distributions to the partners, employees or members of such Shareholder; (D) (x) as a *bona fide* gift or gifts or (y) to any trust for the direct or indirect benefit of the Transferring Shareholder or the immediate family thereof (which shall be any relationship by blood, marriage or adoption, not more remote than first cousin of the Transferee), (E) to any other Shareholder, (F) in connection with any bona fide mortgage, encumbrance or pledge to a financial institution in connection with any bona fide loan or debt transaction or enforcement thereunder, including foreclosure thereof, (G) pursuant to an order or decree of a Governmental Authority, or (H) to a nominee or custodian of a Person to whom a Transfer is permitted pursuant to any of the foregoing clauses; provided, however, that in the case of clauses (B), (C) and (D), (x) a direct Transfer shall only be permissible if the applicable Shareholder and the Transferee enter into a written agreement pursuant to which the Transferee agrees, effective as of the consummation of such Transfer, to be bound by the terms of this Agreement as if it were a Shareholder (it being understood that such agreement shall not affect the Shareholders' obligations and liabilities under this Agreement), (y) any such Transfer shall not involve a disposition for value and (z) any Transaction Shares so Transferred shall continue to be deemed to be owned by the Shareholders for purposes of any calculation of such Shareholder's Percentage Interest.

(b) Until the Sunset Date, without Board Approval and except for Transfers in connection with a transaction that has received Board Approval, no Shareholder shall (x) Transfer any Common Shares to any Person or Group who, to the Transferring Shareholder's knowledge, is a Company Competitor or (y) Transfer any Common Shares to any Person or Group (other than the Shareholders and their Permitted Transferees) who, after giving effect to such Transfer and to the Transferring Shareholder's knowledge, would own 10% or more of the issued and outstanding Common Shares. Notwithstanding anything in this Agreement to the contrary, this paragraph (b) shall not apply to any Transfer effected under a registration statement filed pursuant to this Agreement (other than an offer or sale not involving a broker, placement agent or similar intermediary and that is intended to circumvent the foregoing prohibitions), any Transfer in accordance with Rule 144 under the Securities Act (including the manner of sale requirements thereof), or any Transfer to the Company or any Permitted Transferee. For the purposes of determining "knowledge", (i) in the case of clause (x), the Transferring Shareholder shall have no obligation to make an inquiry or investigation and in no event shall the knowledge of any broker used by the Transferring Shareholder be imputed to such party (provided that the Transferring Shareholder shall have made such broker aware of the provisions of this Section 2.1), and (ii) in the case of clause (y), the Transferring Shareholder shall have no obligation to make an inquiry or investigation and shall only be required to review filings made by the prospective purchaser on the SEC's EDGAR system in order to determine whether or not such purchaser owns 10% or more of the outstanding Common Shares.

2.2 Restricted Activities.

(a) Subject to Section 2.2(b), prior to the Sunset Date, each Shareholder agrees that it shall not and none of its respective Controlled Affiliates acting on its behalf shall, directly or indirectly, without the Board's prior written consent, take any of the following actions:

(i) make any public announcement, proposal or offer (including any "solicitation" of "proxies" as such terms are defined or used in Regulation 14A of the Exchange Act) with respect to, or otherwise solicit, seek or offer to effect (including, for the avoidance of doubt, indirectly by means of communication with the press or media) any of the following: (1) any acquisition of Voting Securities in violation of Section 2.2(a)(iv), (2) any restructuring, recapitalization, liquidation or similar transaction involving the Company or any of its Subsidiaries, (3) so long as the Company is in compliance with its obligations under Article I of this Agreement, the election of the directors of the Company other than the Shareholder Representatives or the removal of any directors of the Company other than the Shareholder Representatives, or publicly becoming a "participant" in a "solicitation" (as such terms are defined in Regulation 14A of the Exchange Act) with respect to the election of directors of the Company other than the Shareholder Representatives or the removal of any directors of the Company other than the Shareholder Representatives, or (4) any acquisition of any of the Company's loans, debt securities, equity or equity-linked securities or assets, or rights or options to acquire interests in any of the Company's loans, debt securities, equity or equity-linked securities or assets if, in each case of this clause (4), solely as a result of such acquisition (and, for the avoidance of doubt, excluding the effects of any other circumstances relating to such acquisition) the Shareholders would be required to file a Schedule 13D or an amendment thereof pursuant to Rule 13d-2 of the Exchange Act because such acquisition constitutes a material increase in the percentage of a class of Voting Securities Beneficially Owned by a Shareholder or their Reporting Affiliates reporting

together as a Group on Schedule 13D that is required to be reported on the cover page of Schedule 13D; provided, however, that nothing in this Section 2.2(a)(i) shall prohibit a Shareholder from privately communicating any such statement or proposal to the directors or Chief Executive Officer of the Company so long as such private communications do not, and would not reasonably be expected to, trigger public disclosure obligations of or for any Person (including, without limitation, the filing of a Schedule 13D or Schedule 13G or any amendment thereof), it being acknowledged and agreed that such private communications regarding any of the foregoing matters shall not in any event be restricted by this Section 2.2(a)(i);

(ii) publicly seek a change in the composition or size of the Board, except in furtherance of the provisions of this Agreement;

(iii) deposit any Voting Security (other than in connection with Transfers to Affiliates) into a voting trust or subject any Voting Security to any proxy arrangement or agreement with respect to the voting of such securities or other agreement having a similar effect, in any such case, which conflicts with such Shareholder's obligations in Section 2.3;

(iv) acquire any Voting Security or Beneficial Ownership of any Voting Securities that would result in the Shareholder and its Reporting Affiliates Beneficially Owning Voting Securities in excess of the amount of Voting Securities Beneficially Owned by the Shareholder and its Reporting Affiliates as of immediately following the effective time of the Merger;

(v) call for, or initiate, propose or requisition a call for, any general or special meeting of the Company's shareholders in furtherance of the actions described in Section 2.2(a)(i);

(vi) publicly disclose any intention, plan or arrangement to either (1) obtain any waiver or consent under, or any amendment of, any provision of this Section 2.2 or (2) take any action challenging the validity or enforceability of any provision of this Section 2.2; or

(vii) intentionally and knowingly instigate, facilitate, encourage, or assist any third party to do any of the foregoing.

(b) Notwithstanding anything to the contrary set forth in this Section 2.2, nothing in this Agreement shall in any way limit, restrict or impair, directly or indirectly, (1) the activities of any director of the Company, so long as such activities are undertaken solely in his or her capacity as a director of the Company, (2) the activities of any Shareholder and/or its Affiliates in the capacity as a lender of the Company or the holder of any interests received in exchange for or in respect of indebtedness of the Company (including exercising, protecting, preserving or enforcing any rights, interests or remedies and/or taking any other actions, in each case in such capacity) or in any other capacity other than as a shareholder of the Company, or (3) any Shareholder's or any of its Affiliates' ability to:

(i) acquire Common Shares pursuant to the exercise and/or conversion of any warrants, options and other exercisable and/or convertible Capital Stock of the Company and its Subsidiaries;

(ii) acquire Common Shares by way of stock splits or stock dividends paid by the Company;

(iii) acquire Common Shares from its Affiliates;

(iv) acquire Common Shares in transactions with or approved by the Company;

(v) propose, commit to, participate in and/or make a loan or other debt financing to the Company or any of its Subsidiaries;

(vi) propose, commit to, participate in and/or provide debt financing to a prospective buyer regarding the Company or any of its subsidiaries or assets in a negotiated transaction with the Company (excluding any unsolicited offer made to the Company, other than in the context of a bankruptcy or insolvency proceeding), or finance a third party's effort to make a loan or other debt financing to the Company or any of its subsidiaries in a negotiated transaction (excluding any unsolicited offer made to the Company, other than in the context of a bankruptcy or insolvency proceeding) with the Company or any of its Subsidiaries;

(vii) participate in any auction or sale process approved, conducted or initiated by the Company pursuant to which the Company proposes to sell or otherwise dispose of any of the businesses or assets of the Company or any of its Subsidiaries;

(viii) submit a proposal to the Board relating to the acquisition of all or a majority of the equity of the Company or all or a substantial portion of the assets of the Company and its Subsidiaries if the Company has entered into a definitive agreement with respect to the sale of all or a majority of the equity of the Company (including by merger) or all or a substantial portion of the assets of the Company and its Subsidiaries;

(ix) purchase debt, debt securities or loans of the Company or its subsidiaries in open market or secondary market transactions that, in each case, are not convertible into Voting Securities at the election of the holder thereof;

(x) make any public announcement or statement in response to any public announcement, proposal, offer or solicitation made by any other Person;

(xi) vote or cause to be voted any Voting Securities in any manner determined by such Shareholder in its sole discretion; provided that this Section 2.2(b)(xi) shall not be deemed to limit the Shareholders' obligations under Section 2.3; or

(xii) Transfer any Capital Stock of the Company or its Subsidiaries; provided that this Section 2.2(b)(xii) shall not be deemed to limit the Shareholders' obligations under Section 2.1.

(c) Each Shareholder further agrees that neither it, nor any of its Controlled Affiliates acting on its behalf shall, without the prior written consent of the Company, publicly request the Company to amend or waive any provision of this Section 2.2 (including this sentence) or do so in a manner that would require the Company to publicly disclose such request.

(d) Notwithstanding the foregoing, this Section 2.2 shall not apply in respect of any Common Shares (or other Capital Stock) issued as compensation for any Shareholder Representative serving as a director of the Company or the transfer thereof to any Affiliate of a Shareholder.

For purposes of this Section 2.2, (x) the term "Voting Securities" shall be deemed to include any security of the company that is convertible into a Voting Security at any time and (y) the terms "debt" and "indebtedness" shall be deemed to include, institutional debt (bank or otherwise), commercial paper, notes, debentures, bonds, other evidences of indebtedness, and debt securities. Notwithstanding the foregoing, this Section 2.2 shall not limit any Shareholder or any of its Affiliates from providing any debt or equity financing in the context of any bankruptcy or insolvency proceeding.

2.3 Voting. From and after the date of this Agreement, until the Sunset Date, each Shareholder agrees (i) to cause Voting Securities held by such Shareholder or over which such Shareholder or any of its Subsidiaries otherwise has voting discretion or control to be present at any Election Meeting either in person or by proxy, (ii) to vote all Voting Securities held by such Shareholder or any of its Subsidiaries or over which such Shareholder or any of its Subsidiaries otherwise has voting discretion or control (A) either (at the election of such Shareholder) (1) as recommended by the Board or (2) in the same proportion as the votes cast by other holders of Voting Securities, (x) with respect to director nominees nominated by the Governance Committee (including any directors nominated to the Board pursuant to Section 1.2, but excluding the Shareholder Representatives nominated to the Board pursuant to Section 1.1), and (y) with respect to any other nominees (excluding the Shareholder Representatives nominated to the Board pursuant to Section 1.1), and (B) in favor of the Shareholder Representatives nominated to the Board pursuant to Section 1.1, and (iii) to not vote any Voting Securities held by such Shareholder in favor of any Change of Control Transaction submitted to the Company's shareholders for approval or adoption that is not recommended by the Board and pursuant to which the per-share consideration to be received by the Shareholders in respect of their Common Shares in such Change of Control Transaction is different in amount or form from the per-share consideration to be received by holders of Common Shares other than the Shareholders in respect of their Common Shares in such Change of Control Transaction (except to the extent that such consideration consists solely of cash and the per-share cash consideration to be received by the Shareholders is less than the per-share cash consideration to be received by such other holders), disregarding any right to select cash and/or securities as consideration in such Change of Control Transaction that is offered generally to holders of Common Shares in such Change of Control Transaction, unless such Change of Control Transaction is approved by the Board. For the avoidance of doubt, nothing in this Section 2.3 shall (i) require a Shareholder to vote any Voting Securities or cause any such Voting Securities to be voted in accordance with the Board's recommendation or in proportion to the votes cast by other holders of Voting Securities with respect to any other matter requiring shareholder approval under Law that is not expressly addressed above or (ii) limit a Shareholder's right to vote any Voting Securities or cause any such Voting Securities to be voted in favor of the election of any Shareholder Representative, whether or not nominated to the Board.

ARTICLE III
REGISTRATION RIGHTS

3.1 Registration.

(a) The Company shall prepare and file with (or confidentially submit to) the Commission a registration statement on Form S-1 or any successor form thereto (a "Long-Form Registration"), and shall use its commercially reasonable efforts to cause such registration statement to be declared effective by the Commission, no later than 180 days after the effective time of the Merger. Such Long Form Registration shall cause to be registered under the Securities Act all Registrable Securities. In the event that such Long Form Registration fails to register any portion of the Registrable Securities, Shareholders owning Registrable Securities may request registration under the Securities Act of all of their Registrable Securities pursuant to another Long Form Registration. Each request for a Long-Form Registration shall specify the number of Registrable Securities requested to be included in the Long-Form Registration. Upon receipt of any such request, the Company shall promptly (but in no event later than 10 days following receipt thereof) deliver notice of such request to all other holders of Registrable Securities who shall then have 10 days from the date such notice is given to notify the Company in writing of their desire to be included in such registration. The Company shall prepare and file with (or confidentially submit to) the Commission a registration statement on Form S-1 or any successor form thereto covering all of the Registrable Securities that the holders thereof have requested to be included in such Long-Form Registration within 60 days after the date on which the initial request is given and shall use its commercially reasonable efforts to cause such registration statement to be declared effective by the Commission as soon as practicable thereafter. The Company shall not be required to effect a Long-Form Registration more than two times for the holders of Registrable Securities as a group; provided, that a registration statement shall not count as a Long-Form Registration requested under this Section 3.1(a) unless and until it has become effective and the holders requesting such registration are able to register and sell at least 50% of the Registrable Securities requested to be included in such registration.

(b) After the effective time of the Merger, the Company shall use its commercially reasonable efforts to qualify and remain qualified to register the offer and sale of securities under the Securities Act pursuant to a registration statement on Form S-3 or any successor form thereto. At such time as the Company shall have qualified for the use of a registration statement on Form S-3 or any successor form thereto, the holders of Registrable Securities shall have the right to request an unlimited number of registrations under the Securities Act of all or any portion of their Registrable Securities pursuant to a registration statement on Form S-3 or any similar short-form registration statement (each, a "Short-Form Registration" and, together with each Long-Form Registration, a "Registration"). Each request for a Short-Form Registration shall specify the number of Registrable Securities requested to be included in the Short-Form Registration. Upon receipt of any such request, the Company shall promptly (but in no event later than 10 days following receipt thereof) deliver notice of such request to all other holders of Registrable Securities who shall then have 10 days from the date such notice is given to notify the Company in writing of their desire to be included in such registration. The Company shall

prepare and file with (or confidentially submit to) the Commission a registration statement on Form S-3 or any successor form thereto covering all of the Registrable Securities that the holders thereof have requested to be included in such Short-Form Registration within 30 days after the date on which the initial request is given and shall use its commercially reasonable efforts to cause such registration statement to be declared effective by the Commission as soon as practicable thereafter.

(c) The Company shall not be obligated to effect any Long-Form Registration within 90 days after the effective date of a previous Long-Form Registration. The Company may postpone for up to 90 days the filing or effectiveness of a registration statement for a Registration if the Board determines in its reasonable good faith judgment that such Registration would (i) materially interfere with a significant acquisition, corporate organization, financing, securities offering or other similar transaction involving the Company; (ii) require premature disclosure of material information that the Company has a bona fide business purpose for preserving as confidential; or (iii) render the Company unable to comply with requirements under the Securities Act or Exchange Act; provided, that in such event the holders of a majority of the Registrable Securities initiating such Registration shall be entitled to withdraw such request and, if such request for a Registration is withdrawn, such Registration shall not count as one of the permitted Registrations hereunder and the Company shall pay all registration expenses in connection with such registration. The Company may delay a Registration hereunder only twice in any period of 12 consecutive months.

(d) If the holders of the Registrable Securities initially requesting a Registration elect to distribute the Registrable Securities covered by their request in an underwritten offering, they shall so advise the Company as a part of their request made pursuant to Section 3.1(a) or Section 3.1(b) and the Company shall include such information in its notice to the other holders of Registrable Securities. The holders of a majority of the Registrable Securities initially requesting the Registration shall select the investment banking firm or firms to act as the managing underwriter or underwriters in connection with such offering; provided, that such selection shall be subject to the consent of the Company, which consent shall not be unreasonably withheld or delayed.

(e) The Company shall not include in any Registration any securities which are not Registrable Securities without the prior written consent of the holders of a majority of the Registrable Securities included in such Registration, which consent shall not be unreasonably withheld or delayed. If a Registration involves an underwritten offering and the managing underwriter of the requested Registration advises the Company and the holders of Registrable Securities in writing that in its reasonable and good faith opinion the number of shares of Common Stock proposed to be included in the Registration, including all Registrable Securities and all other Common Shares proposed to be included in such underwritten offering, exceeds the number of Common Shares which can be sold in such underwritten offering and/or the number of Common Shares proposed to be included in such Registration would adversely affect the price per share of the Common Shares proposed to be sold in such underwritten offering, the Company shall include in such Registration (i) first, the Common Shares that the holders of Registrable Securities propose to sell, and (ii) second, the Common Shares proposed to be included therein by any other

Persons (including Common Shares to be sold for the account of the Company and/or other holders of Common Shares) allocated among such Persons in such manner as they may agree. If the managing underwriter determines that less than all of the Registrable Securities proposed to be sold can be included in such offering, then the Registrable Securities that are included in such offering shall be allocated pro rata among the respective holders thereof on the basis of the number of Registrable Securities owned by each such holder.

3.2 Registration Procedures. It shall be a condition precedent to the obligations of the Company to take any action pursuant to this Article III that the Shareholders requesting a Registration shall furnish to the Company such information regarding them, the Registrable Securities held by them, the intended method of disposition of such Registrable Securities, and such agreements regarding indemnification, disposition of such securities and other matters referred to in this Article III as the Company shall reasonably request and as shall be required in connection with the action to be taken by the Company. With respect to any Registration which includes Registrable Securities held by a Shareholder, the Company will, subject to Section 3.1 and considerations of confidentiality, promptly:

(a) Prepare and file with the SEC a registration statement on the appropriate form prescribed by the SEC and use its commercially reasonable efforts to cause such registration statement to become effective as soon as practicable thereafter; provided that the Company shall not be obligated to maintain such registration effective for a period longer than the Effectiveness Period;

(b) Prepare and file with the SEC such amendments and post-effective amendments to such registration statement and any documents required to be incorporated by reference therein as may be necessary to keep the registration statement effective for a period of not less than the Effectiveness Period (but not prior to the expiration of the time period referred to in Section 4(3) of the Securities Act and Rule 174 thereunder, if applicable); cause the prospectus to be supplemented by any required prospectus supplement, and as so supplemented to be filed pursuant to Rule 424 under the Securities Act; and comply with the provisions of the Securities Act applicable to it with respect to the disposition of all Registrable Securities covered by such registration statement during the applicable period in accordance with the intended methods of disposition by the sellers thereof set forth in such registration statement or supplement to the prospectus;

(c) Furnish to such Shareholder, without charge, such number of conformed copies of the registration statement and any post-effective amendment thereto, as such Shareholder may reasonably request, and such number of copies of the prospectus (including each preliminary prospectus) and any amendments or supplements thereto, and any documents incorporated by reference therein as the Shareholder or underwriter or underwriters, if any, may request in order to facilitate the disposition of the securities being sold by the Shareholder (it being understood that the Company consents to the use of the prospectus and any amendment or supplement thereto by the Shareholder covered by the registration statement and the underwriter or underwriters, if any, in connection with the offering and sale of the securities covered by the prospectus or any amendments or supplements thereto);

(d) Notify such Shareholder, at any time when a prospectus relating thereto is required to be delivered under the Securities Act, when the Company becomes aware of the happening of any event as a result of which the prospectus included in such registration statement (as then in effect) contains any untrue statement of material fact or omits to state a material fact necessary to make the statements therein (in the case of the prospectus or any preliminary prospectus, in light of the circumstances under which they were made) not misleading and, as promptly as practicable thereafter, prepare and file with the SEC and furnish a supplement or amendment to such prospectus so that, as thereafter delivered to the investors of such securities, such prospectus will not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading;

(e) In the case of an underwritten offering, enter into such customary agreements (including underwriting agreements in customary form) and make members of senior management of the Company available on a basis reasonably requested by the underwriters to participate in "road show" and other customary marketing activities (including one-on-one meetings with prospective purchasers of the Registrable Securities) and cause to be delivered to the underwriters reasonable opinions of counsel to the Company in customary form, covering such matters as are customarily covered by opinions for an underwritten public offering as the underwriters may reasonably request and addressed to the underwriters;

(f) Make available, for inspection by any seller of Registrable Securities, any underwriter participating in any disposition pursuant to a registration statement, and any attorney, accountant or other agent retained by any such seller or underwriter, all financial and other records, pertinent corporate documents and properties of the Company, and cause the Company's officers, directors, employees and independent accountants to supply all information reasonably requested by any such seller, underwriter, attorney, accountant or agent that are necessary to be reviewed by such person in connection with the preparation of such registration statement;

(g) If requested, cause to be delivered, immediately prior to the effectiveness of the registration statement (and, in the case of an underwritten offering, at the time of delivery of any Registrable Securities sold pursuant thereto), letters from the Company's independent certified public accountants addressed to each selling Shareholder (unless such selling Shareholder does not provide to such accountants the appropriate representation letter required by rules governing the accounting profession) and each underwriter, if any, stating that such accountants are independent public accountants within the meaning of the Securities Act and the applicable rules and regulations adopted by the SEC thereunder, and otherwise in customary form and covering such financial and accounting matters as are customarily covered by letters of the independent certified public accountants delivered in connection with primary or secondary underwritten public offerings, as the case may be;

(h) Provide a transfer agent and registrar for all such Registrable Securities not later than the effective date of the registration statement;

(i) Use its commercially reasonable efforts to cause all securities included in such registration statement to be listed, by the date of the first sale of securities pursuant to such

registration statement, on any national securities exchange, quotation system or other market on which the Common Stock is then listed or proposed to be listed by the Company, if any;

(j) Make generally available to its security holders an earnings statement, which need not be audited, satisfying the provisions of Section 11(a) of the Securities Act as soon as reasonably practicable after the end of the twelve (12)-month period beginning with the first month of the Company's first fiscal quarter commencing after the effective date of the registration statement, which statement shall cover said twelve (12)-month period;

(k) After the filing of a registration statement, (i) promptly notify each Shareholder holding Registrable Securities covered by such registration statement of any stop order issued or, to the Company's knowledge, threatened by the SEC and of the receipt by the Company of any notification with respect to the suspension of the qualification of any Registrable Securities for sale under the applicable securities or blue sky laws of any jurisdiction and (ii) take all reasonable actions to obtain the withdrawal of any order suspending the effectiveness of the registration statement or the qualification of any Registrable Securities at the earliest possible moment;

(l) Subject to the time limitations specified in paragraph (b) above, if requested by the managing underwriter or underwriters or such Shareholder, promptly incorporate in a prospectus supplement or post-effective amendment such information as the managing underwriter or underwriters or the Shareholder reasonably requests to be included therein, including, without limitation, with respect to the number of shares being sold by the Shareholder to such underwriter or underwriters, the purchase price being paid therefor by such underwriter or underwriters and with respect to any term of the underwritten offering of the securities to be sold in such offering; and make all required filings of such prospectus supplement or post-effective amendment as soon as practicable after being notified of the matters to be incorporated in such prospectus supplement or post-effective amendment;

(m) As promptly as practicable after filing with the SEC of any document which is incorporated by reference into a registration statement, deliver a copy of such document to such Shareholder;

(n) On or prior to the date on which the registration statement is declared effective, use its commercially reasonable efforts to register or qualify, and cooperate with such Shareholder, the underwriter or underwriters, if any, and their counsel in connection with the registration or qualification of, the securities covered by the registration statement for offer and sale under the securities or blue sky laws of each state and other jurisdiction of the United States as the Shareholder or managing underwriter or underwriters, if any, requests in writing, to use its commercially reasonable efforts to keep each such registration or qualification effective, including through new filings, or amendments or renewals, during the Effectiveness Period do any and all other acts or things necessary or advisable to enable the disposition in all such jurisdictions of the Registrable Securities covered by the applicable registration statement; provided that the Company will not be required to qualify generally to do business in any jurisdiction where it is not then so qualified or to take any action which would subject it to general service of process in any such jurisdiction where it is not then so subject;

(o) Cooperate with such Shareholder and the managing underwriter or underwriters, if any, to facilitate the timely preparation and delivery of certificates (not bearing any restrictive legends) representing securities to be sold under the registration statement, and enable such securities to be in such denominations and registered in such names as the managing underwriter or underwriters, if any, may request;

(p) Cooperate with such Shareholder if it owns options, warrants or other convertible securities to provide for the exercise of such rights in connection with the offering; and

(q) Use its commercially reasonable efforts to cause the securities covered by the registration statement to be registered with or approved by such other governmental agencies, authorities or self-regulatory bodies within the United States as may be necessary to enable the seller or sellers thereof or the underwriter or underwriters, if any, to consummate the disposition of such Registrable Securities.

The Company shall file all reports required to be filed by it under the Securities Act and the Exchange Act and the rules and regulations adopted by the SEC thereunder, and take such further action as any Shareholder may reasonably request, all to the extent required to enable such Shareholders to be eligible to sell Registrable Securities pursuant to Rule 144 (or any similar rule then in effect).

The Shareholders, upon receipt of any notice from the Company of the happening of any event of the kind described in subsection (d) of this Section 3.2, will forthwith discontinue disposition of the securities until the Shareholder's receipt of the copies of the supplemented or amended prospectus contemplated by subsection (d) of this Section 3.2 or until it is advised in writing (the "Advice") by the Company that the use of the prospectus may be resumed, and has received copies of any additional or supplemental filings which are incorporated by reference in the prospectus, and, if so directed by the Company, each Shareholder will, or will request the managing underwriter or underwriters, if any, to, deliver, to the Company (at the Company's expense) all copies, other than permanent file copies then in such Shareholder's possession, of the prospectus covering such securities current at the time of receipt of such notice. In the event the Company shall give any such notice, the time periods mentioned in subsections (a), (b) and (n) of this Section 3.2 shall be extended by the number of days during the period from and including any date of the giving of such notice to and including the date when each seller of securities covered by such registration statement shall have received the copies of the supplemented or amended prospectus contemplated by subsection (d) of this Section 3.2 hereof or the Advice.

3.3 Registration Expenses.

(a) In the case of any Registration, the Company shall bear all expenses incident to the Company's performance of or compliance with Sections 3.1 and 3.2 of this Agreement, including, without limitation, all SEC and stock exchange or Financial Industry Regulatory Authority registration and filing fees and expenses, fees and expenses of compliance with securities or blue sky laws (including, without limitation, reasonable fees and disbursements of counsel in connection with blue sky qualifications of the Registrable Securities), rating agency fees, printing expenses, messenger, telephone and delivery expenses, fees and disbursements of counsel for the Company and all independent certified public accountants and any fees and disbursements of

underwriters customarily paid by issuers or sellers of securities (but not including any underwriting discounts or commissions, or transfer taxes, if any, attributable to the sale of Registrable Securities by a Shareholder or fees and expenses of more than one counsel representing the Shareholders selling Registrable Securities under such Registration).

(b) In connection with each registration initiated hereunder, the Company shall reimburse the holders covered by such registration or sale for the reasonable fees and disbursements of one law firm chosen by the holders of a majority of the number of shares of Registrable Securities included in such registration.

(c) The obligation of the Company to bear the expenses described in Section 3.3(b) and to reimburse the holders for the expenses described in Section 3.3(b) shall apply irrespective of whether a Registration, once properly demanded, if applicable, becomes effective, is withdrawn or suspended, or is converted to another form of Registration and irrespective of when any of the foregoing shall occur; provided that the expenses for any registration statement withdrawn pursuant to Section 3.1(c) prior to its effectiveness at the request of a holder (unless withdrawn following and due to a delay notice), any registration statement withdrawn solely at the request of a holder, or any supplements or amendments to a registration statement or prospectus resulting from a misstatement furnished to the Company by a holder, shall be borne by such holder.

3.4 Indemnification.

(a) Indemnification by the Company. The Company agrees to indemnify and hold harmless each Shareholder, its officers, directors, Affiliates and agents and each Person who controls (within the meaning of the Securities Act or the Exchange Act) the Shareholder, including, without limitation any general partner or manager of any thereof, against all losses, claims, damages, liabilities and expenses (including reasonable counsel fees and disbursements) arising out of or based upon any untrue or alleged untrue statement of a material fact contained in any registration statement, prospectus or preliminary prospectus, or any amendment thereof or supplement thereto, in which such Shareholder participates in an offering of Registrable Securities or in any document incorporated by reference therein or any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein (in the case of the prospectus or any preliminary prospectus, in light of the circumstances under which they were made) not misleading, except insofar as the same are made in reliance on and in conformity with any information with respect to such Shareholder furnished in writing to the Company by such Shareholder expressly for use therein; provided that the foregoing indemnity agreement with respect to any preliminary prospectus shall not inure to the benefit of any Shareholder from whom the Person asserting such loss, claim, damage or liability purchased the securities if it is determined that such loss, claim, damage or liability was caused by such Shareholder's failure to deliver to such Shareholder's immediate purchaser a current copy of the prospectus (if the current copy of the prospectus was required by applicable law to be so delivered) after the Company has furnished such Shareholder with a sufficient number of copies of such prospectus. The Company will also indemnify underwriters (as such term is defined in the Securities Act), their officers and directors and each Person who controls such underwriters (within the meaning of the Securities Act) to the same extent as provided above with respect to the indemnification of the Shareholders.

(b) Indemnification by the Shareholders. In connection with any registration statement in which a Shareholder is participating, each such Shareholder will furnish to the Company in writing such information and affidavits with respect to such Shareholder as the Company reasonably requests for use in connection with any registration statement or prospectus covering the Registrable Securities of such Shareholder and, to the extent permitted by law, agrees to indemnify and hold harmless the Company, its directors, officers and agents and each Person who controls (within the meaning of the Securities Act or the Exchange Act) the Company, against any losses, claims, damages, liabilities and expenses arising out of or based upon any untrue statement of a material fact or any omission to state a material fact required to be stated therein or necessary to make the statements in the registration statement or prospectus or preliminary prospectus (in the case of the prospectus or preliminary prospectus, in light of the circumstances under which they were made) not misleading, to the extent, but only to the extent, that such untrue statement or omission is made in reliance on and in conformity with the information or affidavit with respect to such Shareholder so furnished in writing by such Shareholder expressly for use in the registration statement or prospectus; provided that the obligation to indemnify shall be several, not joint and several, among such Shareholders and the liability of each such Shareholder shall be in proportion to and limited to the net amount received by such Shareholder from the sale of Registrable Securities pursuant to a registration statement in accordance with the terms of this Agreement. The indemnity agreement contained in this Section 3.4 shall not apply to amounts paid in settlement of any such loss, claim, damage, liability, action or proceeding if such settlement is effected without the consent of such seller (which consent shall not be unreasonably withheld or delayed). The Company and the holders of the Registrable Securities hereby acknowledge and agree that, unless otherwise expressly agreed to in writing by such holders, the only information furnished or to be furnished to the Company for use in any registration statement or prospectus relating to the Registrable Securities or in any amendment, supplement or preliminary materials associated therewith are statements specifically relating to (a) transactions or the relationship between such holder and its Affiliates, on the one hand, and the Company, on the other hand, (b) the beneficial ownership of Common Shares by such holder and its Affiliates, (c) the name and address of such holder and (d) any additional information about such holder or the plan of distribution (other than for an underwritten offering) required by law or regulation to be disclosed in any such document.

(c) Conduct of Indemnification Proceedings. Any Person entitled to indemnification hereunder will (i) give prompt written notice to the indemnifying party of any claim with respect to which it seeks indemnification and (ii) unless in such indemnified party's reasonable judgment a conflict of interest may exist between such indemnified and indemnifying parties with respect to such claim, permit such indemnifying party to assume the defense of such claim with counsel reasonably satisfactory to the indemnified party. The failure to so notify the indemnifying party shall not relieve the indemnifying party from any liability hereunder with respect to the action, except to the extent that such indemnifying party is materially prejudiced by the failure to give such notice; provided that any such failure shall not relieve the indemnifying party from any other liability which it may have to any other party. No indemnifying party in the defense of any such claim or litigation, shall, except with the consent of such indemnified party, which consent shall not be unreasonably withheld, consent to entry of any judgment or enter into any settlement which does not include as an unconditional term thereof the giving by the claimant or plaintiff to such indemnified party of a release from all liability in respect of such claim or litigation. An indemnifying party who is not entitled to, or elects not to, assume the defense of a

claim will not be obligated to pay the fees and expenses of more than one counsel for all parties indemnified by such indemnifying party with respect to such claim, unless in the reasonable judgment of any indemnified party there may be one or more legal or equitable defenses available to such indemnified party which are in addition to or may conflict with those available to any other of such indemnified parties with respect to such claim, in which event the indemnifying party shall be obligated to pay the reasonable fees and expenses of such additional counsel or counsels; provided that such number of additional counsel must be reasonably acceptable to the indemnifying party.

(d) Contribution. If for any reason the indemnification provided for in the preceding paragraphs (a) and (b) of this Section 3.4 is unavailable to an indemnified party as contemplated by the preceding paragraphs (a) and (b) of this Section 3.4, then the indemnifying party shall contribute to the amount paid or payable by the indemnified party as a result of such loss, claim, damage or liability in such proportion as is appropriate to reflect not only the relative benefits received by the indemnified party and the indemnifying party, but also the relative fault of the indemnified party and the indemnifying party, as well as any other relevant equitable considerations. In no event shall the liability of any selling Shareholder be greater in amount than the amount of net proceeds (after deducting underwriting discount and expenses) received by such Shareholder upon such sale or the amount for which such indemnifying party would have been obligated to pay by way of indemnification if the indemnification provided in paragraph (b) of this Section 3.4 had been available.

3.5 Exchange Act Reports. The Company agrees that it will use its commercially reasonable efforts to file in a timely manner all reports required to be filed by it pursuant to the Exchange Act to the extent the Company is required to file such reports. Notwithstanding the foregoing, the Company may de-register any class of its equity securities under Section 12 of the Exchange Act or suspend its duty to file reports with respect to any class of its securities pursuant to Section 15(d) of the Exchange Act if it is then permitted to do so pursuant to the Exchange Act and rules and regulations thereunder.

3.6 Holdback Agreements.

(a) Whenever the Company proposes to register any of its equity securities under the Securities Act for its own account (other than on Form S-4 or S-8 or any similar successor form or another form used for a purpose similar to the intended use of such forms) or is required to use its commercially reasonable efforts to effect the registration of any Registrable Securities under the Securities Act pursuant to Section 3.1 or Section 3.2, each holder of Registrable Securities agrees by acquisition of such Registrable Securities not to effect any sale or distribution, including any sale pursuant to Rule 144 under the Securities Act, or to request registration under Section 3.2 of any Registrable Securities within 10 days prior to and 90 days (unless advised by the managing underwriter that a longer period, not to exceed 180 days, is required, or such shorter period as the managing underwriter for any underwritten offering may agree) after the effective date of the registration statement relating to such registration, except as part of such registration or unless in the case of a private sale or distribution, the transferee agrees in writing to be subject to this Section 3.6. If requested by such managing underwriter, each holder of Registrable Securities agrees to execute a holdback agreement, in customary form, consistent with the terms of this Section 3.6(a). Notwithstanding the foregoing, no Shareholder will be restricted from selling any

Registrable Securities if such Shareholder was not able to sell all of its Registrable Securities pursuant to such registration statement or such Shareholder and its Permitted Transferees beneficially own a number of Common Shares as of such date of determination equal to less than one percent (1%) of the outstanding Common Shares of the Company.

(b) The Company agrees not to effect any sale or distribution of any of its equity securities or securities convertible into or exchangeable or exercisable for any of such securities within the 10 days prior to and during the 90 days (unless advised by the managing underwriter that a longer period, not to exceed 180 days, is required, or such shorter period as the managing underwriter for any underwritten offering may agree) beginning on the effective date of any underwritten any underwritten Registration (except as part of such underwritten Registration or pursuant to registrations on Form S-8 or S-4 or any successor forms thereto), except that such restriction shall not prohibit (i) grants of employee stock options or other issuances of Capital Stock pursuant to the terms of a Company employee benefit plan, issuances by the Company of Capital Stock pursuant to the exercise of such options or the exercise of any other employee stock options outstanding on the date hereof, (ii) the Company from issuing shares of Capital Stock in private placements pursuant to Section 4(2) of the Securities Act or in connection with a strategic alliance, or (iii) the Company from publicly announcing its intention to issue, or actually issuing, shares of Capital Stock to shareholders of another entity as consideration for the Company's acquisition of, or merger with, such entity. In addition, upon the request of the managing underwriter, the Company shall use its commercially reasonable efforts to cause each holder of its equity securities or any securities convertible into or exchangeable or exercisable for any of such securities whether outstanding on the date of this Agreement or issued at any time after the date of this Agreement (other than any such securities acquired in a public offering), to agree not to effect any such public sale or distribution of such securities during such period, except as part of any such registration if permitted, and to cause each such holder to enter into a similar agreement to such effect with the Company.

3.7 Participation in Registrations. No Shareholder may participate in any Registration hereunder which is underwritten unless such Shareholder (a) agrees to sell its securities on the basis provided in any underwriting arrangements approved by the persons entitled hereunder to approve such arrangements, and (b) completes and executes all questionnaires, powers of attorney, underwriting agreements and other documents customarily required under the terms of such underwriting arrangements.

3.8 Remedies. Each Shareholder shall have the right and remedy to have the provisions of Section 3.1 specifically enforced by any court having jurisdiction in the event that the Company materially breaches such provisions, and the Company shall reimburse such Shareholder for the reasonable costs of and expenses for counsel for such Shareholder incurred in connection with such proceeding.

3.9 Rule 144. The Company shall file any reports required to be filed by it under the Securities Act and the Exchange Act and the rules and regulations adopted by the SEC thereunder, and it will take such further action as any holder may reasonably request to make available adequate current public information with respect to the Company meeting the current public information requirements of Rule 144(c) under the Securities Act, to the extent required to enable such holder to sell Registrable Securities without registration under the Securities Act within the limitation of the

exemptions provided by (i) Rule 144 under the Securities Act, as such Rule may be amended from time to time, or (ii) any similar rule or regulation hereafter adopted by the SEC.

ARTICLE IV
DEFINITIONS

4.1 Defined Terms. Capitalized terms when used in this Agreement have the following meanings:

"Action" means, any claim, action, suit, arbitration, litigation or proceeding.

"Affiliate" means, with respect to any Person, any other Person that, directly or indirectly, Controls or is Controlled by or is under common Control with such Person; provided, however, that (i) none of the Shareholders or any of their respective Affiliates or Affiliated Funds shall be deemed to be an Affiliate of the Company or any of its direct and indirect Subsidiaries for purposes of this Agreement and (ii) no "portfolio company" (as such term is customarily used in the private equity industry) of any Affiliated Fund of an Shareholder shall be deemed to be an Affiliate of such Shareholder unless such "portfolio company" is a Controlled Affiliate. "Affiliated" has a correlative meaning.

"Affiliated Fund" means, in relation to each Shareholder, any investment fund, vehicle or account the primary investment advisor to or manager of which is such Shareholder or an Affiliate thereof.

"Agreement" has the meaning set forth in the preamble.

"Approved Director" means the person elected as a director of the Company pursuant to Section 1.1(b)(iii) and any person nominated to replace or succeed such person upon the cessation of their term as a director of the Company.

"Articles of Incorporation" means the Company's Second Amended and Restated Articles of Incorporation, as amended from time to time.

"Beneficially Own" means with respect to any securities, having "beneficial ownership" thereof for purposes of Rule 13d-3 of the Exchange Act, as determined without giving effect to the sixty (60)-day limitation on determining beneficial ownership contained in Rule 13d-3(d). Similar terms such as "Beneficial Ownership" and "Beneficial Owner" have correlative meanings.

"Board" has the meaning set forth in Section 1.1.

"Board Class" means, at any time when the Board is divided into two or more classes, a class of directors established by the Company Bylaws and, at any other time, the entire Board.

"Board Approval" means approval by a majority of the members of the Board.

"Board Designation Expiration Date" means, with respect to a Shareholder, the earlier of (i) the date on which such Shareholder's Percentage Interest is less than five percent (5%) and (ii) the date on which this Agreement is validly terminated pursuant to Section 5.1.

"Business Day" means any day that is not a Saturday, Sunday or other day on which commercial banks are required or permitted to be closed in the State of Indiana or the State of New York.

"Bylaws" means the Company's Second Amended and Restated Bylaws, as amended from time to time.

"Capital Stock" means (a) any shares, interests, participations or other equivalents (however designated) of capital stock of a corporation; (b) any ownership interests in a Person other than a corporation, including membership interests, partnership interests, joint venture interests and beneficial interests; and (c) any warrants, options, convertible or exchangeable securities, subscriptions, rights (including any preemptive or similar rights), calls or other rights to purchase or acquire any of the foregoing.

"Change of Control Transaction" means the existence or occurrence of any of the following: (i) the sale, conveyance or disposition of all or substantially all of the assets of the Company and its subsidiaries in one transaction or a series of related transactions, (ii) the consolidation, merger or other business combination of the Company with or into any other entity, immediately following which the then current shareholders of the Company fail to own, directly or indirectly, at least Majority Voting Power, or (iii) a transaction or series of transactions in which any person or "group" (as such term is used in Sections 13(d) and 14(d) of the Exchange Act) acquires Majority Voting Power (other than (A) a reincorporation or similar corporate transaction in which the Company's shareholders own, immediately thereafter, interests in the new parent company in essentially the same percentage as they owned in the Company immediately prior to such transaction, or (B) a transaction described in clause (ii) (such as a triangular merger) in which the threshold in clause (ii) is not passed).

"Common Shares" has the meaning set forth in the Recitals.

"Company" has the meaning set forth in the Preamble.

"Company Competitor" means (a) any Person listed on Exhibit B hereto and any Subsidiary of such Person or (b) any Person whose primary business consists of a Competitive Enterprise (which, for the avoidance of doubt, shall not include any private equity or other investment firm that Controls any such Person described or any such firm's Affiliates, other than such Person).

"Company Organizational Documents" means the Articles of Incorporation and the Bylaws.

"Competitive Enterprise" means any of the entities listed on Exhibit B hereto, and any other person or entity that is engaged in or conducting a business that is the same as or competitive with any business or commercial activity engaged in or conducted by the Company or Envigo or with respect to which the Company or Envigo has taken material steps to engage in or conduct, in either case during the 12 months prior to the date of determination.

"Control" means, with respect to any Person, the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether

through the ownership of voting securities or by contract or agency or otherwise. "Controlled" has a correlative meaning.

"Controlled Affiliate" means, with respect to each of the Shareholders, any other Person that, directly or indirectly, Controls or is Controlled by or is under common Control with such Shareholder, where such Control includes, directly or indirectly, either (i) an amount of the voting securities, other voting ownership or voting partnership interests of which is sufficient to elect at least a majority of its board of directors or other governing Person or body or (ii) more than fifty (50%) percent of the equity interests of which is owned directly or indirectly by such first Person.

"Effectiveness Period" means (a) ninety (90) days or (b) such shorter period when all of the Registrable Securities covered by such registration statement have been sold pursuant thereto.

"Election Meeting" has the meaning set forth in Section 1.1(b)(i).

"Envigo" has the meaning set forth in the Recitals.

"Exchange Act" means the Securities Exchange Act of 1934, as amended.

"Governance Committee" has the meaning set forth in Section 1.1(b)(i).

"Governmental Entity" means any applicable nation, state, county, city, town, village, district or other political jurisdiction of any nature, federal, state, local, municipal, foreign, or other government, governmental or quasi-governmental authority of any nature (including any governmental agency, branch, department, official, or entity and any court or other tribunal), stock exchange, multi-national organization or body, or body exercising, or entitled to exercise, any administrative, executive, judicial, legislative, police, regulatory, or taxing authority or power of any nature or instrumentality of any of the foregoing, including any entity or enterprise owned or controlled by a government or a public international organization or any of the foregoing.

"Group" means "group" as such term is used in Section 13(d)(3) of the Exchange Act.

"Jermyn" has the meaning set forth in Section 1.1(a).

"Law" means any applicable law, statute, code, ordinance, regulation, rule, rule of common law, order, judgment, decree, injunction or treaty of any Governmental Entity.

"Long-Form Registration" has the meaning set forth in Section 3.1(a).

"Majority Voting Power" of the Company means a majority of the ordinary voting power in the election of directors of all the outstanding Voting Securities of the Company.

"Merger" has the meaning set forth in the Recitals.

"Merger Agreement" has the meaning set forth in the Recitals.

"Nasdaq" means any national stock exchanges now or hereafter maintained by NASDAQ, including, without limitation, the NASDAQ Global Select Market, the NASDAQ Global Market and the NASDAQ Capital Market, on which the Common Shares are listed.

"Nominating Holder" has the meaning set forth in Section 1.1(b)(ii).

"Percentage Interest" means, as of any date of determination, the percentage represented by the quotient of (i) the number of Voting Securities that are Beneficially Owned by a Shareholder on such date, divided by (ii) the number of all issued and outstanding Voting Securities on such date.

"Permitted Transferee" means (i) any Affiliate of the Shareholder, (ii) any holder of equity interests in the Shareholder and each of such holders' direct and indirect equity holders and (iii) any other Shareholder or any Affiliate thereof (provided, in each case, that in connection with any Transfer of Voting Securities to such Person, such Person executes a joinder to this Agreement to the extent required by, and in accordance, with Section 2.1(d)).

"Person" means an individual, firm, corporation (including any non-profit corporation), partnership, limited liability company, joint venture, association, trust, Governmental Entity or other entity or organization.

"Register," "registered," and "registration" shall refer to a registration effected by preparing and (a) filing a registration statement in compliance with the Securities Act and applicable rules and regulations thereunder, and the declaration or ordering of effectiveness of such registration statement or (b) filing a prospectus and/or prospectus supplement in respect of an appropriate effective registration statement on Form S-3.

"Registrable Securities" means any of (i) the Common Shares received by any Shareholder in the Merger and owned by such Shareholder at the time of determination and (ii) any other securities issued by or issuable with respect to such Common Shares by way of a stock split, stock dividend, reclassification, subdivision or reorganization, recapitalization or similar event. As to any particular Registrable Securities, such securities shall cease to be Registrable Securities when (a) a registration statement with respect to the offering and sale of such securities by the holder thereof shall have been declared effective under the Securities Act and such securities shall have been disposed of by such holder pursuant to such registration statement, (b) such securities have been sold to the public pursuant to Rule 144 (or any similar provision then in force) promulgated under the Securities Act, (c) such securities shall have been otherwise transferred and new certificates for such securities not bearing a legend restricting further Transfer shall have been delivered by the Company or its transfer agent and subsequent disposition of such securities shall not require registration or qualification under the Securities Act or any similar state law then in force or (d) such securities shall have ceased to be outstanding.

"Registration" has the meaning set forth in Section 3.2.

"Reporting Affiliate" means an Affiliate of a Shareholder that reports together as a Group with such Shareholder on such Shareholder's Schedule 13D.

"Representatives" means, with respect to any Person, such Person's directors, officers, members, partners, managers, employees, agents, investment bankers, attorneys, accountants, advisors and other representatives.

"Required Information" has the meaning set forth in Section 1.1(b)(ii).

"Restricted Period" has the meaning set forth in Section 2.1(a).

"Rule 144" means such rule promulgated under the Securities Act (or any successor provision), as the same shall be amended from time to time.

"Savanna" has the meaning set forth in Section 1.1(a).

"SEC" means the U.S. Securities and Exchange Commission.

"Securities Act" means the Securities Act of 1933, as amended.

"Shareholder Representative" has the meaning set forth in Section 1.3.

"Shares" has the meaning set forth in the Recitals.

"Short-Form Registration" has the meaning set forth in Section 3.1(b).

"Subsidiary" means, with respect to any Person, another Person, (i) an amount of the voting securities, other voting ownership or voting partnership interests of which is sufficient to elect at least a majority of its board of directors or other governing Person or body or (ii) more than fifty (50%) percent of the equity interests of which is owned directly or indirectly by such first Person.

"Sunset Date" means, with respect to a Shareholder, the earliest to occur of: (i) the date on which such Shareholder's Percentage Interest, if such Shareholder is a Nominating Holder, is less than five percent (5%) or the date such Shareholder's Percentage Interest, if such Shareholder is not a Nominating Holder, is less than two percent (2%), (ii) the occurrence of a Change of Control Transaction or Board Approval or other recommendation or endorsement by the Board of any potential Change of Control Transaction, (iii) a material breach of this Agreement by the Company (including any removal of any Shareholder Representative designated by such Shareholder from the Board in violation of this Agreement and any failure of the Company to include in any proxy statement the nomination of a Shareholder Representative designated by such Shareholder (other than a failure proximately caused by a material breach of this Agreement by such Shareholder) that is not cured by the Company promptly and within 30 days after notice of such breach, (iv) the announcement or commencement by any Person (other than the Shareholders and their Affiliates) of a tender offer or exchange offer with respect to Voting Securities or any "solicitation" (as such term is used in the Exchange Act) by any person other than management of the Company of proxies or consents relating to the election of directors of the Company, or (v) any winding up, dissolution, liquidation or voluntary or involuntary bankruptcy filing of the Company or any of its Subsidiaries.

"Transaction Shares" has the meaning set forth in Section 2.1(a).

"Transfer" means any direct or indirect sale, assignment, pledge, sale or purchase of any option on, short sale, swap or other hedging arrangement, disposition or other transfer (by operation of Law or otherwise), or entry into any contract, option, or other arrangement or understanding with respect to any such transaction (by operation of Law or otherwise), of the applicable Capital Stock. Notwithstanding anything to the contrary in this Agreement, a sale, transfer or other change in the ownership of any equity interests in a Person shall not be deemed to result in the Transfer of Capital Stock or any interest in Capital Stock held by such Person unless such sale, transfer or other change in ownership results in a change of Control of such Person.

"Voting Securities" means Common Shares and any other securities of the Company entitled to vote generally in the election of directors at any annual or special meeting of the Company's shareholders.

4.2 Terms Generally. The words "hereby," "herein," "hereof," "hereunder" and words of similar import refer to this Agreement as a whole and not merely to the specific section, paragraph or clause in which such word appears. All references herein to Articles and Sections shall be deemed references to Articles and Sections of this Agreement unless the context shall otherwise require. The words "include," "includes" and "including" shall be deemed to be followed by the phrase "without limitation." References to "$" or "dollars" means United States dollars. The definitions given for terms in this Article III and elsewhere in this Agreement shall apply equally to both the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. References herein to any agreement or letter (including the Merger Agreement) shall be deemed references to such agreement or letter as it may be amended, restated or otherwise revised from time to time. If, and as often as, there is any change in the outstanding Common Shares by reason of an issuance of shares by the Company, a share dividend or distribution, or stock split or other subdivision, or in connection with a combination of stock, recapitalization, reclassification, merger, amalgamation, arrangement, consolidation or other reorganization or other similar capital transaction, appropriate anti-dilution adjustments will be made in the provisions of this Agreement so as to fairly and equitably preserve the rights and obligations set forth herein.

ARTICLE V
MISCELLANEOUS

5.1 Term. This Agreement is binding on the parties effective as of the effective time of the Merger and, except as otherwise set forth herein, will continue in effect thereafter until the earlier of (a) the time when no Common Shares are held by the Shareholders and (b) its termination by the consent of all parties hereto or their respective successors in interest.

5.2 Representations and Warranties. Each party hereto hereby represents and warrants to each other party to this Agreement that as of the date such party executes this Agreement: (a) it is duly organized, validly existing and in good standing under the Laws of the jurisdiction of its organization; (b) this Agreement has been duly and validly executed and delivered by such party and this Agreement constitutes a legal and binding obligation of such party, enforceable against the such party in accordance with its terms; (c) the execution, delivery and performance by such party of this Agreement and the consummation by such party of the transactions contemplated hereby will not, with or without the giving of notice or lapse of time, or both (i) violate any Law

applicable to it, or (ii) conflict with, or result in a breach or default under, any term or condition of any material agreement or other instrument to which such party is a party or by which such party is bound, except for such violations, conflicts, breaches or defaults that would not, in the aggregate, materially affect such party's ability to perform its obligations hereunder.

5.3 Legends; Securities Act Compliance.

(a) A copy of this Agreement shall be filed with the Secretary of the Company and kept with the records of the Company. Each Shareholder agrees that all certificates, book-entry shares or other instruments representing the Shares (other than Transaction Shares) will bear the following applicable legends substantially to the following effect (with the first legend applicable solely with respect to any unregistered Common Shares):

> THE SECURITIES EVIDENCED BY THIS CERTIFICATE MAY NOT BE SOLD, TRANSFERRED OR OTHERWISE DISPOSED OF IN THE ABSENCE OF AN EFFECTIVE REGISTRATION STATEMENTS FOR THE SECURITIES UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT") OR UNLESS THE COMPANY HAS RECEIVED AN OPINION OF COUNSEL SATISFACTORY TO IT THAT THE SECURITIES MAY BE SOLD PURSUANT TO RULE 144 OR ANOTHER AVAILABLE EXEMPTION UNDER THE SECURITIES ACT AND THE RULES AND REGULATIONS THEREUNDER.
>
> THE SECURITIES EVIDENCED BY THIS CERTIFICATE ARE SUBJECT TO A SHAREHOLDERS AGREEMENT WITH CERTAIN RESTRICTIONS ON TRANSFER, COPIES OF WHICH MAY BE OBTAINED FROM THE COMPANY OR FROM THE HOLDER OF THIS CERTIFICATE. ANY ATTEMPTED TRANSFER OR DISPOSITION OF THE SECURITIES REPRESENTED BY THIS CERTIFICATE IN VIOLATION OF THE SHAREHOLDERS AGREEMENT SHALL BE NULL, VOID AND OF NO EFFECT.

(b) Notwithstanding Section 5.3(a), at the request of the Shareholders, (i) at such time as the restrictions described in the foregoing are no longer applicable to the Shareholders and (ii) with respect to restrictions that refer to the Securities Act or other Laws, upon receipt by the Company of an opinion of counsel to the effect that the first sentence of the foregoing legend is no longer required under the Securities Act or other Laws, as the case may be, the Company will promptly cause such legend to be removed from any certificate or book entry share for any Shares held by the Shareholders.

5.4 No Inconsistent Agreements. The Company will not hereafter enter into any agreement with respect to its securities that violates or is inconsistent or conflicts with the rights granted to the Shareholders in this Agreement.

5.5 Amendments, Waivers, Consents; etc.

(a) Subject to Section 5.5(b), the provisions of this Agreement may be amended or waived only upon the prior written consent of (a) the Company and (b) each Shareholder.

(b) No failure or delay by any party 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 herein provided shall be cumulative and not exclusive of any rights or remedies provided by applicable Law.

5.6 Successors and Assigns. Neither this Agreement nor any of the rights, interests or obligations hereunder shall be assigned by any of the parties hereto, in whole or in part (whether by merger, consolidation, operation of law or otherwise), without the prior written consent of the other party; provided, however, that the Shareholders may assign its rights hereunder to any Affiliate of such Shareholder; provided that such Affiliate (x) has executed a customary joinder to this Agreement, in form and substance reasonably acceptable to the Company, in which such Affiliate agrees to be subject to the terms and conditions of this Agreement applicable to the Shareholder and (y) remains an Affiliate of the Shareholder for so long as this Agreement remains in effect. This Agreement will be binding upon, inure to the benefit of and be enforceable by the parties and their respective permitted successors and assigns. Any attempted assignment in violation of this Section 5.6 shall be void.

5.7 Severability. Whenever possible, each provision of this Agreement will be interpreted in such manner as to be effective and valid under Law, but if any provision of this Agreement is held to be invalid, illegal or unenforceable in any respect under any applicable Law or rule in any jurisdiction, such invalidity, illegality or unenforceability will not affect any other provision or the effectiveness or validity of any provision in any other jurisdiction, and this Agreement will be reformed, construed and enforced in such jurisdiction as if such invalid, illegal or unenforceable provision had never been contained herein.

5.8 Counterparts. This Agreement may be executed in two or more counterparts, all of which shall be considered one and the same agreement and shall become effective when counterparts have been signed by each of the parties and delivered to the other parties, it being understood that each party need not sign the same counterpart.

5.9 Entire Agreement. This Agreement (including the documents and the instruments referred to in this Agreement), together with the Merger Agreement (including the documents and instruments referred to therein and the Definitive Documents (as defined in the Merger Agreement)), constitutes the entire agreement and supersedes all prior agreements and understandings, both written and oral, between the parties with respect to the subject matter of this Agreement.

5.10 Governing Law; Jurisdiction. This Agreement shall be governed by and construed in accordance with the Laws of the State of Indiana applicable to contracts executed and to be performed wholly within such State and without reference to the choice or conflict of law principles (whether of the state of Indiana or any other jurisdiction) that would result in the application of the Laws of a different jurisdiction. Each party hereto irrevocably submits to the jurisdiction of the courts of the state of Indiana any Action arising out of or relating to this Agreement, and hereby irrevocably agrees that all claims in respect of such Action may be heard and determined in such court. Each party hereto hereby irrevocably waives, and agrees not to assert by way of motion, defense, counterclaim, or otherwise, the defense of an inconvenient forum to

the maintenance of such Action. The parties hereto further agree, (i) to the extent permitted by Law, that final and nonappealable judgment against any of them in any Action contemplated above shall be conclusive and may be enforced in any other jurisdiction within or outside the United States by suit on the judgment, a certified copy of which shall be conclusive evidence of the fact and amount of such judgment and (ii) that service of process upon such party in any such action or proceeding shall be effective if notice is given in accordance with Section 5.14.

5.11 WAIVER OF JURY TRIAL. Each party hereto knowingly, intentionally, and voluntarily waives to the fullest extent permitted by applicable Law trial by jury in any action, proceeding or counterclaim brought by any of them against the other arising out of or in any way connected with this Agreement, or any other agreements executed in connection herewith or the administration thereof or any of the transactions contemplated herein or therein. No party hereto shall seek a jury trial in any lawsuit, proceeding, counterclaim or any other litigation procedure based upon, or arising out of, this Agreement or any related instruments or the relationship between the parties hereto. No party hereto will seek to consolidate any such action in which a jury trial has been waived with any other action in which a jury trial cannot be or has not been waived. Each party hereto certifies that it has been induced to enter into this agreement or instrument by, among other things, the mutual waivers and certifications set forth above in this Section 5.11. No party hereto has in any way agreed with or represented to any other party that the provisions of this Section 5.11 will not be fully enforced in all instances.

5.12 Specific Performance. The parties hereto agree that irreparable damage would occur if any provision of this Agreement were not performed in accordance with the terms hereof and that, except as otherwise provided in Section 5.10, the parties shall be entitled to seek an injunction or injunctions or other equitable relief to prevent breaches of this Agreement or to enforce specifically the performance of the terms and provisions hereof in any court set forth in Section 5.10, in addition to any other remedy to which they are entitled at law or in equity.

5.13 No Third-Party Beneficiaries. Nothing in this Agreement shall confer any rights upon any Person other than the parties hereto and each such party's respective heirs, successors and permitted assigns, all of whom shall be third-party beneficiaries of this Agreement.

5.14 Several Obligations. All obligations of the Shareholders shall be several and not joint (or joint and several) and in no event shall a Shareholder have any liability or obligation with respect to the acts or omissions of the other Shareholder.

5.15 Notices. Any notice, demand or other communication required or permitted under this Agreement shall be in writing, and shall be deemed duly given: (a) on the date of delivery, if delivered personally to the intended recipient; (b) on the date receipt is acknowledged, if delivered by certified mail, return receipt requested; (c) one Business Day after being sent by overnight delivery via national courier service (providing proof of delivery); and (d) on the date sent by e-mail of a PDF document if sent during normal business hours of the recipient, and on the next Business Day if sent after normal business hours of the recipient, and shall be directed to the address or e-mail set forth below (or at such other address or e-mail as such party shall designate by like notice):

If to the Company, to:

Inotiv, Inc.
2701 Kent Avenue
West Lafayette, Indiana 47906
Attention: Bob Leasure, Chief Executive Officer
Email: bleasure@inotivco.com

with a copy (which shall not constitute notice) to:

Ice Miller LLP
One American Square, Suite 2900
Indianapolis, Indiana 46282
Attn: Stephen J. Hackman
Email: Stephen.hackman@icemiller.com

If to any Shareholder, to its address set forth on Schedule I
with a copy (which shall not constitute notice) to:

Cahill Gordon & Reindel LLP
32 Old Slip
New York, NY 10005
Attn: Jonathan Schaffzin, Kimberly Petillo-Décossard and Ross Sturman
Email: jschaffzin@cahill.com, kpetillo-decossard@cahill.com and rsturman@cahill.com

[The remainder of this page left intentionally blank.]

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement by their authorized representatives as of the date first above written.

INOTIV, INC.

By: /s/ Beth A. Taylor
Name: Beth A. Taylor
Title: V.P. Finance and Chief Financial Officer

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement by their authorized representatives as of the date first above written.

JERMYN STREET ASSOCIATES LLC

By: /s/ Scott Cragg
Name: Scott Cragg
Title: Authorized Signatory

JERMYN STREET CAPITAL LLC

By: /s/ Scott Cragg
Name: Scott Cragg
Title: Authorized Signatory

JERMYN STREET ASSOCIATES II LLC

By: /s/ Scott Cragg
Name: Scott Cragg
Title: Authorized Signatory

SAVANNA HOLDINGS LLC

By: /s/ David Allan Willis
Name: David Allan Willis
Title: Authorized Person

LEONE HEALTHCARE HOLDINGS LLC

By: /s/ Tim Mayhew
Name: Tim Mayhew
Title: Member

HARLAN FAMILY PARTNERSHIP LP

By: /s/ Hal P. Harlan
Name: Hal P. Harlan
Title: General Partner

Schedule I

Shareholder	Notice Address
Jermyn Street Associates LLC Jermyn Street Capital LLC Jermyn Street Associates II LLC	c/o Birch Grove Capital 590 Madison Avenue, 38th Floor New York, New York 10022 Attn: Scott Cragg
Savanna Holdings LLC	c/o P2 Capital 590 Madison Avenue, 25th Floor New York, New York 10022 Attn: Jason Carri
Leone Healthcare Holdings LLC	222 Little West 12th Street, Floor 2 New York, New York 10014 Attn: Tim Mayhew
Harlan Family Partnership LP	c/o Bose McKinney & Evans LLP 111 Monument Circle, Suite 2700 Indianapolis, Indiana 46204 Attn: Roberts Inveiss

Exhibit A

Initial Company Directors

Shareholder Representatives

Appointed by Jermyn Street Associates LLC

Name: Scott Cragg

Board Class: Class III

Appointed by Savanna Holdings LLC

Name: Nigel Brown, Ph.D.

Board Class: Class II

Other Directors

Name	Board Class
1. Robert W. Leasure, Jr.	Class I
2. John E. Sagartz	Class III
3. Gregory C. Davis, Ph.D.	Class III
4. R. Matthew Neff	Class I
5. Richard A. Johnson, Ph.D.	Class II

Exhibit B

Company Competitors

Charles River Laboratories, Inc. and its affiliates

Laboratory Corporation of America Holdings and its affiliates

Exhibit 10.3

AMENDED AND RESTATED

INOTIV, INC.

2018 EQUITY INCENTIVE PLAN

(As amended through November 4, 2021)

SECTION 1. Purpose and Types of Awards

1.1 The purposes of the Plan are to enable the Company to attract, retain and reward its employees, officers and directors, and strengthen the mutuality of interests between such persons and the Company's shareholders by offering such persons an equity interest in the Company and thereby enabling them to participate in the long-term success and growth of the Company.

1.2 Awards under the Plan may be in the form of (a) Stock Options; (b) Stock Appreciation Rights; (c) Restricted Stock; and/or (d) Restricted Stock Units. Awards may be free-standing or granted in tandem. If two awards are granted in tandem, the award holder may exercise (or otherwise receive the benefit of) one award only to the extent he or she relinquishes the tandem award.

1.3 Notwithstanding any provisions herein to the contrary, awards made under the Original Plan remain subject to the terms and conditions of the Original Plan except as otherwise specifically provided herein.

SECTION 2. Definitions and Rules of Construction

2.1 When capitalized in this Plan, the following terms shall have the meanings specified below (or as elsewhere defined), unless the context otherwise requires:

"***Beneficial Owner***" shall have the meaning set forth in Rule 13d-3 under the Exchange Act.

"***Board***" shall mean the Board of Directors of the Company.

"***Cause***" shall have the meaning set forth in an employment or consulting agreement between a Participant and the applicable Employer, or, if no such agreement exists, or if such agreement does not define "Cause," "Cause" shall mean (i) the refusal or neglect of the Participant to perform substantially his or her Services, (ii) the Participant's personal dishonesty, incompetence, willful misconduct or breach of fiduciary duty, (iii) the Participant's indictment for, conviction of or entering a plea of guilty or nolo contendere to a crime constituting a felony or his or her willful violation of any applicable law (other than a traffic violation or other offense or violation outside of the course of the provision of Services which in no way adversely affects the Company and its Subsidiaries or their reputation or the ability of the Participant to perform Services or to represent the Company or any Subsidiary of the Company in the performance of such Services), (iv) the Participant's failure to reasonably cooperate, following a request to do so by the Company, in any internal or governmental investigation of the Company or any of its Subsidiaries or (v) the Participant's material breach of any written covenant or agreement with the Company or any of its Subsidiaries not to disclose any information pertaining to the Company or such Subsidiary or not to compete or interfere with the Company or such Subsidiary.

"***Change in Control***" shall mean the occurrence of any one of the following events:

(a) any Person becomes the Beneficial Owner, directly or indirectly, of securities of the Company representing a majority of the combined voting power of the Company's then outstanding securities (assuming conversion of all outstanding non-voting securities into voting securities and the exercise of all outstanding options or other convertible securities);

(b) the consummation of a merger or consolidation of the Company or any direct or indirect subsidiary of the Company with any other corporation, other than (i) a merger or consolidation which would result in the voting securities of the Company outstanding immediately prior to such merger or consolidation continuing to represent, either by remaining outstanding or by being converted into voting securities of the surviving entity or any parent thereof, a majority of the combined voting power of the securities of the Company or such surviving entity or any parent thereof outstanding immediately after such merger or consolidation, or (ii) a merger or consolidation effected to implement a recapitalization of the Company (or similar transaction) in

which no Person is or becomes the Beneficial Owner, directly or indirectly, of securities of the Company representing a majority of the combined voting power of the Company's then outstanding securities; or

(c) the shareholders of the Company approve a plan of complete liquidation or dissolution of the Company or there is consummated an agreement for the sale or disposition by the Company of all or substantially all of the Company's assets, other than a sale or disposition by the Company of all or substantially all of the Company's assets to an entity a majority of the combined voting power of the voting securities of which is owned by substantially all of the shareholders of the Company immediately prior to such sale in substantially the same proportions as their ownership of the Company immediately prior to such sale.

Notwithstanding any other provision of this Section to the contrary, to the extent an award is subject to Section 409A of the Code, an occurrence shall not constitute a Change in Control if it does not constitute a change in the ownership or effective control, or in the ownership of a substantial portion of the assets of, the Company or another allowable acceleration event under Section 409A of the Code and its interpretive regulations.

"***Code***" shall mean the Internal Revenue Code of 1986, as amended from time to time.

"***Committee***" shall mean the committee of the Board designated by the Board to administer the Plan, or if no committee is designated, and in any case with respect to awards to Non-Employee Directors, the entire Board. The Committee shall be comprised solely of not less than two (2) members, each of whom shall qualify as:

(a) A "Non-Employee Director" within the meaning of Rule 16b-3(b)(3) (or any successor rule) under the Exchange Act, and

(b) An "outside director" within the meaning of Section 162(m), and

(c) If the Common Shares are readily tradable on a national securities exchange or other market system, an "independent director" as such term is defined or used by the rules of the exchange or system on which the Company's Common Shares are listed.

"***Common Shares***" shall mean the Common Shares of the Company.

"***Company***" shall mean Inotiv, Inc. and its successors.

"***Cutback Amount***" shall have the meaning set forth in Section 15.8(a).

"***Disability***" shall mean that a Participant meets one of the following requirements: (i) the Participant is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or can be expected to last for a continuous period of not less than 12 months, or (ii) the Participant is, by reason of medically determinable physical or mental impairment that can be expected to result in death or can be expected to last for a continuous period of not less than 12 months, receiving income replacement benefits for a period of not less than 3 months under an accident and health plan covering employees of the Company.

"***Effective Date***" shall mean, as to the Original Plan, March 20, 2008 and, as to the Plan as amended and restated, January 24, 2018.

"***Employee***" shall mean an employee of the Company or of any Subsidiary of the Company as described in Treasury Regulation Section 1.421-1(h).

"Employer" shall mean the Company or applicable Subsidiary for which the Participant performs Services.

"***Exchange Act***" shall mean the Securities Exchange Act of 1934, as amended.

"***Excise Tax***" shall have the meaning set forth in Section 15.8(a).

"***Fair Market Value***" shall mean, with respect to a Common Share as of a particular date, the average of the high and the low sales prices of the Common Shares on the trading day immediately before such date, as reported by the principal exchange or market over which the Common Shares are then listed or regularly traded. If the Common Shares are not readily tradable on a national securities exchange or other market system

any other value as otherwise determined in good faith by the Board through the reasonable application of a reasonable valuation method within the meaning of Section 409A.

"***Full Value Award***" shall mean any award under the Plan other than a Stock Option or Stock Appreciation Right.

"***Incentive Option***" shall mean a Stock Option granted under the Plan that both is designated as an Incentive Option and qualifies as an incentive stock option within the meaning of Section 422 of the Code.

"***Non-Employee Director***" shall mean a director of the Company who is not employed as an Employee by the Company or any of its Subsidiaries.

"***Non-Qualified Option***" shall mean a Stock Option granted under the Plan that either is designated as a Non-Qualified Option or does not qualify as an incentive stock option within the meaning of Section 422 of the Code.

"***Optionee***" shall mean any person who has been granted a Stock Option under the Plan or who is otherwise entitled to exercise a Stock Option.

"***Option Period***" shall mean, with respect to any portion of a Stock Option, the period after such portion has become exercisable and before it has expired or terminated.

"Participant" shall mean any individual selected by the Committee to be granted an Award under the Plan.

"***Payment***" shall have the meaning set forth in Section 15.8(a).

"***Plan***" shall have the meaning set forth in the recitals.

"***Relationship***" shall mean the status of employee, officer or director of the Company or any Subsidiary of the Company.

"***Restricted Stock***" shall mean an award described in Section 8.

"***Restricted Stock Units***" or "***RSUs***" shall mean an award described in Section 9.

"***Retirement***" shall mean a Participant's voluntary Separation from Service without Cause on or after the attainment of age sixty (60) and with the consent of the Committee.

"***Rule 16b-3***" shall mean Rule 16b-3 under the Exchange Act and any future rule or regulation amending, supplementing, or superseding such rule.

"***Section 409A***" shall mean Section 409A of the Code and all regulatory and interpretative guidance issued thereunder, as amended from time to time, and any successor provisions or regulations.

"***Securities Act***" shall mean the Securities Act of 1933, as amended.

"***Services***" shall mean the provision of personal services to an Employer, including, without limitation, in the capacity of a consultant, an Employee or a Nonemployee Director.

"***Separation from Service***" or "***Separates from Service***" shall mean a Participant's Retirement, or other termination of employment or Relationship with the Employer; provided, however, that to the extent an award is subject to Section 409A of the Code, an event shall not constitute a Separation from Service unless it also constitutes a "separation from service" within the meaning of Section 409A.

"***Stock Appreciation Right***" shall mean an award described in Section 7.

"***Stock Option***" shall mean a right to purchase Common Shares granted pursuant to the Plan, including Incentive Options and Non-Qualified Options.

"***Subsidiary***" shall mean any corporation, partnership, joint venture or other entity in which the Company owns, directly or indirectly, more than 50% of the ownership interests; provided, however, that for purposes of granting Incentive Options, the term "Subsidiary" shall mean any company (other than the Company) that is a "subsidiary corporation" within the meaning of Section 424 of the Code.

"***Vesting Period***" shall have the meaning set forth in Section 9(a).

"***Unvested***" means an award (or portion of an award) that has not yet vested.

2.2 The following rules shall govern in interpreting the Plan:

(a) The Plan and all awards are intended to be exempt from the provisions of Section 409A of the Code, and the Plan and all awards shall be administered to effect compliance with such intent.

(b) Any reference herein to a provision of law, regulation or rule shall be deemed to include a reference to the successor of such law, regulation or rule.

(c) To the extent consistent with the context, any masculine term shall include the feminine, and vice versa, and the singular shall include the plural, and vice versa.

(d) If any provision of the Plan shall be held illegal or invalid for any reason, the illegality or invalidity of that provision shall not affect the remaining parts of the Plan, and the Plan shall be interpreted and enforced as if the illegal or invalid provision had never been included herein.

SECTION 3. Administration

3.1 The Plan shall be administered by the Committee. Notwithstanding anything to the contrary contained herein, only the Board shall have authority to grant awards to Non-Employee Directors and to amend and interpret such awards.

3.2 The Committee shall have the authority and discretion with respect to awards under the Plan to take the following actions, if consistent with Section 15.7 of the Plan and subject to the conditions of Section 3.3 of the Plan: to grant and amend (provided, however, that no amendment shall impair the rights of the award holder without his or her written consent) awards to eligible persons under the Plan; to adopt, alter and repeal such administrative rules, guidelines and practices governing the Plan as it shall deem advisable; to interpret the terms and provisions of the Plan and any award granted under the Plan; and to make all factual and other determinations necessary or advisable for the administration of the Plan. In particular, and without limiting its authority and powers, the Committee shall have the authority and discretion:

(a) to select the persons to whom awards will be granted from among those eligible;

(b) to determine the number of Common Shares to be covered by each award granted hereunder, subject to the limitations contained herein;

(c) to determine the terms and conditions of any award granted hereunder, including, but not limited to, any vesting or other restrictions based on such continued employment, performance objectives and such other factors as the Committee may establish, and to determine whether the terms and conditions of the award have been satisfied;

(d) to determine the treatment of awards upon an Employee's Retirement, disability, death, or during a leave of absence;

(e) to determine, in establishing the terms of the award agreement, that the award holder has no rights with respect to any dividends declared with respect to any shares covered by an award or that amounts equal to the amount of any dividends declared with respect to the number of shares covered by an award (i) will be paid to the award holder currently, or (ii) will be deferred and deemed to be reinvested, or (iii) will otherwise be credited to the award holder;

(f) to amend the terms of any award, prospectively or retroactively, provided, however, that no amendment shall impair the rights of the award holder without his or her written consent;

(g) subject to Section 3.3, after considering any accounting impact to the Company, as well as any applicable provisions of Code Sections 409A and 422, to substitute new Stock Options for previously granted Stock Options, or for options granted under other plans or agreements, in each case including previously granted options having higher option prices;

(h) to adopt one or more sub-plans, consistent with the Plan, containing such provisions as may be necessary or desirable to enable awards under the Plan to comply with the laws of other jurisdictions and/or qualify for preferred tax treatment under such laws; and

(i) to delegate such ministerial duties as it may deem advisable to one or more of its members or to one or more Employees or agents.

3.3 Notwithstanding anything in this Plan to the contrary, no "underwater" Stock Options or Stock Appreciation Rights shall be (a) directly repriced, (b) exchanged for the grant of a new or different type of award, or (c) repurchased (cashed out), without in any such case first obtaining the approval of the shareholders of the Company to the taking of such action. For purposes of this Plan, a Stock Option or a Stock Appreciation Right is "underwater" at any time when the then current Fair Market Value of a Common Share is less than the per share exercise price or grant price of the Stock Option or Stock Appreciation Right.

3.4 All determinations and interpretations made by the Committee pursuant to the provisions of the Plan shall be final and binding on all persons, including the Company and award holders. Determinations by the Committee under the Plan relating to the form, amount and terms and conditions of awards need not be uniform, and may be made selectively among persons who receive or are eligible to receive awards under the Plan, whether or not such persons are similarly situated.

3.5 The Committee shall act by a majority of its members at a meeting (present in person or by conference telephone) or by written consent.

3.6 Each award granted under the Plan shall be evidenced by an award agreement that shall be signed by the Committee and the Participant; provided, however, that in the event of any conflict between a provision of the Plan and any provision of an award agreement, the provision of the Plan shall prevail.

3.7 No member of the Board or the Committee, nor any officer or Employee of the Company or its Subsidiaries acting on behalf of the Board or the Committee, shall be personally liable for any action, determination or interpretation taken or made with respect to the Plan or any award hereunder. The Company shall indemnify all members of the Board and the Committee and all such officers and Employees acting on their behalf, to the extent permitted by law, from and against any and all liabilities, costs and expenses incurred by such persons as a result of any act, or omission to act, in connection with the performance of such persons' duties, responsibilities and obligations under the Plan.

SECTION 4. Shares Subject to Plan

4.1 Subject to adjustment as provided in Section 4.4, the total number of Common Shares which may be issued under the Plan shall be 3,400,000, which includes 500,000 shares authorized under the Original Plan on its Effective Date, an additional 700,000 shares authorized in connection with the amendment and restatement of the Original Plan in the form of the Plan on its Effective Date, an additional 700,000 shares authorized via the amendment approved by the shareholders at the 2020 Annual Meeting of Shareholders, and an additional 1,500,000 shares authorized via the amendment approved by the shareholders at the Special Meeting of Shareholders held on November 4, 2021. Common Shares awarded under the Plan may consist of authorized but unissued shares or shares that have been issued and reacquired by the Company. Subject to adjustment as provided in Section 4.4, after the Effective Date of the Plan the total number of shares which may be issued as Incentive Options shall be 3,400,000 and the maximum aggregate number of shares that may be issued as Restricted Stock or pursuant to Restricted Share Units is 3,400,000.

4.2 For the purposes hereof, the following Common Shares covered by previously-granted awards shall be deemed not to have been issued under the Plan and will remain available for awards under the Plan: (a) Shares covered by prior awards under the Plan that again became available for issuance pursuant to the provisions of the Plan before the shareholders' approval of this amendment and restatement of the Plan; (b) Common Shares covered by the unexercised portion of any Stock Option, Stock Appreciation Right or other award that terminates, expires, is canceled or is settled in cash; (c) Common Shares forfeited or repurchased under the Plan; and (d) Common Shares covered by awards that are forfeited, canceled, terminated or settled in cash. The following Common Shares may not again be made available for issuance as awards under the Plan: (i) Common Shares not issued or delivered as a result of the net settlement of an outstanding Stock Option, Stock Appreciation Right or other award; (ii) Common Shares used to pay the exercise price or withholding taxes related to an outstanding Stock Option, Stock Appreciation Right or other award; or (iii) Common Shares repurchased on the open market with the proceeds of the Stock Option exercise price. In addition, if Stock Appreciation Rights are settled in Common Shares upon exercise, the aggregate number of shares subject to the award (rather than the number of shares actually issued upon exercise) shall be counted and may not again be made available for issuance as awards under the Plan.

4.3 No Employee shall be granted Stock Options and/or Stock Appreciation Rights with respect to more than 100,000 Common Shares in any fiscal year, and no Employee shall be granted Restricted Stock and/or Restricted Stock Units with respect to more than 50,000 Common Shares in any fiscal year, subject to adjustment as provided in Section 4.4. No Non-Employee Director shall be granted Stock Options and/or Stock Appreciation Rights with respect to more than 25,000 Common Shares in any fiscal year, and no Non-Employee Director shall be granted Restricted Stock and/or Restricted Stock Units with respect to more than 12,500 Common Shares in any fiscal year, subject to adjustment as provided in Section 4.4.

4.4 In the event of any merger, reorganization, consolidation, sale of substantially all assets, recapitalization, stock dividend, extraordinary cash dividend, stock split, spin-off, split-up, split-off, distribution of assets or other change in corporate structure affecting the Common Shares such that an adjustment is determined by the Board in its discretion to be appropriate, after considering any accounting impact to the Company, in order to prevent dilution or enlargement of benefits under the Plan, then the Board shall, in such a manner as it may in its discretion deem equitable, adjust any or all of (a) the aggregate number and kind of shares reserved for issuance under the Plan, and (b) the number and kind of shares as to which awards may be granted to any individual in any fiscal year. In the event of any merger, reorganization, consolidation, sale of substantially all assets, recapitalization, stock dividend, extraordinary cash dividend, stock split, spin-off, split-up, split-off, distribution of assets or other change in corporate structure affecting the Common Shares subject to an outstanding award, the number and kind of Common Shares or other securities which are subject to this Plan or subject to any awards theretofore granted, and the exercise prices, shall be appropriately and equitably adjusted by the Board so as to maintain the proportionate number of shares or other securities without changing the aggregate exercise price, if any.

Unless otherwise determined by the Committee at the time of grant or by amendment (with the award holder's consent) of such grant or as otherwise provided under the terms of any applicable change in control agreement between the Company and an award recipient under the Plan, upon the dissolution or liquidation of the Company or upon any reorganization, merger or consolidation as a result of which the Company is not the surviving corporation (or survives as a wholly-owned subsidiary of another corporation), or upon a sale of substantially all the assets of the Company, the Board may, after considering any accounting impact to the Company, take such action as it in its discretion deems appropriate to (i) cash out outstanding vested Stock Options and/or other awards at or immediately prior to the date of such event that will not otherwise be assumed or substituted, (ii) provide for the assumption or substitution of outstanding Stock Options or other awards by surviving, successor or transferee entities, (iii) provide that in lieu of Common Shares of the Company, the award recipient shall be entitled to receive the consideration he would have received in such transaction in exchange for such Common Shares (or the Fair Market Value thereof in cash), and/or (iv) provide that Stock Options shall be exercisable for a period of at least ten business days from the date of receipt of a notice from the Company of such proposed event, following the expiration of which period any unexercised Stock Options shall terminate.

The Board shall exercise its discretion under this Section 4.4 only to the extent consistent with Section 15.7 of the Plan. The Board's determination as to which adjustments shall be made under this Section 4.4 and the extent thereof shall be final, binding and conclusive.

4.5 No fractional shares shall be issued or delivered under the Plan. The Committee shall determine whether the value of fractional shares shall be paid in cash or other property, or whether such fractional shares and any rights thereto shall be cancelled without payment.

SECTION 5. Eligibility

5.1 The persons who are eligible for awards under Sections 6, 7, 8 and 9 of the Plan are Employees, officers, consultants and Non-Employee Directors of the Company or of any Subsidiary of the Company. In addition, awards under such Sections may be granted to prospective Employees, officers or directors, but such awards shall not become effective until the recipient's commencement of employment or service with the Company or a Subsidiary. Incentive Options may be granted only to Employees and prospective Employees, but Incentive Options granted to prospective Employees shall not become effective until the recipient's commencement of employment or service with the Company or a Subsidiary. Award recipients under the Plan shall be selected from time to time by the Committee, in its sole discretion, from among those eligible.

5.2 Subject to the limitations in Section 4.3, Non-Employee Directors shall be granted awards under Section 12 in addition to any awards which may be granted to them under other Sections of the Plan.

SECTION 6. Stock Options

6.1 The Stock Options awarded to eligible persons under the Plan may be of two types: (a) Incentive Options, and (b) Non-Qualified Options. To the extent that any Stock Option granted to an Employee does not qualify as an Incentive Option, it shall constitute a Non-Qualified Option. All Stock Options awarded to persons who are not Employees shall be Non-Qualified Options.

6.2 Subject to the following provisions, Stock Options awarded under the Plan shall be in such form and shall have such terms and conditions as the Committee may determine.

(a) Option Price. The option price per Common Share purchasable under a Stock Option shall be determined by the Committee and may not be less than the Fair Market Value of the Common Shares on the date of the award of the Stock Option (or, with respect to awards to prospective Employees, on the first date of employment).

(b) Option Term. Unless otherwise provided by the Committee in the applicable award agreement, the term of each Stock Option shall be fixed by the Committee and shall not exceed ten years.

(c) Exercisability. Stock Options shall be exercisable and shall vest at such time or times and subject to such terms and conditions as shall be determined by the Committee. Unless otherwise provided by the Committee in the applicable award agreement, Stock Options shall vest (and become exercisable), subject to certain terms and conditions set forth in the award agreement.

(d) Method of Exercise. Stock Options may be exercised in whole or in part at any time during the Option Period by giving the Company notice of exercise in the form approved by the Committee (which may be written or electronic) specifying the number of whole shares to be purchased, accompanied by payment of the aggregate option price for such shares. Payment of the option price shall be made in such manner as the Committee may provide in the award, which may include (i) cash (including cash equivalents), (ii) delivery of Common Shares already owned by the Optionee, (iii) broker-assisted "cashless exercise" in which the Optionee delivers a notice of exercise together with irrevocable instructions to a broker acceptable to the Company to sell Common Shares (or a sufficient portion of such shares) acquired upon exercise of the Stock Option and remit to the Company a sufficient portion of the sale proceeds to pay the total option price and any withholding tax obligation resulting from such exercise, (iv) subject to the approval of the Committee, any other manner permitted by law, or (v) any combination of the foregoing.

(e) No Shareholder Rights. An Optionee shall have no rights to dividends or other rights of a shareholder with respect to Common Shares subject to a Stock Option until the Optionee has duly exercised the Stock Option and a certificate for such shares has been duly issued (or the Optionee has otherwise been duly recorded as the owner of the shares on the books of the Company).

(f) Termination of Employment or Relationship. Following the termination of an Optionee's employment or other Relationship with the Company or its Subsidiaries, the Stock Option shall be exercisable to the extent determined by the Committee. The Committee may provide different post-termination exercise provisions which may vary based on the nature of and reason for the termination. The Committee shall have absolute discretion to determine the date and circumstances of any termination of employment or other Relationship.

(g) Non-transferability. Unless otherwise provided by the Committee in the applicable award agreement, (i) Stock Options shall not be transferable by the Optionee other than by will or the laws of descent and distribution, and (ii) during the Optionee's lifetime, all Stock Options shall be exercisable only by such Optionee.

(h) Surrender Rights. Subject to Section 3.3, the Committee may, after considering any accounting impact to the Company, provide that Stock Options may be surrendered for cash upon any terms and conditions set by the Committee.

6.3 Notwithstanding the provisions of Section 6.2, Incentive Options shall be subject to the following additional restrictions:

(a) Option Term. No Incentive Option shall be exercisable more than ten years after the date such Incentive Option is awarded.

(b) Additional Limitations for 10% Shareholders. No Incentive Option granted to an Employee who owns more than 10% of the total combined voting power of all classes of stock of the Company or any of its parent or subsidiary corporations, as defined in Section 424 of the Code, shall (i) have an option price which is less than 110% of the Fair Market Value of the Common Shares on the date of award of the Incentive Option, or (ii) be exercisable more than five years after the date such Incentive Option is awarded.

(c) Exercisability. The aggregate Fair Market Value (determined as of the time the Incentive Option is granted) of the shares with respect to which Incentive Options (granted under the Plan and any other plans of the Company, its parent corporation or subsidiary corporations, as defined in Section 424 of the Code) are exercisable for the first time by an Optionee in any calendar year shall not exceed $100,000. Any Stock Options in excess of such $100,000 limitation shall be treated as Non-Qualified Options.

(d) Notice of Disqualifying Disposition. An Optionee's right to exercise an Incentive Option shall be subject to the Optionee's agreement to notify the Company of any "disqualifying disposition" (for purposes of Section 422 of the Code) of the shares acquired upon such exercise.

(e) Non-transferability. Incentive Options shall not be transferable by the Optionee, other than by will or by the laws of descent and distribution. During the Optionee's lifetime, all Incentive Options shall be exercisable only by such Optionee.

(f) Last Grant Date. No Incentive Option shall be granted more than ten years after the earlier of the date of adoption or re-adoption of the Plan, as applicable, by the Board or approval of the Plan by the Company's shareholders.

The Committee may, with the consent of the Optionee, amend an Incentive Option in a manner that would cause loss of Incentive Option status, provided the Stock Option as so amended satisfies the requirements of Section 6.2.

6.4 Substitute Options. In connection with a merger or consolidation of an entity with the Company or the acquisition by the Company of property or stock of an entity, the Committee may grant Stock Options in substitution for any options or other stock awards or stock-based awards granted by such entity or an affiliate thereof. Such substitute Stock Options may be granted on such terms, consistent with Section 15.7, as the Committee deems appropriate in the circumstances, notwithstanding any limitations on Stock Options contained in other provisions of this Section 6. If such substitute Stock Options are granted, the Committee, in its sole discretion and consistent with Code Section 424(a) and the requirements of Code Section 409A, may determine that such substitute Stock Options shall have an exercise price less than one hundred (100%) of the Fair Market Value of the Common Shares to which the Stock Options relate determined as of the dates of grant.

SECTION 7. Stock Appreciation Rights

A Stock Appreciation Right shall entitle the holder thereof to receive, for each share as to which the award is granted, payment of an amount, in cash, Common Shares, or a combination thereof, as determined by the Committee, equal in value to the excess of the Fair Market Value of a share of Common Shares on the date of exercise over the Fair Market Value of a Common Share on the day such Stock Appreciation Right was granted. Any such award shall be in such form and shall have such terms and conditions as the Committee may determine. Unless otherwise provided by the Committee in the applicable award agreement, the term of each Stock Appreciation Right shall not exceed ten years. The applicable award agreement shall specify the number of Common Shares as to which the Stock Appreciation Right is granted, the Fair Market Value of the Common Shares on the day such Stock Appreciation Right was granted, the date or dates on which, or the conditions upon the satisfaction of which, the Stock Appreciation Right shall become exercisable, and such other terms and conditions as are determined by the Committee.

SECTION 8. Restricted Stock

Subject to the following provisions, all awards of Restricted Stock shall be in such form and shall have such terms and conditions as the Committee may determine:

(a) The Restricted Stock award shall specify the number of shares of Restricted Stock to be awarded, the price, if any, to be paid by the recipient of the Restricted Stock and the date or dates on which, or the conditions upon the satisfaction of which, the Restricted Stock will vest. The grant and/or the vesting of Restricted Stock may be conditioned upon the completion of a specified period of service with the Company and/or its Subsidiaries, upon the attainment of specified performance objectives, or upon such other criteria as the Committee may determine.

(b) Stock certificates or book entry shares representing the Restricted Stock awarded under the Plan shall be registered in the award holder's name, but the Committee may direct that any such certificates, if applicable, be held by the Company on behalf of the award holder. Except as may be permitted by the Committee, no share of Restricted Stock may be sold, transferred, assigned, pledged or otherwise encumbered by the award holder until such share has vested in accordance with the terms of the Restricted Stock award. At the time Restricted Stock vests, such vested shares shall be delivered (via stock certificate or book entry) to the award holder (or his or her designated beneficiary in the event of death), free of such restriction.

(c) The Committee may provide that the award holder shall have the right to vote and/or receive dividends on Restricted Stock. Unless the Committee provides otherwise, Common Shares received as a dividend on, or in connection with a stock split of, Restricted Stock shall be subject to the same restrictions as the Restricted Stock.

(d) Except as may be provided by the Committee, in the event of an award holder's termination of employment or other Relationship before all of his or her Restricted Stock has vested, or in the event any conditions to the vesting of Restricted Stock have not been satisfied prior to any deadline for the satisfaction of such conditions set forth in the award, the shares of Restricted Stock which have not vested shall be forfeited.

(e) The Committee may waive, in whole or in part, any or all of the conditions to receipt of, or restrictions with respect to, any or all of the award holder's Restricted Stock. The Committee may not accelerate the payment of any RSU awards unless such acceleration is consistent with Section 15.7.

SECTION 9. Restricted Stock Units (RSUs)

Subject to the following provisions, all awards of Restricted Stock Units shall be in such form and shall have such terms and conditions as the Committee may determine:

(a) The Restricted Stock Unit award shall specify the number of Common Shares to be awarded and the duration of the period (the "***Vesting Period***") during which, and the conditions under which, receipt of the underlying Common Shares will be deferred. The Committee may condition the grant or vesting of RSUs, or receipt of Common Shares or cash at the end of the Vesting Period, upon the completion of a specified period of service with the Company and/or its Subsidiaries, upon the attainment of specified performance objectives, or upon such other criteria as the Committee may determine.

(b) Except as may be provided by the Committee, RSU awards may not be sold, assigned, transferred, pledged or otherwise encumbered during the Vesting Period.

(c) At the expiration of the Vesting Period, as soon as administratively practical and in no event later than two and one-half months following the end of the Vesting Period, the award holder (or his or her designated beneficiary, if applicable) shall receive (i) certificates for the appropriate number of Common Shares designated by the RSU award, (ii) cash equal to the Fair Market Value of such Common Shares, or (iii) a combination of shares and cash, as the Committee may determine.

(d) Except as may be provided by the Committee, in the event of an award holder's termination of employment or other Relationship before the RSU award has vested, such award shall be forfeited.

(e) The Committee may waive, in whole or in part, any or all of the conditions to receipt of, or restrictions with respect to, Common Shares or cash under a Restricted Stock Unit award. The Committee may not accelerate the payment of any RSU awards unless such acceleration is consistent with Section 15.7.

SECTION 10. Separation from Service

Unless otherwise specifically provided by the Committee in the award agreement or any amendment thereto, awards will terminate as provided in this Section.

(a) All Unvested portions of awards held by the Participant on the date of the Participant's death or Separation from Service, as the case may be, shall immediately be forfeited by such Participant as of such date; all vested portions of awards (other than vested portions of Stock Options) held by the Participant on the date of the Participant's death or Separation from Service, as the case may be, shall be paid in accordance with the payout schedule applicable to vested awards; and all vested portions of Stock Options held by the Participant on the date of the Participant's death or Separation from Service (for reasons other than Cause), as the case may be, shall remain exercisable for thirty (30) days following such Separation from Service (but not beyond the expiration of the term of the Stock Option) except as otherwise provided in accordance with the following provisions:

(b) If the Participant's Separation from Service (for reasons other than Cause) occurs by reason of Retirement or Disability, the Participant may exercise all outstanding Options with respect to Shares for which it could have been exercised on the effective date of the Participant's Retirement within the period of three (3) months immediately succeeding the Participant's Retirement (but not beyond the expiration of the term of the Stock Option), or if by reason of Disability, within twelve (12) months after such Disability (but not beyond the expiration of the term of the Stock Option).

(c) In the event the Participant's Separation from Service is due to death, the Participant's beneficiary or estate, if no beneficiary, may exercise outstanding Options to the extent that the Participant was entitled to exercise the Options at the date of his death, but only until the date which is twelve (12) months from the date of the Participant's death (but not beyond the expiration of the term of the Stock Option);

(d) Unless otherwise provided pursuant to any written agreement between an Employer and a Participant, if a Participant's incurs a Separation from Service for Cause, all awards held by a Participant on the date of such Separation from Service for Cause, whether vested or Unvested, shall immediately be forfeited by such Participant as of such date.

SECTION 11. Election to Defer

To the extent permitted by Section 409A of the Code, the Committee may permit an award recipient to elect to defer payment of an award other than a Stock Option for a specified period or until a specified event, upon such terms as are determined by the Committee. An award holder may elect to defer the distribution date of a Restricted Stock Unit award, or, if applicable, a Restricted Stock award, provided that such election is made and delivered to the Company in compliance with Section 409A of the Code, when applicable.

SECTION 12. Non-Employee Director Awards

Subject to the limitations in Section 4.3, the Board shall have the discretion to determine the number and types of awards to be granted to Non-Employee Directors and the terms of such awards, including but not limited to exercisability, vesting, and the effect of such Non-Employee Director's Separation from service.

SECTION 13. Tax Withholding

13.1 Each award holder who is an Employee shall, no later than the date as of which an amount with respect to an award first becomes includible in such person's gross income for applicable tax purposes, pay to the Company, or make arrangements satisfactory to the Committee regarding payment of, any federal, state, local or other taxes of any kind required by law to be withheld with respect to the award. The obligations of the Company under the Plan shall be conditional on such payment or arrangements. The Company (and, where applicable, its Subsidiaries), shall, to the extent permitted by law, have the right to deduct the minimum amount of any required tax withholdings from any such taxes from any payment of any kind otherwise due to the award holder.

13.2 To the extent permitted by the Committee, and subject to such terms and conditions as the Committee may provide, an Employee may elect to have the minimum amount of any required tax withholdings with respect to any awards hereunder, satisfied by (a) having the Company withhold Common Shares otherwise deliverable to such person with respect to the award; (b) delivering to the Company unrestricted Common Shares already owned by the Employee; (c) broker-assisted "cashless exercise;" (d) any other manner permitted by law; or (e) any combination of the foregoing Alternatively, the Committee may require that a portion of the Common Shares otherwise deliverable be applied to satisfy the withholding tax obligations with respect to the award.

SECTION 14. Change in Control

In the event of a Change in Control, unless otherwise determined by the Committee at the time of grant or by amendment (with the award holder's consent) of such grant or as otherwise provided under the terms of any applicable agreement between the Company and an award recipient under the Plan or as otherwise determined by the Board pursuant to Section 4.4:

(a) with respect to any outstanding Full Value Awards under the Plan, restrictions and vesting conditions applicable to the Full Value Award that are based upon one or more performance factors shall lapse with respect to a pro-rata portion (based on the number of days from the beginning of the applicable performance period to and including the date of the Change in Control) of the number of shares subject to such Full Value Award that would have been earned by the award holder (i) with respect to market-based goals, determined as the greater of the target goal or the transaction price with respect to the Common Shares on the effective date of the Change in Control, and (ii) with respect to performance-based goals, determined as the greater of the target goal or as determined by actual performance in accordance with the underlying plan formula as of the date of the Change in Control; and

(b) the Committee may, in its sole discretion, accelerate the payment date of all vested Restricted Stock Unit awards.

SECTION 15. General Provisions

15.1 Each award under the Plan shall be subject to the requirement that, if at any time the Committee shall determine that (a) the listing, registration or qualification of the Common Shares subject or related thereto upon any securities exchange or market or under any state or federal law, or (b) the consent or approval of any government regulatory body, or (c) an agreement by the recipient of an award with respect to the disposition of Common Shares, is necessary or desirable in order to satisfy any legal requirements, or (d) the issuance, sale or delivery of any Common Shares is or may in the circumstances be unlawful under the laws or regulations of any applicable jurisdiction, the right to exercise such Stock Option shall be suspended, such award shall not be granted and such shares will not be issued, sold or delivered, in whole or in part, unless such listing, registration, qualification, consent, approval or agreement shall have been effected or obtained free of any conditions not acceptable to the Committee, and the Committee determines that the issuance, sale or delivery of the shares is lawful. The application of this Section shall not extend the term of any Stock Option or other award. The Company shall have no obligation to effect any registration or qualification of the Common Shares under federal or state laws or to compensate the award holder for any loss caused by the implementation of this Section 15.1.

15.2 The Committee may provide, at the time of grant or by amendment with the award holder's consent, that an award and/or Common Shares acquired under the Plan shall be forfeited, including after exercise or vesting, if within a specified period of time the award holder engages in any of the following disqualifying conduct: (a) the award holder's performance of service for a competitor of the Company and/or its Subsidiaries, including service as an employee, director or consultant, or the establishing by the award holder of a business which competes with the Company and/or its Subsidiaries; (b) the award holder's solicitation of employees or customers of the Company and/or its Subsidiaries; (c) the award holder's improper use or disclosure of confidential information of the Company and/or its Subsidiaries; or (d) material misconduct by the award holder in the performance of such award holder's duties for the Company and/or its Subsidiaries, as determined by the Committee.

15.3 Nothing set forth in this Plan shall prevent the Board from adopting other or additional compensation arrangements.

15.4 Nothing in the Plan nor in any award hereunder shall confer upon any award holder any right to continuation of his or her employment by or other Relationship with the Company or its Subsidiaries, or interfere in any way with the rights of any such company to terminate such employment or other Relationship.

15.5 Neither the Plan nor any award shall create or be construed to create a trust or separate fund of any kind or a fiduciary relationship between the Company or Subsidiary and an award recipient, and no award recipient will, by participation in the Plan, acquire any right in any specific Company property, including any property the Company may set aside in connection with the Plan. To the extent that any award recipient

acquires a right to receive payments from the Company or any Subsidiary pursuant to an award, such right shall not be greater than the right of an unsecured general creditor of the Company or its Subsidiaries.

15.6 Except to the extent preempted by United States federal law or as otherwise expressly provided herein, the Plan and all awards under the Plan shall be interpreted in accordance with and governed by the internal laws of the State of Indiana without giving effect to any choice or conflict of law provisions, principles or rules.

15.7 The Plan and all awards under the Plan shall be interpreted and applied in a manner consistent with the applicable standards for nonqualified deferred compensation plans established by Code Section 409A and its interpretive regulations and other regulatory guidance. To the extent that any terms of the Plan or an award would subject an Employee to gross income inclusion, interest or additional tax pursuant to Code Section 409A, those terms are to that extent superseded by, and shall be adjusted to the minimum extent necessary to satisfy or to be exempt from, the Code Section 409A standards. If as of the date an Employee incurs a Separation from Service the Employee is a "key employee," within the meaning of Code Section 416(i), without regard to paragraph 416(i)(5), and if the Company has stock that is publicly traded on an established securities market or otherwise, any payment of deferred compensation, within the meaning of Code Section 409A, otherwise payable because of employment termination will be suspended until, and will be paid to the Employee on, the first day of the seventh month following the month in which the Employee's Separation from Service occurs.

15.8 Mitigation of Excise Taxes.

(a) Except as otherwise provided in any award agreement or in any applicable change in control agreement between the Company and an award recipient under the Plan, if any payment or benefit resulting from an award under the Plan or otherwise, including accelerated vesting of any equity compensation (all such payments and/or benefits hereinafter, "***Payment***"), would (i) constitute a "parachute payment" within the meaning of Section 280G of the Code, and (ii) but for this sentence, be subject to the excise tax imposed by Section 4999 of the Code (the "***Excise Tax***"), then such Payment shall be either (x) provided to the recipient in full, or (y) provided to the recipient to such lesser extent which would result in no portion of such Payment being subject to the excise tax, further reduced by $5,000 (including such further reduction, the "***Cutback Amount***"), whichever of the foregoing amounts, when taking into account applicable federal, state, local and foreign income and employment taxes, such excise tax and other applicable taxes, (all computed at the highest applicable marginal rates), results in the receipt by the recipient, on an after-tax basis, of the greatest amount of the Payment, notwithstanding that all or a portion of such Payment may be subject to the excise tax. If a reduction in payments or benefits constituting "parachute payments" is necessary so that the Payment equals the Cutback Amount, reduction shall occur in the following order: (A) cash payments of accelerated awards under the Plan shall be reduced first and in reverse chronological order such that the cash payment owed on the latest date following the occurrence of the event triggering such excise tax will be the first cash payment to be reduced; (B) accelerated vesting of performance-based equity awards shall be cancelled or reduced next and in the reverse order of the date of grant for such awards (i.e., the vesting of the most recently granted awards will be reduced first), with Full Value Awards reduced before any performance-based stock option or stock appreciation rights are reduced; and (C) accelerated vesting of time-based equity awards shall be cancelled or reduced last and in the reverse order of the date of grant for such awards (i.e., the vesting of the most recently granted awards will be reduced first), with Full Value Awards reduced before any time-based stock option or stock appreciation rights are reduced.

(b) The Company shall appoint an independent public accounting firm to make the determinations required hereunder and perform the foregoing calculations. The Company shall bear all expenses with respect to the determinations by such accounting firm required to be made hereunder. The accounting firm engaged to make the determinations hereunder shall provide its calculations, together with detailed supporting documentation, to the Company and the award recipient within fifteen (15) calendar days after the date on which right to a Payment is triggered (if requested at that time by the Company or recipient). Any good faith determinations of the accounting firm made hereunder shall be final, binding and conclusive upon the Company and the recipient.

SECTION 16. Compensation Recovery Policy

Notwithstanding any provision in the Plan or in any award agreement to the contrary, awards granted or paid under the Plan will be subject to recovery under any compensation recovery policy of the Company as may be in effect from time to time, including, without limitation, the provisions of any such policy required by Section 10D of the Exchange Act and any applicable rules or regulations issued by the U.S. Securities and Exchange Commission or any national securities exchange or national securities association on which the Common Shares may be traded.

SECTION 17. Amendments and Termination

17.1 The Plan shall terminate at the close of business on January 24, 2028. The Board may discontinue the Plan at any time prior to the date referenced in the prior sentence and may amend it from time to time. No amendment or discontinuation of the Plan shall adversely affect any award previously granted without the award holder's written consent. Amendments may be made without shareholder approval, except as required to satisfy applicable laws or regulations or the requirements of any stock exchange or market on which the Common Shares are listed or traded.

17.2 The Committee may amend the terms of any award prospectively or retroactively; provided, however, that no amendment shall impair the rights of the award holder without his or her written consent.

SECTION 18. Effective Date of Plan

This Plan, as amended and restated, was approved and adopted by the Board on January 24, 2018, and is to be effective as of such date, contingent upon the approval thereof by the shareholders of the Company within (12) twelve months following the adoption by the Board.

Exhibit 10.2

Execution Version

CREDIT AGREEMENT

dated as of November 5, 2021,

among

INOTIV, INC.,
as the Borrower,

THE OTHER GUARANTORS PARTY HERETO,
as Guarantors,

THE LENDERS PARTY HERETO,
and

JEFFERIES FINANCE LLC,

as Administrative Agent and Collateral Agent

JEFFERIES FINANCE LLC
as Sole Lead Arranger and Bookrunner

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EXHIBITS

CREDIT AGREEMENT

This CREDIT AGREEMENT (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, this "**Agreement**"), dated as of November 5, 2021, among INOTIV, INC., an Indiana corporation (the "**Borrower**"), the Subsidiary Guarantors (such term and each other capitalized term used but not defined herein having the meaning given to it in Article I), the Lenders from time to time party hereto and Jefferies Finance LLC, as administrative agent for the Lenders (in such capacity, together with its successors and permitted assigns, the "**Administrative Agent**") and as collateral agent for the Secured Parties (in such capacity, together with its successors and permitted assigns, the "**Collateral Agent**"); with Jefferies Finance LLC, as sole lead arranger (in such capacity, the "**Arranger**") and sole bookrunner (in such capacity, the "**Bookrunner**").

WITNESSETH:

WHEREAS, pursuant to the Merger Agreement, (a) Dolphin Mergeco, Inc. ("**Merger Sub**") will merge with and into Envigo RMS Holding Corp. ("**Envigo**") on the Closing Date with Envigo as the surviving corporation (the "**First Merger**") and (b) the surviving corporation will merge with and into Inotiv Research Models, LLC ("**Inotiv Research Models**"), with Inotiv Research Models as the surviving company (the "**Second Merger**", and together with the First Merger, the "**Mergers**") and as a result of the Mergers, Inotiv Research Models will become a direct, wholly-owned Subsidiary of the Borrower.

WHEREAS, on the Closing Date, the Borrower (a) has requested the Lenders to extend credit in the form of (i) term loans in an aggregate principal amount equal to $165,000,000 and (ii) delayed draw term loan commitments in an aggregate principal amount equal to $35,000,000 and (b) has requested that the Revolving Lenders extend Revolving Loans at any time and from time to time after the Closing Date and prior to the Revolving Maturity Date in an aggregate principal amount not in excess of $15,000,000. The proceeds of the term loans will be used by the Borrower on the Closing Date (i) to finance, in part, the Mergers, (ii) to refinance the existing financing (the "**Refinancing**") and (iii) pay fees, costs (including debt breakage costs in connection with the Refinancing) and expenses related to the transaction. The proceeds of the delayed draw term loans will be available after the Closing Date for (i) Permitted Acquisitions, (ii) Designated Capital Expenditures and (iii) replenish cash on the balance sheet or repay Revolving Loans that, in either case, were drawn to finance Permitted Acquisitions or Designated Capital Expenditures. The proceeds of the Revolving Loans will be available after the Closing Date for general corporate purposes.

WHEREAS, the Borrower and each other Loan Party desire to secure all of the Obligations by granting to the Collateral Agent, for the benefit of the Secured Parties, a security interest in and Lien upon substantially all of the property and assets of the Borrower and the other Loan Parties, subject to the limitations described herein and in the Security Documents.

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein and in the other Loan Documents, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows:

ARTICLE I
DEFINITIONS

Section 1.01 Defined Terms. As used in this Agreement, the following terms shall have the meanings specified below:

"**ABR**", when used in reference to any Loan or Borrowing, is used when such Loan comprising such Borrowing is, or the Loans comprising such Borrowing are, bearing interest at a rate determined by reference to the Alternate Base Rate in accordance with the provisions of Article II.

"**ABR Borrowing**" shall mean a Borrowing comprised of ABR Loans.

"**ABR Loan**" shall mean any ABR Term Loan or ABR Revolving Loan.

"**ABR Revolving Loan**" shall mean any Revolving Loan bearing interest at a rate determined by reference to the Alternate Base Rate in accordance with the provisions of Article II.

"**ABR Term Loan**" shall mean any Term Loan bearing interest at a rate determined by reference to the Alternate Base Rate in accordance with the provisions of Article II.

"**Acquisition Consideration**" shall mean the purchase consideration for a Permitted Acquisition and all other payments (but excluding any related acquisition fees, costs and expenses incurred in connection with any Permitted Acquisition), directly or indirectly, by any Company in exchange for, or as part of, or in connection with, a Permitted Acquisition, whether paid in cash or by exchange of Equity Interests or of any Property or otherwise and whether payable at or prior to the consummation of a Permitted Acquisition or deferred for payment at any future time (including Earn-Outs); *provided* that any such Earn-Out or other future payment that is subject to a contingency shall be considered Acquisition Consideration only to the extent of the reserve, if any, required under GAAP at the time of such sale to be established in respect thereof by the Borrower or any of its Subsidiaries; *provided, further,* that Acquisition Consideration shall not include (a) the portion of consideration or payment constituting salary payments pursuant to ordinary course employment agreements and salary bonuses payable thereunder to the extent relating to the applicable Permitted Acquisition and (b) cash and Cash Equivalents acquired by the Companies as part of the applicable Permitted Acquisition (except to the extent that such cash and Cash Equivalents were (x) directly or indirectly funded or financed by any of the Companies or (y) after giving effect to any repayment of, or incurrence of, Indebtedness (and the release of any Liens in connection therewith) with respect to, or in connection with, such Permitted Acquisition on, or immediately after, the date of consummation thereof, such cash and Cash Equivalents are subject to any Lien (other than the Liens created under the Security Documents).

"**Additional Lender**" shall have the meaning assigned to such term in Section 2.21(a).

"**Adjusted LIBOR Rate**" shall mean, for any Interest Period, with respect to any Eurodollar Loan, the greater of (a)(i) an interest rate per annum (rounded upward, if necessary, to the next 1/100th of 1%) to be equal to the LIBOR Rate for such Eurodollar Loan in effect for such Interest Period divided by (ii) 1 *minus* the Statutory Reserves (if any) for such Eurodollar Loan for such Interest Period and (b) 1.00%.

"**Administrative Agent**" shall have the meaning assigned to such term in the preamble hereto and includes each other person appointed as the successor administrative agent pursuant to Article X.

"**Administrative Agent Fees**" shall have the meaning assigned to such term in Section 2.05(c).

"**Administrative Questionnaire**" shall mean an administrative questionnaire in the form supplied from time to time by the Administrative Agent.

"**Advisors**" shall mean legal counsel (including foreign and local counsel, but excluding in-house counsel), auditors, engineers, accountants, consultants, appraisers or other advisors.

"**Affected Financial Institution**" shall mean (a) any EEA Financial Institution or (b) any UK Financial Institution.

"**Affiliate**" shall mean, when used with respect to a specified person, another person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the person specified; *provided, however*, that, (i) for purposes of Section 6.08, the term "Affiliate" shall also include (a) any person that directly or indirectly owns more than 10% of any class of Equity Interests of the person specified and (b) any person that is an executive officer or director of the person specified and (ii) Jefferies LLC and its Affiliates shall be deemed to be Affiliates of Jefferies Finance LLC and its Affiliates.

"**Agent Fee Letter**" shall mean that certain Agent Fee Letter, dated as of September 21, 2021, by and between the Borrower and the Administrative Agent.

"**Agents**" shall mean the Arranger, the Bookrunner, the Administrative Agent and the Collateral Agent; and "**Agent**" shall mean any of them, as the context may require.

"**Agreement**" shall have the meaning assigned to such term in the preamble hereto.

"**Alternate Base Rate**" shall mean, for any day, a rate per annum (rounded upward, if necessary, to the next 1/100th of 1%) equal to the greatest of (a) the Base Rate in effect on such day, (b) the Federal Funds Effective Rate in effect on such day *plus* 0.50%, (c) except during the Eurodollar Unavailability Period, the Adjusted LIBOR Rate for a Eurodollar Loan with a one-month interest period (or if such day is not a Business Day, the immediately preceding Business Day) *plus* 2.00% If the Administrative Agent shall have determined in its reasonable discretion (which determination shall be conclusive absent manifest error) that it is unable to ascertain the Federal Funds Effective Rate or the Adjusted LIBOR Rate for any reason, including the inability or failure of the Administrative Agent to obtain sufficient quotations in accordance with the terms of the definition thereof, the Alternate Base Rate shall be determined without regard to clause (b) or (c), as applicable, of the preceding sentence until the circumstances giving rise to such inability no longer exist. Any change in the Alternate Base Rate due to a change in the Base Rate, the Federal Funds Effective Rate or the then applicable Adjusted LIBOR Rate shall be effective on the effective date of such change in the Base Rate, the Federal Funds Effective Rate or the then applicable Adjusted LIBOR Rate, respectively.

"Anti-Corruption Laws" shall have the meaning assigned to such term in Section 3.22(a).

"**Anti-Terrorism Laws**" shall have the meaning assigned to such term in Section 3.20(a).

"**Applicable Margin**" shall mean, until delivery of the financial statements for the first six (6) months ending after the Closing Date pursuant to Section 5.01(a) or Section 5.01(b), a percentage *per annum* equal to (i) initially, in the case of Term Loans and Revolving Loans (A) maintained as ABR Loans, 5.25%, and (B) maintained as Eurodollar Loans, 6.25%; thereafter, the following percentages *per annum* based on the Secured Leverage Ratio as set forth in the most recent Compliance Certificate received by the Administrative Agent pursuant to Section 5.02:

Secured Leverage Ratio	Applicable Margin for Loans that are Eurodollar Loans	Applicable Margin for Loans that are Base Rate Loans
≥ 3.50:1.00	6.50%	5.50%
< 3.50:1.00 and ≥ 2.00:1.00	6.25%	5.25%
< 2.00:1.00	6.00%	5.00%

No change in the Applicable Margin shall be effective until three Business Days after the date on which the Administrative Agent shall have received the applicable financial statements and a Compliance Certificate pursuant to Section 5.02 calculating the Secured Leverage Ratio. At any time that an Event of Default has occurred and is continuing or the Borrower has not submitted to the Administrative Agent the applicable information as and when required under Section 5.01 or Section 5.02, the Applicable Margin shall conclusively equal the highest possible Applicable Margin provided for in this definition. Within one Business Day of receipt of the applicable information under Section 5.01 and Section 5.02, the Administrative Agent shall give each Lender electronic or telephonic notice (confirmed in writing) of the Applicable Margin in effect from such date.

Furthermore, the Applicable Margin in respect of any Incremental Loans, Extended Term Loans, Extended Revolving Loans, Refinancing Term Loans or Refinancing Revolving Loans shall be the applicable percentages *per annum* set forth in the applicable Incremental Amendment, Extension Offer or Refinancing Amendment, respectively.

"**Approved Electronic Communications**" shall mean any notice, demand, communication, information, document or other material that any Loan Party provides to the Administrative Agent pursuant to any Loan Document or the transactions contemplated therein which is distributed to the Agents or the Lenders by means of electronic communications pursuant to Section 11.01(b).

"**Approved Fund**" shall mean any person (other than a natural person) 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**" shall have the meaning assigned to such term in the preamble hereto.

"**Asset Disposition Threshold**" shall have the meaning assigned to such term in Section 2.10(c)(i).

"**Asset Sale**" shall mean (a) any Disposition of any Property by any Company (excluding sales and dispositions permitted by Section 6.06 (other than Section 6.06(b)) and (b) any sale or other Disposition of any Equity Interests in a Subsidiary of the Borrower to any person other than a Loan Party.

"**Assignment and Assumption**" shall mean an assignment and assumption entered into by a Lender, as assignor, and an assignee (with the consent of any party whose consent is required pursuant to Section 11.04), and accepted by the Administrative Agent, substantially in the form of Exhibit A, or such other form as shall be approved by the Administrative Agent from time to time.

"**Available Tenor**" shall mean, as of any date of determination and with respect to the then-current Benchmark, as applicable, (x) if the then-current Benchmark is a term rate, any tenor for such Benchmark that is or may be used for determining the length of an Interest Period or (y) otherwise, any payment period for interest calculated with reference to such Benchmark, as applicable, pursuant to this Agreement as of such date.

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

"**Bail-In Legislation**" shall mean (a) 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, regulation rule or requirement for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule and (b) with respect to the United Kingdom, Part I of the United Kingdom Banking Act 2009 (as amended from time to time) and any other law, regulation or rule applicable in the United Kingdom relating to the resolution of unsound or failing banks, investment firms or other financial institutions or their affiliates (other than through liquidation, administration or other insolvency proceedings).

"**Bank Product**" shall mean each and any of the following bank products and services provided by any Bank Product Provider: (a) credit cards for commercial customers (including, without limitation, "commercial credit cards" and purchasing cards), (b) store value cards, and (c) depository, cash management, and treasury management services (including, without limitation, controlled disbursement, automated clearinghouse transactions, return items, overdrafts and interstate depository network services).

"**Bank Product Agreement**" shall mean any agreement entered into by Borrower or any of its Subsidiaries in connection with Bank Products that has been designated as a "Bank Product Agreement" by Borrower in a written notice to the Administrative Agent.

"**Bank Product Obligations**" shall mean any and all of the obligations of the Borrower and its Subsidiaries, whether absolute or contingent and howsoever and whensoever created, arising, evidenced or acquired (including all renewals, extensions and modifications thereof and substitutions therefor) in connection with Bank Products provided pursuant to a Bank Product Agreement.

"**Bank Product Provider**" shall mean any Person in its capacity as a provider of Bank Products, *provided* that such Person (i) is an Agent or a Lender or an Affiliate of any of the foregoing (or was an Agent or a Lender or an Affiliate of any of the foregoing at the time it provides a Bank Product) and (ii) executes and delivers to the Administrative Agent a letter agreement in form and substance reasonably acceptable to the Administrative Agent pursuant to which such counterparty (x) appoints the Administrative Agent and the Collateral Agent as its agents under the applicable Loan Documents and (y) agrees to be bound by the provisions of Section 11.03, Section 11.09 and Section 11.12 as if it were a Lender hereunder.

"**Base Rate**" shall mean, for any day, the "U.S. Prime Lending Rate" published in *The Wall Street Journal* for such day; *provided* that if *The Wall Street Journal* ceases to publish for any reason such rate of interest, "**Base Rate**" shall mean the prime lending rate as set forth on the Bloomberg page PRIMBB Index (or successor page) for such day (or such other service as determined by the Administrative Agent from time to time for purposes of providing quotations of prime lending interest rates); each change in the Base Rate shall be effective on the date such change is effective. The prime rate is not necessarily the lowest rate charged by any financial institution to its customers.

"**Benchmark**" means, initially, USD LIBOR; *provided* that if a replacement of the Benchmark has occurred pursuant to this Section titled "Benchmark Replacement Setting", then "Benchmark" shall mean

the applicable Benchmark Replacement to the extent that such Benchmark Replacement has replaced such prior benchmark rate. Any reference to "Benchmark" shall include, as applicable, the published component used in the calculation thereof.

"**Benchmark Replacement**" means, for any Available Tenor:

(1) For purposes of clause (a) of Section 2.11, the first alternative set forth below that can be determined by the Administrative Agent:

(a) the sum of: (i) Term SOFR and (ii) 0.11448% (11.448 basis points) for an Available Tenor of one-month's duration, 0.26161% (26.161 basis points) for an Available Tenor of three-months' duration, and 0.42826% (42.826 basis points) for an Available Tenor of six-months' duration, or

(b) the sum of: (i) Daily Simple SOFR and (ii) the spread adjustment selected or recommended by the Relevant Governmental Body for the replacement of the tenor of USD LIBOR with a SOFR-based rate having approximately the same length as the interest payment period specified in clause (a) of this definition; and

(2) For purposes of clause (b) of Section 2.11, the sum of (a) the alternate benchmark rate and (b) an adjustment (which may be a positive or negative value or zero), in each case, that has been selected by the Administrative Agent and the Borrower as the replacement for such Available Tenor of such Benchmark giving due consideration to any evolving or then-prevailing market convention, including any applicable recommendations made by the Relevant Governmental Body, for U.S. dollar-denominated syndicated credit facilities at such time;

provided that, if the Benchmark Replacement as determined pursuant to clause (1) or (2) above would be less than the Floor, the Benchmark Replacement will be deemed to be the Floor for the purposes of this Agreement and the other Loan Documents.

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

"**Benchmark Transition Event**" means, with respect to any then-current Benchmark other than USD LIBOR, the occurrence of a public statement or publication of information by or on behalf of the administrator of the then-current Benchmark, the regulatory supervisor for the administrator of such Benchmark, the Board of Governors of the Federal Reserve System, the Federal Reserve Bank of New York, an insolvency official with jurisdiction over the administrator for such Benchmark, a resolution authority with jurisdiction over the administrator for such Benchmark or a court or an entity with similar insolvency or resolution authority over the administrator for such Benchmark, announcing or stating that

(a) such administrator has ceased or will cease on a specified date to provide all Available Tenors of such Benchmark, permanently or indefinitely, *provided* that, at the time of such statement or publication, there is no successor administrator that will continue to provide any Available Tenor of such Benchmark or (b) all Available Tenors of such Benchmark are or will no longer be representative of the underlying market and economic reality that such Benchmark is intended to measure and that representativeness will not be restored.

"**Beneficial Ownership Certification**" shall mean a certification regarding beneficial ownership as required by the Beneficial Ownership Regulation.

"**Beneficial Ownership Regulation**" shall mean 31 C.F.R § 1010.230

"**Board**" shall mean the Board of Governors of the Federal Reserve System of the United States.

"**Board of Directors**" shall mean, with respect to any person, (a) in the case of any corporation, the board of directors of such person, (b) in the case of any limited liability company, the board of managers or board of directors, as applicable, of such person, or if such limited liability company does not have a board of managers or board of directors, the functional equivalent of the foregoing, (c) in the case of any partnership, the board of directors or board of managers, as applicable, of the general partner of such person and (d) in any other case, the functional equivalent of the foregoing.

"**Bookrunner**" shall have the meaning assigned to such term in the preamble hereto.

"**Borrower**" shall have the meaning assigned to such term in the preamble hereto.

"**Borrowing**" shall mean Loans of the same Class and Type, made, converted or continued on the same date and, in the case of Eurodollar Loans, as to which a single Interest Period is in effect.

"**Borrowing Request**" shall mean a request by Borrower in accordance with the terms of Section 2.03 and substantially in the form of Exhibit B, or such other form as shall be reasonably approved by the Administrative Agent from time to time.

"**Business Day**" shall mean (i) any day excluding Saturday, Sunday and any day which is a legal holiday under the laws of the State of New York or is a day on which banking institutions located in such state are authorized or required by law or other governmental action to close and (ii) with respect to all notices, determinations, fundings and payments in connection with the LIBOR Rate or any Eurodollar Loans, any day which is a Business Day described in clause (i) and which is also a day for trading by and between banks in Dollar deposits in the London interbank market.

"**Capital Expenditures**" shall mean, without duplication, for any period (a) any expenditure or commitment to expend money made during such period for any purchase or other acquisition of any asset including capitalized leasehold improvements, which would be classified as a fixed or capital asset on a consolidated balance sheet of the Borrower and its Subsidiaries prepared in accordance with GAAP and (b) Capital Lease Obligations incurred by such persons during such period with respect to real or personal Property acquired during such period, or Synthetic Lease Obligations incurred by such persons during such period, but in each case, excluding (i) expenditures made in connection with the replacement, substitution or restoration of Property pursuant to Section 2.10(c), (ii) any Permitted Acquisitions, (iii) expenditures to the extent reimbursed within such period or paid for by a person who is not a Company (or any of Affiliates thereof) in the ordinary course of business (including, tenant improvements paid or reimbursed by landlords), (iv) the purchase price of equipment or other fixed assets that are purchased in the ordinary course of business substantially contemporaneously with the trade-in of existing assets in the ordinary

course of business to the extent that the gross amount of such purchase price is reduced by the credit granted by the seller of such assets for the assets being traded-in at such time, (v) expenditures to the extent financed with the Net Cash Proceeds of Asset Sales that are reinvested in accordance with Section 2.10(c), and (vi) so long as no Default or Event of Default has occurred and is continuing or would immediately thereafter result therefrom, expenditures funded directly with the net cash proceeds of issuances of Equity Interests (other than Permitted Cure Securities) of the Borrower (or any direct or indirect parent thereof) to its shareholders and only to the extent that the net cash proceeds of such issuances of Equity Interests are immediately contributed to the Borrower as cash common equity, and in turn immediately contributed to the Borrower as cash common equity.

"**Capital Lease Obligations**" shall mean, as to any Person, the obligations of such person to pay rent or other amounts under any lease of (or other arrangement conveying the right to use) real or personal Property, or a combination thereof, which obligations are required to be classified and accounted for as financing leases on a balance sheet of such person under GAAP, and the amount of such obligations shall be the capitalized amount thereof determined in accordance with GAAP; provided that, notwithstanding the foregoing, in no event will any lease that would have been categorized as an operating lease as determined in accordance with GAAP as of September 30, 2020 be considered a Capitalized Lease.

"**Capital Requirements**" shall mean, as to any person, any matter, directly or indirectly, (a) regarding capital adequacy, capital ratios, capital requirements, the calculation of such person's capital or similar matters, or (b) affecting the amount of capital required to be obtained or maintained by such person or any person controlling such person (including any direct or indirect holding company), or the manner in which such person or any person controlling such person (including any direct or indirect holding company), allocates capital to any of its contingent liabilities (including letters of credit), advances, acceptances, commitments, assets or liabilities.

"**Cash Equivalents**" shall mean, as to any person, (a) marketable securities issued, or directly, unconditionally and fully guaranteed or insured, by the United States or any agency or instrumentality thereof (*provided* that the full faith and credit of the United States is pledged in support thereof) having maturities of not more than one year from the date of acquisition by such person, (b) time deposits and certificates of deposit of any Lender or any commercial bank having, or which is the principal banking subsidiary of a bank holding company organized under the laws of the United States, any state thereof or the District of Columbia having, capital and surplus aggregating in excess of $500,000,000 and a rating of "A" (or such other similar equivalent rating) or higher by at least one nationally recognized statistical rating organization (as defined in Rule 436 under the Securities Act) with maturities of not more than one year from the date of acquisition by such person, (c) repurchase obligations with a term of not more than thirty (30) days for underlying securities of the types described in clause (a) above entered into with any person meeting the qualifications specified in clause (b) above, (d) commercial paper issued by any person incorporated in the United States having one of the two highest ratings obtainable from S&P or Moody's, in each case maturing not more than one year after the date of acquisition by such person, (e) investments in money market funds substantially all of whose assets are comprised of securities of the types described in clauses (a) through (d) above and (f) demand deposit accounts maintained in the ordinary course of business with any bank meeting the qualifications specified in clause (b) above.

"**Cash Interest Expense**" shall mean, for any period, Consolidated Interest Expense for such period, *less* the sum of (a) interest on any debt paid by the permanent increase in the principal amount of such debt including by issuance of additional debt of such kind for such period, (b) items described in clause (c) or, other than to the extent paid in cash, clause (g) of the definition of "Consolidated Interest Expense" for such period and (c) cash interest income received by the Borrower and its Subsidiaries in such period.

"**Casualty Event**" shall mean any involuntary loss of title or any involuntary loss of or damage to or destruction of, or any condemnation or other taking (including by any Governmental Authority) of, any Property of any Company. "Casualty Event" shall include any taking of all or any part of any Real Property of any person or any part thereof, in or by condemnation or other eminent domain proceedings pursuant to any Legal Requirement, or by reason of the temporary requisition of the use or occupancy of all or any part of any Real Property of any person or any part thereof by any Governmental Authority, or any settlement in lieu thereof.

"**CERCLA**" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. § 9601 *et seq*.

"**CFC**" shall mean a Foreign Subsidiary that is a controlled foreign corporation under Section 957 of the Code.

"**Change in Control**" shall mean (a) an event or series of events by which any "person" or "group" (as such terms are used in Sections 13(d) and 14(d) of the Exchange Act, but excluding any employee benefit plan of such person or group or its respective subsidiaries, and any person acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan) is or becomes the "beneficial owner" (as defined in Rules 13d-3 and 13d-5 under the Exchange Act, except that for purposes of this clause such person or group shall be deemed to have "beneficial ownership" of all securities that such person or group has the right to acquire, whether such right is exercisable immediately or only after the passage of time), directly or indirectly, of Voting Stock of the Borrower representing more than 35% of the voting power of the total outstanding Voting Stock of the Borrower or (b) the occurrence of any "change of control" (or similar event, howsoever denominated) under any other Indebtedness with an aggregate principal amount equal to, or in excess of $15,000,000.

"**Change in Law**" shall mean (a) the adoption of, or taking effect of, any law, treaty, order, rule or regulation after the Closing Date, (b) any change in any law, treaty, order, rule or regulation or in the interpretation or application thereof by any Governmental Authority after the Closing Date or (c) compliance by any Lender (or for purposes of Section 2.12(b), by any lending office of such Lender or by such Lender's holding company, if any) with any request, guideline or directive (whether or not having the force of law) of any Governmental Authority made or issued after the Closing Date; *provided* that notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (y) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, each case pursuant to Basel III, shall in each case be deemed to be a "Change in Law", regardless of the date enacted, adopted or issued.

"**Charges**" shall have the meaning assigned to such term in Section 11.13.

"**Claims**" shall have the meaning assigned to such term in Section 11.03(b).

"**Class**" (a) when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are Revolving Loans, Initial Term Loans, Delayed Draw Term Loans, New Term Loans of any series established as a separate "Class" pursuant to Section 2.19 or Extended Term Loans, (b) when used in reference to any Commitment, refers to whether such Commitment is a Revolving Commitment,, Initial Term Loan Commitment, Delayed Draw Term Loan Commitment, New Term Loan Commitment of any series established as a separate "Class" pursuant to Section 2.19 or refers to a Commitment made pursuant to an Extension Offer, and (c) when used in reference to any Lender, whether such Lender has a Loan or Commitment of a particular Class.

"**Closing Date**" shall mean the date of the initial Credit Extensions hereunder.

"**Code**" shall mean the Internal Revenue Code of 1986, as amended.

"**Collateral**" shall mean, collectively, all of the Security Agreement Collateral, the Mortgaged Property and all other Property of whatever kind and nature, whether now existing or hereafter acquired, granted or purported to be granted as collateral or otherwise subject to a security interest or purported to be subject to a security interest under any Security Document.

"**Collateral Account**" shall mean a collateral account or sub-account established and maintained from time to time by the Collateral Agent for the benefit of the Secured Parties, in accordance with the provisions of Section 9.01.

"**Collateral Agent**" shall have the meaning assigned to such term in the preamble hereto.

"**Commitment**" shall mean, with respect to any Lender, such Lender's Revolving Commitment, Initial Term Loan Commitment, Delayed Draw Term Loan Commitment, New Term Loan Commitment or any commitment in connection with an Extended Term Loan.

"**Commitment Fee**" shall have the meaning assigned to such term in Section 2.05(a).

"**Commitment Letter**" shall mean that certain Commitment Letter, dated as of September 21, 2021, between the Borrower, Jefferies Finance LLC and the other Commitment Parties (as defined therein).

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

"**Communications**" shall have the meaning assigned to such term in Section 11.01(d).

"**Companies**" shall mean the Borrower and the Subsidiaries; and "**Company**" shall mean any one of them.

"**Compliance Certificate**" shall mean a certificate of a Financial Officer of the Borrower substantially in the form of Exhibit C.

"**Consolidated Amortization Expense**" shall mean, for any period, the amortization expense of the Borrower and its Subsidiaries for such period, determined on a consolidated basis in accordance with GAAP (including accelerated amortization from the write-off or write-down of tangible or intangible assets (other than the write-down of current assets) including capitalized software and organizational costs).

"**Consolidated Current Assets**" shall mean, as at any date of determination, the total assets of the Borrower and its Subsidiaries (other than cash and cash equivalents including Cash Equivalents, and excluding the effects of adjustments pursuant to GAAP resulting from the application of recapitalization accounting or purchase accounting, as the case may be, in relation to the Transactions or any consummated acquisition), which may properly be classified as current assets on a consolidated balance sheet of the Borrower and its Subsidiaries in accordance with GAAP.

"**Consolidated Current Liabilities**" shall mean, as at any date of determination, the total liabilities (excluding deferred taxes and taxes payable) of the Borrower and its Subsidiaries which may properly be classified as current liabilities (other than (w) the current portion of any Loans and other long-term liabilities, and liabilities in respect of Hedging Obligations, and, in each case, accrued interest thereon, (x)

liabilities in respect of unpaid earnouts and accrued litigation settlement costs and (y) current liabilities consisting of deferred revenue) on a consolidated balance sheet of the Borrower and its Subsidiaries in accordance with GAAP, plus the amount of long-term deferred revenue of the Borrower and its Subsidiaries in accordance with GAAP and furthermore, excluding the effects of adjustments pursuant to GAAP resulting from the application of purchase accounting in relation to the Transactions or any consummated acquisition.

"**Consolidated Depreciation Expense**" shall mean, for any period, the depreciation expense of the Borrower and its Subsidiaries for such period, determined on a consolidated basis in accordance with GAAP (including accelerated depreciation from the write-off or write-down of tangible or intangible assets (other than the write-down of current assets) including capitalized software and organizational costs).

"**Consolidated EBITDA**" shall mean, for any period, Consolidated Net Income for such period, adjusted by (y) *adding thereto*, without duplication, in each case, only to the extent deducted in determining Consolidated Net Income and not added back pursuant to the definition of Consolidated Net Income, and *provided* that to the extent the ability to add back any item is capped or otherwise limited pursuant to one clause of this definition, no other clause herein shall operate to permit an amount in excess of such cap or limitation to be added back:

(a) Consolidated Interest Expense for such period;

(b) Consolidated Amortization Expense for such period;

(c) Consolidated Depreciation Expense for such period;

(d) Consolidated Tax Expense for such period;

(e) (1) the amount of cost savings, operating expense reductions, other operating improvements and initiatives and synergies incurred, in each case, in connection with the applicable Transaction or another Subject Transaction and which are projected by Borrower in good faith to be reasonably anticipated to be realized from actions taken or with respect to which substantial steps have been taken within eighteen (18) months of the date of the Transactions or the applicable Subject Transaction (which will be added to Consolidated EBITDA as so projected until fully realized and calculated on a Pro Forma Basis as though such cost savings, operating expense reductions, other operating improvements and initiatives and synergies had been realized on the first day of such period) net of the amount of actual benefits realized during such period from such actions; *provided* that all steps have been taken or with respect to which substantial steps have been taken for realizing such cost savings and such cost savings are reasonably identifiable and factually supportable (in the good faith determination of the Borrower and certified by a Financial Officer of the Borrower); and (2) the amount of any restructuring charge, reserve, integration cost, new product start-up cost or other business optimization expense or cost (including charges directly related to implementation of cost-savings initiatives), that is deducted (and not added back) in such period in computing Consolidated Net Income including, without limitation, those related to severance, retention, signing bonuses, relocation, litigation transition costs and expenses, recruiting and other similar employee related costs, future lease commitments, lease breakage and costs related to the opening and closure and/or consolidation of facilities or offices and to exiting lines of business; *provided* that, the aggregate amount pursuant to this clause (e) or the definition of Pro Forma Basis in any period of four consecutive fiscal quarters shall not exceed 25% of Consolidated EBITDA prior to giving effect to such pro forma adjustments for such period; *provided further* that (x) such 25% limitation will not apply to the extent the adjustments in this clause (e) are determined on a basis consistent with Article 11 of Regulation S-X promulgated under the Exchange Act and as interpreted by the staff of the Securities and Exchange Commission (or any successor agency) and (y) amounts added back or adjusted pursuant to this clause (e)

shall be without duplication of (and shall not be in addition to) any amounts added back or adjusted pursuant to the definition of "Pro Forma Basis" set forth in this Agreement;

(f) [reserved];

(g) out-of-pocket fees, costs and expenses (including legal, tax, structuring and other similar costs and expenses) payable to third parties in connection with (except as provided below) any Investment, acquisition (including costs and expenses in connection with the de-listing of public targets and compliance with public company requirements), disposition (including, without limitation, a sale of (1) the equity of the Borrower (or its direct or indirect parent) and its Subsidiaries or (2) substantially all of the assets of the Borrower and its Subsidiaries), recapitalization, Dividend, Equity Issuance, consolidation, restructurings, or the incurrence, registration (actual or proposed), repayments or amendments of Indebtedness (including, without limitation, letter of credit fees and, in connection with any refinancing of such Indebtedness, unamortized fees, costs and expenses paid in cash in connection with repayment of Indebtedness) (in each case, whether or not consummated or successful), including, without limitation, (t) deferred commission or similar payments paid in cash in connection with any transaction not prohibited by this Credit Agreement, (u) any breakage costs incurred in connection with the termination of any Hedging Agreement as a result of the prepayment of Indebtedness, (v) such out-of-pocket fees, costs or expenses related to the execution, delivery, maintenance and closing of any Loans or any Permitted Refinancing and this Agreement and (w) any amendment, waiver or other modification of Loans or any Permitted Refinancing, any Loan Document, any other Indebtedness or any Equity Interests, in each case, whether or not consummated, deducted (and not added back) in computing Consolidated Net Income;

(h) [reserved];

(i) (A) non-cash costs and expenses relating to any equity-based compensation or equity-based incentive plan or any other management or employee benefit plan or agreement or any stock subscription or shareholder agreement, in each case, of the Borrower or any Subsidiary for such period and (B) any cash costs or expenses relating to any equity-based compensation or equity-based incentive plan or any other management or employee benefit plan or agreement or any stock subscription or shareholder agreement in each case, of the Borrower or any Subsidiary for such period, to the extent that such costs or expenses are funded with net cash proceeds from the issuance of Equity Interests of, or a contribution to the capital of, the Borrower as cash common equity and/or Qualified Stock and which are in turn contributed to the Borrower as cash common equity;

(j) cash expenses of the Borrower and its Subsidiaries incurred during such period to the extent (x) deducted in determining Consolidated Net Income and (y) reimbursed in cash by any person (other than any of the Borrower, the Companies or any of their Subsidiaries or any owners, directly or indirectly, of Equity Interests, respectively, therein) during such period (or reasonably expected to be so reimbursed within 365 days of the end of such period to the extent not accrued) pursuant to an indemnity or guaranty or any other reimbursement agreement in favor of the Borrower or any of its Subsidiaries to the extent such reimbursement has not been accrued (*provided* that, (A) if not so reimbursed or received by the Borrower or such Subsidiary within such 365 day period, such expenses or losses shall be subtracted in the subsequent calculation period or (B) if reimbursed or received by the Borrower or such Subsidiary in a subsequent period, such amount shall not be permitted to be added back in determining Consolidated EBITDA for such subsequent period);

(k) (x) the aggregate amount of all other non-cash items, write-downs, non-cash expenses, or non-cash losses (including, to the extent not taken into account when calculating Consolidated EBITDA, (i) purchase accounting adjustments under ASC 805 and (ii) deferred revenue which would reasonably have been included in determining Consolidated Net Income for such period, but for the application of purchase

accounting rules) otherwise reducing Consolidated Net Income (other than with respect to the preceding clause (ii)) and excluding any such non-cash items, write-downs, expenses, or losses that are reasonably expected to result in, or require pursuant to GAAP, an accrual of a reserve for cash charge, costs and/or expenses in any future period, (y) net non-cash exchange, translation or performance losses relating to foreign currency transactions and currency fluctuations and (z) cash charges resulting from the application of ASC 805 (including with respect to Earn-Outs incurred by the Borrower or any of its Subsidiaries in connection with any Permitted Acquisition);

(l) costs and expenses related to the administration of this Agreement and the other Loan Documents and paid or reimbursed by or on behalf of any of the Loan Parties to the Administrative Agent, the Collateral Agent or any of the Lenders or other third parties paid or engaged by the Administrative Agent, the Collateral Agent or any of the Lenders or paid by any of the Loan Parties;

(m) the unamortized fees, costs and expenses paid in cash in connection with the repayment of Indebtedness to persons that are not Affiliates of the Borrower or any of its Subsidiaries;

(n) the aggregate amount of expenses or losses incurred by the Borrower or any Subsidiary relating to business interruption to the extent covered by insurance and (x) actually reimbursed or otherwise paid to the Borrower or such Subsidiary or (y) so long as such amount for any calculation period is reasonably expected to be received by the Borrower or such Subsidiary in a subsequent calculation period and within one year of the date of the underlying loss and, in each case, the amount of such increase is not otherwise included in Consolidated Net Income for such period (*provided* that, (A) if not so reimbursed or received by the Borrower or such Subsidiary within such one-year period, such expenses or losses shall be subtracted in the subsequent calculation period or (B) if reimbursed or received by the Borrower or such Subsidiary in a subsequent period, such amount shall not be permitted to be added back in determining Consolidated EBITDA for such subsequent period);

(o) any net loss included in Consolidated Net Income attributable to non-controlling interests pursuant to the application of Accounting Standards Codification Topic 810-10-45 ("**Topic 810**");

(p) the amount of any minority interest expense of the Borrower or any of its Subsidiaries consisting of Subsidiary income attributable to minority equity interests of third parties in any non-wholly owned Subsidiary deducted in calculating Consolidated Net Income (and not added back in such period to Consolidated Net Income), but only to the extent income attributable to such non-wholly owned Subsidiary would be permitted to be included in Consolidated Net Income;

(q) losses, charges and expenses attributable to Asset Sales or other dispositions or the sale or other disposition of any Equity Interests of any Person other than in the ordinary course of business;

(r) payments to employees, directors or officers of the Borrower and its Subsidiaries paid in connection with Dividends that are otherwise permitted hereunder to the extent such payments are not made in lieu of, or as a substitution for, ordinary salary, ordinary fees or ordinary payroll payments;

(s) the difference between rental payments actually paid in cash and deferred rental expense deducted in determining consolidated net income;

(t) the difference between commissions actually paid in cash and commission expense deducted in determining consolidated net income;

(u) the difference between initiation fees actually received in cash and the amount included in determining consolidated net income; and

(v) the difference between paid-in-full dues actually received in cash and the amount included in determining consolidated net income;

and (z) *subtracting therefrom* the aggregate amount of, without duplication and solely to the extent added to Consolidated Net Income, (A) all non-cash items increasing Consolidated Net Income (other than the accrual of revenue or recording of receivables in the ordinary course of business and any non-cash gains with respect to cash actually received in a prior period so long as such cash was not included in Consolidated EBITDA in such prior period pursuant to sub-clauses (s) through (v) above), (B) all gains (whether cash or non-cash) resulting from the early termination or extinguishment of Indebtedness, (C) net realized gains from Hedging Agreements or embedded derivatives that require similar accounting treatment and the application of Accounting Standard Codification Topic 815 and related pronouncements, (D) the amount of any minority interest income consisting of Subsidiary loss attributable to minority equity interests of third parties in any non-wholly owned Subsidiary added to Consolidated Net Income (and not deducted in such period from Consolidated Net Income), (E) any net income included in Consolidated Net Income attributable to non-controlling interests pursuant to the application of Topic 810, (F) any amounts added to Consolidated EBITDA pursuant to sub-clause (j) above in the prior calculation period with respect to expected reimbursements to the extent such reimbursements are not received within such 365 day period following such prior calculation period and (G) the aggregate amount of all other non-cash gains resulting from purchase price accounting adjustments.

provided that Consolidated EBITDA for the fiscal quarters ended September 30, 2020, December 31, 2020, March 31, 2021 and June 30, 2021 shall be deemed to be $11,199,000, $13,857,000, $12,858,000 and 13,218,000, respectively, in each case, as adjusted on a Pro Forma Basis, as applicable; it being agreed that for purposes of calculating any financial ratio or test on a Pro Forma Basis (after the end of any of the four quarterly periods set forth above) in connection with a Subject Transaction, Consolidated EBITDA shall be calculated in a manner consistent with Consolidated EBITDA for such quarterly period and the adjustments set forth above in this definition. Other than for purposes of calculating Excess Cash Flow, Consolidated EBITDA shall be calculated on a Pro Forma Basis to give effect to any Subject Transaction, and for the purposes of calculating Excess Cash Flow, the pro forma adjustments set forth in the preceding clause (e) shall not be taken into account in the calculation of Consolidated EBITDA.

Other than for purposes of calculating Excess Cash Flow, Consolidated EBITDA shall be calculated on a Pro Forma Basis to give effect to any Subject Transaction, and for the purposes of calculating Excess Cash Flow, the pro forma adjustments set forth in the preceding clause (e) shall not be taken into account in the calculation of Consolidated EBITDA.

"**Consolidated First Lien Indebtedness**" shall mean, as of any date of determination, without duplication, the aggregate amount of Consolidated Indebtedness of the Borrower and its Subsidiaries that, as of such date, is secured by a first priority Lien on any asset or property of the Borrower or any of its Subsidiaries.

"**Consolidated Secured Indebtedness**" shall mean, as of any date of determination, without duplication, the aggregate amount of Consolidated Indebtedness of the Borrower and its Subsidiaries that, as of such date, is secured by a Lien on any asset or property of the Borrower or any of its Subsidiaries.

"**Consolidated Indebtedness**" shall mean, at any date, the aggregate outstanding principal amount, determined on a consolidated basis, without duplication, in accordance with GAAP, of (i) all Indebtedness of the Borrower and its Subsidiaries of the types referred to in clauses (a) (but only in respect of the principal amount thereof), (b) (but only in respect of the principal amount thereof and excluding, for the avoidance of doubt, surety bonds), (d) (*provided* that, in the case of purchase price adjustments or Earn-Outs, solely to the extent due and payable), (f) and (i) (but only in respect of the drawn amount thereof) of the definition

of "Indebtedness" in this Section 1.01 (giving effect to the proviso to such definition) and (ii) without duplication, all Indebtedness of the Company and its Subsidiaries of the type referred to in clause (viii) of the definition of "Indebtedness" to the extent that such Guaranteed Obligations relate to liabilities under clauses (a) (but only in respect of the principal amount thereof), (b) (but only in respect of the principal amount thereof and excluding, for the avoidance of doubt, surety bonds), (e) and (i) (but only in respect of the drawn amount thereof) of the definition of "Indebtedness" (giving effect to the proviso to such definition) but, in each case, excluding, for the avoidance of doubt, any Bank Product Obligations (other than any overdrafts incurred in respect of the foregoing) and Swap Obligations.

"**Consolidated Interest Expense**" shall mean, for any period, the total consolidated interest expense of the Borrower and its Subsidiaries for such period determined on a consolidated basis in accordance with GAAP *plus*, without duplication:

(a) imputed interest on Capital Lease Obligations of the Borrower and its Subsidiaries for such period;

(b) commissions, discounts and other fees and charges owed by the Borrower or any of its Subsidiaries with respect to letters of credit securing financial obligations, bankers' acceptance financing and receivables financings for such period;

(c) amortization of Debt Issuance costs, debt discount or prepayment or other premiums and other financing fees and expenses incurred by the Borrower or any of its Subsidiaries for such period;

(d) cash contributions to any employee stock ownership plan or similar trust made by the Borrower or any of its Subsidiaries to the extent such contributions are used by such plan or trust to pay interest or fees to any person (other than the Borrower or a Wholly Owned Subsidiary which is a Subsidiary) in connection with Indebtedness incurred by such plan or trust for such period;

(e) all interest paid or payable with respect to discontinued operations of the Borrower or any of its Subsidiaries for such period;

(f) the interest portion of any deferred payment obligations of the Borrower or any of its Subsidiaries for such period; and

(g) all interest on any Indebtedness of the Borrower or any of its Subsidiaries of the type described in clause (e) or (j) of the definition of "Indebtedness" for such period;

provided that (a) to the extent directly and exclusively related to the consummation of the Transactions, Debt Issuance costs, debt discount or premium and other financing fees and expenses shall be excluded from the calculation of Consolidated Interest Expense and (b) Consolidated Interest Expense shall be calculated after giving effect to Hedging Agreements (including associated costs) intended to protect against fluctuations in interest rates, but excluding unrealized gains and losses with respect to any such Hedging Agreements. For the purposes of determining the Consolidated Interest Expense, for any period, such determination shall be made on a Pro Forma Basis to give effect to any Indebtedness (other than Indebtedness incurred for ordinary course working capital needs under ordinary course revolving credit facilities) incurred, assumed or permanently repaid or prepaid or extinguished at any time on or after the first day of the Test Period and prior to the date of determination in connection with any Permitted Acquisition, Asset Sale or other Disposition (other than any Dispositions in the ordinary course of business), and discontinued lines of business or operations as if such incurrence, assumption, repayment or extinguishing had been effected on the first day of such period.

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

(a) the net income (or loss) of any person (other than a Subsidiary of the Borrower) in which any person other than the Borrower or any of its Subsidiaries has an ownership interest, except to the extent that cash in an amount equal to any such income has actually been received by the Borrower or (subject to clause (b) below) any of its Subsidiaries during such period;

(b) the net income of any Subsidiary of the Borrower during such period to the extent that (A) the declaration or payment of dividends or similar distributions by such Subsidiary of that income is not permitted by operation of the terms of its Organizational Documents or any agreement (other than this Agreement or any other Loan Document), instrument, Order or other Legal Requirement applicable to that Subsidiary or its equity holders during such period (unless such restriction or limitation has been effectively waived), except that the Borrower's equity in net loss of any such Subsidiary for such period shall be included in determining Consolidated Net Income, or (B) such net income, if dividended or distributed to the equity holders of such Subsidiary in accordance with the terms of its Organizational Documents, would be received by any Person other than a Loan Party;

(c) any gain (or loss), together with any related provisions for taxes on any such gain (or the tax effect of any such loss), realized during such period by the Borrower or any of its Subsidiaries upon any Disposition of assets by the Borrower or any of its Subsidiaries;

(d) gains and losses due solely to (i) exchange, translation or performance gains or losses relating to foreign currency transactions, fluctuations in currency values and the related tax effects determined in accordance with GAAP for such period and (ii) the cumulative effect of any change in accounting principles;

(e) (x) non-cash gains and losses resulting from any reappraisal, revaluation, write-down or write-up of assets (including intangible assets, goodwill and deferred financing costs) (including pursuant to the application of ASC 350 and ASC 360) and (y) cash and non-cash income, earnings, charges, expenses, gains and losses resulting from the application of ASC 805 with respect to Earn-Outs incurred by the Borrower or any of its Subsidiaries in connection with any Permitted Acquisition;

(f) any net unrealized gains or losses from Hedging Agreements or embedded derivatives that require similar accounting treatment and the application of Accounting Standard Codification Topic 815 and related pronouncements for such period;

(g) all deferred financing costs written off and premiums paid or other expenses incurred directly in connection with any early extinguishment of Indebtedness and any net gain (or loss) from any write-off or forgiveness of Indebtedness;

(h) any extraordinary (as determined in accordance with GAAP) or nonrecurring gain, loss, income and expense, together with any related provision for taxes on any such gain (or the tax effect of any such loss), recorded or recognized by the Borrower or any of its Subsidiaries during such period; *provided* that, notwithstanding anything to the contrary contained herein, with respect to any extraordinary or non-recurring gain (or loss, expense or charge) that is also described or referenced in the definition of "Consolidated EBITDA", such extraordinary or non-recurring gain (or loss, expense or charge) shall instead be subtracted from (and/or added back to) Consolidated Net Income in the calculation of Consolidated EBITDA in accordance with the definition of such term set forth in this Agreement;

(i) any (i) non-cash compensation charge or expense arising from any grant of stock, stock options or other equity based awards and any non-cash deemed finance charges in respect of any pension liabilities or other provisions or on the re-valuation of any benefit plan obligation and (ii) income (loss) attributable to deferred compensation plans or trusts;

(j) the cumulative effect of a change in accounting principles;

(k) any purchase accounting effects including adjustments to inventory, property and equipment, software and other intangible assets and deferred revenue in component amounts required or permitted by GAAP and related authoritative pronouncements (including the effects of such adjustments pushed down to the Borrower and the Subsidiaries), as a result of any consummated acquisition, or the amortization or write-off of any amounts thereof (including any write-off of in process research and development); and

(l) accruals and reserves that are established within twelve (12) months after the Closing Date that are so required to be established as a result of the Transactions in accordance with GAAP.

For purposes of this definition of "Consolidated Net Income," (w) "**nonrecurring**" shall mean any gain or loss as of any date that (i) did not occur in the ordinary course of the Borrower's or its Subsidiaries' business and (ii) is of a nature and type that has not occurred in the prior twenty-four month period and is not reasonably expected to occur in the future, (x) "**ASC 805**" shall mean the Financial Accounting Standards Board Accounting Standards Codification 805 (Business Combinations), issued by the Financial Accounting Standards Board in December 2007, (y) "**ASC 350**" shall mean the Financial Accounting Standards Board Accounting Standards Codification 350 (Intangibles, Goodwill and Other Intangible Assets), issued by the Financial Accounting Standards Board in June 2001 and (z) "**ASC 360**" shall mean the Financial Accounting Standards Board Accounting Standards Codification 360 (Property , Plant and Equipment).

"**Consolidated Tax Expense**" shall mean, for any period, the tax expense of the Borrower and its Subsidiaries, for such period, determined on a consolidated basis in accordance with GAAP and net of any applicable credits or reimbursements received by the Borrower or any of its Subsidiaries during such period (to the extent such credit or reimbursement (as applicable) is otherwise included in the calculation of Consolidated Net Income or Consolidated EBITDA (as applicable)).

"**Consolidated Total Assets**" shall mean at any date of determination, the net book value of all assets of the Borrower and its Subsidiaries (other than the Specified Subsidiaries) determined on a consolidated basis in accordance with GAAP.

"**Contingent Obligation**" shall mean, as to any person, any obligation, agreement, understanding or arrangement of such person guaranteeing or intended to guarantee any Indebtedness, leases, dividends or other obligations ("**primary obligations**") of any other person (the "**primary obligor**") in any manner, whether directly or indirectly, including any obligation, agreement, understanding or arrangement of such person, whether or not contingent: (a) to purchase any such primary obligation or any Property constituting direct or indirect security therefor; (b) to advance or supply funds (i) for the purchase or payment of any such primary obligation or (ii) to maintain working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor; (c) to purchase or lease Property, securities or services primarily for the purpose of assuring the owner of any such primary obligation of the ability of the primary obligor to make payment of such primary obligation; (d) with respect to bankers' acceptances, letters of credit and similar credit arrangements, until a reimbursement obligation arises (which reimbursement obligation shall constitute Indebtedness); or (e) otherwise to assure or hold harmless the holder of such primary obligation against loss (in whole or in part) in respect thereof; *provided*, *however*,

that the term "Contingent Obligation" shall not include endorsements of instruments for deposit or collection in the ordinary course of business or any product warranties or other contingent obligations (other than with respect to borrowed money or capital leases) incurred in the ordinary course of business, including indemnities. The amount of any Contingent Obligation shall be deemed to be an amount equal to the stated or determinable amount of the primary obligation in respect of which such Contingent Obligation is made (or, if less, the maximum amount of such primary obligation for which such person may be liable, whether singly or jointly, pursuant to the terms of the instrument evidencing such Contingent Obligation) or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof (assuming such person is required to perform thereunder) as determined by such person in good faith.

"**Contribution Share**" shall have the meaning assigned to such term in Section 7.10(a).

"**Control**" shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a person, whether through the ownership of voting securities, by contract or otherwise, and the terms "**Controlling**" and "**Controlled**" shall have meanings correlative thereto.

"**Control Agreement**" shall have the meaning assigned to such term in the Security Agreement.

"**Convertible Indebtedness**" shall mean Indebtedness of the Borrower permitted to be incurred under the terms of this Agreement that is either (a) convertible into common stock of the Borrower (and cash in lieu of fractional shares) and/or cash (in an amount determined by reference to the price of such common stock) or (b) sold as units with call options, warrants or rights to purchase (or substantially equivalent derivative transactions) that are exercisable for common stock of the Borrower and/or cash (in an amount determined by reference to the price of such common stock).

"**Credit Extension**" shall mean the making of a Loan by a Lender.

"**Cumulative Amount**" shall mean, on any date of determination (the "**Reference Date**"), the sum of (without duplication):

(a) $10,000,000; *plus*

(b) the portion of Excess Cash Flow, determined on a cumulative basis for all fiscal years of the Borrower and its Subsidiaries, commencing with the fiscal year ending on September 30, 2023, that was not required to be applied to prepay Term Loans pursuant to Section 2.10(e); *minus* the aggregate amount of all voluntary prepayments made during such period that reduced on a dollar-for-dollar basis the amount required to be applied to prepay Term Loans pursuant to Section 2.10(e) in respect of such period; *plus*

(c) an amount determined on a cumulative basis from the Closing Date equal to the net cash proceeds from the issuance of Equity Interests of, or a contribution to the capital of, the Borrower (other than (I) to the extent constituting a Cure Amount or (II) proceeds from a Permitted Warrant Transaction or (III) to the extent that such cash proceeds have been previously applied or used for another purpose); *plus*

(d) an amount determined on a cumulative basis equal to the net cash proceeds received by the Borrower from Indebtedness or Disqualified Stock issued after the Closing Date and subsequently converted or exchanged into Qualified Stock of the Borrower or any direct or indirect parent company of the Borrower (other than to the extent constituting a Cure Amount); *plus*

(e) to the extent not included in the calculation of Consolidated Net Income, an amount determined on a cumulative basis equal to the net cash proceeds of sales of Investments previously made pursuant to Section 6.04(q) using the Cumulative Amount, up to a maximum amount of such original Investment; *plus*

(f) to the extent not included in the calculation of Consolidated Net Income, the aggregate amount of Dividends, profits, returns or similar amounts received in cash or Cash Equivalents on Investments previously made pursuant to Section 6.04(q) using the Cumulative Amount, up to a maximum amount of such original Investment; *plus*

(g) [reserved];

(h) the aggregate amount of prepayments which are declined or waived by any Lender pursuant to Section 2.10(h) ; *minus*

(i) the aggregate amount of (i) Investments made pursuant to Section 6.04(q) using the Cumulative Amount, (ii) dividends made pursuant to Section 6.07(e) using the Cumulative Amount, (iii) payments in respect of Junior Indebtedness made pursuant to Section 6.09(a)(i) using the Cumulative Amount and (iv) any other payment made hereunder using the Cumulative Amount, in each case during the period from and including the Business Day immediately following the Closing Date through and including the Reference Date (without taking account of the intended usage of the Cumulative Amount on such Reference Date).

"**Cure Amount**" shall have the meaning assigned to such term in Section 8.03(a).

"**Cure Notice**" shall have the meaning assigned to such term in Section 8.03(a).

"**Cure Right**" shall have the meaning assigned to such term in Section 8.03(a).

"**Cure Specified Date**" shall mean, with respect to any of the first three fiscal quarters of the Borrower in a fiscal year, within forty five (45) days after the end of such fiscal quarter, and with respect to the fourth fiscal quarter of the Borrower in a fiscal year, within ninety (90) days after the end of such fiscal quarter, in each case, commencing with the fiscal quarter ending March 31, 2022.

"**Daily Simple SOFR**" means, for any day, SOFR, with the conventions for this rate (which will include a lookback) being established by the Administrative Agent in accordance with the conventions for this rate recommended by the Relevant Governmental Body for determining "Daily Simple SOFR" for syndicated business loans; *provided* that if the Administrative Agent decides that any such convention is not administratively feasible for the Administrative Agent, then the Administrative Agent may establish another convention in its reasonable discretion.

"**Debt Issuance**" shall mean the incurrence by any Company of any Indebtedness after the Closing Date (other than as permitted by Section 6.01).

"**Debt Service**" shall mean, for any period, Cash Interest Expense for such period plus scheduled principal amortization (and other scheduled mandatory prepayments and repayments (whether pursuant to this Agreement or otherwise)) of all Indebtedness for such period (including the implied principal component of scheduled payments made in respect of permitted Capital Lease Obligations).

"**Debtor Relief Laws**" shall mean the Bankruptcy Code, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency,

reorganization, or similar debtor relief laws of the United States or other applicable jurisdictions from time to time in effect.

"**Default**" shall mean any event, occurrence or condition which is, or upon notice, lapse of time or both would constitute, an Event of Default.

"**Default Excess**" shall have the meaning assigned to such term in Section 2.16(c).

"**Default Period**" shall have the meaning assigned to such term in Section 2.16(c).

"**Default Rate**" shall have the meaning assigned to such term in Section 2.06(c).

"**Defaulted Loan**" shall have the meaning assigned to such term in the definition of Defaulting Lender.

"**Defaulting Lender**" shall mean any Lender that has (a) failed to fund its portion of any Borrowing within two Business Days of the date on which it shall have been required to fund the same (such Loan being a "**Defaulted Loan**"), unless the subject of a good faith dispute between Borrower and such Lender related hereto, (b) notified Borrower, the Administrative Agent or any other Lender in writing that it does not intend to comply with any of its funding obligations under this Agreement or has made a public statement to the effect that it does not intend to comply with its funding obligations under this Agreement or under agreements in which it commits to extend credit generally, unless such notification 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 notification or public statement) cannot be satisfied, (c) failed, within three Business Days after written request by the Administrative Agent or the Borrower, to confirm that it will comply with the terms of this Agreement relating to its obligations to fund prospective Loans (unless the subject of a good faith dispute between Borrower and such Lender); *provided* that any such Lender shall cease to be a Defaulting Lender under this clause (c) upon receipt of such confirmation by the Administrative Agent or the Borrower, (d) otherwise failed to pay over to the Borrower the, the Administrative Agent or any other Lender any other amount required to be paid by it hereunder within one Business Day of the date when due (unless such amount is subject to a good faith dispute), (e)(i) been adjudicated as, (or whose direct or indirect parent company has been adjudicated as), or determined by any Governmental Authority having regulatory authority over such person (or such person's direct or indirect parent company) or its Properties or assets to be, insolvent or (ii) become the subject of a bankruptcy or insolvency proceeding, or has had a receiver, conservator, trustee, administrator, assignee for the benefit of creditors or similar person charged with reorganization or liquidation of its business or custodian, appointed for it, or has taken any action in furtherance of, or indicating its consent to, approval of or acquiescence in any such proceeding or appointment, unless, in the case of any Lender referred to in this clause (e), the Borrower and the Administrative Agent shall be satisfied that such Lender intends, and has all approvals required to enable it, to continue to perform its obligations as a Lender hereunder. For the avoidance of doubt, a Lender shall not be deemed to be a Defaulting Lender solely by virtue of the ownership or acquisition of any Equity Interest in such Lender or its parent 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 of America 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 or (f) become, or has a direct or indirect parent company that has become, the subject of a Bail-in Action; *provided* that, as of any date of determination, the determination of whether any Lender is a Defaulting Lender hereunder shall not take into account, and shall not otherwise impair, any amounts funded by such Lender which have been assigned by such Lender to an SPC pursuant to Section 11.04(i). Any determination by the Administrative Agent

that a Lender is a Defaulting Lender under any one or more of clauses (a) through (f) above shall be conclusive and binding absent manifest error and such Lender shall be deemed to be a Defaulting Lender) upon delivery of written notice of such determination to the Borrower and each Lender.

"**Delayed Draw Term Loan Commitment**" shall mean, with respect to each Delayed Draw Term Loan Lender, the commitment, if any, of such Delayed Draw Term Loan Lender to make a Delayed Draw Term Loan. The aggregate principal amount of the Delayed Draw Term Loan Lenders' Delayed Draw Term Loan Commitments on the Closing Date is $35,000,000.

"**Delayed Draw Term Loan Commitment Expiration Date**" shall have the meaning assigned to such term in Section 2.02(f).

"**Delayed Draw Term Loan Commitment Fee Rate**" shall mean, for the period from (and including) the Closing Date to (but excluding) the Delayed Draw Term Loan Commitment Expiration Date, a rate per annum equal to 1.00% of the average daily unused portion of the Delayed Draw Term Loan Commitments of non-defaulting Lenders with Delayed Draw Term Loan Commitments, payable quarterly in arrears, and calculated on the basis of a 360-day year and shall be payable for the actual days elapsed (including the first day but excluding the last day).

"**Delayed Draw Term Loan Extension**" shall mean the making of a Delayed Draw Term Loan.

"**Delayed Draw Term Loan Facility"** shall mean the Delayed Draw Term Loan Commitments and the Delayed Draw Term Loans.

"**Delayed Draw Term Loan Lender**" shall mean a Lender with a Delayed Draw Term Loan Commitment or an outstanding Delayed Draw Term Loan.

"**Delayed Draw Term Loan Extension**" shall mean the making of a Delayed Draw Term Loan.

"**Delayed Draw Term Loans**" shall mean the delayed draw term loans made by the Delayed Draw Term Loan Lenders to the Borrower pursuant to Section 2.01(c). From and after the date of any borrowing of any Delayed Draw Term Loans, each Delayed Draw Term Loan shall be deemed a Term Loan hereunder and part of the same Class as the Initial Term Loans for all purposes hereunder.

"**Delayed Draw Ticking Fee**" shall have the meaning assigned to such term in Section 2.05(b).

"**Designated Capital Expenditures**" shall mean Capital Expenditures in amounts included in the Projections.

"**Discharge of the Guaranteed Obligations**" shall mean and shall have occurred when (i) all Guaranteed Obligations shall have been paid in full in cash and all other obligations under the Loan Documents shall have been performed (other than (a) those expressly stated to survive termination, (b) contingent obligations as to which no claim has been asserted and (c) obligations and liabilities under Specified Hedging Agreements and Bank Product Agreements as to which arrangements satisfactory to the applicable counterparties have been made) and (ii) all Commitments shall have terminated or expired.

"**Disposition**" shall mean, with respect to any Property, any conveyance, sale, lease, sublease, assignment, transfer or other disposition (including by way of merger or consolidation and including any Sale and Leaseback Transaction) of such Property, and the terms "**Dispose**", "**Disposed**" and "**Disposing**" shall have meanings correlative thereto.

"**Disqualified Institution**" shall mean any Person (or its subsidiaries and affiliates) who is an operating competitor of the Borrower or its subsidiaries and that is separately identified by the Borrower to the Administrative Agent by name in writing prior to the Closing Date (which list of operating competitors may be supplemented by the Borrower after the Closing Date by means of a written notice to the Administrative Agent; provided that (i) such supplementation shall not apply retroactively to disqualify any persons that have previously acquired an assignment or participation in the Loans or commitments hereunder and (ii) such list and any supplement thereto may be posted by the Administrative Agent for the Lenders.

"**Disqualified Stock**" shall mean any equity interest that, by its terms (or by the terms of any security or instrument into which it is convertible or for which it is exchangeable or exercisable), or upon the happening of any event, (a) matures (excluding any maturity as the result of an optional redemption by the issuer thereof) or is mandatorily redeemable (other than for shares of equity that are not Disqualified Stock), pursuant to a sinking fund obligation or otherwise, or is redeemable (other than for shares of equity that are not Disqualified Stock) at the option of the holder thereof, in whole or in part, or requires the payment of any cash dividend or any other scheduled payment (other than in shares of equity that are not Disqualified Stock) constituting a return of capital, in each case, on a date that is prior to 91 days after the Final Maturity Date, or (b) is convertible into or exchangeable or exercisable for (i) debt securities or other indebtedness or (ii) any equity interest referred to in clause (a) above or (c) contains any repurchase or payment obligation (other than payments or dividends solely in shares of equity that are not Disqualified Stock); *provided*, *however*, that any equity interests that would not constitute Disqualified Stock but for provisions thereof giving holders thereof (or the holders of any security into or for which such equity interests is convertible, exchangeable or exercisable) the right to require the issuer thereof to redeem such equity interests upon the occurrence of a Change in Control shall not constitute Disqualified Stock if such equity interests provide that the issuer thereof will not redeem any such equity interests pursuant to such provisions prior to the repayment in full of the Facilities (or any refinancing thereof).

"**Dividend**" shall mean, with respect to any person, that such person has declared or paid a dividend or returned any equity capital to the holders of its Equity Interests or authorized or made any other distribution, payment or delivery of Property (other than common equity of such person) or cash to the holders of its Equity Interests as such, or redeemed, retired, purchased or otherwise acquired, directly or indirectly, for consideration any of its Equity Interests outstanding (or any options or warrants issued by such person with respect to its Equity Interests), or set aside or otherwise reserved, directly or indirectly, any funds for any of the foregoing purposes, or shall have permitted any of its Subsidiaries to purchase or otherwise acquire for consideration any of the outstanding Equity Interests of such person (or any options or warrants issued by such person with respect to its Equity Interests). Without limiting the foregoing, "**Dividends**" with respect to any person shall also include all payments made or required to be made by such person with respect to any stock appreciation rights, plans, equity incentive or achievement plans or any similar plans or setting aside of or otherwise reserving any funds for the foregoing purposes.

"**Dollar Equivalent**" shall mean, as to any amount denominated in a Judgment Currency as of any date of determination, the amount of Dollars that would be required to purchase the amount of such Judgment Currency based upon the spot selling rate at which the Administrative Agent (or another financial institution designated by the Administrative Agent from time to time) offers to sell such Judgment Currency for Dollars in the London foreign exchange market at approximately 11:00 a.m. London time on such date for delivery two Business Days later.

"**Dollars**" or "**$**" shall mean lawful money of the United States.

"**Domestic Subsidiary**" shall mean any Subsidiary organized under the laws of any jurisdiction within the United States.

"**Early Opt-in Effective Date**" means, with respect to any Early Opt-in Election, the sixth (6th) Business Day after the date notice of such Early Opt-in Election is provided to the Lenders, so long as the Administrative Agent has not received, by 5:00 p.m. (New York City time) on the fifth (5th) Business Day after the date notice of such Early Opt-in Election is provided to the Lenders, written notice of objection to such Early Opt-in Election from Lenders comprising the Required Lenders.

"**Early Opt-in Election**" shall mean the occurrence of:

(a) a notification by the Administrative Agent to (or the request by the Borrower to the Administrative Agent to notify) each of the other parties hereto that at least five currently outstanding U.S. dollar-denominated syndicated credit facilities at such time contain (as a result of amendment or as originally executed) a SOFR-based rate (including SOFR, a term SOFR or any other rate based upon SOFR) as a benchmark rate (and such syndicated credit facilities are identified in such notice and are publicly available for review), and

(b) the joint election by the Administrative Agent and the Borrower to trigger a fallback from USD LIBOR and the provision by the Administrative Agent of written notice of such election to the Lenders.

"**Earn-Outs**" shall mean, with respect to a Permitted Acquisition or any other acquisition of any assets or Property by any Company, that portion of the purchase consideration therefor and that portion of all other payments and liabilities (whether payable in cash or by exchange of Equity Interests or of any Property or otherwise), directly or indirectly, payable by any Company in exchange for, or as part of, or in connection with, such Permitted Acquisition or such other acquisition, as the case may be, that is deferred for payment to a future time after the consummation of such Permitted Acquisition or such other acquisition, as the case may be, whether or not any such future payment is subject to the occurrence of any contingency, and includes any and all payments representing the purchase price and any assumptions of Indebtedness, "earn-outs" and other agreements to make any payment the amount of which is, or the terms of payment of which are, in any respect subject to or contingent upon the revenues, income, cash flow or profits (or the like) of any person or business.

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

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

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

"**Employee Benefit Plan**" shall mean any Pension Plan and any other "employee benefit plan" as defined in Section 3(3) of ERISA (other than a Multiemployer Plan and other than a Foreign Plan) which is or was maintained, contributed to or required to be contributed to by any Company.

"**Engagement Letter**" shall mean the Engagement Letter, dated as of August 22, 2021 between Inotiv, Inc. and Jefferies Finance LLC (as amended, restated, amended and restated, supplemented or modified from time to time in accordance with its terms).

"**Envigo Israel Sale**" means the sale of Envigo CRS (Israel) Ltd and/or Envigo RMS (Israel) Ltd and/or their respective assets that do not constitute Collateral.

"**Environment**" shall mean any surface or subsurface physical medium or natural resource, including air, land, soil, surface waters, ground waters, sediments (including stream and river sediments), biota and any indoor surface area, surface or physical medium, and any ecological systems and living organisms supported by these media.

"**Environmental Claim**" shall mean any claim, notice, demand, Order, action, suit, investigation, proceeding, or other communication or legal proceeding alleging or asserting liability or obligations under Environmental Law, including liability or obligation for investigation, enforcement proceedings, governmental response, assessment, remediation, removal, cleanup, Response, corrective action, monitoring, post-remedial or post-closure studies, investigations, operations and maintenance, injury, damage, destruction or loss to natural resources, personal injury, medical monitoring, wrongful death, property damage, fines, penalties or other costs resulting from, related to or arising out of (a) the presence, Release or threatened Release of Hazardous Materials in, on, into, through or from the Environment at any location or (b) any violation of or non-compliance with Environmental Law, and shall include any claim, notice, demand, Order, action, suit or proceeding seeking damages (including the costs of remediation), contribution, indemnification, cost recovery, penalties, fines, indemnities, compensation or injunctive relief resulting from, related to or arising out of the presence, Release or threatened Release of Hazardous Material or alleged injury or threat of injury to human health and safety (as it relates to exposure to Hazardous Materials) or the Environment.

"**Environmental Law**" shall mean any and all applicable Legal Requirements relating to or imposing liability or standards of conduct concerning human health and safety (as it relates to exposure to Hazardous Materials) or pollution, preservation, or protection of the Environment, the Release, threatened Release, or the generation, manufacture, use, labeling, treatment, storage, handling, or transportation of Hazardous Material, natural resources or natural resource damages, or occupational safety or health (as it relates to exposure to Hazardous Materials).

"**Environmental Permit**" shall mean any permit, license, approval, consent, notifications, exemptions, registration or other authorization required by or from a Governmental Authority under any Environmental Law.

"**Equity Interest**" shall mean, with respect to any person, any and all shares, interests, rights to purchase, warrants, options, participations or other equivalents, including membership interests (however designated, whether voting or nonvoting), of equity of such person, including, if such person is a partnership, partnership interests (whether general or limited), or if such person is a limited liability company, membership interests, and any other interest or participation that confers on a person the right to receive a share of the profits and losses of, or distributions of Property of, such partnership, whether outstanding on the Closing Date or issued on or after the Closing Date, but excluding Convertible Indebtedness.

"**Equity Issuance**" shall mean, without duplication, (a) any issuance or sale by the Borrower of any Equity Interests in the Borrower (including any Equity Interests issued upon exercise of any warrant or option or equity-based derivative) or any warrants or options or equity-based derivatives to purchase Equity Interests of the Borrower or (b) any contribution to the capital of the Borrower.

"**ERISA**" shall mean the Employee Retirement Income Security Act of 1974, as amended, and the rules and regulations promulgated thereunder by any Governmental Authority, as from time to time in effect.

"**ERISA Affiliate**" shall mean, with respect to any person, any trade or business (whether or not incorporated) that, together with such person, is treated as a single employer under Section 414(b) or (c) of the Code or Section 4001 of ERISA, 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**" shall mean (i) a "reportable event" within the meaning of Section 4043(c) of ERISA (other than any such event with respect to which the notice requirement has been waived) with respect to any Pension Plan; (ii) the failure of any Company or any ERISA Affiliate to meet the minimum funding standard of Section 412 or 430 of the Code or Section 302 or 303 of ERISA with respect to any Pension Plan (whether or not waived in accordance with Section 412(c) of the Code) or the failure of any Company or any ERISA Affiliate to make by its due date a required installment under Section 430(j) of the Code with respect to any Pension Plan or the failure of any Company or any ERISA Affiliate to make any required contribution to a Multiemployer Plan, or the filing of any request for or receipt of a minimum funding waiver under Section 412 of the Code with respect to any Pension Plan; (iii) a determination that any Pension Plan is, or is expected to be, in "at risk" status (as defined in Section 430 of the Code or Section 303 of ERISA); (iv) the provision by the administrator of any Pension Plan pursuant to Section 4041(a)(2) of ERISA of a notice of intent to terminate such Pension Plan in a distress termination described in Section 4041(c) of ERISA, the termination of any Pension Plan under Section 4041(c) of ERISA or the provision by the administrator of any Pension Plan pursuant to Section 4041(a)(2) of ERISA of a notice of intent to terminate such Pension Plan, if such termination would require material additional contributions in order to be considered a standard termination within the meaning of Section 4041(b) of ERISA; (v) a determination that any Multiemployer Plan is, or is expected to be, in "critical" or "endangered" status under Section 432 of the Code or Section 305 of ERISA; (vi) the withdrawal by any Company or any ERISA Affiliate from any Pension Plan with two or more contributing sponsors or the termination of any such Pension Plan resulting in liability of any Company or any ERISA Affiliate pursuant to Section 4063 or 4064 of ERISA; (vii) the institution by the PBGC of proceedings to terminate any Pension Plan, or the occurrence of any event or condition which could reasonably be expected to constitute grounds under ERISA for the termination of, or the appointment of a trustee to administer, any Pension Plan; (viii) the imposition of liability on any Company or any ERISA Affiliate pursuant to Section 4062(e) or 4069 of ERISA or by reason of the application of Section 4212(c) of ERISA; (ix) the complete or partial withdrawal of any Company or any ERISA Affiliate from any Multiemployer Plan (within the meaning of Sections 4203 and 4205 of ERISA) if there is any potential liability therefor, or the receipt by any Company or any ERISA Affiliate of notice from any Multiemployer Plan that it is in reorganization or insolvency pursuant to Section 4245 of ERISA, or that it intends to terminate or has terminated under Section 4041A or 4042 of ERISA; (x) the failure of any Pension Plan (or any other Employee Benefit Plan intended to be qualified under Section 401(a) of the Code) to qualify under Section 401(a) of the Code, or the failure of any trust forming part of any Pension Plan to qualify for exemption from taxation under Section 501(a) of the Code; (xi) the imposition of a Lien pursuant to Section 430(k) of the Code or pursuant to ERISA or a violation of Section 436 of the Code with respect to any Pension Plan; or (xii) a Foreign Plan Event.

"**Erroneous Payment**" shall have the meaning assigned to it in Section 10.14(a).

"**Erroneous Payment Deficiency Assignment**" shall have the meaning assigned to it in Section 10.14(d).

"**Erroneous Payment Impacted Class**" shall have the meaning assigned to it in Section 10.14(d).

"**Erroneous Payment Return Deficiency**" shall have the meaning assigned to it in Section 10.14(d).

"**Erroneous Payment Subrogation Rights**" shall have the meaning assigned to it in Section 10.14(d).

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

"**Eurodollar Borrowing**" shall mean a Borrowing comprised of Eurodollar Loans.

"**Eurodollar Loan**" shall mean any Eurodollar Revolving Loan or Eurodollar Term Loan.

"**Eurodollar Revolving Borrowing**" shall mean a Borrowing comprised of Eurodollar Revolving Loans.

"**Eurodollar Revolving Loan**" shall mean any Revolving Loan bearing interest at a rate determined by reference to the Adjusted LIBOR Rate in accordance with the provisions of Article II.

"**Eurodollar Term Loan**" shall mean any Term Loan bearing interest at a rate determined by reference to the Adjusted LIBOR Rate in accordance with the provisions of Article II.

"**Eurodollar Unavailability Period**" shall mean any period of time during which a notice delivered to the Borrower in accordance with Section 2.11 or Section 2.12(e) shall remain in effect.

"**Event of Default**" shall have the meaning assigned to such term in Section 8.01.

"**Excess Cash Flow**" shall mean, for any Excess Cash Flow Period:

(a) the sum, without duplication, of

(i) Consolidated EBITDA for such Excess Cash Flow Period;

(ii) cash items of income actually received by the Borrower or any of its Subsidiaries during such Excess Cash Flow Period not included (or deducted) in calculating Consolidated EBITDA; and

(iii) the decrease, if any, in Net Working Capital from the start to the end of such Excess Cash Flow Period; *minus*

(b) the sum, in each case without duplication, of:

(i) the aggregate amount of cash Consolidated Tax Expense paid or payable by the Borrower and its Subsidiaries with respect to such Excess Cash Flow Period and, if payable, for which, to the extent required under GAAP, reserves have been established;

(ii) the aggregate amount of Debt Service for such Excess Cash Flow Period;

(iii) the aggregate amount of permanent repayments and prepayments of Indebtedness (including the Voluntary Loan Prepayment Amount made during such Excess Cash Flow Period that is applied by Borrower to Term Loans that are due and payable within the same fiscal year that such amortization payment is due pursuant to Section 2.09, as applicable, but excluding, in each case, the Voluntary Loan Prepayment Amount for such Excess Cash Flow Period that is applied by Borrower to Term Loans that are due and payable during such Excess Cash Flow Period in any fiscal quarter following the date such Voluntary Loan Prepayment Amount is made) made by the

Borrower and its Subsidiaries during such Excess Cash Flow Period but only to the extent that (x) such repayments and prepayments by their terms cannot be reborrowed or redrawn, (y) such repayments and prepayments do not occur in connection with a refinancing of all or a portion of such Indebtedness, and (z) such repayments and prepayments are funded with Internally Generated Funds (other than to the extent made using the Cumulative Amount);

(iv) the aggregate amount of Capital Expenditures actually paid or committed to be paid in cash during such Excess Cash Flow Period and anticipated to be made prior to the date the mandatory prepayment is required by Section 2.10(e) to the extent funded from Internally Generated Funds (other than to the extent made using the Cumulative Amount); *provided* that any such amounts not actually used shall be added to the calculation of Excess Cash Flow in the subsequent Excess Cash Flow Period;

(v) the aggregate amount of Acquisition Consideration with respect to Permitted Acquisitions, other Investments permitted hereunder, other than Investments of a type permitted under Section 6.04(b) (other than clause (iv) therein) or (f) in each case, paid in cash during such Excess Cash Flow Period (or committed to be paid in cash during such Excess Cash Flow Period and anticipated to be made prior to the date the mandatory prepayment is required by Section 2.10(e); *provided* that any such amounts not actually used shall be added to the calculation of Excess Cash Flow in the subsequent Excess Cash Flow Period) to the extent funded from Internally Generated Funds (other than to the extent made using the Cumulative Amount);

(vi) the aggregate amount of expenditures, other than Capital Expenditures, made in cash during such Excess Cash Flow Period and capitalized in accordance with GAAP during such Excess Cash Flow Period to the extent such expenditures are funded from Internally Generated Funds (other than to the extent made using the Cumulative Amount);

(vii) the aggregate amount of cash items of expense (including losses) during such Excess Cash Flow Period not deducted in calculating Consolidated EBITDA;

(viii) the aggregate amount of any Dividends (other than Dividends of a type permitted under Section 6.07(a) or (e)) paid during such Excess Cash Flow Period;

(ix) the aggregate amount of any cash paid to repurchase Term Loans to the extent funded from Internally Generated Funds;

(x) the aggregate amount of cash items included in the calculation of Consolidated EBITDA for such period to the extent paid in cash by the Borrower and its Subsidiaries during such Excess Cash Flow Period;

(xi) the amount of any severance costs and expenses, restructuring expenses, charges, accruals and reserves, cost synergies and operating expense reductions, in each case, to the extent constituting adjustments included in the calculation of Consolidated EBITDA for such Excess Cash Flow Period;

(xii) the increase, if any, in Net Working Capital from the start to the end of such Excess Cash Flow Period;

(xiii) the amount of any non-cash gain included in Consolidated EBITDA for such Excess Cash Flow Period recognized as a result of any Dispositions; and

(xiv) cash payments by the Borrower and its Subsidiaries during such Excess Cash Flow Period in respect of long-term liabilities of the Borrower and its Subsidiaries (other than obligations described in clause (v) above or Indebtedness) to the extent such payments are not expensed during any Excess Cash Flow Period or are not deducted in calculating Consolidated EBITDA;

provided, that, for purposes of calculating Excess Cash Flow for any Excess Cash Flow Period, for each Permitted Acquisition or other Investment consummated during such Excess Cash Flow Period, the Consolidated EBITDA of a target of any Permitted Acquisition or other Investment shall be included in such calculation only from and after the date of the consummation of such Permitted Acquisition or Investment, as applicable.

"**Excess Cash Flow Period**" shall mean, commencing with the fiscal year ending on September 30, 2022, each fiscal year of the Borrower.

"**Excess Net Cash Proceeds**" shall have the meaning assigned to such term in Section 2.10(c)(i).

"**Excess Payment**" shall have the meaning assigned to such term in Section 7.10(a).

"**Exchange Act**" shall mean the Securities Exchange Act of 1934, as amended.

"**Excluded Assets**" shall have the meaning assigned to such term in the Security Agreement.

"**Excluded Subsidiary**" shall mean (i) any Subsidiary that is prohibited by applicable law at the time such Subsidiary becomes a Subsidiary from becoming a Guarantor, (ii) (A) any Subsidiary that is a CFC, to the extent making such CFC a Guarantor would result in material adverse tax consequences to the Borrower (as mutually determined by the Administrative Agent and the Borrower) and any and all direct or indirect subsidiaries of such excluded CFC or CFC Holding Company (as defined below) and (B) any Subsidiary that has no material assets other than equity (or equity and indebtedness) of excluded CFCs described in the foregoing clause (ii)(A) (a "**CFC Holding Company**") and/or excluded CFC Holding Companies, (iii) any Immaterial Subsidiary and (iv) any Subsidiary acquired pursuant to a Permitted Acquisition or other similar Investment permitted by this Agreement that is an obligor in respect of secured indebtedness that is permitted pursuant to this Agreement and not incurred in contemplation of such Permitted Acquisition or other similar investment and any Subsidiary thereof that Guarantees such secured Indebtedness, in each case to the extent (and for so long as) such secured indebtedness prohibits such subsidiary from becoming a Guarantor. For the avoidance of doubt, the Borrower shall at no time constitute an Excluded Subsidiary.

"**Excluded Swap Obligation**" shall mean any obligation of any Guarantor 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 (a "**Swap**"), if, and to the extent that, all or a portion of the guarantee by such Guarantor of, or the grant by such Guarantor or the Borrower of a security interest to secure, such Swap (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.

"**Excluded Taxes**" shall mean, with respect to the Administrative Agent or any Lender, as applicable (each, a "**Recipient**"), of any payment to be made by or on account of any obligation of any Loan Party hereunder, or under any Loan Document, (a) Taxes imposed on (or measured by) its net income (however denominated), franchise Taxes, and branch profits Taxes, in each case (i) imposed by the jurisdiction under the laws of which such Recipient is organized or in which its principal office is located

or, in the case of any Lender, in which its applicable lending office is located or (ii) that are Other Connection Taxes, (b) in the case of a Lender (other than an assignee pursuant to a request by Borrower under Section 2.16), any U.S. federal withholding Tax that (i) is imposed on amounts payable to such Recipient at the time such Recipient becomes a party to this Agreement (or designates a new lending office) or (ii) is attributable to such Lender's failure to comply with Section 2.15(e), in each case except to the extent that such Recipient (or its assignor, if any) was entitled, at the time of designation of a new lending office (or assignment), to receive additional amounts with respect to such withholding Tax pursuant to Section 2.15(a), and (c) any United States federal withholding Taxes imposed under FATCA.

"**Executive Order**" shall have the meaning assigned to such term in Section 3.20(a).

"**Existing Lien**" shall have the meaning assigned to such term in Section 6.02(b).

"**Extended Term Loans**" shall have the meaning specified in Section 2.20(a).

"**Extending Lender**" shall have the meaning specified in Section 2.20(a).

"**Extension**" shall have the meaning specified in Section 2.20(a).

"**Extension Offer**" shall have the meaning specified in Section 2.20(a).

"**Facilities**" shall mean the Term Loan Facility and the Revolving Credit Facility.

"**Fair Market Value**" shall mean, with respect to any asset (including any Equity Interests of any person), the price at which a willing buyer (that is not an Affiliate of the seller), and a willing seller who does not have to sell, would agree to purchase and sell such asset, as determined in good faith by the Board of Directors of the Borrower or, pursuant to a specific delegation of authority by such Board of Directors or a designated senior executive officer, of the Borrower (or the Subsidiary of the Borrower selling such asset).

"**FATCA**" shall mean sections 1471 through 1474 of the Code, as of the Closing Date (or any amended or successor version to the extent such version is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof, and any intergovernmental agreements or agreements implementing the foregoing entered into pursuant to Section 1471(b) of the Code.

"**Federal Funds Effective Rate**" shall mean, for any day, the weighted average of the rates on overnight federal funds transactions with members of the Federal Reserve System of the United States arranged by federal funds brokers, as published on the next succeeding Business Day by the Federal Reserve Bank of New York, or, if such rate is not so published for any day that is a Business Day, the average (rounded upwards, if necessary to the next 1/100th of 1%) of the quotations for the day for such transactions received by the Administrative Agent from three federal funds brokers of recognized standing selected by it.

"**Fees**" shall mean the Commitment Fees, the Administrative Agent Fees and the other fees referred to in Section 2.05(d).

"**Final Maturity Date**" shall mean the later of (i) the Revolving Maturity Date and (ii) the Term Loan Maturity Date.

"**Financial Officer**" of any person shall mean any of the president, chief operating officer, chief financial officer, principal accounting officer, treasurer, or controller of such person.

"**FIRREA**" shall mean the Financial Institutions Reform, Recovery and Enforcement Act of 1989, as amended.

"**First Lien Leverage Ratio**" shall mean, at any date of determination, the ratio of (a) the Consolidated First Lien Indebtedness outstanding on such date *minus* Unrestricted Cash and Cash Equivalents of the Borrower and its Subsidiaries that are Domestic Subsidiaries in favor of the Collateral Agent in an aggregate amount not to exceed $35,000,000 to (b) Consolidated EBITDA for the Test Period then most recently ended.

"**Fixed Charge Coverage Ratio**" shall mean, as of the last day of any specified Test Period, the ratio of: (a) (i) Consolidated EBITDA for the Test Period ending on such date, *minus* (ii) Consolidated Capital Expenditures other than Consolidated Capital Expenditures made in cash in such period that are financed with cash proceeds of (A) Delayed Draw Term Loans or (B) Equity Issuances (other than Permitted Cure Securities), *plus* (iii) the aggregate amount of Unrestricted Cash and Cash Equivalents in excess of $35,000,000 to (b) *the sum of* (i) Consolidated Interest Expense paid in cash for such period, *plus* (ii) scheduled amortization principal payments of Indebtedness that have been made or required to have been made during such period pursuant to this Agreement (including scheduled principal payments in respect of the Term Loans and scheduled reductions of the Revolving Commitments to the extent accompanied by a reduction in the amount of Revolving Exposure, but excluding any mandatory prepayments pursuant to Section 2.10(c) and Section 2.10(e) of this Agreement), *plus* (iii) Taxes based on income paid in cash in such period, *plus* (iv) without duplication of the foregoing, payments made during such Test Period on account of principal of Indebtedness of the Borrower and its Subsidiaries.

"**Flood Certificate**" shall mean a "Standard Flood Hazard Determination Form" of the Federal Emergency Management Agency and any successor Governmental Authority performing a similar function.

"**Floor**" shall mean the benchmark rate floor, if any, provided in this Agreement initially (as of the execution of this Agreement, the modification, amendment or renewal of this Agreement or otherwise) with respect to USD LIBOR.

"**Foreign Lender**" shall mean any Lender that is not a "United States person" within the meaning of Section 7701(a)(30) of the Code.

"**Foreign Plan**" shall mean any employee pension benefit plan, fund, program, policy, arrangement, or agreement, or other similar program established, maintained or contributed to by any Company on behalf of (or for the benefit of) its employees, officers or directors employed, or otherwise engaged, outside the United States.

"**Foreign Plan Event**" shall mean, with respect to any Foreign Plan, (i) the existence of unfunded liabilities in excess of the amount permitted under any applicable Legal Requirement, or in excess of the amount that would be permitted absent a waiver from a Governmental Authority, (ii) the failure to make the required contributions or payments, under any applicable Legal Requirement, on or before the due date for such contributions or payments, (iii) the receipt of a notice from a Governmental Authority relating to the intention to terminate such Foreign Plan or to appoint a trustee or similar official to administer such Foreign Plan, or alleging the insolvency of such Foreign Plan, or (iv) the incurrence of any liability by any Company under applicable Legal Requirements on account of the complete or partial termination of such Foreign Plan or the complete or partial withdrawal of any participating employer therein.

"**Foreign Subsidiary**" shall mean a Subsidiary that is not a Domestic Subsidiary.

"**Funding Default**" shall have the meaning assigned to such term in Section 2.16(c).

"**GAAP**" shall mean generally accepted accounting principles in the United States applied on a consistent basis.

"**Governmental Authority**" shall mean any federal, state, local or foreign (whether civil, administrative, criminal, military or otherwise) court, central bank or governmental agency, tribunal, authority, instrumentality or regulatory body or any subdivision thereof or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers of or pertaining to government (including any supra-national bodies such as the European Union or the European Central Bank).

"**Granting Lender**" shall have the meaning assigned to such term in Section 11.04(i).

"**Guaranteed Obligations**" shall have the meaning assigned to such term in Section 7.01.

"**Guarantees**" shall mean the guarantees issued pursuant to Article VII by each of the Guarantors.

"**Guarantors**" shall mean the Subsidiary Guarantors and, with respect to Hedging Obligations and Bank Product Obligations, the Borrower.

"**Hazardous Materials**" shall mean any substances, chemicals, or wastes that are listed, regulated, or otherwise defined as hazardous, toxic, radioactive, a pollutant or a contaminant (or words of similar regulatory intent or meaning), under any Environmental Laws, or which could give rise to liability under any Environmental Law, including but not limited to, polychlorinated biphenyls ("**PCBs**") or any substance or compound containing PCBs, asbestos or any asbestos-containing materials in any form or condition, lead-based paint, pesticides, radon or any other radioactive materials including any source, special nuclear or by-product material, petroleum, petroleum by-products, crude oil or any fraction thereof, toxic mold, or per- or polyfluoroalkyl substances (PFAS).

"**Hedging Agreement**" shall mean (a) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, currency swap transactions, cross-currency rate swap transactions, currency options, cap transactions, floor transactions, collar transactions, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options or warrants to enter into any of the foregoing), whether or not any such transaction is governed by, or otherwise subject to, any master agreement or any netting agreement, and (b) any and all transactions or arrangements of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement (or similar documentation) published from time to time by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement, or any other master agreement (any such agreement or documentation, together with any related schedules, a "**Master Agreement**"), including any such obligations or liabilities under any Master Agreement.

"**Hedging Obligations**" shall mean obligations under or with respect to Hedging Agreements.

"**Historical Financial Statements**" shall mean (a) the audited consolidated balance sheet of the Borrower and certain of its Affiliates (as specified therein) as at the end of the fiscal years ended September 30, 2020, 2019 and 2018, (b) the unaudited consolidated balance sheet of the Borrower and certain of its

Affiliates (as specified therein) as at the end of the fiscal quarter ended June 30, 2021, (c) the unaudited consolidated balance sheet of Envigo and certain of its Affiliates (as specified therein) as of the dates specified therein and, in each case, the related consolidated statements of income or operations, changes in stockholders' equity and cash flows for such fiscal periods, including the notes thereto.

"**Immaterial Subsidiary**" shall mean, as of any date, any Subsidiary (x) whose total assets, in the aggregate with the total assets of all other Subsidiaries constituting Immaterial Subsidiaries, in each case, as measured as of the last day of the fiscal quarter of the Borrower most recently ended for which financial statements have been delivered, equal or are less than 2.5% of Consolidated Total Assets, (y) whose total revenue in the aggregate with the total revenue of all other Subsidiaries constituting Immaterial Subsidiaries, in each case, as measured as of the last day of the fiscal quarter of the Borrower most recently ended for which financial statements have been delivered, equal or are less than 2.5% of consolidated total revenues of the Borrower and its Subsidiaries and (z) whose Consolidated EBITDA, in the aggregate with Consolidated EBITDA of all other Subsidiaries constituting Immaterial Subsidiaries, in each case, as measured as of the last day of the fiscal quarter of the Borrower most recently ended for which financial statements have been delivered, equal or are less than 2.5% of Consolidated EBITDA; *provided* that a Subsidiary will not be considered to be an Immaterial Subsidiary if it directly or indirectly, guarantees or otherwise provides direct credit support for any Indebtedness of any Loan Party, or if it owns any Intellectual Property that is material to the business of the Borrower or any other Subsidiary.

"**Increased Amount Date**" shall have the meaning assigned to such term in Section 2.19(a).

"**Increasing Lenders**" shall have the meaning assigned to such term in Section 2.19(b).

"**Incremental Excess Yield**" shall have the meaning assigned to such term in Section 2.19(a).

"**Incremental Facility**" shall have the meaning assigned to such term in Section 2.19(a).

"**Incremental Loan Amendment**" shall have the meaning assigned to such term in Section 2.19(c).

"**Indebtedness**" of any person shall mean, without duplication, (a) all obligations of such person for borrowed money or advances (including unreimbursed amounts outstanding under letters of credit and any Convertible Indebtedness); (b) all obligations of such person evidenced by loan agreements, bonds, debentures, notes or similar instruments; (c) all obligations of such person under conditional sale or other title retention agreements relating to Property purchased by such person (even though the rights and remedies of the seller or lender under such agreement in the event of default are limited to repossession or sale of such Property); (d) all obligations of such person issued or assumed as part of the deferred purchase price of Property or services (excluding (w) trade accounts payable and accrued obligations incurred in the ordinary course of business on normal trade terms, (x) deferred rent obligations, (y) customary obligations under employment arrangements and (z) purchase price adjustments or Earn-Outs that have not yet become liabilities on the balance sheet of such person in accordance with GAAP); (e) all Indebtedness of others secured by any Lien on Property owned or acquired by such person, whether or not the obligations secured thereby have been assumed, but limited to the lower of (i) the Fair Market Value of such Property and (ii) the amount of the Indebtedness secured; (f) all Capital Lease Obligations, Purchase Money Obligations and Off-Balance Sheet Obligations of such person; (g) the amount of all obligations of such person with respect to the redemption, repayment or other repurchase of Disqualified Stock; (h) all Hedging Obligations to the extent required to be reflected on a balance sheet of such person; (i) all obligations of such person for the reimbursement of any obligor in respect of letters of credit (but only to the extent of drawn but unreimbursed amounts thereunder), letters of guaranty, bankers' acceptances and similar credit transactions; and (j) all Contingent Obligations of such person in respect of Indebtedness or obligations of

others of the kinds referred to in clauses (a) through (i) above. The Indebtedness of any person shall include the Indebtedness of any other entity (including any partnership in which such person is a general partner) to the extent such person is liable therefor as a result of such person's ownership interest in or other relationship with such entity, except (other than in the case of general partner liability) to the extent that terms of such Indebtedness expressly provide that such person is not liable therefor; *provided* that Indebtedness shall not include accrued expenses, deferred revenue, deferred rent, deferred taxes and deferred compensation and customary obligations under employment arrangements.

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

"**Indemnitee**" shall have the meaning assigned to such term in Section 11.03(b).

"**Information**" shall have the meaning assigned to such term in Section 11.12.

"**Initial Term Lender**" shall mean any Lender with an Initial Term Loan Commitment or holding Initial Term Loans.

"**Initial Term Loan Commitment**" means, with respect to each Initial Term Lender, the commitment of such Initial Term Lender to make Initial Term Loans. The aggregate amount of the Initial Term Loan Commitments on the Closing Date is $165,000,000.

"**Initial Term Loans**" means the term loans made by the Initial Term Lenders to the Borrower pursuant to Section 2.01(a).

"**Insolvency Law**" shall mean the Bankruptcy Code of the United States, and all other insolvency, bankruptcy, receivership, liquidation, conservatorship, assignment for the benefit of creditors, moratorium, rearrangement, reorganization, or similar Legal Requirements of the United States or other applicable jurisdictions from time to time in effect and affecting the rights of creditors generally.

"**Insurance Policies**" shall mean the insurance policies and coverages required to be maintained by each Loan Party that is an owner or lessee of Mortgaged Property with respect to the applicable Mortgaged Property pursuant to Section 5.04 and all renewals and extensions thereof.

"**Insurance Requirements**" shall mean, collectively, all material provisions of the Insurance Policies, all material requirements of the issuer of any of the Insurance Policies and all material Orders, rules, regulations and any other requirements of the National Board of Fire Underwriters (or any other body exercising similar functions) binding upon any Loan Party that is an owner of Mortgaged Property and applicable to the Mortgaged Property or any use or condition thereof.

"**Intellectual Property**" shall have the meaning assigned to such term in Section 3.06(a).

"**Interest Election Request**" shall mean a request by Borrower to convert or continue a Revolving Borrowing, Term Borrowing in accordance with Section 2.08(b), substantially in the form of Exhibit D.

"**Interest Payment Date**" shall mean (a) with respect to any ABR Loan, the last Business Day of each fiscal quarter to occur during any period in which such Loan is outstanding, (b) with respect to any Eurodollar Loan, the last day of the Interest Period applicable to the Borrowing of which such Loan is a part and, in the case of a Eurodollar Loan with an Interest Period of more than three months' duration, each day that would have been an Interest Payment Date had successive Interest Periods of three months'

duration been applicable to such Borrowing, (c) with respect to any Revolving Loan, the Revolving Maturity Date or such earlier date on which the Revolving Commitments are terminated and (d) with respect to any Term Loan, the applicable Term Loan Maturity Date.

"**Interest Period**" shall mean, with respect to any Eurodollar Borrowing, the period commencing on the date of such Borrowing and ending on the numerically corresponding day in the calendar month that is one, three or six months thereafter or, to the extent agreed to by all applicable Lenders, twelve months or shorter than one month thereafter, as the Borrower may elect; *provided* that (a) if any Interest Period would end on a day other than a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless such next succeeding Business Day would fall in the next calendar month, in which case such Interest Period shall end on the next preceding Business Day and (b) any Interest Period that commences on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the last calendar month of such Interest Period) shall end on the last Business Day of the last calendar month of such Interest Period. For purposes hereof, the date of a Borrowing initially shall be the date on which such Borrowing is made and thereafter shall be the effective date of the most recent conversion or continuation of such Borrowing.

"**Internally Generated Funds**" shall mean funds not constituting the proceeds of any Indebtedness, Debt Issuance, Equity Issuance, Asset Sale or Casualty Event (in each case, without regard to the exclusions from the definitions thereof).

"**Investments**" shall have the meaning assigned to such term in Section 6.04.

"**Joinder Agreement**" shall mean a joinder agreement substantially in the form of Exhibit 3 to the Security Agreement.

"**Judgment Currency**" shall have the meaning assigned to such term in Section 11.18.

"**Judgment Currency Conversion Date**" shall have the meaning assigned to such term in Section 11.18.

"**Junior Indebtedness**" shall mean any Indebtedness of any Company that is (x) secured by a Lien that is junior in priority to the Lien securing the Obligations, (y) by its terms subordinated in right of payment to all or any portion of the Obligations or (z) unsecured.

"**LCA Election**" shall mean the Borrower's election to treat a specified acquisition as a Limited Condition Acquisition.

"**Leases**" shall mean any and all leases, subleases, tenancies, options, concession agreements, rental agreements, occupancy agreements, franchise agreements, access agreements and any other agreements (including all amendments, extensions, replacements, renewals, modifications and/or guarantees thereof), whether or not of record and whether now in existence or hereafter entered into, affecting the use or occupancy of all or any portion of any Real Property.

"**Legal Requirements**" shall mean, as to any person, the Organizational Documents of such person, and any treaty, law (including the common law), statute, ordinance, code, rule, regulation, license, permit, guidelines, decrees, requirement, Order or determination of an arbitrator or a court or other Governmental Authority, or other legally binding requirements, in each case would reasonably be interpreted to be applicable to or binding upon such person or any of its Property or to which such person or any of its Property would reasonably be interpreted to be subject.

"**Lender Presentation**" shall mean that certain lender presentation furnished to the initial Lenders in connection with the syndication of the Facilities on or around the August 2021.

"**Lenders**" shall mean (a) each financial institution and other persons party hereto as "Lenders" on the date hereof, (b) each Additional Lender and (c) each financial institution or other person that becomes a party hereto pursuant to an Assignment and Assumption (including pursuant to Section 2.19 and Section 2.20), other than, in each case, any such financial institution or person that has ceased to be a party hereto pursuant to an Assignment and Assumption.

"**LIBOR Rate**" shall mean, with respect to any Eurodollar Borrowing for any Interest Period, the rate per annum determined by the Administrative Agent to be the arithmetic mean of the offered rates for deposits in Dollars with a term comparable to such Interest Period that appears on the Reuters Screen LIBOR01 (or such other page as may replace such page on such service for the purpose of displaying the rates at which dollar deposits are offered by leading banks in the London interbank deposit market) at approximately 11:00 a.m., London, England time, on the second full Business Day preceding the first day of such Interest Period; *provided* that if the Reuters Screen LIBOR01 shall not be available for such Interest Period (an "**Impacted Interest Period**") then the LIBOR Rate shall be the Interpolated Rate (as defined below); *provided*, *however*, that (i) if no comparable term for an Interest Period is available, the LIBOR Rate shall be determined using the weighted average of the offered rates for the two terms most nearly corresponding to such Interest Period and (ii) if there shall at any time no longer exist a Reuters Screen LIBOR01, "**LIBOR Rate**" shall mean, with respect to each day during each Interest Period pertaining to Eurodollar Borrowings comprising part of the same Borrowing, the rate per annum equal to the rate at which the Administrative Agent is offered deposits in Dollars at approximately 11:00 a.m., London, England time, two (2) Business Days prior to the first day of such Interest Period in the London interbank market for delivery on the first day of such Interest Period for the number of days comprised therein and in an amount comparable to its portion of the amount of such Eurodollar Borrowing to be outstanding during such Interest Period. Notwithstanding the foregoing, for purposes of clause (c) of the definition of Alternate Base Rate, the rates referred to above shall be the rates as of 11:00 a.m., London, England time, on the date of determination (rather than the second London Business Day preceding the date of determination). "**Interpolated Rate**" shall mean the rate per annum determined by the Administrative Agent (which determination shall be conclusive and binding absent manifest error) to be equal to the rate that results from interpolating on a linear basis between: (a) the Reuters Screen LIBOR01 for the longest period for which the Reuters Screen LIBOR01 is available that is shorter than the Impacted Interest Period; and (b) the Reuters Screen LIBOR01 for the shortest period (for which the Reuters Screen LIBOR01 is available) that exceeds the Impacted Interest Period, in each case, at such time.

"**Lien**" shall mean, with respect to any Property, (a) any mortgage, deed of trust, lien (statutory or otherwise), pledge, encumbrance, claim, charge, assignment, hypothecation, security interest or encumbrance of any kind, including any easement, right-of-way or other encumbrance on title to Real Property, in each of the foregoing cases whether voluntary or imposed by law, (b) the interest of a vendor or a lessor under any conditional sale agreement, capital lease or title retention agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to such Property, and (c) in the case of securities, any purchase option, call or similar right of a third party with respect to such securities; provided, that in no event shall an operating lease be deemed to constitute a Lien.

"**Limited Condition Acquisition**" shall mean any acquisition or investment permitted hereunder by any Borrower or one or more of its Subsidiaries whose consummation is not conditioned on the availability of, or on obtaining, third party financing; *provided* that solely for the purpose of (i) measuring the relevant ratios and baskets with respect to the incurrence of any Indebtedness (including any Incremental Facilities) or Liens or the making of any acquisitions or other Investments, Dividends, Restricted Debt Payments, Asset Sales or other sales or dispositions of assets or fundamental changes or (ii) determining

compliance with representations and warranties or the occurrence of any Default or Event of Default, in each case, in connection with a Limited Condition Acquisition after giving effect thereto, if the Borrower has made an LCA Election with respect to such Limited Condition Acquisition, the date of determination of whether any such action is permitted hereunder shall be deemed to be the date the definitive agreements for such Limited Condition Acquisition are entered into (the "**LCA Test Date**"), and, if after giving pro forma effect to the Limited Condition Acquisition and the other transactions to be entered into in connection therewith as if they had occurred at the beginning of the most recent Test Period ending prior to the LCA Test Date, the Borrower could have taken such action on the relevant LCA Test Date in compliance with such ratio, basket, representation or warranty, such ratio, basket, representation or warranty shall be deemed to have been complied with. If the Borrower has made an LCA Election for any Limited Condition Acquisition, then in connection with any subsequent calculation of any ratio or basket on or following the relevant LCA Test Date and prior to the earliest to occur of (i) the date on which such Limited Condition Acquisition is consummated, (ii) the date that the definitive agreement for such Limited Condition Acquisition is terminated or expires without consummation of such Limited Condition Acquisition or (iii) the date that is 120 days after the relevant LCA Test Date, any such ratio or basket shall be calculated (A) on a Pro Forma Basis assuming such Limited Condition Acquisition and other transactions in connection therewith (including any incurrence of Indebtedness and the use of proceeds thereof) have been consummated until such time as the applicable Limited Condition Acquisition has actually closed, the acquisition agreement with respect thereto has been terminated or such 120-day period has expired and (B) on a standalone basis without giving effect to such Limited Condition Acquisition and the other transactions in connection therewith.

"**Loan**" or "**Loans**" shall mean, as the context may require, a Revolving Loan, Initial Term Loan, Extended Term Loan, New Term Loan or a Delayed Draw Term Loan.

"**Loan Documents**" shall mean this Agreement, the Notes (if any), the Security Documents and each Joinder Agreement, but excluding any Hedging Agreement. Any reference in this Agreement or any other Loan Document to a Loan Document shall include all appendices, exhibits or schedules thereto, and all amendments, restatements, supplements or other modifications thereto, and shall refer to this Agreement or such Loan Document as the same may be in effect at any and all times such reference becomes operative.

"**Loan Parties**" shall mean the Borrower and the Subsidiary Guarantors.

"**Main Street Credit Agreement**" shall mean that certain Credit Agreement, dated as of November 4, 2020, by and among Envigo, the guarantors party thereto and Harbor Bankshares Asset Management, LLC, as lender.

"**Margin Stock**" shall have the meaning assigned to such term in Regulation U.

"**Material Adverse Effect**" shall mean, any event, change or condition that, individually or in the aggregate, has had, or could reasonably be expected to have (a) a material adverse effect on the business, operations or financial condition of the Borrower and its Subsidiaries, taken as a whole, (b) a material and adverse effect on the rights and remedies of the Administrative Agent under this Agreement or the other Loan Documents (other than solely due to the extent of the action or inaction of the Administrative Agent, or any of the Lenders), or (c) a material and adverse effect on the ability of the Borrower and Guarantors to perform their payment obligations under this Agreement and the other Loan Documents.

"**Maximum Incremental Facilities Amount**" shall mean the sum of the following:

(i) $35,000,000, *plus*

(ii) an unlimited additional amount of New Term Loans and New Revolving Commitments so long as, on a Pro Forma Basis, the First Lien Leverage Ratio shall not exceed 3.25:1.00; *provided* that (x) for purposes of determining compliance with the foregoing First Lien Leverage Ratio, any New Revolving Commitments and any incremental facilities in the form of delayed draw term loans shall be deemed to be drawn in full, all New Term Loans and the cash proceeds of any New Term Loans and New Revolving Commitments (assuming the full amount thereof is drawn) shall be excluded for cash netting purposes and (y) to the extent the proceeds of any New Term Loans are intended to be applied to finance a Limited Condition Acquisition, the First Lien Leverage Ratio shall be tested in accordance with the last sentence of the definition of "Limited Condition Acquisition".

"**Maximum Rate**" shall have the meaning assigned to such term in Section 11.13.

"**Merger**" shall have the meaning assigned to such term in the preamble.

"**Merger Agreement**" means that certain Agreement and Plan of Merger, made and entered into as of September 21, 2021, by and among, *inter alios*, Merger Sub, LLC, Merger Sub, the Borrower and Envigo, together with the schedules and exhibits thereto.

"**Minimum Extension Condition**" shall have the meaning assigned to such term in Section 2.20(b).

"**Moody's**" shall mean Moody's Investors Service, Inc. and any successor thereto.

"**Mortgage**" shall mean an agreement, including a mortgage, deed of trust or any other document, creating and evidencing a first priority Lien in favor of the Collateral Agent on Mortgaged Property in a form reasonably satisfactory to the Collateral Agent (including with respect to requirements for title, flood and other insurance and surveys), with such schedules and including such provisions as shall be necessary to conform such document to applicable local or foreign law or as shall be customary under applicable local or foreign Legal Requirements.

"**Mortgaged Property**" shall mean each Real Property that is (or shall be) subject to a Mortgage delivered on the Closing Date or after the Closing Date pursuant to Section 4.01(o), Section 5.18 or Section 5.10(d).

"**Multiemployer Plan**" shall mean a multiemployer plan within the meaning of Section 4001(a)(3) of ERISA to which any Company or any ERISA Affiliate has an obligation to contribute or with respect to which any Company or ERISA Affiliate has incurred any undischarged liability or could reasonably be expected to incur any liability (whether contingent or otherwise).

"**Net Cash Proceeds**" shall mean:

(a) with respect to any Asset Sale (other than any issuance or sale of Equity Interests), the proceeds thereof in the form of cash, cash equivalents (including Cash Equivalents) and marketable securities (including any such proceeds received by way of deferred payment of principal pursuant to a note or installment receivable or purchase price adjustment receivable, or by the sale, transfer or other Disposition of any non-cash consideration received in connection therewith or otherwise, but only as and when received) received by any Company (including cash proceeds subsequently received (as and when received by any Company) in respect of non-cash consideration initially received) net of, without duplication, (i) selling fees and expenses (including brokers' fees or commissions, legal, accounting and

other professional and transactional fees, transfer and similar taxes and the Borrower's good faith estimate of income taxes paid or payable in connection with such sale and in connection with any repatriation of such proceeds (after taking into account any available tax credits or deductions and any tax sharing arrangements)), (ii) amounts provided as a reserve, in accordance with GAAP, against (x) any liabilities under any indemnification obligations, earn-out obligations or purchase price adjustments associated with such Asset Sale or (y) any other liabilities retained or payable by any Company associated with the Properties sold in such Asset Sale (*provided* that, to the extent and at the time any such amounts are released from such reserve, such amounts shall constitute Net Cash Proceeds), (iii) if applicable, the principal amount of any Indebtedness secured by a Permitted Lien on the assets subject to such Asset Sale (other than Indebtedness secured under the Security Documents or otherwise subject to an intercreditor agreement pursuant to this Agreement) that has been repaid or refinanced in accordance with its terms with the proceeds of such Asset Sale or Casualty Event and (iv) the Borrower's good faith estimate of the amount of payments required to be made with respect to unassumed liabilities relating to the properties sold within thirty (30) days of such Asset Sale (*provided* that (x) the funds described in this clause (iv) are deposited into escrow with a third party escrow agent or set aside in a separate deposit account that is subject to a control agreement entered into with the Collateral Agent and (y) to the extent such cash proceeds are not used to make payments in respect of such unassumed liabilities within the earlier of thirty (30) days after such Asset Sale or at such time when such amounts are no longer required to be set aside as such a reserve, such reserved amounts shall constitute Net Cash Proceeds);

(b) with respect to any Debt Issuance or any issuance or sale of Equity Interests by the Borrower or any of its Subsidiaries that is not an Equity Issuance, the cash proceeds thereof received by, or on behalf of, any Company, net of fees, commissions, costs and other expenses incurred in connection therewith; and

(c) with respect to any Casualty Event, the cash insurance proceeds, condemnation awards and other compensation received by, or on behalf of, any Company in respect thereof, net of all costs and expenses incurred in connection with the collection of such proceeds, awards or other compensation in respect of such Casualty Event (including, in respect of any such Casualty Event, transfer and similar taxes and the Borrower's good faith estimate of income taxes paid or payable in connection with such sale (after taking into account any available tax credits or deductions and any tax sharing arrangements) (*provided* that, to the extent and at the time that any such taxes are no longer required to be paid or payable, such amounts shall then constitute Net Cash Proceeds)).

"**Net Working Capital**" shall mean, at any time, Consolidated Current Assets at such time minus Consolidated Current Liabilities at such time.

"**New Lender**" shall have the meaning assigned to such term in Section 2.19(b).

"**New Revolving Commitments**" shall have the meaning assigned to such term in Section 2.19(a).

"**New Term Loan Commitments**" shall have the meaning assigned to such term in Section 2.19(a).

"**New Term Loans**" shall have the meaning assigned to such term in Section 2.19(a).

"**Non-Guarantor Subsidiary**" shall mean any Subsidiary of the Borrower that is not a Subsidiary Guarantor.

"**Non-Public Information**" shall mean material non-public information (within the meaning of United States federal, state or other applicable securities laws) with respect to the Borrower or its Subsidiaries or their respective securities.

"**Notes**" shall mean any notes evidencing the Term Loans, Delayed Draw Term Loans or Revolving Loans, in each case issued pursuant to Section 2.04(e) of this Agreement, if any, substantially in the form of Exhibit E-1, E-2 or E-3 respectively.

"**Obligations**" shall mean (a) all obligations and guarantees thereof of the Borrower and the other Loan Parties from time to time arising under or in respect of the due and punctual payment of (i) the principal of and premium, if any, and interest (including interest accruing during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding) on the Loans, when and as due, whether at maturity, by acceleration, upon one or more dates set for prepayment or otherwise and (ii) all other monetary obligations, including fees, costs, expenses and indemnities, whether primary, secondary, direct, contingent, fixed or otherwise (including monetary obligations incurred during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding), of the Borrower and the other Loan Parties under this Agreement and the other Loan Documents and (b) the due and punctual performance of all covenants, agreements, obligations and liabilities of the Borrower and the other Loan Parties under or pursuant to this Agreement and the other Loan Documents, in each case, whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising.

"**OFAC**" shall mean the Office of Foreign Asset Control of the Department of Treasury of the United States of America.

"**Off-Balance Sheet Obligations**" of a person shall mean, without duplication, (a) any repurchase obligation or liability of such person with respect to accounts or notes receivable sold by such person, (b) any Synthetic Lease Obligations of such person, or (c) any indebtedness, liability or obligation arising with respect to any other transaction which is the functional equivalent of or takes the place of borrowing but which does not constitute a liability on the balance sheets of such person (other than operating leases).

"Offer Process" shall have the meaning assigned to such term in Section 11.04(c)(ii).

"**Officers' Certificate**" shall mean a certificate executed by (a) the chairman of the Board of Directors (if an officer), the chief executive officer, the president or the chief operating officer or (b) one of the Financial Officers, each in his or her official (and not individual) capacity.

"**Order**" shall mean any judgment, decree, verdict, order, consent order, consent decree, writ, declaration or injunction.

"**Organizational Documents**" shall mean, collectively, with respect to any person, (a) in the case of any corporation, the certificate of incorporation and by-laws (or similar constitutive documents) of such person, (b) in the case of any limited liability company, the certificate of formation and operating agreement (or similar constitutive documents) of such person, (c) in the case of any limited partnership, the certificate of formation and limited partnership agreement (or similar constitutive documents) of such person, (d) in the case of any general partnership, the partnership agreement (or similar constitutive document) of such person, (e) in any other case, the functional equivalent of the foregoing, and (f) any shareholder, voting trust or similar agreement between or among any holders of Equity Interests of such person.

"**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**" shall mean any and all present or future stamp, court, intangible, recording, property, filing or documentary Taxes or any similar Taxes, charges or levies arising from any payment made or required to be made under any Loan Document or from the execution, delivery, performance, registration or enforcement of, from the receipt or perfection of a security interest under, or otherwise with respect to, any Loan Document.

"**Participant**" shall have the meaning assigned to such term in Section 11.04(f).

"**Participant Register**" shall have the meaning assigned to such term in Section 11.04(f).

"**Patriot Act**" shall have the meaning assigned to such term in Section 3.21(a).

"**Payment Recipient**" shall have the meaning assigned to it in Section 10.14(a).

"**PBGC**" shall mean the Pension Benefit Guaranty Corporation referred to and defined in ERISA.

"**Pension Plan**" shall mean any "employee pension benefit plan" (as defined in Section 3(2) of ERISA) (other than a Multiemployer Plan and other than a Foreign Plan) subject to the provisions of Title IV of ERISA or Section 412 or 430 of the Code or Section 302 of ERISA (a) which is maintained, sponsored, contributed to or required to be contributed to by any Company or any ERISA Affiliate or (b) with respect to which any Company or ERISA Affiliate has incurred any undischarged liability or could reasonably be expected to incur any liability (whether contingent or otherwise) including under Section 4062 or Section 4069 of ERISA.

"**Perfection Certificate**" shall mean a perfection certificate in the form of Exhibit F-1 or any other form approved by the Collateral Agent, as the same shall be supplemented from time to time by a Perfection Certificate Supplement or otherwise.

"**Perfection Certificate Supplement**" shall mean a perfection certificate supplement in the form of Exhibit F-2 or any other form approved by the Collateral Agent.

"**Permitted Acquisition**" shall mean any consensual transaction or series of related transactions for the direct or indirect (a) acquisition of all or substantially all of the Property of any person, or all or substantially all of any business or division of any person, (b) acquisition of all or substantially all of the Equity Interests of any person, and otherwise causing such person to become a Subsidiary of such person, if each of the following conditions is met, or (c) merger or consolidation or any other combination with any person if the Required Lenders have otherwise consented in writing thereto; in the case of clauses (a) through (c), so long as each of the following conditions are satisfied:

(i) no Default or Event of Default has occurred and is continuing immediately prior to an after giving effect to the consummation of such acquisition (or in the case of a Limited Condition Acquisition, no Default or Event of Default has occurred and is continuing at the time the definitive agreement for such acquisition is executed);

(ii) the persons or business to be acquired shall be, or shall be engaged in, a business of the type that the Borrower and its Subsidiaries are then permitted to be engaged in under Section 6.11;

(iii) to the extent that any Specified Acquired Property is to be acquired (or is acquired) pursuant to such proposed transaction or series of related proposed transactions, the Acquisition Consideration paid (or payable) with respect to such Specified Acquired Property shall not exceed, together with the amount of Acquisition Consideration paid (or payable) for any other Specified Acquired Property acquired pursuant to a Permitted Acquisition after the Closing Date, $20,000,000 in the aggregate;

(iv) (a) in the case of an acquisition of all or substantially all of the Property of any person or all or substantially all of any business or division of any person (other than, in either case, Specified Acquired Property), the person making such acquisition is Borrower or a Subsidiary Guarantor, or upon consummation of the Permitted Acquisition becomes a Subsidiary Guarantor pursuant to the requirements of and only to the extent required by Section 5.10, (b) in the case of an acquisition of the Equity Interests of any person (other than Specified Acquired Property), both the person making such acquisition and the person directly so acquired is Borrower or a Subsidiary Guarantor, or upon consummation of the Permitted Acquisition becomes a Subsidiary Guarantor pursuant to the requirements of and only to the extent required by Section 5.10 and (c) in the case of a merger or consolidation or any other combination with any person (other than Specified Acquired Property), the person surviving such merger, consolidation or other combination is Borrower or a Subsidiary Guarantor, or upon consummation of the Permitted Acquisition becomes a Subsidiary Guarantor pursuant to the requirements of and only to the extent required by Section 5.10; and

(v) if the Acquisition Consideration for such acquisition is greater than $10,000,000, Administrative Agent shall have received a copy of any quality of earnings report prepared in respect of any such transaction; and

(vi) after giving effect to such Permitted Acquisition, the Borrower or the applicable Subsidiary shall be in compliance on a Pro Forma Basis with the financial covenants set forth in Section 6.15 applicable for the four (4) consecutive fiscal quarters of the Borrower ended on, or most recently preceding, the date of such Permitted Acquisition for which financial statements have been (or were required to have been) delivered to the Administrative Agent pursuant to Section 5.01(a) or (b); provided, that, with respect to any Limited Condition Acquisition, the Borrower or the applicable Subsidiary shall be, as of the date of the execution and delivery of the applicable definitive purchase agreement in connection with such Limited Condition Acquisition, in compliance on a Pro Forma Basis with the financial covenants applicable for the four (4) consecutive fiscal quarters of the Borrower ended on, or most recently preceding, such date for which financial statements have been (or were required to have been) delivered to the Administrative Agent pursuant to Section 5.01(a) or (b).

"**Permitted Convertible Indebtedness**" shall mean unsecured Convertible Indebtedness that satisfies each the following conditions: (i) such Indebtedness shall not, until 180 days or more after the Term Loan Maturity Date, (x) require any amortization or other scheduled cash repayment (other than cash interest payments and payments of cash in lieu of any fraction shares upon conversion, and cash payments in connection with a "fundamental change" (defined as is typical for public company Convertible Indebtedness) (all of which, shall, for the avoidance of doubt, be subject to the covenants and limitations contained in the Loan Documents, including, without limitation, Section 6.07 and Section 6.09); and (y) have any put rights, redemption, repayment or other conditions that cause payment that are not customary

redemption or repayment events for public company Convertible Indebtedness (provided that any put rights, redemption, repayment or other conditions that cause payment shall, for the avoidance of doubt, be subject to the covenants and limitations contained in the Loan Documents, including, without limitation, Section 6.07 and Section 6.09); (ii) other than provided in (i)(x) above, such Indebtedness shall not require any cash payments until at least 180 days after the Term Loan Maturity Date; provided, that any such cash payments, shall, for the avoidance of doubt, be subject to the covenants and limitations contained in the Loan Documents); (iii) such Indebtedness shall have no (x) events of default other than those that are typical for public company Convertible Indebtedness; provided that any events of defaults of the type set forth in the Loan Documents shall be set back with at least a 25% cushion relative to such event of default under the Loan Documents; provided further that in no event shall any events of default in such Indebtedness be more burdensome for the Borrower and its Subsidiaries, taken as a whole, than those events of default set forth in the Loan Documents; provided, however, that such Convertible Indebtedness shall only cross-accelerate and shall not cross-default to the Loan Documents, (y) financial covenants or (z) other covenants other than covenants customary for public company Convertible Indebtedness; provided that any covenants of the type set forth in the Loan Documents shall be set back with at least a 25% cushion relative to such covenants under the Loan Documents; provided, further, that in no event shall the covenants in such Indebtedness be more burdensome for the Borrower and its Subsidiaries, taken as a whole, than those covenants set forth in the Loan Documents; (iv) the interest payable on account of such Indebtedness shall not exceed 4.25% per annum, (v) the maturity date of such Indebtedness shall be at least 180 days after the Term Loan Maturity Date and (vi) such Indebtedness shall be issued by the Borrower and only guaranteed by BAS Evansville Inc and no other Subsidiary.

"**Permitted Cure Securities**" shall mean Equity Interests of the Borrower issued (in the form of common equity and/or other Qualified Stock) to the extent (and only to the extent) necessary to fund the Cure Right, as the same is immediately contributed as cash common equity to the Borrower.

"**Permitted Bond Hedge Transaction**" shall mean any call or capped call option (or substantively equivalent derivative transaction) on the Borrower's common stock purchased by the Borrower in connection with the issuance of any Permitted Convertible Indebtedness; provided that the purchase price for such Permitted Bond Hedge Transaction, less the proceeds received by the Borrower from the sale of any related Permitted Warrant Transaction, does not exceed the net proceeds received by the Borrower from the sale of such Permitted Convertible Indebtedness issued in connection with the Permitted Bond Hedge Transaction.

"**Permitted Liens**" shall have the meaning assigned to such term in Section 6.02.

"**Permitted Refinancing**" shall have the meaning assigned to such term in Section 6.01(k).

"**Permitted Warrant Transaction**" shall mean any call option, warrant or right to purchase (or substantively equivalent derivative transaction) on the Borrower's common stock sold by the Borrower substantially concurrently with any purchase by the Borrower of a related Permitted Bond Hedge Transaction.

"**Person**" shall mean any natural person, corporation, business trust, joint venture, association, company, company (whether limited in liability or otherwise), partnership (whether limited in liability or otherwise) or Governmental Authority, or any other entity, in any case, whether acting in a personal, fiduciary or other capacity.

"**Platform**" shall mean IntraLinks, SyndTrak or a substantially similar electronic transmission system.

"**Pledgor**" shall mean each Company listed on Schedule 1.01(a), and each other Subsidiary of any Company that is or becomes a party to this Agreement (in its capacity as a Subsidiary Guarantor) and the Security Documents pursuant to Section 5.10.

"**Premises**" shall have the meaning assigned thereto in the applicable Mortgage.

"**Pro Forma Basis**" shall mean, with respect to compliance with any test or covenant hereunder (excluding Section 2.10(e)), that all Subject Transactions (including, to the extent applicable, the Transactions, but excluding any investments, acquisitions and dispositions in the ordinary course of business), restructuring or other cost saving actions and the following transactions in connection therewith (if any) shall be deemed to have occurred as of the first day of the applicable period of measurement in such test or covenant and all definitions (including Consolidated EBITDA) used for purposes of the financial covenants or tests hereunder (excluding Section 2.10(e)) shall be determined subject to pro forma adjustments which are attributable to such event or events, which may include the amount of run rate cost savings, operating expense reductions and cost synergies projected by the Borrower in good faith to result from or relating to any Subject Transaction which is being given pro forma effect that have been realized or are expected to be realized and for which the actions necessary to realize such cost savings, operating expense reductions and cost synergies are taken or with respect to which substantial steps have been taken or are reasonably expected to be taken for realizing such cost savings and such cost savings are reasonably identifiable and factually supportable (in the good faith determination of the Borrower and certified by a Financial Officer of the Borrower) (calculated on a pro forma basis as though such cost savings, operating expense reductions, other operating improvements and initiatives and synergies had been realized on the first day of such period and "run rate" means the full recurring benefit for a period that is associated with any action taken, committed to be taken or with respect to which substantial steps have been taken or are reasonably expected to be taken for realizing such cost savings and such cost savings are reasonably identifiable and factually supportable (including any savings expected to result from the elimination of a public target's compliance costs with public company requirements) net of the amount of actual benefits realized during such period from such actions, and any such adjustments shall be included (without duplication of any amounts that are otherwise added back in computing Consolidated EBITDA or any other components thereof) in the initial pro forma calculations of such financial ratios or tests and during any subsequent period in which the effects thereof are expected to be realized)) relating to such Subject Transaction, restructuring or other cost saving actions; *provided* that such amounts are (A) certified by the Borrower as having been determined in good faith to be reasonably anticipated to be realized from actions taken or with respect to which substantial steps have been taken within eighteen (18) months following such Subject Transaction, restructuring or other cost saving actions or (B) determined on a basis consistent with Article 11 of Regulation S-X promulgated under the Exchange Act and as interpreted by the staff of the Securities And Exchange Commission (or any successor agency); *provided further* that, the aggregate amount pursuant to (A) of the preceding proviso or clause (e) in the definition of Consolidated EBITDA in any period of four consecutive fiscal quarters shall not exceed 25% of Consolidated EBITDA prior to giving effect to such pro forma adjustments for such period;

"**Pro Rata Percentage**" of any (a) Revolving Lender at any time shall mean the percentage of the total Revolving Commitments of all Revolving Lenders represented by such Lender's Revolving Commitment, (b) Initial Term Lender at any time shall mean the percentage of the total Initial Term Loan Commitments of all Initial Term Lenders represented by such Lender's Initial Term Loan Commitment or (c) Delayed Draw Term Loan Lender at any time shall mean the percentage of the total Delayed Draw Term Loan Commitments of all Delayed Draw Term Loan Lenders represented by such Lender's Delayed Draw Term Loan Commitment; *provided* that, in the case of the Revolving Credit Facility, if such Commitments have been terminated or have expired, then the Pro Rata Percentage of each Lender shall be determined based on the Pro Rata Percentage of such Lender immediately prior to such termination or expiration and after giving effect to any subsequent assignments made pursuant to the terms hereof.

"**Pro Rata Share**" shall have the meaning assigned to such term in Section 7.10(a).

"**Projections**" shall have the meaning assigned to such term in Section 3.04(b).

"**Property**" shall mean any right, title or interest in or to property or assets of any kind whatsoever, whether real, personal or mixed and whether tangible or intangible and including Equity Interests of any person and whether now in existence or owned or hereafter entered into or acquired, including all Real Property, cash, securities, accounts, revenues and contract rights.

"**Public Lenders**" shall mean any Lender that does not wish to receive Non-Public Information with respect to the Borrower or its Subsidiaries or their respective securities.

"**Public Official**" shall mean (i) any officer, employee or representative of any regional, federal, state, provincial, county or municipal government or government department, agency, or other division; (ii) any officer, employee or representative of any commercial enterprise that is owned or controlled by a government, including any state-owned or controlled veterinary or medical facility; (iii) any officer, employee or representative of any public international organization, such as the African Union, the International Monetary Fund, the United Nations or the World Bank; (iv) any person acting in an official capacity for any government or government entity, enterprise, or organization identified above; and (v) any political party, party official or candidate for political office.

"**Purchase Money Obligation**" shall mean, for any person, the obligations of such person in respect of Indebtedness (including Capital Lease Obligations) incurred for the purpose of financing all or any part of the purchase price of any fixed or capital assets (including Equity Interests of any person owning fixed or capital assets) or the cost of installation, construction or improvement of any fixed or capital assets (including capitalized leasehold improvements); *provided*, *however*, that (a) such Indebtedness is incurred prior to or within 90 days after such acquisition, installation, construction or improvement of such fixed or capital assets by such person and (b) the amount of such Indebtedness does not exceed 100% of the cost of such acquisition, installation, construction or improvement, as the case may be.

"**Qualified ECP Guarantor"** shall mean, in respect of any Swap Obligations, each Loan Party that has total assets exceeding $10,000,000 at the time the relevant Guarantee or grant of the relevant security interest becomes effective with respect to such Swap Obligation or such other person as constitutes an "eligible contract participant" under the Commodity Exchange Act or any regulations promulgated thereunder and can cause another person to qualify as an "eligible contract participant" at such time by entering into a keepwell under Section 1a(18)(A)(v)(II) of the Commodity Exchange Act.

"**Qualified Stock**" of any person shall mean any Equity Interest of such person that does not constitute Disqualified Stock.

"**Real Property**" shall mean, collectively, all right, title and interest (including any leasehold estate) in and to any and all parcels of or interests in real property owned, leased or operated by any person, whether by lease, license or other means, together with, in each case, all easements, hereditaments and appurtenances relating thereto, all improvements and appurtenant fixtures and equipment, all general intangibles and contract rights and other Property and rights incidental to the ownership, lease or operation thereof.

"**Reference Date**" shall have the meaning assigned to such term in the definition of "Cumulative Amount".

"**Refinancing**" shall have the meaning assigned to such term in the preamble hereto.

"**Refinancing Amendment**" shall mean an amendment to this Agreement in form and substance reasonably satisfactory to the Administrative Agent and the Borrower executed by each of (a) the Borrower, (b) the Administrative Agent and (c) each Additional Lender that agrees to provide any portion of the extending, renewing or refinancing Indebtedness being incurred pursuant thereto.

"**Refinancing Revolving Loan Commitments**" shall mean one or more Tranches of Revolving Loan commitments hereunder that result from a Refinancing Amendment.

"**Refinancing Revolving Loans**" shall mean one or more Tranches of Revolving Loans that result from a Refinancing Amendment.

"**Refinancing Term Commitments**" shall mean one or more Tranches of Term Loan Commitments hereunder that result from a Refinancing Amendment.

"**Refinancing Term Loans**" shall mean one or more Tranches of Term Loans that result from a Refinancing Amendment.

"**Register**" shall have the meaning assigned to such term in Section 11.04(d).

"**Regulation D**" shall mean Regulation D of the Board as from time to time in effect and all official rulings and interpretations thereunder or thereof.

"**Regulation T**" shall mean Regulation T of the Board as from time to time in effect and all official rulings and interpretations thereunder or thereof.

"**Regulation U**" shall mean Regulation U of the Board as from time to time in effect and all official rulings and interpretations thereunder or thereof.

"**Regulation X**" shall mean Regulation X of the Board as from time to time in effect and all official rulings and interpretations thereunder or thereof.

"**Reinvestment Funds**" means, with respect to any Net Cash Proceeds of any Asset Sale or Casualty Event in respect of the single event or series of related events giving rise thereto, that portion of such funds as shall be reinvested (or be subject to a binding commitment for any such reinvestment) within 365 days after receipt thereof by the Borrower or any Subsidiary in assets (other than ordinary course current assets) useful in the business of the Borrower and its Subsidiaries; provided that, if any such Net Cash Proceeds are not actually so reinvested within 365 days of such receipt (or 545 days of receipt if committed to be so reinvested pursuant to a binding agreement entered into on or prior to such 365th day), such unreinvested portion shall no longer constitute Reinvestment Funds and shall be applied on the last day of such period as a mandatory prepayment as provided in Section 2.10(c).

"**Related Person**" shall mean, with respect to any person, (a) each Affiliate of such person and each of the officers, directors, partners, trustees, employees, affiliates, shareholders, Advisors, agents, administrators, managers, representatives, attorneys-in-fact and Controlling persons of each of the foregoing, and (b) if such person is an Agent, each other person designated, nominated or otherwise mandated by or assisting such Agent pursuant to Section 10.05 or any comparable provision of any Loan Document.

"**Release**" shall mean any releasing, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, depositing, dispersing, migrating, dumping or disposing in, on,

into, through or from the Environment or any Real Property (including the abandonment or disposal of any barrels, containers or other closed receptacles containing any Hazardous Material).

"**Relevant Governmental Body**" shall mean the Board of Governors of the Federal Reserve System or the Federal Reserve Bank of New York, or a committee officially endorsed or convened by the Board of Governors of the Federal Reserve System or the Federal Reserve Bank of New York, or any successor thereto.

"**Required Lenders**" shall mean, at any date of determination, Lenders (other than Defaulting Lenders) having Loans and unused Revolving Commitments, outstanding Initial Term Loans and Initial Term Loan Commitments and outstanding Delayed Draw Term Loans and Delayed Draw Term Loan Commitments representing more than 50% of the sum of all Loans outstanding and unused Revolving Commitments, outstanding Initial Term Loans and Initial Term Loan Commitments, outstanding Delayed Draw Term Loans and Delayed Draw Term Loan Commitments at such time; *provided* that, if there are two (2) or more unaffiliated Lenders, "Required Lenders" shall also be required to include two (2) such unaffiliated Lenders.

"**Resolution Authority**" shall mean an EEA Resolution Authority or, with respect to any UK Financial Institution, a UK Resolution Authority.

"**Response**" shall mean (a) "response" as such term is defined in CERCLA, 42 U.S.C. § 9601(25) or any other applicable Environmental Law, or (b) all other actions required pursuant to Environmental Law to (i) clean up, remove, treat, abate, monitor or in any other way address any Release or presence of Hazardous Materials at, in, on, under or from any Real Property, or otherwise in the Environment, (ii) prevent the Release or threat of Release, or minimize the further Release, of any Hazardous Material, or (iii) perform studies and investigations in connection with, or as a precondition to, clause (i) or (ii) above.

"**Responsible Officer**" of any person shall mean any executive officer, any executive vice president or Financial Officer of such person.

"**Revolving Borrowing**" shall mean a Borrowing comprised of Revolving Loans.

"**Revolving Commitment**" shall mean, with respect to each Lender, the commitment, if any, of such Lender to make Revolving Loans hereunder up to the amount set forth on Annex II or on Schedule 1 to the Assignment and Assumption pursuant to which such Lender assumed its Revolving Commitment, as applicable, as the same may be (a) increased from time to time pursuant to Section 2.19, (b) reduced from time to time pursuant to Section 2.07 and (c) reduced or increased from time to time pursuant to assignments by or to such Lender pursuant to Section 11.04. The aggregate principal amount of the Lenders' Revolving Commitments on the Closing Date is $15,000,000.

"**Revolving Commitment Increase**" shall have the meaning assigned to such term in Section 2.19(d).

"**Revolving Credit Facility**" shall mean the credit facility represented by the Revolving Commitments and the Revolving Loans.

"**Revolving Exposure**" shall mean, with respect to any Lender at any time, the aggregate principal amount at such time of all outstanding Revolving Loans of such Lender.

"**Revolving Increasing Lender**" shall have the meaning assigned to such term in Section 2.19(d).

"**Revolving Lender**" shall mean a Lender with a Revolving Commitment.

"**Revolving Loan**" shall mean a Loan made by the Lenders to the Borrower pursuant to Section 2.01(b) and Section 2.19. Each Revolving Loan shall either be an ABR Revolving Loan or a Eurodollar Revolving Loan.

"**Revolving Maturity Date**" shall mean November 5, 2026.

"**S&P**" shall mean Standard & Poor's Ratings Services, a division of the McGraw-Hill Companies, Inc., and any successor thereto.

"**Sale and Leaseback Transaction**" shall have the meaning assigned to such term in Section 6.03.

"**Sanctioned Country**" means, at any time, a country or territory which is itself the subject or target of comprehensive Sanctions (as of the date of this Agreement, Cuba, Iran, North Korea, Syria, and the Crimea region of Ukraine).

"**Sanctioned Person**" means, at any time, (a) any Person listed in any Sanctions-related list of designated Persons maintained by OFAC, the U.S. Department of State, or by the United Nations Security Council, the European Union or any European Union member state, (b) any Person operating, organized or resident in a Sanctioned Country, (c) the government of a Sanctioned Country or the Government of Venezuela; or (d) any Person owned or controlled by any such Person or Persons or acting for or on behalf of such Person or Persons as described in the foregoing clauses (a) (b), or (c).

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

"**Sarbanes-Oxley Act**" shall mean the United States Sarbanes-Oxley Act of 2002, as amended, and all rules and regulations promulgated thereunder.

"**SEC**" shall mean the Securities and Exchange Commission or any Governmental Authority succeeding to any of its principal functions.

"**Secured Leverage Ratio**" shall mean, at any date of determination, the ratio of (a) the Consolidated Secured Indebtedness outstanding on such date *minus* Unrestricted Cash and Cash Equivalents of the Borrowers and its Subsidiaries that are Domestic Subsidiaries in an aggregate amount not to exceed $35,000,000 to (b) Consolidated EBITDA for the Test Period then most recently ended.

"**Secured Obligations**" shall mean (a) the Obligations, (b) the Specified Hedging Agreement Obligations, (c) the Bank Product Obligations and (d) Erroneous Payment Subrogation Rights.

"**Secured Parties**" shall mean, collectively, the Administrative Agent, the Collateral Agent, each other Agent, the Lenders, each Bank Product Provider and each counterparty to a Specified Hedging Agreement and such counterparty executes and delivers to the Administrative Agent a letter agreement in form and substance reasonably acceptable to the Administrative Agent pursuant to which such counterparty (i) appoints the Administrative Agent and the Collateral Agent as its agents under the applicable Loan Documents and (ii) agrees to be bound by the provisions of Section 11.03, Section 11.09 and Section 11.12 as if it were a Lender hereunder.

"**Securities Act**" shall mean the Securities Act of 1933, as amended.

"**Securities Collateral**" shall have the meaning assigned to such term in the Security Agreement.

"**Security Agreement**" shall mean that certain Security Agreement, dated as of the date hereof, among the Loan Parties and the Collateral Agent for the benefit of the Secured Parties, as amended, restated, amended and restated, supplemented or otherwise modified from time to time by one or more Joinder Agreements, or otherwise, in accordance with the terms hereof and thereof.

"**Security Agreement Collateral**" shall mean all Property pledged or granted as collateral pursuant to the Security Agreement delivered on the Closing Date or thereafter pursuant to Section 5.18 or Section 5.10.

"**Security Documents**" shall mean, collectively, the Security Agreement, the Mortgages (if any), each Control Agreement, and each other security document or pledge agreement delivered in accordance with applicable local or foreign Legal Requirements to grant a valid, enforceable, perfected security interest (with the priority required under the Loan Documents) in any Property as collateral for the Secured Obligations, and all UCC or other financing statements or instruments of perfection required by this Agreement, the Security Agreement, any Mortgage, any Control Agreement or any other such security document or pledge agreement to be filed with respect to the security interests in Property created pursuant to the Security Agreement, any Mortgage, any Control Agreement and any other document or instrument utilized to pledge any Property as collateral for all (or any of) the Secured Obligations.

"**SOFR**" shall mean a rate per annum equal to the secured overnight financing rate for such Business Day published by the Federal Reserve Bank of New York (or a successor administrator of the secured overnight financing rate) on the website of the Federal Reserve Bank of New York, currently at http://www.newyorkfed.org (or any successor source for the secured overnight financing rate identified as such by the administrator of the secured overnight financing rate from time to time).

"**SPC**" shall have the meaning assigned to such term in Section 11.04(i).

"**Specified Acquired Property**" shall mean (a) any person that does not, upon the consummation of the Permitted Acquisition, become a Subsidiary Guarantor and (b) Property acquired in connection with any Permitted Acquisition that is not made subject to the Lien of the Security Documents in accordance with Section 5.10.

"**Specified Guarantor Release Provision**" shall have the meaning assigned to such term in Section 10.12(c).

"**Specified Hedging Agreement**" shall mean each Hedging Agreement (to the extent the Hedging Obligations thereunder are permitted pursuant to Section 6.01(c)) entered into with any counterparty that was an Agent, a Lender or an Affiliate of an Agent or a Lender at the time that such Hedging Agreement was entered into and that has been designated as a "Specified Hedging Agreement" by the Borrower in a written notice to the Administrative Agent.

"**Specified Hedging Agreement Obligations**" shall mean (a) all obligations of the Borrower and its Subsidiaries from time to time arising under or in respect of the due and punctual payment of each amount (including all liabilities) required to be paid by Borrower and its Subsidiaries under each Specified Hedging Agreement (and under each Loan Document with respect thereto), when and as due, including payments in respect of interest thereon (including interest accruing during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such

proceeding) and obligations to provide cash collateral and all other monetary obligations, including fees, costs, expenses and indemnities, whether primary, secondary, direct, contingent, fixed or otherwise (including monetary obligations incurred during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding), of the Borrower under each Specified Hedging Agreement (and under each Loan Document with respect thereto), and (b) the due and punctual performance of all covenants, agreements, obligations and liabilities of the Borrower and its Subsidiaries under or pursuant to each Specified Hedging Agreements (and under each Loan Document with respect thereto); *provided*, that the Specified Hedging Agreement Obligations shall exclude any Excluded Swap Obligations.

"**Specified Merger Agreement Representations**" means the representations and warranties made by or on behalf of (or related to) Envigo, its subsidiaries or their respective businesses in the Merger Agreement which are material to the interests of the Lenders, but which are required to be true and correct only to the extent that the Borrower (or its applicable Affiliate party to the Merger Agreement) has the right to terminate, taking into account any cure provisions, its obligations under the Merger Agreement or to decline to consummate the Mergers as a result of a breach of such representations and warranties.

"**Specified Representations**" shall mean the representations and warranties set forth in Section 3.01 (as it relates to corporate or other organizational existence, organizational power and authority), 3.02 (as it relates to the due authorization execution, delivery and performance of the Loan Documents and the enforceability thereof), 3.15, 3.03 (as it relates to no conflicts resulting from the entering into and performance of the Loan Documentation with charter documents, existing agreements and legal proceedings), 3.09, 3.10, the last sentence of 3.11(a), Section 3.19 (as it relates to the creation, validity and perfection of the security interests in the Collateral) and Section 3.21.

"**Statutory Reserves**" shall mean, for any Interest Period for any Eurodollar Borrowing, the average maximum rate at which reserves (including any marginal, supplemental or emergency reserves) are required to be maintained during such Interest Period under Regulation D by member banks of the United States Federal Reserve System in New York City with deposits exceeding one billion Dollars against "Eurocurrency liabilities" (as such term is used in Regulation D). Eurodollar Borrowings shall be deemed to constitute Eurodollar liabilities and to be subject to such reserve requirements without benefit of or credit for proration, exceptions or offsets which may be available from time to time to any Lender under Regulation D.

"**Subject Transaction**" shall mean, (a) any Permitted Acquisition or similar Investment that is otherwise permitted by this Agreement, (b) any disposition of all or substantially all of the assets or all the Equity Interests of any Subsidiary (or any business unit, line of business or division of any of the Subsidiaries of the Borrower for which financial statements are available) not prohibited by this Agreement, (c) discontinued divisions or lines of business or operations or (d) the proposed incurrence of Indebtedness or making of a restricted payment or payment in respect of Indebtedness in respect of which compliance with any financial ratio is by the terms of this Agreement required to be calculated on a Pro Forma Basis.

"**Subsidiary**" shall mean, with respect to any person (the "**parent**") at any date, (a) any person the accounts of which would be consolidated with those of the parent in the parent's consolidated financial statements if such financial statements were prepared in accordance with GAAP as of such date, (b) any other corporation, limited liability company, association or other business entity of which securities or other ownership interests representing more than 50% of the voting power of all Equity Interests entitled (without regard to the occurrence of any contingency) to vote in the election of the Board of Directors (or similar governing body) thereof are, as of such date, owned, controlled or held by the parent and/or one or more subsidiaries of the parent, (c) any partnership (i) the sole general partner or the managing general partner of which is the parent and/or one or more subsidiaries of the parent or (ii) the only general partners of which

are the parent and/or one or more subsidiaries of the parent and (d) any other person that is otherwise Controlled by the parent and/or one or more subsidiaries of the parent. Unless the context requires otherwise, "**Subsidiary**" refers to a Subsidiary of the Borrower.

"**Subsidiary Guarantor**" shall mean each Subsidiary of any Loan Party that (i) is a Domestic Subsidiary and (ii) is or becomes a party to this Agreement and the Security Documents pursuant to and in compliance with all the requirements set forth in Section 5.10, including the Subsidiaries listed on Schedule 1.01(c) and specified on such schedule as a Subsidiary Guarantor.

"**Survey**" shall mean American Land Title Association/American Congress on Surveying and Mapping form surveys, for which all necessary fees (where applicable) have been paid, reasonably acceptable to the Administrative Agent, showing all buildings and other improvements, any off-site improvements, the location of any easements, parking spaces, rights of way, building set-back lines and other dimensional regulations and the absence of encroachments, either by such improvements or on to such property, and other defects, other than encroachments and other defects reasonably acceptable to the Administrative Agent and (i) dated or redated no more than 30 days before the relevant date, certified to the Administrative Agent and the issuer of the Mortgage policies in a manner reasonably satisfactory to the Administrative Agent by a land surveyor duly registered and licensed in the States in which the property described in such surveys is located, or (ii) dated or redated no more than five (5) years before the relevant date, with an affidavit from the Borrower confirming that since the date of such survey no material exterior construction has occurred on the applicable property nor any material easement, right of way or other interest in such property has been granted or become effective through operation of law or otherwise which can be depicted on a survey which survey is sufficient for the Title Company to remove all standard survey exceptions from the Title Policy for such Property.

"**Swap Agreement**" means (i) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement and (ii) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement or any other master agreement (any such master agreement, together with any related schedules, a "Master Agreement"), including any such obligations or liabilities under any Master Agreement.

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

"**Synthetic Lease**" shall mean, as to any person, any lease (including leases that may be terminated by the lessee at any time) of any Property (a) that is accounted for as an operating lease under GAAP and (b) in respect of which the lessee retains or obtains ownership of the Property so leased for U.S. federal income tax purposes, other than any such lease under which such person is the lessor.

"**Synthetic Lease Obligations**" shall mean, as to any person, an amount equal to the capitalized amount of the remaining lease payments under any Synthetic Lease that would appear on a balance sheet

of such person in accordance with GAAP if such obligations were accounted for as Capital Lease Obligations.

"**Tax Returns**" shall mean all returns, statements, filings, attachments and other documents or certifications required to be filed in respect of Taxes.

"**Taxes**" shall mean any and all present or future taxes, duties, levies, imposts, assessments, fees, deductions, withholdings (including backup withholding) or other similar charges, whether computed on a separate, consolidated, unitary, combined or other basis and any and all liabilities (including interest, fines, penalties or additions to tax) with respect to the foregoing.

"**Term Borrowing**" shall mean a Borrowing comprised of Term Loans.

"**Term Loan**" shall mean an Initial Term Loan made by a Lender to the Borrower pursuant to Section 2.01(a), any term loan made by a Term Loan Lender to the Borrower pursuant to Section 2.19 or Section 2.20 or any delayed draw term loan made by a Delayed Draw Term Loan Lender to the Borrower pursuant to Section 2.01(c). Each Term Loan shall be either an ABR Term Loan or a Eurodollar Term Loan.

"**Term Loan Commitment**" shall mean, with respect to each Lender, the commitment, if any, of such Lender to make a Term Loan.

"**Term Loan Facility**" shall mean the credit facility represented by the Term Loans made under this Agreement.

"**Term Loan Lender**" shall mean a Lender with a Term Loan Commitment or an outstanding Term Loan.

"**Term Loan Maturity Date**" shall mean (a) with respect to (i) the Initial Term Loans advanced on the Closing Date and (ii) any Delayed Draw Term Loans, November 5, 2026, (b) with respect to any tranche of New Term Loans made pursuant to Section 2.19, the final maturity date as specified in the applicable Incremental Loan Amendment and accepted by the respective Increasing Lenders and New Lenders and (c) with respect to any tranche of Extended Term Loans made pursuant to Section 2.20, the final maturity date as specified in the applicable Extension Offer accepted by the respective Lender or Lenders.

"**Term Loan Repayment Date**" shall have the meaning assigned to such term in Section 2.09.

"**Term SOFR**" shall mean, for the applicable corresponding tenor, the forward-looking term rate based on SOFR that has been selected or recommended by the Relevant Governmental Body.

"**Test Period**" shall mean, at any time, the four consecutive fiscal quarters of the Borrower then last ended (in each case taken as one accounting period) for which financial statements have been or are required to be delivered pursuant to Section 5.01(a) or (b).

"**Title Company**" shall mean any title insurance company as shall be retained by Borrower and reasonably acceptable to the Collateral Agent.

"**Title Policy**" shall mean, with respect to each Mortgage, a policy of title insurance (or marked-up title insurance commitment having the effect of a policy of title insurance) insuring the Lien of such Mortgage as a valid first mortgage Lien on the Mortgaged Property and fixtures described therein in an

amount equal to not less than 100% of the Fair Market Value of such Mortgaged Property and fixtures (or such lesser amount as may be required by the Collateral Agent), which policy (or such marked-up commitment) shall be issued by a Title Company, and contain such endorsements as shall be reasonably requested by the Collateral Agent and no exceptions to title other than Permitted Liens and additional exceptions reasonably acceptable to the Collateral Agent.

"**Transaction Costs**" shall mean any fees, premiums, expenses and other transaction costs incurred or paid by the Loan Parties in connection with the Transactions, including those amounts set forth in the Engagement Letter.

"**Transactions**" shall mean, collectively, (a) the transactions to occur on or prior to the Closing Date pursuant to, or contemplated by, the Loan Documents, including the execution, delivery and performance of the Loan Documents and the initial Credit Extensions hereunder, (b) the Mergers and the other transactions contemplated by the Merger Agreement and (c) the Refinancing.

"**Transferred Guarantor**" shall have the meaning assigned to such term in Section 7.09.

"**Treasury Regulations**" shall mean the regulations promulgated by the United States Department of the Treasury under the Code, as amended from time to time.

"**Type**" shall mean, when used in reference to any Loan or Borrowing, a reference to whether the rate of interest on such Loan, or on the Loans comprising such Borrowing, is determined by reference to the Adjusted LIBOR Rate or the Alternate Base Rate.

"**UK Financial Institution**" shall mean any BRRD Undertaking (as such term is defined under the PRA Rulebook (as amended from time to time) promulgated by the United Kingdom Prudential Regulation Authority) or any person falling within IFPRU 11.6 of the FCA Handbook (as amended from time to time) promulgated by the United Kingdom Financial Conduct Authority, which includes certain credit institutions and investment firms, and certain affiliates of such credit institutions or investment firms.

"**UK Resolution Authority**" shall mean the Bank of England or any other public administrative authority having responsibility for the resolution of any UK Financial Institution.

"**Unfunded Pension Liability**" shall mean the excess of a Pension Plan's benefit liabilities under Section 4001(a)(16) of ERISA, over the current value of that Pension Plan's assets, determined in accordance with the assumptions used for funding the Pension Plan pursuant to Section 412 of the Code for the applicable plan year.

"**Uniform Commercial Code**" or "**UCC**" shall mean the Uniform Commercial Code, as in effect from time to time in any applicable jurisdiction.

"**United States**" and "**U.S.**" shall mean the United States of America.

"**Unrestricted Cash and Cash Equivalents**" shall mean, at any time, the aggregate amount of unrestricted cash and Cash Equivalents (i) held in accounts of the Borrower and its Subsidiaries that are Domestic Subsidiaries that are subject to Deposit Account Control Agreements (as defined in the Security Agreement) or (ii) that are free and clear of all Liens (other than Liens permitted pursuant to Section 6.02(j) or pursuant to this Agreement).

"**Unsecured Notes Offering**" shall mean the issuance and sale of senior unsecured notes of the Borrower.

"**U.S. Foreign Holdco**" shall mean any Domestic Subsidiary that (i) is disregarded as an entity separate from its owner for U.S. federal income tax purposes and (ii) does not own any material assets other than Equity Interests (or any debt instrument, option, warrant or other instrument treated as equity for U.S. federal income tax purposes) that have the power to vote under Treasury Regulation Section 1.956-2(c)(2) of one or more CFCs.

"**USCO**" shall mean the United States Copyright Office.

"**USD LIBOR**" shall mean the London interbank offered rate for U.S. dollars.

"**USPTO**" shall mean the United States Patent and Trademark Office.

"**Voluntary Loan Prepayment Amount**" shall mean, with respect to any Excess Cash Flow Period, the aggregate amount of voluntary prepayments made in respect of (a) Term Loans and (b) Revolving Loans (to the extent, other than as provided in Section 2.10(e), accompanied by a concurrent and concomitant permanent reduction of the Revolving Commitment), in each case, to the extent that such voluntary prepayments are made with Internally Generated Funds (that the Borrower certifies, to the Administrative Agent and the Lender, shall not be included in the Cumulative Amount).

"**Voting Stock**" shall mean, with respect to any person, any class or classes of Equity Interests pursuant to which the holders thereof have the general voting power under ordinary circumstances to elect at least a majority of the Board of Directors of such person.

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

"**Weighted Average Yield**" shall mean, with respect to any Loan, on any date of determination, the weighted average yield to maturity, in each case, based on the interest rate applicable to such Loan on such date and giving effect to interest rate floors, upfront fees, original issue discount or similar yield-related discounts or deductions payable with respect to such Loans (but, excluding, for the avoidance of doubt, any customary arranging, underwriting, structuring or similar fees not paid to all of the Lenders providing such Loans) based on (i) an assumed four-year average life for the applicable Loans or (ii) if the stated maturity of the applicable Loans is less than four years, the actual life of such Loans.

"**Wholly Owned Subsidiary**" shall mean, as to any person, (a) any corporation 100% of whose capital stock (other than directors' qualifying shares) is at the time owned by such person and/or one or more Wholly Owned Subsidiaries of such person and (b) any partnership, association, joint venture, limited liability company or other entity in which such person and/or one or more Wholly Owned Subsidiaries of such person have a 100% equity interest (other than immaterial directors' qualifying shares to the extent required by applicable law) at such time.

"**Write-Down and Conversion Powers**" means, (a) 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, and (b) with respect to the United Kingdom, any powers of the applicable Resolution Authority under the Bail-In Legislation to cancel, reduce, modify or change the form of a liability of any UK Financial Institution or any contract or instrument under which that

liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that Bail-In Legislation that are related to or ancillary to any of those powers.

Section 1.02 Classification of Loans and Borrowings. For purposes of this Agreement, Loans may be classified and referred to by Class (*e.g.*, a "Revolving Loan") or by Type (*e.g.*, a "Eurodollar Loan") or by Class and Type (*e.g.*, a "Eurodollar Revolving Loan"). Borrowings also may be classified and referred to by Class (*e.g.*, a "Revolving Borrowing," "Borrowing of Term Loans") or by Type (*e.g.*, a "Eurodollar Borrowing") or by Class and Type (*e.g.*, a "Eurodollar Revolving Borrowing").

Section 1.03 Terms Generally. The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words "include," "includes" and "including" shall be deemed to be followed by the phrase "without limitation." The phrase "Material Adverse Effect" shall be deemed to be followed by the phrase ", individually or in the aggregate." The word "asset" shall be construed to have the same meaning and effect as the word "Property." The word "will" shall be construed to have the same meaning and effect as the word "shall." Unless the context requires otherwise (a) any definition of or reference to any Loan Document, agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, restated, amended and restated, refinanced, extended, supplemented or otherwise modified (subject to any restrictions on such amendments, restatements, amendments and restatements, refinancing, extensions, supplements or modifications set forth in any Loan Document), (b) any reference herein to any person shall be construed to include such person's successors and assigns, (c) the words "herein," "hereof" and "hereunder," and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, (d) all references herein to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, this Agreement, unless otherwise indicated, (e) any references to any law or regulation shall (i) include all statutory and regulatory provisions consolidating, amending, replacing or interpreting or supplementing such law or regulation, and (ii) unless otherwise specified, refer to such law or regulation as amended, modified or supplemented from time to time, and (f) all references to "knowledge" in this Agreement or any other Loan Document refers to the actual knowledge (after reasonable inquiry) of such Responsible Officer or other Person making such certification. This Section 1.03 shall apply, *mutatis mutandis*, to all Loan Documents. Any Responsible Officer executing any Loan Document or any certificate or other document made or delivered pursuant hereto or thereto, so executes or certifies in his/her capacity as a Responsible Officer on behalf of the applicable Loan Party and not in any individual capacity. Notwithstanding anything to the contrary, (a) unless specifically stated otherwise herein, any dollar, number, percentage or other amount available under any basket set forth in any affirmative, negative or other covenant in this Agreement or the other Loan Documents may be accumulated, added, combined, aggregated or used together by any Loan Party and its Subsidiaries with any other basket in the same such covenant; *provided* that such accumulation, addition, combination or aggregation may only occur to the extent such Loan Party would be permitted to use each such basket for the same transaction or occurrence, and (b) any action or event permitted by this Agreement or the other Loan Documents need not be permitted solely by reference to one provision permitting such action or event but may be permitted in part by one such provision and in part by one or more other provisions of this Agreement and the other Loan Documents; *provided* that such action or event complies with each such provision applicable to such action or event.

Section 1.04 Accounting Terms; GAAP. Except as otherwise expressly provided herein, all financial statements to be delivered pursuant to this Agreement shall be prepared in accordance with GAAP as in effect from time to time and all terms of an accounting or financial nature shall be construed and

interpreted in accordance with GAAP, as in effect on the Closing Date. If at any time any change in GAAP would affect the computation of any financial ratio set forth in any Loan Document, and the Borrower or the Administrative Agent shall so request, the Administrative Agent 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 approval by the Required Lenders and the Borrower); *provided* that, until so amended, such ratio or requirement shall continue to be computed in accordance with GAAP prior to such change therein and the Borrower shall provide to the Administrative Agent and the Lenders within five days after delivery of each certificate or financial report required hereunder that is affected thereby a written statement of a Financial Officer of the Borrower setting forth in reasonable detail the differences (including any differences that would affect any calculations relating to the financial covenants as set forth in Section 6.15). For purposes of calculations made pursuant to the terms of this Agreement, GAAP will be deemed to treat operating leases and capital leases in a manner consistent with their current treatment under generally accepted accounting principles as in effect on the Closing Date, notwithstanding any modifications or interpretive changes thereto that may occur thereafter.

Section 1.05 Pro Forma Calculations. Notwithstanding anything to the contrary herein, all financial ratios and tests (including the First Lien Leverage Ratio, the Secured Leverage Ratio and the amount of Consolidated Total Assets and Consolidated EBITDA) contained in this Agreement (other than for purposes of calculating Excess Cash Flow) that are calculated with respect to any Test Period during which any Subject Transaction occurs shall be calculated with respect to such Test Period and such Subject Transaction on a Pro Forma Basis. Further, if since the beginning of any such Test Period and on or prior to the date of any required calculation of any financial ratio or test (x) any Subject Transaction shall have occurred or (y) any Person that subsequently became a Subsidiary or was merged, amalgamated or consolidated with or into the Borrower or any of its Subsidiaries since the beginning of such Test Period shall have consummated any Subject Transaction, then, in each case, any applicable financial ratio or test shall be calculated on a Pro Forma Basis for such Test Period as if such Subject Transaction had occurred at the beginning of the applicable Test Period (it being understood, for the avoidance of doubt, that solely for purposes of calculating quarterly compliance with Section 6.15, the date of the required calculation shall be the last day of the Test Period, and no Subject Transaction occurring thereafter shall be taken into account).

Section 1.06 Resolution of Drafting Ambiguities. Each Loan Party acknowledges and agrees that it was represented by counsel in connection with the execution and delivery of the Loan Documents to which it is a party, that it and its counsel reviewed and participated in the preparation and negotiation hereof or thereof and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed in the interpretation hereof or thereof.

Section 1.07 Rounding. Any financial ratios required to be satisfied in order for a specific action to be permitted under this Agreement shall be calculated by dividing the appropriate component by the other component, carrying the result to one place more than the number of places by which such ratio is expressed herein and rounding the result up or down to the nearest number (with a rounding-up if there is no nearest number).

Section 1.08 Currency Fluctuations. For purposes of determining compliance with Section 6.01, Section 6.02, Section 6.04, Section 6.06 or Section 6.09, with respect to any Indebtedness, Liens, Investments, Asset Sales or other dispositions, or prepayments of other Indebtedness in a currency other than Dollars, no Default or Event of Default shall be deemed to have occurred solely as a result of changes in rates of currency exchange occurring after the time the Borrower or one of its Subsidiaries is contractually obligated to incur, make or acquire such Indebtedness, Liens, Investments, Asset Sales or other dispositions or prepayments of other Indebtedness (so long as, at the time of entering into the contract to incur, make or acquire such Indebtedness, Liens, Investments, Asset Sales or other dispositions or

prepayments of other Indebtedness, it was permitted hereunder) and once contractually obligated to be incurred, made or acquired, the amount of such Indebtedness, Liens, Investments, Asset Sales or other dispositions or prepayments of other Indebtedness, shall be always deemed to be at the Dollar amount on such date, regardless of later changes in currency exchange rates.

Section 1.09 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 and acquired on the first date of its existence by the holders of its Equity Interests at such time.

ARTICLE II
THE CREDITS

Section 2.01 Commitments.

(a) Term Loan. Subject to the terms and conditions set forth herein and relying upon the representations and warranties set forth herein, the Initial Term Lenders agree, severally and not jointly, to make Initial Term Loans to the Borrower on the Closing Date in the original aggregate principal amount of $165,000,000.

(b) Revolving Loans. Subject to the terms and conditions set forth herein and relying upon the representations and warranties set forth herein, each Revolving Lender agrees, severally and not jointly, to make Revolving Loans to the Borrower, at any time and from time to time on or after the Closing Date until the earlier of the Revolving Maturity Date and the termination of the Revolving Commitment of such Lender in accordance with the terms hereof, in an aggregate principal amount at any time outstanding that will not result in such Lender's Revolving Exposure exceeding such Lender's Revolving Commitment.

(c) Delayed Draw Term Loans. Subject to the terms and conditions set forth herein and relying upon the representations and warranties set forth herein, each Delayed Draw Term Loan Lender agrees, severally and not jointly, to make Delayed Draw Term Loans to the Borrower, at any time and from time to time on or after the Closing Date until the earlier of the Term Loan Maturity Date and the termination of the Delayed Draw Term Loan Commitment of such Lender in accordance with the terms hereof.

Amounts paid or prepaid in respect of Term Loans may not be reborrowed. Subject to the terms, conditions and limitations set forth herein, the Borrower may borrow, pay or prepay and reborrow Revolving Loans.

Section 2.02 Loans. (a) Each Loan shall be made as part of a Borrowing consisting of Loans made by the Lenders ratably in accordance with their applicable Commitments; *provided* that the failure of any Lender to make any Loan shall not in itself relieve any other Lender of its obligation to lend hereunder (it being understood, however, that no Lender shall be responsible for the failure of any other Lender to make any Loan required to be made by such other Lender).

(b) Subject to Section 2.11 and Section 2.12, each Borrowing shall be comprised entirely of ABR Loans or Eurodollar Loans as the Borrower may request pursuant to Section 2.03. Each Lender may at its option make any Eurodollar Loan by causing any domestic or foreign branch or Affiliate of such Lender to make such Loan; *provided* that any exercise of such option shall not affect the obligation of the Lender to make such Loan and the Borrower to repay such Loan in accordance with the terms of this

Agreement. Borrowings of more than one Type may be outstanding at the same time; *provided* that the Borrower shall not be entitled to request any Borrowing that, if made, would result in more than ten Eurodollar Borrowings outstanding hereunder at any one time. For purposes of the foregoing, Borrowings having different Interest Periods, regardless of whether they commence on the same date, shall be considered separate Borrowings.

(c) Each Lender shall make each Loan to be made by it hereunder on the proposed date thereof by wire transfer of immediately available funds to such account in New York City as the Administrative Agent may designate from time to time not later than 11:00 a.m., New York City time, and the Administrative Agent shall promptly credit the amounts so received to an account as directed by the Borrower in the applicable Borrowing Request or, if a Borrowing shall not occur on such date because any condition precedent herein specified shall not have been met, return the amounts so received to the respective Lenders within two Business Days.

(d) Unless the Administrative Agent shall have received written notice from a Lender prior to the date of any Borrowing that such Lender will not make available to the Administrative Agent such Lender's portion of such Borrowing, the Administrative Agent may assume that such Lender has made such portion available to the Administrative Agent on the date of such Borrowing in accordance with paragraph (c) above, and the Administrative Agent may (but shall not be obligated to), in reliance upon such assumption, make available to the Borrower on such date a corresponding amount. If the Administrative Agent shall have so made funds available, then, to the extent that such Lender shall not have made such portion available to the Administrative Agent, each of such Lender and the Borrower severally agrees to repay to the Administrative Agent forthwith on demand such corresponding amount together with interest thereon, for each day from the date such amount is made available to the Borrower until the date such amount is repaid to the Administrative Agent at (i) in the case of such Lender, the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking industry rules or practices on interbank compensation, and (ii) in the case of the Borrower, the interest rate applicable to the Borrowing pursuant to which the Borrower received such funds. If such Lender shall repay to the Administrative Agent such corresponding amount, such amount shall constitute such Lender's Loan as part of such Borrowing for purposes of this Agreement, and the Borrower's obligation to repay the Administrative Agent such corresponding amount pursuant to this Section 2.02(d) shall cease.

(e) Notwithstanding any other provision of this Agreement, the Borrower shall not be entitled to request, or to elect to convert or continue, any Borrowing if the Interest Period requested with respect thereto would end after the Revolving Maturity Date or the Term Loan Maturity Date, as applicable

(f) The Delayed Draw Term Loans may be borrowed in up to ten (10) borrowings commencing on the Closing Date until the date that is the earlier of (x) eighteen (18) months after the Closing Date and (y) the date on which the Delayed Draw Term Loan Commitments are reduced to zero (the "**Delayed Draw Term Loan Commitment Expiration Date**") and each Borrowing in respect thereof shall comprise an aggregate principal amount that is not less than $500,000.

(g) The availability and funding of Delayed Draw Term Loans shall, to the extent used as contemplated by Section 5.07, be subject to customary "SunGard" conditionality provisions and limitations, including in a manner consistent with Section 4.01. If the Borrower has made an LCA Election prior to the Delayed Draw Term Loan Commitment Expiration Date with respect to any Permitted Acquisition or similar Investment (and related transactions) that the Borrower in good faith believes be consummated after the Delayed Draw Term Loan Commitment Expiration Date, the associated Delayed Draw Term Loans may be funded into escrow on the Delayed Draw Term Loan Commitment Expiration Date pending the consummation of such Permitted Acquisition or similar Investment (and related transactions), subject to terms and conditions reasonably acceptable to the Administrative Agent.

Section 2.03 **Borrowing Procedure**. To request a Revolving Borrowing or Term Borrowing, the Borrower shall deliver, by hand delivery, email through a "pdf" copy or facsimile transmission (or transmit by other electronic transmission if arrangements for doing so have been approved in writing by the Administrative Agent), a duly completed and executed Borrowing Request to the Administrative Agent (i) in the case of a Eurodollar Term Borrowing, not later than 12:00 p.m., New York City time, on the third Business Day before the date of the proposed Borrowing (or such later time as may be reasonably acceptable to the Administrative Agent, in the case of any Borrowing), (ii) in the case of an ABR Term Borrowing, not later than 4:00 p.m., New York City time, on the Business Day prior to the proposed Borrowing (or such later time on such Business Day as may be reasonably acceptable to the Administrative Agent) and (iii) in the case of any Revolving Borrowing, not later than 12:00 p.m., New York City time, on the fifth Business Day before the date of the proposed Borrowing (or such later time as may be reasonably acceptable to the Administrative Agent). Each Borrowing Request shall be irrevocable and shall specify the following information in compliance with Section 2.02:

(a) whether the requested Borrowing is to be a Borrowing of Revolving Loans or Term Loans;

(b) the aggregate amount of such Borrowing;

(c) the date of such Borrowing, which shall be a Business Day;

(d) whether such Borrowing is to be an ABR Borrowing or a Eurodollar Borrowing;

(e) in the case of a Eurodollar Borrowing, the initial Interest Period to be applicable thereto, which shall be a period contemplated by the definition of the term "Interest Period";

(f) the location and number of the Borrower's account to which funds are to be disbursed; and

(g) that, in the case of a Revolving Borrowing, the conditions set forth in Section 4.02(b) and Section 4.02(c) are satisfied as of the date of the notice and, in the case of a Delayed Draw Term Loan Borrowing, the conditions set forth in Section 4.03(b) and 4.03(c) are satisfied as of the date of the notice.

If no election as to the Type of Borrowing is specified, then the requested Borrowing shall be an ABR Borrowing. If no Interest Period is specified with respect to any requested Eurodollar Borrowing, then Borrower shall be deemed to have selected an Interest Period of one month's duration. Promptly following receipt of a Borrowing Request in accordance with this Section 2.03, the Administrative Agent shall advise each Lender of the details thereof and of the amount of such Lender's Loan to be made as part of the requested Borrowing.

Section 2.04 **Evidence of Debt; Repayment of Loans**. (a) Borrower hereby unconditionally promises to pay to (i) the Administrative Agent for the account of each Term Loan Lender, the principal amount of each Term Loan of such Term Loan Lender as provided in Section 2.09 and (ii) the Administrative Agent for the account of each Revolving Lender, the then unpaid principal amount of each Revolving Loan of such Revolving Lender on the Revolving Maturity Date.

(b) 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 under this Agreement.

(c) The Administrative Agent shall maintain the Register in which it will record (i) the amount of each Loan made hereunder, the Type and Class thereof and the Interest Period applicable 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, and (iii) the amount of any sum received by the Administrative Agent hereunder for the account of the Lenders and each Lender's share thereof.

(d) The entries made in the Register maintained pursuant to paragraph (c) above shall be conclusive evidence, absent manifest error, of the existence and amounts of the obligations therein recorded; *provided* that the failure of any Lender or the Administrative Agent to maintain such accounts or any error therein shall not in any manner affect the obligations of the Borrower and the other Loan Parties to pay, and perform, the Obligations in accordance with the Loan Documents. In the event of any conflict between the accounts and records maintained by any Lender and the accounts and records of the Administrative Agent in respect of such entries, the accounts and records of the Administrative Agent shall control in the absence of manifest error.

(e) Any Lender by written notice to the Borrower (with a copy to the Administrative Agent) may request that Loans of any Class made by it be evidenced by a promissory note. In such event, the Borrower shall promptly (and, in all events, within seven Business Days of receipt of such written notice), execute and deliver to such Lender a promissory note payable to such Lender (or, if requested by such Lender, to such Lender and its registered assigns) in the form of Exhibit F-1, F-2, F-3 or F-4, as the case may be. Thereafter, the Loans evidenced by such promissory note and interest thereon shall at all times (including after assignment pursuant to Section 11.04) be represented by one or more promissory notes in such form payable to the payee named therein (or, if such promissory note is a registered note, to such payee and its registered assigns).

Section 2.05 Fees. (a) Commitment Fee. Borrower agrees to pay to the Administrative Agent for the account of each Revolving Lender (other than a Defaulting Lender) a commitment fee (a "**Commitment Fee**") equal to 0.50% *per annum* of the average daily unused amount of each Revolving Commitment of such Revolving Lender during the period from and including the Closing Date to but excluding the date on which such Revolving Commitment terminates. Accrued Commitment Fees shall be payable in arrears (i) on the last Business Day of March, June, September and December of each year, commencing on the first such date to occur after the Closing Date, and (ii) on the date on which such Commitment terminates. Commitment Fees shall be computed on the basis of a year of 360 days and shall be payable for the actual number of days elapsed (including the first day but excluding the last day). For purposes of computing Commitment Fees, a Revolving Commitment of a Revolving Lender shall be deemed to be used to the extent of the outstanding Revolving Loans of such Lender

(b) Delayed Draw Ticking Fee The Borrower agrees to pay to the Administrative Agent for the account of each Delayed Draw Term Loan Lender of any Class (other than any Defaulting Lender) a commitment fee (the "**Delayed Draw Ticking Fee**"), which shall accrue at a rate *per annum* equal to the Delayed Draw Term Loan Commitment Fee Rate applicable to the Delayed Draw Term Loan Commitments of such Class on the actual amount of the unused Delayed Draw Term Loan Commitments of such Class of such Delayed Draw Term Loan Lender calculated based upon the actual number of days elapsed over a 360-day year for the period from and including the Closing Date to the date on which such Lender's Delayed Draw Term Loan Commitment of such Class terminates. Accrued commitment fees shall be payable in arrears on the last Business Day of each March, June, September and December for the quarterly period then ended and on the Delayed Draw Term Loan Commitment Expiration Date. The Delayed Draw Ticking Fee shall be distributed to the Delayed Draw Term Loan Lenders pro rata in accordance with the amount of each such Delayed Draw Term Loan Lender's Delayed Draw Term Loan Commitment.

(c) Administrative Agent Fees. Borrower agrees to pay to the Administrative Agent, for its own account, the administrative fees set forth in the Agent Fee Letter or such other fees payable in the amounts and at the times separately agreed upon between Borrower and the Administrative Agent (the "**Administrative Agent Fees**").

(d) Other Fees. Borrower agrees to pay the Agents, for their own account, fees payable in the amounts and at the times separately agreed upon between Borrower and the applicable Agents.

(e) Payment of Fees. All Fees shall be paid on the dates due, in immediately available funds in Dollars, to the Administrative Agent for distribution, if and as appropriate, among the Lenders, except that the Borrower shall pay the Fees provided under Section 2.05(d) directly to the Agents. Once paid, none of the Fees shall be refundable under any circumstances.

Section 2.06 Interest on Loans. (a) Subject to the provisions of Section 2.06(c), the Loans comprising each ABR Borrowing shall bear interest at a rate per annum equal to the Alternate Base Rate plus the Applicable Margin in effect from time to time.

(b) Subject to the provisions of Section 2.06(c), the Loans comprising each Eurodollar Borrowing shall bear interest at a rate per annum equal to the Adjusted LIBOR Rate for the Interest Period in effect for such Borrowing plus the Applicable Margin in effect from time to time.

(c) Notwithstanding the foregoing, (i) overdue principal and, to the extent permitted under applicable law, interest in respect of the Loans shall bear interest, after as well as before judgment, at a rate *per annum* equal to the rate which is 2% in excess of the non-default rate applicable to the respective Loans from time to time and (y) all other overdue amounts owing under the Loan Documents shall bear interest, after as well as before judgment, at a rate *per annum* equal to the rate which is 2% in excess of the non-default rate then applicable to ABR Loans from time to time (the "**Default Rate**").

(d) Accrued interest on each Loan shall be payable in arrears on each Interest Payment Date for such Loan; *provided* that (i) interest accrued pursuant to Section 2.06(c) shall be payable on demand, (ii) in the event of any repayment or prepayment of any Loan (other than a prepayment of an ABR Revolving Loan), accrued interest on the principal amount repaid or prepaid shall be payable on the date of such repayment or prepayment and (iii) in the event of any conversion of any Eurodollar Loan prior to the end of the current Interest Period therefor, accrued interest on such Loan shall be payable on the effective date of such conversion.

(e) All *per annum* interest hereunder shall be computed on the basis of a year of 360 days, except that interest computed by reference to the Alternate Base Rate shall be computed on the basis of a year of 365 days (or 366 days in a leap year), and in each case shall be payable for the actual number of days elapsed (including the first day but excluding the last day). The applicable Alternate Base Rate or Adjusted LIBOR Rate shall be determined by the Administrative Agent in accordance with the provisions of this Agreement and such determination shall be conclusive absent manifest error.

Section 2.07 Termination and Reduction of Commitments. (a) Unless previously terminated, the Initial Term Loan Commitments in effect on the Closing Date shall automatically terminate upon the funding of the Initial Term Loans on the Closing Date and the Delayed Draw Term Loan Commitments shall automatically terminate (i) in the event a Delayed Draw Term Loan is funded, upon the making of such Delayed Draw Term Loan in a corresponding amount and (B) in any event, on the Delayed Draw Term Loan Commitment Expiration Date. Subject to the provisions of clause (b) below, the Revolving Commitments shall automatically terminate on the Revolving Maturity Date.

(b) At its option, the Borrower may at any time terminate, or from time to time permanently reduce, the Commitments of any Class (other than Delayed Draw Term Loans, which may be reduced or terminated as provided in Section 2.07(d) below); *provided* that (i) each reduction of the Commitments of any Class (other than Delayed Draw Term Loans) shall be in an amount that is an integral multiple of $250,000 and not less than $500,000 and (ii) the Revolving Commitments shall not be terminated or reduced if, after giving effect to any concurrent prepayment of the Revolving Loans in accordance with Section 2.10, the aggregate amount of Revolving Exposures would exceed the aggregate amount of Revolving Commitments.

(c) The Borrower shall notify the Administrative Agent in writing of any election to terminate or reduce the Commitments under Section 2.07(b) at least three Business Days prior to the effective date of such termination or reduction (which effective date shall be a Business Day), specifying such election and the effective date thereof. Promptly following receipt of any such notice, the Administrative Agent shall advise the Lenders of the contents thereof. Each notice delivered by Borrower pursuant to this Section 2.07(c) shall be irrevocable; provided, that a notice of termination of the Commitments delivered by Borrower may state that such notice is conditioned upon the effectiveness of any other credit facilities, the closing of a securities offering or other refinancing of the Facilities, in which case, such notice may be revoked by Borrower (by written notice to the Administrative Agent during normal business hours on the Business Day prior to the specified effective date of such termination) if such condition is not satisfied and the Borrower shall pay any amounts due under Section 2.13, if any, in connection with any such revocation. With respect to the effectiveness of any such other credit facilities, the closing of any such securities offering, the Borrower may, subject to paying any amounts due under Section 2.13 with respect to such proposed extension, extend the date of termination to a Business Day occurring within three Business Days of the then effective termination date at any time during normal business hours prior to the then effective termination date with the consent of the Administrative Agent (such consent not to be unreasonably withheld, delayed or conditioned). Any termination or reduction of the Commitments of any Class shall be permanent. Each reduction of the Commitments of any Class shall be made ratably among the Lenders in accordance with their respective Commitments of such Class.

(d) Upon delivering the notice required by Section 2.07(e), the Borrower may at any time terminate or from time to time reduce the Delayed Draw Term Loan Commitments of any Class; provided that each reduction of the Delayed Draw Term Loan Commitments of any Class shall be in an amount that is an integral multiple of $1,000,000 or if less, the remaining amount thereof.

(e) The Borrower shall notify the Administrative Agent of any election to terminate or reduce the Delayed Draw Term Loan Commitment, as applicable, under Section 2.07(d) in writing at least three (3) Business Days prior to the effective date of such termination or reduction (or such later date to which the Administrative Agent may agree), specifying such election and the effective date thereof. Promptly following receipt of any notice, the Administrative Agent shall advise each applicable Delayed Draw Term Loan Lender of the contents thereof. Each notice delivered by the Borrower pursuant to this Section 2.07(e) shall be irrevocable; *provided* that any such notice may state that it is conditioned upon the effectiveness of other transactions or contingencies, in which case such notice may be revoked by the Borrower (by notice to the Administrative Agent on or prior to the specified effective date) if such condition is not satisfied. Any effective termination or reduction of any Delayed Draw Term Loan Commitment pursuant to this Section 2.07(e) shall be permanent. Upon any reduction of any Delayed Draw Term Loan Commitment, the Delayed Draw Term Loan Commitment of each Delayed Draw Term Loan Lender of the relevant Class shall be reduced by such Delayed Draw Term Loan Lender's applicable Pro Rata Percentage of such reduction amount.

Section 2.08 Interest Elections. (a) Each Revolving Borrowing and Term Borrowing initially shall be of the Type specified in the applicable Borrowing Request and, in the case of a Eurodollar

Borrowing, shall have an initial Interest Period as specified in such Borrowing Request. Thereafter, the Borrower may elect to convert such Borrowing to a different Type or to continue such Borrowing and, in the case of a Eurodollar Borrowing, may elect Interest Periods therefor, all as provided in this Section 2.07(c). Borrower may elect different options with respect to different portions of the affected Borrowing, in which case each such portion shall be allocated ratably among the Lenders holding the Loans comprising such Borrowing, and the Loans comprising each such portion shall be considered a separate Borrowing. Notwithstanding anything to the contrary in this Agreement, the Borrower shall not be entitled to request any conversion or continuation that, if made, would result in more than ten Eurodollar Borrowings outstanding hereunder at any one time.

(b) To make an election pursuant to this Section 2.07(c), the Borrower shall deliver, by hand delivery, email through a "pdf" copy or facsimile transmission (or transmit by other electronic transmission if arrangements for doing so have been approved in writing by the Administrative Agent), a duly completed and executed Interest Election Request to the Administrative Agent not later than the time that a Borrowing Request would be required under Section 2.03 if the Borrower were requesting a Revolving Borrowing or Term Borrowing the Type resulting from such election to be made on the effective date of such election. Each Interest Election Request shall be irrevocable.

(c) Each Interest Election Request shall specify the following information in compliance with Section 2.02:

(i) the Borrowing to which such Interest Election Request applies and, if different options are being elected with respect to different portions thereof, or if outstanding Borrowings are being combined, allocation to each resulting Borrowing (in which case the information to be specified pursuant to clauses (iii) and (iv) below shall be specified for each resulting Borrowing);

(ii) the effective date of the election made pursuant to such Interest Election Request, which shall be a Business Day;

(iii) whether the resulting Borrowing is to be an ABR Borrowing or a Eurodollar Borrowing; and

(iv) if the resulting Borrowing is a Eurodollar Borrowing, the Interest Period to be applicable thereto after giving effect to such election, which shall be a period contemplated by the definition of the term "Interest Period."

If any such Interest Election Request requests a Eurodollar Borrowing but does not specify an Interest Period, then Borrower shall be deemed to have selected an Interest Period of one month's duration.

(d) Promptly following receipt of an Interest Election Request, the Administrative Agent shall advise each Lender of the details thereof and of such Lender's portion of each resulting Borrowing.

(e) If an Interest Election Request with respect to a Eurodollar Borrowing is not timely delivered prior to the end of the Interest Period applicable thereto, then, unless such Borrowing is repaid as provided herein, at the end of such Interest Period such Borrowing shall be converted to an ABR Borrowing. Notwithstanding any contrary provision hereof, if an Event of Default has occurred and is continuing, the Administrative Agent, at the direction of the Required Lenders, may require, by notice to the Borrower, that (i) no outstanding Borrowing may be converted to or continued, after any then-applicable Interest

Period, as a Eurodollar Borrowing and (ii) unless repaid, each Eurodollar Borrowing shall be converted to an ABR Borrowing at the end of the Interest Period applicable thereto.

Section 2.09 Amortization of Term Borrowing. (a) The Borrower shall pay to the Administrative Agent, for the account of the Term Loan Lenders, on the dates set forth on Annex I, or if any such date is not a Business Day, on the immediately following Business Day (each such date, a "**Term Loan Repayment Date**"), a principal amount of the Term Loans equal to the amount set forth on Annex I for such date (as adjusted from time to time pursuant to Section 2.10(g) and in connection with any additional Term Loans made pursuant to Section 2.19), together in each case with accrued and unpaid interest on the principal amount to be paid to but excluding the date of such payment.

(b) To the extent not previously paid, all Term Loans shall be due and payable on the applicable Term Loan Maturity Date.

Section 2.10 Optional and Mandatory Prepayments of Loans. (a) Optional Prepayments. The Borrower shall have the right at any time and from time to time to prepay any Borrowing, in whole or in part, or to permanently reduce any portion of the Commitment, subject to any reimbursement required under Section 2.13 and the requirements of this Section 2.10; *provided* that each optional partial prepayment or permanent reduction in any Commitment shall be in an amount that is an integral multiple of $250,000 and not less than $500,000 or, if less, the outstanding principal amount of such Borrowing.

(b) Revolving Loan Prepayments. (i) In the event of the termination of all the Revolving Commitments, the Borrower shall, on the date of such termination, repay or prepay all its outstanding Revolving Borrowings.

(ii) In the event of any partial reduction of the unutilized portion of Revolving Commitments, then (x) at or prior to the effective date of such reduction, the Administrative Agent shall notify Borrower and the Revolving Lenders of the sum of the Revolving Exposures after giving effect thereto and (y) if the sum of the Revolving Exposures would exceed the aggregate amount of Revolving Commitments after giving effect to such reduction, then Borrower shall, on the date of such reduction, repay or prepay Revolving Borrowings in an aggregate amount sufficient to eliminate such excess.

(iii) In the event that the sum of all Lenders' Revolving Exposures exceeds the Revolving Commitments then in effect, the Borrower shall, without notice or demand, immediately repay or prepay Revolving Borrowings in an aggregate amount sufficient to eliminate such excess.

(c) Asset Sales and Casualty Events. Not later than five (5) Business Days following the receipt by any Company of any Net Cash Proceeds of any Asset Sale or Casualty Event, the Borrower shall apply 100% of such Net Cash Proceeds to make prepayments in accordance with Sections 2.10(f) and (g); *provided* that:

(i) no such prepayment shall be required under this clause (c) to the extent the aggregate Net Cash Proceeds of all Casualty Events, Asset Sales or series of related Asset Sales do not result in more than $1,000,000 in any fiscal year (the "**Asset Disposition Threshold**" and the Net Cash Proceeds in excess of the Asset Disposition Threshold, the "**Excess Net Cash Proceeds**");

(ii) such Excess Net Cash Proceeds shall not be required to be so applied on such date to the extent that the Borrower shall have delivered an Officers' Certificate to the Administrative Agent on or prior to such date stating that such Excess Net Cash Proceeds are

expected to be reinvested in assets used or useful in the business (other than ordinary course current assets) of the Borrower and the other Loan Parties within 365 days following the date of such Casualty Event or Asset Sale (which Officers' Certificate shall set forth the estimates of the proceeds to be so expended); *provided*, that if the Property subject to such Casualty Event or Asset Sale constituted Collateral, then all Property purchased or otherwise acquired with the Excess Net Cash Proceeds thereof pursuant to this subsection shall be made subject to the first priority perfected Lien of the applicable Security Documents in favor of the Collateral Agent, for its benefit and for the benefit of the other Secured Parties to the extent required by Sections 5.10 and 5.11; and

(iii) if all or any portion of such Excess Net Cash Proceeds permitted to be reinvested pursuant to clause (ii) above is not contractually committed to be so reinvested within such 365-day period (and actually reinvested within 180 days after such contractual commitment was entered into), such unused portion shall be applied on the last day of such period as a mandatory prepayment as provided in this Section 2.10(c);

(d) Debt Issuance. Not later than five (5) Business Days following the receipt of any Net Cash Proceeds of any Debt Issuance by any Company (other than Indebtedness permitted by this Agreement (other than Indebtedness pursuant to Section 2.21 to refinance all or a portion of the Term Loans or New Term Loans)), the Borrower shall make prepayments in accordance with Sections 2.10(f) and (g) in an aggregate principal amount equal to 100% of such Net Cash Proceeds.

(e) Excess Cash Flow. No later than five (5) Business Days after the date on which the audited financial statements with respect to such fiscal year in which such Excess Cash Flow Period occurs are required to be delivered pursuant to Section 5.01(a) (for the avoidance of doubt, commencing with the fiscal year of the Borrower after the Closing Date), the Borrower shall make prepayments in accordance with Sections 2.10(f) and (g), in an aggregate principal amount equal to the following percentage of Excess Cash Flow for the Excess Cash Flow Period then ended based on the Secured Leverage Ratio at the end of such Excess Cash Flow Period then ended:

Secured Leverage Ratio	**Percentage of Excess Cash Flow**
Greater than 2.25:1.00	50%
Greater than 1.75:1.00 but less than or equal to 2.25:1.00	25%
Less than or equal to 1.75:1.00	0%

(f) Application of Prepayments.

(i) *Mandatory Prepayments*. Except as may be set forth in any Incremental Loan Amendment, any Extension Amendment or any Refinancing Amendment, all amounts required to be paid pursuant to Sections 2.10(c), 2.10(d) and 2.10(e) shall be applied pro rata to the outstanding Term Loans of each Class (or, in the case of the incurrence of Credit Agreement Refinancing Indebtedness, to the Term Loans of the Class or Classes to be refinanced with the proceeds of such Credit Agreement Refinancing Indebtedness), and to the remaining unpaid amortization payments required under Section 2.09 thereof as directed by the Borrower at the time

of the respective prepayment (or, in the absence of such direction, in direct order of maturity to the remaining unpaid amortization payments required under Section 2.09).

(ii) *Optional Prepayments*. Except as may be set forth in any Incremental Loan Amendment, any Extension Amendment or any Refinancing Amendment, all amounts applied to the voluntary prepayment of any Term Loan pursuant to Section 2.10(a) shall be applied pro rata to the outstanding Term Loans of each Class, and to the remaining unpaid amortization payments required under Section 2.09 thereof as directed by the Borrower at the time of the respective prepayment (or, in the absence of such direction, in direct order of maturity to the remaining unpaid amortization payments required under Section 2.09). Within the parameters of the applications set forth above, prepayments shall be applied first to Base Rate Loans and then to Eurodollar Loans in direct order of Interest Period maturities. All prepayments of Eurodollar Loans under this Section 2.10(f) shall be subject to Section 2.13.

(g) Notice of Prepayment. Borrower shall notify the Administrative Agent by written notice of any prepayment hereunder (i) in the case of prepayment of a Eurodollar Borrowing, not later than Noon, New York City time, on the third Business Day before the date of prepayment (or such later time as may be agreed to by Administrative Agent in its sole discretion) and (ii) in the case of prepayment of an ABR Borrowing, not later than Noon, New York City time, one Business Day before the date of prepayment (or such later time as may be agreed to by Administrative Agent in its sole discretion). Each such notice shall be irrevocable, *provided* that, if a notice of prepayment is given in connection with a conditional notice of termination of the Commitments as contemplated by Section 2.07, then such notice of prepayment may be revoked or extended if such termination is revoked or extended in accordance with Section 2.07. Each such notice shall specify the prepayment date, the principal amount of each Borrowing or portion thereof to be prepaid and, in the case of a mandatory prepayment, a reasonably detailed calculation of the amount of such prepayment. Promptly following receipt of any such notice, the Administrative Agent shall advise the Lenders of the contents thereof. Such notice to the Lenders may be by electronic communication. Each partial prepayment of any Borrowing shall be in an amount that would be permitted in the case of a Borrowing of the same Type as provided in Section 2.02, except as necessary to apply fully the required amount of a mandatory prepayment. Each prepayment of a Borrowing shall be applied ratably to the Loans included in the prepaid Borrowing and otherwise in accordance with this Section 2.10. Prepayments shall be accompanied by accrued interest to the extent required by Section 2.06.

(h) Waiver of Mandatory Prepayments. Notwithstanding the foregoing provisions of this Section 2.10, (i) in the case of any mandatory prepayment of the Term Loans, Term Loan Lenders, as applicable, may waive by written notice to the Borrower and the Administrative Agent on or before the date on which such mandatory prepayment would otherwise be required to be made hereunder the right to receive the amount of such mandatory prepayment of the Term Loans, as applicable, (ii) any amounts not applied to the prepayment of Term Loans, as applicable, shall be applied instead to the prepayment of outstanding Revolving Loans (but without any corresponding reduction in Revolving Commitments and (iii) so long as no Default or Event of Default has occurred and is continuing, to the extent there are any prepayment amounts remaining after the foregoing application, such amounts shall be paid promptly by the Administrative Agent to the Borrower.

(i) Loan Call Protection. In the event that, prior to the second anniversary of the Closing Date, the Borrower makes any prepayment or repayment of Initial Term Loans pursuant to Section 2.10(a), 2.10(c) and 2.10(d) , (ii) the Borrower makes any prepayment or repayment of Initial Term Loans in whole or in part following a Change in Control or an acceleration of the Initial Term Loans (with the date of such prepayment or repayment, for purposes of calculating the payment required pursuant to this Section 2.10(i), to be deemed to be the date on which such Change in Control or acceleration of the Initial Term Loans occurs) or (iii) the Borrower replaces any Lender in accordance with Section 2.16(b)(iv), in

each case, the Borrower shall pay to the Administrative Agent, for the ratable account of each of the Lenders holding Initial Term Loans (including any Lender that is replaced pursuant to Section 2.16(b)(iv)), a premium equal to (x) if such event occurs prior to the first anniversary of the Closing Date, 2.00% and (y) if such event occurs on or after the first anniversary but prior to the second anniversary of the Closing Date, 1.00% of the aggregate principal amount of the Initial Term Loans being prepaid or repaid (or mandatorily assigned) (such premiums, the "Prepayment Premium"). Without limiting the generality of the foregoing, it is understood and agreed that if the Initial Term Loans are accelerated or otherwise become due prior to the Maturity Date, in each case, in respect of any Event of Default (including upon the occurrence of an Event of Default under Section 8.01(g) or 8.01(h) (including the acceleration of claims by operation of law)), any Prepayment Premium that would otherwise be applicable with respect to a prepayment of the Initial Term Loans at such time pursuant to Section 2.10(a) will also be due and payable on the date of such acceleration or such other prior due date as though the Initial Term Loans were voluntarily prepaid as of such date and shall constitute part of the Senior Credit Obligations, in view of the impracticability and extreme difficulty of ascertaining actual damages and by mutual agreement of the parties as to a reasonable calculation of each Lender's loss as a result thereof. Any premium payable above shall be presumed to be the liquidated damages sustained by each Lender and the Borrower agrees that it is reasonable under the circumstances currently existing. THE BORROWER EXPRESSLY WAIVES (TO THE FULLEST EXTENT IT MAY LAWFULLY DO SO) THE PROVISIONS OF ANY PRESENT OR FUTURE STATUTE OR LAW THAT PROHIBITS OR MAY PROHIBIT THE COLLECTION OF THE PREPAYMENT PREMIUM IN CONNECTION WITH ANY SUCH ACCELERATION. The Borrower expressly agrees (to the fullest extent it may lawfully do so) that: (A) the Prepayment Premium is reasonable and is the product of an arm's length transaction between sophisticated business people, ably represented by counsel; (B) the Prepayment Premium shall be payable notwithstanding the then prevailing market rates at the time payment is made; (C) there has been a course of conduct between the Lenders and the Borrower giving specific consideration in this transaction for such agreement to pay the Prepayment Premium; and (D) the Borrower shall be estopped hereafter from claiming differently than as agreed to in this paragraph.

(j) Foreign Subsidiary Restrictions. Notwithstanding any other provisions of this Section 2.10, (A) to the extent that any or all of the Net Cash Proceeds of any Asset Sale or Casualty Event by a Foreign Subsidiary or the portion of Excess Cash Flow for any Excess Cash Flow Period attributable to a Foreign Subsidiary are prohibited, restricted or delayed from being repatriated to the United States, or such repatriation or prepayment would present a material risk of liability for the applicable Foreign Subsidiary or its directors or officers (or would give rise to a material risk of breach of fiduciary or statutory duties by any director or officer), the Borrower shall not be required to make a prepayment at the time provided in this Section 2.10 with respect to such affected amounts, and instead, such amounts may be retained by the applicable Foreign Subsidiary (the Borrower hereby agreeing to use commercially reasonable efforts to otherwise cause the applicable Foreign Subsidiary following the date on which the respective payment would otherwise have been required, promptly to take all actions reasonably required by the applicable local Law or other impediment to permit such repatriation), and if following the date on which the respective payment would otherwise have been required, such repatriation of any of such Net Cash Proceeds or Excess Cash Flow is permitted under the applicable local Law or other impediment (or is otherwise received by the Borrower or a Subsidiary Guarantor), such repatriation will be promptly effected and such repatriated Net Cash Proceeds or Excess Cash Flow will be promptly (and in any event not later than three (3) Business Days after such repatriation could be made) applied (whether or not repatriation actually occurs) to the repayment of the Term Loans pursuant to this Section 2.10 to the extent provided herein and (B) to the extent that the Borrower has determined in good faith that repatriation of any of or all Net Cash Proceeds or Excess Cash Flow could reasonably be expected to have an adverse Tax consequence that is not de minimis (taking into account any foreign tax credit or benefit actually realized in connection with such repatriation) with respect to such Net Cash Proceeds or Excess Cash Flow, the Net Cash Proceeds or Excess Cash Flow so affected may be retained by the applicable Foreign Subsidiary; provided that, in the case of this clause (B), on or before the date that is twelve months after the date on which any Net Cash

Proceeds or Excess Cash Flow so retained would otherwise have been required to be applied to prepayments pursuant to this Section 2.10(e), the Borrower shall apply an amount equal to such Net Cash Proceeds or Excess Cash Flow to such prepayments as if such Net Cash Proceeds or Excess Cash Flow had been received by the Borrower rather than a Foreign Subsidiary, less the amount of additional Taxes that would have been payable or reserved against if such Net Cash Proceeds or Excess Cash Flow had been repatriated.

Section 2.11 Benchmark Replacement Setting. Notwithstanding anything to the contrary herein or in any other Loan Document:

(a) Replacing USD LIBOR. On March 5, 2021 the Financial Conduct Authority ("**FCA**"), the regulatory supervisor of USD LIBOR's administrator ("**IBA**"), announced in a public statement the future cessation or loss of representativeness of overnight/Spot Next, 1-month, 3-month, 6-month and 12-month USD LIBOR tenor settings. On the earlier of (i) the date that all Available Tenors of USD LIBOR have either permanently or indefinitely ceased to be provided by IBA or have been announced by the FCA pursuant to public statement or publication of information to be no longer representative and (ii) the Early Opt-in Effective Date, if the then-current Benchmark is USD LIBOR, the Benchmark Replacement will replace such Benchmark for all purposes hereunder and under any Loan Document in respect of any setting of such Benchmark on such day and all subsequent settings without any amendment to, or further action or consent of any other party to this Agreement or any other Loan Document. If the Benchmark Replacement is Daily Simple SOFR, all interest payments will be payable on a quarterly basis.

(b) Replacing Future Benchmarks. Upon the occurrence of a Benchmark Transition Event, the Benchmark Replacement will replace the then-current Benchmark for all purposes hereunder and under any Loan Document in respect of any Benchmark setting at or after 5:00 p.m. on the fifth (5th) Business Day after the date notice of such Benchmark Replacement is provided to the Lenders without any amendment to, or further action or consent of any other party to, this Agreement or any other Loan Document so long as the Administrative Agent has not received, by such time, written notice of objection to such Benchmark Replacement from Lenders comprising the Required Lenders. At any time that the administrator of the then-current Benchmark has permanently or indefinitely ceased to provide such Benchmark or such Benchmark has been announced by the regulatory supervisor for the administrator of such Benchmark pursuant to public statement or publication of information to be no longer representative of the underlying market and economic reality that such Benchmark is intended to measure and that representativeness will not be restored, the Borrower may revoke any request for a borrowing of, conversion to or continuation of Loans to be made, converted or continued that would bear interest by reference to such Benchmark until the Borrower's receipt of notice from the Administrative Agent that a Benchmark Replacement has replaced such Benchmark, and, failing that, the Borrower will be deemed to have converted any such request into a request for a borrowing of or conversion to ABR Loans. During the period referenced in the foregoing sentence, the component of ABR based upon the Benchmark will not be used in any determination of ABR.

(c) Benchmark Replacement Conforming Changes. In connection with the implementation and administration of a Benchmark Replacement, the Administrative Agent will have the right to make Benchmark Replacement Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other 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.

(d) Notices; Standards for Decisions and Determinations. The Administrative Agent will promptly notify the Borrower and the Lenders of (i) the implementation of any Benchmark Replacement and (ii) the effectiveness of any Benchmark Replacement Conforming Changes. Any determination, decision or election that may be made by the Administrative Agent or, if applicable, any Lender (or group of Lenders) pursuant to this Section, 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.

(e) Unavailability of Tenor of Benchmark. At any time (including in connection with the implementation of a Benchmark Replacement), (i) if the then-current Benchmark is a term rate (including Term SOFR or USD LIBOR), then the Administrative Agent may remove any tenor of such Benchmark that is unavailable or non-representative for Benchmark (including Benchmark Replacement) settings and (ii) the Administrative Agent may reinstate any such previously removed tenor for Benchmark (including Benchmark Replacement) settings.

Section 2.12 Increased Costs; Change in Legality. (a) If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit or similar requirement against Property of, deposits with or for the account of, or credit extended by, any Lender (except any such reserve requirement reflected in the Adjusted LIBOR Rate);

(ii) subject the Administrative Agent, any Lender or such other Recipient to any Taxes (other than (x) Excluded Taxes and (y) Indemnified Taxes that are covered by Section 2.15) on or with respect to its Loans, loan principal, letters of credit, commitments, or other obligations, or its deposits, reserves, other liabilities or capital attributable to any Loan or Commitment; or

(iii) impose on any Lender or the London interbank market any other condition, cost or expense affecting this Agreement or Eurodollar Loans made by such Lender therein;

and the result of any of the foregoing shall be to increase the cost to the Administrative Agent, such Lender or such other Recipient of making or maintaining any Loan (or of maintaining its obligation to make any such Loan) or to increase the cost to the Administrative Agent, such Lender or such Lender's holding company, if any, to reduce the amount of any sum received or receivable by the Administrative Agent, such Lender or such other Recipient hereunder (whether of principal, interest or otherwise), then Borrower will pay to the Administrative Agent, such Lender or such other Recipient, as the case may be, such additional amount or amounts as will compensate the Administrative Agent, such Lender or such other Recipient, as the case may be, for such additional costs incurred or reduction suffered; *provided* that the foregoing shall not apply to any such costs incurred more than 270 days prior to the date on which Borrower receives a certificate in regard thereto (*provided*, *further*, that the foregoing limitation shall not apply to any such costs arising out of the retroactive application of any Change in Law), as provided in subsection (c) below. The protection of this Section 2.12 shall be available to each Lender regardless of any possible contention of the invalidity or inapplicability of the Change in Law that shall have occurred or been imposed.

(b) If any Lender determines (in good faith in its reasonable discretion) that any Change in Law regarding Capital Requirements or liquidity has or would have the effect of reducing the rate of return on such Lender's capital or on the capital of such Lender's holding company, if any, as a consequence of this Agreement, the Commitment of such Lender or the Loans made by such Lender to a level below that which such Lender or such Lender's holding company could have achieved but for such Change in Law (taking into consideration such Lender's policies and the policies of such Lender's holding company with respect to capital adequacy), then from time to time Borrower will pay to such Lender such additional amount or amounts as will compensate such Lender or such Lender's holding company, for any such reduction suffered; *provided* that the foregoing shall not apply to any such costs incurred more than

270 days prior to the date on which Borrower receives a certificate in regard thereto (*provided*, *further*, that the foregoing limitation shall not apply to any such costs arising out of the retroactive application of any Change in Law), as provided in subsection (c) below.

(c) A certificate of a Lender setting forth in reasonable detail the amount or amounts necessary to compensate such Lender or its holding company, as the case may be, as specified in paragraph (a) or (b) of this Section 2.12 shall be delivered to the Borrower (with a copy to the Administrative Agent) and shall be conclusive and binding absent manifest error. Borrower shall pay such Lender the amount shown as due on any such certificate within ten (10) Business Days after receipt thereof.

(d) Failure or delay on the part of any Lender to demand compensation pursuant to this Section 2.12 shall not constitute a waiver of such Lender's right to demand such compensation, except as otherwise expressly provided in subsection (a) and (b) above.

(e) If any Lender determines in good faith in its reasonable discretion that any Change in Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for any Lender to make, maintain or fund Eurodollar Loans, or to determine or charge interest rates based upon the Adjusted LIBOR Rate, or any Governmental Authority has imposed material restrictions (other than such restrictions which are compensated for comprehensively under Section 2.12(a)) on the authority of such Lender to purchase or sell, or to take deposits of, Dollars in the London interbank market, then, on written notice thereof by such Lender to the Borrower through the Administrative Agent, any obligation of such Lender to make or continue Eurodollar Loans or to convert ABR Loans to Eurodollar Loans or, if such notice relates to the unlawfulness or asserted unlawfulness of charging interest based on the Adjusted LIBOR Rate, to make ABR Loans as to which the interest rate is determined with reference to the Adjusted LIBOR Rate shall be suspended until such Lender notifies in writing the Administrative Agent and the Borrower that the circumstances giving rise to such determination no longer exist. Upon receipt of such notice, the Borrower shall, within three Business Days after demand from such Lender (with a copy to the Administrative Agent), prepay or, if applicable, convert all Eurodollar Loans of such Lender and ABR Loans as to which the interest rate is determined with reference to the Adjusted LIBOR Rate to ABR Loans as to which the rate of interest is not determined with reference to the Adjusted LIBOR Rate, either on the last day of the Interest Period therefor, if such Lender may lawfully continue to maintain such Eurodollar Loans to such day, or immediately, if such Lender may not lawfully continue to maintain such Eurodollar Loans or a ABR Loan as to which the interest rate is determined with reference to the Adjusted LIBOR Rate. Notwithstanding the foregoing and despite the illegality for such a Lender to make, maintain or fund Eurodollar Loans or ABR Loans as to which the interest rate is determined with reference to the Adjusted LIBOR Rate, that Lender shall remain committed to make ABR Loans as to which the rate of interest is not determined with reference to the Adjusted LIBOR Rate and shall be entitled to recover interest at such Alternate Base Rate. Upon any such prepayment or conversion, the Borrower shall also pay accrued interest on the amount so prepaid or converted.

(f) For purposes of paragraph (e) of this Section 2.12, a written notice to the Borrower by any Lender shall be effective as to each Eurodollar Loan made by such Lender, if lawful, on the last day of the Interest Period then applicable to such Eurodollar Loan; in all other cases such notice shall be effective on the date of receipt by Borrower.

Section 2.13 Breakage Payments. In the event of (a) the payment or prepayment, whether optional or mandatory, of any principal of any Eurodollar Loan earlier than the last day of an Interest Period applicable thereto (including as a result of an Event of Default), (b) the conversion of any Eurodollar Loan earlier than the last day of the Interest Period applicable thereto, to the extent thereof, (c) the failure to borrow, convert, continue or prepay any Revolving Loan or Term Loan on the date specified in any notice delivered pursuant hereto, to the extent thereof, or (d) the assignment of any Eurodollar Loan earlier than

the last day of the Interest Period applicable thereto as a result of a request by Borrower pursuant to Section 2.16, to the extent thereof, then, in any such event, the Borrower shall compensate each Lender for the loss, cost and expense attributable to such event. In the case of a Eurodollar Loan, such loss, cost or expense to any Lender shall be deemed to include an amount reasonably determined by such Lender in good faith to be the excess, if any, of (i) the amount of interest which would have accrued on the principal amount of such Loan had such event not occurred, at the Adjusted LIBOR Rate that would have been applicable to such Loan, for the period from the date of such event to the last day of the then current Interest Period therefor (or, in the case of a failure to borrow, convert or continue, for the period that would have been the Interest Period for such Loan), in excess of (ii) the amount of interest which would accrue on such principal amount for such period at the interest rate which such Lender would bid were it to bid, at the commencement of such period, for Dollar deposits of a comparable amount and period from other banks in the Eurodollar market. A certificate of any Lender setting forth in reasonable detail any amount or amounts that such Lender is entitled to receive pursuant to this Section 2.13 shall be delivered to the Borrower (with a copy to the Administrative Agent) and shall be conclusive and binding absent manifest error. Borrower shall pay such Lender the amount shown as due on any such certificate within seven Business Days after receipt thereof.

Notwithstanding any of the other provisions of this Section 2.13, so long as no Event of Default shall have occurred and be continuing, if any prepayment of Eurodollar Loans is required to be made under Section 2.10 prior to the last day of the Interest Period therefor, in lieu of making any payment pursuant to Section 2.10 in respect of any such Eurodollar Loan prior to the last day of the Interest Period therefor, the Borrower may, in its sole discretion, deposit with the Administrative Agent the amount of any such prepayment otherwise required to be made hereunder until the last day of such Interest Period, at which time the Administrative Agent shall be authorized (without any further action by or notice to or from the Borrower or any other Loan Party) to apply such amount to the prepayment of such Loans in accordance with Section 2.10. Such deposit shall constitute cash collateral for the Eurodollar Loans to be so prepaid, *provided* that the Borrower may at any time direct that such deposit be applied to make the applicable payment required pursuant to Section 2.10.

Section 2.14 Payments Generally; Pro Rata Treatment; Sharing of Setoffs. (a) the Borrower shall make each payment required to be made by it hereunder or under any other Loan Document (whether of principal, interest or fees, or of amounts payable under Section 2.12, 2.13 or 2.15, or otherwise) on or before the time expressly required hereunder or under such other Loan Document for such payment (or, if no such time is expressly required, prior to 2:00 p.m., New York City time), on the date when due, in immediately available funds, without setoff, deduction or counterclaim. Any amounts received after such time on any date may, in the reasonable discretion of the Administrative Agent, be deemed to have been received on the next succeeding Business Day for purposes of calculating interest thereon. All such payments shall be made to the Administrative Agent at its offices at 520 Madison Avenue, New York, New York 10022 (or such other office as the Administrative Agent shall specify in writing to the Borrower), except that payments pursuant to Sections 2.12, 2.13, 2.15 and 11.03 shall be made directly to the persons entitled thereto and payments pursuant to other Loan Documents shall be made to the persons specified therein. Subject to Article X, the Administrative Agent shall distribute any such payments received by it for the account of any other persons ratably to the appropriate recipients promptly following receipt thereof. If any payment under any Loan Document shall be due on a day that is not a Business Day, unless specified otherwise, the date for payment shall be extended to the next succeeding Business Day, and, in the case of any payment accruing interest, interest thereon shall be payable for the period of such extension. All payments under each Loan Document shall be made in Dollars.

(b) If at any time insufficient funds are received by and available to the Administrative Agent to pay fully all amounts of principal, interest and fees then due hereunder, such funds shall be applied (i) *first*, towards payment of interest and fees then due hereunder, ratably among the parties entitled thereto

in accordance with the amounts of interest and fees then due to such parties, and (ii) *second*, towards payment of principal then due hereunder, ratably among the parties entitled thereto in accordance with the amounts of principal then due to such parties.

(c) If any Lender shall, by exercising any right of setoff or counterclaim or otherwise (including by exercise of its rights under the Security Documents), obtain payment in respect of any principal of or interest on any of its Revolving Loans or Term Loans resulting in such Lender receiving payment of a greater proportion of the aggregate amount of its Revolving Loans and Term Loans and accrued interest thereon than the proportion received by any other Lender, then the Lender receiving such greater proportion shall purchase (for cash at face value) participations in the Revolving Loans and Term Loans of other Lenders to the extent necessary so that the benefit of all such payments shall be shared by the Lenders ratably in accordance with the aggregate amount of principal of and accrued interest on their respective Revolving Loans and Term Loans; *provided* that (i) if any such participations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations shall be rescinded and the purchase price restored to the extent of such recovery, without interest, and (ii) the provisions of this paragraph shall not be construed to apply to any payment made by Borrower pursuant to and in accordance with the express terms of this Agreement or any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Revolving Loans or Term Loans to any assignee or participant, other than to any Company or any Affiliates thereof (as to which the provisions of this paragraph shall apply). Each Loan Party consents to the foregoing and agrees, to the extent it may effectively do so under applicable Legal Requirements, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against each Loan Party rights of setoff and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of such Loan Party pursuant to this Agreement in the amount of such participation. If under applicable bankruptcy, insolvency or any similar law any Secured Party receives a secured claim in lieu of a setoff or counterclaim to which this Section 2.14(c) applies, such Secured Party shall, to the extent practicable, exercise its rights in respect of such secured claim in a manner consistent with the rights to which the Secured Party is entitled under this Section 2.14(c) to share in the benefits of the recovery of such secured claim.

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

(e) If any Lender shall fail to make any payment required to be made by it pursuant to Section 2.02(c), 2.14(d) or 11.03(e), then the Administrative Agent may, in its discretion (notwithstanding any contrary provision hereof), apply any amounts thereafter received by the Administrative Agent for the account of such Lender to satisfy such Lender's obligations under such Sections until all such unsatisfied obligations are fully paid.

Section 2.15 Taxes.

(a) Any and all payments by or on account of any obligation of any of the Loan Parties hereunder or under any other Loan Document shall be made free and clear of and without deduction or withholding for any and all Taxes; *provided* that if applicable Legal Requirements (as determined in the

good faith discretion of an applicable withholding agent) shall require deduction or withholding of any Tax from such payments, then (i) if such Tax is an Indemnified Tax, the sum payable by the applicable Loan Party shall be increased as necessary so that after all required deductions or withholdings (including deductions or withholdings applicable to additional sums payable under this Section 2.15) the applicable Recipient receives an amount equal to the sum it would have received had no such deductions or withholdings been made, (ii) the applicable withholding agent shall be entitled to make such deductions or withholdings as required by applicable Legal Requirements and (iii) the applicable withholding agent shall timely pay, or cause to be paid, the full amount deducted or withheld to the relevant Governmental Authority in accordance with applicable Legal Requirements.

(b) In addition, the Borrower and any other Loan Party shall timely pay, or at the option of the Administrative Agent timely reimburse it for the payment of, any Other Taxes to the relevant Governmental Authority in accordance with applicable Legal Requirements.

(c) Borrower and all other Loan Parties shall jointly and severally indemnify the Administrative Agent, each Lender and each other Recipient, within ten Business Days after written demand therefor, for the full amount of any Indemnified Taxes payable or paid by such Recipient or required to be withheld or deducted from a payment to such Recipient or required to be withheld or deducted from a payment to such Recipient (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section 2.15, but, for the avoidance of doubt, without duplication of any amounts withheld or deducted by the applicable withholding agent and for which the Recipient has been paid pursuant to clause (i) of Section 2.15(a)) and any penalties, interest and expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to the Borrower by the Recipient (in each case, with a copy delivered concurrently to the Administrative Agent), or by the Administrative Agent on its own behalf or on behalf of a Recipient, shall be conclusive absent manifest error.

(d) As soon as practicable after any payment of Taxes pursuant to this Section 2.15 and in any event within thirty (30) days following any such payment being due by Borrower or any other Loan Party to a Governmental Authority, the Borrower or any other Loan Party, as applicable, 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. If the Borrower or any other Loan Party fails to pay any Indemnified Taxes when due to the appropriate Governmental Authority or fails to remit to the Administrative Agent the required receipts or other documentary evidence, the Borrower or such Loan Party shall indemnify the Administrative Agent, each Lender and each other Recipient for any incremental Taxes or expenses that may become payable by the Administrative Agent, such Lender or such other Recipient, as the case may be, as a result of any such failure.

(e) Any Lender that is entitled to an exemption from or reduction of withholding tax with respect to payments 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 or as prescribed by applicable law, such properly completed and executed documentation prescribed by applicable law and reasonably requested by Borrower or the Administrative Agent as will permit such payments to be made without withholding (including backup 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

delivery of such documentation (other than such documentation set forth in Section 2.15(e)(i), Section 2.15(e)(ii) or Section 2.15(e)(iii) below) shall not be required if in the Lender's reasonable judgment such completion, execution or delivery 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, each Foreign Lender (as well as the Administrative Agent, in the event the Administrative Agent is not a "United States person" (as defined in Section 7701(a)(30) of the Code)) shall (i) furnish to the Borrower and the Administrative Agent on or prior to the date it becomes a party hereto, either (a) two accurate and complete executed copies of U.S. Internal Revenue Service Forms W-8BEN, or W-8BEN-E, claiming the benefits under any applicable income tax treaty (or successor form), (b) two accurate and complete executed copies of U.S. Internal Revenue Service Forms W-8ECI (or successor form), (c) two accurate and complete executed copies of U.S. Internal Revenue Service Forms W-8IMY (or successor form) and certification documents from each beneficial owner, as applicable, or (d) two accurate and complete executed copies of U.S. Internal Revenue Service Forms W-8EXP (or successor form), together with any required schedules or attachments, certifying, in each case, to such Foreign Lender's legal entitlement to an exemption or reduction from U.S. federal withholding tax with respect to all interest payments hereunder, as may be applicable, and (ii) to the extent it may lawfully do so at such times, provide Borrower and the Administrative Agent a new copy of U.S. Internal Revenue Service Form W-8BEN, W-8BEN-E (or successor form), U.S. Internal Revenue Service Form W-8ECI (or successor form) or U.S. Internal Revenue Service Form W-8IMY (or successor form) or U.S. Internal Revenue Service Form W-8EXP (or successor form) (in each case, together with any required schedules or attachments) upon the expiration or obsolescence of any previously delivered form, or at any other time upon the reasonable request of the Borrower or the Administrative Agent, to reconfirm any complete exemption from, or any entitlement to a reduction in, U.S. federal withholding tax with respect to any interest payment hereunder; *provided* that any Foreign Lender that is claiming exemption from U.S. federal withholding tax under Section 871(h) or 881(c) of the Code with respect to payments of "portfolio interest" shall furnish a "U.S. Tax Certificate" in the form of Exhibit G-1 attached to such Foreign Lender's U.S. Internal Revenue Service Form W-8BEN or W-8BEN-E; *provided*, further, that if the Foreign Lender is a partnership and one or more direct or indirect partners of such Foreign Lender are claiming the portfolio interest exemption, such Foreign Lender may provide a U.S. Tax Certificate substantially in the form of Exhibit G-4 on behalf of each such direct and indirect partner.

(ii) Each Recipient that is a "United States person" (as defined in Section 7701(a)(30) of the Code) shall furnish to the Borrower and the Administrative Agent on or prior to the date it becomes a Recipient hereunder an accurate, properly completed and duly executed U.S. Internal Revenue Service Form W-9 (or successor form) establishing that such Recipient is not subject to U.S. backup withholding or shall otherwise establish an exemption from U.S. backup withholding, and provide a new U.S. Internal Revenue Service Form W-9 (or successor form) upon obsolescence of any previously delivered form.

(iii) If a payment made to a Recipient under any Loan Document would be subject to U.S. federal withholding tax imposed by FATCA if such Recipient 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 Recipient 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 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 Borrower or the Administrative Agent as may

be necessary for the Borrower and the Administrative Agent to comply with their obligations under FATCA, to determine that such Recipient has or has not complied with such Recipient's obligations under FATCA and, as necessary, to determine the amount to deduct and withhold from such payment. Solely for the purposes of this Section 2.15(e), "FATCA" shall include any amendment made to FATCA after the date of this agreement.

Each Recipient 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. Notwithstanding the foregoing, this Section 2.15(e) shall not require any Recipient to provide any forms or documentation that it is not legally entitled to provide.

(f) If the Administrative Agent or a Lender determines in its sole discretion, exercised in good faith, that it has received a refund of any Indemnified Taxes as to which it has been indemnified by Borrower or with respect to which Borrower has paid additional amounts pursuant to this Section 2.15, it shall pay over such refund to the Borrower (but only to the extent of indemnity payments made, or additional amounts paid, by Borrower under this Section 2.15 with respect to the Indemnified Taxes or the Other Taxes giving rise to such refund), net of all reasonable and documented out-of-pocket expenses of the Administrative Agent or such Lender and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund); *provided*, *however,* that if the Administrative Agent or such Lender is required to repay all or a portion of such refund to the relevant Governmental Authority, the Borrower, upon the request of the Administrative Agent or such Lender, shall repay the amount paid over to the Borrower that is required to be repaid (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Administrative Agent or such Lender within three Business Days after receipt of written notice that the Administrative Agent or such Lender is required to repay such refund (or a portion thereof) to such Governmental Authority. Nothing contained in this Section 2.15(f) shall require the Administrative Agent or any Lender to make available its Tax Returns or any other information which it deems confidential to the Borrower or any other person. Notwithstanding anything to the contrary, in no event will the Administrative Agent or any Lender be required to pay any amount to the Borrower the payment of which would place the Administrative Agent or such Lender in a less favorable net after-tax position than the Administrative Agent or such Lender would have been in if the Indemnified Taxes giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Indemnified Taxes had never been paid.

(g) Each party's obligations under this Section 2.15 shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all obligations under any Loan Document.

Section 2.16 Mitigation Obligations; Replacement of Lenders.

(a) Mitigation of Obligations. If any Lender requests compensation under Section 2.12(a) or (b), or if Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.15, then such Lender if requested by Borrower shall use reasonable efforts to designate a different lending office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the reasonable judgment of such Lender, such designation or assignment (i) would eliminate or reduce materially amounts payable pursuant to Section 2.12(a), 2.12(b), or 2.15, as the case may be, in the future, (ii) would not subject such Lender to any unreimbursed cost or expense, (iii) would not require such Lender to take any action materially inconsistent with its internal policies or

legal or regulatory restrictions, and (iv) would not otherwise be materially disadvantageous to such Lender. Borrower shall pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment. A certificate setting forth such costs and expenses in reasonable detail submitted by such Lender to the Administrative Agent shall be conclusive absent manifest error.

(b) Replacement of Lenders. In the event (i) any Lender delivers a certificate requesting compensation pursuant to Section 2.12(a) or (b), (ii) any Lender delivers a notice described in Section 2.12(e), (iii) the Borrower is required to pay any additional amount to any Lender or any Governmental Authority on account of any Lender pursuant to Section 2.15, (iv) any Lender refuses to consent to any amendment, waiver or other modification of any Loan Document requested by Borrower that requires the consent of 100% of the Lenders or 100% of all affected Lenders, and which, in each case, has been consented to by Required Lenders or (v) any Lender becomes a Defaulting Lender or otherwise defaults in its obligations to make Loans or other extensions of credit hereunder, the Borrower may, at its sole expense and effort (including with respect to the processing and recordation fee referred to in Section 11.04(b)), upon notice to such Lender and the Administrative Agent, require such Lender to transfer and assign, without recourse (in accordance with and subject to the restrictions contained in Section 11.04), all of its interests, rights and obligations under this Agreement to an assignee which shall assume such assigned obligations (which assignee may be another Lender, if a Lender accepts such assignment); *provided* that (u) in the case of any such assignment resulting from a claim for compensation under Section 2.12(a) or (b) or payments required to be made pursuant to Section 2.15, such assignment will result in a reduction in such compensation or payments thereafter, (v) in the case of any assignment resulting from the circumstances described in clause (iv) above, the applicable assignee shall have consented to the applicable amendment, waiver or other modification, (w) except in the case of clause (iv) above if the effect of such amendment, waiver or other modification of the applicable Loan Document would cure all Defaults and Events of Defaults then ongoing, no Default or Event of Default shall have occurred and be continuing, (x) such assignment shall not conflict with any applicable Legal Requirement, (y) to the extent required pursuant to Section 11.04(b)(v), the Borrower shall have received the prior written consent of the Administrative Agent, which consent shall not unreasonably be withheld or delayed, and (z) the Borrower or such assignee shall have paid to the affected Lender in immediately available funds an amount equal to the sum of the principal of and interest accrued to the date of such payment on the outstanding Loans of such Lender affected by such assignment plus all Fees and other amounts owing to or accrued for the account of such Lender or Administrative Agent hereunder (including any amounts under Sections 2.12 and 2.13 and the assignment fee described in Section 11.04(b)(iii)); *provided, further,* that, if prior to any such transfer and assignment the circumstances or event that resulted in such Lender's claim for compensation under Section 2.12(a) or (b) or notice under Section 2.12(e) or the amounts paid pursuant to Section 2.15, as the case may be, cease to cause such Lender to suffer increased costs or reductions in amounts received or receivable or reduction in return on capital, or cease to have the consequences specified in Section 2.12(e), or cease to result in amounts being payable under Section 2.15, as the case may be (including as a result of any action taken by such Lender pursuant to paragraph (a) of this Section 2.16), or if such Lender shall waive its right to claim further compensation under Section 2.12(a) or (b) in respect of such circumstances or event or shall withdraw its notice under Section 2.12(e) or shall waive its right to further payments under Section 2.15 in respect of such circumstances or event or shall consent to the proposed amendment, waiver, consent or other modification, as the case may be, then such Lender shall not thereafter be required to make any such transfer and assignment hereunder. Each Lender hereby grants to the Administrative Agent (other than any Lender upon written request at the sole discretion of the Administrative Agent) an irrevocable power of attorney (which power is coupled with an interest) to execute and deliver, on behalf of such Lender as assignor, any Assignment and Assumption necessary to effectuate any assignment of such Lender's interests hereunder in the circumstances contemplated by this Section 2.16(b).

(c) Defaulting Lenders. Anything contained herein to the contrary notwithstanding, in the event that any Lender becomes a Defaulting Lender, then (i) during any Default Period (as defined below) with respect to such Defaulting Lender, such Defaulting Lender shall be deemed not to be a "Lender", and the amount of such Defaulting Lender's Revolving Commitment and Revolving Loans and/or Term Loan Commitments and Term Loans shall be excluded for purposes of voting, and the calculation of voting, on any matters (including the granting of any consents or waivers) with respect to any of the Loan Documents, except that the amount of such Defaulting Lender's Revolving Commitment and Revolving Loans and/or Term Loan Commitments and Term Loans shall be included for purposes of voting, and the calculation of voting, on the matters set forth in Section 11.02(b)(i)-(xii) (including the granting of any consents or waivers) only to the extent that, in the case of Section 11.02(b)(i)-(iii), any such matter directly affects such Defaulting Lender or, in the case of Section 11.02(b)(iv)-(xii), any such matter disproportionately affects such Defaulting Lender; (ii) to the extent permitted by applicable Legal Requirements, until such time as the Default Excess (as defined below) with respect to such Defaulting Lender shall have been reduced to zero, (A) any voluntary prepayment of the Loans pursuant to Section 2.10(a) shall, if the Borrower so directs at the time of making such voluntary prepayment, be applied to the Loans of other Lenders (but not to the Loans of such Defaulting Lender) in accordance with Section 2.10(a) as if such Defaulting Lender had no Loans outstanding and the Revolving Exposure of such Defaulting Lender were zero, and (B) any mandatory prepayment of the Loans pursuant to Section 2.10 shall, if the Borrower so directs at the time of making such mandatory prepayment, be applied to the Loans of other Lenders (but not to the Loans of such Defaulting Lender) in accordance with Section 2.10 as if such Defaulting Lender had funded all Defaulted Loans of such Defaulting Lender, it being understood and agreed that the Borrower shall be entitled to retain any portion of any mandatory prepayment of the Loans that is not paid to such Defaulting Lender solely as a result of the operation of the provisions of this clause (B); (iii) the amount of such Defaulting Lender's Revolving Commitment and Revolving Loans shall be excluded for purposes of calculating the Commitment Fee payable to Revolving Lenders pursuant to Section 2.05(a) in respect of any day during any Default Period with respect to such Defaulting Lender, and such Defaulting Lender shall not be entitled to receive any Commitment Fee pursuant to Section 2.05(a) with respect to such Defaulting Lender's Revolving Commitment in respect of any Default Period with respect to such Defaulting Lender; and (iv) the Revolving Exposure of all Lenders as at any date of determination shall be calculated as if such Defaulting Lender had funded all Defaulted Loans of such Defaulting Lender. In the event that each of the Administrative Agent and the Borrower agree that a Defaulting Lender has adequately remedied all matters that caused such Lender to be a Defaulting Lender, then the Revolving Exposure of the Lenders shall be readjusted to reflect the inclusion of such Lender's Commitment and on such date such Lender shall purchase at par such of the Loans of the other Lenders as the Administrative Agent shall determine may be necessary in order for such Lender to hold such Loans in accordance with its Revolving Commitment.

For purposes of this Agreement, (i) "**Funding Default**" means, with respect to any Defaulting Lender, the occurrence of any of the events set forth in the definition of "Defaulting Lender," (ii) "**Default Period**" means, with respect to any Defaulting Lender, the period commencing on the date of the applicable Funding Default and ending on the earliest of the following dates: (a) the date on which all Commitments are cancelled or terminated and/or the Secured Obligations are declared or become immediately due and payable, (b) with respect to any Funding Default (other than any such Funding Default arising pursuant to clause (e) of the definition of "Defaulting Lender"), the date on which (1) the Default Excess with respect to such Defaulting Lender shall have been reduced to zero (whether by the funding by such Defaulting Lender of any Defaulted Loans of such Defaulting Lender or by the non-pro rata application of any voluntary or mandatory prepayments of the Loans in accordance with the terms hereof or any combination thereof) and (2) such Defaulting Lender shall have delivered to the Borrower and the Administrative Agent a written reaffirmation of its intention to honor its obligations under this Agreement with respect to its Commitment(s), and (c) the date on which Borrower, the Administrative Agent and the Required Lenders waive all Funding Defaults of such Defaulting Lender in writing, and (iii) "**Default Excess**" shall mean,

with respect to any Defaulting Lender, the excess, if any, of such Defaulting Lender's Pro Rata Percentage of the aggregate outstanding principal amount of Loans of all Lenders (calculated as if all Defaulting Lenders (including such Defaulting Lender) had funded all of their respective Defaulted Loans) over the aggregate outstanding principal amount of Loans of such Defaulting Lender.

No amount of the Commitment of any Lender shall be increased or otherwise affected, and, except as otherwise expressly provided in Section 2.16(c), performance by Borrower of its obligations under this Agreement and the other Loan Documents shall not be excused or otherwise modified, as a result of any Funding Default or the operation of Section 2.16(c). The rights and remedies against a Defaulting Lender under Section 2.16(c) are in addition to other rights and remedies that the Borrower may have against such Defaulting Lender with respect to any Funding Default and that the Administrative Agent or any Lender may have against such Defaulting Lender with respect to any Funding Default.

Section 2.17 [reserved].

Section 2.18 [reserved].

Section 2.19 **Increases of the Term Loan and Revolving Commitments**. (a) The Borrower may by written request to the Administrative Agent (I) prior to the Term Loan Maturity Date, establish one or more new Term Loan Commitments under a new term facility or under the existing term facility or any increase under an existing tranche of Term Loans (each, a "**New Term Loan Commitment**" and the Loans made thereunder, the "**New Term Loans**"), (II) prior to the Revolving Maturity Date, establish one or more increases in the amount of the Revolving Commitments under the then existing revolving facility (each, a "**New Revolving Commitment**" and together with the New Term Loans, the "**Incremental Facilities**" and each, an "**Incremental Facility**"), in each case, the proceeds of which may be used for general corporate purposes, including, without limitation, for additional dividends, distributions, Investments, general working capital, capital expenditures, Permitted Acquisitions and other expenditures not prohibited by this Agreement; *provided* that:

(i) the aggregate principal amount of the New Term Loan Commitments and New Revolving Commitments pursuant to this Section 2.19 shall not exceed the Maximum Incremental Facilities Amount. The aggregate principal amount of any requested increase in New Term Loan Commitment or New Revolving Commitment shall be in a minimum amount of $5,000,000 and in integral multiples of $1,000,000 in excess thereof (or such lower amount that represents all remaining availability pursuant to this Section 2.19).

(ii) no Default or Event of Default shall have occurred and be continuing or would immediately occur after giving effect to such increase and the application of proceeds therefrom; *provided* that, solely with respect to any New Term Loans incurred in connection with a Limited Condition Acquisition, the absence of a Default or Event of Default (other than an Event of Default as a result of any of the events set forth in Sections 8.01(a), 8.01(b), 8.01(g) or 8.01(h)) shall be tested only at the time the definitive documentation for such Limited Condition Acquisition is executed;

(iii) the representations and warranties of each Loan Party set forth in Article III and in each other Loan Document shall be true and correct in all material respects (without duplication of any materiality qualifiers set forth therein) immediately prior to, and immediately after giving effect to, the incurrence of such New Term Loans or the making of such New Revolving Commitments (although any representations and warranties which expressly relate to a given date or period shall be required to be true and correct in all material respects (without duplication of any materiality qualifiers set forth therein) as of the respective date or for the

respective period, as the case may be); *provided* that to the extent the proceeds of any New Term Loan or New Revolving Loan are being used to finance a Limited Condition Acquisition, only the Specified Representations (and not any other representations or warranties in Article III or any of the other Loan Documents or otherwise) shall be required to be true and correct in all material respects (without duplication of any materiality qualifiers set forth therein) immediately prior to, and immediately after giving effect to, the incurrence of such New Term Loans or the making of such New Revolving Commitments (although any Specified Representations which expressly relate to a given date or period shall be required to be true and correct in all material respects (without duplication of any materiality qualifiers set forth therein) as of the respective date or for the respective period, as the case may be;

(iv) the New Term Loans made under this Section 2.19 shall have a maturity date no earlier than the later of the then existing Term Loan Maturity Date and the maturity date of any then-outstanding New Term Loans and shall have a weighted average life to maturity no shorter than the weighted average life of the then existing Term Loans and then existing New Term Loans;

(v) the New Revolving Commitments shall mature no earlier than, and require no scheduled amortization or differing mandatory commitment reduction prior to, the Revolving Maturity Date then in effect and all other terms (including pricing provisions (other than upfront fees)) of any New Revolving Commitments shall be substantially identical to the initial Revolving Credit Facility or otherwise reasonably acceptable to the Administrative Agent;

(vi) if the Weighted Average Yield applicable to the New Term Loans made pursuant to this Section 2.19 exceeds (x) with respect to any New Term Loans incurred as an increase to an existing Class of Term Loans, the Weighted Average Yield for such existing Class of Term Loans by more than 0.50% per annum or (y) with respect to any New Term Loans not incurred as an increase to an existing Class of Term Loans, the Weighted Average Yield for all existing Classes of Term Loans (calculated on a weighted average basis) by more than 0.50% per annum (in either case, such amount in excess of 0.50%, hereinafter referred to as the "**Incremental Excess Yield**"), then the Weighted Average Yield with respect to the applicable existing Term Loans of such tranche shall be increased by the Incremental Excess Yield (it being understood that any increase in the Weighted Average Yield of the existing Term Loans, may (A) take the form of upfront fees, with such upfront fees being equated to interest margins based on a four-year average life to maturity or, if less, the remaining life to maturity or (B) be accomplished by a combination of an increase in the weighted average interest rates, interest rate floors and/or upfront fees) of such New Term Loans made pursuant to this Section 2.19 (for the avoidance of doubt, the Incremental Excess Yield applicable to New Term Loans made pursuant to this Section 2.19 shall only be applied to existing Term Loans); *provided* that, any increase in yield with respect to an existing Class of Term Loans required pursuant to this clause (vi) and resulting from the application of an Adjusted LIBOR Rate or Alternate Base Rate "floor" on any New Term Loans will be effected solely through an increase in such "floor" (or an implementation thereof, as applicable) in respect of any existing Class of Term Loans;

(vii) notwithstanding anything to the contrary in this Section 2.19 or otherwise, (1) the borrowing and repayment (except for payments of interest and fees at different rates on New Revolving Commitments (and related outstandings)) of Loans with respect to New Revolving Commitments after the associated Increased Amount Date shall be made on a pro rata basis with all other Revolving Commitments, (3) the permanent repayment of Revolving Loans with respect to, and termination of, New Revolving Commitments after the associated Increased Amount Date shall be made on a pro rata basis with all other Revolving Commitments, and (3) assignments and

participations of New Revolving Commitments shall be governed by the same assignment and participation provisions applicable to the other Revolving Commitments and Revolving Loans;

(viii) the New Term Loans and New Revolving Commitments shall not benefit from any Guarantees or Collateral that do not ratably benefit the Term Loans and Revolving Loans, respectively and shall be secured on a *pari passu* basis by the Collateral securing the Term Loans and Revolving Loans (and, for the avoidance of doubt and notwithstanding anything to the contrary, such New Term Loans and/or New Revolving Commitments shall be treated as Consolidated First Lien Indebtedness for all purposes hereunder);

(ix) prior to the Delayed Draw Term Loan Commitment Expiration Date, the Borrower may not establish an Incremental Facility consisting of New Term Loans if there are undrawn Delayed Draw Term Loan Commitments under this Agreement;

(x) after giving effect to such New Term Loan Commitments and New Term Loans and the application of the proceeds thereof, the Borrower shall be in compliance on a Pro Forma Basis with the financial covenants set forth in Section 6.15 applicable for the four (4) consecutive fiscal quarters of the Borrower ended on, or most recently preceding, such Increased Amount Date for which financial statements have been (or were required to have been) delivered to the Administrative Agent pursuant to Section 5.01(a) or (b) (but excluding, for purposes of such calculation, New Term Loan proceeds from any Unrestricted Cash and Cash Equivalents permitted to be netted in the calculation of the financial covenants); provided, that, with respect to any Incremental Loan Amendment incurred for purposes of financing a Limited Condition Acquisition, the Borrower shall be, as of the date of the execution and delivery of the applicable definitive purchase agreement in connection with such Limited Condition Acquisition, in compliance on a Pro Forma Basis with the financial covenants applicable for the four (4) consecutive fiscal quarters of the Borrower ended on, or most recently preceding, such date for which financial statements have been (or were required to have been) delivered to the Administrative Agent pursuant to Section 5.01(a) or (b);

(xi) the New Term Loans may participate on a pro rata basis or less than pro rata basis (but not on a greater than pro rata basis) in any voluntary prepayments pursuant to Section 2.10(a) or any mandatory prepayments of Term Loans under Section 2.10(c), 2.10(d) and 2.10(e), as specified in the applicable Incremental Loan Amendment;

(xii) terms and provisions of the New Term Loans (other than upfront fees and original issue discount) shall be, except as otherwise set forth herein or in the Incremental Loan Amendment, identical to the Term Loans (it being understood that New Term Loans may be a part of the Term Loans) or otherwise reasonably satisfactory to the Administrative Agent; and

all other terms and conditions with respect to the New Term Loans made pursuant to this Section 2.19 shall be on terms determined by the Borrower; *provided*, *further*, that to the extent such terms and documentation are not consistent with then existing Term Loans (except to the extent relating to pricing, optional prepayment or redemption terms, call protections and premiums), they shall be either (a) reasonably satisfactory to the Administrative Agent (except for covenants or other provisions applicable only to the periods after the latest maturity date of any then-existing Term Loans or New Term Loans) or (b) added for the benefit of the existing Term Loans (and, if an individual term is more beneficial to the Lenders holding existing Term Loans than the corresponding term then-applicable to the existing Term Loans, such individual beneficial term or terms may be applied to the existing Term Loans without the consent of any Lender holding existing Term Loans). Any request under this Section 2.19 shall be submitted by the Borrower in writing to the Administrative Agent (which shall promptly forward copies to all the Lenders);

provided that each such notice shall specify the date (each, an "**Increased Amount Date**") on which Borrower proposes that the New Revolving Commitments or New Term Loan Commitments, as applicable, shall be effective, which shall not be less than fifteen (15) Business Days after the date on which such notice is delivered to the Administrative Agent. No Lender shall have any obligation, expressed or implied, to offer to increase the aggregate principal amount of its Term Loan Commitment and/or Revolving Commitment. Only the consent of each Increasing Lender shall be required for an increase in the aggregate principal amount of the Term Loan Commitments and/or Revolving Commitments pursuant to this Section 2.19. No Lender which declines to increase the principal amount of its Term Loan Commitment and/or Revolving Commitment may be replaced with respect to its existing Term Loan Commitment and/or Revolving Commitment as a result thereof without such Lender's consent.

(b) Each then existing Lender (collectively, the "**Increasing Lenders**") that agrees to increase the principal amount of their Term Loan Commitments and/or Revolving Commitments, or in the case of Lenders that do not have any Term Loan Commitments or Revolving Commitments, that agrees to assume New Term Loans and/or New Revolving Commitments shall as soon as reasonably practicable specify in writing to the Borrower and the Administrative Agent the principal amount of the proposed New Term Loan Commitments and/or New Revolving Commitments that it is willing to assume (*provided* that any Lender not so responding within five (5) Business Days shall be deemed to have declined such a request). After such five (5) Business Day period has ended, Borrower may then solicit and accept some or all of the rejected offered amounts from new lenders (or designate new lenders) (*provided* that if Administrative Agent would have consent rights with respect to such new lender under Section 11.04 herein were such new lender to take an assignment of Loans or Commitments hereunder, then such new lender shall be reasonably acceptable to the Administrative Agent (in consultation with the Borrower) (such acceptance not to be unreasonably withheld or delayed); provided, however, that, notwithstanding anything to the contrary, no new lender shall be a Loan Party or an Affiliate of a Loan Party) (each such new lender being a "**New Lender**"), which New Lenders may assume all or a portion of the aggregate principal amount of the applicable New Term Loan Commitments and/or New Revolving Commitments. For the avoidance of doubt, the Borrower shall not have to offer any existing Lender the opportunity to be an Increasing Lender prior to accepting any offered amounts from any potential New Lender.

(c) Subject to the foregoing, any request by Borrower pursuant to Section 2.19(a) shall be effective upon (A) delivery to the Administrative Agent of each of the following documents: (i) an originally executed copy of a Joinder Agreement signed by a duly authorized officer of each New Lender; (ii) a notice to the Increasing Lenders and New Lenders, in form and substance reasonably acceptable to the Administrative Agent, signed by a Financial Officer of the Borrower; (iii) an Officers' Certificate of the Borrower, in form and substance reasonably acceptable to the Administrative Agent, confirming compliance with all conditions precedent for any such increase, including, subject to the limitation in clauses (a)(ii) and (a)(iii) above, compliance with Sections 4.02(a), (b) and (c); (iv) to the extent requested by any New Lender or Increasing Lender, executed term notes and/or revolving notes issued by Borrower in accordance with Section 2.04(e); (v) an amendment (an "**Incremental Loan Amendment**") to this Agreement and, as appropriate, the other Loan Documents, executed by Borrower, each Increasing Lender (if any), each New Lender (if any), the Administrative Agent and, if reasonably requested by the Administrative Agent, each other Loan Party; and (vi) any other reasonable and customary documents and officer's certificates that the Administrative Agent shall reasonably request, in form and substance reasonably satisfactory to the Administrative Agent, and (B) satisfaction on the Increased Amount Date of (x) subject to the limitations set forth in clauses (a)(ii) and (a)(iii) above, each of the conditions specified in Section 4.02 (it being understood that (1) for purposes of Section 4.02(b), all references to "the date of such Credit Extension" or similar language shall be deemed to refer to the date the definitive documentation for such Limited Condition Acquisition is executed and (2) for purposes of Section 4.02(a) and (c), all references to "the date of such Credit Extension" or similar language shall be deemed to refer to the Increased Amount Date), and (y) such other conditions as the parties thereto (including Borrower)

shall agree (if any). Any such increase shall, subject to Section 2.19(a), be in an aggregate principal amount equal to (A) the principal amount that Increasing Lenders are willing to assume as increases to the principal amount of their Term Loan Commitments and/or Revolving Commitments plus (B) the principal amount offered by New Lenders with respect to the New Term Loan Commitments and/or New Revolving Commitments, in either case as adjusted by Borrower and the Administrative Agent pursuant to this Section 2.19. Notwithstanding anything to the contrary in Section 11.02, the Administrative Agent is expressly permitted, without the consent of the other Lenders, to amend the Loan Documents (including Section 2.09 and Annex I hereto) to the extent necessary or appropriate in the reasonable opinion of the Administrative Agent to give effect to any New Term Loan Commitment or New Revolving Commitments pursuant to this Section 2.19 (which may be in the form of an amendment and restatement).

(d) Upon each increase in the Revolving Commitments pursuant to this Section 2.19, (A) each Revolving Lender immediately prior to such increase will automatically and without further act be deemed to have assigned to each Lender providing a portion of any increase in the Revolving Commitments pursuant to this Section 2.19 (any such increase, a "**Revolving Commitment Increase**" and each such Lender, a "**Revolving Increasing Lender**") in respect of such increase, (B) if, on the Increased Amount Date, there are any Revolving Loans outstanding, such Revolving Loans shall on or prior to the effectiveness of such Revolving Commitment Increase be prepaid from the proceeds of additional Revolving Loans made hereunder (reflecting such increase in Revolving Commitments), which prepayment shall be accompanied by accrued interest on the Revolving Loans being prepaid and any costs incurred by any Lender in accordance with Section 2.13, (C) each Revolving Increasing Lender shall become a Revolving Lender with respect to the New Revolving Commitments and all matters relating thereto, and (D) each New Revolving Commitment shall be deemed, for all purposes, a Revolving Commitment and each Loan made thereunder shall be deemed, for all purposes, a Revolving Loan. The Administrative Agent and the Lenders hereby agree that the minimum borrowing, pro rata borrowing and pro rata payment requirements contained elsewhere in this Agreement shall not apply to the transactions effected pursuant to the immediately preceding sentence.

Section 2.20 Extensions of the Term Loan.

(a) Notwithstanding anything to the contrary in this Agreement, pursuant to one or more offers (each, an "**Extension Offer**") made by Borrower, from time to time on any Business Day prior to the 30th day before the applicable Term Loan Maturity Date or Revolving Maturity Date, to all Term Loan Lenders or Revolving Lenders, as applicable, on a pro rata basis (based on the aggregate outstanding principal amount of the Term Loans or Revolving Commitments then outstanding) and on the same terms to each such Term Loan Lender or Revolving Lender, as applicable, the Borrower may from time to time with the consent of any Lender that shall have accepted such offer, extend the maturity date of any Term Loans or Revolving Commitments and otherwise modify the terms of such Term Loans or Revolving Commitments of such Lender pursuant to the terms of the relevant Extension Offer (including by increasing the interest rate or fees payable in respect of such Term Loans or Revolving Commitments, modifying the amortization schedule in respect of such Term Loans or any other modification contemplated by this Section 2.20) (each, an "**Extension**", and each group of Term Loans or Revolving Loans as so extended, as well as the original Term Loans and Revolving Loans not so extended, being a "tranche" and a separate "Class" hereunder; any Extended Term Loans shall constitute a separate tranche of Term Loans and a separate "Class" hereunder from the tranche of Term Loans from which they were converted) and any Extended Revolving Loans shall constitute a separate tranche of Revolving Loans and a separate "Class" hereunder from the tranche of Revolving Loans from which they were converted), so long as the following terms are satisfied: (i) no Event of Default shall exist at the time the notice in respect of an Extension Offer is delivered to the applicable Lenders, and no Event of Default shall exist immediately prior to or immediately after giving effect to the effectiveness of any Extension, (ii) except as to interest rates, fees, amortization, final maturity date, premium, required prepayment dates and participation in prepayments

(which shall, subject to immediately succeeding clauses (iii), (iv), (v) and (vi), be determined by Borrower and set forth in reasonable detail in the relevant Extension Offer), the Term Loans or Revolving Loans, as applicable, of any Lender (an "**Extending Lender**") extended pursuant to any Extension ("**Extended Term Loans**" or "**Extended Revolving Loans**", as applicable) shall have the same terms as the tranche of Term Loans or Revolving Loans, as applicable, subject to such Extension Offer (except for covenants or other provisions contained therein applicable only to periods after the then latest Term Loan Maturity Date or Revolving Maturity Date, as applicable), (iii) the final maturity date of any Extended Term Loans shall be no earlier than the then latest Term Loan Maturity Date of any tranche of Term Loans then outstanding at the time of Extension and the amortization schedule of all or a portion of any principal amount of such Extended Term Loans may be delayed to later dates than the amortization schedule of the Terms Loans extended thereby (with any such delay resulting in a corresponding adjustment to the amortization schedule reflected on Annex I or in an Incremental Loan Amendment, as the case may be, with respect to the existing Term Loans from which such Extended Term Loans were extended), (iv) the weighted average life to maturity of any Extended Term Loans shall be no shorter than the remaining weighted average life to maturity of the Term Loans extended thereby, (v) the maturity date of any Extended Revolving Loans shall be no earlier than the latest Revolving Maturity Date of any tranche of Revolving Loans then outstanding at the time of Extension, (vi) prior to the latest Term Loan Maturity Date of any tranche of Term Loans then outstanding at the time of Extension, the amortization payments on any Extended Term Loans shall not exceed equal quarterly installments in an annual aggregate amount equal to 1% of original principal amount of such Extended Term Loans, (vii) any Extended Term Loans may participate on a pro rata basis or on a less than pro rata basis (but not on a greater than pro rata basis) in any voluntary or mandatory prepayments hereunder, as specified in the applicable Extension Offer, (viii) (A) such Extended Term Loans and Extended Revolving Loans shall not benefit from any Guarantees or Collateral that do not ratably benefit the Term Loans and Revolving Loans, respectively, (B) (x) the liens securing such Indebtedness shall not be of higher priority than the lien securing the applicable Indebtedness being extended and (y) if such Indebtedness being extended is unsecured, such Extended Term Loans and Extended Revolving Loans shall be unsecured, and (C) if such Indebtedness being extended is subordinated with respect to the Obligations, such Extended Term Loans and Extended Revolving Loans shall be subordinated at least to the same extent as such Indebtedness being extended; (ix) if the aggregate principal amount of the Term Loans (calculated on the face amount thereof) in respect of which Lenders shall have accepted the relevant Extension Offer shall exceed the maximum aggregate principal amount of Term Loans offered to be extended by Borrower pursuant to such Extension Offer, then the Term Loans of such Lenders shall be extended ratably up to such maximum amount based on the respective principal amounts (but not to exceed actual holdings of record) with respect to which such Lenders have accepted such Extension Offer, (x) if the aggregate principal amount of the Revolving Commitments in respect of which Lenders shall have accepted the relevant Extension Offer shall exceed the maximum aggregate principal amount of Revolving Commitments offered to be extended by Borrower pursuant to such Extension Offer, then the Revolving Commitments of such Lenders shall be extended ratably up to such maximum amount based on the respective commitment amounts with respect to which such Lenders have accepted such Extension Offer, (xi) all documentation in respect of such Extension shall be consistent with the foregoing, (xii) any applicable Minimum Extension Condition shall be satisfied unless waived by Borrower and (xiii) the interest rate margin applicable to any Extended Term Loans or Extended Revolving Loans will be determined by Borrower and the lenders providing such Extended Term Loans or Extended Revolving Loans. No Lender shall have any obligation to agree to have any of its existing Term Loans or Revolving Commitments converted into Extended Term Loans or Extended Revolving Loans pursuant to any Extension.

(b) With respect to all Extensions consummated by Borrower pursuant to this Section 2.20, (i) such Extensions shall not constitute voluntary or mandatory payments or prepayments for purposes of Section 2.10 and (ii) any Extension Offer is required to be in any minimum amount of $25,000,000, *provided* that the Borrower may at its election specify as a condition (a "**Minimum Extension**

Condition") to consummating any such Extension that a minimum amount (to be determined and specified in the relevant Extension Offer in Borrower's sole discretion and may be waived by Borrower) of Term Loans of any or all applicable tranches be tendered.

(c) The Lenders hereby irrevocably authorize the Administrative Agent and the Collateral Agent to enter into amendments ("**Extension Amendments**") to this Agreement and the other Loan Documents with the Borrower as may be necessary in order to establish new tranches or sub-tranches in respect of Term Loans and Revolving Commitments so extended and such technical amendments as may be necessary or appropriate in the reasonable opinion of the Administrative Agent and the Borrower in connection with the establishment of such new tranches or sub-tranches, in each case on terms consistent with this Section 2.20.

(d) In connection with any Extension, the Borrower shall provide the Administrative Agent at least five (5) Business Days' (or such shorter period as may be agreed by the Administrative Agent) prior written notice thereof, and shall agree to such procedures, if any, as may be established by, or reasonably acceptable to, the Administrative Agent to accomplish the purposes of this Section 2.20.

(e) This Section 2.20 shall supersede any provisions in Section 2.14 or Section 11.02 to the contrary.

Section 2.21 Refinancing Facilities.

(a) At any time after the Closing Date, the Borrower may obtain, from any Lender on a pro rata basis (based on the aggregate outstanding principal amount of the Term Loans or Revolving Commitments then outstanding) or, to the extent declined by an existing Lender after having five (5) Business Days to respond after written notice from the Agent (which shall be redeemed rejected if not received at the end of such five (5) Business Days period), any new lender (*provided* that if Administrative Agent would have consent rights with respect to such new lender under Section 11.04 herein were such new lender to take an assignment of Loans or Commitments hereunder, then such new lender shall be reasonably acceptable to the Administrative Agent (in consultation with the Borrower) (such acceptance not to be unreasonably withheld or delayed); provided, however, that, notwithstanding anything to the contrary, no new lender shall be a Loan Party or an Affiliate of a Loan Party) (each such new lender being an "**Additional Lender**") Refinancing Term Loans, Refinancing Term Loan Commitments, Refinancing Revolving Loans or Refinancing Revolving Loan Commitments in exchange for, or to extend, renew, replace or refinance, in respect of all of the Term Loans or Revolving Loans then outstanding under this Agreement (which will be deemed to include any then-outstanding New Term Loans under any New Term Loan Commitments or any then-outstanding New Revolving Commitments) and any then-outstanding Refinancing Term Loans in the form of Refinancing Term Loans or Refinancing Term Commitments or any then-outstanding Refinancing Revolving Loans in the form of Refinancing Revolving Loans or Refinancing Revolving Loan Commitments in each case, pursuant to a Refinancing Amendment, together with any applicable intercreditor agreement or other customary subordination agreement ("**Refinanced Debt**"); *provided*, that (i) such extending, renewing or refinancing Indebtedness shall be unsecured or, to the extent secured, shall rank *pari passu* or junior in right of payment and of security with the other Loans and Commitments hereunder, (ii) such Indebtedness shall not mature or have scheduled amortization or payments of principal prior to the date that is 91 days after the Final Maturity Date at the time such Indebtedness is incurred, (iii) such Indebtedness does not have a Weighted Average Life to Maturity equal to or less than that of the Refinanced Debt and does not have mandatory prepayment or redemption provisions (other than customary asset sale, similar events and change of control offers) that would result in a mandatory prepayment or redemption of such Indebtedness prior to the date that is 91 days after the Final Maturity Date at the time such Indebtedness is incurred, (iv) such Refinanced Debt shall be repaid, defeased or satisfied and discharged, and all accrued interest, fees and premiums (if any) in connection

therewith shall be paid, on the date that such Indebtedness is issued, incurred or obtained, (v) (x) such Indebtedness, to the extent secured, shall be secured only by the Collateral, or be guaranteed by any person other than the Guarantors under the outstanding Loans, (y) if such Indebtedness being refinanced is unsecured, such Refinanced Debt shall be unsecured, and (z) if such Indebtedness being refinanced is subordinated with respect to the Obligations, such Refinanced Debt shall be subordinated at least to the same extent as such Indebtedness being refinanced, (vi) the liens securing such Indebtedness shall not be of higher priority than the lien securing the applicable Refinanced Debt, (vii) the other terms of such Indebtedness (other than pricing, interest rate margins, rate floors, discounts, fees, premiums and prepayment or redemption provisions) shall be substantially similar to, or (taken as a whole) no more favorable to the lenders providing such Indebtedness than those applicable to the Loans or Revolving Commitments being refinanced or replaced (except for covenants and other provisions applicable only to the periods after the Final Maturity Date), (vii) such Indebtedness will, to the extent permitted by clauses (i) to (vi), have such pricing, interest rate margins, rate floors, discounts, fees, premiums and prepayment or redemption provisions and terms as may be agreed by the Borrower and the Lenders thereof and (viii) will, to the extent in the form of Refinancing Revolving Loans or Refinancing Revolving Loan Commitments, participate in the payment, borrowing, participation and commitment reduction provisions herein on a pro rata basis with any all then-outstanding Revolving Loans and Revolving Commitments. The effectiveness of any Refinancing Amendment shall be subject to, to the extent reasonably requested by the Administrative Agent, receipt by the Administrative Agent of board resolutions, officers' certificates and/or reaffirmation agreements consistent with those delivered on the Closing Date. The Administrative Agent shall promptly notify each Lender as to the effectiveness of each Refinancing Amendment. Each of the parties hereto hereby agrees that, upon the effectiveness of any Refinancing Amendment, this Agreement shall be deemed amended to the extent (but only to the extent) necessary to reflect the existence and terms of the Refinanced Debt incurred pursuant thereto (including any amendments necessary to treat the Loans and Commitments subject thereto as Refinancing Term Loans or Refinancing Revolving Loans) and any Indebtedness being replaced or refinanced with such Refinanced Debt shall be deemed permanently reduced and satisfied in all respects. Any Refinancing Amendment may, without the consent of any other Lenders, effect such amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the reasonable opinion of the Administrative Agent, to effect the provisions of this Section.

(b) This Section 2.21 shall supersede any provisions in Section 11.02 to the contrary.

ARTICLE III
REPRESENTATIONS AND WARRANTIES

Each Loan Party represents and warrants to the Administrative Agent, the Collateral Agent and each of the Lenders on the Closing Date and on the date of each Credit Extension (to the extent required pursuant to Article IV) that:

Section 3.01 Existence, Qualification and Power. Each Company (a) is duly incorporated or organized and validly existing under the laws of the jurisdiction of its incorporation or organization, as the case may be, (b) has all requisite power and authority and all requisite governmental licenses, authorizations, consents and approvals to carry on its business as now conducted and to own, lease and operate its Property and (c) is registered, qualified and in good standing (to the extent such concept is applicable in the applicable jurisdiction) to do business in every jurisdiction where such qualification is required, except in such jurisdictions where the failure to so register, qualify or be in good standing could not reasonably be expected to result in a Material Adverse Effect. There is no existing default under any Organizational Document of any Company or any event which, with the giving of notice or passage of time or both, would constitute a default by any party thereunder.

Section 3.02 **Authorization; Enforceability**. The Loan Documents to be entered into by each Loan Party are within such Loan Party's powers and have been duly authorized by all necessary corporate or other organizational action on the part of each such Loan Party. This Agreement has been duly executed and delivered by each Loan Party and constitutes, and each other Loan Document to which any Loan Party is to be a party, when executed and delivered by such Loan Party, will constitute, a legal, valid and binding obligation of such Loan Party, enforceable against such Loan Party in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principles of equity, good faith and fair dealing, regardless of whether considered in a proceeding in equity or at law.

Section 3.03 **No Conflicts**. The execution, delivery and performance by the Loan Parties of the Loan Documents to which they are a party, the initial Credit Extensions contemplated hereunder and the other Transactions (a) do not require any consent or approval of, registration or filing with, or any other action by, any Governmental Authority, except (i) as have been obtained or made and are in full force and effect, (ii) filings necessary to perfect or maintain the perfection or priority of the Liens created by the Security Documents and (iii) consents, approvals, registrations, filings, permits or actions the failure of which to obtain or perform would not reasonably be expected to result in a Material Adverse Effect, (b) will not violate the Organizational Documents of any Company, (c) will not violate or result in a default or require any consent or approval under (x) any indenture, agreement, or other instrument binding upon any Company or its Property or to which any Company or its Property is subject, or give rise to a right thereunder to require any payment to be made by any Company, except for violations, defaults or the creation of such rights that could not reasonably be expected to result in a Material Adverse Effect or (y) any Organizational Document of any Company, (d) will not violate any Legal Requirement in any material respect and (e) will not result in the creation or imposition of any Lien on any Property of any Company, other than the Liens created by the Security Documents.

Section 3.04 **Financial Statements; Projections; No Material Adverse Effect**.

(a) The Borrower has heretofore delivered to the Agents and the Lenders (i) the Historical Financial Statements, in the case of the financials described in clause (a) of the definition thereof, audited by and accompanied by the unqualified opinion of RSM US LLP, independent public accountants, and (ii) the consolidated balance sheets of the Borrower and certain of its Affiliates (as specified therein) and Envigo and certain of its Affiliates (as specified therein) and the related consolidated statements of income or operations, changes in stockholders' equity and cash flows as of and for the dates specified therein. Such financial statements and all financial statements delivered pursuant to Sections 5.01(a) and (b) have been prepared in accordance with GAAP consistently applied throughout the applicable period covered, thereby and present fairly and accurately, in all material respects, the financial condition and results of operations and cash flows of the entities specified therein as of the dates and for the periods to which they relate (subject to year-end audit adjustments and the absence of footnote disclosures). No Company has any material liabilities of any kind, whether accrued, contingent, absolute, determined, determinable or otherwise except as reflected in such financial statements and there is no existing condition, situation or set of circumstances which could reasonably be expected to result in such a liability.

(b) The Borrower has heretofore delivered to the Agents and the Lenders the forecasts of financial performance of the Borrower and its Subsidiaries for various periods ending September 30, 2022 through to the fiscal year ended September 30, 2026 (the "**Projections**") and the assumptions upon which the Projections are based. The Projections have been prepared in good faith by the Loan Parties and based upon (i) the assumptions stated therein (which assumptions are believed by the Loan Parties to be reasonable at the time of delivery thereof and on the Closing Date), (ii) accounting principles consistent with the Historical Audited Financial Statements delivered pursuant to Section 3.04(a) and management's historical adjustments thereto, in each case consistently applied throughout the fiscal years covered thereby,

and (iii) the information reasonably available to, or in the possession or control of, the Loan Parties as of the date of delivery thereof and on the Closing Date (it being recognized by the Agents and the Lenders that (x) the Projections are not to be viewed as facts or a guarantee of performance and are subject to significant uncertainties and contingencies, many of which are beyond the control of the Borrower and its Subsidiaries and (y) no assurance can be given that any particular financial projection will be realized, and that actual results during the period or periods covered by the Projections may differ from the projected results, and such differences may be material).

(c) Since October 1, 2020, or if more recent, the date of the most recent audited financial statements delivered to the Agents and the Lenders in accordance with Section 5.01(a), there has been no event, change, circumstance, condition, development or occurrence that has had, or would reasonably be expected to result, either individually or in the aggregate, a Material Adverse Effect.

Section 3.05 Properties.

(a) Each Company has good, valid and marketable fee simple title to, or valid leasehold interests in, all its Property, free and clear of all Liens except for Permitted Liens. The Property of the Companies, individually and in the aggregate, (i) is in good operating order, condition and repair (ordinary wear and tear and Casualty Events excepted), and (ii) constitutes all of the Property which is required for the business and operations of the Companies as presently conducted.

(b) As of the Closing Date, Schedule 3.05(b) contains a true and complete list of each ownership and leasehold interest in Real Property (i) owned by any Company and describes the type of interest therein held by such Loan Party, the common street address, and the name of the Loan Party that owns such Real Property and (ii) leased, subleased, licensed or otherwise occupied or utilized by any Company, as lessee, sublessee, franchisee or licensee, the name of the Loan Party that leases such Real Property, a description of the lease, sublease, license, use or occupancy agreement pursuant to which such rights have been granted, and the parties to such agreement (collectively, the "Real Property Leases"). Each Real Property Lease is in full force and effect and constitutes a legal, valid and binding obligation on the applicable Loan Party which is a party to it, enforceable in accordance with its terms, No Loan Party, nor to the Company's knowledge any other party, is in breach or default under such Real Property Lease and no event has occurred or circumstance exists which, with the delivery of notice, the passage of time or both, would constitute such a breach or default or permit the termination, modification or acceleration of rent under such Real Property Lease, and no Loan Party nor the Company has subleased, licensed, or otherwise granted to any Person the right to use or occupy any Real Property.

(c) No Mortgage encumbers Real Property on which a "Building" (as defined in 12 C.F.R. Chapter III, Section 339.2) is located in an area that has been identified by the Secretary of Housing and Urban Development as an area having special flood hazards within the meaning of the National Flood Insurance Act of 1968 unless flood insurance available under such Act has been obtained and is in full force and effect as required by this Agreement.

(d) Each Company owns or has rights to use all of its property and all rights with respect to any of the foregoing which are required for the business and operations of the Companies as presently conducted. The use by each Company of its property and all such rights with respect to the foregoing do not infringe on the rights or other interests of any person. No claim has been made and remains outstanding that any Company's use of any of its property does or may violate the rights of any third party. The present uses of the Real Property and the current operations of each Company's business do not violate in any material respect any provision of any applicable building codes, subdivision regulations, fire regulations, health regulations or building and zoning by-laws.

(e) There is no pending or threatened condemnation or eminent domain proceeding with respect to, or that could affect, any of the Real Property of any Company.

(f) Each parcel of Real Property is taxed as a separate tax lot and is currently being used in a manner that is consistent with and in compliance in all material respects with the property classification assigned to it for real estate tax assessment purposes.

(g) No Company is obligated under, or a party to, any option, right of first refusal or other contractual right to sell, assign or dispose of any Real Property or any portion thereof or interest therein.

(h) Other than as set forth on Schedule 3.05(h), there are no leases, subleases, licenses or other use or occupancy agreements granting any other person the right to the possession, use or occupancy of any portion of the Real Property.

(i) All buildings, structures, improvements, fixtures, building systems and equipment, and all components thereof included in the Real Property (the "Improvements") are in good condition and repair (reasonable wear and tear excepted) and sufficient for the operation of the Company's business. To the knowledge of the Loan Parties, there are no material structural deficiencies or latent defects affecting any of the Improvements and there are no facts or conditions affecting any of the Improvements which would, individually or in the aggregate, interfere in any material respect with the use or occupancy of the Improvements or any portion thereof in the operation of the Company's business.

Section 3.06 Intellectual Property. (a) Each Company owns or is licensed to use, free and clear of all Liens (other than Permitted Liens), patents, copyrights, trademarks, service marks, trade dress, trade names, domain names trade secrets, confidential information, proprietary information, inventions, databases, software, formulae, works of authorship, know-how, processes, and other intellectual property (collectively, the "**Intellectual Property**") used in the conduct of the business of such Company as currently conducted and (b) no actions, suits, claims, disputes, or proceedings are pending, or to the knowledge of such Loan Party are threatened, (i) alleging that any Company infringes, misappropriates, dilutes or otherwise violates any Intellectual Property of any third-party, or (ii) challenging the validity, enforceability, registration, or ownership of any Intellectual Property owned any Company, and such Loan Party is not aware of any facts or circumstances that would reasonably form the basis of any such actions, suits, claims, disputes, or proceedings, except in each case as would not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

Section 3.07 Equity Interests and Subsidiaries. (a) Schedule 3.07(a) sets forth a list of (i) each Company and its jurisdiction of incorporation or organization as of the Closing Date and (ii) the number of each class of the Equity Interests of each Company authorized, and the number outstanding, on the Closing Date and the number of shares covered by all outstanding options, warrants, rights of conversion or purchase and similar rights on the Closing Date. All Equity Interests of each Company are duly and validly issued and are fully paid and non-assessable (as applicable). Each Loan Party is the record and beneficial owner of, and has good title to, the Equity Interests pledged (or purporting to be pledged) by it under the Security Documents, free of any and all Liens, rights or claims of other persons and, as of the Closing Date, there are no outstanding warrants, options or other rights to purchase, or shareholder, voting trust or similar agreements outstanding with respect to, or Property that is convertible into, or that requires the issuance or sale of, any such Equity Interests (or any economic of voting interests therein).

(b) Other than as required by foreign Legal Requirements with respect to the Equity Interests in any Foreign Subsidiary, no consent of any person including any general or limited partner, any other member or manager of a limited liability company, any shareholder or any other trust beneficiary is

necessary or reasonably desirable (from the perspective of a secured party) in connection with the creation, perfection or first priority status (or the maintenance thereof) of the security interest of the Collateral Agent in any Equity Interests pledged to the Collateral Agent under the Security Documents or the exercise by the Collateral Agent or any other Secured Party of the voting or other rights provided for in the Security Documents or the exercise of remedies in respect of such Equity Interests.

(c) A complete and accurate organization chart, showing the ownership structure of the Companies on the Closing Date, after giving effect to the Transactions, is set forth on Schedule 3.07(c).

Section 3.08 Litigation; Compliance with Laws. (a) There are no actions, suits, claims, disputes, proceedings or, to the knowledge of any Loan Party, investigations at law or in equity by or before any Governmental Authority now pending or, to the knowledge of any Loan Party, threatened against or affecting any Company or any business, Property or rights of any Company that purport to affect or (i) involve any Loan Document, any Specified Hedging Agreement, any Bank Product Agreement or any of the Transactions or (ii) have resulted in, or, individually or in the aggregate, would reasonably be expected to result in, a Material Adverse Effect.

(b) No Company or any of its Property is in (i) violation of, nor will the continued operation of its Property or business as currently conducted violate, any Legal Requirements (including any zoning or building ordinance, code or approval or any building permits) or any restrictions of record or agreements affecting any Company's Real Property or (ii) default with respect to any Order, where such violation or default contemplated under subclauses (i) or (ii), would, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

Section 3.09 Federal Reserve Regulations. (a) No Company is engaged principally, or as one of its important activities, in the business of purchasing or carrying Margin Stock or extending credit for the purpose of purchasing or carrying Margin Stock.

(b) No part of the proceeds of any Credit Extension will be used, whether directly or indirectly, and whether immediately, incidentally or ultimately, for purchasing or carrying Margin Stock or for any other purpose that entails a violation of, or that is inconsistent with, the provisions of the regulations of the Board, including Regulation T, U or X. The pledge of the Securities Collateral pursuant to the Security Agreement does not violate such regulations.

Section 3.10 Investment Company Act. No Company is an "**investment company**" or a Company "controlled" by an "**investment company**", as defined in, or subject to regulation under, the Investment Company Act of 1940, as amended.

Section 3.11 Use of Proceeds.

(a) On the Closing Date, the Borrower will use the proceeds of the Term Loans to finance, in part, the Merger, fund all or a portion of the Refinancing and to pay all or a portion of any related fees and expenses (including any upfront fees and original issue discount) related thereto. Borrower will use the proceeds of the Revolving Loans after the Closing Date for working capital and general corporate purposes not prohibited by this Agreement. The use of proceeds of the Loans hereunder will not be used, directly or indirectly, in violation of Anti-Corruption Laws or applicable Sanctions.

(b) The Borrower shall use the proceeds of the Delayed Draw Term Loans to (i) directly or indirectly finance Permitted Acquisitions (other than the Mergers), (ii) finance Designated Capital Expenditures or (iii) replenish cash on the balance sheet or repay Revolving Loans that, in either

case, were drawn to finance Permitted Acquisitions or Designated Capital Expenditures and were drawn within 180 days of such Revolving Loans draw.

Section 3.12 **Taxes**. Each Company has (a) timely filed or caused to be timely filed all U.S. federal and state income Tax Returns and all other material Tax Returns required to have been filed by it and (b) duly and timely paid or caused to be duly and timely paid all U.S. federal and state income Taxes and all other material Taxes (whether or not shown on any Tax Return) due and payable by it and all assessments received by it, except Taxes that are being contested in good faith by appropriate proceedings and for which such Company has set aside on its books adequate reserves in accordance with GAAP. Each Company has made adequate provision in accordance with GAAP for all Taxes not yet due and payable. There is no material action, suit, proceeding, investigation, audit, assessment, deficiency or other claim now pending by any taxing authority regarding any Taxes relating to any Company, except to the extent that (i) the validity or amount thereof is currently being contested in good faith by appropriate proceedings timely instituted and diligently conducted and (ii) the applicable entity has set aside on its books adequate reserves or other appropriate provisions with respect thereto in accordance with. No Loan Party is a party to any Tax sharing or similar agreement with any person that is not a Loan Party.

Section 3.13 **No Material Misstatements**. On the Closing Date (in the case of the Lender Presentation) or at the time furnished (in the case of all other reports, financial statements, certificates or other written information), the Lender Presentation and the other reports, financial statements, certificates or other written information furnished (other than the Projections, forecasts and other forward-looking information, budgets, estimates and information of a general economic or industry-specific nature) by or on behalf of any Company to any Agent or any Lender in connection with the transactions contemplated hereby and the negotiation of this Agreement or delivered hereunder or under any other Loan Document (as modified or supplemented by other information so furnished) are complete and correct in all material respects and do not contain any material misstatement of fact or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not materially misleading.

Section 3.14 **Labor Matters**. There are no strikes, lockouts or slowdowns against any Company pending or, to the knowledge of the Loan Parties, threatened that have resulted in, or could reasonably be expected to result in, a Material Adverse Effect. To the knowledge of the Loan Parties, the hours worked by and payments made to employees of any Company have not been in violation of the Fair Labor Standards Act of 1938, as amended, or any other applicable Legal Requirement dealing with such matters in any manner that has resulted in, or would reasonably be expected to result in, a material liability to the Company. All payments due from any Company, or for which any claim may be made against any Company, on account of wages and employee health and welfare insurance and other benefits, have been paid or accrued as a liability on the books of such Company, except to the extent that the failure to do so has not resulted in, and would not reasonably be expected to result in, a material liability to the Company. The consummation of the Transactions will not give rise to any right of termination or right of renegotiation on the part of any union under any collective bargaining agreement to which any Company is bound.

Section 3.15 **Solvency**. After giving effect to the Transactions, the Borrower and its Subsidiaries (on a consolidated basis) (a) have property with fair value greater than the total amount of their debts and liabilities, contingent (it being understood that the amount of contingent liabilities 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), subordinated or otherwise, (b) have assets with present fair salable value not less than the amount that will be required to pay their liability on their debts as they become absolute and matured, (c) will be able to pay their debts and liabilities, subordinated, contingent or otherwise, as they become absolute and matured and (d) are not engaged in business or a transaction, and are not about to engage in business or a transaction,

for which their property would constitute an unreasonably small capital. For the purposes of this Section 3.15, the amount of any contingent liability at any time shall be computed as the amount that, in light of all of the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability (irrespective of whether such contingent liabilities meet the criteria for accrual under Statement of Financial Accounting Standard No. 5).

Section 3.16 **Employee Benefit Plans**. (a) (i) Each Employee Benefit Plan complies and is operated and maintained in compliance with all applicable Legal Requirements, including all applicable provisions of ERISA and the Code and the regulations and published interpretations thereunder and (ii) each Employee Benefit Plan that is intended to qualify under Section 401(a) of the Code has received a favorable determination from the Internal Revenue Service or can rely upon an advisory or opinion letter issued by the Internal Revenue Service and nothing has occurred which would prevent, or reasonably be expected to cause the loss of, such qualification.

(b) Except as could not reasonably be expected to result in a Material Adverse Effect, no ERISA Event has occurred or is reasonably expected to occur.

(c) The Companies have no knowledge of any actions, suits or claims pending or threatened with respect to, against or involving an Employee Benefit Plan (other than routine claims for benefits) which would reasonably be expected to be asserted successfully against any Employee Benefit Plan and, if so asserted successfully, would reasonably be expected either singly or in the aggregate to have a Material Adverse Effect.

(d) The Companies and, to the knowledge of the Loan Parties, each ERISA Affiliate, have made all material contributions to or under each Employee Benefit Plan and Multiemployer Plan required by law within the applicable time limits described thereby, the terms of such Employee Benefit Plan or Multiemployer Plan, respectively, or any contract or agreement requiring contributions to an Employee Benefit Plan or Multiemployer Plan save where any failure to comply, individually or in the aggregate, would not result in a material liability to the Companies.

(e) Except as would not reasonably be expected to result in a Material Adverse Effect, each Foreign Plan has been maintained in compliance with its terms and with the requirements of all Legal Requirements and has been maintained, where required, in good standing with applicable Governmental Authorities. All contributions required to be made with respect to a Foreign Plan have been timely made. None of the Companies have incurred any obligation in connection with the termination of, or withdrawal from, any Foreign Plan.

Section 3.17 **Environmental Matters**. Except as set forth on Schedule 3.17, or would not reasonably be expected to result in a Material Adverse Effect:

(i) the Companies and their businesses, operations and Real Property are and have at all times during the Companies' ownership or lease thereof been in compliance with, and the Companies have no liability under, any applicable Environmental Law, and the Loan Parties reasonably believe that compliance with any Environmental Law that is or is expected to become applicable to the Companies and their businesses will be timely attained and maintained without material expense;

(ii) the Companies have obtained, maintained in good standing and are in compliance with all Environmental Permits required for the conduct of their businesses and operations, and the ownership, operation and use of their Real Property. No material expenditures

or operational adjustments are reasonably anticipated to be required to remain in compliance with the terms and conditions of, or to renew or modify, such Environmental Permits;

(iii) there has been no Release or threatened Release or any handling, management, generation, treatment, transport, storage or disposal of Hazardous Materials on, at, under or from any Real Property or facility presently or formerly owned, leased or operated by any of the Companies or their predecessors in interest or, to the knowledge of the Loan Parties, at, on, under or from any other location (including, without limitation, any location to which Hazardous Materials have been sent for re-use, recycling, treatment, storage, or disposal), that has resulted in, or is reasonably likely to result in, either liability or obligations of the Companies under Environmental Law, assertion of an Environmental Claim against the Companies, interfere with any of the Companies' businesses and operations, or impair the fair saleable value of any Real Property;

(iv) there is no Environmental Claim pending or, to the knowledge of the Loan Parties, threatened in writing against any of the Companies, or relating to the Real Property currently or formerly owned, leased or operated by any of the Companies or relating to the operations of the Companies (including, for the avoidance of doubt, any request for information under CERCLA or other Environmental Laws), and, to the knowledge of the Loan Parties, there are no actions, activities, circumstances, conditions, events or incidents that are reasonably likely to form the basis of such an Environmental Claim;

(v) the Companies are not subject to any pending or outstanding Order or agreement pursuant to which any Company is subject to any material liabilities or obligations under Environmental Law;

(vi) no person with an indemnity, contribution or other obligation to any of the Companies relating to compliance with or liability under Environmental Law is in default with respect to any such indemnity, contribution or other obligation, and the Companies have not assumed or retained, by contract or operation of law, any liability arising under Environmental Law of any kind, whether fixed or contingent, known or unknown;

(vii) the Companies have made available to the Lenders all material records and files in the possession, custody or control of, or otherwise reasonably available to, the Companies concerning compliance with or liability or obligation under Environmental Law, including those concerning the environmental condition of the Real Property or the existence of Hazardous Materials at Real Property or facilities currently or formerly owned, operated, leased or used by any of the Companies.

Section 3.18 **Insurance**. Schedule 3.18 sets forth a description in reasonable detail of all insurance maintained by each Company as of the Closing Date. All insurance maintained by the Companies is in full force and effect, all premiums due have been duly paid, no Company has received notice of violation or cancellation thereof, the Premises, and the use, occupancy and operation thereof, comply in all material respects with all Insurance Requirements, and there exists no default under any Insurance Requirement. Each Company has insurance in such amounts and covering such risks and liabilities as are customary for companies of a similar size engaged in similar businesses in similar locations.

Section 3.19 **Security Documents**. (a) The Security Agreement is effective to create in favor of the Collateral Agent, for the benefit of the Secured Parties, a legal, valid, binding and enforceable security interests in the Security Agreement Collateral described therein and the proceeds and products thereof and, when (i) financing statements in appropriate form are filed in the offices specified in the Perfection

Certificate (as updated in accordance with the terms hereof) and (ii) upon the taking of possession or control by the Collateral Agent of the Security Agreement Collateral with respect to which a security interest may be perfected only by possession or control (which possession or control shall be given to the Collateral Agent to the extent possession or control by the Collateral Agent is required by each Security Document), the Liens created by the Security Agreement shall constitute fully perfected first priority Liens on, and security interests in, all right, title and interest of the grantors thereunder in the Security Agreement Collateral (other than (A) the Intellectual Property Collateral (as defined in the Security Agreement), except to the extent that the filing of a financing statement is sufficient to perfect a Lien in such Intellectual Property, and (B) such Security Agreement Collateral in which a security interest cannot be perfected under the UCC as in effect at the relevant time in the relevant jurisdiction by (x) the filing of the financing statements referred to in clause (i) of this Section 3.19(a) or (y) the taking of possession or control to the extent required by each Security Document), in each case subject to no Liens other than Permitted Liens.

(b) When (i) financing statements in appropriate form are filed in the offices specified on Schedule 9 to the Security Agreement (as updated in accordance with the terms hereof), and (ii) with respect to US registered copyrights, US patents and patent applications, and US registered trademarks and trademark applications, when the Security Agreement or one or more of the short forms thereof is filed in the USPTO or the USCO, as applicable, the Liens created by such Security Agreement shall constitute in the United States fully perfected first priority Liens on, and security interests in, all right, title and interest of the grantors thereunder in the Intellectual Property Collateral, in each case, if and to the extent a security interest in such Intellectual Property Collateral can be perfected by such filings.

(c) Each Mortgage, if any, upon the execution and delivery thereof, shall be effective to create, in favor of the Collateral Agent, for its benefit and the benefit of the Secured Parties, a legal, valid, binding and enforceable first priority Lien on, and security interests in, all of the Loan Parties' right, title and interest in and to the Mortgaged Properties thereunder and the proceeds and products thereof (except to the extent that the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws generally affecting creditors' rights and by equitable principles (regardless of whether enforcement is sought in equity or at law)), and when such Mortgage is filed or recorded in the offices specified in the local counsel opinion delivered with respect thereto in accordance with the provisions of Sections 4.01, 5.10 and 5.11, the Mortgages shall constitute fully perfected first priority Liens on, and security interests in, all right, title and interest of the Loan Parties in the Mortgaged Properties and the proceeds thereof, in each case prior and superior in right to any other person, (other than Persons holding Liens or other encumbrances or rights permitted by the relevant Mortgage) to the extent a security interest in such Mortgagee Property can be perfected by such filings or recordings.

(d) Each Security Document delivered pursuant to Sections 5.10 and 5.11 will, upon execution and delivery thereof, be effective to create in favor of the Collateral Agent, for the benefit of the Secured Parties, legal, valid and enforceable Liens on, and security interests in, each of the Loan Party's respective right, title and interest in and to the Collateral thereunder, and in the case of (i) pledged equity interests represented by certificates (x) when such certificates are delivered to the Collateral Agent or (y) when financing statements in appropriate form are filed in the offices specified on Schedule 3.19(d) and (ii) the other Collateral described in the Security Agreement, when financing statements in appropriate form are filed in the offices specified on Schedule 3.19(d) and such other filings as are specified on Schedule 9 to the Security Agreement have been completed to the extent a security interest in such other Collateral can be perfected by such other filings, the Liens in favor of the Collateral Agent created under such Security Document will constitute valid, enforceable and fully perfected first priority Liens on, and security interests in, all right, title and interest of the grantors thereunder in such Collateral, in each case subject to no Liens other than Permitted Liens.

Section 3.20 Sanctions.

(a) None of the Borrower, any Subsidiary or any of their respective directors, officers, employees, or agents that act in any capacity with the credit facility established hereby is, or has been within the past five years, (i) a Sanctioned Person. (ii) involved in any transactions or dealings with or involving a Sanctioned Country or Sanctioned Person, (iii) the subject of or otherwise involved in investigations or enforcement actions by any Governmental Authority or other legal proceedings with respect to any actual or alleged violations of Sanctions, or (iv) engaged in a transaction, dealing, or activity that might reasonably be expected to cause such Person to become a Sanctioned Person.

(b) The Borrower, its Subsidiaries, and their respective directors, officers, employees, and agents that act in any capacity in connection with the credit facility established hereby, are, and have been throughout the past five years, in compliance with applicable Sanctions.

(c) 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 applicable Sanctions.

(d) The Borrower will not request any Borrowing, and the Borrower shall not use, and shall procure that its Subsidiaries and its or their respective directors, officers, employees and agents shall not use, the proceeds of any Borrowing (a) for the purpose of funding, financing or facilitating any activities, business or transaction of or with any Sanctioned Person, or in any Sanctioned Country, or (c) in any manner that would result in the violation of any Sanctions applicable to any party hereto.

Section 3.21 Anti-Terrorism Laws.

(a) No Company and, to the knowledge of the Loan Parties, none of their respective Affiliates is in violation of any Legal Requirements relating to terrorism or money laundering ("**Anti-Terrorism Laws**"), including Executive Order No. 13224 on Terrorist Financing, effective September 24, 2001 (the "**Executive Order**"), and the USA PATRIOT Improvement and Reauthorization Act, Public Law 109-177 (March 9, 2006), as amended (the "**Patriot Act**").

(b) No Company and, to the knowledge of the Loan Parties, no broker or other agent of any Company acting in any capacity in connection with the Loans conducts any business or engages in making or receiving any contribution of funds, goods or services to or for the benefit of any Sanctioned Person or Sanctioned Country.

Section 3.22 Anticorruption.

(a) None of the Borrower or its Subsidiaries nor any Affiliate, director, officer, employee of the Borrower or its Subsidiaries or Affiliates, or any Person acting on behalf of the Borrower or its Subsidiaries or Affiliates has: (i) taken any action in violation of any Legal Requirements relating to any applicable anti-corruption law, including the U.S. Foreign Corrupt Practices Act (15 U.S.C. § 78 dd-1 et seq.), the UK Bribery Act 2010, and laws and regulations implementing the OECD Convention on Combatting Bribery of Foreign Public Officials in International Business Transactions or the UN Convention against Corruption (collectively, "**Anti-Corruption Laws**"); or (ii) corruptly offered, paid, given, promised to pay or give, or authorized the payment or gift of anything of value, directly or indirectly, to any Person, including any Public Official for purposes of (a) influencing any act or decision of any Person, including any Public Official in an official capacity; (b) inducing such Public Official to do or omit to do any act in violation of a lawful duty; (c) securing any improper advantage; or (d) inducing such Public Official to use his or her influence with a government, government entity, commercial enterprise owned or

controlled by any government (including state-owned or controlled veterinary or medical facilities), in order to assist the business or any party related in any way to the business, in obtaining or retaining business.

(b) The Borrower, its Subsidiaries and Affiliates have implemented and maintain policies and procedures designed to ensure compliance with Anti-Corruption Laws.

(c) There have not been, and are not pending or, to the knowledge of the Loan Parties, threatened, any civil, criminal or administrative actions, suits, demands, claims, hearings, notices of violation, investigations, proceedings, demand letters, settlements or enforcement actions, involving the Loan Parties in any way relating to this Section 3.22.

ARTICLE IV
CONDITIONS TO CREDIT EXTENSIONS

Section 4.01 Conditions to Initial Credit Extension. The obligation of each Lender to fund the initial Credit Extension on the Closing Date requested to be made by Borrower shall be subject to the prior or concurrent satisfaction or waiver of the conditions precedent set forth in this Section 4.01 (the making of such initial Credit Extension by a Lender being conclusively deemed to be its satisfaction or waiver of the conditions precedent):

(a) Loan Documents. The Administrative Agent shall have received (i) this Agreement, executed and delivered by a duly authorized officer of the Borrower and each Subsidiary Guarantor, (ii) a Note, executed and delivered by the Borrower in favor of each Lender that has requested a Note and (iii) the Security Agreement, executed and delivered by a duly authorized officer of the Borrower and each Subsidiary Guarantor;

(b) Perfection Certificate. Each Loan Party shall have delivered to the Collateral Agent a completed Perfection Certificate, dated as of the Closing Date, executed by a duly authorized officer of each Loan Party, together with all attachments contemplated thereby;

(c) Corporate Documents. The Administrative Agent shall have received:

(i) a certificate of the secretary or assistant secretary (or equivalent officer) on behalf of each Loan Party dated the Closing Date, certifying (A) that attached thereto is a true and complete copy of each Organizational Document of such Loan Party and, with respect to the articles or certificate of incorporation or organization (or similar document) certified (to the extent applicable) as of a recent date by the Secretary of State of the state of its organization, (B) that attached thereto is a true and complete copy of resolutions duly adopted by the Board of Directors of such Loan Party authorizing the execution, delivery and performance of the Loan Documents to which such person is a party and, in the case of the Borrower, the Borrowings hereunder, and that such resolutions have not been modified, rescinded or amended and are in full force and effect as of the date of such certificate, and (C) as to the incumbency and specimen signature of each Responsible Officer executing any Loan Document or any other document delivered in connection herewith on behalf of such Loan Party (together with a certificate of another officer or authorized person as to the incumbency and specimen signature of the officer or authorized person executing the certificate in this clause (i));

(ii) to the extent applicable, a certificate as to the good standing of each Loan Party as of a recent date, from such Secretary of State (or other applicable Governmental Authority) of its jurisdiction of organization;

(iii) the results of a recent lien, tax lien, judgment and litigation search in each of the jurisdictions or offices (including, without limitation, in the United States Patent and Trademark Office and the United States Copyright Office) in which UCC financing statement or other filings or recordations should be made to evidence or perfect security interests in all assets of the Loan Parties), and such search shall reveal no Liens or judgments on any of the assets of the Loan Parties, except for (x) Liens and judgments to be terminated on the Closing Date and (y) Existing Liens; and

(iv) a certificate dated the Closing Date and signed by a Responsible Officer of the Borrower, confirming satisfaction of the conditions set forth in Sections 4.01(h) and (i) and Sections 5.02(b) and (c).

(d) Refinancing. The Refinancing shall occur on the Closing Date substantially simultaneously with the Credit Extension.

(e) [reserved].

(f) Legal Opinions. The Administrative Agent shall have received the legal opinion of (i) Ice Miller LLP, counsel for the Loan Parties and (ii) McGuireWoods LLP, Pennsylvania counsel for the Loan Parties, which opinions shall (A) be dated as of the Closing Date, (B) be addressed to the Agents and the Lenders and (C) cover such matters relating to the Loan Documents and the Transactions as the Administrative Agent may reasonably require. Each Loan Party hereby instructs such counsel to deliver such opinions to the Agents and the Lenders.

(g) Solvency Certificate. The Administrative Agent shall have received a solvency certificate in the form of Exhibit H dated the Closing Date and signed by a Financial Officer of the Borrower.

(h) Representations and Warranties. The (i) Specified Merger Agreement Representations shall be true and correct solely to the extent required by the terms of the definition thereof and (ii) Specified Representations shall be true and correct in all material respects, or, to the extent qualified by materiality or "Material Adverse Effect," in all respects, as of the Closing Date (except in the case of any such representation which expressly relates to a given date or period, such representation shall be true and correct in all material respects (or in all respects, as the case may be) as of the respective date or period).

(i) No Material Adverse Effect. Since the Effective Date (as defined in the Merger Agreement), there shall have been no events or occurrences that have resulted in a Closing Date Material Adverse Effect.

(j) Fees and Expenses. The Arranger, the Lenders and the Administrative Agent shall have received all fees and other amounts due and payable to them on or prior to the Closing Date, including, to the extent invoiced at least two Business Days prior to the Closing Date (unless otherwise reasonably agreed by the Borrower), reimbursement or payment of all reasonable and documented out-of-pocket fees and expenses (including the legal fees and expenses of Latham & Watkins LLP, special counsel to the Agents) and recording taxes and fees.

(k) Patriot Act. The Administrative Agent and the Lenders shall have received, at least three (3) Business Days prior to the Closing Date, all documentation and other information with respect to each Loan Party that is required by regulatory authorities under applicable "know your customer" and anti-money laundering rules and regulations, including the Patriot Act to the extent reasonably requested by any Lender in writing at least ten (10) Business Days in advance of the Closing Date.

(l) Beneficial Ownership Certification. If the Borrower qualifies as a "legal entity customer" under the Beneficial Ownership Regulation, then the Borrower shall have delivered to the Administrative Agent a Beneficial Ownership Certification in relation to the Borrower, to the extent reasonably requested by any Lender in writing at least ten (10) Business Days in advance of the Closing Date.

(m) [reserved].

(n) Letter of Direction. The Administrative Agent shall have received a funds flow memorandum and duly executed borrowing notice and letter of direction from the Borrower addressed to the Administrative Agent, on behalf of itself and Lenders, directing the disbursement on the Closing Date of the proceeds of the Loans made on such date.

(o) Creation and Perfection of Security Interests. All actions necessary to establish that the Collateral Agent will have a perfected first priority security interest (subject to Permitted Liens) in the Collateral under the Loan Documents shall have been taken (including, without limitation, the execution and delivery to the Administrative Agent of all documents and instruments (if applicable, in proper form for filing) required to establish such security interests), in each case, to the extent such Collateral (including the creation or perfection of any security interest) is required to be provided on the Closing Date; *provided* that, to the extent any security interest in any Collateral to be provided by any Loan Party is not or cannot be provided and/or perfected on the Closing Date (other than the pledge and perfection of the security interest in the Equity Interests of the Borrower and its Wholly Owned Subsidiaries (which stock certificates shall be delivered on the Closing Date; *provided* that stock certificates representing Equity Interests in Foreign Subsidiaries shall be delivered within ten (10) Business Days of the Closing Date) that are required to be pledged pursuant to this Agreement and the other Loan Documents (and other assets of the Borrower and the Subsidiary Guarantors pursuant to which a lien may be perfected by the filing of a Form UCC-1 or such other financing statement)) after the Loan Parties' use of commercially reasonable efforts to do so, neither the perfection of such Collateral nor, in the case of real estate Collateral, the delivery of any mortgages related title policies, surveys, title insurance documents, endorsements or similar documentation, shall constitute a condition precedent to the availability of the Initial Term Loans on the Closing Date, but shall be required to be perfected within 90 days after the Closing Date (subject to extensions by the Administrative Agent, in its sole discretion).

(p) Acquisition. Mergers shall have been consummated, or substantially simultaneously with the initial borrowings of the Loans hereunder, shall be consummated in accordance with the terms of the Merger Agreement, without giving effect to any alteration, amendment, modification, supplement or waiver or consent thereunder unless otherwise permitted under, or effected in accordance with, the Commitment Letter.

(q) Minimum Cash Amount. On the Closing Date, the pro forma balance sheet of the Acquiror and its subsidiaries shall have a minimum amount of $25,000,000 in cash, which cash balance will be automatically reduced by any cash acquisition consideration for transactions that would constitute Permitted Acquisitions had they been consummated after the Closing Date so long as, after giving effect to such acquisition, the First Lien Leverage Ratio would not exceed 3.25:1.00.

(r) Unsecured Notes Offering. On or prior to the Closing Date, the Unsecured Notes Offering shall have been consummated.

The documents referred to in this Section 4.01 shall be delivered to the Administrative Agent no later than the Closing Date. The certificates and opinions referred to in this Section 4.01 shall be dated the Closing Date.

Without limiting the generality of the provisions of Article XI, for purposes of determining compliance with the conditions specified in this Section 4.01, each Lender that has signed this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with, or waived 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 proposed Closing Date specifying its objection thereto.

Promptly after the Closing Date occurs, the Administrative Agent shall notify the Borrower and the Lenders of the Closing Date, and such notice shall be conclusive and binding on all parties hereto.

Section 4.02 Conditions to Revolving Loan Extensions. Subject to clauses (a)(ii) and (a)(iii) of Section 2.19, the obligation of each Revolving Lender to make any Credit Extension (including on the Closing Date) shall be subject to, and to the satisfaction of, each of the conditions precedent set forth below.

(a) Notice. The Administrative Agent shall have received a Borrowing Request as required by Section 2.03 (or such notice shall have been deemed given in accordance with Section 2.03) if Loans are being requested.

(b) No Default. At the time of and immediately after giving effect to such Credit Extension and the application of the proceeds thereof, no Default or Event of Default shall have occurred and be continuing on such date.

(c) Representations and Warranties. Each of the representations and warranties made by any Loan Party set forth in Article III or in any other Loan Document shall be true and correct in all material respects (*provided* that, any representation and warranty that is qualified by "materiality," "material adverse effect" or similar language shall be true and correct in all respects (after giving effect to any such qualification therein)) on and as of the date of such Credit Extension with the same effect as though made on and as of such date, except to the extent such representations and warranties expressly relate to an earlier date (in which case such representations and warranties shall be true and correct in all material respects (or if any such representation and warranty is qualified by "materiality," "material adverse effect" or similar language, shall be true and correct in all respects (after giving effect to any such qualification therein)) on and as of such earlier date).

The delivery of a Borrowing Request pursuant to this Section 4.02 and the acceptance by the Borrower of the proceeds of such Credit Extension shall constitute a representation and warranty by the Borrower and each other Loan Party that on the date of such Credit Extension (both immediately before and after giving effect to such Credit Extension and the application of the proceeds thereof) the conditions contained in this Section 4.02 have been satisfied.

Section 4.03 Conditions to Delayed Draw Term Loan Extensions. Subject to clauses (a)(ii) and (a)(iii) of Section 2.19, the obligation of each Delayed Draw Term Loan Lender to make any Credit Extension (including on the Closing Date) shall be subject to, and to the satisfaction of, each of the conditions precedent set forth below.

(a) Notice. The Administrative Agent shall have received a Borrowing Request as required by Section 2.03 (or such notice shall have been deemed given in accordance with Section 2.03) if Loans are being requested.

(b) No Default. At the time of and immediately after giving effect to such Credit Extension and the application of the proceeds thereof, no Default or Event of Default shall have occurred and be continuing on such date.

(c) Representations and Warranties. Each of the representations and warranties made by any Loan Party set forth in Article III or in any other Loan Document shall be true and correct in all material respects (*provided* that, any representation and warranty that is qualified by "materiality," "material adverse effect" or similar language shall be true and correct in all respects (after giving effect to any such qualification therein)) on and as of the date of such Credit Extension with the same effect as though made on and as of such date, except to the extent such representations and warranties expressly relate to an earlier date (in which case such representations and warranties shall be true and correct in all material respects (or if any such representation and warranty is qualified by "materiality," "material adverse effect" or similar language, shall be true and correct in all respects (after giving effect to any such qualification therein)) on and as of such earlier date).

(d) First Lien Leverage Ratio. The First Lien Leverage Ratio shall not exceed 3.25:1.00, including the application of the proceeds of such Credit Extension (without "netting" the cash proceeds of the applicable Delayed Draw Term Loans to the Borrower) and related transactions (but giving effect to other permitted pro forma adjustments).

The delivery of a Borrowing Request pursuant to this Section 4.03 and the acceptance by the Borrower of the proceeds of such Credit Extension shall constitute a representation and warranty by the Borrower and each other Loan Party that on the date of such Credit Extension (both immediately before and after giving effect to such Credit Extension and the application of the proceeds thereof) the conditions contained in this Section 4.03 have been satisfied.

ARTICLE V
AFFIRMATIVE COVENANTS

Each Loan Party warrants, covenants and agrees with the Administrative Agent, the Collateral Agent and each Lender that so long as this Agreement shall remain in effect and until the Commitments have been terminated and the principal of and interest and premium (if any) on each Loan, all Fees and all other expenses or amounts payable under any Loan Document shall have been paid in full (other than unasserted contingent indemnification obligations), each Loan Party will, and will cause each of its Subsidiaries to:

Section 5.01 Financial Statements, Reports, etc. Furnish to the Administrative Agent for distribution to the Lenders:

(a) Annual Reports. Within 90 days after the end of each fiscal year, (i) the audited consolidated balance sheet of the Borrower and its Subsidiaries as of the end of such fiscal year and related consolidated statements of income, cash flows and stockholders' equity for such fiscal year, which the Borrower may file or be required to file with the SEC under Section 13 or 15(d) of the Exchange Act, in comparative form with such financial statements as of the end of, and for, the preceding fiscal year, all in reasonable detail and prepared in accordance with GAAP and (except with respect to consolidating information) accompanied by an opinion of RSM (US) LLP or other independent public accountants of recognized national standing reasonably satisfactory to the Administrative Agent (which opinion shall not be qualified as to scope or contain any "going concern" or like qualification or exception other than a "going concern" qualification with respect to (A) any upcoming maturity date of any Indebtedness that is scheduled to occur within one year or (B) any potential inability to satisfy the financial covenants under any Indebtedness on a future date or in a future period), stating that such financial statements fairly present, in all material respects, the consolidated financial condition, results of operations and cash flows of the Borrower and its Subsidiaries as of the dates and for the periods specified in accordance with GAAP consistently applied, and (ii) a management's discussion and analysis of the financial condition and results of operations of the Borrower and its Subsidiaries;

(b) Quarterly Reports. Within forty five (45) days after the end of each fiscal quarter of the Borrower, commencing with the first fiscal quarter ended September 30, 2021, (i) the unaudited consolidated balance sheet of the Borrower and its Subsidiaries as of the end of such fiscal quarter and related consolidated statements of income and cash flows for such fiscal quarter and for the then elapsed portion of the fiscal year, in comparative form with the consolidated statements of income in reasonable detail and cash flows for the comparable periods in the previous fiscal year, all prepared in accordance with GAAP and accompanied by a certificate of a Financial Officer stating that such financial statements fairly present, in all material respects, the consolidated financial condition, results of operations and cash flows of the Borrower and its Subsidiaries as of the date and for the periods specified in accordance with GAAP consistently applied, and on a basis consistent with the Historical Audited Financial Statements and management's historical adjustments thereto, subject to normal year-end adjustments, including audit adjustments, and the absence of footnotes, (ii) a management's discussion and analysis of the financial condition and results of operations of the Borrower and its Subsidiaries and (iii) with respect to the Borrower and Envigo only, a "key performance indicator" report, segment reported in accordance with GAAP, with such content as may be reasonably agreed by the Administrative Agent and the Borrower;

(c) Financial Officer's Certificate. Concurrently with any delivery of financial statements under Section 5.01(a) or (b)(i), a Compliance Certificate certifying that no Default and no Event of Default has occurred or, if a Default or Event of Default has occurred, specifying the nature and extent thereof and any corrective action taken or proposed to be taken with respect thereto, and a Compliance Certificate setting forth (A) computations of the First Lien Leverage Ratio and the Secured Leverage Ratio in detail reasonably satisfactory to the Administrative Agent (including any Pro Forma Basis calculations and adjustments in reasonable detail) and, if the covenant is required to be tested for the period covered in such financial statements a certification as to compliance with Section 6.15 or non-compliance with such covenant, and (B) in the case of Section 5.01(a) above, setting forth Borrower's calculation of Excess Cash Flow (commencing with the delivery of the financial statements for the fiscal year ending September 30) and attaching to such certificate an accurate and complete organization chart showing the ownership structure of the Companies as of the last day of the relevant fiscal year or including in such certificate a confirmation that there have been no changes to Schedule 3.07(c);

(d) Budgets. No later than 90 days after the end of each fiscal year of the Borrower, commencing with the fiscal year ending September 30, 2022, an annual budget (on a quarterly basis) in form customarily prepared with regard to the Borrower and its Subsidiaries by the Borrower;

(e) Other Information. Promptly, from time to time, such other reasonably necessary information regarding the operations, business affairs and financial condition of any Company, or compliance with the terms of any Loan Document, any Specified Hedging Agreement or any Bank Product Agreement or the environmental condition of any Real Property (but in any event, excluding attorney-client privileged information), as the Administrative Agent or any Lender (through the Administrative Agent) may reasonably request;

(f) Certification of Public Information. Borrower and each Lender acknowledge that certain of the Lenders may be Public Lenders and, if documents or notices required to be delivered pursuant to this Section 5.01 or otherwise are being distributed through a Platform, any document or notice that the Borrower has indicated contains Non-Public Information shall not be posted on that portion of the Platform designated for Public Lenders. Borrower agrees to clearly designate all information provided to the Administrative Agent by or on behalf of the Borrower which is suitable to make available to Public Lenders. If the Borrower has not indicated whether a document or notice delivered pursuant to this Section 5.01 contains Non-Public Information, the Administrative Agent reserves the right to post such document or notice solely on that portion of the Platform designated for Lenders who wish to receive Non-Public Information with respect to the Borrower, its Subsidiaries or their respective securities; and

(g) Quarterly Lender Calls. Within fifteen (15) Business Days (which may be extended for reasonable cause at the Borrower's and the Administrative Agent's reasonable discretion) after delivery of the financial statements required by Section 5.01(b), the Borrower shall hold a conference call to which the Administrative Agent, the Collateral Agent and the Lenders shall be invited to discuss such financial statements, the financial condition of the Loan Parties and the results of operations for the relevant reporting period.

Section 5.02 Litigation and Other Notices. Furnish to the Administrative Agent (for distribution to the Lenders) written notice of the following promptly (and, in any event, within ten (10) Business Days) following any Responsible Officer's knowledge thereof:

(a) any Default or Event of Default specifying the nature and extent thereof and the corrective action (if any) taken or proposed to be taken with respect thereto;

(b) the filing or commencement of, or any written threat or written notice of intention of any person to file or commence, any action, suit, litigation or proceeding, whether at law or in equity or otherwise by or before any Governmental Authority, (i) against any Company or any Affiliate thereof that would reasonably be expected to result in a Material Adverse Effect, (ii) with respect to any Loan Document, any Specified Hedging Agreement or any Bank Product Agreement or (iii) with respect to any of the Transactions;

(c) any development or event that has resulted in, or would reasonably be expected to result in a Material Adverse Effect;

(d) the occurrence of a Casualty Event in excess of $1,500,000 (whether or not covered by insurance);

(e) the occurrence of any ERISA Event that, alone or together with any other ERISA Event that has occurred, would reasonably be expected to result in a Material Adverse Effect; and

(f) the receipt by any Company of any notice of Environmental Claim or violation of or a potential liability under any Environmental Law, or knowledge by any Company that there exists a condition that could reasonably be expected to result in an Environmental Claim or a violation of or liability under, any Environmental Law, in each case, which would reasonably be expected to result in a Material Adverse Effect.

Section 5.03 Existence; Businesses and Properties. (a) Do or cause to be done all things necessary to preserve, renew and maintain in full force and effect its legal existence and good standing under the laws of the jurisdiction of its organization, except as otherwise permitted under Section 6.05 or Section 6.06.

(b) In each case, (x) except as would not reasonably be expected to result in a Material Adverse Effect, do or cause to be done all things necessary to obtain, preserve, renew, extend and keep in full force and effect the rights, permits, privileges, franchises and authorizations to the conduct of its business; comply with all applicable Legal Requirements (including any and all zoning, building, ordinance, code or approval or any building permits or any restrictions of record or agreements affecting the Real Property) and decrees and Orders of any Governmental Authority, whether now in effect or hereafter enacted; pay and perform its obligations under all Leases except when such payments or obligations are being contested in good faith; and at all times maintain, preserve and protect all of its Property and keep such Property in good repair, working order and condition (other than wear and tear occurring in the ordinary course of business) and from time to time make, or cause to be made, all necessary

and proper repairs, renewals, additions, improvements and replacements thereto necessary in order that the business carried on in connection therewith may be properly conducted at all times in all material respects and (y) do or cause to be done all things necessary to obtain, preserve, renew, extend and keep in full force and effect all Intellectual Property and at all times maintain, preserve and protect all Intellectual Property; *provided* that nothing in this clause (b) shall prevent (i) Dispositions of Property, consolidations or mergers by or involving any Company in accordance with Section 6.05 or Section 6.06, (ii) the withdrawal by any Company of its qualification as a foreign business organization in any jurisdiction where such withdrawal would not reasonably be expected to result in a Material Adverse Effect, (iii) the expiration of patents and registered copyrights in accordance with their statutory term, (iv) the expiration of any contract, contract right or other agreement in accordance with its terms or (v) the transfer, assignment, lapse, cancellation, abandonment or other disposal by any Company of any immaterial Intellectual Property, contract, contract right or other agreement that such Company reasonably determines is not useful to its businesses and no longer commercially desirable to retain.

Section 5.04 **Insurance**. (a) Keep its insurable Property insured at all times by financially sound and reputable insurers and maintain such other insurance, in each case, to such extent and against such risks as is customary with companies in the same or similar businesses operating in the same or similar locations, including insurance with respect to Mortgaged Properties and other Properties material to the business of the Companies against such casualties and contingencies and of such types and in such amounts with such deductibles as is customary in the case of similar businesses operating in the same or similar locations as determined by such Company (it being agreed by the Administrative Agent that the insurance as in effect and in the amounts and manner in place on the Closing Date complies with the requirements in this Section 5.04).

(b) With respect to the Loan Parties and the property constituting Collateral, all such insurance shall (unless otherwise agreed to by the Administrative Agent) (i) provide that no cancellation, material reduction in amount or material change in coverage thereof shall be effective until at least thirty (30) days after receipt by the Collateral Agent of written notice thereof (or if such cancellation is by reason of nonpayment of premium, at least ten (10) days' prior written notice) (unless it is such insurer's policy not to provide such a statement) and (ii) name the Collateral Agent as mortgagee (in the case of property insurance) or additional insured on behalf of the Secured Parties (in the case of liability insurance) or loss payee (in the case of property insurance), as applicable. Borrower shall not permit, consent to or seek any amendment or change to any insurance policy that effects a material reduction in amount or a material change in coverage under such policy that would reasonably be expected to be adverse in any material respect to the interests of the Lenders without first providing the Collateral Agent with at least thirty (30) days prior written notice thereof.

(c) Notify the Administrative Agent and the Collateral Agent promptly whenever any separate insurance concurrent in form or contributing in the event of loss with that required to be maintained under this Section 5.04 is taken out by any Company; and promptly upon request of the Administrative Agent, deliver to the Administrative Agent and the Collateral Agent a duplicate original copy of such policy or policies.

(d) If any portion of any Mortgaged Property is at any time located in an area identified by the Federal Emergency Management Agency (or any successor agency) as a Special Flood Hazard Area with respect to which flood insurance has been made available under the National Flood Insurance Act of 1968 (as now or hereafter in effect) or any successor act thereto, then the Borrower shall, or shall cause the applicable Loan Party to (i) maintain, or cause to be maintained, with a financially sound and reputable insurer, flood insurance in an amount and otherwise sufficient to comply with all applicable rules and regulations promulgated pursuant to the flood insurance laws and (ii) deliver to the Administrative Agent evidence of such compliance in form and substance reasonably acceptable to the Administrative Agent.

Section 5.05 **Obligations and Taxes**. (a) Pay, file and discharge promptly when due (giving effect to any permitted extensions) all federal and state income Taxes and all other material Taxes, assessments and governmental charges or levies imposed upon it or upon its income or profits or in respect of its Property, before the same shall become delinquent or in default; *provided*, that such payment and discharge shall not be required with respect to any such Tax, assessment, charge, levy or claim to the extent (i) the validity or amount thereof shall be contested in good faith by appropriate proceedings timely instituted and diligently conducted and the applicable entity shall have set aside on its books adequate reserves or other appropriate provisions with respect thereto in accordance with GAAP and (ii) such contest operates to suspend the collection of the contested Tax, assessment, charge and enforcement of a Lien and (b) timely and accurately file all federal and state income Tax returns and other material Tax returns required to be filed.

Section 5.06 **Employee Benefits**. Except as would not reasonably be expected to result in a Material Adverse Effect, comply with all applicable Legal Requirements, including the applicable provisions of ERISA and the Code with respect to all Employee Benefit Plans, Multiemployer Plans and Foreign Plans. Furnish to the Administrative Agent (a) within ten (10) Business Days (or such later time Administrative Agent may agree to in its sole discretion) after any ERISA Event has occurred that, alone or together with any other ERISA Event, would reasonably be expected to result in a Material Adverse Effect, a statement of a Financial Officer of the Borrower setting forth details as to such ERISA Event and the action, if any, that the Companies propose to take with respect thereto, (b) upon request by the Administrative Agent and to the extent such are reasonably available to such Financial Officer of the Borrower, copies of (i) the annual report (Form 5500 Series) filed by any Company with the U.S. Department of Labor or comparable foreign Governmental Authority with respect to each Pension Plan or Foreign Plan; (ii) the most recent actuarial valuation report, if any, for each Pension Plan and Foreign Plan maintained, sponsored or contributed to, or required to be maintained, sponsored or contributed to, by any Company; (iii) all notices received by any Company from a Multiemployer Plan sponsor or any Governmental Authority concerning an ERISA Event; and (iv) any documents described in Section 101(k) of ERISA that any Company may request with respect to any Multiemployer Plan to which a Company contributes or is required to contribute (*provided* that if the applicable Company has not requested such documents or notices from the administrator or sponsor of the applicable Multiemployer Plan, such Company shall promptly make a request for such documents or notices from such administrator or sponsor and shall provide copies of such documents or notices promptly after receipt thereof), and (c) promptly, and in any event within thirty (30) days, after becoming aware that (i) Unfunded Pension Liabilities have reached or reach the amount of $10,000,000 or more or is at a level as would be reasonably likely to have a Material Adverse Effect (taking into account only Employee Benefit Plans with positive Unfunded Pension Liabilities), (ii) potential withdrawal liability under Section 4201 of ERISA, if the Companies and the ERISA Affiliates were to withdraw completely from any and all Multiemployer Plans, has reached or reaches the amount of $10,000,000 or more or are at a level as would be reasonably likely to have a Material Adverse Effect, a detailed written description thereof from a Financial Officer of the Borrower.

Section 5.07 **Maintaining Records; Access to Properties and Inspections**. Keep proper books of record and account in which full, true and correct entries in conformity with GAAP and all Legal Requirements are made of all dealings and transactions in relation to its business and activities. Each Company will permit any representatives designated by the Collateral Agent, the Administrative Agent or, during the continuance of a Default or an Event of Default, a Lender as often as reasonably requested (except not more frequently than once in any 12-month period unless a Default or an Event of Default has occurred and is then continuing) upon reasonable prior written notice (except no such advance notice shall be required if an Event of Default has occurred and is then continuing), in each case, to visit and inspect the financial records and the Property of such Company at reasonable times during regular business hours and to make extracts from and copies of such financial records, and permit any representatives designated by the Administrative Agent or any Lender to discuss the affairs, finances, accounts and condition of any

Company with the officers and employees thereof and Advisors thereof as long as representatives of the Borrower have been given reasonable prior written notice of and the reasonable opportunity to attend any such discussions; *provided*, that so long as no Default or Event of Default has occurred and is then continuing, the Borrower shall not bear the cost of more than one such inspection in any 12-month period by the Administrative Agent or the Collateral Agent; *provided*, *further*, that the Collateral Agent, the Administrative Agent or Lender, as applicable, shall make all reasonable efforts not to disrupt the business or operations of any such Company.

Section 5.08 **Use of Proceeds**. Use the proceeds of the Loans only for the purposes set forth in Section 3.11."

Section 5.09 **Compliance with Environmental Laws**. (a) Except, in each case, where the failure to do so could not reasonably be expected to have a Material Adverse Effect, comply, and shall cause each of its Subsidiaries to comply, and use commercially reasonable efforts to cause all lessees and other persons occupying Real Property owned, operated or leased by any Company or any of its Subsidiaries to comply, in all material respects, with all Environmental Laws and Environmental Permits applicable to its operations and the Real Property; obtain and maintain in full force and effect all material Environmental Permits applicable to its operations and the Real Property; and conduct all Responses required by any Governmental Authority or under any applicable Environmental Laws, including making appropriate responses to any investigation, notice, demand, claim, suit or other proceeding asserting liability under Environmental Law against the Loan Parties or any of its Subsidiaries and discharge any obligations it may have to any Person thereunder, and in accordance with, the requirements of any Governmental Authority and applicable Environmental Laws.

(b) Except as would not reasonably be expected to have a Material Adverse Effect, do or cause to be done all things necessary to prevent any Release of Hazardous Materials by the Companies in, on, under, to or from any Real Property owned, leased or operated by any of the Companies, and ensure that there shall be no Hazardous Materials present at, in, on, or under any Real Property owned, leased or operated by any of the Companies except those that are used, stored, handled and managed in full compliance with applicable Environmental Laws.

(c) Except as would not reasonably be expected to result in a Material Adverse Effect, undertake all actions, including Responses, required under Environmental Law or as otherwise reasonably requested by the Administrative Agent, all at the sole cost and expense of the Companies, (i) to address any Release of Hazardous Materials at, from or onto any Real Property owned, leased or operated by any of the Companies or their predecessors in interest as required pursuant to Environmental Law or the requirements of any Governmental Authority; and (ii) to address any environmental conditions relating to any Company, any Company's business or to any Real Property owned, leased or operated by any of the Companies pursuant to any reasonable written request of the Administrative Agent and share with the Administrative Agent all data, information and reports generated or prepared in connection therewith;.

(d) Prior to the date that is ninety (90) days after the closing date (subject to extensions by the Administrative Agent, in its sole discretion), notify the Administrative Agent in writing of: (1) any Release or threatened Release of Hazardous Materials in, on, under, at, from or migrating to any Real Property owned, leased or operated by any of the Companies, (2) any non-compliance with, or violation of, any Environmental Law applicable to any Company, any Company's business and any Real Property owned, leased or operated by any of the Companies, (3) any Lien (other than Permitted Liens) pursuant to Environmental Law imposed on any Real Property owned by any of the Companies, (4) any investigation or remediation of any Real Property owned, leased or operated by any of the Companies required to be undertaken pursuant to Environmental Law, and (5) any written notice or other written communication received by any Company from any person or Governmental Authority relating to any material

Environmental Claim or material liability or potential liability of any Company pursuant to any Environmental Law.

Section 5.10 **Additional Collateral; Additional Guarantors**. (a) Subject to this Section 5.10, with respect to any Property acquired after the Closing Date by any Loan Party that is intended to be subject to the Lien created by any of the Security Documents but is not so subject (but, in any event, excluding any Equity Interest of a Subsidiary not required to be pledged pursuant to the last sentence of Section 5.10(b) and any Excluded Asset), promptly (and in any event within sixty (60) days after the acquisition thereof or such longer period as may be agreed to in writing by the Administrative Agent) (i) execute and deliver to the Administrative Agent and the Collateral Agent such amendments or supplements to the relevant Security Documents or such other documents as the Administrative Agent or the Collateral Agent shall deem reasonably necessary or advisable to grant to the Collateral Agent, for its benefit and for the benefit of the other Secured Parties, a Lien on such Property under applicable U.S. state and federal law (and applicable foreign law unless the Collateral Agent shall determine in its sole discretion that the cost of complying with such applicable foreign law is excessive in relation to the value of the security to be afforded thereby) subject to no Liens other than Permitted Liens, (ii) to the extent (A) the value of such after-acquired Property would constitute a material portion of the Collateral as a whole, and (B) requested by the Administrative Agent or the Collateral Agent, deliver customary and reasonable opinions of counsel to the Borrower in form and substance, and from counsel, reasonably acceptable to the Administrative Agent, and (iii) take all actions reasonably necessary to cause such Lien to be duly perfected to the extent required by such Security Documents in accordance with all applicable Legal Requirements, including the filing of financing statements in such jurisdictions as may be reasonably requested by the Administrative Agent or the Collateral Agent and the delivery of Control Agreements (as defined in the Security Agreement) for the benefit of the Administrative Agent to the extent required pursuant to the Security Agreement. Subject to the limitations set forth herein and in the other Loan Documents, the Borrower and the other Loan Parties shall otherwise take such actions and execute and/or deliver to the Collateral Agent such documents as the Administrative Agent or the Collateral Agent shall reasonably require to confirm the validity, perfection and priority of the Lien of the Security Documents against such after-acquired Properties.

(b) With respect to any person that is or becomes a Subsidiary of a Loan Party after the Closing Date (other than (x) Excluded Subsidiaries or (y) a merger subsidiary formed in connection with a Permitted Acquisition so long as such merger subsidiary is merged out of existence pursuant to such Permitted Acquisition within sixty (60) days of its formation thereof or such later date as permitted by the Administrative Agent in its sole discretion), the applicable Loan Party shall promptly (and in any event within sixty (60) days after such person becomes a Subsidiary or such longer period as may be agreed to in writing by the Administrative Agent) (i) deliver to the Collateral Agent the certificates, if any, representing all of the Equity Interests of such Subsidiary, together with undated stock powers or other appropriate instruments of transfer executed and delivered in blank by a duly authorized officer of the holder(s) of such Equity Interests (provided that if the Equity Interests of such Subsidiary is not represented by certificates, the Borrower shall not be required to cause such Equity Interests to be certificated), and all intercompany notes, if any (subject to the limitations set forth in the Security Agreement), owing from such Subsidiary to any Loan Party together with instruments of transfer executed and delivered in blank by a duly authorized officer of such Loan Party and (ii) cause such new Subsidiary (A) to execute a Joinder Agreement to cause such Subsidiary to become a Guarantor and a Pledgor, (B) deliver opinions of counsel to the Borrower in form and substance, and from counsel, reasonably satisfactory to the Administrative Agent, and (C) to take all actions reasonably necessary or advisable in the opinion of the Administrative Agent or the Collateral Agent to cause the Lien created by the applicable Security Document to be duly perfected to the extent required by such Security Document in accordance with all applicable Legal Requirements, including the filing of financing statements (or equivalent registrations) in such jurisdictions as may be reasonably requested by the Administrative Agent or the Collateral Agent. Notwithstanding the foregoing, (1) any Equity Interests of a Subsidiary that is either a CFC or a U.S. Foreign Holdco that is required to be delivered

to the Collateral Agent pursuant to clause (i) of the preceding sentence may be limited to (A) Voting Stock representing 65% of the total voting power of all outstanding Voting Stock of such Subsidiary and (B) 100% of the Equity Interests not constituting Voting Stock of any such Subsidiary (except that any such Equity Interests constituting "stock entitled to vote" within the meaning of Treasury Regulation Section 1.956-2(c)(2) shall be treated as Voting Stock for purposes of this Section 5.10(b)) if delivery in excess of such limits would result in material adverse tax consequences to the Borrower and its Subsidiaries as reasonably determined by Borrower and the Administrative Agent and (2) a Subsidiary shall not be required to take the actions specified in clause (ii) of the preceding sentence to the extent such Subsidiary (v) is prohibited from taking such actions by applicable law, rule or regulation or by any contractual obligation existing at the time of acquisition thereof after the Closing Date (to the extent such contractual obligation was not created in contemplation of such acquisition) for so long as such prohibition exists, (w) would require governmental (including regulatory) consent, approval, license or authorization to the extent such consent, approval, license or authorization has not been received upon the Loan Parties using commercially reasonable efforts to acquire the same or (x) is a CFC, a direct or indirect Domestic Subsidiary of a CFC or a U.S. Foreign Holdco if taking such actions would result in material adverse tax consequences to the Borrower and its Subsidiaries as reasonably determined by Borrower and the Administrative Agent. Notwithstanding the foregoing, no actions shall be required to be taken in any U.S. or non-U.S. jurisdiction to create or perfect any security interest with respect to any such Subsidiary, including the delivery of any security agreements or pledge agreements governed under the laws of any U.S. or non-U.S. jurisdiction.

(c) [reserved].

(d) Promptly (and in any event within 90 days of the acquisition thereof or such longer period as may be agreed to in writing by the Administrative Agent) grant to the Collateral Agent a security interest in and Mortgage on each Real Property owned in fee by such Loan Party as is acquired by such Loan Party after the Closing Date and that, together with any improvements thereon, individually has a Fair Market Value of at least $2,000,000, as additional security for the Secured Obligations (unless the subject Property is already mortgaged to a third party to the extent permitted by Section 6.02). Such Mortgages shall be granted pursuant to documentation reasonably satisfactory in form and substance to the Administrative Agent and the Collateral Agent and shall constitute valid and enforceable perfected first priority Liens subject only to Permitted Liens. The Mortgages or instruments related thereto shall be duly recorded or filed in such manner and in such places as are required by applicable Legal Requirements to establish, perfect, preserve and protect the Liens in favor of the Collateral Agent required to be granted pursuant to the Mortgages and all taxes, fees and other charges payable in connection therewith shall be paid in full by each applicable Loan Party. Such Loan Party shall otherwise take such actions and execute and/or deliver to the Collateral Agent such documents as the Administrative Agent or the Collateral Agent shall reasonably require to confirm the validity, enforceability, perfection and priority of the Lien of any existing Mortgage or new Mortgage against such after-acquired Real Property (including a Title Policy, a Survey and local counsel opinion (in form and substance reasonably satisfactory to the Administrative Agent and the Collateral Agent) in respect of such Mortgage) and shall take such actions relating to insurance with respect to such after-acquired Real Property and execute and/or delivery to the Collateral Agent such environmental reports, zoning reports, insurance certificates, flood determinations and evidence of flood insurance (in form and substance reasonably acceptable to the Administrative Agent and the Collateral Agent) and other documentation (including with respect to title and flood insurance), in each case in form and substance reasonably satisfactory to the Administrative Agent and Collateral Agent, as the Collateral Agent shall reasonably request. Notwithstanding the foregoing, (i) any fee owned real property with a Fair Market Value of less than $2,000,000 (with the amount secured by such mortgage limited to the Fair Market Value of the applicable fee owned real property (to the extent that such real property is located in a jurisdiction that imposes a mortgage recording tax based on the amount of debt secured by the respective mortgage) and with any required mortgages on properties with a value greater than such amount being permitted to be delivered within 90 days after the Closing Date (as such date may be extended by the

Administrative Agent in its sole discretion) and all leasehold interests in real property (other than leaseholds of manufacturing or distribution centers that secure (or were otherwise required to secure) the obligations under any of the debt to be repaid as part of the Refinancing, although the Borrower shall only be required to use its commercially reasonable efforts to obtain any third party consents that may be required to grant such leasehold mortgage) and (ii) no action will be required with respect to any fee-owned Real Property located outside the United States. With respect to any Real Property that is ground leased, the Loan Party shall use commercially reasonable efforts to obtain estoppels and consents from the applicable ground lessors in form and substance reasonably satisfactory to the Administrative Agent and the Collateral Agent. Upon receipt of any required consents, the Loan Party will deliver all other deliverables required pursuant to this Section 5.10(d).

(e) Notwithstanding the foregoing provisions of this Section 5.10 or any other provision in this Agreement or of any other Loan Document, (i) none of the Loan Parties shall be required to grant a security interest in any Excluded Assets, (ii) none of the Loan Parties shall be required to perfect any pledges, security interests and mortgages in the Collateral by any means other than (A) filings pursuant to the Uniform Commercial Code in the office of the Secretary of State of the relevant State and (2) filings in the United States Patent and Trademark Office and United States Copyright Office with respect to intellectual property as expressly required in the Security Documents, (B) Mortgages in respect of Mortgaged Properties to be filed in the applicable recording office(s) of the counties in which the Mortgaged Property is located (and, if required or customary in the jurisdiction where such Mortgaged Properties are located, fixture filings) and (C) subject to any intercreditor arrangements entered into pursuant to this Agreement, delivery to the Lender of all certificates evidencing equity interests required to be delivered in order to perfect the Lender's security interest therein, and intercompany notes and other instruments to be held in its possession, in each case as expressly required in the Security Documents.

Section 5.11 Security Interests; Further Assurances. (a) Subject to the limitations set forth in this Agreement or any other Loan Document, promptly, upon the reasonable request of the Administrative Agent, the Collateral Agent or any Lender, at the Borrower's expense, execute, acknowledge and deliver, or cause the execution, acknowledgement and delivery of, and thereafter register, file or record, or cause to be registered, filed or recorded, in an appropriate governmental office, any document or instrument supplemental to or confirmatory of the Security Documents or otherwise deemed by the Administrative Agent or the Collateral Agent reasonably necessary or advisable for the continued validity, enforceability, perfection and priority of the Liens on the Collateral covered thereby subject to no other Liens except Permitted Liens, or obtain any consents or waivers as may be necessary or appropriate in connection therewith.

(b) Deliver or cause to be delivered to the Administrative Agent and the Collateral Agent from time to time such other documentation, consents, authorizations, approvals and Orders in form and substance reasonably satisfactory to the Administrative Agent and the Collateral Agent as the Administrative Agent and the Collateral Agent shall reasonably deem reasonably necessary or advisable to perfect or maintain the validity, enforceability, perfection and priority of the Liens on the Collateral pursuant to the Security Documents, subject to the terms, conditions and limitations of this Agreement and the Security Documents.

(c) Upon the exercise by the Administrative Agent, the Collateral Agent or any Lender of any power, right, privilege or remedy pursuant to any Loan Document which requires any consent, approval, registration, qualification or authorization of any Governmental Authority, execute and deliver all applications, certifications, instruments and other documents and papers that the Administrative Agent, the Collateral Agent or such Lender may reasonably require.

(d) If the Administrative Agent, the Collateral Agent or the Required Lenders reasonably determine that they are required by any Legal Requirements to have appraisals prepared in respect of the Real Property of any Loan Party constituting Collateral, the Borrower shall provide to the Administrative Agent appraisals that satisfy the applicable requirements of the Real Estate Appraisal Reform Amendments of FIRREA and are otherwise in form and substance satisfactory to the Administrative Agent and the Collateral Agent.

(e) In furtherance of the foregoing in this Section 5.11 and Section 5.10, to the maximum extent permitted by applicable Legal Requirements, each Loan Party (A) authorizes each of the Collateral Agent and/or the Administrative Agent to (x) if any of the Companies shall be in non-compliance with Section 5.11 or Section 5.12 or of any provision of any of the Security Agreement or if any Default or Event of Default has occurred and is then continuing, execute any such documentation, consents, authorizations, approvals, Orders, applications, certifications, instruments and other documents and papers in such Loan Party's name to the extent necessary to satisfy such Company's obligations under Section 5.11 or 5.12 herein or under any Security Document, and (y) to file such agreements, instruments or other documents in any appropriate filing office, and (B) authorizes each of the Collateral Agent and/or the Administrative Agent to file any financing statement (and/or equivalent foreign registration) required hereunder or under any other Loan Document, and any continuation statement or amendment (and/or equivalent foreign registration) with respect thereto, in any appropriate filing office without the signature of such Loan Party.

Section 5.12 **Information Regarding Collateral**. Other than with respect to any Immaterial Subsidiary, (a) not effect any change (i) in any Loan Party's legal name, (ii) in the location of any Loan Party's chief executive office (if such Loan Party is not a registered organization), (iii) in any Loan Party's organizational type, (iv) in any Loan Party's federal taxpayer identification number or organizational identification number, if any (except as may be required by applicable Legal Requirements, in which case, the Borrower shall promptly notify the Administrative Agent of such change), or (v) in any Loan Party's jurisdiction of organization (in each case, including by merging with or into any other entity, reorganizing, dissolving, liquidating, reorganizing or organizing in any other jurisdiction), unless (A) it gives the Collateral Agent and the Administrative Agent not less than thirty (30) days' (or such shorter period as agreed to in writing by the Collateral Agent) prior written notice of such change, clearly describing such change and providing such other information in connection therewith as the Collateral Agent or the Administrative Agent may reasonably request and (B) it takes all action reasonably requested by the Collateral Agent to maintain the validity, enforceability, perfection and priority of the security interest of the Collateral Agent for the benefit of the Secured Parties in the Collateral, if applicable, subject to the terms, conditions and limitations of this Agreement and the Security Documents. Each Loan Party shall promptly provide the Collateral Agent with certified Organizational Documents reflecting any of the changes described in the preceding sentence. Each Loan Party shall promptly notify the Collateral Agent of any change in the location of any office in which it maintains books or records relating to Collateral owned by it or any office or facility at which Collateral is located (including the establishment of any such new office or facility), other than changes in location to a Mortgaged Property.

(b) Concurrently with the delivery of financial statements pursuant to Section 5.01(a), deliver to the Administrative Agent and the Collateral Agent a Perfection Certificate Supplement.

Section 5.13 **[reserved]**.

Section 5.14 **[reserved]**.

Section 5.15 **Fiscal Year**. Maintain its fiscal year-end to the date of September 30.

Section 5.16 **Sanctions; Anti-Money Laundering; Anti-Corruption Compliance**.

(a) Not directly or indirectly use the proceeds of any Borrowing (i) for the purpose of funding, financing or facilitating any activities, business or transaction of or with any Sanctioned Person, or in any Sanctioned Country, or (ii) in any manner that would result in the violation of any Anti-Corruption Laws or Sanctions applicable to any party hereto (and the Loan Parties shall deliver to the Lenders confirmation requested from time to time by any Lender in its reasonable discretion, of the Loan Parties' compliance with this Section 5.16);

(b) Not cause or permit any of the funds of such Loan Party that are used to repay the Loans to be derived from any unlawful activity with the result that the making of the Loans would be in violation of any applicable Legal Requirement.

(c) Each Loan Party (i) will comply, and will ensure that its directors, officers, employees, agents and Affiliates comply, with the Anti-Corruption Laws; and (ii) will maintain in effect and enforce policies and procedures designed to ensure compliance by the Loan Parties and their respective directors, officers, employees, agents and Affiliates with Anti-Corruption Laws.

Section 5.17 **Line of Business**. Not engage in any material line of business substantially different from those lines of business conducted by any Loan Party on the Closing Date or any business reasonably related, similar, corollary, ancillary, complementary or incidental thereto or reasonable extensions thereof.

Section 5.18 **Post-Closing Obligations**. Within the time periods specified on Schedule 5.18 (or such later date to which the Administrative Agent consents in its sole discretion), comply with the provisions set forth in Schedule 5.18.

Section 5.19 **Beneficial Ownership Certifications**. As of the Closing Date, the information included in the Beneficial Ownership Certification is true and correct in all respects.

ARTICLE VI
NEGATIVE COVENANTS

Each Loan Party warrants, covenants and agrees with the Administrative Agent, the Collateral Agent and each Lender that, so long as this Agreement shall remain in effect and until the Commitments have been terminated and the principal of and interest and premium (if any) on each Loan, all Fees and all other expenses or amounts payable under any Loan Document have been paid in full (other than unasserted contingent indemnification obligations), no Loan Party will, nor will they cause or permit any Subsidiaries to:

Section 6.01 **Indebtedness**. Incur, create, assume or permit to exist, directly or indirectly, any Indebtedness, except:

(a) Indebtedness incurred under this Agreement and the other Loan Documents (including Indebtedness incurred pursuant to Section 2.19 and Section 2.21 hereof);

(b) Indebtedness outstanding on the Closing Date and listed on Schedule 6.01(b);

(c) Indebtedness constituting Hedging Obligations entered into in the ordinary course of business and not for speculative purposes; *provided* that if such Hedging Obligations arise under Hedging Agreements that are designed to protect against fluctuations in interest rates (i) such Hedging Obligations

relate to Indebtedness for borrowed money otherwise permitted to be incurred by the Loan Documents and (ii) the notional principal amount of such Hedging Obligations at the time incurred does not exceed the principal amount of the Indebtedness to which such Hedging Obligations relate;

(d) Indebtedness resulting from Investments, including loans or advances, permitted by Section 6.04;

(e) Indebtedness of the Borrower and its Subsidiaries in respect of Purchase Money Obligations, Capital Lease Obligations and Synthetic Lease Obligations in an amount not to exceed in the aggregate, at any time outstanding, $20,000,000;

(f) Indebtedness of the Borrower and its Subsidiaries in respect of (x) workers' compensation claims and self-insurance obligations (in each case other than for or constituting an obligation for money borrowed), including guarantees or obligations of any Company with respect to letters of credit supporting such workers' compensation claims and/or self-insurance obligations and (y) bankers' acceptances and bid, performance, surety bonds or similar instruments issued for the account of any Company in the ordinary course of business, including guarantees or obligations of any Company with respect to bankers' acceptances and bid, performance or surety obligations (in each case other than for or constituting an obligation for money borrowed);

(g) Contingent Obligations of the Borrower and its Subsidiaries in respect of Indebtedness otherwise permitted under this Section 6.01 (other than under Section 6.01(j));

(h) Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument inadvertently (except in the case of daylight overdrafts) drawn against insufficient funds in the ordinary course of business so such Indebtedness is extinguished within five (5) Business Days;

(i) Indebtedness arising in connection with endorsement of instruments for deposit in the ordinary course of business;

(j) (i) Indebtedness of Subsidiaries that are not Loan Parties (but only to the extent non-recourse to the Loan Parties) in an aggregate principal amount at any time outstanding, together with Indebtedness of Subsidiaries that are not Loan Parties outstanding pursuant to Section 6.01(o), not to exceed $5,000,000, and (ii) guarantees by Subsidiaries that are not Loan Parties of Indebtedness permitted under the preceding clause (i);

(k) Indebtedness which represents a refinancing, refunding, extension or renewal of any of the Indebtedness described in clause (b), (e), (l), (o), (w) or (x) (any such refinancing, refunding, extension or renewal, a "**Permitted Refinancing**"); *provided* that (A) any such refinancing, refunded, extended or renewed Indebtedness is in an aggregate principal amount (or aggregate amount, as applicable) not greater than the aggregate principal amount (or aggregate amount, as applicable) of the Indebtedness being refinanced, refunded, extended or renewed, *plus* the amount of any accrued or capitalized interest, premiums required to be paid thereon and reasonable fees and expenses associated therewith, *plus* the amount of any existing commitments unutilized thereunder, (B) such refinancing, refunded, extended or renewed Indebtedness has a later or equal final maturity and longer or equal weighted average life to maturity than the Indebtedness being renewed or refinanced, (C) the covenants, events of default, subordination (including lien subordination) and other terms and provisions thereof (including any guarantees thereof or security documents in respect thereof) shall be, in the aggregate, no less favorable to the debtholders in respect thereof than those contained in the Indebtedness being refinanced, refunded, extended or renewed, (D) such refinanced, refunded, extended or renewed Indebtedness shall not be secured

by any additional assets that do not secure such Indebtedness immediately prior to such refinancing, refunding, extension or renewal (and if so secured, such liens shall be of the same or lower priority as the liens securing such refinanced, refunded, extended or renewed Indebtedness), (E) if such Indebtedness being refinanced, refunded, extended or renewed is Guaranteed, it shall not be Guaranteed by any Person other than a Loan Party, (F) such refinanced, refunded, extended or renewed Indebtedness is incurred by the person or persons who are the obligors on the Indebtedness immediately prior to such refinancing, refunding, extension or renewal, (G) if such Indebtedness being refinanced, refunded, extended or renewed is subordinated relative to the Obligations, such Permitted Refinancing Indebtedness shall be at least as subordinated to the Obligations as such Indebtedness being refinanced, refunded, extended or renewed, and (H) no Default or Event of Default has occurred or is continuing or would immediately thereafter result therefrom;

(l) intercompany Indebtedness owing (i) by and among the Loan Parties, (ii) by Subsidiaries that are not Loan Parties to Subsidiaries that are not Loan Parties, (iii) by Subsidiaries that are not Loan Parties to Loan Parties; *provided* that outstanding Indebtedness under this clause (l)(iii) (together with Investments in Subsidiaries that are not Loan Parties outstanding pursuant to Section 6.04(e)(iv) or Section 6.04(k)(C)) shall not exceed $7,500,000 at any time, and (iv) by Loan Parties to Subsidiaries that are not Loan Parties, *provided* that Indebtedness under this clause (l)(iv) shall be subordinated to the Obligations pursuant to subordination terms reasonably acceptable to the Administrative Agent;

(m) Indebtedness arising as a direct result of judgments against the Borrower or any of its Subsidiaries, in each case to the extent not constituting an Event of Default;

(n) unsecured Indebtedness representing any Taxes to the extent such Taxes are permitted to not be paid or discharged at such time in accordance with Section 5.05 herein;

(o) Indebtedness assumed in a Permitted Acquisition; *provided* that (i) no Default or Event of Default has occurred and is continuing as of the date the definitive agreement for such Permitted Acquisition is executed and (ii) such Indebtedness shall not have been incurred in contemplation of such Permitted Acquisition; *provided*, *further*, that the aggregate principal amount of Indebtedness incurred pursuant to this clause (o) by Subsidiaries that are not Loan Parties (together with Indebtedness of Subsidiaries that are not Loan Parties incurred pursuant to Section 6.01(j)) shall not exceed $5,000,000 at any time outstanding;

(p) Indebtedness consisting of (i) the financing of insurance premiums or (ii) take-or-pay obligations contained in supply arrangements, in each case, in the ordinary course of business;

(q) the Permitted Convertible Indebtedness issued on or prior to the Closing Date in any amount not to exceed $150,000,000;

(r) (A) unsecured non-cash Indebtedness of the Borrower or any of its Subsidiaries owing to employees, former employees, officers, former officers, directors, former directors (or any spouses, ex-spouses, or estates of any of the foregoing) in connection with the repurchase of Equity Interests of the Borrower issued to any of the aforementioned employees, former employees, officers, former officers, directors, former directors (or any spouses, ex-spouses, or estates of any of the foregoing) not to exceed, at any time outstanding, $2,000,000 or (B) other deferred compensation to employees, former employees, officers, former officers, directors, former directors (or any spouses, ex-spouses, or estates of any of the foregoing) incurred in the ordinary course of business or in connection with Permitted Acquisitions or other Investments permitted hereunder;

(s) Indebtedness incurred by Borrower or any of its Subsidiaries arising from agreements providing for indemnification related to sales of goods or adjustment of purchase price or similar obligations in any case incurred in connection with the Disposition of any business, assets or Subsidiary;

(t) Indebtedness in respect of netting services, automatic clearinghouse arrangements and similar arrangements in each case in connection with deposit accounts incurred in the ordinary course;

(u) obligations in respect of performance, bid, customs, government, appeal and surety bonds, performance and completion guaranties and similar obligations provided by Borrower or any of its Subsidiaries, in each case in the ordinary course of business;

(v) conditional sale, title retention, consignment or similar arrangements for the sale of goods in the ordinary course of business;

(w) unsecured Indebtedness in an aggregate outstanding principal amount not to exceed $20,000,000 at any time; *provided* that no Default or Event of Default shall have occurred and be continuing or shall immediately occur upon the incurrence of such Indebtedness; *provided*, *further*, that the aggregate principal amount of Indebtedness incurred pursuant to this clause (w) by Subsidiaries that are not Loan Parties shall not exceed $5,000,000 at any time outstanding;

(x) additional Indebtedness of the Borrower and the Subsidiaries; *provided* that, immediately after giving effect to any incurrence of Indebtedness under this clause (x), the sum of the aggregate principal amount of Indebtedness at any time outstanding under this clause (x) shall not exceed $15,000,000 at any time outstanding; *provided*, *further*, that the aggregate principal amount of Indebtedness incurred pursuant to this clause (w) by Subsidiaries that are not Loan Parties shall not exceed $5,000,000 at any time outstanding;

(y) Indebtedness of the Borrower and its Subsidiaries in respect of letters of credit in an aggregate face amount not to exceed $5,000,000 at any time outstanding; and

(z) Swap Obligations of the Borrower or any of its Subsidiaries under Swap Agreements to the extent entered into in order to manage interest rate, foreign currency exchange rate and commodity pricing risks and not for speculative purposes.

Section 6.02 **Liens**. Create, incur, assume or permit to exist, directly or indirectly, any Lien on any Property now owned or hereafter acquired by it or on any income or revenues or rights in respect of any thereof, except the following (collectively, the "**Permitted Liens**"):

(a) Liens for Taxes, assessments or governmental charges or levies not yet due and payable and Liens for Taxes, assessments or governmental charges or levies which are being contested in good faith by appropriate proceedings for which adequate reserves have been established in accordance with GAAP, which proceedings (or Orders entered in connection with such proceedings) have the effect of preventing the forfeiture or sale of the Property subject to any such Lien;

(b) Liens in respect of Property of any Company imposed by law, which were incurred in the ordinary course of business and do not secure Indebtedness for borrowed money, such as carriers', warehousemen's, materialmen's, landlords', workmen's, suppliers', repairmen's and mechanics' Liens and other similar Liens arising in the ordinary course of business, and which do not individually or in the aggregate materially impair the use, occupancy or value of the Property of the Companies, and are being contested in good faith by appropriate proceedings for which adequate reserves have been established in

accordance with GAAP, which proceedings (or Orders entered in connection with such proceedings) have the effect of preventing the forfeiture or sale of the Property subject to any such Lien;

(c) any Lien in existence on the Closing Date and set forth on Schedule 6.02(b) (any such Lien, an "**Existing Lien**") and any Lien granted as a replacement or substitute therefor; *provided* that any such replacement or substitute Lien (i) except as permitted by clause (A) of the proviso to Section 6.01(k), does not secure an aggregate amount of Indebtedness or other obligations, if any, greater than that secured on the Closing Date plus any capitalized interest, fees and expenses thereon, (ii) does not encumber any Property other than the Property subject thereto on the Closing Date and any proceeds and products thereof and (iii) is of the same or lower priority than such Existing Lien;

(d) easements, rights-of-way, restrictions (including zoning restrictions), covenants, licenses, encroachments, protrusions and other similar charges or encumbrances, and minor title deficiencies on or with respect to any Real Property, in each case that do not or would not materially interfere with the present conduct, occupancy or value of the Companies at such Real Property;

(e) Liens to the extent (i) arising out of judgments, attachments or awards not constituting an Event of Default at the time such Liens are created and (ii) constituting the pledge of assets for the purpose of securing an appeal, stay or discharge in the course of any Legal proceeding;

(f) Liens (other than any Lien imposed by ERISA) (x) imposed by law or deposits made in connection therewith in the ordinary course of business in connection with workers' compensation, unemployment insurance and other types of social security legislation, or letters of credit or guarantees issued respect thereof, (y) incurred in the ordinary course of business to secure the performance of tenders, statutory obligations (other than excise taxes), surety, stay, customs and appeal bonds, statutory bonds, bids, leases, government contracts, trade contracts, performance and return of money bonds and other similar obligations or letters of credit or guarantees issued in respect thereof (in each case, exclusive of obligations for the payment of Indebtedness) or (z) arising by virtue of deposits made in the ordinary course of business to secure liability for premiums to insurance carriers; *provided* that (i) with respect to clauses (x), (y) and (z) of this clause (f), such Liens are for amounts not yet due and payable or delinquent or, to the extent such amounts are so due and payable, such amounts are being contested in good faith by appropriate proceedings for which adequate reserves have been established in accordance with GAAP, which proceedings or Orders entered in connection with such proceedings have the effect of preventing the forfeiture or sale of the Property subject to any such Lien, and (ii) to the extent such Liens are not imposed by Legal Requirements, such Liens shall in no event encumber any Property other than cash and Cash Equivalents;

(g) licenses or Leases of the Properties (other than Intellectual Property) of any Company, and the rights of ordinary-course lessees described in Section 9-321 of the UCC, in each case entered into in the ordinary course of such Company's business so long as such licenses or Leases and rights do not, individually or in the aggregate, (i) interfere in any material respect with the ordinary conduct of the business of any Company or (ii) materially impair the use (for its intended purposes) or the value of the Property subject thereto;

(h) Liens arising out of conditional sale, title retention, consignment or similar arrangements for the sale of goods entered into by any Company in the ordinary course of business in accordance with the past practices of such Company;

(i) Liens securing Indebtedness incurred pursuant to Section 6.01(e) (or pursuant to Section 6.01(k) to the extent relating to a refinancing or renewal of Indebtedness incurred pursuant to Section 6.01(e)); *provided* that (i) any such Liens attach only to the Property (including proceeds thereof) being financed pursuant to such Indebtedness and (ii) do not encumber any other Property of any Company;

(j) bankers' Liens, rights of setoff and other similar Liens existing solely with respect to cash and Cash Equivalents on deposit in one or more accounts maintained by any Company, in each case granted in the ordinary course of business in favor of the bank or banks with which such accounts are maintained, including to secure amounts owing to such bank with respect to cash management and operating account arrangements, including those involving pooled accounts and netting arrangements; *provided* that, unless such Liens are non-consensual and arise by operation of applicable Legal Requirements, in no case shall any such Liens secure (either directly or indirectly) the repayment of any Indebtedness;

(k) Liens on Property (and the proceeds thereof) of a person existing at the time such person is acquired or merged with or into or consolidated with any Company to the extent such acquisition, merger or consolidation is permitted hereunder; *provided* that such Liens (i) do not extend to additional Property, (ii) the amount of Indebtedness secured thereby is not increased and (iii) the Indebtedness secured thereby is permitted to be assumed under Section 6.01(o) and not increased;

(l) Liens granted pursuant to the Security Documents to secure the Secured Obligations;

(m) non-exclusive licenses and sublicenses of Intellectual Property granted by any Company in the ordinary course of business that, individually or in the aggregate, do not (i) interfere in any material respect with the ordinary conduct of the business of any Company or (ii) materially impair the use (for its intended purposes) or the value of the Intellectual Property subject thereto;

(n) the filing of UCC (or equivalent) financing statements solely as a precautionary measure in connection with operating leases or consignment of goods;

(o) Liens of a collecting bank arising in the ordinary course of business under Section 4-208 or Section 4-210 of the UCC covering only the items being collected upon;

(p) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods in the ordinary course of business;

(q) Liens on assets not otherwise constituting Collateral securing Indebtedness of the Borrower and its Subsidiaries in an aggregate amount not to exceed, at any one time outstanding, $15,000,000;

(r) Liens in favor of a seller solely on any cash earnest money deposits made by the Borrower or any of its Subsidiaries in connection with any letter of intent or purchase agreement with respect to any Permitted Acquisition;

(s) Liens on insurance policies and the proceeds thereof granted in the ordinary course of business to secure the financing of insurance premiums for such insurance policies pursuant to Section 6.01(p);

(t) the modification, replacement, renewal or extension of any Lien permitted hereunder to secure Indebtedness that is permitted to be refinanced, refunded, extended or renewed pursuant to Section 6.01(k); *provided* that (i) the Lien does not extend to any property other than the property (and proceeds thereof) securing such Indebtedness being so refinanced; (ii) the Liens are of the same or lower priority than such modified, replaced, renewed or extended Lien; and (iii) the renewal, refunding, extension or refinancing of the obligations secured or benefited by such Liens is permitted by Section 6.01;

(u) Liens on property of a non-Loan Party not constituting Collateral and securing Indebtedness of such non-Loan Party secured Indebtedness permitted to be incurred by Section 6.01(j); and

(v) Liens on cash collateral not to exceed 105% of the face amount of letters of credit permitted under Section 6.01(z).

Section 6.03 Sale and Leaseback Transactions. Other than as permitted by Section 6.01(e) or Section 6.06, sell or transfer any Property used or useful in its business, whether now owned or hereafter acquired, and thereafter rent or lease such Property (a "**Sale and Leaseback Transaction**").

Section 6.04 Investments, Loans and Advances. Directly or indirectly, lend money or credit (by way of guarantee, assumption of debt or otherwise) or make advances to any person, or purchase or acquire any stock, bonds, notes, debentures or other obligations or securities of, or any other interest in, or make any capital contribution to, any other person, or purchase or own a futures contract or otherwise become liable for the purchase or sale of currency or other commodities at a future date in the nature of a futures contract (all of the foregoing, collectively, "**Investments**"), except that the following shall be permitted:

(a) Investments outstanding on the Closing Date and identified on Schedule 6.04(a);

(b) the Companies may (i) acquire, hold and Dispose of accounts receivable owing to any of them if created or acquired in the ordinary course of business and payable or dischargeable in accordance with customary terms (excluding, in all events, the Disposition of accounts receivable pursuant to any factoring or receivables securitization agreement or arrangement), (ii) invest in, acquire and hold cash and Cash Equivalents, (iii) endorse negotiable instruments held for collection in the ordinary course of business or (iv) make lease, utility and other similar deposits in the ordinary course of business;

(c) Hedging Obligations permitted pursuant to Section 6.01(c);

(d) loans and advances to directors, employees and officers of the Borrower and its Subsidiaries for *bona fide* business purposes (including travel and relocation), in aggregate amount not to exceed $1,500,000 at any time outstanding; *provided* that no loans in violation of the Sarbanes-Oxley Act (including Section 402 thereof) shall be permitted hereunder;

(e) Investments (i) by any Loan Party in any other Loan Party; *provided* that, in each case, such Investments shall be pledged as Collateral pursuant to and to the extent required by the Security Documents, (ii) by a Non-Guarantor Subsidiary in any other Non-Guarantor Subsidiary, (iii) constituting loans or advances by any Non-Guarantor Subsidiary to the Borrower or any Subsidiary Guarantor; *provided* that such Investment shall be unsecured and subordinated to the Obligations, and (iv) by Borrower or any Loan Party in any Non-Guarantor Subsidiary; *provided* that (x) the aggregate amount of such investments pursuant to this clause (e)(iv) (together with intercompany Indebtedness outstanding under Section 6.01(l)(iii) and Investments in Subsidiaries that are not Loan Parties outstanding pursuant to Section 6.04(k)) shall not exceed $7,500,000 at any time, and (y) any Investment in the form of a loan or advance shall be evidenced by a note in form and substance reasonably satisfactory to the Administrative Agent, in each case pledged by such Loan Party as Collateral pursuant to the Security Documents;

(f) Investments in securities of trade creditors or customers in the ordinary course of business and consistent with such Company's past practices that are received (A) in settlement of *bona fide* disputes or delinquent obligations or (B) pursuant to any plan of reorganization or liquidation or similar arrangement upon the bankruptcy, insolvency or other restructuring of such trade creditors or customers;

(g) non-cash Investments to the extent arising solely from mergers, consolidations and other transactions in compliance with Section 6.05;

(h) Investments made by Borrower or any Subsidiary as a result of consideration received in connection with an Asset Sale made in compliance with Section 6.06;

(i) To the extent constituting Investments, Dividends in compliance with Section 6.07 (with a commensurate dollar-for-dollar reduction of their ability to make additional distributions under such Section) and Indebtedness in compliance with Section 6.01 (other than clause 6.01(l) (with a commensurate dollar-for-dollar reduction of their ability to incur additional Indebtedness under such Section));

(j) Investments of any person that becomes a Subsidiary on or after the Closing Date; *provided* that (i) such Investments exist at the time such person is acquired, (ii) such Investments are not made in anticipation or contemplation of such person becoming a Subsidiary, and (iii) such Investments are not directly or indirectly recourse to any of the Companies or any of their respective assets, other than to the person that becomes a Subsidiary;

(k) Guarantees by (A) the Borrower or any Subsidiary of Indebtedness of any Loan Party to the extent such Indebtedness is otherwise permitted under Section 6.01 or of any other obligation not constituting Indebtedness, (B) a Non-Guarantor Subsidiary of any Indebtedness of a Non-Guarantor Subsidiary to the extent such Indebtedness is otherwise permitted under Section 6.01 or of any other obligation not constituting Indebtedness or (C) a Loan Party of any Indebtedness of a Non-Guarantor Subsidiary to the extent such Indebtedness is otherwise permitted under Section 6.01 or of any other obligation not constituting Indebtedness; *provided*, that (x) the aggregate amount of all Guarantees under this clause (l)(C) shall not (together with intercompany Indebtedness outstanding under Section 6.01(l)(iii) and Investments in Subsidiaries that are not Loan Parties outstanding pursuant to Section 6.04(e)) exceed $7,500,000 at any time, and (y) no Default or Event of Default has occurred and is continuing at the time such Guarantee is entered into or would result therefrom;

(l) [reserved];

(m) the Borrower's ownership of the Equity Interests of each of its Subsidiaries and the ownership by each Subsidiary of the Borrower of the Equity Interests of each of its Subsidiaries;

(n) non-cash Investments to the extent arising solely from a subsequent increase in the value (excluding any value for which any additional consideration of any kind whatsoever has been paid or otherwise transferred, directly or indirectly, by, or on behalf of the Borrower or any of its Subsidiaries) of an Investment otherwise permitted hereunder and made prior to such subsequent increase in value;

(o) Investments to the extent constituting the reinvestment of the Net Cash Proceeds arising from any Asset Sales or Casualty Events to repair, replace or restore any Property in respect of which such Net Cash Proceeds were paid or to reinvest in other fixed or capital assets or assets that are otherwise useful in the business of the Companies (*provided* that, such Investment shall not be permitted to the extent such Net Cash Proceeds shall be required to be applied to make prepayments in accordance with Section 2.10(c));

(p) to the extent constituting Investments, (i) purchases and other acquisitions of inventory, materials and equipment and intangible Property in the ordinary course of business, (ii) Capital Expenditures, (iii) leases or licenses of real or personal Property in the ordinary course of business and in accordance with the applicable Security Documents so long as such leases or licenses do not, individually or in the aggregate, (x) interfere in any material respect with the ordinary conduct of the business of any

Company or (y) materially impair the use (or its intended purposes) or the value of the Property subject thereto and (iv) Permitted Acquisitions;

(q) other Investments in an aggregate amount not to exceed the Cumulative Amount; *provided* that (i) no Default or Event of Default has occurred and is continuing at the time of such Investment or would result therefrom and (ii) immediately after giving effect to such Investment, on a Pro Forma Basis, the Borrower is in compliance with the financial covenants set forth in Section 6.15 and the maximum Secured Leverage Ratio for the most recent Test Period shall not be greater than 3.00:1.00;

(r) other Investments in an aggregate amount at any time not to exceed at any time outstanding $15,000,000; *provided* that (a) any such Investment made pursuant to this clause (w) that constitutes a transaction described in clause (a), (b) or (c) of the definition of "Permitted Acquisition" shall be required to comply with each of the conditions set forth in the definition thereof and (b) no Default or Event of Default has occurred and is continuing at the time of such Investment or would result therefrom;

(s) to the extent constituting Investments, advances in respect of transfer pricing and cost-sharing arrangements (i.e. "cost-plus" arrangements) that are (i) in the ordinary course of business and consistent with the historical practices of the Companies and (ii) funded not more than 120 days in advance of the applicable transfer pricing and cost-sharing payment;

(t) [reserved];

(u) any payments in connection with a Permitted Bond Hedge Transaction.

The amount of any Investment permitted pursuant to Sections 6.04(b), (d), and (e) shall be the initial amount of such Investment less all returns of capital, principal, dividends and other cash returns thereof and less all liabilities expressly assumed by another person in connection with the sale of such Investment.

Section 6.05 Mergers and Consolidations. Wind up, liquidate or dissolve its affairs or consummate any transaction of merger or consolidation, except that the following shall be permitted:

(a) Dispositions of Property or Asset Sales in compliance with Section 6.06 (other than clause (g) thereof);

(b) (x) any Company (other than the Borrower) may merge or consolidate with or into or dissolve or liquidate into the Borrower or any Subsidiary Guarantor (as long as Borrower or a Subsidiary Guarantor is the surviving person in such merger, consolidation, dissolution or liquidation); *provided* that the Lien on and security interest in such Property granted or to be granted in favor of the Collateral Agent under the Security Documents shall be maintained or created in accordance with and only to the extent required by the provisions of Sections 5.10 and 5.11, as applicable and (y) any Subsidiary that is not a Guarantor may merge, consolidate, dissolve or liquidate with or into any other Subsidiary that is not a Guarantor;

(c) any Subsidiary may dissolve, liquidate or wind up its affairs at any time if such dissolution, liquidation or winding up is not disadvantageous to any Agent or Lender in any material respect;

(d) a merger or consolidation pursuant to, and in accordance with, the definition of "Permitted Acquisition" to the extent necessary to consummate such Permitted Acquisition; and

(e) to the extent necessary to consummate an Investment permitted pursuant to Section 6.04.

Subject to the Specified Guarantor Release Provision, to the extent the Requisite Lenders under Section 11.02(b) waive the provisions of this Section 6.05 with respect to the sale of any Collateral, or any Collateral is sold as permitted by this Section 6.05, such Collateral (unless sold to a Company) shall be sold free and clear of the Liens created by the Security Documents without any further action or consent of the Administrative Agent, Collateral Agent or any Lender hereunder, and, so long as Borrower shall have previously provided to the Collateral Agent and the Administrative Agent such certifications or documents as the Collateral Agent and/or the Administrative Agent shall reasonably request in order to demonstrate compliance with this Section 6.05, the Collateral Agent shall take all actions necessary or reasonably requested in order to effect the foregoing.

Section 6.06 Asset Sales. Effect any Disposition of any Property, except that the following shall be permitted:

(a) Dispositions of worn out, obsolete or surplus Property by Borrower or any of its Subsidiaries in the ordinary course of business and the abandonment, transfer, assignment, cancellation, lapse or other Disposition of immaterial Intellectual Property that is, in the reasonable good faith judgment of the Borrower or such Subsidiary, no longer economically practicable or commercially desirable to maintain or useful in the conduct of the business of the Companies;

(b) other Dispositions of Property; *provided* that (i) such Dispositions of Property are made for not less than Fair Market Value, (ii) no Default or Event of Default is continuing at the time of such Disposition or would result therefrom and (iii) at least 75% of the consideration payable in respect of such Disposition of Property shall be in the form of cash or Cash Equivalents (and for the purposes of making the foregoing calculation, the following shall be deemed "cash": (1) the assumption by the transferee of Indebtedness or other liabilities (other than Indebtedness and liabilities that are by their terms subordinated to the Obligations) contingent or otherwise of the Borrower or any of its Subsidiaries in connection with such Disposition and (2) aggregate non-cash consideration received by the Borrower and its Subsidiaries for all Asset Dispositions under this Section 6.06(b) having a fair market value (as determined in good faith by the Borrower as of the closing of the applicable Disposition for which non-cash consideration is received) not to exceed $15,000,000 (net of any non-cash consideration converted into cash and Cash Equivalents received in respect of any non-cash consideration)).

(c) leases, subleases, or non-exclusive licenses or sublicenses of real or personal Property (including Intellectual Property or other general intangibles) to third parties in the ordinary course of business and in accordance with the applicable Security Documents;

(d) Permitted Liens in compliance with Section 6.02;

(e) to the extent constituting a Disposition, the making of Investments in compliance with Section 6.04;

(f) Dispositions related to mergers, consolidations and other transactions in compliance with Section 6.05;

(g) Dividends and other transactions in compliance with Section 6.07;

(h) Dispositions of cash and Cash Equivalents in the ordinary course of business;

(i) any Disposition of Property that constitutes a Casualty Event;

(j) sales, transfers, leases and other Dispositions (excluding sales of Equity Interests of any Subsidiary) (i) to the Borrower or to any other Loan Party and (ii) to any Subsidiary that is not a Loan Party from another Subsidiary that is not a Loan Party;

(k) sale, forgiveness, or discount of customer delinquent notes or accounts receivable in the ordinary course of business (excluding, in all events, the Disposition of accounts receivable pursuant to any factoring or receivables securitization agreement or arrangement);

(l) sale or Disposition of immaterial Equity Interests to qualified directors where required by applicable law or to satisfy other similar requirements of applicable law with respect to the ownership of Equity Interests;

(m) any trade-in of equipment or other Property in exchange for other equipment or other replacement Property;

(n) the unwinding of any Hedging Agreement permitted hereunder pursuant to its terms;

(o) surrender or waiver of contractual rights and settlement or waiver of contractual or litigation claims in the ordinary course of business and consistent with past practice;

(p) (i) Dispositions of Qualified Stock in connection with settling, in accordance with its terms, any Permitted Convertible Indebtedness incurred in compliance with Section 6.01 and (ii) (A) the unwinding or terminating of any Permitted Warrant Transaction by the Borrower, (B) the unwinding or terminating of any Permitted Bond Hedge Transaction and (C) the payment of (x) cash interest pursuant to Section 6.09(a)(ii) or (y) cash in lieu of fractional shares pursuant to Section 6.09(a)(iii), and in each case of the foregoing clauses (A), (B) and (C), the performance by the Borrower and/or any Subsidiary thereof of such Person's obligations thereunder; and

(q) the Envigo Israel Sale.

Subject to the Specified Guarantor Release Provision, to the extent the requisite Lenders under the applicable provisions set forth in Section 11.02(b) waive the provisions of this Section 6.06, with respect to the sale of any Collateral, or any Collateral is sold as permitted by this Section 6.06, such Collateral (unless sold to a Company) shall be sold free and clear of the Liens created by the Security Documents without any further action by or consent from Administrative Agent, Collateral Agent or any Lender, and, so long as Borrower shall have previously provided to the Collateral Agent and the Administrative Agent such certifications or documents as the Collateral Agent and/or the Administrative Agent shall reasonably request in order to demonstrate compliance with this Section 6.06, the Collateral Agent shall take all actions it deems necessary or reasonable in order to effect the foregoing.

Section 6.07 Dividends. Authorize, declare or pay, directly or indirectly, any Dividends with respect to any Company, except for the following:

(a) Dividends by any Company (i) that is a Subsidiary of the Borrower to the Borrower or any Subsidiary Guarantor or (ii) that is a Non-Guarantor Subsidiary to any other Non-Guarantor Subsidiary; *provided,* that if such Company is a non-wholly owned Subsidiary, any such Dividend is paid to all shareholders on a pro rata basis;

(b) Dividends made solely in common equity or other Qualified Stock; *provided*, that no Default or Event of Default has occurred and is continuing prior to, or will occur immediately after, such Dividend;

(c) [reserved];

(d) [reserved];

(e) [reserved];

(f) [reserved];

(g) [reserved];

(h) any Company may make additional Dividends in an amount not to exceed the Cumulative Amount; *provided* that at the time of any such Dividend, (i) no Default or Event of Default shall have occurred and be continuing or would result therefrom and (ii) immediately after giving effect to such Dividend, on a Pro Forma Basis, the Borrower is in compliance with the financial covenants set forth in Section 6.15 and the maximum Secured Leverage Ratio for the most recent Test Period shall not be greater than 2.50:1.00;

(i) [reserved];

(j) other dividends in an aggregate amount not to exceed $5,000,000; *provided* that no Default or Event of Default has occurred and is continuing at the time such dividend is made;

(k) solely to the extent such dividends are in connection with (including, for the avoidance of doubt, the entry into, payment of any premium with respect to, and the settlement of) the Permitted Convertible Indebtedness incurred in compliance with Section 6.01: (i) payments of premium in respect of, and otherwise perform its obligations under (including the unwinding of), a Permitted Bond Hedge Transaction permitted or required in accordance with its terms and (ii) the settlement of any related Permitted Warrant Transaction (x) by delivery of shares of the Borrower's Qualified Stock in the form of common stock upon settlement thereof or (y) by (A) a permitted set-off against the related Permitted Bond Hedge Transaction or (B) payment of an early termination amount thereof in Borrower's Qualified Stock in the form of common stock upon any early termination thereof; and

(l) (i) any payments in connection with a Permitted Bond Hedge Transaction and (ii) the settlement of any related Permitted Warrant Transaction (A) by delivery of shares of the Borrower's common stock upon settlement thereof or (B) by (I) set-off against the related Permitted Bond Hedge Transaction or (II) payment of an early termination amount thereof in common stock upon any early termination thereof.

Section 6.08 Transactions with Affiliates. Enter into, directly or indirectly, any transaction or series of related transactions for the payment of money, sale of goods or provision of services, whether or not in the ordinary course of business, with any Affiliate of any Company (other than between or among Borrower and one or more Subsidiary Guarantors), other than on terms and conditions at least as favorable to such Company as would reasonably be obtained by such Company at that time in a comparable arm's-length transaction with a person other than an Affiliate, except that the following shall be permitted:

(a) (i) Dividends permitted by Section 6.07 and (ii) the Transactions, including the payment of Transaction Costs;

(b) Investments permitted under Section 6.04, including loans and advances, permitted by Section 6.04(d) and (e) and any Indebtedness permitted by Section 6.01(l), to the extent such transactions are on terms and conditions at least as favorable to such Company as would reasonably be obtained by such Company at that time in a comparable arm's-length transaction with a person other than an Affiliate;

(c) director, officer and employee compensation (including bonuses and severance) and other benefits (including retirement, health, stock option and other benefit plans) and indemnification arrangements, in each case, approved by the Board of Directors of the applicable Company;

(d) transactions between or among (i) Loan Parties to the extent otherwise expressly permitted hereunder, (ii) Non-Guarantor Subsidiaries to the extent otherwise expressly permitted hereunder, and (iii) Loan Parties and Non-Guarantor Subsidiaries to the extent otherwise expressly permitted hereunder;

(e) [reserved];

(f) [reserved]; and

(g) any other agreement, arrangement or transaction as in effect on the Closing Date and listed on Schedule 6.08(g), and any amendment or modification thereto or restatement thereof, and the performance of obligations thereunder, so long as such amendment or modification or restatement is not materially adverse to the interests of the Lenders.

Section 6.09 Prepayments of Other Indebtedness; Modifications of Organizational Documents, Acquisition and Certain Other Documents, etc. Directly or indirectly:

(a) Make or make a binding offer to make any voluntary or optional payment or prepayment on or redemption, retirement, defeasance or acquisition for value of, or any prepayment, repurchase or redemption, retirement, defeasance as a result of any asset sale, change of control or similar event of, any Junior Indebtedness of the Borrower or any of its Subsidiaries, except:

(i) (A) repayments of loans and advances made by a Non-Guarantor Subsidiary to a Loan Party pursuant to Section 6.04(e); *provided* that, the repayment of such loan or advance shall only be permitted to be made with the proceeds of a Dividend made by such Non-Guarantor Subsidiary to such Loan Party and the repayment of such loan or advance shall be made substantially concurrently with the payment of such Dividend or (B) a Permitted Refinancing;

(ii) an aggregate amount not to exceed the Cumulative Amount then available; *provided* that the Cumulative Amount shall not be available unless (i) no Default or Event of Default has occurred and is continuing and (ii) immediately after giving effect to such Dividend, on a Pro Forma Basis, the Borrower is in compliance with the financial covenants set forth in Section 6.15 and the Secured Leverage Ratio for the most recent Test Period shall be no greater than 2.50:1.00; and

(iii) in connection with Permitted Convertible Indebtedness incurred in compliance with Section 6.01, (A) the issuance any Qualified Stock of the Borrower upon the repurchase, redemption, conversion, exchange, exercise or settlement of any security (including, for the avoidance of doubt, the conversion or exchange of any Permitted Convertible Indebtedness into such Qualified Stock), (B) the making of (i) interest payments in cash and (ii) cash payments upon conversion for any fractional shares of Qualified Stock in an amount that does not exceed

$2,000,000 per calendar year, (C) (1) any payments in connection with a Permitted Bond Hedge Transaction to the extent permitted by Section 6.07(l) and (2) the settlement of any related Permitted Warrant Transaction to the extent permitted by Section 6.07(l) or (b) payment of an early termination amount thereof in the Borrower's Qualified Stock in the form of common stock upon any early termination thereof and (D) any payments in connection with repurchase, exchange or inducement of the conversion of Permitted Convertible Indebtedness by delivery of shares of Borrower's Qualified Stock in the form of common stock.

(b) waive, amend, modify, terminate or release any of the documents governing any Junior Indebtedness (including, without limitation, any Convertible Indebtedness) with an aggregate principal amount in excess of $1,000,000 to the extent that any such waiver, amendment, modification, termination or release would taken as a whole, be adverse to the Lenders in any material respect or prohibited by any applicable intercreditor agreement or subordination agreement; or

(c) amend, restate, supplement or otherwise modify any of its Organizational Documents or any agreement to which it is a party with respect to its Equity Interests (including any stockholders' agreement), or enter into any new agreement with respect to its Equity Interests, other than any such amendments, modifications or changes or such new agreements which are not, and could not reasonably be expected to be, adverse in any material respect to the interests of the Lenders.

Section 6.10 Limitation on Certain Restrictions on Subsidiaries. Directly or indirectly create or otherwise cause or suffer to exist or become effective any encumbrance, restriction or condition on the ability of any Subsidiary to (i) pay Dividends or make any other distributions on its Equity Interests or any other interest or participation in its profits owned by any Company, or pay any Indebtedness owed to any Company, (ii) make loans or advances to any Company or (iii) transfer any of its Properties to any Company, except for:

(a) such encumbrances, restrictions or conditions existing by reason of application of mandatory Legal Requirements;

(b) (i) this Agreement and the other Loan Documents and (ii) loan documents governing other Indebtedness permitted to be incurred hereunder that are, taken as a whole, in the good faith judgment of the Borrower, no more restrictive with respect to the Borrower or any Subsidiary than customary market terms for Indebtedness of such type (and, in any event, are no more restrictive than the restrictions contained in this Agreement unless (x) such restrictions apply only to periods after the then latest Final Maturity Date or (y) to the extent a substantially similar change is made to this Agreement or the other Loan Documents), so long as the Borrower shall have determined in good faith that such restrictions will not affect its obligations or ability to make any payments required hereunder;

(c) in the case of clause (iii), customary provisions restricting subletting or assignment of any lease governing a leasehold interest of a Subsidiary;

(d) in the case of clause (iii), customary provisions restricting assignment of any agreement entered into by a Subsidiary in the ordinary course of business;

(e) customary restrictions and conditions contained in any agreement relating to the sale or other Disposition of any Property or Asset Sale permitted by Section 6.06 pending the consummation of such sale or other Disposition or Asset Sale; *provided*, that (i) such restrictions and conditions apply only to the Property to be sold or Disposed of and (ii) such sale or other Disposition or Asset Sale is permitted hereunder;

(f) any agreement in effect at the time such Subsidiary becomes a Subsidiary of the Borrower, so long as such agreement was not entered into in connection with or in contemplation of such person becoming a Subsidiary of the Borrower;

(g) any encumbrances or restrictions imposed by any amendments or refinancings that are otherwise permitted by the Loan Documents of the contracts, instruments or obligations referred to in clause (f) above; *provided*, that such amendments or refinancings are no more materially restrictive with respect to such encumbrances and restrictions than those prior to such amendment or refinancing;

(h) in the cases of clauses (i) and (iii), customary restrictions in joint venture agreements or other similar agreements applicable to joint ventures permitted hereunder and applicable solely to such joint venture; or

(i) restrictions on Dividends for twelve (12) months after the Closing Date pursuant to the Main Street Credit Agreement.

Section 6.11 Business. (a) With respect to the Borrower, engage in any business activities or have any Properties or liabilities, other than (i) its ownership of the Equity Interests of the Borrower and business activities related thereto, (ii) obligations under the Loan Documents and (iii) sales of Equity Interests to the extent not prohibited by this Agreement.

(b) With respect to the Borrower and its Subsidiaries, engage (directly or indirectly) in any businesses other than those businesses in which Borrower and its Subsidiaries are engaged on the Closing Date (or which are similar, corollary, ancillary, complementary, incidental or related business or reasonable extensions thereof).

Section 6.12 [reserved].

Section 6.13 Fiscal Year. Change its fiscal year-end to a date other than September 30 or make any material change in its accounting treatment and financial reporting policies except as required by GAAP.

Section 6.14 No Further Negative Pledge. Enter into any agreement, instrument, deed or lease which prohibits or limits the ability of any Company to create, incur, assume or suffer to exist any Lien upon any of its Properties or revenues, whether now owned or hereafter acquired, or which requires the grant of any Lien for an obligation if a Lien is granted for another obligation, except the following: (1) this Agreement and the other Loan Documents, agreements governing any Permitted Refinancing with respect to the foregoing; (2) with respect Property not constituting Collateral, restrictions in documents creating Liens permitted by Section 6.02 prohibiting further Liens on the Properties encumbered thereby; (3) any prohibition or limitation that (a) is non-consensual and exists pursuant to applicable Legal Requirements, or (b) consists of customary restrictions and conditions contained in any agreement relating to the sale or other Disposition of any Property pending the consummation of such sale or other Disposition; *provided* that (i) such restrictions apply only to such Property, and (ii) such sale or other Disposition is permitted hereunder; (4) with respect to leases not constituting Collateral, restrictions prohibiting the grant or existence of liens and encumbrances, including leasehold mortgages; and (5) as set forth in Schedule 6.14.

Section 6.15 Financial Covenants.

(a) Maximum Secured Leverage Ratio. Permit the Secured Leverage Ratio, as of the last day of any Test Period ending on the date set forth in the table below, to exceed the ratio set forth opposite such Test Period end date in the table below:

Fiscal Quarter Ending	Maximum Secured Leverage Ratio
March 31, 2022	4.25:1.00
June 30, 2022	4.25:1.00
September 30, 2022	4.25:1.00
December 31, 2022	4.25:1.00
March 31, 2023	4.25:1.00
June 30, 2023	4.25:1.00
September 30, 2023	3.75:1.00
December 31, 2023	3.75:1.00
March 31, 2024	3.75:1.00
June 30, 2024	3.75:1.00
September 30, 2024	3.75:1.00
December 31, 2024	3.75:1.00
March 31, 2025 and each fiscal quarter ending thereafter	3.00:1.00

(b) Minimum Fixed Charge Coverage Ratio. Permit the Fixed Charge Coverage Ratio, as of the last day of each Test Period, (i) ending on or before the one year anniversary of the Closing Date, to be less than 1.00:1.00 and (ii) ending after the one year anniversary of the Closing Date, to be less than 1.10:1.00.

Section 6.16 Anti-Terrorism Law; Anti-Money Laundering; Sanctions; Anti-Corruption Law.

(a) violate any applicable Anti-Terrorism Law, Sanctions or Anti-Corruption Law (and the Loan Parties will deliver to the Administrative Agent any certification or other evidence requested from time to time by the Administrative Agent in its reasonable discretion, confirming the Borrower and its Subsidiaries' compliance with this Section 6.16).

(b) directly or indirectly, cause or permit any of the funds of such Borrower or Subsidiary that are used to repay the Term Loans to be derived from any unlawful activity with the result that the making of the Term Loans would be in violation of applicable Law.

(c) directly or indirectly, cause, permit, or authorize any part of the proceeds or other transaction contemplated by this Agreement to be used, contributed, or otherwise made available to fund any trade, business, or other activity of or with any Sanctioned Person, or in any Sanctioned Country, or in any other manner that could reasonably be expected to result in any party to this Agreement (including any Person participating in the Transactions, whether as underwriter, agent, advisor, investor, or otherwise) being in breach of any Sanctions or becoming a Sanctioned Person

(d) use, directly or indirectly, any part of the proceeds of the Term Loans 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 the FCPA or any other applicable anti-corruption law.

Section 6.17 Sanctioned Persons. cause or permit (a) any of the funds or properties of the Borrower and its Subsidiaries that are used to repay the Term Loans to constitute property of, or be beneficially owned directly or indirectly by, any Sanctioned Person, with the result that the investment in the Loan Parties (whether directly or indirectly) is prohibited by applicable requirements of Law, or the

Term Loans made by the Lenders would be in violation of applicable requirements of Law, or (b) any Sanctioned Person to have any direct or indirect interest, of any nature whatsoever in the Loan Parties, with the result that the investment in the Loan Parties (whether directly or indirectly) is prohibited by applicable requirements of Law or the Term Loans are in violation of applicable requirements of Law.

ARTICLE VII
GUARANTEE

Section 7.01 **The Guarantee**. The Guarantors hereby, jointly and severally, guarantee, as primary obligors and not merely as sureties to each Secured Party and their respective successors and assigns, the prompt payment and performance in full when due (whether at stated maturity, by required prepayment, declaration, demand, by acceleration or otherwise) of the principal of and interest (including any interest, fees, costs or charges that would accrue but for the provisions of the Title 11 of the United States Code after any bankruptcy or insolvency petition under Title 11 of the United States Code) on the Loans made by the Lenders to, and the Notes held by each Lender of, the Borrower and all other Secured Obligations, including any Secured Obligations from time to time owing to the Secured Parties by the Borrower or any of its Subsidiaries under any Specified Hedging Agreement or Bank Product Agreement in each case strictly in accordance with the terms thereof (such obligations being herein collectively called the "**Guaranteed Obligations**"). The Guarantors hereby jointly and severally agree that if the Borrower or any other Guarantor(s) shall fail to pay in full when due (whether at stated maturity, by acceleration or otherwise) any of the Guaranteed Obligations, the Guarantors will promptly pay the same in cash, without any demand or notice whatsoever, and that in the case of any extension of time of payment or renewal of any of the Guaranteed Obligations, the same will be promptly paid in full when due (whether at extended maturity, by acceleration or otherwise) in accordance with the terms of such extension or renewal.

Section 7.02 **Obligations Unconditional**. The obligations of the Guarantors under Section 7.01 shall constitute a guaranty of payment and performance and not of collection and to the fullest extent permitted by applicable Legal Requirements, are absolute, irrevocable and unconditional, joint and several, irrespective of the value, genuineness, validity, regularity or enforceability of the Loan Documents or the Guaranteed Obligations under this Agreement, the Notes, if any, or any other agreement or instrument referred to herein or therein, or any substitution, release or exchange of any other guarantee of or security for any of the Guaranteed Obligations, and, irrespective of any other circumstance whatsoever that might otherwise constitute a legal or equitable discharge or defense of a surety or Guarantor (except for the Discharge of the Guaranteed Obligations). Without limiting the generality of the foregoing and subject to applicable law, it is agreed that the occurrence of any one or more of the following shall not alter or impair the liability of the Guarantors hereunder which shall remain absolute, irrevocable and unconditional under any and all circumstances as described above:

(i) at any time or from time to time, without notice to the Guarantors, the time for any performance of or compliance with any of the Guaranteed Obligations shall be extended, or such performance or compliance shall be waived;

(ii) any of the acts mentioned in any of the provisions of this Agreement or the Notes, if any, or any other agreement or instrument referred to herein or therein, including any exercise of remedies, shall be done or omitted;

(iii) the maturity of any of the Guaranteed Obligations shall be accelerated, or any of the Guaranteed Obligations shall be amended or modified in any respect, or any right under the Loan Documents, under the Specified Hedging Agreements, under the Bank Product Agreements or any other agreement or instrument referred to herein or, respectively, therein shall

be amended or waived in any respect or any other guarantee of any of the Guaranteed Obligations or any security therefor shall be released or exchanged in whole or in part or otherwise dealt with;

(iv) any Lien or security interest granted to, or in favor of, any Secured Party as security for any of the Guaranteed Obligations shall fail to be valid, perfected or to have the priority required under the Loan Documents, the Specified Hedging Agreements and/or the Bank Product Agreements or is avoided or set aside as a preference, fraudulent conveyance or otherwise;

(v) the release of any other Guarantor pursuant to Section 7.09;

(vi) any renewal, extension or acceleration of, or any increase in the amount of the Guaranteed Obligations, or any amendment, supplement, modification or waiver of, or any consent to departure from, the Loan Documents, any Specified Hedging Agreement or any Bank Product Agreement; or

(vii) any failure or omission to assert or enforce or agreement or election not to assert or enforce, delay in enforcement, or the stay or enjoining, by order of court, by operation of law or otherwise, of the exercise or enforcement of, any claim or demand or any right, power or remedy (whether arising under any Loan Documents, any Specified Hedging Agreement or any Bank Product Agreement, at law, in equity or otherwise) with respect to the Guaranteed Obligations or any agreement relating thereto, or with respect to any other guaranty of or security for the payment of the Guaranteed Obligations.

The Guarantors hereby expressly waive, to the extent permitted by law, diligence, presentment, demand of payment, protest and all notices whatsoever, and any requirement that any Secured Party exhaust any right, power or remedy or proceed against Borrower or any Guarantor under this Agreement or the Notes, if any, or any other agreement or instrument referred to herein or therein, or against any other person under any other guarantee of, or security for, any of the Guaranteed Obligations. The Guarantors waive, to the extent permitted by law, any and all notice of the modifications, creation, renewal, extension, waiver, termination or accrual of any of the Guaranteed Obligations and notice of or proof of reliance by any Secured Party upon this Guarantee or acceptance of this Guarantee, and the Guaranteed Obligations, and any of them, shall conclusively be deemed to have been created, contracted or incurred in reliance upon this Guarantee, and all dealings between Borrower and the Secured Parties shall likewise be conclusively presumed to have been had or consummated in reliance upon this Guarantee. This Guarantee shall be construed as a continuing, absolute, irrevocable and unconditional guarantee of payment and performance without regard to any right of offset with respect to the Guaranteed Obligations at any time or from time to time held by the Secured Parties, and the obligations and liabilities of the Guarantors hereunder shall not be conditioned or contingent upon the pursuit by the Secured Parties or any other person at any time of any right or remedy against Borrower or against any other person which may be or become liable in respect of all or any part of the Guaranteed Obligations or against any collateral security or guarantee therefor or right of offset with respect thereto. Each payment required to be made hereunder shall be made without setoff or counterclaim in immediately available funds at the office of the Administrative Agent as set forth in Section 2.14. This Guarantee shall remain in full force and effect and be binding in accordance with and to the extent of its terms upon the Guarantors and their respective successors and assigns, and shall inure to the benefit of the Secured Parties, and their respective successors and assigns, notwithstanding that from time to time during the term of this Agreement there may be no Guaranteed Obligations outstanding.

Section 7.03 **Reinstatement**. The obligations of the Guarantors under this Article VII shall be automatically reinstated if and to the extent that for any reason any payment by or on behalf of the Borrower or other Loan Party in respect of the Guaranteed Obligations is rescinded or must be otherwise restored by

any holder of any of the Guaranteed Obligations, whether as a result of any proceedings in bankruptcy or reorganization or otherwise.

Section 7.04 **Subrogation; Subordination**. Each Guarantor hereby agrees that until the Discharge of the Guaranteed Obligations it shall subordinate and not exercise any claim and shall not exercise any right or remedy, direct or indirect, arising by reason of any performance by it of its guarantee in Section 7.01, whether by subrogation, continuation, indemnification or otherwise, against Borrower or any other Guarantor of any of the Guaranteed Obligations or any security for any of the Guaranteed Obligations. Any Indebtedness of any Loan Party owing to another Company shall be subordinated to such Loan Party's Secured Obligations in the manner evidencing such Indebtedness; *provided* that upon the payment and satisfaction in full of all Guaranteed Obligations (other than contingent indemnity obligations) and the expiration or termination of the Commitments of the Lenders under this Agreement, without any further action by any person, the Guarantors shall be automatically subrogated to the rights of the Administrative Agent and the Lenders to the extent of any payment hereunder.

Section 7.05 **Remedies**. The Guarantors jointly and severally agree that, as between the Guarantors and the Lenders, the Obligations of the Borrower under this Agreement and other Loan Documents may be declared to be forthwith due and payable as provided in Article VIII (and shall be deemed to have become automatically due and payable in the circumstances provided in Article VIII) for purposes of Section 7.01, notwithstanding any stay, injunction or other prohibition preventing such declaration (or such obligations from becoming automatically due and payable) as against Borrower and that, in the event of such declaration (or such Obligations being deemed to have become automatically due and payable), such Obligations (whether or not due and payable by Borrower) shall forthwith become due and payable by the Guarantors for purposes of Section 7.01.

Section 7.06 **Instrument for the Payment of Money**. Each Guarantor hereby acknowledges that the guarantee in this Article VII constitutes an instrument for the payment of money, and consents and agrees that any Lender or Agent, at its sole option, in the event of a dispute by such Guarantor in the payment of any moneys due hereunder, shall have the right to bring a motion-action under New York CPLR Section 3213.

Section 7.07 **Continuing Guarantee**. The guarantee in this Article VII is a continuing guarantee of payment and performance, and shall apply to all Guaranteed Obligations whenever arising.

Section 7.08 **General Limitation on Guarantee Obligations**. In any action or proceeding involving any state corporate, limited partnership or limited liability company law, or any applicable state, federal or foreign bankruptcy, insolvency, reorganization or other Legal Requirement affecting the rights of creditors generally, if the obligations of any Guarantor under Section 7.01 would otherwise be held or determined to be void, voidable, invalid or unenforceable, or subordinated to the claims of any other creditors, on account of the amount of its liability under Section 7.01, then, notwithstanding any other provision to the contrary, the amount of such liability shall, without any further action by such Guarantor, any Loan Party or any other person, be automatically limited and reduced to the highest amount (after giving effect to the rights of subrogation and contribution established in Section 7.04 and Section 7.10, respectively) that is valid and enforceable, not void or voidable and not subordinated to the claims of other creditors as determined in such action or proceeding.

Section 7.09 **Release of Guarantors**. Subject to the Specified Guarantor Release Provision, if, in compliance with the terms and provisions of the Loan Documents, all of the Equity Interests or all or substantially all of the Property of any Guarantor are sold or otherwise transferred (a "**Transferred Guarantor**") to a person or persons (other than any Loan Party) then such Transferred Guarantor shall, upon the consummation of such sale or transfer, be immediately and automatically released from its

obligations under this Agreement (including under Section 11.03) and the other Loan Documents and its obligations to pledge and grant any Collateral owned by it pursuant to any Security Document and, in the case of the sale of all of the Equity Interests of the Transferred Guarantor, the pledge of such Equity Interests to the Collateral Agent pursuant to the Security Documents shall be immediately and automatically released, and so long as Borrower shall have previously provided the Collateral Agent and the Administrative Agent such certifications or documents as the Collateral Agent and/or the Administrative Agent shall reasonably request, the Collateral Agent shall take such actions as are necessary or reasonably requested to effect each release described in this Section 7.09 in accordance with the relevant provisions of the Security Documents.

Section 7.10 Right of Contribution. (a) The Loan Parties hereby agree as among themselves that, if any Loan Party shall make an Excess Payment (as defined below), such Loan Party shall have a right of contribution from each other Loan Party in an amount equal to such other Loan Party's Contribution Share (as defined below) of such Excess Payment. The payment obligations of any Loan Party under this Section 7.10 shall be subordinate and subject in right of payment to the Secured Obligations until such time as the Discharge of the Guaranteed Obligations, and none of the Loan Parties shall exercise any right or remedy under this Section 7.10 against any other Loan Party until such time as the Discharge of the Guaranteed Obligations. For purposes of this Section 7.10, (x) "**Excess Payment**" shall mean the amount paid by any Loan Party in excess of its Pro Rata Share of any Secured Obligations, (y) "**Pro Rata Share**" shall mean, for any Loan Party in respect of any payment of the Secured Obligations, the ratio (expressed as a percentage) as of the date of such payment of the Secured Obligations of (i) the amount by which the aggregate present fair salable value of all of its assets and Properties exceeds the amount of all debts and liabilities of such Loan Party (including contingent, subordinated, un-matured, and un-liquidated liabilities, but excluding the Secured Obligations of such Loan Party) to (ii) the amount by which the aggregate present fair salable value of its assets and other Properties of all Loan Parties exceeds the amount of all of the debts and liabilities (including contingent, subordinated, un-matured, and un-liquidated liabilities, but excluding the Secured Obligations of all Loan Parties) of the Loan Parties; and (z) "**Contribution Share**" shall mean, for any Loan Party in respect of any Excess Payment made by any other Loan Party, the ratio (expressed as a percentage) as of the date of such Excess Payment of (i) the amount by which the aggregate present fair salable value of all of its assets and Properties exceeds the amount of all debts and liabilities of such Loan Party (including contingent, subordinated, un-matured, and un-liquidated liabilities, but excluding the Secured Obligations of such Loan Party) to (ii) the amount by which the aggregate present fair salable value of all assets and other Properties of the Loan Parties other than the maker of such Excess Payment exceeds the amount of all of the debts and liabilities (including contingent, subordinated, un-matured, and un-liquidated liabilities, but excluding the Secured Obligations of the Loan Parties) of the Loan Parties other than the maker of such Excess Payment. Nothing in this Section 7.10 shall require any Loan Party to pay its Contribution Share of any Excess Payment in the absence of a demand therefor by the Loan Party that has made the Excess Payment. Without limiting the foregoing in any manner, it is the intent of the parties hereto that as of any date of determination, no Contribution Share of any Loan Party shall be greater than the maximum amount of the claim which could then be recovered from such Loan Party under this Section 7.10 without rendering such claim voidable or avoidable under Section 548 of Chapter 11 of the Bankruptcy Code or under any applicable state Uniform Fraudulent Transfer Act, Uniform Fraudulent Conveyance Act or similar statute or common law.

(b) This Section 7.10 is intended only to define the relative rights of the Loan Parties and nothing set forth in this Section 7.10 is intended to or shall impair the Secured Obligations of the Loan Parties, jointly and severally, to pay any amounts and perform any Secured Obligations as and when the same shall become due and payable or required to be performed in accordance with the terms of this Agreement, any other Loan Document, the Specified Hedging Agreements and/or the Bank Product Agreements, as the case may be. Nothing contained in this Section 7.10 shall limit the liability of the Borrower to pay the Loans and other Credit Extensions made to the Borrower and accrued interest, Fees

and expenses with respect thereto and the Specified Hedging Agreement Obligations and the Bank Product Obligations of the Borrower and its Subsidiaries, in each case, for which Borrower and its Subsidiaries, as applicable, shall be primarily liable.

(c) The parties hereto acknowledge that the rights of contribution and indemnification hereunder shall constitute assets of the Loan Parties to which such contribution and indemnification is owing.

(d) The rights of any indemnified Loan Party against the other Loan Parties under this Section 7.10 shall be exercisable upon, but shall not be exercisable prior to, the full indefeasible payment of the Secured Obligations (other than unasserted contingent indemnification obligations) and termination or expiration of the Commitments under the Loan Documents and the termination of the Specified Hedging Agreements (except as otherwise expressly set forth therein) and the Bank Product Agreements (except as otherwise expressly set forth therein).

Section 7.11 Keepwell. Each Qualified ECP Guarantor hereby jointly and severally absolutely, unconditionally and irrevocably undertakes to provide such funds or other support as may be needed from time to time by each other Loan Party to honor all of its obligations under this Guarantee in respect of Swap Obligations (*provided*, *however*, that each Qualified ECP Guarantor shall only be liable under this Section 7.11 for the maximum amount of such liability that can be hereby incurred without rendering its obligations under this Section 7.11, or otherwise under this Guarantee, as it relates to such Loan Party, voidable under applicable law relating to fraudulent conveyance or fraudulent transfer, and not for any greater amount). The obligations of each Qualified ECP Guarantor under this Section shall remain in full force and effect until a Discharge of the Guaranteed Obligations. Each Qualified ECP Guarantor intends that this Section 7.11 constitute, and this Section 7.11 shall be deemed to constitute, a "keepwell, support, or other agreement" for the benefit of each other Loan Party for all purposes of Section 1a(18)(A)(v)(II) of the Commodity Exchange Act.

ARTICLE VIII
EVENTS OF DEFAULT

Section 8.01 Events of Default. Upon the occurrence and during the continuance of any of the following events (each, an "**Event of Default**"):

(a) default shall be made in the payment of any principal or premium of any Loan when and as the same shall become due and payable, whether at the due date thereof (including any Term Loan Repayment Date) or at a date fixed for mandatory prepayment thereof or by acceleration thereof or otherwise;

(b) default shall be made in the payment of any interest or premium on any Credit Extension or any Fee or any other amount (other than an amount referred to in paragraph (a) above) due under any Loan Document, when and as the same shall become due and payable, whether at the due date thereof (including an Interest Payment Date) or at a date fixed for prepayment (whether voluntary or mandatory) or by acceleration or demand thereof or otherwise, and such default shall continue unremedied for a period of five (5) Business Days;

(c) any representation or warranty made or deemed made in or in connection with any Loan Document or the Borrowings hereunder, or any representation, warranty, statement or information contained in any written report, certificate, financial statement or other written instrument furnished by or on behalf of the Borrower or any of its Subsidiaries or any Related Persons of any of the foregoing in

connection with or pursuant to any Loan Document, shall prove to have been false or misleading in any material respect when so made, deemed made or furnished;

(d) default shall be made in the due observance or performance by any Company of any covenant, condition or agreement contained in Section 5.02(a), Section 5.03(a) (only with respect to the Borrower) or in Article VI; *provided* that an Event of Default under Section 6.15 is subject to a cure pursuant to Section 8.03;

(e) default shall be made in the due observance or performance by any Company of any covenant, condition or agreement contained in any Loan Document (other than those specified in paragraphs (a), (b), or (d) immediately above) and such default shall continue unremedied or shall not be waived for a period of thirty (30) days after receipt by Borrower of a written notice thereof from the Administrative Agent;

(f) any Company shall (i) fail to pay any principal or interest, regardless of amount, due in respect of any Indebtedness, when and as the same shall become due and payable beyond any applicable grace period, or (ii) fail to observe or perform any other term, covenant, condition or agreement contained in any agreement or instrument evidencing or governing any such Indebtedness if the effect of any failure referred to in this clause (ii) is to cause, or to permit the holder or holders of such Indebtedness or a trustee or other representative on its or their behalf (with or without the giving of notice, the lapse of time or both and taking into account any applicable grace periods or waivers) to cause, such Indebtedness to become due prior to its stated maturity or become subject to a mandatory offer to purchase by the obligor; *provided* that this clause (ii) shall not apply to (A) secured Indebtedness that becomes due as a result of the sale, transfer or other Disposition (including as a result of a casualty or condemnation event) of the property or assets securing such Indebtedness (to the extent such sale, transfer or other Disposition is not prohibited under this Agreement and such Indebtedness is repaid in accordance with its terms) or (B) any event which triggers any conversion rights of holders of Permitted Convertible Indebtedness; *provided further* that, it shall not constitute an Event of Default pursuant to this clause (f) unless the aggregate amount of all such Indebtedness (other than Permitted Convertible Indebtedness, which shall have no threshold) referred to in clauses (i) and (ii) individually exceeds $15,000,000 at any one time (*provided* that, in the case of Hedging Obligations, the notional amount thereof shall be counted for this purpose);

(g) an involuntary petition shall be filed in a court of competent jurisdiction seeking (i) relief in respect of any Company (other than any Immaterial Subsidiary) or of a substantial part of the Property of any Company (other than any Immaterial Subsidiary), under Title 11 of the United States Code, as now constituted or hereafter amended, or any other federal, state or foreign bankruptcy, insolvency, receivership or similar Legal Requirement; (ii) the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for any Company (other than any Immaterial Subsidiary) or for a substantial part of the Property of any Company (other than any Immaterial Subsidiary); or (iii) the winding-up or liquidation of any Company (other than any Immaterial Subsidiary); and such proceeding or petition shall continue undismissed for sixty (60) days or an Order approving or ordering any of the foregoing shall be entered;

(h) any Company (other than any Immaterial Subsidiary) shall (i) voluntarily commence any proceeding or file any petition seeking relief under Title 11 of the United States Code, as now constituted or hereafter amended, or any other federal, state or foreign bankruptcy, insolvency, receivership or similar Legal Requirement; (ii) consent to the institution of, or fail to contest in a timely and appropriate manner, any proceeding or the filing of any petition described in clause (g) above; (iii) apply for or consent to the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for any Company or for a substantial part of the Property of any Company; (iv) file an answer admitting the material allegations of a petition filed against it in any such proceeding; (v) make a general

assignment for the benefit of creditors; (vi) become unable, admit in writing its inability or fail generally to pay its debts as they become due; (vii) except as permitted in Section 6.05, wind up or liquidate; or (viii) take any corporate (or equivalent) action for the purpose of effecting any of the foregoing;

(i) one or more Orders for the payment of money in an aggregate amount in excess of $15,000,000 (to the extent not covered by (i) insurance in respect of which a solvent and unaffiliated insurance company has not denied coverage thereof and for which the carrier has not disclaimed responsibility and for which a claim (A) has been submitted, (B) is in the process of being submitted or (C) is intended to be submitted promptly or (ii) a third-party indemnification agreement under which the indemnifying party has accepted responsibility and would reasonably be expected to remain solvent after satisfying such indemnification obligation)) shall be rendered against any Company or any combination thereof and the same shall remain undischarged, unpaid, unvacated, unstayed, or unbonded for a period of 90 consecutive days during which execution shall not be effectively stayed, or any action shall be legally taken by a judgment creditor to levy upon Properties of any Company to enforce any such Order;

(j) (i) one or more ERISA Events shall have occurred that, when taken together with all other such ERISA Events that have occurred, would reasonably be expected to result in a Material Adverse Effect with respect to the liabilities of any Company; (ii) there is or arises an Unfunded Pension Liability (taking into account only Plans with positive Unfunded Pension Liability) that would be reasonably likely to result in a Material Adverse Effect; (iii) there is or arises any potential withdrawal liability under Section 4201 of ERISA if the Companies or the ERISA Affiliates were to withdraw from any and all Multiemployer Plans that would be reasonably likely to result in a Material Adverse Effect, (iv) there is or arises any violation of the Fair Labor Standards Act of 1938, as amended, or any other applicable Legal Requirement dealing with such matters in any manner that has resulted in a liability that is material to the Companies as a whole, (v) there is or arises any claim may be made against any Company, on account of wages and employee health and welfare insurance and other benefits which results in a liability that is material to the Companies as a whole, or (vi) the failure of any Pension Plan (or any other Employee Benefit Plan intended to be qualified under Section 401(a) of the Code) to qualify under Section 401(a) of the Code, or the failure of any trust forming part of any Pension Plan to qualify for exemption from taxation under Section 501(a) of the Code.

(k) any material security interest and Lien purported to be created by any Security Document (x) shall cease to be in full force and effect, or (y) shall cease to give the Collateral Agent, for the benefit of the Secured Parties, the Liens, rights, powers and privileges purported to be created and granted under such Security Documents (including a valid, enforceable, perfected first priority (except as otherwise provided in this Agreement or any Security Document) security interest in and Lien on, all of the Collateral thereunder (except as otherwise expressly provided in this Agreement or such Security Document and except as the direct and exclusive result of an action or a failure to act, in each case in a manner otherwise specified as required to be undertaken (or not undertaken, as the case may be) by a provision of any Loan Document, on the part of any Agent, Lender or Secured Party)) in favor of the Collateral Agent, or (z) shall be asserted by or on behalf of any Company not to be, a valid, enforceable, perfected, first priority (except as otherwise expressly provided in this Agreement or such Security Document) security interest in or Lien on the Collateral covered thereby; *provided* that it will not be an Event of Default under this clause (k) if (i) the Collateral Agent shall not have or shall cease to have a valid, enforceable and perfected first priority Lien on any material portion of the Collateral purported to be covered by the Security Documents, individually or in the aggregate, having a Fair Market Value of less than $7,500,000 or (ii) the failure to have a valid, enforceable and perfected first priority Lien on any material portion of the Collateral resulted solely from the action or inaction of the Administrative Agent, the Collateral Agent, or any Lender (other than actions or inactions taken as a direct result of the advice of or at the direction of any Company);

(l) any Loan Document or any material provisions thereof shall at any time and for any reason be declared by a court of competent jurisdiction to be null and void, or a proceeding shall be commenced by or on behalf of the Borrower or any of its Subsidiaries or any Related Persons of any of the foregoing, or by any Governmental Authority, seeking to establish the invalidity or unenforceability thereof (exclusive of questions of interpretation of any provision thereof), or any Loan Party (or any of their respective Related Persons) (directly or indirectly) shall repudiate or deny any portion of its liability or obligation for the Obligations; or

(m) there shall have occurred a Change in Control; or

(n) any representation or warranty made, or deemed to be made, by any Loan Party herein or in any of the other Loan Documents or in any certificate or notice delivered or required to be delivered pursuant hereto or thereto shall prove false in any material respect (or, to the extent that the representation or warranty is qualified by "materiality", "Material Adverse Effect" or similar language, in any respect) on the date as of which it was made or deemed to have been made;

then, and in every such event (other than an event described in paragraph (g) or (h) above), and at any time thereafter during the continuance of such event, the Administrative Agent may, with the prior consent of the Required Lenders, and at the request of the Required Lenders shall, by notice to the Borrower, take any or all of the following actions, at the same or different times: (i) terminate forthwith the Commitments, (ii) declare the Loans then outstanding to be forthwith due and payable in whole or in part, whereupon the principal of the Loans so declared to be due and payable, together with accrued interest thereon and any unpaid accrued Fees and all other liabilities of the Loan Parties accrued hereunder and under any other Loan Document, shall become forthwith due and payable, without presentment, demand, protest or any other notice of any kind, all of which are hereby expressly waived by the Loan Parties, anything contained herein or in any other Loan Document or otherwise to the contrary notwithstanding, and (iii) exercise any and all of its other rights and remedies under applicable Legal Requirements, hereunder and under the other Loan Documents; *provided* that, with respect to events described in paragraph (g) or (h) above, the Commitments shall automatically terminate and the principal of the Loans then outstanding, together with accrued interest thereon and any unpaid accrued Fees and all other liabilities of the Loan Parties accrued hereunder and under any other Loan Document (including any prepayment premium which shall be due and payable as a result of the acceleration of such principal amounts within the time periods specified in Section 2.10(i)), shall automatically become due and payable, without presentment, demand, protest or any other notice of any kind, all of which are hereby expressly waived by the Loan Parties, anything contained herein or in any other Loan Document or otherwise to the contrary notwithstanding.

Section 8.02 [reserved].

Section 8.03 Right to Cure.

(a) Financial Covenants. Notwithstanding anything to the contrary contained in Section 8.01, in the event that the Borrower fails to comply with the requirements of the financial covenants set forth in Section 6.15 as of the last day of any fiscal quarter for which such covenant is tested, until the expiration of the 10th Business Day subsequent to the Cure Specified Date for such fiscal quarter, the Borrower shall have the right to give written notice (the "**Cure Notice**"), on or prior to the 10th Business Day subsequent to such Cure Specified Date, to the Administrative Agent of the intent of the Borrower to issue Permitted Cure Securities for cash or otherwise contribute cash common equity and/or other Qualified Stock to the capital of the Borrower (collectively, the "**Cure Right**") and, upon contribution of the net cash proceeds (such net cash proceeds, the "**Cure Amount**") to the Borrower as cash common equity and/or other Qualified Stock after the Cure Specified Date for such fiscal quarter pursuant to the exercise by the Borrower of such Cure Right, which exercise shall be made after such Cure Specified Date on or before the

10th Business Day subsequent to such Cure Specified Date, the covenant set forth in Section 6.15 shall be recalculated giving effect to the following adjustments on a Pro Forma Basis:

(i) Consolidated EBITDA shall be increased with respect to such applicable fiscal quarter and any Test Period that contains such fiscal quarter, solely for the purpose of measuring the financial covenants set forth in Section 6.15 and not for any other purpose under this Agreement, by an amount equal to the Cure Amount; and

(ii) if, after giving effect to the foregoing recalculations, the Borrower shall then be in compliance with the requirements of the financial covenants set forth in Section 6.15, the Borrower shall be deemed to have satisfied the requirements of such financial covenants as of the relevant date of determination with the same effect as though there had been no failure to comply therewith at such date, and the applicable breach or Default of such financial covenants that had occurred shall be deemed cured for purposes of this Agreement.

(b) No Default. Notwithstanding anything herein to the contrary, (i) a Default or Event of Default resulting solely from a failure to be in compliance with the financial covenants set forth in Section 6.15 shall not be deemed to exist from the end of the applicable fiscal quarter until the 10th Business Day after the applicable Cure Specified Date with respect to such fiscal quarter, (ii) to the extent a Cure Notice is delivered by the Borrower within ten (10) Business Days after such Cure Specified Date, a Default or Event of Default resulting solely from a failure to be in compliance with the financial covenants set forth in Section 6.15 shall not be deemed to exist from the end of the applicable fiscal quarter until the 10th Business Day after the applicable Cure Specified Date with respect to the applicable fiscal quarter and (iii) if the Cure Amount is not made within ten (10) Business Days after the applicable Cure Specified Date with respect to the applicable fiscal quarter, each such Default or Event of Default referenced in clauses (i) and (ii) above shall be deemed reinstated as of the end of the applicable fiscal quarter, it being further agreed that the Obligations shall bear interest at the Default Rate as applied in accordance with Section 2.06(c) as of the end of such applicable fiscal quarter.

(c) Borrowing Block. If a Default or Event of Default would have occurred and be continuing had the Borrower not had the option to exercise the Cure Right as set forth above and not exercised such Cure Right pursuant to the foregoing provisions, the Borrower shall not be permitted, from the applicable Cure Specified Date with respect to the applicable fiscal quarter, until such Default or Event of Default is cured in accordance with the terms of this Section 8.03 or Section 11.02, to request any Borrowings or any Credit Extensions under this Agreement.

(d) Limitation on Exercise of Cure Right. Notwithstanding anything herein to the contrary, (i) in each four consecutive fiscal quarter period, there shall be at least two fiscal quarters during which the Cure Right is not exercised, (ii) the Cure Right may only be exercised five times during the term of this Agreement, (iii) the Cure Amount shall be no greater than the minimum amount required to cause the Borrower to be in compliance with the financial covenants set forth in Section 6.15 as at the end of the applicable fiscal quarter, (iv) all Cure Amounts shall be disregarded for purposes of determining any financial ratio based conditions or any baskets with respect to the covenants contained in this Agreement, (v) there shall be no pro forma reduction in Indebtedness with the proceeds of any Cure Amount for determining compliance with Section 6.15 in the quarter in which such Cure Right is exercised (whether directly by prepayment of Indebtedness or indirectly by way of netting); *provided* that Cure Amounts shall reduce debt in future Test Periods to the extent used to prepay the Loans and not otherwise applied to increase Consolidated EBITDA of the Borrower in such Test Period and (vi) there shall be no cash netting of the proceeds of any Cure Amount.

ARTICLE IX
APPLICATION OF COLLATERAL PROCEEDS

Section 9.01 **Collateral Account**. (a) The Collateral Agent is hereby authorized to establish and maintain at its office (or, at the Collateral Agent's discretion, at the office of its designee from time to time) at 520 Madison Avenue, New York, New York 10022, a restricted deposit account designated by the Collateral Agent in its discretion from time to time. Each Loan Party shall deposit into the Collateral Account from time to time any cash, but only to the extent, that such Loan Party is expressly required to pledge as additional collateral security hereunder pursuant to the Loan Documents. The balance from time to time in the Collateral Account shall constitute part of the Collateral and shall not constitute payment of the Secured Obligations until applied as hereinafter provided. At any time following the occurrence and during the continuance of an Event of Default, the Collateral Agent if instructed by the Required Lenders shall apply or cause to be applied (subject to collection) the balance from time to time outstanding in such restricted deposit account to the credit of the Collateral Account to the payment of the Secured Obligations in the manner specified in Section 9.02. The Loan Parties shall have no right to withdraw, transfer or otherwise receive any funds deposited in the Collateral Account except to the extent specifically provided herein or in any other Loan Document.

(b) Amounts on deposit in the Collateral Account shall be invested and reinvested from time to time in Cash Equivalents as the applicable Loan Party (or, after the occurrence and during the continuance of an Event of Default, the Collateral Agent) shall determine by written instruction to the Collateral Agent, or if no such instructions are given, then as the Collateral Agent, in its sole and reasonable discretion, shall determine, which Cash Equivalents shall be held in the name and be under the control of the Collateral Agent (or any sub-agent); *provided* that at any time after the occurrence and during the continuance of an Event of Default, the Collateral Agent shall if instructed by the Required Lenders at any time and from time to time elect to liquidate any such Cash Equivalents and to apply or cause to be applied the proceeds thereof to the payment of the Secured Obligations in the manner specified in Section 9.02.

Section 9.02 **Application of Proceeds**.

(a) The proceeds received by the Collateral Agent in respect of any sale of, collection from or other realization upon all or any part of the Collateral pursuant to the exercise by the Collateral Agent of its remedies shall be applied, together with any other sums then held by the Collateral Agent pursuant to this Agreement or any other Loan Document, promptly by the Collateral Agent as follows:

(i) *First*, to the payment of all reasonable and documented costs and expenses, fees, commissions and Taxes of such sale, collection or other realization including compensation to the Administrative Agent and/or the Collateral Agent and its agents and counsel and all expenses, liabilities and advances made or incurred by the Administrative Agent and/or the Collateral Agent in connection therewith and all amounts for which the Administrative Agent and/or the Collateral Agent is entitled to indemnification pursuant to the provisions of any Loan Document, together with interest on each such amount at the highest rate then in effect under this Agreement from and after the date such amount is due, owing or unpaid until paid in full;

(ii) *Second*, to the payment of all other reasonable and documented costs and expenses of such sale, collection or other realization including compensation to the other Secured Parties and their agents and counsel and all costs, liabilities and advances made or incurred by the other Secured Parties in connection therewith, together with interest on each such amount at the highest rate then in effect under this Agreement from and after the date such amount is due, owing or unpaid until paid in full;

(iii) *Third*, without duplication of amounts applied pursuant to clauses (i) and (ii) above, to the indefeasible payment in full in cash, pro rata, of interest and other amounts constituting Obligations on or in respect of Revolving Loans (other than principal, Specified Hedging Agreement Obligations and Bank Product Obligations) in each case equally and ratably in accordance with the respective amounts thereof then due and owing;

(iv) *Fourth*, to the indefeasible payment in full in cash, pro rata, of the principal amount of the Obligations constituting Revolving Loans, all Specified Hedging Agreement Obligations and all Bank Product Obligations;

(v) *Fifth,* to the indefeasible payment in full in cash, pro rata, of interest and other amounts constituting Obligations on or in respect of Term Loans, in each case equally and ratably in accordance with the respective amounts thereof then due and owing; and

(vi) *Sixth,* the balance, if any, after all Obligations have been paid in full, to the person lawfully entitled thereto (including the applicable Loan Party or its successors or assigns) or as a court of competent jurisdiction may direct.

In the event that any such proceeds are insufficient to pay in full the items described in the preceding sentences of this Section 9.02, the Loan Parties shall remain liable, jointly and severally, for any deficiency.

ARTICLE X
THE ADMINISTRATIVE AGENT AND THE COLLATERAL AGENT

Section 10.01 Appointment. (a) Each Lender hereby irrevocably designates and appoints each of the Administrative Agent and the Collateral Agent as an agent of such Lender under this Agreement and the other Loan Documents. Each Lender irrevocably authorizes each Agent, in such capacity, through its agents or employees, to take such actions on its behalf under the provisions of this Agreement and the other Loan Documents and to exercise such powers and perform such duties as are delegated to such Agent by the terms of this Agreement and the other Loan Documents, together with such actions and powers as are reasonably incidental thereto. The provisions of this Article X are solely for the benefit of the Agents and the Lenders, and no Loan Party shall have rights as a third party beneficiary of any such provisions. Without limiting the generality of the foregoing, the Agents are hereby expressly authorized to execute any and all documents (including releases) with respect to the Collateral and any rights of the Secured Parties with respect thereto as contemplated by and in accordance with the provisions of this Agreement and the other Loan Documents. In performing its functions and duties hereunder, each Agent shall act solely as an agent of the Lenders and does not assume and shall not be deemed to have assumed any obligation towards or relationship of agency or trust with or for the Borrower or any of its Subsidiaries. Without limiting the generality of the foregoing, the use of the term "agent" in this Agreement with reference to the Administrative Agent or the Collateral Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable law. Instead, such term is used merely as a matter of market custom and is intended to create or reflect only an administrative relationship between independent contracting parties.

(b) Each Lender irrevocably appoints each other Lender as its agent and bailee for the purpose of perfecting Liens (whether pursuant to Section 8-301(a)(2) of the UCC or otherwise), for the benefit of the Secured Parties, in assets in which, in accordance with the UCC or any other applicable Legal Requirement, a security interest can be perfected by possession or control. Should any Secured Party (other than the Collateral Agent) obtain possession or control of any such Collateral, such Person shall notify the Collateral Agent thereof, and, promptly following the Collateral Agent's request therefor, shall deliver such

Collateral to the Collateral Agent or otherwise deal with such Collateral in accordance with the Collateral Agent's instructions.

Section 10.02 Agent in Its Individual Capacity. Each person serving as an Agent hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not an Agent, and the term "Lender" or "Lenders" shall, unless otherwise expressly indicated or unless the context otherwise requires, include the person serving as an Agent hereunder in its individual capacity. Such person and its Affiliates may accept deposits from, lend money to, act as financial advisor or in any other advisory capacity for, and generally engage in any kind of business with, any Company or Affiliate thereof as if it were not an Agent hereunder and without duty to account therefor to the Lenders.

Section 10.03 Exculpatory Provisions; Agent Acting at Direction of Required Lenders. No Agent shall have any duties or obligations except those expressly set forth in the Loan Documents. Without limiting the generality of the foregoing, (a) no Agent shall be subject to any fiduciary or other implied duties, regardless of whether a Default or Event of Default has occurred and is continuing, (b) no Agent shall have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated by the Loan Documents that such Agent is required to exercise in writing as directed by the Required Lenders (or such other number or percentage of the Lenders as shall be necessary under the circumstances as provided in Section 11.02); *provided* that no Agent shall be required to take any action that, in its opinion or the opinion of its counsel, may expose such Agent to liability, if such Agent is not indemnified to its satisfaction, or that is contrary to any Loan Document or applicable Legal Requirements including, for the avoidance of doubt, any action that may be in violation of the automatic stay under any Insolvency Law or that may effect a foreclosure, modification or termination of property of a Defaulting Lender under any Debtor Relief Law, and (c) except as expressly set forth in the Loan Documents, no Agent shall have any duty to disclose or shall be liable for the failure to disclose, any information relating to any Company or any of its Affiliates that is communicated to or obtained by the person serving as such Agent or any of its Affiliates in any capacity. No Agent shall be liable for any action taken or not taken by it (i) with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as any Agent shall believe in good faith shall be necessary, under the circumstances as provided in Section 11.02) or (ii) in the absence of its own fraud, gross negligence or willful misconduct (as found by a final and non-appealable judgment of a court of competent jurisdiction). No Agent shall be deemed to have knowledge of any Default or Event of Default unless and until written notice thereof describing such default is given to such Agent by Borrower or a Lender and no Agent shall be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with any Loan Document, (ii) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth in any Loan Document, any Specified Hedging Agreement or any Bank Product Agreement or the occurrence of any Default or Event of Default, (iv) the validity, enforceability, effectiveness or genuineness of any Loan Document, any Specified Hedging Agreement or any Bank Product Agreement or any other agreement, instrument or document or (v) the satisfaction of any condition set forth in Article (a) or elsewhere in any Loan Document. Each party to this Agreement acknowledges and agrees that the Collateral Agent may from time to time use one or more outside service providers for the tracking of all UCC financing statements (and/or other collateral related filings and registrations from time to time) required to be filed or recorded pursuant to the Loan Documents and the notification to the Collateral Agent, of, among other things, the upcoming lapse or expiration thereof, and that each of such service providers will be deemed to be acting at the request and on behalf of the Borrower and the other Loan Parties. No Agent shall be liable for any action taken or not taken by any such service provider. Except as set forth herein, neither any Agent nor any of its officers, partners, directors, employees, agents,

trustees, administrators, managers, advisors or representatives shall be liable to the Lenders for any action taken or omitted by any of them or any other Agent under or in connection with any of the Loan Documents.

Anything herein to the contrary notwithstanding, whenever reference is made in this Agreement or any other Loan Document to any action by, consent, designation, specification, requirement or approval of, notice, request or other communication from, or other direction given or action to be undertaken or to be (or not to be) suffered or omitted by any Agent or to any election, decision, opinion, acceptance, use of judgment, expression of satisfaction or other exercise of discretion, rights or remedies to be made (or not to be made) by any such Agents hereunder or thereunder, it is understood that in all cases the Agents shall solely be acting, giving, withholding, suffering, omitting, taking or otherwise undertaking and exercising the same (or shall not be undertaking and exercising the same) as directed by the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Loan Documents).

Section 10.04 Reliance by Agent. Each Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent, or otherwise authenticated by a proper person. Each Agent also may rely upon any statement made to it orally and believed by it to be made by a proper person, and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to the making of a Loan that by its terms must be fulfilled to the satisfaction of a Lender, each Agent may presume that such condition is satisfactory to such Lender unless each Agent shall have received written notice to the contrary from such Lender prior to the making of such Loan. Each Agent may consult with legal counsel (who may be counsel for the Borrower or any other Loan Party), independent accountants and other advisors selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or advisors.

Section 10.05 Delegation of Duties. Each Agent may perform any and all of its duties and exercise its rights and powers under this Agreement or under any other Loan Document by or through, or delegate any and all such rights and powers to, any one or more sub-agents appointed by such Agent. Each Agent and any such sub-agent may perform any and all of its duties and exercise its rights and powers by or through their respective Affiliates. The exculpatory, indemnification and other provisions of the preceding paragraphs shall apply, without limiting the foregoing, to any such sub-agent and to the Affiliates of each Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as Agent. The Agents shall not be responsible for the negligence or misconduct of any sub-agent except to the extent that a court of competent jurisdiction determines in a final and non-appealable judgment that such Agent acted with gross negligence, willful misconduct, or bad faith in the selection of such sub-agent.

Section 10.06 Successor Agent. Each Agent may resign as such at any time upon at least thirty (30) days' prior notice to the Lenders and the Borrower. Upon any such resignation, the Required Lenders shall have the right to appoint a successor Agent from among the Lenders, with the consent of the Borrower (such consent not to be unreasonably withheld, delayed or conditioned and not required if a Default or Event of Default shall have occurred and be continuing). If no successor shall have been so appointed by the Required Lenders and no successor shall have accepted such appointment within thirty (30) days after the retiring Agent gives notice of its resignation, then the retiring Agent may, on behalf of the Lenders, appoint a successor Agent, with the consent of the Borrower (such consent not to be unreasonably withheld, delayed or conditioned and not required if a Default or Event of Default shall have occurred and be continuing), which successor shall be a commercial banking institution organized under the laws of the United States (or any State thereof) or a United States branch or agency of a commercial banking institution, in each case, having combined capital and surplus of at least $500,000,000; *provided* that if such retiring

Agent is unable to find a commercial banking institution that is willing to accept such appointment and which meets the qualifications set forth above, the retiring Agent's resignation shall nevertheless thereupon become effective and the retiring (or retired) Agent shall be discharged from its duties and obligations under the Loan Documents, and the Lenders shall assume and perform all of the duties of such Agent under the Loan Documents until such time, if any, as the Required Lenders appoint a successor Agent.

Upon the acceptance of its appointment as an Agent hereunder by a successor, such successor shall succeed to and become vested with all the rights, powers, privileges and duties of the retiring Agent, and the retiring (or retired) Agent shall be discharged from its duties and obligations under the Loan Documents (if not already discharged therefrom as provided above in this Section 10.06). The fees payable by Borrower to a successor Agent shall be the same as those payable to its predecessor unless otherwise agreed between Borrower and such successor. After an Agent's resignation hereunder, the provisions of this Article X, Section 11.03 and Sections 11.08 to 11.10 shall continue in effect for the benefit of such retiring Agent, its sub-agents and their respective Affiliates in respect of any actions taken or omitted to be taken by any of them while it was acting as Agent.

Section 10.07 Non-Reliance on Agent and Other Lenders. Each Lender acknowledges that it has, independently and without reliance upon any Agent or any other Lender or any of their Related Persons and based on such documents and information as it has deemed appropriate, conducted its own independent investigation of the financial condition and affairs of the Loan Parties and their Subsidiaries and made its own credit analysis and decision to enter into this Agreement. Each Lender further represents and warrants that it has reviewed the Lender Presentation and each other document made available to it on the Platform in connection with this Agreement and has acknowledged and accepted the terms and conditions applicable to the recipients thereof (including any such terms and conditions set forth, or otherwise maintained, on the Platform with respect thereto). Each Lender also acknowledges that it will, independently and without reliance upon any Agent or any other Lender or any of their Related Persons and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any other Loan Document, any Specified Hedging Agreement, any Bank Product Agreement or related agreement or any document furnished hereunder or thereunder.

Section 10.08 Name Agents. The parties hereto acknowledge that the Bookrunner and the Arranger hold their titles in name only, and that their titles confer no additional rights or obligations relative to those conferred on any Lender hereunder.

Section 10.09 Indemnification. The Lenders severally agree to indemnify each Agent in its capacity as such and each of its Related Persons (to the extent not reimbursed by Borrower or the other Loan Parties and without limiting the obligation of the Borrower or other Loan Parties to do so), ratably according to their respective outstanding Loans and Commitments in effect on the date on which indemnification is sought under this Section 10.09 (or, if indemnification is sought after the date upon which all Commitments shall have terminated and the Loans shall have been paid in full, ratably in accordance with such outstanding Loans and Commitments as in effect immediately prior to such date), from and against any and all liabilities, obligations, losses, damages, fines, penalties, actions, claims, suits, judgments, litigations, investigations, inquiries or proceedings, costs, expenses or disbursements of any kind whatsoever that may at any time (whether before or after the payment of the Loans) be imposed on, incurred by or asserted against such Agent or Related Person in any way relating to or arising out of, the Commitments, this Agreement, any of the other Loan Documents, any Specified Hedging Agreement, any Bank Product Agreement or any documents contemplated by or referred to herein or therein, the Transactions or any of the other transactions contemplated hereby or thereby or any action taken or omitted by such Agent or Related Person under or in connection with any of the foregoing (**IN ALL CASES, WHETHER OR NOT CAUSED OR ARISING, IN WHOLE OR IN PART, OUT OF THE**

COMPARATIVE, CONTRIBUTORY OR SOLE NEGLIGENCE OF ANY AGENT OR RELATED PERSON); *provided* that no Lender shall be liable for the payment of any portion of such liabilities, obligations, losses, damages, judgments, fines, penalties, actions, claims, suits, litigations, investigations, inquiries or proceedings, costs, expenses or disbursements that are found by a final and non-appealable judgment of a court of competent jurisdiction to have directly resulted solely and directly from such Agent's or Related Person's, as the case may be, gross negligence, fraud or willful misconduct. The agreements in this Section 10.09 shall survive the payment of the Loans and all other amounts payable hereunder.

Section 10.10 Withholding Taxes. To the extent required by any Legal Requirement, the Administrative Agent may withhold from any payment to any Lender an amount equivalent to any applicable withholding Tax. If the U.S. Internal Revenue Service or any other Governmental Authority asserts a claim that the Administrative Agent did not properly withhold Tax from amounts paid to or for the account of any Lender because the appropriate form was not delivered or was not properly executed or because such Lender failed to notify the Administrative Agent of a change in circumstance which rendered the exemption from, or reduction of, withholding Tax ineffective or for any other reason, or if the Administrative Agent reasonably determines that a payment was made to a Lender pursuant to this Agreement without deduction of applicable withholding Tax from such payment, such Lender shall indemnify the Administrative Agent fully for, and shall make payable in respect thereof within ten (10) days after demand therefor, (i) any Indemnified 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 without limiting the obligation of the Loan Parties to do so), (ii) any Tax attributable to such Lender's failure to comply with the provisions of Section 11.04(f) relating to the maintenance of the 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 this Agreement or any other Loan Document against any amount due the Administrative Agent under this Section 10.10. The agreements in this Section 10.10 shall survive the resignation and/or replacement of the Administrative Agent, any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all other Obligations and the termination of this Agreement.

Section 10.11 Lender's Representations, Warranties and Acknowledgements. (a) Each Lender represents and warrants that it has made its own independent investigation of the financial condition and affairs of the Borrower and its Subsidiaries in connection with Credit Extensions hereunder and that it has made and shall continue to make its own appraisal of the creditworthiness of the Borrower and its Subsidiaries. No Agent shall have any duty or responsibility, either initially or on a continuing basis, to make any such investigation or any such appraisal on behalf of the Lenders to provide any Lender with any credit or other information with respect thereto, whether coming into its possession before the making of any Credit Extension or at any time or times thereafter, and no Agent shall have any responsibility with respect to the accuracy of or the completeness of any information provided to the Lenders. Each Lender acknowledges that no Agent or Related Person of any Agent has made any representation or warranty to it. Except for documents expressly required by any Loan Document to be transmitted by an Agent to the Lenders, no Agent shall have any duty or responsibility (either express or implied) to provide any Lender with any credit or other information concerning any Loan Party or any of its Affiliates, including the business, prospects, operations, property, financial and other condition or creditworthiness of any Loan Party or any Affiliate of a Loan Party, that may come in to the possession of an Agent or any of its Related Persons.

(b) Each Lender, by delivering its signature page to this Agreement or an Assignment and Assumption Agreement and funding its Loan of making any other Credit Extension, shall be deemed to have acknowledged receipt of, and consented to and approved, each Loan Document and each other document required to be approved by any Agent, the Required Lenders or the Lenders, as applicable, hereunder (including each document delivered on the Closing Date).

Section 10.12 Collateral Documents and Guarantee.

(a) Agents under Collateral Documents and Guarantee. Each Secured Party (including each counterparty to a Specified Hedging Agreement and each Bank Product Provider, who by acceptance of the benefits of the Security Documents shall be deemed to have appointed the Administrative Agent and Collateral Agent as set forth herein) hereby further authorizes the Administrative Agent or the Collateral Agent, as applicable, on behalf of and for the benefit of the Secured Parties, to be the agent for and representative of the Secured Parties with respect to the Guarantee, the Collateral and the Loan Documents; *provided* that neither the Administrative Agent nor the Collateral Agent shall owe any fiduciary duty, duty of loyalty, duty of care, duty of disclosure or any other obligation whatsoever to any holder of Obligations with respect to any Specified Hedging Agreement or any Bank Product Agreement. Subject to Section 11.02, without further written consent or authorization from any Secured Party, the Administrative Agent or the Collateral Agent, as applicable, may execute any documents or instruments necessary to (i) in connection with a sale or disposition of assets permitted by this Agreement, release any Lien encumbering any item of Collateral that is the subject of such sale or other disposition of assets or to which the Required Lenders (or such other Lenders as may be required to give such consent under Section 11.02) have otherwise consented or (ii) release any Guarantor from the Guarantee pursuant to Section 7.09 or with respect to which the Required Lenders (or such other Lenders as may be required to give such consent under Section 11.02) have otherwise consented.

(b) Right to Realize on Collateral and Enforce Guarantee. Anything contained in any of the Loan Documents to the contrary notwithstanding, the Borrower, the Administrative Agent, the Collateral Agent and each Secured Party hereby agree that (i) no Secured Party shall have any right individually to realize upon any of the Collateral or to enforce the Guarantee, it being understood and agreed that all powers, rights and remedies hereunder and under any of the Loan Documents may be exercised solely by the Administrative Agent or the Collateral Agent, as applicable, for the benefit of the Secured Parties in accordance with the terms hereof and thereof and all powers, rights and remedies under the collateral documents may be exercised solely by the Collateral Agent for the benefit of the Secured Parties in accordance with the terms thereof, and (ii) in the event of a foreclosure or similar enforcement action by the Collateral Agent on any of the Collateral pursuant to a public or private sale or other disposition (including pursuant to Section 363(k), Section 1129(b)(2)(a)(ii) or otherwise of the Bankruptcy Code), the Collateral Agent (or any Lender, except with respect to a "credit bid" pursuant to Section 363(k), Section 1129(b)(2)(a)(ii) or otherwise of the Bankruptcy Code,) may be the purchaser or licensor of any or all of such Collateral at any such sale or other disposition and the Collateral Agent, as agent for and representative of the Secured Parties (but not any Lender or Lenders in its or their respective individual capacities) shall be entitled, upon instructions from the Required Lenders, for the purpose of bidding and making settlement or payment of the purchase price for all or any portion of the Collateral sold at any such sale or disposition, to use and apply any of the Obligations as a credit on account of the purchase price for any collateral payable by the Collateral Agent at such sale or other disposition.

(c) Release of Collateral and Guarantees, Termination of Loan Documents.

(i) Notwithstanding anything to the contrary contained herein or in any other Loan Document, the Administrative Agent shall (without notice to, or vote or consent of, any Lender, or any affiliate of any Lender that is a party to any Hedging Agreement) take such actions

as shall be required to release its security interest in any Collateral subject to any disposition permitted by the Loan Documents, and to release any guarantee obligations under any Loan Document of any person subject to such disposition, to the extent necessary to permit consummation of such disposition in accordance with the Loan Documents; *provided* that, if any Guarantor ceases to constitute a Wholly-Owned Subsidiary, such Guarantor shall not be released from its Guarantee unless such Guarantor is no longer a direct or indirect Subsidiary of the Borrower and such Dispositions of capital stock is a good faith Disposition to a bona fide unaffiliated third party for fair market value and for a bona fide business purpose (the requirements in this clause (c)(i), the "**Specified Guarantor Release Provision**");

(ii) Notwithstanding anything to the contrary contained herein or any other Loan Document, when all Obligations (other than obligations in respect of any Hedging Agreement and unasserted contingent indemnification obligations) have been paid in full and all Commitments have terminated or expired, upon request of the Borrower, the Administrative Agent shall (without notice to, or vote or consent of, any Lender, or any affiliate of any Lender that is a party to any Hedging Agreement) take such actions as shall be required to release its security interest in all Collateral, and to release all guarantee obligations provided for in any Loan Document, whether or not on the date of such release there may be outstanding Obligations in respect of Hedging Agreements or unasserted contingent indemnification obligations. Any such release of guarantee obligations shall be deemed subject to the provision that such guarantee obligations shall be reinstated if after such release any portion of any payment in respect of the Obligations guaranteed thereby shall be rescinded or must otherwise be restored or returned upon the insolvency, bankruptcy, dissolution, liquidation or reorganization of the Borrower or any Guarantor, or upon or as a result of the appointment of a receiver, intervenor or conservator of, or trustee or similar officer for, the Borrower or any Guarantor or any substantial part of its property, or otherwise, all as though such payment had not been made.

(d) The Collateral Agent shall not be responsible for or have a duty to ascertain or inquire into any representation or warranty regarding the existence, value or collectability of the Collateral, the existence, priority or perfection of the Collateral Agent's Lien thereon, or any certificate prepared by any Loan Party in connection therewith, nor shall the Collateral Agent be responsible or liable to the Lenders for any failure to monitor or maintain any portion of the Collateral.

Section 10.13 Administrative Agent May File Bankruptcy Disclosure and Proofs of Claim. In case of the pendency of any proceeding under any Debtor Relief Laws relative to any Loan Party, the Administrative Agent (irrespective of whether the principal of any Loan shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on Borrower) shall be entitled and empowered (but not obligated) by intervention in such proceeding or otherwise:

(a) to file a verified statement pursuant to rule 2019 of the Federal Rules of Bankruptcy Procedure that, in its sole opinion, complies with such rule's disclosure requirements for entities representing more than one creditor;

(b) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders and the Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Administrative Agent and its respective agents and counsel and all other amounts due the Administrative Agent under Section 2.03 and Section 11.03) allowed in such judicial proceeding; and

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

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender to make such payments to the Administrative Agent and, in the event that the Administrative Agent shall consent to the making of such payments directly to the Lenders, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Administrative Agent and its agents and counsel, and any other amounts due the Administrative Agent under this Agreement. To the extent that the payment of any such compensation, expenses, disbursements and advances of the Administrative Agent, its agents and counsel, and any other amounts due the Administrative Agent under this Agreement out of the estate in any such proceeding, shall be denied for any reason, payment of the same shall be secured by a Lien on, and shall be paid out of, any and all distributions, dividends, money, securities and other properties that the Lenders may be entitled to receive in such proceeding whether in liquidation or under any plan of reorganization or arrangement or otherwise.

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

Section 10.14 Erroneous Payments.

(a) If the Administrative Agent notifies a Lender or Secured Party, or any Person who has received funds on behalf of a Lender or Secured Party such Lender (any such Lender, Secured Party or other recipient, a "**Payment Recipient**") that the Administrative Agent has determined in its sole discretion (whether or not after receipt of any notice under immediately succeeding clause (b)) that any funds received by such Payment Recipient from the Administrative Agent or any of its Affiliates were erroneously transmitted to, or otherwise erroneously or mistakenly received by, such Payment Recipient (whether or not known to such Lender, Secured Party or other Payment Recipient on its behalf) (any such funds, whether received as a payment, prepayment or repayment of principal, interest, fees, distribution or otherwise, individually and collectively, an "**Erroneous Payment**") and demands the return of such Erroneous Payment (or a portion thereof) (*provided* that, without limiting any other rights or remedies (whether at law or in equity), the Administrative Agent may not make any such demand under this clause (a) with respect to an Erroneous Payment unless such demand is made within thirty (30) days of the date of receipt of such Erroneous Payment by the applicable Payment Recipient), such Erroneous Payment shall at all times remain the property of the Administrative Agent and shall be segregated by the Payment Recipient and held in trust for the benefit of the Administrative Agent, and such Lender or Secured Party shall use commercially reasonable efforts to (or, with respect to any Payment Recipient who received such funds on its behalf, shall use commercially reasonable efforts to cause such Payment Recipient to) promptly return to the Administrative Agent the amount of any such Erroneous Payment (or portion thereof) as to which such a demand was made, in same day funds (in the currency so received). A notice of the Administrative Agent to any Payment Recipient under this clause (a) shall be conclusive, absent manifest error.

(b) Without limiting immediately preceding clause (a), each Lender or Secured Party, or any Person who has received funds on behalf of a Lender or Secured Party such Lender hereby further agrees that if it receives a payment, prepayment or repayment (whether received as a payment, prepayment or repayment of principal, interest, fees, distribution or otherwise) from the Administrative Agent (or any of its Affiliates) (x) that is in a different amount than, or on a different date from, that specified in a notice of payment, prepayment or repayment sent by the Administrative Agent (or any of its Affiliates) with respect to such payment, prepayment or repayment, (y) that was not preceded or accompanied by a notice

of payment, prepayment or repayment sent by the Administrative Agent (or any of its Affiliates), or (z) that such Lender or Secured Party, or other such recipient, otherwise becomes aware was transmitted, or received, in error or by mistake (in whole or in part) in each case:

(i) (A) in the case of immediately preceding clauses (x) or (y), an error shall be presumed to have been made (absent written confirmation from the Administrative Agent to the contrary) or (B) an error has been made (in the case of immediately preceding clause (z)), in each case, with respect to such payment, prepayment or repayment; and

(ii) such Lender or Secured Party shall (and shall cause any other recipient that receives funds on its respective behalf to) promptly (and, in all events, within three (3) Business Days of its knowledge of such error) notify the Administrative Agent of its receipt of such payment, prepayment or repayment, the details thereof (in reasonable detail) and that it is so notifying the Administrative Agent pursuant to this Section 10.14(b).

(c) Each Lender or Secured Party hereby authorizes the Administrative Agent to set off, net and apply any and all amounts at any time owing to such Lender or Secured Party under any Loan Document, or otherwise payable or distributable by the Administrative Agent to such Lender or Secured Party from any source, against any amount due to the Administrative Agent under immediately preceding clause (a) or under the indemnification provisions of this Agreement.

(d) In the event that an Erroneous Payment (or portion thereof) is not recovered by the Administrative Agent for any reason, after demand therefor by the Administrative Agent in accordance with immediately preceding clause (a), from any Lender that has received such Erroneous Payment (or portion thereof) (and/or from any Payment Recipient who received such Erroneous Payment (or portion thereof) on its respective behalf) (such unrecovered amount, an "**Erroneous Payment Return Deficiency**"), upon the Administrative Agent's notice to such Lender or Issuing Lender at any time, (i) such Lender shall be deemed to have assigned its Loans (but not its Commitments) of the relevant Class with respect to which such Erroneous Payment was made (the "**Erroneous Payment Impacted Class**") in an amount equal to the Erroneous Payment Return Deficiency (or such lesser amount as the Administrative Agent may specify) (such assignment of the Loans (but not Commitments) of the Erroneous Payment Impacted Class, the "**Erroneous Payment Deficiency Assignment**") at par plus any accrued and unpaid interest (with the assignment fee to be waived by the Administrative Agent in such instance), and is hereby (together with the Borrower) deemed to execute and deliver an Assignment and Assumption (or, to the extent applicable, an agreement incorporating an Assignment and Assumption by reference pursuant to a Platform as to which the Administrative Agent and such parties are participants) with respect to such Erroneous Payment Deficiency Assignment, and such Lender shall deliver any Notes evidencing such Loans to the Borrower or the Administrative Agent, (ii) the Administrative Agent as the assignee Lender shall be deemed to acquire the Erroneous Payment Deficiency Assignment, (iii) upon such deemed acquisition, the Administrative Agent as the assignee Lender shall become a Lender hereunder with respect to such Erroneous Payment Deficiency Assignment and the assigning Lender shall cease to be a Lender hereunder with respect to such Erroneous Payment Deficiency Assignment, excluding, for the avoidance of doubt, its obligations under the indemnification provisions of this Agreement and its applicable Commitments which shall survive as to such assigning Lender and (iv) the Administrative Agent may reflect in the Register its ownership interest in the Loans subject to the Erroneous Payment Deficiency Assignment. The Administrative Agent may, in its discretion, sell any Loans acquired pursuant to an Erroneous Payment Deficiency Assignment and upon receipt of the proceeds of such sale, the Erroneous Payment Return Deficiency owing by the applicable Lender shall be reduced by the net proceeds of the sale of such Loan (or portion thereof), and the Administrative Agent shall retain all other rights, remedies and claims against such Lender (and/or against any recipient that receives funds on its respective behalf). For the avoidance of doubt, no Erroneous Payment Deficiency Assignment will reduce the Commitments of

any Lender and such Commitments shall remain available in accordance with the terms of this Agreement. In addition, each party hereto agrees that, except to the extent that the Administrative Agent has sold a Loan (or portion thereof) acquired pursuant to an Erroneous Payment Deficiency Assignment, and irrespective of whether the Administrative Agent may be equitably subrogated, the Administrative Agent shall be contractually subrogated to all the rights and interests of the applicable Lender or Secured Party under the Loan Documents with respect to each Erroneous Payment Return Deficiency (the "**Erroneous Payment Subrogation Rights**").

(e) The parties hereto agree that an Erroneous Payment shall not pay, prepay, repay, discharge or otherwise satisfy any Obligations owed by the Borrower or any other Loan Party, except, in each case, to the extent such Erroneous Payment is, and solely with respect to the amount of such Erroneous Payment that is, comprised of funds received by the Administrative Agent from the Borrower or any other Loan Party for the purpose of making such Erroneous Payment.

(f) To the extent permitted by applicable law, no Payment Recipient shall assert any right or claim to an Erroneous Payment, and hereby waives, and is deemed to waive, any claim, counterclaim, defense or right of set-off or recoupment with respect to any demand, claim or counterclaim by the Administrative Agent for the return of any Erroneous Payment received, including without limitation waiver of any defense based on "discharge for value" or any similar doctrine

(g) Each party's obligations, agreements and waivers under this Section 10.14 shall survive the resignation or replacement of the Administrative Agent, any transfer of rights or obligations by, or the replacement of, a Lender, the termination of the Commitments and/or the repayment, satisfaction or discharge of all Obligations (or any portion thereof) under any Loan Document.

ARTICLE XI
MISCELLANEOUS

Section 11.01 Notices.

(a) Notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by email or facsimile transmission, as follows:

if to any Loan Party, to the Borrower at:

Inotiv, Inc.
2701 Kent Avenue
West Lafayette, IN 47906
Attention: President
Email: bleasure@inotivco.com
and to:

Ice Miller LLP

One American Square
Suite 2900
Indianapolis, IN 46282
Attention: Stephen J. Hackman
Email: stephen.hackman@icemiller.com

if to the Administrative Agent or the Collateral Agent, to it at:
Jefferies Finance LLC
520 Madison Avenue
New York, New York 10022
Attention: Account Manager – Inotiv
Email: JFIN.Admin@Jefferies.com; JFIN.Notices@Jefferies.com

if to a Lender, to it at its address (or facsimile number) set forth on Annex II or in the Assignment and Assumption pursuant to which such Lender shall have become a party hereto.

All notices and other communications given to any party hereto in accordance with the provisions of this Agreement or any other Loan Documents shall be deemed to have been given on the date of receipt if delivered by hand or overnight courier service or sent by facsimile or by certified or registered mail, in each case delivered, sent or mailed (properly addressed) to such party as provided in this Section 11.01 or in accordance with the latest unrevoked direction from such party given in accordance with this Section 11.01, and failure to deliver courtesy copies of notices and other communications shall in no event affect the validity or effectiveness of such notices and other communications.

Notices delivered through electronic communications to the extent provided in Section 11.01(b) below, shall be effective as provided in Section 11.01(b).

(b) Electronic Communications. Notices and other communications to the Lenders hereunder may (subject to Section 11.01(d)) be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites) pursuant to procedures approved by the Administrative Agent; *provided* that the foregoing shall not apply to notices to any Lender pursuant to Article II if such Lender has notified the Administrative Agent (in a manner set forth in Section 11.01(a)) that it is incapable of receiving notices under such Article by electronic communication. The Administrative Agent, the Collateral Agent or the Borrower may, in their respective sole discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures, respectively, approved by it (including as set forth in Section 11.01(d)); *provided* that approval of such procedures may be limited to particular notices or communications.

Unless the Administrative Agent otherwise prescribes, (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 (including 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 sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next Business Day for the recipient, 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, facsimile number or e-mail address for notices and other communications hereunder by notice to the other parties hereto.

(d) Posting. Each Loan Party hereby agrees that it will provide to the Administrative Agent all information, documents and other materials that it is obligated to furnish to the Administrative Agent pursuant to this Agreement and any other Loan Document, including all notices, requests, financial

statements, financial and other reports, certificates and other information materials, but excluding any such communication that (i) relates to a request for a new, or a conversion of an existing, Borrowing or other extension of credit (including any election of an interest rate or interest period relating thereto), (ii) relates to the payment of any principal or other amount due under this Agreement prior to the scheduled date therefor, (iii) provides notice of any Default or Event of Default under this Agreement or (iv) is required to be delivered to satisfy any condition precedent to the effectiveness of this Agreement and/or any borrowing or other extension of credit hereunder (all such non-excluded communications, collectively, the "**Communications**"), by transmitting the Communications in an electronic/soft medium in a format reasonably acceptable to the Administrative Agent at such e-mail address(es) provided to the Borrower by the Administrative Agent from time to time or in such other form, including hard copy delivery thereof, as the Administrative Agent shall reasonably require. In addition, each Loan Party agrees to continue to provide the Communications to the Administrative Agent in the manner specified in this Agreement or any other Loan Document or in such other form, including hard copy delivery thereof, as the Administrative Agent shall reasonably require. Nothing in this Section 11.01 shall prejudice the right of the Agents, any Lender or any Loan Party to give any notice or other communication pursuant to this Agreement or any other Loan Document in any other manner specified in this Agreement or any other Loan Document or as any such Agent shall reasonably require. Notwithstanding anything to the contrary contained herein, the parties hereto acknowledge and agree that the failure of any Loan Party to comply with the delivery requirements set forth in this clause (d) shall not constitute a Default or Event of Default for any purpose under any Loan Document as long as such Loan Party has delivered such item in a manner otherwise permitted under this Agreement or any other Loan Document, as applicable.

(e) The Administrative Agent agrees that receipt of the Communications by the Administrative Agent at its e-mail address(es) set forth above shall constitute effective delivery of the Communications to the Administrative Agent for purposes of the Loan Documents; *provided* that the Borrower shall also deliver to the Administrative Agent an executed original of each Compliance Certificate required to be delivered hereunder.

(f) Each Loan Party further agrees that the Administrative Agent may make the Communications available to the other Agents or the Lenders by posting the Communications on a Platform. The Platform and any Approved Electronic Communications are provided "as is" and "as available." The Agents and their Related Persons do not warrant the accuracy, adequacy or completeness of the Communications or the Platform and expressly disclaim liability for errors or omissions in the Platform and the Approved Electronic Communications. No warranty of any kind, express, implied or statutory, including, without limitation, any warranty of merchantability, fitness for a particular purpose, non-infringement of third party rights or freedom from viruses or other code defects, is made by any Agent or their Related Persons in connection with the Communications or the Platform. Each party hereto agrees that no Agent has any responsibility for maintaining or providing any equipment, software, services or any testing required in connection with any Approved Electronic Communications or otherwise required for the Platform. In no event shall any Agent or any of its Related Persons have any liability to any Loan Party, any Lender or any other person for damages of any kind, whether or not based on strict liability and including, without limitation, direct or indirect, special, incidental or consequential damages, losses or expenses (whether in contract, tort or otherwise) arising out of or related to any Loan Party's or any Agent's transmissions of Communications through Internet (including the Platform). In no event shall any Agent or any of its Related Parties have any liability for any damages arising from the use by others of any information or other materials obtained through internet, electronic, telecommunications or other information transmission systems, except to the extent the same resulted primarily from the gross negligence or willful misconduct of such Agent or its Related Parties, in each case as determined by a court of competent jurisdiction in a final and non-appealable judgment. Notices or communications posted to an internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing clause (a) of notification that such notice or communication

is available and identifying the website address therefor. Each Loan Party understands that the distribution of material through an electronic medium is not necessarily secure and that there are confidentiality and other risks associated with such distribution and agrees and assumes the risks associated with such electronic distribution, except to the extent caused by the willful misconduct, gross negligence or bad faith of the Administrative Agent, as determined by a final, non-appealable judgment of a court of competent jurisdiction.

(g) The Administrative Agent agrees that the receipt of the Communications by the Administrative Agent at its e-mail address shall constitute effective delivery of the Communications to the Administrative Agent for purposes of the Loan Documents. Each Lender agrees that receipt of notice to it (as provided in the next sentence) specifying that the Communications have been posted to the Platform shall constitute effective delivery of the Communications to such Lender for purposes of the Loan Documents. Each Lender agrees to notify the Administrative Agent in writing (including by electronic communication) from time to time of such Lender's e-mail address to which the foregoing notice may be sent by electronic transmission and that the foregoing notice may be sent to such e-mail address. Nothing herein shall prejudice the right of the Administrative Agent or any Lender to give any notice or other communication pursuant to any Loan Document in any other manner specified in such Loan Document.

(h) Each Loan Party, each Lender and each Agent agrees that the Administrative Agent may, but shall not be obligated to, store any Approved Electronic Communications on the Platform in accordance with the Administrative Agent's customary document retention procedures and policies.

(i) All uses of the Platform shall be governed by and subject to, in addition to this Section 11.01, separate terms and conditions posted or referenced in such Platform and related agreements executed by the Lenders and their Affiliates in connection with the use of such Platform.

(j) Each Public Lender agrees to cause at least one individual at or on behalf of such Public Lender to at all times have selected the "Private Side Information" or similar designation on the content declaration screen of the Platform in order to enable such Public Lender or its delegate, in accordance with such Public Lender's compliance procedures and applicable law, including United States federal and state securities laws, to make reference to information that is not made available through the "Public Side Information" portion of the Platform and that may contain Non-Public Information with respect to the Borrower, its Subsidiaries or their securities for purposes of United States federal or state securities laws. In the event that any Public Lender has determined for itself to not access any information disclosed through the Platform or otherwise, such Public Lender acknowledges that (i) other Lenders may have availed themselves of such information and (ii) neither Borrower nor the Agents or other Lenders with access to such information shall have (x) any responsibility for such Public Lender's decision to limit the scope of the information it has obtained in connection with this Agreement and the other Loan Documents or (y) any duty to disclose such information to such electing Lender or to use such information on behalf of such electing Lender, and shall not be liable for the failure to so disclose or use such information.

Section 11.02 Waivers; Amendment.

(a) No failure or delay by any Agent or any Lender in exercising any right or power hereunder or under any other Loan Document shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of each Agent and the Lenders hereunder and under the other Loan Documents are cumulative and are not exclusive of any rights or remedies that they would otherwise have. No waiver of any provision of any Loan Document or consent to any departure by any Loan Party therefrom shall in any event be effective unless the same shall be permitted by Section 11.02(b), and then such waiver or consent

shall be effective only in the specific instance and for the purpose for which given. Without limiting the generality of the foregoing, the making of a Loan shall not be construed as a waiver of any Default or Event of Default, regardless of whether any Agent or any Lender may have had notice or knowledge of such Default or Event of Default at the time. No notice or demand on Borrower or any other Loan Party in any case shall entitle Borrower or any other Loan Party to any other or further notice or demand in similar or other circumstances.

(b) Subject to Section 2.19(c), Section 2.20(c) and Section 11.02(c), neither this Agreement nor any other Loan Document nor any provision hereof or thereof may be waived, amended, supplemented or modified, except (A) in the case of this Agreement, pursuant to an agreement or agreements in writing entered into by Borrower and the Required Lenders (or the Administrative Agent acting with the written consent of the Required Lenders); *provided* that the Administrative Agent and the Borrower may, without the consent of the other, amend, modify or supplement this Agreement and any other Loan Document to cure any ambiguity, omission, typographical error, defect or inconsistency if such amendment, modification or supplement is not objected to in writing by the Required Lenders within five (5) Business Days following receipt of notice thereof or (B) in the case of any other Loan Document, pursuant to an agreement or agreements in writing entered into by the Administrative Agent, the Collateral Agent (in the case of any Security Document) and the Loan Party or Loan Parties that are parties thereto, in each case with the written consent of the Required Lenders; *provided* that no such agreement shall:

(i) increase or extend the expiry date of the Commitment of any Lender without the written consent of such Lender (it being understood that no amendment, modification, termination, waiver or consent with respect to any condition precedent, covenant or Default (or any definition used, respectively, therein) shall constitute an increase in or extension of the expiry date of the Commitment of any Lender for purposes of this clause (i));

(ii) reduce or forgive the principal amount, interest, or premium, if any, of any Loan or reduce or forgive the rate of interest thereon (other than waiver of any increase in the rate of interest pursuant to Section 2.06(c)), or reduce or forgive any Fees (including any prepayment fee), or other amount payable hereunder, or change the form or currency of payment of any Obligation, without the written consent of each Lender directly affected thereby;

(iii) postpone or extend the maturity of any Loan, or any scheduled date of payment of or the installment otherwise due on the principal amount of any Term Loan under Section 2.09, or any date for the payment of any interest or fees or other amounts payable hereunder, or reduce the amount of, waive or excuse any such payment (other than a waiver of any increase in the rate of interest pursuant to Section 2.06(c)) without the written consent of each Lender directly affected thereby;

(iv) change Section 11.04(b) in a manner which further restricts assignments thereunder without the written consent of each Lender of the applicable Class;

(v) change any provision altering the order of or the pro rata sharing of payments or setoffs required thereby, including, without limitation, Section 2.14(b) or (c) or Section 9.02, without the written consent of each Lender directly affected thereby;

(vi) change the percentage set forth in the definition of "Required Lenders" or any other provision of any Loan Document (including this Section 11.02) specifying the number or percentage of Lenders (or Lenders of any Class) required to waive, amend or modify any rights thereunder or make any determination or grant any consent thereunder, without the written consent of each Lender (or each Lender of such Class, as the case may be);

(vii) amend Section 9.02 in a manner that directly and adversely affects any Class without the consent of the Lenders of such Class holding more than 50% of the Loans of such Class;

(viii) release all or substantially all of the value of the Guarantees of the Guarantors (except as expressly provided in Article VII), or limit their liability in respect of such Guarantees, without the written consent of each Lender;

(ix) release all or substantially all of the Collateral in any transaction or series of related transactions (it being understood that a transaction permitted under Section 6.05 or Section 6.06 shall not constitute the release of all or substantially all of the Collateral), without the written consent of each Lender;

(x) except as otherwise permitted in any Security Document, release all or substantially all of the value of the Collateral from the Liens of the Security Documents (except in connection with Asset Sales permitted hereunder) or alter the relative priorities of the Secured Obligations entitled to the Liens of the Security Documents (except in connection with securing additional Obligations equally and ratably with the other Secured Obligations to the extent permitted hereunder), in each case without the written consent of each Lender;

(xi) change any provisions of any Loan Document (including Section 9.02) in a manner that by its terms adversely affects the rights in respect of payments due to Lenders holding Loans of any Class differently than those holding Loans of any other Class, without the written consent of Lenders holding a majority in interest of the outstanding Loans and unused Commitments of each adversely affected Class;

(xii) change any provision affecting the order of application of prepayments among Term Loans and/or Revolving Loans and any other Obligations, including, without limitation, under Section 2.10(f), in each case in a manner that directly and adversely affects any Class without the consent of each Lender of such Class;

(xiii) (A) subordinate any of the Obligations under the Loan Documents to any other Indebtedness or (B) subordinate the Liens securing any of the Obligations on the Collateral to any other Lien securing any other Indebtedness, without the consent of each Lender directly affected thereby; or

(xiv) adversely affect any "tranche" (as contemplated in Section 2.20(a)) in a disproportionate manner without the consent of both (x) as calculated on any date of determination, the Lenders having more than 50% of the sum of the aggregate principal amount of all outstanding Loans and Commitments under such "tranche" and (y) the Required Lenders; *provided* that any waiver, amendment, supplement or otherwise modification which affects solely any single "tranche" (as contemplated by Section 2.20(a)) may be effected solely with the consent of, as calculated of any date of determination, the Lenders having more than 50% of the sum of the aggregate principal amount of all outstanding Loans and Commitments under such "tranche" Lenders and without the consent of Lenders under any other "tranche" (in their capacity as Lenders under such other "tranche");

provided, further, that (1) no such agreement shall amend, modify or otherwise affect the rights or duties of the Administrative Agent or the Collateral Agent without the prior written consent of the Administrative Agent or the Collateral Agent, as the case may be, and (2) any waiver, amendment or modification of this Agreement that by its terms directly affects the rights or duties under this Agreement of the Revolving

Lenders (but not the Term Loan Lenders) or the Term Loan Lenders (but not the Revolving Lenders) may be effected by an agreement or agreements in writing entered into by Borrower and the requisite percentage in interest of the affected Class of Lenders that would be required to consent thereto under this Section 11.02 if such Class of Lenders were the only Class of Lenders hereunder at the time. Notwithstanding the foregoing, any waiver, amendment, supplement or other modification with respect to Section 6.15. Notwithstanding the foregoing, any provision of this Agreement may be amended by an agreement in writing entered into by Borrower, the Required Lenders and the Administrative Agent if (x) by the terms of such agreement the Commitment of each Lender not consenting to the amendment provided for therein shall terminate upon the effectiveness of such amendment, (y) at the time such amendment becomes effective, each Lender not consenting thereto receives payment in full of the principal of, premium, if any, and interest accrued on each Loan made by it and all other amounts owing to it or accrued for its account under this Agreement, and (z) Section 2.16(b) is complied with.

(c) Without the consent of any other person, the (x) applicable Loan Party or Loan Parties and the Administrative Agent and/or Collateral Agent may (in its or their respective sole discretion, or shall, to the extent required by any Loan Document) enter into any amendment or waiver of any Loan Document, or enter into any new agreement or instrument, to effect the granting, perfection, protection, expansion or enhancement of any security interest in any Collateral or additional Property to become Collateral for the benefit of the Secured Parties, or as required by applicable Legal Requirements to give effect to, or protect any security interest for the benefit of the Secured Parties, in any Property or assets so that the security interests therein comply with applicable Legal Requirements and (y) the Borrower and the Administrative Agent and/or Collateral Agent may (in its or their respective sole discretion) enter into any amendment or waiver of any Loan Document, or enter into any new agreement or instrument, to give effect to Section 2.20(c).

(d) Any provision of this Agreement or any other Loan Document may be amended by an agreement in writing entered into by Borrower and the Administrative Agent to cure any ambiguity, omission, defect or inconsistency (including, without limitation, amendments, supplements or waivers to any of the Security Documents, guarantees, intercreditor agreements or related documents executed by any Loan Party or any other Subsidiary in connection with this Agreement if such amendment, supplement or waiver is delivered in order to cause such Security Documents, guarantees, intercreditor agreements or related documents to be consistent with this Agreement and the other Loan Documents) so long as, in each case, the Lenders shall have received at least five Business Days' prior written notice thereof and the Administrative Agent shall not have received, within five Business Days of the date of such notice to the Lenders, a written notice from the Lenders constituting the Required Lenders stating that the Required Lenders object to such amendment; *provided* that (i) the consent of the Lenders or the Required Lenders, as the case may be, shall not be required to make any such changes necessary to be made in connection with any borrowing of New Term Loans or the making of any New Revolving Commitments or any Extension and otherwise to effect the provisions of Section 2.19 or 2.20, and (ii) the Borrower and the Collateral Agent may, without the input or consent of the other Lenders, effect changes to any Mortgage as may be necessary or appropriate in the opinion of the Collateral Agent.

Section 11.03 Expenses; Indemnity. (a) The Loan Parties agree, jointly and severally, to pay, promptly upon demand in accordance with subclauses (d) and (g) below:

(i) all reasonable and documented out-of-pocket costs and expenses incurred by the Arranger, the Administrative Agent and the Collateral Agent, including the reasonable and documented fees, charges and disbursements of Advisors for the Arranger, the Administrative Agent and the Collateral Agent, in connection with the syndication of the Loans and Commitments, the preparation, negotiation, execution and delivery of the Loan Documents, the administration of the Credit Extensions and Commitments (including with respect to the establishment and

maintenance of a Platform), the filing, perfection and maintenance of the Liens securing the Collateral and any actual or proposed amendment, supplement or waiver of any of the Loan Documents (whether or not the transactions contemplated hereby or thereby shall be consummated); *provided* that the fees, charges and disbursements of legal counsel shall be limited for the Arranger, Administrative Agent and the Collateral Agent, taken as a group to one primary counsel, one counsel in each relevant jurisdiction, one specialty counsel for each relevant specialty, and, in the case of one or more actual or potential conflicts of interest, one or more additional counsel for each class of similarly situated persons;

(ii) all reasonable and documented out-of-pocket costs and expenses incurred by the Administrative Agent and the Collateral Agent, including the reasonable and documented fees, charges and disbursements of Advisors for the Administrative Agent and the Collateral Agent, in connection with any action, claim, suit, litigation, investigation, inquiry or proceeding affecting the Collateral or any part thereof, in which action, claim, suit, litigation, investigation, inquiry or proceeding the Administrative Agent or the Collateral Agent is made a party or participates or in which the right to use the Collateral or any part thereof is threatened, or in which it becomes necessary in the judgment of the Administrative Agent or the Collateral Agent to defend or uphold the Liens granted by the Security Documents (including any action, claim, suit, litigation, investigation, inquiry or proceeding to establish or uphold the compliance of the Collateral with any Legal Requirements); and

(iii) all reasonable and documented out-of-pocket costs and expenses incurred by the Arranger, the Administrative Agent, the Collateral Agent, any other Agent or any Lender, including the reasonable and documented fees, charges and disbursements of Advisors for any of the foregoing, incurred in connection with the enforcement, preservation or protection of its rights under the Loan Documents or relating to any Specified Hedging Agreement or any Bank Product Agreement, including its rights under this Section 11.03(a), or in connection with the Loans made hereunder and the collection of the Secured Obligations, including all such costs and expenses incurred during any workout, restructuring or negotiations in respect of the Secured Obligations; *provided* that, unless a Default or Event of Default has occurred and is then continuing, such costs and expenses incurred by Advisors retained by all or any of the Lenders (but not retained by the Administrative Agent, the Collateral Agent or any other Agent) shall be limited to such costs and expenses of such Advisors retained by Lenders constituting at least the Required Lenders (together with such additional Advisors as may be necessary or advisable to be retained by any Lender to resolve any conflicts of interest affecting such Lender or Lenders); *provided* that the fees, charges and disbursements of legal counsel shall be limited for the Arranger, Administrative Agent, Collateral Agent, all other Agents and all other Lenders taken as a group to one primary counsel, one counsel in each relevant jurisdiction, one specialty counsel for each relevant specialty, and, in the case of one or more actual or potential conflicts of interest, one or more additional counsel for each class of similarly situated persons.

(b) The Loan Parties agree, jointly and severally, to indemnify the Arranger, the Agents, each Lender, each affiliate of any of the foregoing persons, each of their successors and assigns and each Related Person of each of the foregoing (each such person being called an "**Indemnitee**") against, and to hold each Indemnitee harmless from, all reasonable and documented out-of-pocket costs and any and all actual losses, claims, damages, liabilities, fees, fines, penalties, actions, judgments, suits and related expenses, including reasonable and documented Advisors fees, charges and disbursements (in each case, subject to the provisos in Section 11.03(a)(i), (ii) and (iii) with respect to certain Advisors) (collectively, "**Claims**"), incurred by or asserted against any Indemnitee, directly or indirectly, arising out of, in any way connected with, or as a result of (i) the execution, delivery, performance, administration or enforcement of the Loan Documents or any agreement or instrument contemplated thereby or the performance by the

parties thereto of their respective obligations thereunder, (ii) any actual or proposed use of the proceeds of the Loans, (iii) any claim, litigation, investigation or proceeding relating to any of the foregoing, any Specified Hedging Agreement or any Bank Product Agreement or any agreement or instrument contemplated thereby or the performance by the parties thereto of their respective obligations thereunder, whether brought by a third party or by any Loan Party or otherwise, and regardless of whether any Indemnitee is a party thereto, (iv) any actual or alleged presence or Release or threatened Release of Hazardous Materials, on, at, under or from any Property owned, leased or operated by any Company at any time, or any Environmental Claim or threatened Environmental Claim related in any way to any Company, (v) any past, present or future non-compliance with, or violation of, Environmental Laws or Environmental Permits applicable to any Company, or any Company's business, or any Property presently or formerly owned, leased, or operated by any Company or their predecessors in interest, (vi) the environmental condition of any Property owned, leased, or operated by any Company at any time, or the applicability of any Legal Requirements relating to such Property, whether or not occasioned wholly or in part by any condition, accident or event caused by any act or omission of any Company, (vii) the imposition of any Lien pursuant to Environmental Law encumbering Real Property, (viii) the consummation of the Transactions (including the syndication of the Facilities) and the other transactions contemplated hereby or (ix) any actual or prospective claim, action, suit, litigation, inquiry, 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 any Loan Party or otherwise, and regardless of whether any Indemnitee is a party thereto; *provided* that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses are determined by a court of competent jurisdiction by final and non-appealable judgment to have resulted directly from (i) the gross negligence or willful misconduct of such Indemnitee, any of its Affiliates or any of their Related Persons (as determined in a final and non-appealable judgment of a court of competent jurisdiction), (ii) a material breach of any Indemnitee's obligations or the obligations of any of its Subsidiaries or its or their Related Persons under the Loan Documents (as determined in a final and non-appealable judgment of a court of competent jurisdiction) or (iii) any dispute among Indemnitees (other than a dispute involving claims against the Administrative Agent, the Arranger or the Collateral Agent solely in connection with its activities in such capacities) not arising out of any acts or omissions of the Borrower or any of its Affiliates. Claims shall include any Taxes, losses, claims or damages arising from any non-Tax claim in respect of the Loan Documents.

(c) The Loan Parties agree, jointly and severally, that, without the prior written consent of the Administrative Agent and any affected Lender, which consent(s) will not be unreasonably withheld, delayed or conditioned the Loan Parties will not enter into any settlement of a Claim in respect of the subject matter of clauses (i) through (ix) of Section 11.03(b) unless such settlement includes an explicit and unconditional release from the party bringing such Claim of all affected Indemnitees from all liability or claims that are the subject matter of such Claim and does not include any statement as to or an admission of fault, culpability or failure to act by or on behalf of any Indemnitees.

(d) The provisions of this Section 11.03 shall remain operative and in full force and effect regardless of the expiration of the term of this Agreement, the consummation of the Transactions and the other transactions contemplated hereby, the repayment of the Loans and any other Secured Obligations, the release of any Guarantor or of all or any portion of the Collateral, the expiration of the Commitments, the invalidity or unenforceability of any term or provision of this Agreement, any other Loan Document, any Specified Hedging Agreement or any Bank Product Agreement, or any investigation made by or on behalf of the Agents or any Lender. All amounts due under this Section 11.03 shall be payable promptly on written demand therefor in accordance with paragraph (g) below accompanied by reasonable documentation with respect to any reimbursement, indemnification or other amount requested.

(e) To the extent that the Loan Parties fail to indefeasibly pay any amount required to be paid by them to the Agents under paragraph (a) or (b) of this Section 11.03 in accordance with paragraph

(g) of this Section 11.03, each Lender severally agrees to pay to the Agents such Lender's Pro Rata Share (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought) of such unpaid amount in electronic wire (and indemnity shall be effective whether or not the related losses, claims, damages, liabilities and related expenses are incurred or asserted by any party hereto or any third party); *provided* that the unreimbursed Claim was incurred by or asserted against any Agent in its capacity as such.

(f) To the fullest extent permitted by applicable Legal Requirements, no party hereto shall assert, and each party hereto hereby waives, any claim against any other party hereto (or any of their respective Affiliates, Subsidiaries and their and their Affiliates and Subsidiaries' Related Persons), 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, any Loan Document, any Specified Hedging Agreement, any Bank Product Agreement or any agreement or instrument contemplated hereby or thereby, the Transactions, any Loan or the use of the proceeds thereof, except to the extent such damages result from a claim that would otherwise be subject to indemnification pursuant to the terms of Section 11.03(b); *provided* that nothing contained in this sentence shall limit the Borrower's indemnification obligations. No Indemnitee shall be liable for any damages (other than those damages resulting from gross negligence or willful misconduct as determined by a court of competent jurisdiction in a final non-appealable judgment) arising from the use by unintended recipients of any information or other materials distributed by it through telecommunications, electronic or other information transmission systems in connection with the Loan Documents or the transactions contemplated hereby or thereby.

(g) All amounts due under this Section 11.03 shall be payable not later than five Business Days after demand therefor.

Section 11.04 Successors and Assigns. (a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that the Loan Parties may not assign or otherwise transfer any of their respective rights or obligations hereunder without the prior written consent of the Administrative Agent, the Collateral Agent and each Lender, which respective consents may be withheld in their sole discretion (and any attempted assignment or transfer by any Loan Party without such consent shall be null and void). Nothing in this Agreement or any other Loan Document, express or implied, shall be construed to confer upon any person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants to the extent expressly provided in paragraph (f) of this Section 11.04 and, to the extent expressly contemplated hereby, the other Indemnitees) any legal or equitable right, remedy or claim under or by reason of this Agreement or any other Loan Document.

(b) Any Lender shall have the right at any time to assign to one or more assignees (other than any Company or any Affiliate thereof or a natural person) all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans at the time owing to it) ; *provided* that:

(i) except in the case of (A) an assignment to a Lender, an Affiliate of a Lender, a joint venture partner of a Lender or an Approved Fund, (B) any assignment made in connection with the syndication of the Commitments and Loans by the Arranger or (C) an assignment of the entire remaining amount of the assigning Lender's Commitment or Loans, (x) the amount of the Term Loan Commitment or Term Loans (including funded Delayed Draw Term Loans) of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent) shall be in an amount of an integral multiple of, and not be less than, $1,000,000 and (y) the amount of the Revolving Commitment or Revolving Loans of the assigning Lender subject to

each such assignment (determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent) shall not be less than $2,500,000;

(ii) each partial assignment shall be made as an assignment of a proportionate part of all of the assigning Lender's rights and obligations under this Agreement, except that this clause (ii) shall not be construed to prohibit the assignment of a proportionate part of all the assigning Lender's rights and obligations in respect of one Class of Commitments or Loans;

(iii) the parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee of $3,500 to be paid either by the assignor or assignee (which fee may be waived or reduced by the Administrative Agent in its sole discretion); *provided* that such fee shall not be payable in the case of (A) an assignment by any Lender to an Affiliate, joint venture partner or Approved Fund of such Lender or (B) any assignment made in connection with the primary syndication of the Commitments and Loans by the Arranger;

(iv) the assignee, if it shall not be a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire;

(v) [reserved];

(vi) except in the case of an assignment to a Lender, an Affiliate of a Lender, a joint venture partner of a Lender or an Approved Fund, the Administrative Agent must give its prior written consent to such assignment (which consent shall not be unreasonably withheld, delayed or conditioned); and

(vii) except in the case of (A) an assignment to a Lender, an Affiliate of a Lender, a joint venture partner of a Lender or an Approved Fund, a Permitted Buy-back and (C) any assignment made in connection with the initial syndication of the Initial Term Loan Commitments and the Delayed Draw Term Loan Commitments in effect and the Initial Term Loans to be made on the Closing Date by the Arranger or any of their Affiliates, the Borrower must give its prior written consent to such assignment (which consent shall not be unreasonably withheld, delayed or conditioned); *provided* that the Borrower shall be deemed to have consented to any such assignment unless it shall object thereto by written notice to the Administrative Agent within five (5) Business Days after having received notice thereof.

Notwithstanding the foregoing, if an Event of Default has occurred and is continuing, any consent of the Borrower otherwise required under this paragraph shall not be required. Subject to acceptance and recording thereof pursuant to paragraph (d) of this Section 11.04, from and after the effective date specified in each Assignment and Assumption, the assignee thereunder shall be a party hereto and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement (*provided* that any liability of the Borrower to such assignee under Section 2.12, 2.13 or 2.15 shall be limited to the amount, if any, that would have been payable thereunder by Borrower in the absence of such assignment, except to the extent any such amounts are attributable to a Change in Law occurring after the date of such assignment), and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 2.12, 2.13, 2.15 and 11.03).

(c) Notwithstanding anything to the contrary contained in this Section 11.04(c) or any other provision of this Agreement, each Lender shall have the right at any time to sell, assign or transfer all or a portion of its Term Loans owing to it to the Borrower or any of its Subsidiaries (but not any natural person) on a non pro rata basis, subject to the following limitations:

(i) no Default or Event of Default has occurred and is then continuing, or would immediately result therefrom;

(ii) the Borrower or any of its Subsidiaries shall repurchase such Term Loans through one or more modified Dutch auctions or other buy-back offer processes (each, an "**Offer Process**") with a third party financial institution as auction agent to repurchase all or any portion of the applicable Class of Loans provided that (A) notice of such Offer Process shall be made to all Term Loan Lenders and (B) such Offer Process is conducted pursuant to procedures mutually established by the Administrative Agent and the Borrower which are consistent with this Section 11.04(c); *provided* that (i) no default or Event of Default then exists or would result therefrom, (ii) all parties to the relevant assignment shall render customary "big boy" disclaimer letters and (iii) any such Term Loans shall be automatically and permanently cancelled immediately upon purchase by the Borrower (without any increase to Consolidated EBITDA as a result of any gains associated with cancellation of debt) (any such purchase and assignment, a "***Permitted Buy-Back***").

(iii) with respect to all repurchases made by the Borrower or any of its Subsidiaries pursuant to this Section 11.04(c), (u) none of the Borrower or any of its Subsidiaries shall be required to make any representations that the Borrower or such Subsidiary is not in possession of any information regarding the Borrower, its Subsidiaries or its Affiliates, or their assets, the Borrower's ability to perform its Obligations or any other matter that may be material to a decision by any Lender to participate in any offer or enter into any Assignment and Assumption or any of the transactions contemplated thereby that has not previously been disclosed to the Administrative Agent and Private Siders, (v) the repurchases are in compliance with Sections 6.04 and 6.07 hereof, (w) no Default or Event of Default has occurred and is continuing or would result from such repurchase, (x) the Borrower or such Subsidiary shall not use the proceeds of any Revolving Loans to acquire such Term Loans, (y) the assigning Lender and the Borrower or such Subsidiary, as applicable, shall execute and deliver to the Administrative Agent an Assignment and Assumption in form and substance reasonably satisfactory to the Administrative Agent and (z) all parties to the relevant repurchases shall render customary "big-boy" disclaimer letters or any such disclaimers shall be incorporated into the terms of the Assignment and Assumption; and

(iv) following repurchase by the Borrower or such Subsidiary pursuant to this Section, the Term Loans so repurchased shall, without further action by any Person, be deemed cancelled for all purposes and no longer outstanding (and may not be resold by the Borrower or such Subsidiary), for all purposes of this Agreement and all other Loan Documents, including, but not limited to (1) the making of, or the application of, any payments to the Lenders under this Agreement or any other Loan Document, (2) the making of any request, demand, authorization, direction, notice, consent or waiver under this Agreement or any other Loan Document or (3) the determination of Required Lenders, or for any similar or related purpose, under this Agreement or any other Loan Document and the Borrower shall neither obtain nor have any rights as a Lender hereunder or under the other Loan Documents by virtue of such repurchase (without limiting the foregoing, in all events, such Term Loans may not be resold or otherwise assigned, or subject to any participation, or otherwise transferred by the Borrower or such Subsidiary). In connection with any Term Loans repurchased and cancelled pursuant to this Section 11.04(c)(iv) the Administrative Agent is authorized to make appropriate entries in the Register to reflect any such cancellation.

(d) The Administrative Agent, acting for this purpose as a non-fiduciary agent of the Borrower, shall maintain at one of its offices 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 amount 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 in the absence of manifest error, and the Borrower, the 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 and the other Loan Documents, notwithstanding notice to the contrary. The Register is intended to cause each Loan and other obligation hereunder to be in registered form within the meaning of Section 5f.103-1(c) and Proposed Section 1.163-5(b) of the United States Treasury Regulations and within the meaning of Sections 163(f), 871(h)(2) and 881(c)(2) of the Code. The Register shall be available for inspection by Borrower, the Collateral Agent and any Lender (with respect to its own interest only), at any reasonable time and from time to time upon reasonable prior notice.

(e) Upon its receipt of a duly completed Assignment and Assumption executed by an assigning Lender and an assignee, the assignee's completed Administrative Questionnaire (unless the assignee shall already be a Lender hereunder), the processing and recordation fee referred to in paragraph (b) of this Section 11.04 and any written consent to such assignment required by paragraph (b) of this Section 11.04, the Administrative Agent shall reasonably promptly accept such Assignment and Assumption and record the information contained therein in the Register. No assignment shall be effective for purposes of this Agreement unless it has been recorded in the Register as provided in this paragraph. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with the requirements of this Section 11.04 shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with paragraph (f) of this Section 11.04.

(f) Any Lender shall have the right at any time, without the consent of, or notice to the Borrower, the Administrative Agent or any other person to sell participations to any person (other than, (x) if the list of Disqualified Institutions is posted to all Lenders (which the Administrative Agent has express authority to do), any Disqualified Institution, (y) any Company or any Affiliate thereof or (z) a natural person) (a "**Participant**") in all or a portion of such Lender's rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans owing to it); *provided* that (i) such Lender's obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (iii) the Borrower, the Administrative Agent, the Collateral Agent and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce the Loan Documents and to approve any amendment, modification or waiver of any provision of the Loan Documents; *provided* that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver that (1) is described in clauses (i), (ii), (iii), (viii) or (ix) of the proviso to Section 11.02(b) and (2) directly affects such Participant. Subject to the last sentence of this Section 11.04(f), each Participant shall be entitled to the benefits of Sections 2.12, 2.13 and 2.15 to the same extent as if it were a Lender (it being understood that the documentation required under Section 2.15(e) shall be delivered to the participating Lender; *provided*, *however*, that a Participant that is claiming exemption from U.S. federal withhold tax under Section 871(h) or 881(c) of the Code with respect to payments of "portfolio interest" shall furnish a "U.S. Tax Certificate" in the form of Exhibit G-2 or G-3, as applicable) and had acquired its interest by assignment pursuant to paragraph (b) of this Section 11.04. To the extent permitted by Legal Requirements, each Participant also shall be entitled to the benefits of Section 11.08 as though it were a Lender; *provided* that such Participant agrees in writing to be subject to Section 2.14(c) as though it were a Lender. Each Lender that sells a participation shall, acting for this purpose as a non-fiduciary agent of

the Borrower, maintain at one of its offices a register for the recordation of the names and addresses of its Participants, and the principal amounts and stated interest of its participations (the "**Participant Register**"). The entries in the Participant Register shall be conclusive absent manifest error, and such Lender (and the Borrower, to the extent that the Participant requests payment from the Borrower; *provided* that the Borrower has had a reasonable opportunity to review such Participant Register to confirm such Participant is a Participant in accordance with the terms hereof and other relevant information in connection with making any such payment) 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. No Lender shall have any obligation to disclose all or any portion of the Participant Register to any person (including the identity of any Participant or any information relating to a Participant's interest in any commitments, loans, letters of credit or its other obligations under any Loan Document) except to the extent that such disclosure is necessary to establish that such commitment, loan, or other obligation is in registered form under Section 5f.103-1(c) and Proposed Section 1.163-5(b) of the United States Treasury Regulations and within the meaning of Sections 163(f), 871(h)(2) and 881(c)(2) of the Code. For the avoidance of doubt, the Administrative Agent (in its capacity as Administrative Agent) shall have no responsibility for maintaining a Participant Register.

(g) A Participant shall not be entitled to receive any greater payment under Section 2.12, 2.13 or 2.15 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless the sale of such participation to such Participant is made with the prior written consent of the Borrower (which consent shall not be unreasonably withheld, delayed or conditioned) or such greater payment is as a result of a Change in Law after the date the participation was sold to the Participant. A Participant that would be a Foreign Lender if it were a Lender shall be entitled to the benefits of Section 2.15 and such Participant agrees, for the benefit of the Borrower, to supply any forms required by Section 2.15(e) to the participating Lender (and shall not be required to supply such forms to the Borrower or the Administrative Agent).

(h) Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender without restriction, including any pledge or assignment to secure obligations to a Federal Reserve Bank or any central bank, and this Section 11.04 shall not apply to any such pledge or assignment of a security interest; *provided* that no such pledge or assignment of a security interest shall release a Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto. Without limiting the foregoing, in the case of any Lender that is a fund that invests in bank loans or similar extensions of credit, such Lender may, without the consent of the Borrower, the Administrative Agent or any other person, collaterally assign or pledge all or any portion of its rights under this Agreement, including the Loans and Notes or any other instrument evidencing its rights as a Lender under this Agreement, to any holder of, trustee for, or any other representative of holders of, obligations owed or securities issued, by such fund, as security for such obligations or securities.

(i) Notwithstanding anything to the contrary contained herein, any Lender (a "**Granting Lender**") may grant to a special purpose funding vehicle (an "**SPC**"), identified as such in writing from time to time by the Granting Lender to the Administrative Agent and the Borrower, the option to provide to the Borrower all or any part of any Loan that such Granting Lender would otherwise be obligated to make to such Borrower pursuant to this Agreement; *provided* that (i) nothing herein shall constitute a commitment by any SPC to make any Loan and (ii) if an SPC elects not to exercise such option or otherwise fails to provide all or any part of such Loan, the Granting Lender shall be obligated to make such Loan pursuant to the terms hereof; *provided further* that nothing herein shall make the SPC a "Lender" for the purposes of this Agreement, obligate Borrower or any other Loan Party or the Administrative Agent to deal with such SPC directly, obligate Borrower or any other Loan Party in any manner to any greater extent than they were obligated to the Granting Lender, or increase costs or expenses of the Borrower. The

Loan Parties and the Administrative Agent shall be entitled to deal solely with, and obtain good discharge from, the Granting Lender and shall not be required to investigate or otherwise seek the consent or approval of any SPC, including for the approval of any amendment, waiver or other modification of any provision of any Loan Document. The making of a Loan by an SPC hereunder shall utilize the Commitment of the Granting Lender to the same extent, and as if, such Loan were made by such Granting Lender. Each party hereto hereby agrees that no SPC shall be liable for any indemnity or similar payment obligation under this Agreement (all liability or payment obligation for which shall remain with the Granting Lender). In furtherance of the foregoing, each party hereto hereby agrees (which agreement shall survive the termination of this Agreement) that, prior to the date that is one year and one day after the payment in full of all outstanding commercial paper or other senior indebtedness of any SPC, it will not institute against, or join any other person in instituting against, such SPC any bankruptcy, reorganization, arrangement, insolvency or liquidation proceedings under the laws of the United States of America or any state thereof. In addition, notwithstanding anything to the contrary contained in this Section 11.04(i), any SPC may (i) with notice to, but without the prior written consent of, the Borrower and the Administrative Agent and without paying any processing fee therefor, assign all or a portion of its interests in any Loans to the Granting Lender or to any financial institutions (consented to by Borrower and the Administrative Agent) providing liquidity and/or credit support to or for the account of such SPC to support the funding or maintenance of Loans and (ii) disclose on a confidential basis any Non-Public Information relating to its Loans to any rating agency, commercial paper dealer or provider of any surety, guarantee or credit or liquidity enhancement to such SPC.

(j) The words "execution," "signed," "signature," and words of like import in any Assignment and Assumption 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 Legal Requirement, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

(k) None of the Lenders, the Arranger, the Bookrunner or the Agents shall be responsible or have any liability for, or have any duty to ascertain, inquire into, monitor or enforce, compliance with the provisions hereof relating to Disqualified Institutions. Without limiting the generality of the foregoing, the Administrative Agent shall not (i) be obligated to ascertain, monitor or inquire as to (whether any Lender or Participant or prospective Lender or Participant is a Disqualified Institution or (ii) have any liability with respect to or arising out of any assignment or participation of Loans or Commitments, or disclosure of confidential information, to any Disqualified Institution. Upon request by any Lender, the Administrative Agent shall be permitted to disclose to such Lender the identity of the Disqualified Institutions. Each Lender hereby acknowledges and agrees that the information disclosed to it by the Administrative Agent pursuant to the immediately preceding sentence shall be subject in all respects to the provisions set forth in Section 11.12. Notwithstanding anything to the contrary herein, each Loan Party and each Lender acknowledges and agrees that the Administrative Agent shall have no liability with respect to any assignment or participation made to any Disqualified Institution or natural person (regardless of whether the consent of the Administrative Agent is required thereto), and no Loan Party, any Lender or their respective Affiliates will bring any claim to such effect.

Section 11.05 Survival of Agreement. All covenants, agreements, representations and warranties made by the Loan Parties in the Loan Documents and in the reports, certificates or other instruments delivered in connection with or pursuant to this Agreement or any other Loan Document shall be considered to have been relied upon by the other parties hereto and shall survive the execution and delivery of the Loan Documents and the making of any Loans regardless of any investigation made by any such other party or on its behalf and notwithstanding that the Agents or any Lender may have had notice or

knowledge of any Default or Event of Default or incorrect representation or warranty at the time any credit is extended hereunder, and shall continue in full force and effect as long as any Loan or any Obligation hereunder shall remain unpaid or unsatisfied and so long as the Commitments have not expired or terminated. The provisions of Article X and Sections 2.12 to 2.15, 11.03, 11.09, 11.08, 11.10 and 11.18 shall survive and remain in full force and effect regardless of the consummation of the Transactions and the other transactions contemplated hereby, the repayment of the Loans, the expiration or termination of the Commitments or the termination of this Agreement or any provision hereof.

Section 11.06 Counterparts; Integration; Effectiveness. This Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement, the Engagement Letter and the other Loan Documents constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Without limiting the requirements that each of the conditions precedent in Article IV with respect to each Credit Extension requested by Borrower be satisfied, to the extent set forth therein, 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 other parties hereto, and thereafter shall be binding upon and inure to the benefit of the parties hereto and their respective permitted successors and assigns. Delivery of an executed counterpart of a signature page of this Agreement by facsimile or other electronic transmission (e.g., "pdf" or "tif" format) shall be effective as delivery of a manually executed counterpart of this Agreement. The words "execution," "signed," "signature," "delivery," and words of like import in or relating to this Agreement or any document to be signed in connection with this Agreement and the transactions contemplated hereby shall be deemed to include electronic signatures, deliveries 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, physical delivery thereof 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, the New York State Electronic Signatures and Records Act, or any other state laws based on the Uniform Electronic Transactions Act, and the parties hereto consent to conduct the transactions contemplated hereunder by electronic means.

Section 11.07 Severability. Any provision of this Agreement held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions hereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction. The parties hereto shall endeavor in good-faith negotiations to replace any invalid, illegal or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provisions.

Section 11.08 Right of Setoff. If an Event of Default shall have occurred and be continuing, each Lender and each of their respective Affiliates are hereby irrevocably authorized at any time and from time to time (without notice to the Borrower or any other Loan Party, any such notice being expressly waived by each of the Borrower and each other Loan Party), to the fullest extent permitted by applicable Legal Requirements, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency) at any time held and other obligations (in whatever currency) at any time owing by such Lender or any such Affiliate to or for the credit or the account of any Loan Party against any and all of the obligations of any Loan Party now or hereafter existing under this Agreement or any other Loan Documents held by such Lender, irrespective of whether or not such Lender shall have made any demand under this Agreement or any other Loan Document and although such obligations may be contingent or unmatured or are owed to a branch or office of such Lender different from the branch or office holding such deposit or obligated on such indebtedness; *provided* that such Lender complied with

Section 2.14(c). The rights of each Lender under this Section 11.08 are in addition to other rights and remedies (including other rights of setoff) which such Lender may have. Each Lender agrees to notify Borrower and the Administrative Agent promptly after any such setoff and application; *provided*, *however*, that in no event shall the failure to give such notice effect the validity of enforceability of any such setoffs. No Agent or Lender shall be under any obligation to marshal any assets in favor of any Loan Party or any other Person or against or in payment of any or all of the Obligations. To the extent that any Loan Party makes a payment or payments to the Administrative Agent or Lenders (or to the Administrative Agent, on behalf of the Lenders), or any Agent or Lender enforces any security interests or exercises any right of setoff, and such payment or payments or the proceeds of such enforcement or setoff or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside and/or required to be repaid to a trustee, receiver or any other party under any Debtor Relief Law or any equitable cause, then, to the extent of such recovery, the obligation or part thereof originally intended to be satisfied, and all Liens, rights and remedies therefor or related thereto, shall be revived and continued in full force and effect as if such payment or payments had not been made or such enforcement or setoff had not occurred.

Section 11.09 Governing Law; Jurisdiction; Consent to Service of Process. (a) This Agreement and the other Loan Documents and any claims, controversy, dispute or cause of action (whether sounding in contract, tort or otherwise) based upon, arising out of or relating to this Agreement or any other Loan Document (except, as to any other Loan Document, as expressly set forth therein) and the transactions contemplated hereby and thereby shall be governed by, and construed in accordance with, the law of the State of New York.

(b) Each party hereto hereby irrevocably and unconditionally submits, for itself and its Property, to the exclusive jurisdiction of the Supreme Court of the State of New York sitting in New York County and of the United States District Court of the Southern District of New York, and any appellate court from any thereof (except to the extent the Administrative Agent requires submission to any other jurisdiction in connection with the exercise of any rights under any security document or the enforcement of any judgment), in any action or proceeding arising out of or relating to any Loan Document, or for recognition or enforcement of any judgment, and each of the parties hereto hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in such New York State court or, to the extent permitted by applicable Legal Requirements, in such federal court. Each of the parties hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by applicable Legal Requirements. Each Loan Party agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law and that nothing in this Agreement or any other Loan Document shall affect any right that the Agents or the Lenders may otherwise have to bring any action or proceeding relating to this Agreement or any other Loan Document against it or any of its assets in the courts of any jurisdiction.

(c) Each party hereto hereby irrevocably and unconditionally waives, to the fullest extent permitted by applicable Legal Requirements, any objection which it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement, any other Loan Document, any Specified Hedging Agreement or any Bank Product Agreement in any court referred to in Section 11.09(b). Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by applicable Legal Requirements, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

(d) Each party to this Agreement irrevocably consents to service of process in any action or proceeding arising out of or relating to any Loan Document, in the manner provided for notices (other than facsimile or email) in Section 11.01. Nothing in this Agreement or any other Loan Document

will affect the right of any party to this Agreement to serve process in any other manner permitted by applicable Legal Requirements.

Section 11.10 Waiver of Jury Trial. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LEGAL REQUIREMENTS, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO ANY LOAN DOCUMENT, ANY SPECIFIED HEDGING AGREEMENT, ANY BANK PRODUCT AGREEMENT, THE TRANSACTIONS OR THE OTHER TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 11.10.

Section 11.11 Headings; No Adverse Interpretation of Other Agreements. Article and Section headings and the Table of Contents used herein are for convenience of reference only, are not part of this Agreement and shall not affect the construction of, or be taken into consideration in interpreting, this Agreement.

Section 11.12 Confidentiality. Each of the Administrative Agent, Collateral Agent and the other Lenders agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its Related Persons, (b) to its Related Persons' directors, officers, employees, agents, advisors and other representatives, including independent auditors, legal counsel, other experts or agents and other advisors in connection with the Transactions (it being understood that the persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential pursuant to the terms hereof), (c) to the extent required by any governmental or regulatory authority or any self-regulatory authority (such as the National Association of Insurance Commissioners and the U.S. Securities and Exchange Commission), (d) in any legal, judicial, administrative proceeding or other compulsory process to the extent required (i) by applicable Legal Requirements or (ii) by any subpoena or similar legal process or in connection with any pledge or assignment made pursuant to Section 11.04(g), (e) to any other party to this Agreement (solely with respect to clauses (a) and (b) above, it being understood that the persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential pursuant to the terms hereof), (f) in connection with the exercise of any remedies under the Loan Documents or any suit, action or proceeding relating to this Agreement, any other Loan Document, any Specified Hedging Agreement or any Bank Product Agreement or the enforcement of rights hereunder or thereunder, but only to the extent required in connection with such exercise or enforcement, (g) subject to an agreement containing provisions substantially the same as those of this Section 11.12, to (i) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights or obligations under this Agreement, (ii) any actual or prospective counterparty (or its advisors) to any swap or derivative transaction relating to the Borrower and its obligations, (iii) any rating agency for the purpose of obtaining a credit rating applicable to any Loan or Loan Party or (iv) any actual or prospective investor in an SPC, (h) with the prior written consent of the Borrower or (i) to the extent such Information (i) is publicly available at the time of disclosure or becomes publicly available other than as a result of a breach of this Section 11.12, (ii) becomes available to the Administrative Agent or any Lender on a non-confidential basis from a source other than a Company other than as a result of a breach of this Section 11.12, (iii) is received from a third party that is not known to be subject to confidentiality

obligations to the Company or (iv) is independently developed without the use of any confidential information; *provided*, *however*, that with respect to clauses (c) and (d) above, if the Administrative Agent, the Collateral Agent or any Lender receives a subpoena, interrogatory or other request (verbal or otherwise) for any Information (other than with regard to filings made with the U.S. Securities and Exchange Commission); or believes that it is legally required to disclose any of the Information to a third party, it shall (other than in connection with any routine audit or examination conducted by bank accountants or any governmental bank regulatory authority exercising examination or regulatory authority), as far in advance of such disclosure as is practicable, to the extent practicable and legally permissible, promptly provide to the Borrower notice of any such request or requirement so that the Borrower or the applicable Loan Party (or Subsidiary thereof) may seek a protective order or other remedy (it being understood and agreed that Administrative Agent, Collateral Agent and any Lenders shall cooperate in securing a protective order or other remedy in respect thereof); *provided*, *further*, that it shall (1) exercise commercially reasonable efforts to preserve the confidentiality of such Information, (2) to the extent legally permissible, use commercially reasonable efforts to provide Borrower, as far in advance of such disclosure as is practicable, with copies of any Information it intends to disclose (and, if applicable, the text of the disclosure language itself), and (3) reasonably cooperate with the Borrower and the applicable Loan Party (or Subsidiary thereof) to the extent either of them may seek to limit such disclosure. In addition, the Agents and the Lenders may disclose the existence of the Loan Documents and information about the Loan Documents to market data collectors, similar service providers to the financing community, and service providers to the Agents and the Lenders and in connection with league table reporting. For the purposes of this Section 11.12, "**Information**" shall mean all information received from a Loan Party or any of its Related Persons relating to any Loan Party or any Company or any of its or their Subsidiaries, other than any such information that is available to the Administrative Agent, the Collateral Agent or any Lender on a non-confidential basis prior to disclosure by a Company. Any person required to maintain the confidentiality of Information as provided in this Section 11.12 shall be considered to have complied with its obligation to do so if such person has exercised the same degree of care to maintain the confidentiality of such Information as such person accords to its own confidential information. Agents and Lenders agree that money damages may not be a sufficient remedy for any breach of this confidentiality provision, and in addition to all other remedies, the Loan Parties will be entitled, without the need to prove irreparable injury, to seek specific performance and injunctive or other equitable relief as a remedy for any such breach, and Agents and Lenders further waive any requirement for the securing or posting of a bond in connection with such remedy.

Section 11.13 Interest Rate Limitation. Notwithstanding anything herein to the contrary, if at any time the interest rate applicable to any Loan, together with all fees, charges and other amounts which are treated as interest on such Loan under applicable law (collectively, the "**Charges**"), shall exceed the maximum lawful rate (the "**Maximum Rate**") which may be contracted for, charged, taken, received or reserved by the Lender holding such Loan in accordance with applicable Legal Requirements, the rate of interest payable in respect of such Loan hereunder, together with all Charges payable in respect thereof, shall be limited to the Maximum Rate and, to the extent lawful, the interest and Charges that would have been payable in respect of such Loan but were not payable as a result of the operation of this Section 11.13 shall be cumulated and the interest and Charges payable to such Lender in respect of other Loans or periods shall be increased (but not above the Maximum Rate therefor) until such cumulated amount, together with interest thereon at the Federal Funds Effective Rate to the date of repayment (or, if greater, but without duplication, the interest rate otherwise required to be paid under the Loan Documents on such cumulated amount during such period of accumulation), shall have been received by such Lender.

Section 11.14 Assignment and Assumption. Each Lender to become a party to this Agreement (other than the Administrative Agent and any other Lender that is a signatory hereto) shall do so by delivering to the Administrative Agent an Assignment and Assumption duly executed by such Lender, the Borrower (if the Borrower consent to such assignment is required hereunder) and the Administrative Agent.

Section 11.15 Obligations Absolute. To the fullest extent permitted by applicable law, all obligations of the Loan Parties hereunder shall be absolute and unconditional irrespective of:

(a) any bankruptcy, insolvency, reorganization, arrangement, readjustment, composition, liquidation or the like of any Loan Party;

(b) any lack of validity or enforceability of any Loan Document or any other agreement or instrument relating thereto against any Loan Party;

(c) any change in the time, manner or place of payment of, or in any other term of, all or any of the Secured Obligations, or any other amendment or waiver of or any consent to any departure from any Loan Document or any other agreement or instrument relating thereto;

(d) any exchange, release or non-perfection or loss of priority of any Liens on any or all of the Collateral, or any release or amendment or waiver of or consent to any departure from any guarantee, for all or any of the Secured Obligations;

(e) any exercise or non-exercise, or any waiver of any right, remedy, power or privilege under or in respect hereof or any Loan Document; or

(f) any other circumstances which might otherwise constitute a defense (other than the indefeasible payment in full of the Secured Obligations) available to, or a discharge of, the Loan Parties.

Section 11.16 Waiver of Defenses; Absence of Fiduciary Duties. (a) Each of the Loan Parties hereby waives any and all suretyship defenses available to it as a Guarantor arising out of the joint and several nature of its respective duties and obligations hereunder (including any defense contained in Article VII other than any defense of the indefeasible payment in full of the Secured Obligations).

(b) Each Arranger, each Agent, each Lender and their Affiliates (collectively, solely for purposes of this paragraph, the "Lenders"), may have economic interests that conflict with those of the Loan Parties, their stockholders and/or their affiliates. Each Loan Party agrees that nothing in the Loan Documents or otherwise will be deemed to create an advisory, fiduciary or agency relationship or fiduciary or other implied duty between any Lender, on the one hand, and such Loan Party, its stockholders or its affiliates, on the other. The Loan Parties acknowledge and agree that (i) the transactions contemplated by the Loan Documents (including the exercise of rights and remedies hereunder and thereunder) are arm's-length commercial transactions between the Lenders, on the one hand, and the Loan Parties, on the other, and (ii) in connection therewith and with the process leading thereto, (x) no Lender has assumed an advisory or fiduciary responsibility in favor of any Loan Party, its stockholders or its affiliates with respect to the transactions contemplated hereby or the exercise of rights or remedies with respect thereto) or the process leading thereto (irrespective of whether any Lender has advised, is currently advising or will advise any Loan Party, its stockholders or its Affiliates on other matters) or any other obligation to any Loan Party except the obligations expressly set forth in the Loan Documents and (y) each Lender is acting solely as principal and not as the agent or fiduciary of any Loan Party, its management, stockholders, creditors or any other person. Each Loan Party acknowledges and agrees that it has consulted its own legal and financial advisors to the extent it deemed appropriate and that it is responsible for making its own independent judgment with respect to such transactions and the process leading thereto. Each Loan Party agrees that it will not claim that any Lender has rendered advisory services of any nature or respect, or owes a fiduciary or similar duty to such Loan Party, in connection with such transaction or the process leading thereto.

Section 11.17 Patriot Act. Each Lender hereby notifies each Loan Party that pursuant to the requirements of the Patriot Act, it may be required to obtain, verify and record information that identifies

the Loan Parties, which information includes the name, address and taxpayer identification number of each Loan Party and other information that will allow such Lender to identify such Loan Party in accordance with the Patriot Act.

Section 11.18 Judgment Currency. (a) The Loan Parties' obligations hereunder and under the other Loan Documents to make payments in Dollars shall not be discharged or satisfied by any tender or recovery pursuant to any judgment expressed in or converted into any currency other than Dollars, except to the extent that such tender or recovery results in the effective receipt by the Administrative Agent or the respective Lender of the full amount of Dollars expressed to be payable to the Administrative Agent or such Lender under this Agreement or the other Loan Documents. If, for the purpose of obtaining or enforcing judgment against any Loan Party in any court or in any jurisdiction, it becomes necessary to convert into or from any currency other than Dollars (such other currency being hereinafter referred to as the "**Judgment Currency**") an amount due in Dollars, the conversion shall be made at the Dollar Equivalent determined as of the Business Day immediately preceding the day on which the judgment is given (such Business Day being hereinafter referred to as the "**Judgment Currency Conversion Date**").

(b) If there is a change in the rate of exchange prevailing between the Judgment Currency Conversion Date and the date of actual payment of the amount due, the Loan Parties shall pay, or cause to be paid, such additional amounts, if any (but in any event not a lesser amount) as may be necessary to ensure that the amount paid in the Judgment Currency, when converted at the rate of exchange prevailing on the date of payment, will produce the amount of Dollars which could have been purchased with the amount of Judgment Currency stipulated in the judgment or judicial award at the rate of exchange prevailing on the Judgment Currency Conversion Date.

(c) For purposes of determining the Dollar Equivalent or any other rate of exchange for this Section 11.18, such amounts shall include any premium and costs payable in connection with the purchase of Dollars.

Section 11.19 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 the applicable Resolution Authority to any such liabilities arising hereunder which may be payable to it by any party hereto that is an Affected 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 Affected 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 the applicable Resolution Authority.

Section 11.20 **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.

As used in this Section 11.20, the following terms have the following meanings:

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

"**Covered Entity**" shall mean any of the following:

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

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

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

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

"**QFC**" shall have 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).

[Signature Pages Follow]

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

INOTIV, INC.,
As Borrower

By: /s/ Beth A. Taylor
Beth A. Taylor
Chief Financial Officer, VP-Finance

[SIGNATURE PAGE TO CREDIT AGREEMENT]

BAS EVANSVILLE, INC.,
as Subsidiary Guarantor

By: /s/ Beth A. Taylor
Beth A. Taylor
Chief Financial Officer, VP-Finance

SEVENTH WAVE LABORATORIES, LLC,
as Subsidiary Guarantor

By: /s/ Beth A. Taylor
Beth A. Taylor
Chief Financial Officer, VP-Finance

BRONCO RESEARCH SERVICES LLC,
as Subsidiary Guarantor

By: /s/ Beth A. Taylor
Beth A. Taylor
Chief Financial Officer, VP-Finance

BASi GAITHERGURG LLC,
as Subsidiary Guarantor

By: /s/ Beth A. Taylor
Beth A. Taylor
Chief Financial Officer, VP-Finance

[SIGNATURE PAGE TO CREDIT AGREEMENT]

INOTIV BOULDER, LLC,
as Subsidiary Guarantor

By: /s/ Beth A. Taylor
Beth A. Taylor
Chief Financial Officer, VP-Finance

INOTIV RESEARCH MODELS, LLC
as Subsidiary Guarantor

By: /s/ Beth A. Taylor
Beth A. Taylor
Chief Financial Officer, VP-Finance

ENVIGO RMS, LLC,
as Subsidiary Guarantor

By: /s/ Beth A. Taylor
Beth A. Taylor
Chief Financial Officer, VP-Finance

ENVIGO RMS B.V., INC.
as Subsidiary Guarantor

By: /s/ Beth A. Taylor
Beth A. Taylor
Chief Financial Officer, VP-Finance

[SIGNATURE PAGE TO CREDIT AGREEMENT]

ENVIGO NEW HOLDCO, LLC
as Subsidiary Guarantor

By: /s/ Beth A. Taylor
Beth A. Taylor
Chief Financial Officer, VP-Finance

ENVIGO GLOBAL SERVICES, INC.
as Subsidiary Guarantor

By: /s/ Beth A. Taylor
Beth A. Taylor
Chief Financial Officer, VP-Finance

ERPP, INC.
as Subsidiary Guarantor

By: /s/ Beth A. Taylor
Beth A. Taylor
Chief Financial Officer, VP-Finance

ENVIGO BIOPRODUCTS, INC.
as Subsidiary Guarantor

By: /s/ Beth A. Taylor
Beth A. Taylor
Chief Financial Officer, VP-Finance

[SIGNATURE PAGE TO CREDIT AGREEMENT]

ENVIGO HOLDING I, INC.
as Subsidiary Guarantor

By: /s/ Beth A. Taylor
Beth A. Taylor
Chief Financial Officer, VP-Finance

PLATO BIOPHARMA, INC.
as Subsidiary Guarantor

By: /s/ Beth A. Taylor
Beth A. Taylor
Chief Financial Officer, VP-Finance

[SIGNATURE PAGE TO CREDIT AGREEMENT]

JEFFERIES FINANCE LLC,
as Administrative Agent and Collateral Agent

By: /s/ John Koehler
Name: John Koehler
Title: Managing Director

[SIGNATURE PAGE TO CREDIT AGREEMENT]

JEFFERIES FINANCE LLC,
as a Lender

By: /s/ John Koehler
Name: John Koehler
Title: Managing Director

[SIGNATURE PAGE TO CREDIT AGREEMENT]

CION Investment Corporation,
as a Lender

By: /s/ Gregg Bresner
Name: Gregg Bresner, CFA
Title: President & Chief Investment Officer

[SIGNATURE PAGE TO CREDIT AGREEMENT]

34TH Street Funding, LLC,
as a Lender

By: /s/ Gregg Bresner
Name: Gregg Bresner, CFA
Title: President & Chief Investment Officer

[SIGNATURE PAGE TO CREDIT AGREEMENT]

Initial Term Loan Amortization Table

Date	Term Loan Amount
March 31, 2022	$412,500
June 30, 2022	$412,500
September 30, 2022	$412,500
December 31, 2022	$412,500
March 31, 2023	$412,500
June 30, 2023	$412,500
September 30, 2023	$412,500
December 31, 2023	$412,500
March 31, 2024	$412,500
June 30, 2024	$412,500
September 30, 2024	$412,500
December 31, 2024	$412,500
March 31, 2025	$412,500
June 30, 2025	$412,500
September 30, 2025	$412,500
December 31, 2025	$412,500
March 31, 2026	$412,500
June 30, 2026	$412,500
September 30, 2026	$412,500
November 5, 2026	Remaining balance

Annex II

Initial Lenders and Commitments

On file with the Administrative Agent and the Borrower

Annex II-1

Exhibit 16.1

RSM US LLP

OneAmerica Tower
1 American Square
Suite 2800
Indianapolis, IN 46282

O +1 317 805 6200
F +1 317 805 6201
www.rsmus.com

November 5, 2021

Securities and Exchange Commission
Washington, D.C. 20549

Commissioners:

We have read Inotiv, Inc.'s (f/k/a Bioanalytical Systems, Inc.) statements included under Item 4.01(a) of its Form 8-K filed on November 5, 2021, and we agree with such statements concerning our firm.

RSM US LLP

Exhibit 99.1

Inotiv, Inc. Shareholders Approve Acquisition of Envigo

WEST LAFAYETTE, IN, November 4, 2021 – **Inotiv, Inc. (NASDAQ: NOTV) (the "Company", "We", "Our" or "Inotiv")**, a leading contract research organization specializing in nonclinical and analytical drug discovery and development services, today announced that, at a special meeting of shareholders (the "Special Meeting") held today, Inotiv shareholders approved, among other matters, an increase in the Company's authorized shares and the issuance of Inotiv common shares to the stockholders and option holders of Envigo RMS Holding Corp. ("Envigo") in connection with the acquisition of Envigo by merger of Envigo with a newly formed, wholly owned subsidiary of the Company. Approval of these matters by the Inotiv shareholders was a condition to the closing of the acquisition.

Robert Leasure, Jr., the Company's President and Chief Executive Officer, commented, "We look forward to completing the Envigo transaction, as approved by shareholders, which we believe will position the combined organization as the preeminent, full-spectrum discovery-to-approval solution for drug developers. We are excited about the benefits and value this transaction is expected to bring to our customers, employees and shareholders."

At the Special Meeting, Inotiv's shareholders also approved proposals to increase the number of shares available for awards under the Company's equity incentive plan and to authorize the issuance of Common Shares issuable upon conversion of the Company's 3.25% Convertible Senior Notes due 2027. The final voting results will be filed in a Form 8-K with the U.S. Securities and Exchange Commission.

The acquisition of Envigo is expected to close in one or two business days, subject to satisfaction of closing conditions.

About the Company

Inotiv, Inc. is a leading contract research organization specializing in nonclinical and analytical drug discovery and development services. The Company focuses on developing innovative services supporting its clients' discovery and development objectives for improved decision-making and accelerated goal attainment. The Company's products focus on increasing efficiency, improving data, and reducing the cost of taking new drugs to market. Visit inotivco.com for more information about the Company.

This release may contain forward-looking statements that are subject to risks and uncertainties including, but not limited to, risks and uncertainties related to changes in the market and demand for our products and services, the development, marketing and sales of products and services, changes in technology, industry and regulatory standards, the timing of acquisitions and the successful closing, integration and business and financial impact thereof, the impact of the COVID-19 pandemic on the economy, demand for our services and products and our operations, including the measures taken by governmental authorities to address the pandemic, which may precipitate or exacerbate other risks and/or uncertainties, expansion and related efforts, and various other market and operating risks, including those detailed in the Company's filings with the U.S. Securities and Exchange Commission.

Company Contact
Inotiv, Inc.
Beth A. Taylor, Chief Financial Officer

Investor Relations
The Equity Group Inc.
Kalle Ahl, CFA

(765) 497-8381
btaylor@inotivco.com

(212) 836-9614
kahl@equityny.com

Devin Sullivan
(212) 836-9608
dsullivan@equityny.com

Exhibit 99.2

FOR IMMEDIATE RELEASE

Inotiv, Inc. Completes Purchase of Envigo

Creates a Full-Spectrum Discovery-to-Approval Solution for Drug Developers

WEST LAFAYETTE, Ind. and INDIANAPOLIS, Ind., Nov. 5, 2021 – Inotiv, Inc. (NASDAQ:NOTV) (or "Inotiv"), a leading contract research organization (CRO) specializing in nonclinical and analytical drug discovery and development services and products, today announced it has completed the acquisition of Envigo RMS Holding Corp. (or "Envigo"), a leading global provider of research models and services. This agreement aligns with the strategic objectives of both companies and will further improve the ability to bring new drugs and medical devices through the discovery and preclinical phases of development. The aggregate consideration paid to the holders of outstanding capital stock in Envigo in the merger consisted of cash consideration of $271.0 million, including adjustments for net working capital and cash balances as provided in the merger agreement of approximately $13.0 million and $48.0 million, respectively, and 9,036,538 Inotiv common shares. The common shares included in the merger consideration include 790,620 shares issuable upon the exercise of certain Envigo stock options that were assumed by the Company in the transaction.

"The combination of Inotiv and Envigo allows drug developers to work with one organization for the entirety of discovery and nonclinical development, while getting the same highly personalized service that characterizes both companies. The combined company has excellent growth opportunities, and we plan to continue to make investments for organic growth while selectively pursuing strategic acquisitions," said Inotiv President and CEO Robert Leasure, Jr. "Envigo has a long history and deep experience with supply of critical research models, which will be integrated with Inotiv's range of nonclinical and analytical services. This provides clients

with a unique, full-spectrum discovery-to-approval solution to meet the increasing growth and innovation in biopharma and demand for specialty and disease-specific models."

With Inotiv and Envigo combined, drug developers and researchers will receive:

- Deep expertise and expanded access to scientists across the discovery and preclinical continuum, reducing nonclinical lead times and providing enhanced project delivery

- Access to a wide range of high-quality small and large research models for basic research and drug discovery and development, as well as models for specialized disease and therapeutic areas

- The ability to run selected nonclinical studies directly on-site at closely located research model facilities and access to innovative genetically engineered models and services (GEMS) solutions

"The transaction establishes a discovery and preclinical leader with the unique ability to leverage an expansive research model portfolio," said, Adrian Hardy, Ph.D. who served as Envigo's CEO. "The combined companies will create value for both our client bases with a uniquely differentiated, scaled, and broad service offering. We're thrilled to be able to continue to meet expanding client needs required to bring new molecules to market."

Additional Transaction Details

- Inotiv used the net proceeds of $134.5 million received on September 27, 2021 from a 3.25% convertible senior note offering and borrowings of $165 million under a new senior secured term loan facility to fund the cash portion of the acquisition. Interest on the term loan facility will accrue at the prevailing LIBOR rate, plus a margin of between 6.00% and 6.50%. The initial interest rate is LIBOR plus 6.25%. The term loan facility will mature on November 5, 2026.

- The combined company will remain under the leadership of Robert Leasure, Jr. as President and CEO.

- The Board of Directors of Inotiv has been expanded to seven members, which includes new directors, Nigel Brown, Ph.D. and Scott Cragg. Dr. Brown will serve on the Audit Committee and the Nominating/Corporate Governance Committee of the Board, and Mr. Cragg will serve on the Compensation Committee of the Board.

Transaction Advisors

Jefferies LLC served as exclusive financial advisor to Inotiv and Ice Miller LLP served as Inotiv's legal advisor. Cahill Gordon and Reindel LLP served as Envigo's legal advisor.

About Inotiv

Inotiv, Inc. is a leading contract research organization dedicated to providing nonclinical and analytical drug discovery and development services and research models and related products and services. The Company's products and services focus on bringing new drugs and medical devices through the discovery and preclinical phases of development, all while increasing efficiency, improving data, and reducing the cost of taking new drugs to market. Inotiv is committed to supporting discovery and development objectives as well as helping researchers realize the full potential of their critical R&D projects, all while working together to build a healthier and safer world. Further information about Inotiv can be found here: https://www.inotivco.com/.

This release may contain forward-looking statements that are subject to risks and uncertainties including, but not limited to, risks and uncertainties related to changes in the market and demand for our products and services, the development, marketing and sales of products and services, changes in technology, industry and regulatory standards, the timing of acquisitions and the successful closing, integration and business and financial impact thereof, the impact of the COVID-19 pandemic on the economy, demand for our services and products and our operations, including the measures taken by governmental authorities to address the pandemic, which may precipitate or exacerbate other risks and/or uncertainties, expansion and related efforts, and various other market and operating risks, including those detailed in the Company's filings with the U.S. Securities and Exchange Commission.

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Document and Entity Information	Nov. 02, 2021
Document and Entity Information [Abstract]	
Document Type	8-K
Document Period End Date	Nov. 02, 2021
Entity File Number	0-23357
Entity Registrant Name	INOTIV, INC.
Entity Incorporation, State or Country Code	IN
Entity Tax Identification Number	35-1345024
Entity Address, Address Line One	2701 KENT AVENUE
Entity Address, City or Town	WEST LAFAYETTE
Entity Address, State or Province	IN
Entity Address, Postal Zip Code	47906-1382
City Area Code	765
Local Phone Number	463-4527
Written Communications	false
Soliciting Material	false
Pre-commencement Tender Offer	false
Pre-commencement Issuer Tender Offer	false
Title of 12(b) Security	Common Shares
Trading Symbol	NOTV
Security Exchange Name	NASDAQ
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Entity Central Index Key	0000720154
Amendment Flag	false
Current Fiscal Year End Date	--09-30

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