

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

FORM 10-Q

(Mark One)

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

For the quarterly period ended March 31, 2021

OR

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

For the transition period from _____ to _____

Commission File Number: 001-36384

MAGNITE, INC.

(Exact name of registrant as specified in its charter)

Delaware

(State or other jurisdiction of incorporation or organization)

20-8881738

(I.R.S. Employer Identification No.)

6080 Center Drive

4th Floor Los Angeles,

CA

90045

(Address of principal executive offices, including zip code)

Registrant's telephone number, including area code:

(310) 207-0272

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

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common stock, par value \$0.00001 per share	MGNI	Nasdaq Global Select Market

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

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

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

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

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

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

Indicate the number of shares outstanding of each of the registrant's classes of common stock, as of the latest practicable date.

Class	Outstanding as of May 4, 2021
Common Stock, \$0.00001 par value	128,859,048

MAGNITE, INC.
QUARTERLY REPORT ON FORM 10-Q
TABLE OF CONTENTS

	<u>Page No.</u>
Part I.	FINANCIAL INFORMATION
Item 1.	Condensed Consolidated Financial Statements (Unaudited)
	Condensed Consolidated Balance Sheets as of March 31, 2021 and December 31, 2020
	Condensed Consolidated Statements of Operations for the Three Months Ended March 31, 2021 and March 31, 2020
	Condensed Consolidated Statements of Comprehensive Loss for the Three Months Ended March 31, 2021 and March 31, 2020
	Condensed Consolidated Statements of Stockholders' Equity for the Three Months Ended March 31, 2021 and March 31, 2020
	Condensed Consolidated Statements of Cash Flows for the Three Months Ended March 31, 2021 and March 31, 2020
	Notes to Condensed Consolidated Financial Statements
Item 2.	Management's Discussion and Analysis of Financial Condition and Results of Operations
Item 3.	Quantitative and Qualitative Disclosures About Market Risk
Item 4.	Controls and Procedures
Part II.	OTHER INFORMATION
Item 1.	Legal Proceedings
Item 1A.	Risk Factors
Item 2.	Unregistered Sales of Equity Securities and Use of Proceeds
Item 6.	Exhibits
Signatures	Signatures

PART I. FINANCIAL INFORMATION**Item 1. Condensed Consolidated Financial Statements**

MAGNITE, INC.
CONDENSED CONSOLIDATED BALANCE SHEETS
(In thousands, except per share amounts)
(unaudited)

	March 31, 2021	December 31, 2020
ASSETS		
Current assets:		
Cash and cash equivalents	\$ 468,550	\$ 117,676
Accounts receivable, net	401,836	471,666
Prepaid expenses and other current assets	17,368	17,729
TOTAL CURRENT ASSETS	887,754	607,071
Property and equipment, net	28,209	23,681
Right-of-use lease asset	38,033	39,599
Internal use software development costs, net	16,087	16,160
Intangible assets, net	82,293	89,884
Other assets, non-current	4,217	4,440
Goodwill	158,125	158,125
TOTAL ASSETS	\$ 1,214,718	\$ 938,960
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities:		
Accounts payable and accrued expenses	\$ 436,590	\$ 509,315
Lease liabilities, current	8,255	9,813
Other current liabilities	4,114	3,070
TOTAL CURRENT LIABILITIES	448,959	522,198
Deferred tax liability, net	230	199
Debt, non-current, net of debt issuance costs	388,644	—
Lease liabilities, non-current	31,608	32,278
Other liabilities, non-current	2,921	2,672
TOTAL LIABILITIES	872,362	557,347
Commitments and contingencies (Note 12)		
STOCKHOLDERS' EQUITY		
Preferred stock, \$0.00001 par value, 10,000 shares authorized at March 31, 2021 and December 31, 2020; 0 shares issued and outstanding at March 31, 2021 and December 31, 2020	—	—
Common stock, \$0.00001 par value; 500,000 shares authorized at March 31, 2021 and December 31, 2020; 116,113 and 114,029 shares issued and outstanding at March 31, 2021 and December 31, 2020, respectively	2	2
Additional paid-in capital	751,017	777,084
Accumulated other comprehensive loss	(1,270)	(957)
Accumulated deficit	(407,393)	(394,516)
TOTAL STOCKHOLDERS' EQUITY	342,356	381,613
TOTAL LIABILITIES AND STOCKHOLDERS' EQUITY	\$ 1,214,718	\$ 938,960

The accompanying notes to unaudited condensed consolidated financial statements are an integral part of these statements.

MAGNITE, INC.
CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS
(In thousands, except per share amounts)
(unaudited)

	Three Months Ended	
	March 31, 2021	March 31, 2020
Revenue	\$ 60,715	\$ 36,295
Expenses:		
Cost of revenue	20,756	14,003
Sales and marketing	22,589	11,269
Technology and development	14,266	10,693
General and administrative	14,158	9,127
Merger, acquisition, and restructuring costs	2,722	1,930
Total expenses	74,491	47,022
Loss from operations	(13,776)	(10,727)
Other (income) expense:		
Interest (income) expense, net	143	(144)
Other income	(1,223)	(9)
Foreign exchange (gain) loss, net	15	(698)
Total other (income) expense, net	(1,065)	(851)
Loss before income taxes	(12,711)	(9,876)
Provision (benefit) for income taxes	166	(201)
Net loss	\$ (12,877)	\$ (9,675)
Net loss per share:		
Basic and Diluted	\$ (0.11)	\$ (0.18)
Weighted average shares used to compute net loss per share:		
Basic and Diluted	115,296	54,866

The accompanying notes to unaudited condensed consolidated financial statements are an integral part of these statements.

MAGNITE, INC.
CONDENSED CONSOLIDATED STATEMENTS OF COMPREHENSIVE LOSS
(In thousands)
(unaudited)

	Three Months Ended	
	March 31, 2021	March 31, 2020
Net loss	\$ (12,877)	\$ (9,675)
Other comprehensive income (loss):		
Foreign currency translation adjustments	(313)	(789)
Other comprehensive loss	(313)	(789)
Comprehensive loss	<u>\$ (13,190)</u>	<u>\$ (10,464)</u>

The accompanying notes to unaudited condensed consolidated financial statements are an integral part of these statements.

MAGNITE, INC.
CONDENSED CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY
(In thousands)
(unaudited)

	Common Stock		Additional Paid-In Capital	Accumulated Other Comprehensive Income (Loss)	Accumulated Deficit	Total Stockholders' Equity
	Shares	Amount				
Balance at December 31, 2019	53,888	\$ 1	\$ 453,064	\$ (45)	\$ (341,084)	\$ 111,936
Exercise of common stock options	27	—	23	—	—	23
Issuance of common stock related to RSU vesting	1,861	—	—	—	—	—
Shares withheld related to net share settlement	(716)	—	(7,485)	—	—	(7,485)
Stock-based compensation	—	—	4,218	—	—	4,218
Other comprehensive income	—	—	—	(789)	—	(789)
Net loss	—	—	—	—	(9,675)	(9,675)
Balance at March 31, 2020	55,060	\$ 1	\$ 449,820	\$ (834)	\$ (350,759)	\$ 98,228

	Common Stock		Additional Paid-In Capital	Accumulated Other Comprehensive Income (Loss)	Accumulated Deficit	Total Stockholders' Equity
	Shares	Amount				
Balance at December 31, 2020	114,029	\$ 2	\$ 777,084	\$ (957)	\$ (394,516)	\$ 381,613
Exercise of common stock options	733	—	5,785	—	—	5,785
Issuance of common stock related to RSU vesting	1,351	—	—	—	—	—
Stock-based compensation	—	—	7,108	—	—	7,108
Capped call options	—	—	(38,960)	—	—	(38,960)
Other comprehensive loss	—	—	—	(313)	—	(313)
Net loss	—	—	—	—	(12,877)	(12,877)
Balance at March 31, 2021	116,113	\$ 2	\$ 751,017	\$ (1,270)	\$ (407,393)	\$ 342,356

The accompanying notes to unaudited condensed consolidated financial statements are an integral part of these statements.

MAGNITE, INC.
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(In thousands)
(unaudited)

	Three Months Ended	
	March 31, 2021	March 31, 2020
OPERATING ACTIVITIES:		
Net loss	\$ (12,877)	\$ (9,675)
Adjustments to reconcile net loss to net cash (used in) provided by operating activities:		
Depreciation and amortization	12,485	7,524
Stock-based compensation	6,993	4,057
(Gain) loss on disposal of property and equipment	50	(6)
Provision for doubtful accounts	(159)	2
Amortization of debt issuance costs	99	—
Non-cash lease expense	(652)	23
Deferred income taxes	62	161
Unrealized foreign currency gain	(375)	(1,083)
Changes in operating assets and liabilities:		
Accounts receivable	70,252	58,600
Prepaid expenses and other assets	1,578	(738)
Accounts payable and accrued expenses	(80,074)	(64,250)
Other liabilities	1,392	152
Net cash used in operating activities	(1,226)	(5,233)
INVESTING ACTIVITIES:		
Purchases of property and equipment	(1,317)	(2,274)
Capitalized internal use software development costs	(1,955)	(2,337)
Net cash used in investing activities	(3,272)	(4,611)
FINANCING ACTIVITIES:		
Proceeds from Convertible Notes offering, net of debt discount	389,000	—
Payment for capped call options	(38,960)	—
Payment for debt issuance costs	(198)	—
Proceeds from exercise of stock options	5,785	23
Taxes paid related to net share settlement	—	(7,485)
Net cash provided by (used in) financing activities	355,627	(7,462)
EFFECT OF EXCHANGE RATE CHANGES ON CASH, CASH EQUIVALENTS AND RESTRICTED CASH	(256)	(299)
CHANGE IN CASH, CASH EQUIVALENTS AND RESTRICTED CASH	350,873	(17,605)
CASH, CASH EQUIVALENTS AND RESTRICTED CASH — Beginning of period	117,731	88,888
CASH, CASH EQUIVALENTS AND RESTRICTED CASH — End of period	\$ 468,604	\$ 71,283
RECONCILIATION OF CASH, CASH EQUIVALENTS AND RESTRICTED CASH TO CONSOLIDATED BALANCE SHEETS		
Cash and cash equivalents	\$ 468,550	\$ 71,283
Restricted cash included in other assets, non-current	54	—
Total cash, cash equivalents and restricted cash	\$ 468,604	\$ 71,283

The accompanying notes to unaudited condensed consolidated financial statements are an integral part of these statements.

MAGNITE, INC.
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(In thousands)
(unaudited)

SUPPLEMENTAL DISCLOSURES OF OTHER CASH FLOW INFORMATION:	Three Months Ended	
	March 31, 2021	March 31, 2020
Cash paid for income taxes	\$ 226	\$ 50
Cash paid for interest	\$ 51	\$ 15
Capitalized assets financed by accounts payable and accrued expenses	\$ 6,050	\$ 338
Capitalized stock-based compensation	\$ 115	\$ 161
Debt issuance costs included in accrued expenses and other liabilities	\$ 1,349	\$ —
Debt discount, non-cash	\$ 11,000	\$ —

The accompanying notes to unaudited condensed consolidated financial statements are an integral part of these statements.

MAGNITE, INC.
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
(unaudited)

Note 1—Organization and Summary of Significant Accounting Policies***Company Overview***

Magnite, Inc. ("Magnite" or the "Company"), formerly known as The Rubicon Project, Inc., was formed in Delaware and began operations in April 2007. On April 1, 2020, Magnite completed a stock-for-stock merger with Telaria, Inc. ("Telaria" and such merger the "Telaria Merger"), a leading provider of connected television ("CTV") technology. On April 30, 2021, the Company completed its acquisition of SpotX, Inc. ("SpotX" and such acquisition the "SpotX Acquisition"), a leading platform shaping CTV and video advertising globally. The Company operates a sell side advertising platform that offers buyers and sellers of digital advertising a single partner for transacting globally across all channels, formats, and auction types. The Company is headquartered in Los Angeles, California and New York, New York.

The Company provides a technology solution to automate the purchase and sale of digital advertising inventory for buyers and sellers. The Company's platform features applications and services for sellers of digital advertising inventory, or publishers, that own or operate websites, applications, CTV channels, and other digital media properties, to manage and monetize their inventory; applications and services for buyers, including advertisers, agencies, agency trading desks, and demand side platforms, to buy digital advertising inventory; and a transparent, independent marketplace that brings buyers and sellers together and facilitates intelligent decision making and automated transaction execution at scale. The Company's clients include many of the world's leading sellers and buyers of digital advertising inventory.

Basis of Presentation and Summary of Significant Accounting Policies

The accompanying unaudited condensed consolidated financial statements have been prepared in accordance with United States Generally Accepted Accounting Principles, or GAAP, for interim financial information and the instructions to Form 10-Q and Article 10 of Regulation S-X. Accordingly, they do not include all of the information and footnotes required by GAAP for complete financial statements. In the opinion of management, all adjustments (consisting of normal recurring adjustments) considered necessary for a fair statement of the results for the interim period presented have been included. Operating results for the three months ended March 31, 2021 are not necessarily indicative of the results that may be expected for any future interim period, the year ending December 31, 2021, or for any future year.

The condensed consolidated balance sheet at March 31, 2021 has been derived from the audited financial statements at that date, but does not include all of the disclosures required by GAAP. The accompanying condensed consolidated financial statements should be read in conjunction with the Company's audited consolidated financial statements and notes thereto for the year ended December 31, 2020 included in its 2020 Annual Report on Form 10-K.

Aside from the adoption of ASU 2020-06, as described below, there have been no significant changes in the Company's accounting policies from those disclosed in its audited consolidated financial statements and notes thereto for the year ended December 31, 2020 included in its Annual Report on Form 10-K.

Reclassifications

Amounts for merger, acquisition, and restructuring costs incurred in the three months ended March 31, 2020 have been reclassified to conform to the presentation for the three months ended March 31, 2021 condensed consolidated statements of operations. Reclassifications consist of \$1.8 million from general and administrative expenses and \$0.2 million from sales and marketing expenses to merger, acquisition, and restructuring costs in the condensed consolidated statement of operations for the three months ended March 31, 2020. These expenses were related to professional services associated with the Telaria Merger. The Company did not separately present the merger, acquisition, and restructuring expenses in the condensed consolidated statement of operations for the three months ended March 31, 2020.

Use of Estimates

The preparation of condensed consolidated financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported and disclosed financial statements and accompanying footnotes. Due to the economic uncertainty as a result of the COVID-19 pandemic, it has become more difficult to apply certain assumptions and judgments into these estimates. The extent of the impact of COVID-19 pandemic on the Company's operational and financial performance will depend on future developments, which are highly uncertain and cannot be predicted, including but not limited to, the duration and spread of the pandemic, its severity, including any resurgence, the actions to contain the virus or treat its impact, and how quickly and to what extent normal economic and operating conditions can resume. During the three months ended March 31, 2021, this uncertainty continued to result in a higher level of judgment related to its estimates and assumptions. As of the date of issuance of the condensed consolidated financial statements for the three months ended March 31, 2021, the Company is not aware of any specific event or circumstance that would require the Company to update its estimates, judgments, or revise the carrying value of its assets or liabilities. These estimates may change, as new events occur and additional information is obtained, and are

recognized in the consolidated financial statements as soon as they become known. Actual results could differ materially from these estimates.

Recently Adopted Accounting Standards

On January 1, 2021, the Company adopted ASU 2020-06, *Debt—Debt with Conversion and Other Options (Subtopic 470-20) and Derivatives and Hedging—Contracts in Entity's Own Equity (Subtopic 815-40): Accounting for Convertible Instruments and Contracts in an Entity's Own Equity* (ASU "2020-06") on a prospective basis, which simplifies the accounting for convertible instruments by reducing the number of accounting models available for convertible debt instruments that require separating embedded conversion features from convertible instruments. This guidance also eliminates the treasury stock method to calculate diluted earnings per share for convertible instruments and requires the use of the if-converted method. The adoption of this standard is included in the financial statements as of March 31, 2021 and for the three ended March 31, 2021. Refer to Note 14—"Convertible Notes" for additional information related to accounting for convertible debt issued during the three months ended March 31, 2021.

On January 1, 2021, the Company adopted ASU 2019-12—*Simplifying the Accounting for Income Taxes* ("ASU 2019-12"). ASU 2019-12 simplifies the accounting for income taxes by removing certain exceptions to general principles in Topic 740 and clarifies and amends existing guidance for clarity and consistent application. There was no material impact to the quarterly income tax provision.

Recent Accounting Pronouncements

In March 2020, the FASB issued Update No. 2020-04, Reference Rate Reform (Topic 848), which provides temporary optional guidance to companies impacted by the transition away from the LIBOR. The amendment provides certain expedients and exceptions to applying GAAP in order to lessen the potential accounting burden when contracts, hedging relationships, and other transactions that reference LIBOR as a benchmark rate are modified. Further, in January 2021, the FASB issued Update No. 2021-01, Reference Rate Reform (Topic 848), which clarifies the scope of Topic 848 so that derivatives affected by the discounting transition are explicitly eligible for certain optional expedients and exceptions in Topic 848. These amendments are effective upon issuance and expire on December 31, 2022. The Company is currently assessing the impact of the LIBOR transition on the Company's condensed consolidated financial statements.

The Company does not believe there are any other recently issued and effective or not yet effective pronouncements that would have or are expected to have any significant effect on the Company's financial position, cash flows or results of operations.

Note 2—Net Income (Loss) Per Share

The following table presents the basic and diluted net loss per share:

	Three Months Ended	
	March 31, 2021	March 31, 2020
	(in thousands, except per share data)	
Basic and Diluted Income (Loss) Per Share:		
Net loss	\$ (12,877)	\$ (9,675)
Weighted-average common shares outstanding	115,296	54,868
Weighted-average unvested restricted stock	—	(2)
Weighted-average common shares outstanding used to compute net loss per share	<u>115,296</u>	<u>54,866</u>
Basic and diluted net loss per share	<u>\$ (0.11)</u>	<u>\$ (0.18)</u>

The following weighted-average shares have been excluded from the calculation of diluted net loss per share attributable to common stockholders for each period presented because they are anti-dilutive:

	Three Months Ended	
	March 31, 2021	March 31, 2020
	(in thousands)	
Options to purchase common stock	5,400	1,239
Unvested restricted stock awards	—	1
Unvested restricted stock units	7,496	3,978
Unvested performance stock units	197	—
ESPP	90	61
Total shares excluded from net loss per share	<u>13,183</u>	<u>5,279</u>

For the three months ended March 31, 2021, the Company excluded the shares that would be issuable assuming conversion of all of the Convertible Notes (as defined below) and the shares for the Capped Call Transactions (as defined below) as their effect would be anti-dilutive. Diluted earnings per share for the Convertible Notes is calculated under the if-converted method in accordance with ASC 260, *Earnings Per Share*. The Convertible Notes have an initial conversion rate of 15.6539 shares of common stock per \$1,000 principal amount of the Convertible Notes, which will be subject to anti-dilution adjustments in certain circumstances. The number of shares that would be issuable assuming conversion of all of the Convertible Notes is approximately 6,261,560. Refer to Note 14—"Convertible Notes" for additional information related to accounting for Convertible Notes issued and associated Capped Call Transactions during the three months ended March 31, 2021.

Note 3—Revenues

For substantially all transactions on the Company's platform, the Company reports revenue on a net basis as it does not act as the principal in the purchase and sale of digital advertising inventory because it does not have control of the digital advertising inventory and does not set prices agreed upon within the auction marketplace. However, for certain advertising campaigns that are transacted through insertion orders, the Company reports revenue on a gross basis, based primarily on its determination that the Company acts as the primary obligor in the delivery of advertising campaigns for buyers with respect to such transactions. For the three months ended March 31, 2021, revenue reported on a gross basis was less than 3% of total revenue.

The following table presents our revenue by channel for the three months ended March 31, 2021 and 2020:

Channel:	Three Months Ended			
	March 31, 2021		March 31, 2020	
	(in thousands, except percentages)			
CTV	\$ 11,976	20 %	\$ —	— %
Desktop	20,851	34	15,296	42
Mobile	27,888	46	20,999	58
Total	\$ 60,715	100 %	\$ 36,295	100 %

The following table presents the Company's revenue disaggregated by geographic location, based on the location of the Company's sellers:

	Three Months Ended	
	March 31, 2021	March 31, 2020
	(in thousands)	
United States	\$ 42,611	\$ 25,533
International	18,104	10,762
Total	\$ 60,715	\$ 36,295

Payment terms are specified in agreements between the Company and the buyers and sellers on its platform. The Company generally bills buyers at the end of each month for the full purchase price of impressions filled in that month. The Company recognizes volume discounts as a reduction of revenue as they are incurred. Specific payment terms may vary by agreement, but are generally seventy-five days or less. The Company's accounts receivable are recorded at the amount of gross billings to buyers, net of allowances for the amounts the Company is responsible to collect. The Company's accounts payable related to amounts due to sellers are recorded at the net amount payable to sellers (see Note 5). Accordingly, both accounts receivable and accounts payable appear large in relation to revenue reported on a net basis.

Accounts receivable are recorded at the invoiced amount, are unsecured, and do not bear interest. The allowance for doubtful accounts is reviewed quarterly, requires judgment, and is based on the best estimate of the amount of probable credit losses in existing accounts receivable. The Company reviews the status of the then-outstanding accounts receivable on a customer-by-customer basis, taking into consideration the aging schedule of receivables, its historical collection experience, current information regarding the client, subsequent collection history, and other relevant data, in establishing the allowance for doubtful accounts. Accounts receivable is presented net of an allowance for doubtful accounts of \$1.5 million at March 31, 2021, and \$2.4 million at December 31, 2020. Accounts receivable are written off against the allowance for doubtful accounts when the Company determines amounts are no longer collectible.

The Company reviews the associated payable to sellers for recovery of buyer receivable allowance and write-offs; in some cases, the Company can reduce the payable to sellers. The reduction of seller payables related to recovery of uncollected buyer receivables is netted against allowance expense. The contra seller payables related to recoveries were \$0.8 million and \$1.5 million as of March 31, 2021 and December 31, 2020, respectively.

The following is a summary of activity in the allowance for doubtful accounts for the three months ended March 31, 2021 and 2020:

	Three Months Ended	
	March 31, 2021	March 31, 2020
	(in thousands)	
Allowance for doubtful accounts, Beginning Balance December 31	\$ 2,360	\$ 3,400
Write-offs	(4)	(740)
Increase (decrease) in provision for expected credit losses	(877)	413
Recoveries of previous write-offs	20	7
Allowance for doubtful accounts, March 31	<u>\$ 1,499</u>	<u>\$ 3,080</u>

During the three months ended March 31, 2021, the provision for expected credit losses associated with accounts receivable decreased by \$0.9 million and was offset by decreases of contra seller payables related to recoveries of uncollected buyer receivables of \$0.7 million, which resulted in \$0.2 million of bad debt recoveries. During the three months ended March 31, 2020, the provision for expected credit losses associated with accounts receivable of \$0.4 million was offset by increases of contra seller payables related to recoveries of uncollected buyer receivables of \$0.4 million, which resulted in an immaterial amount of bad debt expense during the period.

Note 4—Fair Value Measurements

Recurring Fair Value Measurements

Fair value represents the exchange price that would be received for an asset or paid to transfer a liability (an exit price) in the principal or most advantageous market for the asset or liability in an orderly transaction between market participants on the measurement date. Valuation techniques used to measure fair value must maximize the use of observable inputs and minimize the use of unobservable inputs. Observable inputs are based on market data obtained from independent sources. The fair value hierarchy is based on the following three levels of inputs, of which the first two are considered observable and the last one is considered unobservable:

- Level 1 – Quoted prices (unadjusted) in active markets for identical assets or liabilities that the Company has the ability to access at the measurement date.
- Level 2 – Inputs other than quoted prices included within Level 1 that are observable for the asset or liability, either directly or indirectly.
- Level 3 – Unobservable inputs.

The table below sets forth a summary of financial instruments that are measured at fair value on a recurring basis at March 31, 2021:

	Total	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
Cash equivalents	\$ 356,909	\$ 356,909	\$ —	\$ —

The table below sets forth a summary of financial instruments that are measured at fair value on a recurring basis at December 31, 2020:

	Total	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
Cash equivalents	\$ 7,868	\$ 7,868	\$ —	\$ —

At March 31, 2021 and December 31, 2020, cash equivalents of \$356.9 million and \$7.9 million, respectively, consisted of money market funds and commercial paper, with original maturities of three months or less. The carrying amounts of cash equivalents are classified as Level 1 or Level 2 depending on whether or not their fair values are based on quoted market prices for identical securities that are traded in an active market.

At March 31, 2021, the Company had Convertible Notes included in its balance sheet. The estimated fair value of the Company's Convertible Notes was \$390.5 million as of March 31, 2021, which was approximate to its carrying value on the balance sheet as of March 31, 2021 due to the proximity of the Convertible Note offering to end of the period. The estimated fair value of Convertible Notes is based on market rates and the closing trading price of the Convertible Notes as of March 31, 2021 and is classified as Level 2 in the fair value hierarchy.

There were no transfers between Level 1 and Level 2 fair value measurements during the three months ended March 31, 2021 and the year ended December 31, 2020.

Note 5—Other Balance Sheet Amounts

Accounts payable and accrued expenses included the following:

	March 31, 2021	December 31, 2020
	(in thousands)	
Accounts payable—seller	\$ 411,674	\$ 492,605
Accounts payable—trade	15,058	4,268
Accrued employee-related payables	9,858	12,442
Total	<u>\$ 436,590</u>	<u>\$ 509,315</u>

Restricted cash was \$0.1 million and \$0.1 million at March 31, 2021 and December 31, 2020, respectively, which was included within other assets, non-current.

Note 6—Goodwill, Intangible Assets, and Capitalized Costs Incurred in Cloud Computing Arrangements

The Company's goodwill balance as of December 31, 2020 was \$158.1 million. There was no change for the three months ended March 31, 2021 (see Note 7).

The Company's intangible assets as of March 31, 2021 and December 31, 2020 included the following:

	March 31, 2021	December 31, 2020
	(in thousands)	
Amortizable intangible assets:		
Developed technology	\$ 77,658	\$ 77,658
Customer relationships	37,950	37,950
In-process research and development	8,030	8,030
Non-compete agreements	70	70
Total identifiable intangible assets, gross	<u>123,708</u>	<u>123,708</u>
Accumulated amortization—intangible assets:		
Developed technology	(25,651)	(21,905)
Customer relationships	(15,713)	(11,877)
Non-compete agreements	(51)	(42)
Total accumulated amortization—intangible assets	<u>(41,415)</u>	<u>(33,824)</u>
Total identifiable intangible assets, net	<u>\$ 82,293</u>	<u>\$ 89,884</u>

Amortization of intangible assets for the three months ended March 31, 2021 and 2020 was \$7.6 million and \$1.1 million, respectively.

The estimated remaining amortization expense associated with the Company's intangible assets was as follows as of March 31, 2021:

Fiscal Year	Amount (in thousands)
Remaining 2021	\$ 23,457
2022	26,342
2023	13,941
2024	13,757
2025	4,238
Thereafter	558
Total	\$ 82,293

During the three months ended March 31, 2021, the Company capitalized \$0.3 million related to cloud computing arrangements. These costs are related to arrangements for infrastructure as a service, platform as a service, and software as a service. Capitalized costs associated with these arrangements as of March 31, 2021 and December 31, 2020 are included within prepaid expenses and other current assets and other assets, non-current within the condensed consolidated balance sheet in the amounts of \$0.3 million and \$0.8 million, and \$0.2 million and \$0.7 million, respectively. The amortization of these agreements was insignificant for the three months ended March 31, 2021 and March 31, 2020.

Note 7—Business Combinations

On April 1, 2020 (the "Acquisition Date"), the Company completed the Telaria Merger. Management's purchase price allocation was finalized as of March 31, 2021, resulting in no changes from the purchase price and allocation as of December 31, 2020.

Unaudited Pro Forma Information

The following table provides unaudited pro forma information as if Telaria had been merged with the Company as of January 1, 2019. The unaudited pro forma information reflects adjustments for additional amortization resulting from the fair value adjustments to assets acquired and liabilities assumed, adjustments for alignment of accounting policies, and transaction expenses as if the Telaria Merger occurred on January 1, 2019. The pro forma results do not include any anticipated cost synergies or other effects of the integration merged companies. Accordingly, pro forma amounts are not necessarily indicative of the results that actually would have occurred had the acquisition been completed on the dates indicated, nor is it indicative of the future operating results of the combined company.

	Three Months Ended March 31, 2020 (in thousands)
Pro Forma Revenue	\$ 51,333
Pro Forma Net Loss	\$ (21,537)

Note 8—Merger, Acquisition, and Restructuring Costs

Merger, acquisition, and restructuring costs consist primarily of professional services fees and employee termination costs, including stock-based compensation charges, associated with the Telaria Merger, the SpotX Acquisition, and restructuring activities.

The following table summarizes merger, acquisition, and restructuring cost activity (in thousands):

	Three Months Ended March 31, 2021	Three Months Ended March 31, 2020
	(in thousands)	
Professional Services (investment banking advisory, legal and other professional services)	\$ 2,226	\$ 1,827
Personnel related (severance and one-time termination benefit costs)	119	103
Non-cash stock-based compensation (double-trigger acceleration and severance)	377	—
Total merger, acquisition, and restructuring costs	\$ 2,722	\$ 1,930

Accrued merger, acquisition, and restructuring costs were \$2.5 million and \$2.9 million at March 31, 2021 and December 31, 2020, respectively, and were primarily related to the SpotX Acquisition and the Telaria Merger. Accrued restructuring costs associated with personnel costs are included within accounts payable and accrued expenses and accruals related to the Telaria Merger assumed loss contracts are included within other current liabilities and other liabilities, non-current on the Company's condensed consolidated balance sheet.

	(in thousands)
Accrued merger, acquisition, and restructuring costs at December 31, 2020	2,935
Restructuring costs, personnel related and non-cash stock-based compensation	496
Cash paid for restructuring costs	(531)
Non-cash stock-based compensation	(377)
Accrued merger, acquisition, and restructuring costs at March 31, 2021	\$ 2,523

Note 9—Stock-Based Compensation

The Company's equity incentive plans provide for the grant of equity awards, including non-statutory or incentive stock options, restricted stock awards ("RSAs"), and restricted stock units ("RSUs"), to the Company's employees, officers, directors, and consultants. The Company's board of directors administers the plans. Options outstanding vest based upon continued service at varying rates, but generally over four years from issuance with 25% vesting after one year of service and the remainder vesting monthly thereafter. RSAs and RSUs vest at varying rates, typically approximately 25% vesting after approximately one year of service and the remainder vesting annually, semi-annually, or quarterly thereafter. The restricted stock units granted in 2020 included 0.7 million that vest 50% on each of the first and second anniversaries of the grant date. Options, RSAs, and RSUs granted under the plans accelerate under certain circumstances for certain participants upon a change in control, as defined in the governing plan or award agreement. An aggregate of 15,413,813 shares remained available for future grants at March 31, 2021 under the plans.

Stock Options

A summary of stock option activity for the three months ended March 31, 2021 is as follows:

	Shares Under Option (in thousands)	Weighted- Average Exercise Price	Weighted- Average Contractual Life	Aggregate Intrinsic Value (in thousands)
Outstanding at December 31, 2020	6,695	\$ 5.61		
Exercised	(733)	\$ 7.89		
Forfeited	(84)	\$ 8.09		
Outstanding at March 31, 2021	5,878	\$ 5.29	6.25 years	\$ 213,470
Exercisable at March 31, 2021	3,628	\$ 5.52	4.97 years	\$ 130,947

The total intrinsic value of options exercised during the three months ended March 31, 2021 was \$26.6 million. At March 31, 2021, the Company had unrecognized employee stock-based compensation expense relating to nonvested stock options of approximately \$5.7 million, which is expected to be recognized over a weighted-average period of 2.3 years. Total fair value of options vested during the three months ended March 31, 2021 was \$0.9 million.

The Company estimates the fair value of stock options that contain service and/or performance conditions using the Black-Scholes option pricing model. The weighted-average input assumptions used by the Company were as follows:

	Three Months Ended	
	March 31, 2021	March 31, 2020
Expected term (in years)	N/A	6.1
Risk-free interest rate	N/A	2.51 %
Expected volatility	N/A	60 %
Dividend yield	N/A	— %

Restricted Stock Units

A summary of restricted stock unit activity for the three months ended March 31, 2021 is as follows:

	Number of Shares (in thousands)	Weighted-Average Grant Date Fair Value
Nonvested restricted stock units outstanding at December 31, 2020	9,286	\$ 5.30
Granted	210	\$ 56.06
Canceled	(133)	\$ 5.28
Vested	(1,351)	\$ 5.03
Nonvested restricted stock units outstanding at March 31, 2021	8,012	\$ 6.68

The weighted-average grant date fair value per share of restricted stock units granted during the three months ended March 31, 2021 was \$56.06. The aggregate fair value of restricted stock units that vested during the three months ended March 31, 2021 was \$53.8 million. At March 31, 2021, the intrinsic value of nonvested restricted stock units was \$333.4 million. At March 31, 2021, the Company had unrecognized stock-based compensation expense relating to nonvested restricted stock units of approximately \$42.2 million, which is expected to be recognized over a weighted-average period of 2.4 years.

Performance Stock Units

In April 2020, the Company granted the Company's CEO 146,341 restricted stock units that vest based on certain stock price performance metrics with a fair value of \$0.9 million. The grant date fair value per share of restricted stock was \$6.15, which was estimated using a Monte-Carlo lattice model. During the three months ended March 31, 2021, the Company recognized \$0.3 million of stock-based compensation related to these performance stock units based on a performance measurement of 150%. At March 31, 2021, the Company had unrecognized employee stock-based compensation expense of approximately \$0.6 million, which is expected to be recognized over the remaining 2 years. Between 0% and 150% of the performance stock units will vest on the third anniversary of its grant date. The compensation expense will not be reversed if the performance metrics are not met.

Employee Stock Purchase Plan

In November 2013, the Company adopted the Company's 2014 Employee Stock Purchase Plan ("ESPP"). The ESPP is designed to enable eligible employees to periodically purchase shares of the Company's common stock at a discount through payroll deductions of up to 10% of their eligible compensation, subject to any plan limitations. At the end of each six-month offering period, employees are able to purchase shares at a price per share equal to 85% of the lower of the fair market value of the Company's common stock on the first trading day of the offering period or on the last trading day of the offering period. Offering periods generally commence and end in May and November of each year.

As of March 31, 2021, the Company has reserved 3,189,449 shares of its common stock for issuance under the ESPP. The ESPP has an evergreen provision pursuant to which the share reserve will automatically increase on January 1st of each year in an amount equal to 1% of the total number of shares of capital stock outstanding on December 31st of the preceding calendar year, although the Company's board of directors may provide for a lesser increase, or no increase, in any year.

Stock-Based Compensation Expense

Total stock-based compensation expense recorded in the condensed consolidated statements of operations was as follows:

	Three Months Ended	
	March 31, 2021	March 31, 2020
	(in thousands)	
Cost of revenue	\$ 85	\$ 101
Sales and marketing	2,461	1,085
Technology and development	1,826	1,183
General and administrative	2,244	1,688
Restructuring and other exit costs	377	—
Total stock-based compensation expense	<u>\$ 6,993</u>	<u>\$ 4,057</u>

Note 10—Income Taxes

In determining quarterly provisions for income taxes, the Company uses the annual estimated effective tax rate applied to the actual year-to-date income. The Company's annual estimated effective tax rate differs from the statutory rate primarily as a result of state taxes, foreign taxes, nondeductible stock option expenses, and changes in the Company's valuation allowance.

The Company adopted ASU2019-12, during the three months ended March 31, 2021. There was no material impact to the quarterly income tax provision.

The Company recorded an income tax expense of \$0.2 million and an income tax benefit of \$0.2 million for the three months ended March 31, 2021 and 2020, respectively. The tax expense for the three months ended March 31, 2021 is primarily the result of the domestic valuation allowance and the change in unrecognized benefit.

On March 27, 2020, President Trump signed into law the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act"), in response to the COVID-19 pandemic. The CARES Act is meant to infuse negatively affected companies with various tax cash benefits to ease the impact of the COVID-19 pandemic. The CARES Act, among other things, includes provisions relating to refundable payroll tax credits, deferment of employer-side social security payments, and net operating loss carryback periods. The Company has determined the tax implications of the CARES Act will not be material. To date the Company has not taken advantage of any relief under the CARES Act. In addition, various foreign jurisdictions where the Company has activity have enacted or are considering enacting a variety of measures that could impact our tax liabilities. The Company is monitoring new legislation and evaluating the potential tax implications of these measures globally.

Due to uncertainty as to the realization of benefits from the Company's domestic and certain international deferred tax assets, including net operating loss carryforwards and research and development tax credits, the Company has a full valuation allowance reserved against such assets. The Company intends to continue to maintain a full valuation allowance on the deferred tax assets until there is sufficient evidence to support the reversal of all or some portion of these allowances.

Due to the net operating loss carryforwards, all of the Company's United States federal and a majority of its state returns are open to examination by the Internal Revenue Service and state jurisdictions for all years since inception. The 2017 U.S. Income Tax Return for Telaria, Inc. is under examination by the IRS. There have been no issues identified through the period ending March 31, 2021. For the Netherlands and the United Kingdom, all tax years remain open for examination by the local country tax authorities, for France only 2018 forward are open for examination, for Singapore 2017 and forward are open for examination, for Australia, Brazil, Canada, Germany, Italy, New Zealand, and Malaysia 2016 and forward are open for examination, and for Japan 2014 and forward remain open for examination.

Pursuant to Section 382 of the Internal Revenue Code, the Company and Telaria, Inc. both underwent ownership changes for tax purposes (i.e. a more than 50% change in stock ownership in aggregated 5% shareholders) on April 1, 2020 due to the Telaria Merger. As a result, the use of our total domestic NOL carryforwards and tax credits generated prior to the ownership change will be subject to annual use limitations under Section 382 and Section 383 of the Code and comparable state income tax laws. The Company believes that the ownership change will not impact our ability to utilize substantially all of our NOLs and state research and development carryforward tax credits to the extent it will generate taxable income that can be offset by such losses. The Company reasonably expects its federal research and development carryforward tax credits will not be recovered prior to expiration.

There was no material change to the Company's unrecognized tax benefits in the three months ended March 31, 2021 and the Company does not expect to have any material changes to unrecognized tax benefits through the end of the fiscal year.

Note 11—Lease Obligations

For the three months ended March 31, 2021 and 2020, the Company recognized \$3.8 million and \$2.1 million, respectively, of lease expense under ASC 842, which included operating lease expenses associated with leases included in the lease liability and ROU asset on the condensed consolidated balance sheet. In addition, for the three months ended March 31, 2021 and 2020, the Company recognized \$0.3 million and \$0.1 million, respectively, of lease expense related to short-term leases, and \$6.4 million and \$2.4 million during the three months ended March 31, 2021 and 2020, respectively, of variable and cloud-based services related to data centers that are not included in the ROU asset or lease liability balances.

The Company also received rental income of \$1.2 million for real estate leases for which it subleases the property to third parties during the three months ended March 31, 2021. The Company received insignificant amounts of rental income during the three months ended March 31, 2020.

As of March 31, 2021, a weighted average discount rate of 4.94% has been applied to the remaining lease payments to calculate the lease liabilities included within the condensed consolidated balance sheet. The lease terms of the Company's operating leases generally range from one year to ten years, and the weighted average remaining lease term of leases included in the lease liability is 6.13 years as of March 31, 2021.

The maturity of the Company's lease liabilities associated with leases included in the lease liability and ROU asset were as follows as of March 31, 2021 (in thousands):

Fiscal Year		
Remaining 2021	\$	7,575
2022		8,943
2023		7,978
2024		7,072
2025		3,551
Thereafter		11,403
Total lease payments (undiscounted)		46,522
Less: imputed interest		(6,659)
Lease liabilities—total (discounted)	\$	<u>39,863</u>

In addition to the lease liabilities included in these condensed consolidated financial statements at March 31, 2021, during the three months ended December 31, 2020, the Company entered into agreements for an office lease in Los Angeles and a data center in Singapore which have not commenced as of March 31, 2021; therefore, they are not included in the lease liability on the balance sheet as of March 31, 2021. The Company has future commitments totaling \$23.2 million over the course of 10 years for the office lease and \$5.6 million over the course of four years for the data center in Singapore.

Note 12—Commitments and Contingencies**Commitments**

The Company has commitments under non-cancelable operating leases for facilities, certain equipment, and its managed data center facilities (Note 11).

As of March 31, 2021 and December 31, 2020, the Company had \$6.0 million and \$6.3 million, respectively, of letters of credit associated with office leases available for borrowing, on which there were no outstanding borrowings as of either date.

Guarantees and Indemnification

The Company's agreements with sellers, buyers, and other third parties typically obligate the Company to provide indemnity and defense for losses resulting from claims of intellectual property infringement, damages to property or persons, business losses, or other liabilities. Generally, these indemnity and defense obligations relate to the Company's own business operations, obligations, and acts or omissions. However, under some circumstances, the Company agrees to indemnify and defend contract counterparties against losses resulting from their own business operations, obligations, and acts or omissions, or the business operations, obligations, and acts or omissions of third parties. For example, because the Company's business interposes the Company between buyers and sellers in various ways, buyers often require the Company to indemnify them against acts and omissions of sellers, and sellers often require the Company to indemnify them against acts and omissions of buyers. In addition, the Company's agreements with sellers, buyers, and other third parties typically include provisions limiting the Company's liability to

the counterparty, and the counterparty's liability to the Company. These limits sometimes do not apply to certain liabilities, including indemnity obligations. These indemnity and limitation of liability provisions generally survive termination or expiration of the agreements in which they appear. The Company has also entered into indemnification agreements with its directors, executive officers, and certain other officers that will require the Company, among other things, to indemnify them against certain liabilities that may arise by reason of their status or service as directors, officers, or employees. No material demands have been made upon the Company to provide indemnification under such agreements and there are no claims that the Company is aware of that could have a material effect on the Company's consolidated financial statements.

Litigation

The Company and its subsidiaries may from time to time be parties to legal or regulatory proceedings, lawsuits and other claims incident to their business activities and to the Company's status as a public company. Such matters may include, among other things, assertions of contract breach or intellectual property infringement, claims for indemnity arising in the course of the Company's business, regulatory investigations or enforcement proceedings, and claims by persons whose employment has been terminated. Such matters are subject to many uncertainties, and outcomes are not predictable with assurance. Consequently, management is unable to ascertain the ultimate aggregate amount of monetary liability, amounts which may be covered by insurance or recoverable from third parties, or the financial impact with respect to such matters as of March 31, 2021. However, based on management's knowledge as of March 31, 2021, management believes that the final resolution of these matters known at such date, individually and in the aggregate, will not have a material adverse effect upon the Company's consolidated financial position, results of operations or cash flows.

Employment Contracts

The Company has entered into severance agreements with certain employees and officers. The Company may be required to pay severance and accelerate the vesting of certain equity awards in the event of involuntary terminations.

Note 13—SVB Loan Agreement

On September 25, 2020, the Company amended and restated its loan and security agreement with Silicon Valley Bank ("SVB") (the "Loan Agreement"), which was scheduled to expire on September 26, 2020. The Loan Agreement provides a senior secured revolving credit facility of up to the lesser of \$60.0 million and 85% of eligible accounts receivable, with a maturity date of September 25, 2022. The Loan Agreement includes a letter of credit, foreign exchange and cash management facility with a sublimit up to \$10.0 million, of which \$6.0 million was utilized for letters of credit related to leases as of March 31, 2021 (see Note 12). As of March 31, 2021, the amount available for borrowing is \$54.0 million. The Company incurred \$0.1 million of debt issuance fees that were capitalized and are being amortized over the term of the Loan Agreement.

An unused revolver fee in the amount of 0.15% per annum of the average unused portion of the revolver line is charged and is payable monthly in arrears. The Company may elect for advances to bear interest calculated by reference to prime or LIBOR. If the Company elects LIBOR, amounts outstanding under the amended credit facility bear interest at a rate per annum equal to LIBOR plus 2.25%, with LIBOR having a floor of 3.5%. If the Company elects prime, advances bear interest at a rate of prime plus 0.25%, with prime having a floor of 3.5%.

The Loan Agreement is collateralized by security interests in substantially all of the Company's assets. Subject to certain exceptions, the Loan Agreement restricts the Company's ability to, among other things, pay dividends, sell assets, make changes to the nature of the business, engage in mergers or acquisitions, incur, assume or permit to exist, additional indebtedness and guarantees, create or permit to exist, liens, make distributions or redeem or repurchase capital stock, or make other investments, engage in transactions with affiliates, make payments with respect to subordinated debt, and enter into certain transactions without the consent of the financial institution. The Company is required to maintain a lockbox arrangement where clients payments received in the lockbox will be deposited daily into the Company's operating bank accounts.

The Loan Agreement requires the Company to comply with financial covenants, measured quarterly, with respect to a minimum liquidity ratio and maximum quarterly cash burn. The Company is required to maintain a minimum liquidity ratio of at least 1.25 on the last day of each quarter and not exceed, on an absolute basis, a maximum quarterly cash burn for specific periods, as defined in the Loan Agreement. The Liquidity Ratio is defined as Cash and Cash Equivalents, plus Accounts Receivable, less Accounts Payable - Seller, divided by all obligations the Company has to pay to SVB, including all debt balances, interest, service fees, and unused credit line fees, net of outstanding letters of credit as of the balance sheet date. Cash Burn is defined as Adjusted EBITDA less Capital Expenditures during the trailing periods as outlined in the Loan Agreement. The Loan Agreement defines Capital Expenditures as the current period unfinanced cash expenditures that are capitalized and amortized, including but not limited to property and equipment and capitalized labor costs as they relate to internal use software development costs. As of March 31, 2021, the Company was in compliance with its financial covenants.

The Loan Agreement also includes customary representations and warranties, affirmative covenants, and events of default, including events of default upon a change of control and material adverse change (as defined in the Loan Agreement). Following an

event of default, SVB would be entitled to, among other things, accelerate payment of amounts due under the credit facility and exercise all rights of a secured creditor.

As of March 31, 2021, there were no amounts outstanding under the Loan Agreement (other than with respect to the letters of credit). Future availability under the credit facility is dependent on several factors including the available borrowing base and compliance with future covenant requirements.

Refer to Note 15 – "Subsequent Events" for additional information related to the termination of the Loan Agreement and entry into the new Credit Agreement (as defined below).

Note 14—Convertible Senior Notes and Capped Call Transactions

In March 2021, the Company issued \$400.0 million aggregate principal amount of 0.25% convertible senior notes in a private placement, including \$50.0 million aggregate principal amount of such notes pursuant to the exercise in full of the over-allotment options of the initial purchasers (collectively, the ("Convertible Notes")). The Convertible Notes will mature on March 15, 2026, unless earlier repurchased, redeemed or converted. The total net proceeds from the offering, after deducting initial purchaser discounts and debt issuance costs, paid or payable by us, were approximately \$389.0 million. The Company used approximately \$39.0 million of the net proceeds from the offering to pay for the Capped Call Transactions (as described below).

The Convertible Notes are senior, unsecured obligations and (i) will be equal in right of payment with the existing and future senior, unsecured indebtedness; (ii) senior in right of payment to any of the Company's future indebtedness that is expressly subordinated to the Convertible Notes; (iii) effectively subordinated to the Company's existing and future secured indebtedness, to the extent of the value of the collateral securing that indebtedness, including amounts outstanding under our Existing Loan Agreement or our New Credit Facilities (see Note 15); and (iv) structurally subordinated to all existing and future indebtedness and other liabilities, including trade payables, and (to the extent we are not a holder thereof) preferred equity, if any, of the Company's subsidiaries that do not guarantee the Convertible Notes.

The Convertible Notes accrue interest at 0.25% per annum payable semi-annually in arrears on March 15 and September 15 of each year, beginning on September 15, 2021. The Convertible Notes will mature on March 15, 2026 unless they are redeemed, repurchased or converted prior to such date. The Convertible Notes are convertible at the option of holders only during certain periods and upon satisfaction of certain conditions.

Holders will have the right to convert their notes (or any portion of a note in an authorized denomination), in the following circumstances: (i) during any calendar quarter commencing after the calendar quarter ending on June 30, 2021, if the last reported sale price per share of the Company's common stock exceeds 130% of the conversion price for each of at least 20 trading days during the 30 consecutive trading days ending on, and including, the last trading day of the immediately preceding calendar quarter; (ii) during the five consecutive business days immediately after any ten consecutive trading day period (such ten consecutive trading day period, the "measurement period") in which the trading price per \$1,000 principal amount of notes for each trading day of the measurement period was less than 98% of the product of the last reported sale price per share of the Company's common stock on such trading day and the conversion rate on such trading day; (iii) upon the occurrence of certain corporate events or distributions on the Company's common stock; (iv) if the Company calls such Convertible Notes for redemption; and (v) on or after September 15, 2025, until the close of business on the second scheduled trading day immediately before the maturity date, holders of the Convertible Notes may, at their option, convert all or a portion of their Convertible Notes regardless of the foregoing conditions, at any time from, and including, September 15, 2025 until the close of business on the second scheduled trading day immediately before the maturity date.

Upon conversion, the Convertible Notes may be settled in shares of the Company's common stock, cash or a combination of cash and shares of the Company's common stock, at the Company's election. All conversions with a conversion date that occurs on or after September 15, 2025 will be settled using the same settlement method, and the Company will send notice of such settlement method to noteholders no later than the open of business on September 15, 2025.

The Company may not redeem the Convertible Notes at their option at any time before March 20, 2024. Subject to the terms of the indenture, the Company has the right, at its election, to redeem all, or any portion (subject to the partial redemption limitation) in an authorized denomination, of the Convertible Notes, at any time, and from time to time, on a redemption date on or after March 20, 2024 and on or before the 40th scheduled trading day immediately before the maturity date, for cash, but only if the "last reported sale price," as defined under the Offering Memorandum, per share of common stock exceeds 130% of the "conversion price" on (i) each of at least 20 trading days, during the 30 consecutive trading days ending on, and including, the trading day immediately before the date the Company sends the related redemption notice; and (ii) the trading day immediately before the date we send such notice. In addition, calling any note for redemption will constitute a "make-whole fundamental change" (as defined below) with respect to that note, in which case the conversion rate applicable to the conversion of that note will be increased in certain circumstances if it is converted after it is called for redemption. If the Company elects to redeem less than all of the outstanding notes, then the redemption will not constitute a make-whole fundamental change with respect to the notes not called for redemption, and holders of the notes not called for redemption will not be entitled to an increased conversion rate for such notes as

described above on account of the redemption, except to the limited extent described further below. No sinking fund is provided for the Convertible Notes, which means that the Company is not required to redeem or retire the Convertible Notes periodically.

If a fundamental change occurs, then each noteholder will have the right to require the Company to repurchase its notes (or any portion thereof in an authorized denomination) for cash on a date (the "fundamental change repurchase date") of the Company's choosing, which must be a business day that is no more than 45, nor less than 20, business days after the date Magnite sends the related fundamental change notice.

If an event of default occurs with respect to the Company or any guarantor, then the principal amount of, and all accrued and unpaid interest on, all of the notes then outstanding will immediately become due and payable without any further action or notice by any person. If an event of default (other than an event of default described below with respect to Magnite or any guarantor and not solely with respect to a significant subsidiary of the Company's or a guarantor, other than the Company or such guarantor) occurs and is continuing, then, except as described below under the caption —Special interest as sole remedy for certain reporting defaults, the trustee, by notice to the Company, or noteholders of at least 25% of the aggregate principal amount of notes then outstanding, by written notice to us and the trustee, may declare the principal amount of, and all accrued and unpaid interest on, all of the notes then outstanding to become due and payable immediately.

The Convertible Notes have an initial conversion rate of 15.6539 shares of common stock per \$1,000 principal amount of the Convertible Notes, which will be subject to customary anti-dilution adjustments in certain circumstances.

In connection with the pricing of the Convertible Notes, the Company entered into privately negotiated capped call transactions with various financial institutions (the "Capped Call Transactions"). The Capped Call Transactions were entered into with third party broker-dealers to limit the potential dilution that would occur if the Company has to settle the conversion value in excess of the principal in shares. This exposure will be covered (i.e., the Company will receive as many shares as are required to be issued between the conversion price of \$63.8818 and the maximum price of \$91.2600). Any shares required to be issued by the Company over this amount would have net earnings per share dilution impact. By entering into the Capped Call Transactions, the Company expects to reduce the potential dilution to its common stock (or, in the event the conversion is settled in cash, to reduce its cash payment obligation) in the event that at the time of conversion its stock price exceeds the conversion price under the Convertible Notes. The Company paid \$39.0 million for the Capped Call Transactions, which was recorded as additional paid-in capital, using a portion of the gross proceeds from the sale of the Convertible Notes. The cost of the Capped Call Transactions is not expected to be tax deductible as the Company did not elect to integrate the capped call into the Convertible Notes for tax purposes. The cost of the Capped Call Transaction was recorded as a reduction of the Company's additional paid-in capital in the accompanying condensed consolidated financial statements.

As noted in Note 1, the Company early adopted ASU 2020-06 effective January 1, 2021. The Company has not elected the fair value option, the embedded conversion features are not required to be bifurcated under the accounting guidance, and the convertible debt was not issued with a substantial premium. As such, the Company accounted for the Convertible Notes as a liability in its entirety. Under the guidance, all the embedded features of the Convertible Notes met the definition of a derivative. These features included a contingent call option, contingent put options, and conversion features. The contingent call option and contingent put options are clearly and closely related to the debt host and, therefore, do not require bifurcation. As the conversion features are indexed to the Company's own equity and would be equity classified if they were freestanding instruments, the scope exception in ASC 815-10-15-74(a) applies and these conversion features will not be bifurcated under ASC 815.

The new accounting guidance also eliminated the bifurcation models of ASC 470-20 and eliminated the treasury method approach to earnings per share. Accordingly, earnings per share on convertible debt instruments should only be calculated under the If-Converted method. Under the guidance above, the Company will assume settlement in shares.

The Company will assess at each period end whether the impact of the contingent conversion (e.g., stock price exceeding 130% of the conversion price for 20 days) is dilutive, regardless of whether the stock price contingency has been met. A determination must be made each quarter, if a contingency has been overcome to trigger potential conversion election, whether the conversion option is out of the money or in the money (i.e., is the current share price above or below the conversion price). If the current share price exceeds the conversion price, then the conversion will be dilutive to the Company's earnings per share. At issuance and at March 31, 2021, the share price did not exceed the conversion prices, and as such, the conversion was anti-dilutive.

The following table summarizes the Convertible Notes at March 31, 2021:

	March 31, 2021 (in thousands)
Convertible Notes	\$ 400,000
Unamortized debt discounts	(10,920)
Unamortized debt issuance costs	(436)
Debt, non-current, net of debt issuance costs	<u>\$ 388,644</u>

Fees and other amounts paid to the creditor were treated as an increase to debt discount. The Company incurred debt issuance costs of \$11.4 million in March 2021, of which \$11.0 million were associated with issuance fees netted against the proceeds and \$0.4 million were associated with other deferred financing costs associated with the Convertible Notes. The Convertible Notes are presented net of issuance costs on the Company's condensed consolidated balance sheet. The debt issuance costs are amortized on an effective interest basis over the term of the Convertible Notes and are included in interest expense and amortization of debt discount in the accompanying condensed consolidated statements of operations. The following table sets forth interest expense related to the Convertible Notes for the three months ended March 31, 2021:

	March 31, 2021 (in thousands)
Contractual interest expense	\$ 36
Amortization of debt discount	80
Amortization of debt issuance costs	3
Total interest expense	<u>\$ 119</u>
Effective interest rate	<u>0.82 %</u>

Amortization expense for the Company's debt discount and debt issuance costs for the remainder of 2021 and for fiscal years 2022 through 2026 is as follows:

Fiscal Year	Debt Discount	Debt Issuance Costs
Remaining 2021	\$ 1,650	\$ 66
2022	2,200	88
2023	2,200	88
2024	2,200	88
2025	2,200	88
2026	470	18
Total	<u>\$ 10,920</u>	<u>\$ 436</u>

Note 15—Subsequent Events

On April 1, 2021, the Company granted 969,941 restricted stock units, 200,299 stock options, and 26,291 performance stock units to the Company's employees. The options granted will vest over four years from grant date, with 25% vesting after one year and the remainder vesting monthly thereafter. The RSUs granted will vest over four years from issuance with 25% after one year, and the remainder vesting quarterly thereafter. Between 0% and 150% of the performance stock units will vest on the third anniversary of its grant date based on certain stock price performance metrics.

On April 30, 2021, the Company completed the SpotX Acquisition, pursuant to a Stock Purchase Agreement, dated as of February 4, 2021 (the "Purchase Agreement"), by and between the Company and RTL US Holdings, Inc. ("RTL"). The initial purchase price for the SpotX Acquisition was \$560 million in cash ("Cash Consideration") and 14,000,000 shares of the Company's common stock. Per the terms of the Purchase Agreement, at the completion of the Company's offering of its Convertible Notes, RTL elected to increase the Cash Consideration by an amount equal to 20% of the gross proceeds of the Convertible Notes (which amount was equal to \$80 million) and to reduce the number of shares of common stock it would otherwise receive by a number of shares of common stock equal to 20% of the gross proceeds of the proposed offering of notes (\$80 million) divided by the closing price of a share of our common stock on the trading day immediately prior to the date of pricing of the proposed offering of notes (\$49.21). As a result of this election, the adjusted purchase price was \$1,135.6 million, consisting of \$640 million in cash plus 12,374,315 shares of common stock (based on the fair value of the Company's common stock on April 30, 2021). The Cash Consideration is subject to customary working capital and other adjustments. The Company is currently evaluating the allocation of the purchase price to the acquired assets and assumed liabilities. It is not practicable to disclose the preliminary purchase price allocation or the unaudited combined financial information given the short period of time between the acquisition and the issuance of these unaudited interim condensed consolidated financial statements.

On April 30, 2021, the Company entered into a credit agreement (the "Credit Agreement") with Goldman Sachs Bank USA as administrative agent and collateral agent, and other lender parties thereto. The Credit Agreement provides for a \$360.0 million seven-year senior secured term loan facility ("Term Loan B Facility") and a \$52.5 million senior secured revolving credit facility (the "Revolving Credit Facility"). As part of the Term Loan B Facility, the Company received \$325 million in proceeds, net of fees, which were used to finance the SpotX Acquisition and related transactions, and for general corporate purposes. Loans, if any, under the Revolving Credit Facility will generally be used for general corporate purposes. The obligations under the Credit Agreement are

secured by substantially all of the assets of the Company and those of its subsidiaries that are guarantors under the Credit Agreement.

Amounts outstanding under the Credit Agreement accrue interest at a rate equal to either, (1) for the Term Loan B Facility, at the Company's election, the Eurodollar Rate (as defined in the Credit Agreement) plus a margin of 5.00% per annum, or ABR (as defined in the Credit Agreement) plus a margin of 4.00%, and (2) for the Revolving Credit Facility, at the Company's election, the Eurodollar Rate plus a margin of 4.25% to 4.75%, or ABR plus a margin of 3.25% to 3.75%, in each case, depending on the Company's first lien net leverage ratio.

The covenants of the Credit Agreement include customary negative covenants that, among other things, restrict the Company's ability to incur additional indebtedness, grant liens and make certain acquisitions, investments, asset dispositions and restricted payments. In addition, the Credit Agreement contains a financial covenant, tested on the last day of any fiscal quarter if utilization of the Revolving Credit Facility exceeds 35% of the total revolving commitments, that requires the Company to maintain a first lien net leverage ratio not greater than 3.25 to 1.00.

The Credit Agreement includes customary events of default, and customary rights and remedies upon the occurrence of any event of default thereunder, including rights to accelerate the loans, terminate the commitments thereunder and realize upon the collateral securing the obligations under the Credit Agreement.

In connection with entering into the Credit Agreement, the Loan Agreement with SVB was terminated on April 30, 2021.

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

This Quarterly Report on Form 10-Q and related statements by the Company contain forward-looking statements, including statements based upon or relating to our expectations, assumptions, estimates, and projections. In some cases, you can identify forward-looking statements by terms such as "may," "might," "will," "objective," "intend," "should," "could," "can," "would," "expect," "believe," "design," "anticipate," "estimate," "predict," "potential," "plan" or the negative of these terms, and similar expressions. Forward-looking statements may include, but are not limited to, statements concerning the acquisition of SpotX, Inc. ("SpotX," and such acquisition the "SpotX Acquisition") or the anticipated benefits thereof; statements concerning potential synergies from the SpotX Acquisition; statements concerning the potential impacts of the COVID-19 pandemic on our business operations, financial condition, and results of operations and on the world economy; our anticipated financial performance; anticipated benefits or effects related to our completed merger with Telaria, Inc. ("Telaria" and such merger the "Telaria Merger"); strategic objectives, including our focus on connected television ("CTV"), mobile, video, header bidding, Demand Manager, identity solutions, and private marketplace opportunities; investments in our business; development of our technology; industry growth rates for ad-supported CTV and the shift in video consumption from linear TV to CTV; introduction of new offerings; the impact of transparency initiatives we may undertake; the impact of our traffic shaping technology on our business; the effects of our cost reduction initiatives; scope and duration of client relationships; the fees we may charge in the future; business mix and expansion of our CTV, mobile, video, and private marketplace offerings; sales growth; client utilization of our offerings; our competitive differentiation; our market share and leadership position in the industry; market conditions, trends, and opportunities; certain statements regarding future operational performance measures including ad requests, fill rate, paid impressions, average CPM, take rate, and advertising spend; benefits from supply path optimization; and other statements that are not historical facts. These statements are not guarantees of future performance; they reflect our current views with respect to future events and are based on assumptions and estimates and subject to known and unknown risks, uncertainties and other factors that may cause our actual results, performance or achievements to be materially different from expectations or results projected or implied by forward-looking statements.

Risks that our business face include, but are not limited to, the following:

- our ability to realize the anticipated benefits of the SpotX Acquisition;*
- our ability to comply with the terms of our financing arrangements;*
- increases in our debt leverage may put us at greater risk of defaulting on our debt obligations and limit our ability to conduct necessary operating activities, make strategic investments, respond to changing market conditions, or obtain future financing on favorable terms;*
- conversion of our Convertible Notes will dilute the ownership interest of existing stockholders or may otherwise depress the price of our common stock;*
- the severity, magnitude, and duration of the COVID-19 pandemic, including impacts of the pandemic and of responses to the pandemic by governments, business and individuals on our operations, personnel, buyers, sellers, and on the global economy and the advertising marketplace;*
- our vulnerability to the depletion of cash resources as a result of impacts of the COVID-19 pandemic;*
- our CTV spend may grow more slowly than we expect if industry growth rates for ad supported CTV are not accurate, if CTV sellers fail to adopt programmatic advertising solutions or if we are unable to maintain or increase access to CTV advertising inventory;*
- we may not realize the anticipated benefits of the Telaria Merger;*
- we may be unsuccessful in our Supply Path Optimization efforts;*
- our ability to introduce new offerings and bring them to market in a timely manner, and otherwise adapt in response to client demands and industry trends;*
- uncertainty of our estimates and expectations associated with new offerings;*
- lack of adoption and market acceptance of our Demand Manager solution;*
- our technology development efforts may be inefficient or ineffective, or not keep pace with competitors;*
- we must increase the scale and efficiency of our technology infrastructure to support our growth;*

- *the emergence of header bidding has increased competition from other demand sources and may cause infrastructure strain and added costs;*
- *our access to mobile inventory may be limited by third-party technology or lack of direct relationships with mobile sellers;*
- *we may experience lower take rates, which may not be offset by increase in the volume of ad requests, improvements in fill-rate, and/or increases in the value of transactions through our platform;*
- *the impact of requests for discounts, fee concessions, rebates, refunds or favorable payment terms;*
- *our history of losses, and the fact that in the past our operating results have and may in the future fluctuate significantly, be difficult to predict, and fall below analysts' and investors' expectations;*
- *the effect on the advertising market and our business from difficult economic conditions or uncertainty;*
- *the effects of seasonal trends on our results of operations;*
- *we operate in an intensely competitive market that includes companies that have greater financial, technical and marketing resources than we do;*
- *the effects of consolidation in the ad tech industry;*
- *the growing percentage of online and mobile advertising spending captured by closed "walled gardens" (such as Google, Facebook, Comcast, and Amazon);*
- *our ability to differentiate our offerings and compete effectively to combat commodification and disintermediation;*
- *potential limitations on our ability to collect or use data as a result of consumer tools, regulatory restrictions and technological limitations;*
- *the development and use of new identity solutions as a replacement for third-party cookies and other identifiers may disrupt the programmatic ecosystem and cause the performance of our platform to decline;*
- *the industry may not adopt or may be slow to adopt the use of first-party publisher segments as an alternative to third-party cookies;*
- *our ability to comply with, and the effect on our business of, evolving legal standards and regulations, particularly concerning data protection and privacy;*
- *our ability to comply with industry self-regulation;*
- *failure by us or our clients to meet advertising and inventory content standards could harm our brand and reputation and those of our partners;*
- *our ability to attract and retain buyers and sellers of digital advertising inventory and increase our business with them;*
- *the freedom of buyers and sellers to direct their spending and inventory to competing sources of inventory and demand;*
- *the ability of buyers and sellers to establish direct relationships and integrations without the use of our platform;*
- *our reliance on large aggregators of advertising inventory, and the concentration of CTV among a small number of large sellers that enjoy significant negotiating leverage;*
- *our ability to provide value to both buyers and sellers of advertising without being perceived as favoring one over the other or being perceived as competing with them through our service offerings;*
- *our reliance on large sources of advertising demand, including demand side platforms ("DSPs") that may have or develop high-risk credit profiles or fail to pay invoices when due;*
- *we may be exposed to claims from clients for breach of contracts;*
- *errors or failures in the operation of our solution, interruptions in our access to network infrastructure or data, and breaches of our computer systems;*
- *our ability to ensure a high level of brand safety for our clients and to detect "bot" traffic and other fraudulent or malicious activity;*

- *our ability to access inventory with high viewability and completion rates;*
- *the use of our net operating losses and tax credit carryforwards may be subject to certain limitations;*
- *the possibility of adjustments to the purchase price allocation and valuation relating to the Telaria Merger;*
- *our ability to raise additional capital if needed;*
- *volatility in the price of our common stock;*
- *the impact of negative analyst or investor research reports;*
- *our ability to attract and retain qualified employees and key personnel;*
- *costs associated with enforcing our intellectual property rights or defending intellectual property infringement and other claims;*
- *the Capped Call Transactions may affect the value of the Convertible Notes and our common stock;*
- *we are subject to counterparty risk with respect to the Capped Call Transactions;*
- *the conditional conversion feature of the Convertible Notes, if triggered, may adversely affect our financial condition and operating result;*
- *provisions in the indenture for the Convertible Notes may deter or prevent a business combination that may be favorable to our stockholders;*
- *failure to successfully execute our international growth plans; and*
- *our ability to identify future acquisitions of or investments in complementary companies or technologies and our ability to consummate the acquisitions and integrate such companies or technologies.*

We discuss many of these risks and additional factors that could cause actual results to differ materially from those anticipated by our forward-looking statements under the headings "Risk Factors" and "Management's Discussion and Analysis of Financial Condition and Results of Operations," and elsewhere in this report and in other filings we have made and will make from time to time with the Securities and Exchange Commission, or SEC, including our Annual Report on Form 10-K for the year ended December 31, 2020. These forward-looking statements represent our estimates and assumptions only as of the date of the report in which they are included. Unless required by federal securities laws, we assume no obligation to update any of these forward-looking statements, or to update the reasons actual results could differ materially from those anticipated, to reflect circumstances or events that occur after the statements are made. Without limiting the foregoing, any guidance we may provide will generally be given only in connection with quarterly and annual earnings announcements, without interim updates, and we may appear at industry conferences or make other public statements without disclosing material nonpublic information in our possession. Given these uncertainties, investors should not place undue reliance on these forward-looking statements.

Investors should read this Quarterly Report on Form 10-Q and the documents that we reference in this report and have filed or will file with the SEC completely and with the understanding that our actual future results may be materially different from what we expect. We qualify all of our forward-looking statements by these cautionary statements.

The following discussion should be read in conjunction with our unaudited condensed consolidated financial statements and notes thereto appearing elsewhere in this Quarterly Report on Form 10-Q.

Overview

Magnite, Inc., formerly known as The Rubicon Project, Inc. ("we," or "us"), provides technology solutions to automate the purchase and sale of digital advertising inventory.

On April 1, 2020, we completed a stock-for-stock merger with Telaria, Inc. ("Telaria" and such merger the "Telaria Merger") a leading provider of connected television ("CTV") technology, and on April 30, 2021, we completed the acquisition of SpotX, Inc. ("SpotX" and such acquisition the "SpotX Acquisition"), a leading platform shaping CTV and video advertising globally for a purchase price of \$1,135.6 million, consisting of \$640 million in cash plus 12,374,315 shares of Magnite's common stock (based on the fair value of the Company's common stock on April 30, 2021). The Cash Consideration is subject to customary working capital and other adjustments. Following the Telaria Merger and SpotX Acquisition, we believe that we are the world's largest independent omni-channel sell-side advertising platform, offering a single partner for transacting globally across all channels, formats and auction types, and the largest independent programmatic CTV marketplace, making it easier for buyers to reach CTV audiences at scale from industry-leading streaming content providers, broadcasters, platforms and device manufacturers.

Our platform features applications and services for sellers of digital advertising inventory, or publishers, that own and operate CTV channels, applications, websites and other digital media properties, to manage and monetize their inventory; applications and services for buyers, including advertisers, agencies, agency trading desks, and demand side platforms, ("DSPs"), to buy digital advertising inventory; and a transparent, independent marketplace that brings buyers and sellers together and facilitates intelligent decision making and automated transaction execution at scale. Our clients include many of the world's leading buyers and sellers of digital advertising inventory. Our platform processes over 6 trillion ad requests per month allowing buyers access to a global, scaled, independent alternative to "walled gardens," who both own and sell inventory and maintain control on the demand side.

We provide a full suite of tools for sellers to control their advertising business and protect the consumer viewing experience. These controls are particularly important to CTV sellers who need to ensure a TV-like viewing and advertising experience for consumers. For instance, our "ad-pod" feature provides publishers with a tool analogous to commercial breaks in traditional linear television so that they can request and manage several ads at once from different demand sources. Using this tool, publishers can establish business rules such as competitive separation of advertisers to ensure that competing brand ads do not appear during the same commercial break. In addition, we offer audio normalization tools to control for the volume of an ad relative to content, frequency capping to avoid exposing viewers to repetitive ad placements, and creative review so that a publisher can review and approve the ad units being served to its properties.

Buyers leverage our platform to manage their advertising spending and reach their target audiences on brand-safe premium inventory, simplify order management and campaign tracking, obtain actionable insights into audiences for their advertising, and access impression-level purchasing from thousands of sellers. We believe that our scale, platform features, and omni-channel offering makes us an essential partner for buyers.

The Company is headquartered in Los Angeles, California and New York, New York. We operate our business on a worldwide basis, with an established operating presence in North America, Australia and Europe, and a developing presence in Asia and South America. Our non-U.S. subsidiaries and operations perform primarily sales, marketing, and service functions.

Our global workforce has maintained a work from home policy since March, 2020 and this policy is expected to continue in the foreseeable future for the majority of our employees. We believe that our employees have been able to work productively during the time period in which our global offices have been shut down. However, to the extent we have extended work from home requirements, or that work patterns are permanently altered, it is unclear how productivity may be impacted in the long-term. We intend to approach returning to our offices with caution and to prioritize the safety and health of our employees, while following the guidance set by local authorities and our landlords.

How We Generate Revenue

We generate revenue from the use of our platform for the purchase and sale of digital advertising inventory. We also generate revenue from the fee we charge clients for use of our Demand Manager product, which generally is a percentage of the client's advertising spending on any advertising marketplace.

Digital advertising inventory is created when consumers access sellers' content. Sellers provide digital advertising inventory to our platform in the form of advertising requests, or ad requests. When we receive ad requests from sellers, we send bid requests to buyers, which enable buyers to bid on sellers' digital advertising inventory. Winning bids can create advertising, or paid impressions, for the seller to present to the consumer. The price that buyers pay for each thousand paid impressions purchased is measured in units referred to as CPM, or cost per thousand.

The total volume of spending between buyers and sellers on our platform is referred to as advertising spend. We keep a percentage of that advertising spend as a fee, and remit the remainder to the seller. The fee that we retain from the gross advertising

spend on our platform is recognized as revenue. The fee earned on each transaction is based on the pre-existing agreement between us and the seller and the clearing price of the winning bid. We also refer to revenue divided by advertising spend as our take rate.

Industry Trends

Continued Shift Toward Digital Advertising

Consumers are rapidly shifting their viewing habits towards digital mediums and expect to be able to consume content seamlessly across multiple devices, including computers, tablets, smartphones, and CTVs whenever and wherever they want. As digital content consumption continues to proliferate, we believe the percentage of advertising dollars spent through digital channels will continue to grow.

Automation of Buying and Selling

Due to the size and complexity of the advertising ecosystem and purchasing process, manual processes cannot effectively manage digital advertising inventory at scale. In addition, both buyers and sellers are demanding more transparency, better controls and more relevant insights from their advertising inventory purchases and sales. This has created a need for software solutions, known as programmatic advertising, that automate the process for planning, buying, selling and measuring digital advertising across screens. Programmatic buying enables the use of real-time bidding technology that allows for the dynamic purchase and sale of advertising inventory on an impression-by-impression basis, which includes direct sale of premium inventory to a buyer, which we refer to as private marketplace ("PMP"), and open auction bidding, where buyers bid against each other in real-time auction for the right to purchase a publisher's inventory, which we refer to as open marketplace ("OMP"). Programmatic has become the dominant method of transacting for desktop and mobile inventory and we expect it to continue to grow as a percentage of CTV advertising.

Convergence of TV and Digital

CTV viewership is growing rapidly and the pace of adoption is accelerating the transition of linear television to CTV programming. As the number of CTV channels continues to proliferate, we believe that ad-supported models or hybrid models that rely on a combination of subscription fees and advertising revenue will continue to gain traction. In turn, we believe brand advertisers looking to engage with streaming viewers will continue to shift their budgets from linear to CTV. Furthermore, as the CTV market continues to mature, we believe that a greater percentage of CTV advertising inventory will be sold programmatically, similar to trends that occurred in desktop and mobile. As such, we expect CTV to be a significant driver of our revenue growth for the foreseeable future. We expect the recently completed the SpotX Acquisition to further fuel this growth.

Identity Solutions

A number of participants in the advertising technology ecosystem have taken or are expected to take action to eliminate or restrict the use of third-party cookies and other primary identifiers that have historically been used to deliver targeted advertisements. We believe that the elimination of third-party cookies has the potential to shift the programmatic ecosystem from an identity model powered by buyers that are able to aggregate and target audiences through cookies to one enabled by sellers that have direct relationships with consumers and are therefore better positioned to obtain user data and consent for implementing first party identifiers. We believe that our platform and scale position us well to provide the infrastructure and tools needed for a publisher-centric identity model to succeed, and we are already enabling sellers to create audience segments with their first-party data.

Supply Path Optimization

Supply Path Optimization ("SPO") refers to efforts by buyers to consolidate the number of vendors with which they work to find the most effective and cost-efficient paths to procure media. SPO is important to buyers because it can increase the proportion of their advertising ultimately spent on working media, with the goal of increasing return on their advertising spending, and can help them gain efficiencies by reducing the number of vendors with which they work in a complex ecosystem. We believe we are well positioned to benefit from SPO in the long run as a result of our transparency, our broad and unique inventory supply across all channels and formats, including CTV, buyer tools, such as traffic shaping that reduce the cost of working with us, and our brand safety measures.

Header Bidding and Data Processing

Header bidding is a programmatic technique by which sellers offer inventory to multiple ad exchanges and supply side platforms, such as our platform, simultaneously. Header bidding has been rapidly adopted in recent years in the desktop and mobile channels, and while the rise and rapid adoption of header bidding increased revenue for sellers, it has also created new challenges and technical complexities. Header bidding has led to a significant increase in the number of ad impressions to be processed and analyzed through our platform as well as by DSPs, which can lead to increased costs if not properly addressed. We have invested in technology solutions to help manage the increased infrastructure costs of header-bidding while increasing our access to valuable seller inventory.

Privacy Regulation

Our business is highly susceptible to emerging privacy regulations and oversight concerning the collection, use and sharing of data. Data protection authorities in a number of territories have expressed a desire to focus on the advertising technology ecosystem. In particular, this scrutiny has focused on the use of technology (including "cookies") to collect or aggregate information about Internet users' online browsing activity. Because we, and our clients, rely upon large volumes of such data, it is essential that we monitor developments in this area domestically and globally, and engage in responsible privacy practices.

The use of and transfer of personal data in EEA member states and the UK is currently governed by the General Data Protection Regulation (the "GDPR"). The GDPR sets out higher potential liabilities for certain data protection violations and establishes significant new regulatory requirements resulting in a greater compliance burden for us in the course of delivering our solution in the EEA and UK. While data protection authorities have started to clarify certain requirements under GDPR, significant uncertainty remains as to how the regulation will be applied and enforced.

In addition to the GDPR, a number of new privacy regulations will or have already come into effect. The California legislature passed the California Consumer Privacy Act ("CCPA") in 2018, which became effective January 1, 2020. This law imposes new obligations on businesses that handle the personal information of California residents. The obligations imposed require us to maintain ongoing significant resources for compliance purposes. Certain requirements remain unclear due to ambiguities in the drafting of or incomplete guidance. Adding to the uncertainty facing the ad tech industry, a new law, titled the California Privacy Rights Act ("CPRA") recently passed as a ballot initiative in California and will impose additional notice and opt out obligations on the digital advertising space. This law, which will take effect in January 2023, will cause us to incur additional compliance costs and impose additional restrictions on us and on our industry partners. These ambiguities and resulting impact on our business will need to be resolved over time. In addition, other privacy bills have been introduced at both the state and federal level. Certain international territories are also imposing new or expanded privacy obligations. In the coming years, we expect further consumer privacy regulation worldwide.

We support privacy initiatives and believe they will be beneficial to consumers' confidence in advertising technology, which will ultimately be positive for the advertising ecosystem in the long term. In the short term, however, until prevailing compliance practices standardize, the impact of worldwide privacy regulations on our business and, consequently, our revenue could be negatively impacted.

Trends in Our Business

2021 Channel Trends

Sellers use our technology to monetize their content across all digital channels, including CTV, mobile and desktop, and each of these channels will continue to represent a meaningful portion of our revenue in future periods. We track the breakdown of revenue across channels to better understand how our clients are transacting on our platform, which informs decisions as to business strategy and the allocation of resources and capital. The following table presents revenue by channel and as a percentage of total revenue.

Channel:	Revenue					
	Three Months Ended					
	March 31, 2021			March 31, 2020		
	(in thousands, except percentages)					
CTV	\$	11,976	20 %	\$	—	— %
Desktop	\$	20,851	34	\$	15,296	42
Mobile	\$	27,888	46	\$	20,999	58
Total	\$	60,715	100 %	\$	36,295	100 %

We believe that CTV will be our biggest growth driver in future periods and with the recently completed SpotX Acquisition, we expect CTV revenue to represent a significantly higher percentage of our overall revenue.

We expect our mobile business to grow at a higher rate than desktop, consistent with industry trends and our historical results. Our mobile business consists of two components, mobile web and mobile applications. Initially our mobile business consisted primarily of mobile web, which is similar to our desktop business, but our mobile application business has been the growth driver behind our mobile business. We therefore expect our growth within mobile to come largely from our mobile applications business and, in particular, mobile video.

Lower industry growth rates in desktop will make growing desktop revenue more challenging; however, in future periods we believe we will be able to grow our desktop business in excess of industry projections by capturing market share through SPO and expansion of publisher relationships. We expect our desktop business to decline as an overall percentage of our revenue in future periods. However, we expect that it will continue to represent a significant part of our revenue in the near term. Therefore, the mix of our desktop business will continue to dampen our overall growth rate.

Telaria Merger and SpotX Acquisition

On April 1, 2020, we completed the Telaria Merger, and on April 30, 2021, we completed the SpotX Acquisition. These transactions were transformative and have resulted in what we believe to be the world's largest independent sell-side advertising platform, with scale, capabilities, and solutions exceeding those offered by competitors. We offer a single partner for transacting CTV, desktop display, video, audio and mobile inventory across all geographies and auction types.

As CTV viewership is growing rapidly and the pace of adoption is accelerating the shift of advertising budgets from linear television to CTV, these transactions have strategically positioned us to take advantage of this growth trend, and we believe that CTV will be our biggest growth driver in future periods.

The SpotX Acquisition will result in a significant increase in our revenue in future periods, in particular in CTV and online video. As a result of the transaction, we expect CTV to represent a higher percentage of our overall revenue, and because CTV is largely transacted through PMPs, we also expect to see an increase in the percentage of PMP transactions transacted on our platform. The acquisition will result in an increase in related operating expenses, primarily associated with costs for personnel, payments to sellers for revenue reported on a gross basis, and other ancillary costs to support the business. We expect some of those increases to be offset by cost saving activities we plan to undertake. We are targeting in excess of \$35 million in run-rate operating cost synergies, with more than half of the synergies to be realized within the first year of combined operations.

COVID-19 Pandemic Impact on the Business

The COVID-19 pandemic and resulting global disruptions negatively affected our revenue, results of operations, cash flows, and financial condition. Our business depends on the overall demand for advertising and on the economic health of our current and prospective sellers and buyers. In response to the pandemic and associated economic challenges, a significant number of advertisers, in particular with respect to certain categories of advertising that were particularly impacted by the pandemic and

resulting stay-at-home orders, reduced their advertising budgets, resulting in an overall decrease in advertising spend through our platform compared to our pre-COVID expectations. This decrease was particularly pronounced through the first half of 2020, where we experienced a significant decline in our revenues compared to our expectations. Our revenue trends improved significantly during the third and fourth quarters of 2020 as our revenue returned to positive growth.

During the first quarter of 2021 revenue from a number of advertising categories returned to pre-COVID spending levels, while certain categories including travel, auto, and entertainment remain below pre-COVID spending levels.

Due to the substantial uncertainties associated with the COVID-19 pandemic, the extent to which the pandemic (and actions taken in response to it by governments, businesses, and individuals) will ultimately impact our business and is currently unknown, and depends on various factors, many of which are outside of our control. Refer to Item 1A. "Risk Factors additional information related to this risk.

Components of Our Results of Operations

We report our financial results as one operating segment. Our consolidated operating results are regularly reviewed by our chief operating decision maker, principally to make decisions about how we allocate our resources and to measure our consolidated operating performance.

Revenue

We generate revenue from the purchase and sale of digital advertising inventory through our platform. We also generate revenue from the fee we charge clients for use of our Demand Manager product, which generally is a percentage of the client's advertising spending on any advertising marketplace. We recognize revenue upon the fulfillment of our contractual obligations in connection with a completed transaction, subject to satisfying all other revenue recognition criteria. For substantially all transactions executed through our platform, we act as an agent on behalf of the publisher that is monetizing its inventory, and revenue is recognized net of any advertising inventory costs that we remit to sellers. With respect to certain revenue streams for advertising campaigns that are transacted through insertion orders, we report revenue on a gross basis, based primarily on our determination that the Company acts as the primary obligor in the delivery of advertising campaigns for our buyer clients with respect to such transactions. The revenue that we recognized on a gross basis was less than 3% of total revenue during the three months ended March 31, 2021. We expect certain revenue streams acquired in the SpotX Acquisition to be reported on a gross basis; accordingly, the percentage of our revenue that we recognize on a gross basis will increase in future periods. Our revenue recognition policies are discussed in more detail in our audited consolidated financial statements and notes thereto for the year ended December 31, 2020 included in our Annual Report on Form 10-K and in Note 3 of the accompanying Notes to the Condensed Consolidated Financial Statements.

Expenses

We classify our expenses into the following categories:

Cost of Revenue. Our cost of revenue consists primarily of data center costs, bandwidth costs, ad protection costs, depreciation and maintenance expense of hardware supporting our revenue-producing platform, amortization of software costs for the development of our revenue-producing platform, amortization expense associated with acquired developed technologies, personnel costs, facilities-related costs, and cloud computing costs. Personnel costs included in cost of revenue include salaries, bonuses, and stock-based compensation, and are primarily attributable to personnel in our network operations group who support our platform. We capitalize costs associated with software that is developed or obtained for internal use and amortize the costs associated with our revenue-producing platform in cost of revenue over their estimated useful lives. We amortize acquired developed technologies over their estimated useful lives.

Sales and Marketing. Our sales and marketing expenses consist primarily of personnel costs, including salaries, bonuses, and stock-based compensation, as well as marketing expenses such as brand marketing, travel expenses, trade shows and marketing materials, professional services, and amortization expense associated with client relationships and backlog from our business acquisitions, and to a lesser extent, facilities-related costs and depreciation and amortization. Our sales organization focuses on increasing the adoption of our solution by existing and new buyers and sellers. We amortize acquired intangibles associated with client relationships and backlog from our business acquisitions over their estimated useful lives.

Technology and Development. Our technology and development expenses consist primarily of personnel costs, including salaries, bonuses, and stock-based compensation, as well as professional services associated with the ongoing development and maintenance of our solution, depreciation and amortization, and to a lesser extent, facilities-related costs. These expenses include costs incurred in the development, implementation, and maintenance of internal use software, including platform and related infrastructure. Technology and development costs are expensed as incurred, except to the extent that such costs are associated with internal use software development that qualifies for capitalization, which are then recorded as internal use software development costs, net, on our consolidated balance sheets. We amortize internal use software development costs that relate to our revenue-producing activities on our platform to cost of revenue and amortize other internal use software development costs to technology and development costs or general and administrative expenses, depending on the nature of the related project. We amortize acquired intangibles associated with technology and development functions from our business acquisitions over their estimated useful lives.

General and Administrative. Our general and administrative expenses consist primarily of personnel costs, including salaries, bonuses, and stock-based compensation, associated with our executive, finance, legal, human resources, compliance, and other administrative personnel, as well as accounting and legal professional services fees, facilities-related costs and depreciation and amortization, and other corporate-related expenses. General and administrative expenses also include amortization of internal use software development costs and acquired intangible assets from our business acquisitions over their estimated useful lives that relate to general and administrative functions.

Merger, Acquisition, and Restructuring Costs. Our merger, acquisition, and restructuring costs consist primarily of professional service fees associated with the merger and acquisition activities, including cash-based employee termination costs, stock-based compensation charges, and other restructuring activities, including facility closures, relocation costs, and contract termination costs.

Other (Income) Expense

Interest (Income) Expense, Net. Interest income consists of interest earned on our cash equivalents. Interest expense consists of interest expense associated with our credit facility and amortization of debt issuance costs associated with our convertible notes.

Other Income. Other income consists primarily of rental income from commercial office space we hold under lease and have sublet to other tenants.

Foreign Currency Exchange (Gain) Loss, Net. Foreign currency exchange (gain) loss, net consists primarily of gains and losses on foreign currency transactions. We have foreign currency exposure related to our accounts receivable and accounts payable that are denominated in currencies other than the U.S. Dollar, principally the British Pound, Australian Dollar, Canadian Dollar, and Euro.

Provision (Benefit) for Income Taxes

We are subject to income taxes in the U.S. (federal and state) and numerous foreign jurisdictions. Tax laws, regulations, administrative practices, principles, and interpretations in various jurisdictions may be subject to significant change, with or without notice, due to economic, political, and other conditions, and significant judgment is required in evaluating and estimating our provision and accruals for these taxes. There are many transactions that occur during the ordinary course of business for which the ultimate tax determination is uncertain. Our effective tax rates could be affected by numerous factors, such as changes in our business operations, acquisitions, investments, entry into new businesses and geographies, intercompany transactions, the relative amount of our foreign earnings, including earnings being lower than anticipated in jurisdictions where we have lower statutory rates and higher than anticipated in jurisdictions where we have higher statutory rates, losses incurred in jurisdictions for which we are not able to realize related tax benefits, the applicability of special tax regimes, changes in foreign currency exchange rates, changes in our stock price, changes in our deferred tax assets and liabilities and their valuation, changes in the laws, regulations, administrative practices, principles, and interpretations related to tax, including changes to the global tax framework, competition, and other laws and accounting rules in various jurisdictions.

Results of Operations

The following table sets forth our condensed consolidated results of operations:

	Three Months Ended		Change %
	March 31, 2021	March 31, 2020	
	(in thousands)		
Revenue	\$ 60,715	\$ 36,295	67 %
Expenses ⁽¹⁾⁽²⁾ :			
Cost of revenue	20,756	14,003	48 %
Sales and marketing	22,589	11,269	100 %
Technology and development	14,266	10,693	33 %
General and administrative	14,158	9,127	55 %
Merger, acquisition, and restructuring costs	2,722	1,930	41 %
Total expenses	74,491	47,022	58 %
Loss from operations	(13,776)	(10,727)	(28)%
Other (income) expense, net	(1,065)	(851)	25 %
Loss before income taxes	(12,711)	(9,876)	(29)%
Provision (benefit) for income taxes	166	(201)	(183)%
Net loss	\$ (12,877)	\$ (9,675)	(33)%

(1) Stock-based compensation expense included in our expenses was as follows:

	Three Months Ended	
	March 31, 2021	March 31, 2020
	(in thousands)	
Cost of revenue	\$ 85	\$ 101
Sales and marketing	2,461	1,085
Technology and development	1,826	1,183
General and administrative	2,244	1,688
Merger, acquisition, and restructuring costs	377	—
Total stock-based compensation expense	\$ 6,993	\$ 4,057

(2) Depreciation and amortization expense included in our expenses was as follows:

	Three Months Ended	
	March 31, 2021	March 31, 2020
	(in thousands)	
Cost of revenue	\$ 8,240	\$ 7,011
Sales and marketing	3,984	280
Technology and development	113	100
General and administrative	148	133
Total depreciation and amortization expense	\$ 12,485	\$ 7,524

The following table sets forth our condensed consolidated results of operations for the specified periods as a percentage of our revenue for those periods presented:

	Three Months Ended	
	March 31, 2021	March 31, 2020
Revenue	100 %	100 %
Cost of revenue	34	39
Sales and marketing	37	31
Technology and development	24	29
General and administrative	23	26
Merger, acquisition, and restructuring costs	5	5
Total expenses	123	130
Loss from operations	(23)	(30)
Other (income) expense, net	(2)	(2)
Loss before income taxes	(21)	(28)
Provision (benefit) for income taxes	—	(1)
Net loss	(21) %	(27) %

Comparison of the Three Months Ended March 31, 2021 and 2020

Revenue

Revenue increased \$24.4 million, or 67%, for the three months ended March 31, 2021 compared to the three months ended March 31, 2020. Our revenue growth was driven by the Telaria Merger, completed on April 1, 2020, which contributed \$18.5 million as well as from revenue increases in our desktop and mobile business in the three months ended March 31, 2021.

We expect our revenue will substantially increase through the remainder of 2021 as a result of the SpotX Acquisition and from continued growth in other areas of our business, in particular CTV. Our revenue is largely a function of the number of advertising transactions and the price, or CPM, at which the inventory is sold, which results in total advertising spend on our platform, and the take rate we charge for our services. Because pricing and take rate vary across publisher, channel and transaction type, our revenue is impacted by shifts in the mix of advertising spend on our platform. For instance, an increase in PMP transactions as a percentage of the transactions on our platform could also result in reduced revenue, if not offset by increased advertising spend, because PMP transactions can carry lower take rates than OMP transactions. We believe that contributions to revenue from PMPs, in particular with respect to CTV which is largely transacted through PMPs, will continue to grow as a percentage of our total revenue. In general, we expect this shift will result in an overall increase in advertising spend through our platform and in revenue due to both an increase in volume and average CPM which will be partially offset by a decrease in our average take rate.

Cost of Revenue

Cost of revenue increased \$6.8 million, or 48%, for the three months ended March 31, 2021 compared to the three months ended March 31, 2020, primarily due to costs associated with our revenue growth, including as a result of the Telaria Merger. Cost of revenue increased by \$4.4 million in data and bandwidth expenses and \$1.2 million in depreciation and amortization during the three months ended March 31, 2021 compared to the same period in the prior year.

Our cost of revenue will increase in future periods as a result of the SpotX Acquisition. In addition, excluding the impact of the SpotX Acquisition, we expect our cost of revenue to be higher through the remainder of 2021 in absolute dollars due primarily to the increase in expenses due to a full year of amortization of intangible assets resulting from the Telaria Merger and higher cloud service costs to support the growth of our business.

Cost of revenue may fluctuate from quarter to quarter and period to period, on an absolute dollar basis and as a percentage of revenue, depending on revenue levels and the volume of transactions we process supporting those revenues, and the timing and amounts of depreciation and amortization of equipment and software.

Sales and Marketing

Sales and marketing expenses increased \$11.3 million, or 100%, for the three months ended March 31, 2021 compared to the three months ended March 31, 2020, primarily due to the Telaria Merger and associated increases in headcount and the amortization of acquired intangibles and other assets. Sales and marketing expenses increased by \$7.8 million related to personnel

expenses and by \$3.7 million related to depreciation and amortization associated with the Telaria Merger, offset by other cost savings.

We expect sales and marketing expenses to increase through the remainder of 2021 in absolute dollars primarily due to the SpotX Acquisition, increase in expenses due to a full year of additional headcount costs and amortization of acquired intangible assets as a result of the Telaria Merger, increased costs due to marketing events and travel and entertainment expenses post COVID-19, and a return to office work environment, partially offset by reductions associated with costs synergies.

Sales and marketing expenses may fluctuate quarter to quarter and period to period, on an absolute dollar basis and as a percentage of revenue, based on revenue levels, the timing of our investments and seasonality in our industry and business.

Technology and Development

Technology and development expenses increased \$3.6 million, or 33%, for the three months ended March 31, 2021 compared to the three months ended March 31, 2020, due primarily to an increase of \$3.8 million in personnel costs as a result of the increased headcount associated with the Telaria Merger, offset by other cost savings.

We expect technology and development expenses to increase through the remainder of 2021 in absolute dollars, primarily due to the SpotX Acquisition, increase in expenses assuming a return to office work environment later in the year, partially offset by reductions associated with costs synergies.

The timing and amount of our capitalized development and enhancement projects may affect the amount of development costs expensed in any given period. As a percentage of revenue, technology and development expense may fluctuate from quarter to quarter and period to period based on revenue levels, the timing and amounts of technology and development efforts, the timing and the rate of the amortization of capitalized projects and the timing and amounts of future capitalized internal use software development costs.

General and Administrative

General and administrative expenses increased by \$5.0 million, or 55%, for the three months ended March 31, 2021 compared to the three months ended March 31, 2020, primarily due to increases of \$2.5 million in personnel expenses and \$1.4 million in facilities related expenses, both primarily associated with the Telaria Merger.

We expect general and administrative expenses to increase through the remainder of 2021 in absolute dollars primarily due to the SpotX Acquisition and increase in expenses assuming a return to office work environment later in the year, partially offset by reductions associated with costs synergies.

General and administrative expenses may fluctuate from quarter to quarter and period to period based on the timing and amounts of expenditures in our general and administrative functions as they vary in scope and scale over periods. Such fluctuations may not be directly proportional to changes in revenue.

Merger, Acquisition, and Restructuring Costs

We incurred merger, acquisition, and restructuring costs of \$2.7 million and \$1.9 million during the three months ended March 31, 2021 and three months ended March 31, 2020, respectively. During the three months ended March 31, 2021, these costs included professional fees of \$2.2 million related to legal and other professional service fees associated with the SpotX Acquisition agreement entered into during February 2021 and employee termination benefit costs totaling \$0.5 million. During the three months ended March 31, 2020, these costs included professional fees of \$1.8 million related to investment banking advisory, legal, and other professional service fees.

We expect merger, acquisition, and restructuring costs to increase through the remainder of 2021 as a result of the close of the SpotX Acquisition and related restructuring activities.

Other (Income) Expense, Net

	Three Months Ended	
	March 31, 2021	March 31, 2020
	(in thousands)	
Interest (income) expense, net	\$ 143	\$ (144)
Other income	(1,223)	(9)
Foreign exchange (gain) loss, net	15	(698)
Total other (income) expense, net	<u>\$ (1,065)</u>	<u>\$ (851)</u>

Interest (income) expense, net increased by \$0.3 million during the three months ended March 31, 2021 compared to the three months ended March 31, 2020 mainly due to interest expense associated with the Convertible Notes (defined below), which the Company entered into during March 2021, and amortization of debt issuance cost associated with the Convertible Notes. We expect interest expense to increase in 2021 compared to 2020 significantly as a result of increased in cash-based interest expenses and non-cash based amortization of debt issuance costs associated with our Convertible Notes.

Other income increased by \$1.2 million during the three months ended March 31, 2021 compared to the three months ended March 31, 2020, due to rental income from commercial office space we hold under lease and have sublet to other tenants.

Foreign exchange (gain) loss, net is impacted by movements in exchange rates and the amount of foreign currency-denominated receivables and payables, which are impacted by our billings to buyers and payments to sellers. During the three months ended March 31, 2021, the net foreign exchange loss was primarily attributable to the currency movements between the British Pound, Australian Dollar, Canadian Dollar, and the Euro relative to the U.S. Dollar.

Provision (Benefit) for Income Taxes

We recorded an income tax expense of \$0.2 million and a tax benefit of \$0.2 million for the three months ended March 31, 2021 and 2020, respectively. The tax expense for the three months ended March 31, 2021 is primarily the result of the domestic valuation allowance and the change in unrecognized benefit. The tax benefit for the three months ended March 31, 2020 is primarily the result of the domestic valuation allowance, the tax liability associated with the foreign subsidiaries, and foreign stock-based compensation activity.

Liquidity and Capital Resources

During the three months ended March 31, 2021, our principal sources of liquidity were our cash and cash equivalents, cash generated from operations, and cash generated from the offering of our Convertible Notes (defined below). On April 30, 2021, we entered into a Term Loan B Facility and Revolving Credit Facility (each defined below), which replaced our SVB Loan Agreement (defined below). As of March 31, 2021, we had cash and cash equivalents of \$468.6 million, of which \$28.2 million was held in foreign currency cash accounts. On April 30, 2021, we completed the SpotX Acquisition, which included Cash Consideration of \$640.0 million.

Our cash and marketable securities balances are affected by our results of operations, the timing of capital expenditures which are typically greater in the second half of the year, and by changes in our working capital, particularly changes in accounts receivable and accounts payable. The timing of cash receipts from buyers and payments to sellers can significantly impact our cash flows from operating activities and our liquidity for, and within, any period presented. Our collection and payment cycle can vary from period to period depending upon various circumstances, including seasonality, and may be negatively impacted as a result of COVID-19.

During the three months ended March 31, 2021 we were party to an amended and restated loan and security agreement with SVB (the "SVB Loan Agreement"), which provided for a senior secured revolving credit facility of up to \$60.0 million with a maturity date of September 25, 2022. The Loan Agreement includes a letter of credit, foreign exchange and cash management facility with a sublimit up to \$10.0 million, of which \$6.0 million was utilized for letters of credit related to leases as of March 31, 2021. As of March 31, 2021, the amount available for borrowing was \$54.0 million (net of letters of letters of credit). As of March 31, 2021, the Company was in compliance with its financial covenants and had no amounts outstanding under the Loan Agreement (other than with respect to letters of credit). The SVB Loan Agreement was terminated on April 30, 2021.

In March 2021, we sold convertible senior notes ("Convertible Notes") for gross proceeds of \$400 million. The Convertible Notes are senior, unsecured obligations with interest payable semi-annually in cash at a rate of 0.25% per annum and is payable semi-annually in arrears on March 15 and September 15. The Convertible Notes will mature on March 15, 2026, unless earlier converted, redeemed, or repurchased. Noteholders may convert their notes at their option under the following in circumstances: (i) During any calendar quarter commencing after the calendar quarter ending on June 30, 2021, if the last reported sale price per share of the Company's common stock exceeds 130% of the conversion price for each of at least 20 trading days during the 30

consecutive trading days ending on, and including, the last trading day of the immediately preceding calendar quarter; (ii) During the five consecutive business days immediately after any ten consecutive trading day period in which the trading price per \$1,000 principal amount of notes for each trading day of the measurement period was less than 98% of the product of the last reported sale price per share of Magnite's common stock on such trading day and the conversion rate on such trading day; (iii) Upon the occurrence of certain corporate events or distributions on the Company's common stock; (iv) If the Company calls such notes for redemption; and (v) At any time from, and including, September 15, 2025 until the close of business on the second scheduled trading day immediately before the maturity date. Upon conversion, the Convertible Notes may be settled in shares of our common stock, cash or a combination of cash and shares of our common stock, at our election. The initial conversion rate is 15.6539 shares per \$1,000 principal amount of notes, which represents an initial conversion price of approximately \$63.88 per share of the Company's common stock and is subject to adjustment as described in the Offering Memorandum. At March 31, 2021, the balance of the Convertible Debt was \$388.6 million, net of debt issuance costs of \$11.4 million. Accrued interest at March 31, 2021 was insignificant.

In conjunction with the issuance of the Convertible Notes, we entered into capped call transactions to reduce the Company's exposure to additional cash payments above principal balances in the event of a cash conversion of the Convertible Notes. The Company may owe additional cash or shares to the holders of the Convertible Notes upon early conversion if our stock price exceeds \$91.260 per share, which is subject to certain adjustments. Although the Company's incremental exposure to the additional cash payment above the principal amount of the Convertible Notes is reduced by the capped calls, conversion of the Convertible Notes by the holders may cause dilution to the ownership interests of existing stockholders. See Note 14 "Convertible Senior Notes and Capped Call Transactions" in the notes to unaudited condensed consolidated financial statements included in this Quarterly Report for more information regarding terms and conditions of the Convertible Notes and the capped call transactions.

On April 30, 2021, and in conjunction with our acquisition of SpotX, we entered into a credit agreement with Goldman Sachs Bank USA as administrative and collateral agent, and other lending parties thereto. The credit agreements for a \$360.0 million seven-year senior secured term loan facility ("Term Loan B Facility") and a \$52.5 million senior secured revolving credit facility (the "Revolving Credit Facility"). As part of the Term Loan B Facility, the Company received \$325 million in proceeds, net of fees, which were used to finance the SpotX Acquisition and related transactions and for general corporate purposes.

We believe our existing cash and cash equivalents, investment balances, and available borrowings under our Revolving Credit Facility will be sufficient to meet our working capital requirements for at least the next twelve months from the issuance of our financial statements. However, there are multiple factors that could impact our cash balances in the future. For example, we typically collect from buyers in advance of payments to sellers, and our collection and payment cycle can vary from period to period depending upon various circumstances, including seasonality. In addition, in the event a buyer defaults on payment, we may still be required to pay sellers for the inventory purchased even if we are unable to collect from buyers. To date, these actions have not had a material negative impact on our cash flow or liquidity. The future capital requirements and the adequacy of available funds will depend on many factors, including the duration and severity of the COVID-19 pandemic and its impact on buyers and sellers and the factors and those set forth in Part II, Item 1A: "Risk Factors" of our Annual Report on Form 10-K for the year ended December 31, 2020.

In the future, we may attempt to raise additional capital through the sale of equity securities or through equity-linked or debt financing arrangements. If we raise additional funds by issuing equity or equity-linked securities, the ownership of our existing stockholders will be diluted. If we raise additional financing by incurring indebtedness, we will be subject to increased fixed payment obligations and could also be subject to restrictive covenants, such as limitations on our ability to incur additional debt, and other operating restrictions that could adversely impact our ability to conduct our business. Any future indebtedness we incur may result in terms that could be unfavorable to equity investors.

An inability to raise additional capital could adversely affect our ability to achieve our business objectives. In addition, if our operating performance during the next twelve months is below our expectations, our liquidity and ability to operate our business could be adversely affected.

Cash Flows

The following table summarizes our cash flows for the periods presented:

	Three Months Ended	
	March 31, 2021	March 31, 2020
	(in thousands)	
Cash flows used in operating activities	\$ (1,226)	\$ (5,233)
Cash flows used in investing activities	(3,272)	(4,611)
Cash flows provided by (used in) financing activities	355,627	(7,462)
Effects of exchange rate changes on cash, cash equivalents and restricted cash	(256)	(299)
Change in cash, cash equivalents and restricted cash	<u>\$ 350,873</u>	<u>\$ (17,605)</u>

Operating Activities

Our cash flows from operating activities are primarily driven by revenues generated from advertising activity, offset by the cash costs of operations, and are significantly influenced by the timing of and fluctuations in receipts from buyers and related payments to sellers. Our future cash flows will be diminished if we cannot increase our revenue levels and manage costs appropriately. Cash flows from operating activities have been further affected by changes in our working capital, particularly changes in accounts receivable and accounts payable. The timing of cash receipts from buyers and payments to sellers can significantly impact our cash flows from operating activities for any period presented.

For the three months ended March 31, 2021, net cash used in operating activities was \$1.2 million compared to net cash used in operating activities of \$5.2 million for the three months ended March 31, 2020. Our operating activities included our net losses of \$12.9 million and \$9.7 million for the three months ended March 31, 2021 and 2020, respectively, which were offset by non-cash adjustments of \$18.5 million and \$10.7 million, respectively. In the three months ended March 31, 2021, cash used in operating activities was increased by a net decrease in our working capital of \$6.9 million. Net cash used in operating activities for the three months ended March 31, 2020 was increased by a net decrease in our working capital of \$6.2 million. The net changes in working capital for both periods are primarily due to the timing of cash receipts from buyers and the timing of payments to sellers.

We believe that cash flows from operations will continue to fluctuate, but in general will increase over time as our business continues to grow.

Investing Activities

Our primary investing activities have consisted of acquisitions of businesses, purchases of property and equipment, capital expenditures to develop our internal use software in support of creating and enhancing our technology infrastructure, and investments in, and maturities of, available-for-sale securities. Purchases of property and equipment and investments in internal use software development may vary from period-to-period due to the timing of the expansion of our operations, changes to headcount, and the cycles of our internal use software development. We anticipate investment in internal use software development to slightly increase compared to past years' investment levels as we continue to innovate new solutions on our platform. As the business continues to grow, we expect our investment in property and equipment to increase compared to 2020. Historically, a majority of our purchases in property and equipment have occurred in the latter half of the year in preparation for the peak volumes of the fourth quarter and early in the first quarter of the following year. We expect those trends to continue, with higher levels of property and equipment spend in the latter half of this year compared to the first half of the year. Investments in, and maturities of, available-for-sale securities and acquisitions of businesses vary from period-to-period.

During the three months ended March 31, 2021 and 2020, our investing activities used net cash of \$3.3 million and \$4.6 million, respectively. During the three months ended March 31, 2021 and 2020, we used cash for purchases of property and equipment of \$1.3 million and \$2.3 million, respectively, and used cash for investments in our internally developed software of \$2.0 million and \$2.3 million, respectively.

We believe that cash flows used in our investing activities will continue to increase as a result in investments associated with supporting our overall growth and the SpotX Acquisition.

Financing Activities

Our financing activities consisted of our Convertible Notes offering and transactions related to our equity plans.

For the three months ended March 31, 2021 and 2020, we received net cash of \$355.6 million and we used net cash of \$7.5 million, respectively, for financing activities. Cash inflows from financing activities for the three months ended March 31, 2021 included an increase of \$389.0 million in net proceeds from our Convertible Notes offering and cash proceeds from stock options exercised of \$5.8 million. These increases were partially offset by a \$39.0 million payment for capped call transactions entered into in connection with the Convertible Notes offering. Cash outflows from financing activities for the three months ended March 31, 2020 included payments of \$7.5 million for income tax deposits paid in respect of vesting of stock-based compensation awards that were reimbursed by the award recipients through surrender of shares.

Subsequent to March 31, 2021 we received additional financing as part of the Term Loan B Facility.

Off-Balance Sheet Arrangements

We do not have any relationships with other entities or financial partnerships, such as entities often referred to as structured finance or special purpose entities that have been established for the purpose of facilitating off-balance sheet arrangements or other contractually narrow or limited purposes. We did not have any other off-balance sheet arrangements at March 31, 2021 other than the short-term operating leases and the indemnification agreements described below.

Contractual Obligations and Known Future Cash Requirements

As of March 31, 2021, and including the impact of the subsequent financing occurring on April 30, 2021 noted above, our principal commitments consist of obligations under our Convertible Notes, Term Loan B Facility, Revolving Credit Facility, leases for our various office facilities, and operating lease agreements including data centers and cloud managed services that expire at various times through 2030. In certain cases, the terms of the lease agreements provide for rental payments on a graduated basis.

During the three months ended March 31, 2021, we received rental income from subleases totaling \$1.2 million and an insignificant amount during the three months ended March 31, 2020.

The following table summarizes our future lease obligations, related sublease income, and other future payments due under non-cancelable agreements at March 31, 2021.

	2021	2022	2023	2024	2025	Thereafter	Total
Lease liabilities associated with leases included Right of Use Asset as of March 31, 2021	\$ 7,575	\$ 8,943	\$ 7,978	\$ 7,072	\$ 3,551	\$ 11,403	\$ 46,522
Obligations for leases not included in Lease liabilities as of March 31, 2021	1,549	3,593	3,713	3,835	2,827	13,323	\$ 28,840
Convertible Notes	—	—	—	—	—	400,000	\$ 400,000
Interest, Convertible Notes	750	1,000	1,000	1,000	1,000	208	\$ 4,958
Operating sublease income	(2,737)	(3,329)	(3,201)	(3,042)	(253)	—	\$ (12,562)
Other non-cancelable obligations	11,658	4,524	1,342	31	—	—	\$ 17,555
Total	\$ 18,795	\$ 14,731	\$ 10,832	\$ 8,896	\$ 7,125	\$ 424,934	\$ 485,313

Obligations for leases not included in the lease liabilities as of March 31, 2021 include commitments under agreements for an office lease in Los Angeles and a data center in Singapore which have not commenced as of March 31, 2021.

Payments associated with our Convertible Notes are based on contractual terms and intended timing of repayments of long-term debt and associated interest and do not assume conversion prior to the maturity date.

Other non-cancelable obligations include agreements in the normal course of business that extend beyond a year.

In addition, on February 4, 2021, we entered into a Stock Purchase Agreement with RTL US Holding, Inc., to purchase all of the issued and outstanding shares of capital stock of SpotX. The acquisition was completed on April 30, 2021 for a purchase price equal to \$1,135.6 million, consisting of \$640.0 million in cash ("Cash Consideration") and 12,374,315 shares of the Company's common stock (based on the fair value of the Company's common stock on April 30, 2021). The Cash Consideration is subject to customary working capital and other adjustments. As part of the closing of the acquisition, the Company entered into the Term Loan B Facility for \$360.0 million (to partially finance the Cash Consideration portion of the acquisition as well as the Revolving Credit Facility. As a result of these new financing arrangements, in addition to the obligations as of March 31, 2021 included in the table above, as part of the Term Loan B Facility, we have obligations to repay \$360.0 million plus accrued interest, which will be due in 2028.

There was no material change to the Company's unrecognized tax benefits in the three months ended March 31, 2021 and we do not expect to have any material changes to unrecognized tax benefits through December 31, 2021.

In the ordinary course of business, we enter into agreements with sellers, buyers, and other third parties pursuant to which we agree to indemnify buyers, sellers, vendors, lessors, business partners, lenders, stockholders, and other parties with respect to certain matters, including, but not limited to, losses resulting from claims of intellectual property infringement, damages to property or persons, business losses, or other liabilities. Generally, these indemnity and defense obligations relate to our own business operations, obligations, and acts or omissions. However, under some circumstances, we agree to indemnify and defend contract counterparties against losses resulting from their own business operations, obligations, and acts or omissions, or the business operations, obligations, and acts or omissions of third parties. These indemnity provisions generally survive termination or expiration of the agreements in which they appear. In addition, we have entered into indemnification agreements with our directors, executive officers and certain other officers that will require us, among other things, to indemnify them against certain liabilities that may arise by reason of their status or service as directors, officers, or employees. No demands for indemnification have been made as of March 31, 2021.

Critical Accounting Policies and Estimates

Our condensed consolidated financial statements are prepared in accordance with GAAP. The preparation of these condensed consolidated financial statements requires us to make estimates and assumptions that affect the reported amounts of assets, liabilities, revenue, expenses, and related disclosures. We evaluate our estimates and assumptions on an ongoing basis. Our estimates are based on historical experience and various other assumptions that we believe to be reasonable under the circumstances. By their nature, estimates are subject to an inherent degree of uncertainty. Certain of our estimates and assumptions require increased judgment and carry a higher degree of variability and volatility that could result in material changes to our estimates in future periods. Our actual results could differ from these estimates.

We believe that the following assumptions and estimates have the greatest potential impact on our condensed consolidated financial statements: (i) the determination of revenue recognition as net versus gross in our revenue arrangements, (ii) the determination of the estimated useful lives of internal-use software development costs, (iii) the recoverability of intangible asset and goodwill, (iv) assumptions used in the valuation models to determine the fair value of stock options and stock-based compensation expense, (v) the assumptions used in the valuation of acquired assets and liabilities in business combinations, and (vi) income taxes, including the realization of tax assets and estimates of tax liabilities. Besides the adoption of new accounting pronouncements, as included within "Note 1—Organization and Summary of Significant Accounting Policies" to the condensed consolidated financial statements in this report, there have been no significant changes in our accounting policies or estimates from those disclosed in our audited consolidated financial statements and notes thereto for the year ended December 31, 2020 included in our Annual Report on Form 10-K.

Recently Issued Accounting Pronouncements

For information regarding recent accounting pronouncements, refer to Note 1 "Organization and Summary of Significant Accounting Policies" to our condensed consolidated financial statements included in this Quarterly Report on Form 10-Q.

Item 3. Quantitative and Qualitative Disclosure About Market Risk

We have operations both in the United States and internationally, and we are exposed to market risks in the ordinary course of our business. These risks include primarily interest rate, foreign exchange, and inflation risks. The risks below may be further exacerbated by the effects of the COVID-19 pandemic on global macroeconomic and market conditions.

Interest Rate Fluctuation Risk

Our cash and cash equivalents consist of cash, money market funds, and commercial paper, with original maturities of three months or less. Our investments consist of repurchase agreements, U.S. government agency debt, and U.S. treasury debt. The primary objective of our investment activities is to preserve principal while maximizing income without significantly increasing risk. Because our cash, cash equivalents, and investments have a relatively short maturity, our portfolio's fair value is relatively insensitive to interest rate changes.

The line of credit under our SVB Loan Agreement is at variable interest rates. We had no amounts outstanding under this agreement at March 31, 2021. We do not believe that an increase or decrease in interest rates of 100 basis points would have a material effect on our operating results or financial condition. In future periods, we will continue to evaluate our investment policy relative to our overall objectives.

Our Convertible Notes bear a coupon rate of 0.25% per annum. Additional interest is due in the event of default or upon the occurrence of certain events relating to the failure to file certain SEC reports and for periods in which the Convertible Notes are not freely tradable (as defined in the Offering Memorandum) accrues interest at 0.25% per annum of the principal amount for the first 90 days and then accrues at 0.50% thereafter. We do not have economic interest rate expense exposure on our Convertible Notes due to their fixed interest rate nature. The amount paid upon redemption is not based on changes in any index or changing market rates. It is fixed at 100% of the principal amount of the Convertible Notes plus unpaid interest. However, we do have interest rate exposure with respect to our Term Loan B Facility which is exposed to interest rate risk due to the floating Eurodollar or ABR base rate. However, since a majority of the interest rate is fixed in nature, the fair value of our fixed interest rate for the Term Loan B Facility will generally increase as interest rates fall and decrease as interest rates rise. Additionally, we carry the Convertible Notes at face value less unamortized discount and issuance costs on our consolidated balance sheet.

Foreign Currency Exchange Risk

We have foreign currency risks related to our revenue and expenses denominated in currencies other than the U.S. Dollar, principally the British Pound, Australian Dollar, Canadian Dollar, and Euro. The volatility of exchange rates depends on many factors that we cannot forecast with reliable accuracy. We have experienced and will continue to experience fluctuations in our net income (loss) as a result of transaction gains and losses related to translating certain cash balances, trade accounts receivable and payable balances and intercompany balances that are denominated in currencies other than the U.S. Dollar. The effect of an

immediate 10% adverse change in foreign exchange rates on foreign-denominated accounts at March 31, 2021, including intercompany balances, would result in a foreign currency loss of approximately \$3.8 million. In the event our non-U.S. Dollar denominated sales and expenses increase, our operating results may be more greatly affected by fluctuations in the exchange rates of the currencies in which we do business. At this time we do not, but we may in the future, enter into derivatives or other financial instruments in an attempt to hedge our foreign currency exchange risk. It is difficult to predict the impact hedging activities would have on our results of operations.

Inflation Risk

We do not believe that inflation has had a material effect on our business, financial condition, or results of operations. If our costs were to become subject to significant inflationary pressures, we might not be able to fully offset such higher costs through price increases. Our inability or failure to do so could harm our business, financial condition, and results of operations

Item 4. Controls and Procedures

Evaluation of Disclosure Controls and Procedures

Our management, with the participation of our Chief Executive Officer and Chief Financial Officer, evaluated the effectiveness of our disclosure controls and procedures as defined in Rule 13a-15(e) under the Exchange Act. Our disclosure controls and procedures are designed to provide reasonable assurance of achieving their objectives of ensuring that information we are required to disclose in the reports we file or submit under the Exchange Act is accumulated and communicated to our management, including our Chief Executive Officer and Chief Financial Officer, as appropriate to allow timely decisions regarding required disclosures, and is recorded, processed, summarized, and reported within the time periods specified in the SEC's rules and forms. There is no assurance that our disclosure controls and procedures will operate effectively under all circumstances. Based upon the evaluation described above, our Chief Executive Officer and Chief Financial Officer concluded that, as of March 31, 2021, our disclosure controls and procedures were effective at the reasonable assurance level.

Changes in Internal Control over Financial Reporting

There have been no changes in our internal control over financial reporting that occurred during the three months ended March 31, 2021 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

Inherent Limitations on Effectiveness of Controls

Management recognizes that a control system, no matter how well designed and operated, can provide only reasonable, not absolute, assurance that the objectives of the control system are met. Further, the design of a control system must reflect the fact that there are resource constraints and that management is required to apply its judgment in evaluating the benefits of possible controls and procedures relative to their costs. Because of the inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that all control issues and instances of fraud or error, if any, have been detected. These inherent limitations include the realities that judgments in decision making can be faulty, and that breakdowns can occur because of a simple error or mistake. Additionally, controls can be circumvented by the individual acts of some persons, by collusion of two or more people, or by management override of the controls. The design of any system of controls also is based in part upon certain assumptions about the likelihood of future events, and there can be no assurance that any design will succeed in achieving its stated goals under all potential future conditions; over time, controls may become inadequate because of changes in conditions, or the degree of compliance with policies or procedures may deteriorate. Because of the inherent limitations in a cost-effective control system, misstatements due to error or fraud may occur and not be detected.

PART II. OTHER INFORMATION

Item 1. Legal Proceedings

We and our subsidiaries may from time to time be parties to legal or regulatory proceedings, lawsuits and other claims incident to our business activities and to our status as a public company. Such routine matters may include, among other things, assertions of contract breach or intellectual property infringement, claims for indemnity arising in the course of our business, regulatory investigations or enforcement proceedings, and claims by persons whose employment has been terminated. Such matters are subject to many uncertainties, and outcomes are not predictable with assurance. Consequently, we are unable to ascertain the ultimate aggregate amount of monetary liability, amounts which may be covered by insurance or recoverable from third parties, or the financial impact with respect to such matters as of March 31, 2021. However, based on our knowledge as of March 31, 2021, we believe that the final resolution of such matters pending at the time of this report, individually and in the aggregate, will not have a material adverse effect upon our condensed consolidated financial position, results of operations or cash flows.

Refer to Note 12—"Commitments and Contingencies" for additional information related to legal proceedings.

Item 1A. Risk Factors

Investing in our common stock involves a high degree of risk. We describe risks associated with our business below and in Part I, Item 1A: "Risk Factors" of our Annual Report on Form 10-K for the year ended December 31, 2020. Each of the risks described in our Risk Factors may be relevant to decisions regarding an investment in or ownership of our stock. The occurrence of any such risks could have a significant adverse effect on our reputation, business, financial condition, revenue, results of operations, growth, or ability to accomplish our strategic objectives, and could cause the trading price of our common stock to decline. You should carefully consider such risks and the other information contained in this report, including our condensed consolidated financial statements and related notes and Management's Discussion and Analysis of Financial Condition and Results of Operations, before making investment decisions related to our common stock.

The following risk factors supplement the Risk Factors contained in our Annual Report on Form 10-K for the year ended December 31, 2020. The following disclosures do not address all risks that may be important to you as a Magnite stockholder.

Except as set forth below, there are no additional material changes to the Risk Factors of which we are currently aware; but our Risk Factors cannot anticipate and fully address all possible risks of investing in our common stock, the risks of investing in our common stock may change over time, and additional risks and uncertainties that we are not aware of, or that we do not consider to be material, may emerge. Accordingly, you are advised to consider additional sources of information and exercise your own judgment in addition to the information we provide.

We may not be able to achieve anticipated cost savings or other anticipated benefits of the SpotX Acquisition.

The success of the SpotX Acquisition will depend, in part, on our ability to successfully integrate SpotX with our business and realize the anticipated benefits, including synergies, cost savings, innovation and technological opportunities and operational efficiencies from the acquisition in a manner that does not materially disrupt existing customer, supplier and employee relations and does not result in decreased revenues due to losses of, or decreases in use of our solutions by, buyers and sellers of advertising inventory. If we are unable to achieve these objectives within the anticipated time frame, or at all, the anticipated benefits may not be realized fully or at all, or may take longer to realize than expected, and the value of our common stock may decline. We may fail to realize some or all of the anticipated benefits of the acquisition if the integration process takes longer than expected or is more costly than expected. The integration of SpotX with our business may result in material challenges, including, without limitation:

- managing a larger, more complex business;
- maintaining employee morale and retaining key management and other employees;
- retaining existing business and operational relationships, including customers, suppliers and employees and other counterparties, as may be impacted by contracts containing consent and/or other provisions that may be triggered by the acquisition, and attracting new business and operational relationships;
- consolidating corporate and administrative infrastructures and eliminating duplicative operations, including unanticipated issues in integrating information technology, communications and other systems;
- coordinating geographically separate organizations; and
- unforeseen expenses or delays associated with the acquisition.

Many of these factors will be outside of our control, and any one of them could result in delays, increased costs, decreases in the amount of expected revenues or cost synergies, and other adverse impacts, which could materially affect our financial position, results of operations and cash flows.

Due to legal restrictions, prior to the closing of the SpotX Acquisition we were permitted to conduct only limited planning for the integration of SpotX. The actual integration may result in additional and unforeseen expenses, and the anticipated benefits of the integration plan may not be realized on a timely basis, if at all.

Our financing of the SpotX Acquisition significantly increased our leverage, which may put us at greater risk of defaulting on our debt obligations and limit our ability to conduct necessary operating activities, make strategic investments, respond to changing market conditions, or obtain future financing on favorable terms.

We financed the cash portion of the SpotX Acquisition consideration in part through borrowings under the Credit Agreement. The Credit Agreement provides for a \$360.0 million Term Loan B Facility and a \$52.5 million Revolving Credit Facility. As part of Term Loan B Facility, the Company received \$325 million in proceeds, net of fees, which were used to finance the SpotX Acquisition and related transactions, and for general corporate purposes.

The Term Loan B Facility significantly increases our indebtedness and requires us to comply with certain financial metrics and restrictive covenants. The increased leverage could adversely affect our business and operating results by:

- making it more difficult for us to make payments on our indebtedness and comply with applicable financial metrics and covenants;
- requiring us to use a substantial portion of our cash flow to pay interest and principal, which reduces the amount available for operations, distributions, acquisitions and capital expenditures;
- making us more vulnerable to economic and industry downturns and reducing our flexibility to respond to changing business and economic conditions;
- requiring us to agree to less favorable terms, including higher interest rates, in order to incur additional debt, and otherwise limiting our ability to borrow for operations, working capital or to finance acquisitions in the future; or
- limiting our flexibility in conducting our business, which may place us at a disadvantage compared to competitors with less debt or debt with less restrictive terms.

Our Credit Agreement subjects us to operating restrictions and financial covenants that impose risk of default and may restrict our business and financing activities.

The obligations under the Credit Agreement are secured by substantially all of the assets of the Company and those of its subsidiaries that are guarantors under the Credit Agreement. The covenants of the Credit Agreement include customary negative covenants that, among other things, restrict the Company's ability to incur additional indebtedness, grant liens and make certain acquisitions, investments, asset dispositions and restricted payments. In addition, the Credit Agreement contains a financial covenant, tested on the last day of any fiscal quarter if utilization of the Revolving Credit Facility exceeds 35% of the total revolving commitments, that requires the Company to maintain a first lien net leverage ratio not greater than 3.25 to 1.00.

These covenants may restrict our ability to finance our operations and to pursue our business activities and strategies. Our ability to comply with these covenants may be affected by events beyond our control. If a default were to occur and not be waived, such default could cause, among other remedies, all of the outstanding indebtedness under our Credit Agreement to become immediately due and payable. In such an event, our liquid assets might not be sufficient to meet our repayment obligations, and we might be forced to liquidate collateral assets at unfavorable prices or our assets may be foreclosed upon and sold at unfavorable valuations.

If we do not have or are unable to generate sufficient cash available to repay our debt obligations when they become due and payable, either upon maturity or in the event of a default, we may not be able to obtain additional debt or equity financing on favorable terms, if at all. Our inability to obtain financing may negatively impact our ability to operate and continue our business as a going concern.

Conversion of our Convertible Notes will dilute the ownership interest of existing stockholders, including holders who had previously converted their Convertible Notes, or may otherwise depress the price of our common stock.

In March 2021, we sold convertible senior notes ("Convertible Notes") for gross proceeds of \$400 million. The conversion of some or all of the Convertible Notes will dilute the ownership interests of existing stockholders to the extent we deliver shares of common stock upon conversion of any of the Convertible Notes. The Convertible Notes are not currently convertible but may from time to time in the future be convertible at the option of their holders prior to their scheduled terms under certain circumstances. Any sales in the public market of the common stock issuable upon such conversion could adversely affect prevailing market prices of our common stock. In addition, the existence of the Convertible Notes may encourage short selling by market participants because the conversion of the Convertible Notes could be used to satisfy short positions, or anticipated conversion of the Convertible Notes into shares of our common stock could depress the price of our common stock.

The Capped Call Transactions may affect the value of the Convertible Notes and our common stock.

In connection with the pricing of the Convertible Notes, we entered into Capped Call Transactions with certain counterparties. The Capped Call Transactions are expected generally to reduce or offset the potential dilution upon conversion of the Convertible Notes and/or offset any cash payments we are required to make in excess of the principal amount of converted Convertible Notes, as the case may be, with such reduction and/or offset subject to a cap.

In connection with establishing their initial hedges of the Capped Call Transactions, financial institutions or their respective affiliates likely purchased shares of our common stock and/or entered into various derivative transactions with respect to our common stock concurrently with or shortly after the pricing of the Convertible Notes. These financial institutions or their respective affiliates may modify their hedge positions by entering into or unwinding various derivatives with respect to our common stock and/or purchasing or selling our common stock or other securities in secondary market transactions prior to the maturity of the Convertible Notes (and are likely to do so during any observation period related to a conversion of Convertible Notes). This activity could also cause or avoid an increase or a decrease in the market price of our common stock or the Convertible Notes.

The potential effect, if any, of these transactions and activities on the price of our common stock or the Convertible Notes will depend in part on market conditions and cannot be ascertained at this time. Any of these activities could adversely affect the value of our common stock and the value of the Convertible Notes (and as a result, the amount and value of consideration that a holder would receive upon conversion of any Convertible Notes) and, under certain circumstances, a holder's ability to convert his or her Convertible Notes.

We are subject to counterparty risk with respect to the Capped Call Transactions.

The counterparties to the Capped Call Transactions are financial institutions, and we are subject to the risk that one or more of the counterparties may default or otherwise fail to perform, or may exercise certain rights to terminate, their obligations under the Capped Call Transactions. Our exposure to the credit risk of the option counterparties is not secured by any collateral. Global economic conditions have in the past resulted in the actual or perceived failure or financial difficulties of many financial institutions. If any option counterparty becomes subject to proceedings, we will become an unsecured creditor in those proceedings with a claim equal to our exposure at the time under any Capped Call Transactions with that option counterparty. Our exposure will depend on many factors but, generally, our exposure will increase if the market price or the volatility of our common stock increases. In addition, upon a default or other failure to perform, or a termination of obligations, by a counterparty, the counterparty may fail to deliver the shares of common stock required to be delivered to us under the Capped Call Transactions and we may suffer adverse tax consequences or experience more dilution than we currently anticipate with respect to our common stock. We can provide no assurances as to the financial stability or viability of the counterparties.

The conditional conversion feature of the Convertible Notes, if triggered, may adversely affect our financial condition and operating results.

In the event the conditional conversion feature of the Convertible Notes is triggered, holders of the Convertible Notes will be entitled to convert their Convertible Notes at any time during specified periods at their option. If one or more holders elect to convert their Convertible Notes, unless we elect to satisfy our conversion obligation by delivering solely shares of our common stock (other than paying cash in lieu of delivering any fractional share), we would be required to settle a portion or all of our conversion obligation in cash, which could adversely affect our liquidity.

Provisions in the indenture for the Convertible Notes may deter or prevent a business combination that may be favorable to our stockholders.

If a fundamental change occurs prior to the maturity date of the Convertible Notes, holders of the Convertible Notes will have the right, at their option, to require us to repurchase all or a portion of their Convertible Notes. In addition, if a "make-whole fundamental change" (as defined in the Indenture) occurs prior the maturity date, we will in some cases be required to increase the conversion rate of the Convertible Notes for a holder that elects to convert its Convertible Notes in connection with such make-whole fundamental change.

Furthermore, the Indenture prohibits us from engaging in certain mergers or acquisitions unless, among other things, the surviving entity assumes our obligations under the Convertible Notes. These and other provisions in the Indenture could deter or prevent a third party from acquiring the Company even when the acquisition may be favorable to our stockholders.

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

(a) Recent Sales of Unregistered Securities

None (except as previously disclosed).

(b) Use of Proceeds

Not Applicable.

(c) Purchases of Equity Securities by the Company and Affiliated Purchasers

We currently have no publicly announced repurchase plan or program.

Upon vesting of most restricted stock units or stock awards, we are required to deposit statutory employee withholding taxes on behalf of the holders of the vested awards. As reimbursement for these tax deposits, we have the option to withhold from shares otherwise issuable upon vesting a portion of those shares with a fair market value equal to the amount of the deposits we paid. Withholding of shares in this manner is accounted for as a repurchase of common stock.

Item 6. Exhibits

Number	Description
2.1	Stock Purchase Agreement, dated as of February 4, 2021, by and among Magnite, Inc., RTL US Holding, Inc. and RTL Group S.A. (solely with respect to Article 6) relating to the purchase and sale of 100% of the Common Stock of SpotX, Inc. (incorporated by reference to Exhibit 2.1 of the Registrant's Current Report on Form 8-K filed with the Commission on February 5, 2021).
2.1*	Amendment to Stock Purchase Agreement, dated as of April 30, 2021, by and among Magnite, Inc., RTL US Holding, Inc., and RTL Group S.A.
4.1	Indenture, dated as of March 18, 2021, between Magnite, Inc., the guarantors named therein and The Bank of New York Mellon Trust Company, N.A, as trustee (incorporated by reference to Exhibit 4.1 of the Registrant's Current Report on Form 8-K filed with the Commission on March 19, 2021).
4.2	Form of 0.25% Convertible Senior Notes due 2026 (included in Exhibit 4.1) (incorporated by reference to Exhibit 4.2 of the Registrant's Current Report on Form 8-K filed with the Commission on March 19, 2021).
10.1	Form of Capped Call Transaction Confirmation (incorporated by reference to Exhibit 10.1 of the Registrant's Current Report on Form 8-K filed with the Commission on March 19, 2021).
10.2*	Credit Agreement, dated as of April 30, 2021, by and among Magnite, Inc., Goldman Sachs Bank USA, as administrative and collateral agent, and the other lender parties thereto.
10.3*	Registration Rights Agreement, dated as of April 30, 2021, by and between Magnite, Inc. and RTL US Holding, Inc.
31.1*	Certification of Principal Executive Officer Pursuant to Exchange Act Rules 13a-14(a) and 15d-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
31.2*	Certification of Principal Financial Officer Pursuant to Exchange Act Rules 13a-14(a) and 15d-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
32*(¹)	Certification of the Principal Executive Officer and Principal Financial Officer Pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
101.ins *	Instance Document- the instance document does not appear in the Interactive Data File because its XBRL tags are embedded within the Inline XBRL document
101.sch *	XBRL Taxonomy Schema Linkbase Document
101.cal *	XBRL Taxonomy Calculation Linkbase Document
101.def *	XBRL Taxonomy Definition Linkbase Document
101.lab *	XBRL Taxonomy Label Linkbase Document
101.pre *	XBRL Taxonomy Presentation Linkbase Document
104	Cover Page Interactive Data File (formatted as Inline XBRL and contained in Exhibit 101)

* Filed herewith

⁽¹⁾ The information in this exhibit is furnished and deemed not filed with the Securities and Exchange Commission for purposes of section 18 of the Exchange Act of 1934, as amended (the "Exchange Act"), and is not to be incorporated by reference into any filing of Magnite, Inc. under the Securities Act of 1933, as amended (the "Securities Act"), or the Exchange Act, whether made before or after the date hereof, regardless of any general incorporation language in such filing.

SIGNATURES

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

MAGNITE, INC. (Registrant)

/s/ David Day

David Day

Chief Financial Officer

(Principal Financial Officer and Duly Authorized Officer)

Date May 10, 2021

AMENDMENT TO STOCK PURCHASE AGREEMENT

This AMENDMENT TO STOCK PURCHASE AGREEMENT (this "Amendment"), is entered into as of April 30, 2021, by and among Magnite, Inc., a Delaware corporation ("Buyer"), RTL US Holding, Inc., a Delaware corporation ("Seller"), and RTL Group S.A., a Société Anonyme (together with Buyer, and Seller, the "Parties").

WHEREAS, the Parties entered into that certain Stock Purchase Agreement, dated as of February 4, 2021 (the "SPA");

WHEREAS, the Parties desire to amend the SPA to reflect further agreement among the Parties regarding the timing of the closing of the transactions contemplated by the SPA;

WHEREAS, following execution of the SPA, Buyer consummated an "Equity Financing" (as such term is defined in the SPA), which priced on March 15, 2021 and yielded gross proceeds of approximately \$400 million;

WHEREAS, Seller delivered notice, in accordance with the terms of Section 5.16 of the SPA to participate in 20% of such Equity Financing, and accordingly the Base Cash Purchase Price (as defined in the SPA) was increased by \$80 million and the Stock Consideration (as defined in the SPA) was reduced by 1,625,685 shares of Buyer Common Stock (due to the closing purchase price of Buyer Common Stock on March 12, 2021 being \$49.21 per share);

WHEREAS, in connection with the foregoing, the Parties desire to amend the SPA to (i) reflect the new Base Cash Purchase Price of \$640 million, (ii) reflect the new Stock Consideration of 12,374,315 shares of Buyer Common Stock and (iii) delete Section 5.16 of the SPA, as it is no longer applicable; and

WHEREAS, the Parties desire to amend the SPA, in accordance with Section 11.02 of the SPA, as further set forth herein.

NOW, THEREFORE, in consideration of the covenants and representations set forth therein, and for other good and valuable consideration, the Parties hereby agree as follows:

1. **Amendments to Section 1.01 of SPA.**

- a. The definition of "**Accrued Standalone Income Taxes**" contained in Section 1.01 of the SPA is hereby amended by deleting "as of 11:59 p.m. (New York time) on the day immediately preceding the Closing Date" from such definition and replacing it with the following:

"as of 11:59 p.m. (New York time) on the Closing Date"

- b. The definition of "**Base Cash Purchase Price**" contained in Section 1.01 of the SPA is hereby amended by deleting the text of such definition in its entirety and replacing it with the following:

"**Base Cash Purchase Price**" means USD640,000,000."

- c. The definition of “**Stock Consideration**” contained in Section 1.01 of the SPA is hereby amended by deleting the text of such definition in its entirety and replacing it with the following:

““**Stock Consideration**” means 12,374,315 shares of Buyer Common Stock, adjusted as necessary to reflect any split, combination, reclassification or dividend or similar adjustment of Buyer Common Stock prior to the Closing.”

- d. The definitions of “**Launch Date**”, “**Financing Notice**” and “**Seller Financing Proceeds**” contained in Section 1.01 of the SPA are hereby deleted.

2. **Amendment to Section 2.03 of the SPA.** Section 2.03 of the SPA is hereby amended by adding the following as a new sentence at the end of such section:

“Notwithstanding the foregoing, subject to satisfaction or, to the extent permissible, waiver by the party or parties entitled to the benefit of the conditions set forth in Article 8 (other than conditions that by their nature are to be satisfied at the Closing, but subject to the satisfaction or, to the extent permissible, waiver of those conditions at the Closing), Buyer and Seller agree that the Closing will occur on April 30, 2021 (to the extent such conditions are satisfied and the Closing occurs on April 30, 2021, an “**April Closing**”).”

3. **Amendment to Section 2.05(a) of the SPA.** Section 2.05(a) of the SPA is hereby amended by adding the following proviso at the end of such section:

“*provided, further*, that, in the event of an April Closing, notwithstanding the foregoing, (w) Closing Net Working Capital shall be calculated as of 11:59 p.m. (New York time) on April 30, 2021, (x) Closing Indebtedness shall be calculated as of the time of the Closing (provided that Tax items in Closing Indebtedness shall be calculated as of 11:59 p.m. (New York time) on April 30, 2021), (y) Closing Cash shall be calculated as of 11:59 p.m. (New York time) on April 30, 2021 (*provided* that no transaction of the Company Group taken after the Closing which would reduce Closing Cash shall be taken into account in such calculation unless such transaction results in a corresponding reduction of accounts payable in Closing Net Working Capital) and (z) unpaid Transaction Expenses shall be calculated as of 11:59 p.m. (New York time) on April 30, 2021, in the case of each of the foregoing (w), (x) and (y), calculated without giving effect to the Transactions or any actions taken by or at the direction of Buyer after Closing.”

4. **Amendment to Section 2.06(b)(i) of the SPA.** Section 2.06(b)(i) of the SPA is hereby amended by adding the following proviso at the end of such section:

“*provided, further*, that, in the event of an April Closing, notwithstanding the foregoing, (w) Closing Net Working Capital shall be calculated as of 11:59 p.m. (New York time) on April 30, 2021, (x) Closing Indebtedness shall be calculated as of the time of the Closing (provided that Tax items in Closing Indebtedness shall be calculated as of 11:59 p.m. (New York time) on April 30, 2021), (y) Closing Cash shall be calculated as of 11:59 p.m. (New York time) on April 30, 2021 (*provided* that no transaction of the Company Group taken after the Closing which would reduce Closing Cash shall be taken into account in such calculation unless such transaction results in a corresponding reduction of accounts payable in Closing Net Working Capital) and (z) unpaid Transaction Expenses shall be calculated as of 11:59 p.m. (New York time) on April 30, 2021, in the case of each of the foregoing (w), (x) and (y), calculated without giving effect to the Transactions or any actions taken by or at the direction of Buyer after Closing.”

5. **Amendment to Section 5.16 of the SPA.** Section 5.16 of the SPA is hereby deleted in its entirety.

6. **Amendment to Schedule 1.1 of the SPA.** Schedule 1.1 of the SPA is hereby amended by deleting it in its entirety and replacing it with the following:

Schedule 1.1

Required Information

Company Group Required Information	
Date	Required Information
Following May 1, 2021	<ul style="list-style-type: none"> • Audited consolidated balance sheets and related statements of income, stockholders’ equity and cash flows of the Company Group for the fiscal year ended December 31, 2020 and for each fiscal year ended thereafter and ended at least 105 days prior to the Closing Date; and • Unaudited consolidated balance sheets and related statements of income and cash flows of the Company Group for each subsequent interim quarterly period ended at least 45 days prior to the Closing Date (excluding the fourth quarter of any fiscal year).

7. **Capitalized Terms.** Capitalized terms used but not defined herein shall have the meanings assigned to them in the SPA.

8. **No Other Amendments.** Except as and to the extent expressly modified by this Amendment, the SPA is not otherwise being amended, modified or supplemented and shall remain in full force and effect in accordance with its terms.

9. **Counterparts.** This Amendment may be signed in any number of counterparts, and by each party on separate counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument. This Amendment shall become effective when each party hereto shall have received a counterpart hereof signed by the other party hereto. Until and unless each party has received a counterpart hereof signed by the other party hereto, this Amendment shall have no effect and no party shall have any right or obligation hereunder (whether by virtue of any other oral or written agreement or other communication). Delivery of a counterpart hereof by email attachment shall be an effective mode of delivery.

10. **Governing Law.** This Amendment shall be governed by and construed in accordance with the law of the State of Delaware, without regard to the conflicts of law rules of such state that would cause the laws of any other jurisdiction to apply.

[Signature pages follow]

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

MAGNITE, INC.

By: /s/ Michael Barrett

Name: Michael Barrett

Title: Chief Executive Officer

Signature Page to Amendment to SPA

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

RTL US HOLDING, INC.

By: /s/ Vera L. Noriega
Name: Vera L. Noriega
Title: Director

By: /s/ Siska Ghesquiere
Name: Siska Ghesquiere
Title: President

RTL GROUP, S.A.

By: /s/ Thomas Rabe
Name: Thomas Rabe
Title: CEO

By: /s/ Elmar Heggen
Name: Elmar Heggen
Title: Deputy CEO and COO

CREDIT AGREEMENT,

dated as of April 30, 2021
among

MAGNITE, INC.
as the Borrower,

THE LENDERS PARTY HERETO,

GOLDMAN SACHS BANK USA,
as Administrative Agent and Collateral Agent,

GOLDMAN SACHS BANK USA,
FIFTH THIRD BANK, NATIONAL ASSOCIATION,
SILICON VALLEY BANK
and
SOCIÉTÉ GÉNÉRALE

as Joint Lead Arrangers and Joint Bookrunners for the Initial Term Facility

GOLDMAN SACHS BANK USA,
FIFTH THIRD BANK, NATIONAL ASSOCIATION,
SILICON VALLEY BANK
and
SOCIÉTÉ GÉNÉRALE

as Joint Lead Arrangers and Joint Bookrunners for the Revolving Facility

TABLE OF CONTENTS

ARTICLE I

Definitions

Section 1.01.	Defined Terms	<u>1</u>
Section 1.02.	Terms Generally; GAAP	<u>75</u>
Section 1.03.	Effectuation of Transactions	<u>76</u>
Section 1.04.	Timing of Payment or Performance	<u>76</u>
Section 1.05.	Times of Day	<u>76</u>
Section 1.06.	Classification of Loans and Borrowings	<u>76</u>
Section 1.07.	Letter of Credit Amounts	<u>76</u>
Section 1.08.	Cashless Rollovers	<u>76</u>
Section 1.09.	Certain Calculations	<u>77</u>
Section 1.10.	Limited Condition Transactions	<u>77</u>
Section 1.11.	Divisions	<u>78</u>

ARTICLE II

The Credits

Section 2.01.	Commitments	<u>78</u>
Section 2.02.	Loans and Borrowings	<u>79</u>
Section 2.03.	Requests for Borrowings	<u>80</u>
Section 2.04.	Swingline Loans	<u>81</u>
Section 2.05.	Letters of Credit	<u>82</u>
Section 2.06.	Funding of Borrowings	<u>92</u>
Section 2.07.	Interest Elections	<u>93</u>
Section 2.08.	Termination and Reduction of Commitments	<u>94</u>
Section 2.09.	Repayment of Loans; Evidence of Debt	<u>95</u>
Section 2.10.	Repayment of Term Loans and Revolving Facility Loans and Prepayment Procedures	<u>96</u>
Section 2.11.	Prepayment of Loans	<u>98</u>
Section 2.12.	Fees	<u>100</u>
Section 2.13.	Interest	<u>101</u>
Section 2.14.	Effect of Benchmark Transition Event	<u>102</u>
Section 2.15.	Increased Costs	<u>108</u>
Section 2.16.	Break Funding Payments	<u>109</u>
Section 2.17.	Taxes	<u>110</u>
Section 2.18.	Payments Generally; Pro Rata Treatment; Sharing of Set-offs	<u>115</u>
Section 2.19.	Mitigation Obligations; Replacement of Lenders	<u>116</u>
Section 2.20.	Illegality	<u>118</u>
Section 2.21.	Incremental Commitments	<u>118</u>

Section 2.22.	Extensions of Loans and Commitments	<u>122</u>
Section 2.23.	Refinancing Amendments	<u>124</u>
Section 2.24.	Defaulting Lenders	<u>128</u>
Section 2.25.	Loan Repurchases	<u>131</u>

ARTICLE III

Representations and Warranties

Section 3.01.	Organization; Powers	<u>133</u>
Section 3.02.	Authorization	<u>133</u>
Section 3.03.	Enforceability	<u>134</u>
Section 3.04.	Governmental Approvals	<u>134</u>
Section 3.05.	Financial Statements	<u>134</u>
Section 3.06.	No Material Adverse Effect	<u>134</u>
Section 3.07.	Title to Properties	<u>134</u>
Section 3.08.	Subsidiaries	<u>135</u>
Section 3.09.	Litigation; Compliance with Laws	<u>135</u>
Section 3.10.	Federal Reserve Regulations	<u>135</u>
Section 3.11.	Investment Company Act	<u>135</u>
Section 3.12.	Use of Proceeds	<u>135</u>
Section 3.13.	Tax Returns	<u>136</u>
Section 3.14.	No Material Misstatements	<u>136</u>
Section 3.15.	EEA Financial Institutions	<u>137</u>
Section 3.16.	Environmental Matters	<u>137</u>
Section 3.17.	Security Documents	<u>137</u>
Section 3.18.	Solvency	<u>138</u>
Section 3.19.	ERISA	<u>139</u>
Section 3.20.	Labor Matters	<u>139</u>
Section 3.21.	Insurance	<u>139</u>
Section 3.22.	Intellectual Property; Licenses, Etc	<u>139</u>
Section 3.23.	USA PATRIOT Act	<u>139</u>
Section 3.24.	Anti-Corruption Laws and Sanctions	<u>139</u>

ARTICLE IV

Conditions of Lending

Section 4.01.	Closing Date	<u>140</u>
Section 4.02.	Subsequent Credit Events	<u>143</u>
Section 4.03.	Determinations Under Section 4.01	<u>143</u>

ARTICLE V

Affirmative Covenants

Section 5.01.	Existence; Business and Properties	<u>144</u>
---------------	------------------------------------	------------

Section 5.02.	Insurance	<u>144</u>
Section 5.03.	Taxes	<u>145</u>
Section 5.04.	Financial Statements, Reports, Etc	<u>145</u>
Section 5.05.	Litigation and Other Notices	<u>147</u>
Section 5.06.	Compliance with Laws	<u>148</u>
Section 5.07.	Maintaining Records; Access to Properties and Inspections	<u>148</u>
Section 5.08.	Use of Proceeds	<u>148</u>
Section 5.09.	Compliance with Environmental Laws	<u>148</u>
Section 5.10.	Further Assurances; Additional Security	<u>149</u>
Section 5.11.	Ratings	<u>152</u>
Section 5.12.	Restricted and Unrestricted Subsidiaries	<u>152</u>
Section 5.13.	Post-Closing	<u>152</u>
Section 5.14	Quarterly Lender Calls	<u>152</u>

ARTICLE VI

Negative Covenants

Section 6.01.	Indebtedness	<u>152</u>
Section 6.02.	Liens	<u>160</u>
Section 6.03.	Restricted Payments; Restricted Debt Payments	<u>165</u>
Section 6.04.	Investments, Loans and Advances	<u>169</u>
Section 6.05.	Mergers, Consolidations; Asset Sales	<u>173</u>
Section 6.06.	Transactions with Affiliates	<u>177</u>
Section 6.07.	Business of the Borrower and the Subsidiaries; Etc	<u>179</u>
Section 6.08.	Restrictions on Subsidiary Distributions and Negative Pledge Clauses	<u>179</u>
Section 6.09.	Amendments to Junior Financing	<u>182</u>
Section 6.10.	Financial Covenant	<u>182</u>

ARTICLE VII

Events of Default

Section 7.01.	Events of Default	<u>182</u>
Section 7.02.	[Reserved]	<u>186</u>
Section 7.03.	Application of Funds	<u>186</u>

ARTICLE VIII

The Agents

Section 8.01.	Appointment	<u>187</u>
Section 8.02.	Delegation of Duties	<u>188</u>
Section 8.03.	Exculpatory Provisions	<u>188</u>
Section 8.04.	Reliance by Agents	<u>189</u>

Section 8.05.	Notice of Default	<u>190</u>
Section 8.06.	Non-Reliance on Agents and Other Lenders	<u>190</u>
Section 8.07.	Indemnification	<u>191</u>
Section 8.08.	Agent in Its Individual Capacity	<u>192</u>
Section 8.09.	Successor Administrative Agent	<u>192</u>
Section 8.10.	Arrangers, Etc	<u>193</u>
Section 8.11.	Security Documents and Collateral Agent	<u>193</u>
Section 8.12.	Right to Realize on Collateral, Enforce Guarantees, and Credit Bidding	<u>194</u>
Section 8.13.	Withholding Tax	<u>196</u>
Section 8.14.	Secured Cash Management Agreements and Secured Hedge Agreements	<u>196</u>
Section 8.15.	Certain ERISA Matters	<u>196</u>
Section 8.16.	Erroneous Payments	<u>197</u>

ARTICLE IX

Miscellaneous

Section 9.01.	Notices; Communications	<u>199</u>
Section 9.02.	Survival of Agreement	<u>200</u>
Section 9.03.	Binding Effect	<u>200</u>
Section 9.04.	Successors and Assigns	<u>200</u>
Section 9.05.	Expenses; Indemnity	<u>206</u>
Section 9.06.	Right of Set-off	<u>209</u>
Section 9.07.	Applicable Law	<u>210</u>
Section 9.08.	Waivers; Amendment	<u>210</u>
Section 9.09.	Interest Rate Limitation	<u>214</u>
Section 9.10.	Entire Agreement	<u>214</u>
Section 9.11.	WAIVER OF JURY TRIAL	<u>215</u>
Section 9.12.	Severability	<u>215</u>
Section 9.13.	Counterparts	<u>215</u>
Section 9.14.	Headings	<u>215</u>
Section 9.15.	Jurisdiction; Consent to Service of Process	<u>216</u>
Section 9.16.	Confidentiality	<u>216</u>
Section 9.17.	Platform; Borrower Materials	<u>217</u>
Section 9.18.	Release of Liens and Guarantees	<u>218</u>
Section 9.19.	USA PATRIOT Act and Beneficial Ownership Regulation Notice	<u>220</u>
Section 9.20.	Agency of the Borrower for the Loan Parties	<u>220</u>
Section 9.21.	No Advisory or Fiduciary Responsibility	<u>220</u>
Section 9.22.	Payments Set Aside	<u>221</u>

Section 9.23.	Acknowledgement and Consent to Bail-In of Affected Financial Institutions	<u>221</u>
Section 9.24.	Acknowledgement Regarding Any Supported QFCs	<u>222</u>
Section 9.25.	Electronic Execution of Assignments and Certain Other Documents	<u>223</u>
Section 9.26.	Net Short Lenders	<u>223</u>

Exhibits and Schedules

Exhibit A	Form of Assignment and Acceptance
Exhibit B	[Reserved]
Exhibit C	Form of Solvency Certificate
Exhibit D-1	Form of Borrowing Request
Exhibit D-2	Form of Swingline Borrowing Request
Exhibit D-3	Form of Letter of Credit Request
Exhibit E	Form of Interest Election Request
Exhibit F	Auction Procedures
Exhibit G	Form of Intercompany Note
Exhibit H	Form of Promissory Note
Exhibit I	Form of Perfection Certificate
Exhibit J-1	U.S. Tax Certificate (For Non-U.S. Lenders that are not Partnerships for U.S. Federal Income Tax Purposes)
Exhibit J-2	U.S. Tax Certificate (For Non-U.S. Lenders that are Partnerships for U.S. Federal Income Tax Purposes)
Exhibit J-3	U.S. Tax Certificate (For Non-U.S. Participants that are not Partnerships for U.S. Federal Income Tax Purposes)
Exhibit J-4	U.S. Tax Certificate (For Non-U.S. Participants that are Partnerships for U.S. Federal Income Tax Purposes)
Exhibit K	[Reserved]
Exhibit L	Form of Collateral Agreement
Exhibit M	Form of Guarantee Agreement
Schedule 1.01A	Excluded Subsidiaries
Schedule 2.01	Commitments
Schedule 2.05	Existing Letters of Credit
Schedule 3.04	Governmental Approvals
Schedule 3.08	Subsidiaries
Schedule 3.09	Litigation
Schedule 3.21	Insurance
Schedule 3.22	Intellectual Property
Schedule 5.13	Post-Closing Obligations
Schedule 6.01	Indebtedness
Schedule 6.02(a)	Liens
Schedule 6.04	Investments
Schedule 6.06	Transactions with Affiliates
Schedule 9.01	Notice Information

CREDIT AGREEMENT, dated as of April 30, 2021 (as amended, supplemented, restated, amended and restated, or otherwise modified from time to time, this “Agreement”), by and among Magnite, Inc., a Delaware corporation (the “Borrower”), Goldman Sachs Bank USA, as administrative agent (in such capacity, the “Administrative Agent”), Collateral Agent and Swingline Lender, and each Issuing Bank and Lender (each as defined below) party hereto from time to time.

WHEREAS, the Borrower and RTL US Holding, Inc., a Delaware corporation (the “Seller”) have entered into that certain Acquisition Agreement (as defined below) pursuant to which, subject to the terms and conditions set forth therein the Borrower will acquire all of the issued and outstanding shares of SpotX, Inc., a Delaware corporation (the “Target”) and, together with its subsidiaries, the “Acquired Business”) from the Seller (the “Acquisition”); and WHEREAS, in connection with the consummation of the transactions contemplated by the Acquisition Agreement, the Borrower has requested the Lenders to extend credit as set forth herein;

NOW, THEREFORE, the Lenders and the Issuing Banks are willing to extend such credit to the Borrower on the terms and subject to the conditions set forth herein.

Accordingly, the parties hereto agree as follows:

ARTICLE I.

Definitions

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

“ABR” shall mean for any day a fluctuating rate per annum equal to the highest of (a) the Federal Funds Rate plus 1/2 of 1.00%, (b) the “U.S. Prime Lending Rate” published by the Wall Street Journal and (c) the Eurodollar Rate for a one month interest period plus 1.00%; provided that, (x) with respect to the Initial Term Loans, if the rate described in preceding clause (a) shall be less than 1.00%, such rate shall be deemed to be 1.00% and (y) with respect to the Initial Revolving Loans, if the rate described in preceding clause (a) shall be less than 0.00% such rate shall be deemed to be 0.00%. “ABR” when used with respect to any Loan or Borrowing, refers to whether such Loan, or the Loans included in such Borrowing, bear interest by reference to the ABR.

“ABR Borrowing” shall mean a Borrowing comprised of ABR Loans.

“ABR Loan” shall mean any ABR Term Loan, ABR Revolving Facility Loan or Swingline Loan.

“ABR Revolving Facility Borrowing” shall mean a Borrowing comprised of ABR Revolving Facility Loans.

“ABR Revolving Facility Loan” shall mean any Revolving Facility Loan bearing interest at a rate determined by reference to the ABR 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 ABR in accordance with the provisions of Article II.

“Acquisition” shall have the meaning assigned to such term in the first recitals hereto.

“Acquisition Agreement” shall mean the Stock Purchase Agreement, dated as of February 4, 2021, by and between the Borrower and the Seller (including, but not limited to, all schedules and exhibits thereto, and after giving effect to any alteration, amendment, modification, supplement or waiver permitted by Section 4.01(h)).

“Acquisition Agreement Specified Representations” shall mean such of the representations made by the Acquired Business in the Acquisition Agreement as are material to the interests of the Lenders (in their capacities as such), but only to the extent that the Borrower has the right to terminate the obligations of the Borrower (or to decline to consummate the Acquisition) under the Acquisition Agreement as a result of the failure of such representations to be accurate.

“Administrative Agent” shall have the meaning assigned to such term in the introductory paragraph of this Agreement, together with its successors and assigns.

“Administrative Agent Fees” shall have the meaning assigned to such term in Section 2.12(c).

“Administrative Questionnaire” shall mean an Administrative Questionnaire in the form supplied by the Administrative Agent.

“Affected Financial Institution” means (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.

“Agent Fee Letter” shall mean that certain Administrative Agent Fee Letter dated as of February 4, 2021, by and between the Borrower and Goldman Sachs Bank USA (as such Administrative Agent Fee Letter may be amended, restated, supplemented or otherwise modified).

“Agents” shall mean the Administrative Agent, the Collateral Agent and any sub-agent or co-agent of either of the foregoing pursuant to the Loan Documents.

“Agreement” shall have the meaning assigned to such term in the introductory paragraph of this Agreement.

“All-in Yield” shall mean, as to any Loans (or other Indebtedness, if applicable), the yield thereon to Lenders (or other lenders, as applicable) providing such Loans (or other Indebtedness, if applicable) in the primary syndication thereof, as reasonably determined by the Administrative Agent in consultation with the Borrower, taking into account (a) interest rate margins, (b) interest rate floors (subject to the proviso set forth below), (c) any amendment to the relevant interest rate margins and interest rate floors prior to the applicable date of determination and (d) original issue discount and upfront or similar fees (based on an assumed four-year average life to maturity), but excluding (i) any arrangement, commitment, structuring, underwriting and/or amendment fees (regardless of whether any such fees are paid to or shared in whole or in part with any lender) and (ii) any other fees that, in each case, are not payable to all relevant lenders generally; provided, however, that (A) to the extent that the Eurodollar Rate (for a period of three months) or ABR (without giving effect to any floor specified in the definition thereof) is less than any floor applicable to the loans in respect of which the All-in Yield is being calculated on the date on which the All-in Yield is determined, the amount of the resulting difference will be deemed added to the interest rate margin applicable to the relevant Indebtedness for purposes of calculating the All-in Yield and (B) to the extent that the Eurodollar Rate (for a period of three months) or ABR (without giving effect to any floor specified in the definition thereof) is greater than any applicable floor on the date on which the All-in Yield is determined, the floor will be disregarded in calculating the All-in Yield.

“Anti-Corruption Laws” shall mean all laws or rules related to bribery or anti-corruption, including the United States Foreign Corrupt Practices Act of 1977, as amended, and the UK Bribery Act 2010.

“Applicable Commitment Fee” shall mean for any day (i) with respect to any Revolving Facility Commitments in effect on the Closing Date, 0.50% per annum; and (ii) with respect to any Other Revolving Facility Commitments, the “Applicable Commitment Fee” set forth in the applicable Extension Amendment or Refinancing Amendment (as applicable).

“Applicable Date” shall have the meaning assigned to such term in Section 9.08(f).

“Applicable Margin” shall mean for any day:

(i) with respect to any Initial Term Loan, 5.00% per annum in the case of any Eurodollar Loan and 4.00% per annum in the case of any ABR Loan, and

(ii) with respect to any Revolving Facility Loan and any Swingline Loan under the Revolving Facility in effect on the Closing Date (A) from the Closing Date to the date on which the Administrative Agent receives a certificate pursuant to Section 5.04(c) for the first full fiscal quarter ending after the Closing Date, 4.75% per annum in the case of any Eurodollar Loan and 3.75% per annum in the case of any ABR Loan, and (B) thereafter, the following percentages per annum set forth below under the caption “ABR Loans” or “Eurodollar Loans,” as the case may be, based upon the First Lien Net Leverage Ratio as set forth in the most recent certificate received by the Administrative Agent pursuant to Section 5.04(c);

Revolving Facility Loans

Level	First Lien Net Leverage Ratio	Eurodollar Loans	ABR Loans
I	≤ 0.90 to 1.00	4.25%	3.25%
II	> 0.90 to 1.00 and ≤ 1.40 to 1.00	4.50%	3.50%
III	> 1.40 to 1.00	4.75%	3.75%

With respect to subclause (ii) above, any increase or decrease in the Applicable Margin resulting from a change in the First Lien Net Leverage Ratio shall become effective as of the first Business Day immediately following the date a certificate is delivered pursuant to Section 5.04(c); provided, however, that if such certificate is not delivered when due in accordance with such Section, then, upon the request of the Required Lenders, with respect to the Revolving Facility Loans and Swingline Loans, pricing Level III shall apply as of the first Business Day after the date on which such certificate was required to have been delivered and in each case shall remain in effect until the date on which such certificate is delivered. In the event that the Borrower or the Administrative Agent determines that any financial statement or certificate delivered pursuant to Section 5.04(c) is inaccurate, and such inaccuracy, if corrected, would have led to the application of a different Applicable Margin for any period (an “Applicable Period”) than the Applicable Margin applied for such Applicable Period, then (a) the Borrower shall promptly following such determination deliver to the Administrative Agent correct financial statements and certificates required by Section 5.04(c) for such Applicable Period, (b) the Applicable Margin for such Applicable Period shall be determined as if the First Lien Net Leverage Ratio were determined based on the amounts set forth in such correct financial statements and certificates and (c) if the correct Applicable Margin for the Applicable Period is higher than the Applicable Margin that was paid for such period, the Borrower shall promptly (and in any event within ten Business Days) following delivery of such corrected financial statements and certificates pay to the Administrative Agent the accrued additional interest and fees owing as a result of such increased Applicable Margin for such Applicable Period; and

(iii) with respect to any Other Term Loan or Other Revolving Loan, the “Applicable Margin” set forth in the Incremental Assumption Agreement, Extension Amendment or Refinancing Amendment (as applicable) relating thereto.

“Applicable Period” shall have the meaning assigned to such term in the definition of the term “Applicable Margin.”

“Approved Bank” has the meaning assigned to such term in subclause (e) of the definition of the term “Cash Equivalents.”

“Approved Fund” shall have the meaning assigned to such term in Section 9.04(b)(ii).

“Arranger Fee Letter” shall mean that certain Amended and Restated Arranger Fee Letter dated as of March 12, 2021 by and among the Borrower, Goldman Sachs Bank USA, Fifth Third Bank, National Association, Silicon Valley Bank, SVB Innovation Credit Fund VIII, L.P. and Société Générale (as such Amended and Restated Arranger Fee Letter may be amended, restated, supplemented or otherwise modified).

“Arrangers” shall mean, collectively, (i) Goldman Sachs Bank USA, Fifth Third Bank, National Association, Silicon Valley Bank and Société Générale, in their capacities as joint lead arrangers and joint bookrunners with respect to the Revolving Facility and (ii) Goldman Sachs Bank USA, Fifth Third Bank, National Association, Silicon Valley Bank and Société Générale, in their capacities as joint lead arrangers and joint bookrunners with respect to the Initial Term Facility.

“Asset Sale” shall mean (x) any Disposition (including any sale and leaseback of assets but excluding any lease or sublease of Real Property (to the extent such lease or sublease does not constitute a sale and leaseback)) to any person of any asset or assets of the Borrower or any Subsidiary and (y) any sale of any Equity Interests by any Subsidiary to a person other than the Borrower or a Subsidiary.

“Assignee” shall have the meaning assigned to such term in Section 9.04(b)(i).

“Assignment and Acceptance” shall mean an assignment and acceptance entered into by a Lender and an Assignee, and accepted by the Administrative Agent and the Borrower (if required by Section 9.04), in the form of Exhibit A or such other form (including electronic documentation generated by use of an electronic platform) as shall be approved by the Administrative Agent and reasonably satisfactory to the Borrower.

“Auction Manager” shall have the meaning assigned to such term in Section 2.25(a).

“Auction Procedures” shall mean auction procedures with respect to Purchase Offers set forth in Exhibit F hereto.

“Auto-Extension Letter of Credit” shall have the meaning assigned that term in Section 2.05(b)(iii).

“Available Excluded Contribution Amount” shall mean the aggregate amount of cash or Cash Equivalents or the fair market value of other assets (as reasonably determined in good faith by the Borrower) received by the Borrower or any of the Subsidiaries after the Closing Date from:

(a) contributions in respect of Qualified Equity Interests (other than any amounts received from the Borrower or any of the Subsidiaries), plus

(b) the sale of Qualified Equity Interests of the Borrower or any of the Subsidiaries (other than (i) to the Borrower or any of the Subsidiaries or (ii) pursuant to any management equity plan or stock option plan or any other management or employee benefit plan),

in each case with respect to clauses (a) and (b) above, designated as an Available Excluded Contribution Amount pursuant to a certificate of a Responsible Officer on or promptly after the date on which the relevant capital contribution is made or the relevant proceeds are received, as the case may be, and which have not been applied in reliance on the Builder Basket, minus

(c) the aggregate outstanding principal amount of all Restricted Payments made pursuant to Section 6.03(i)(o), Restricted Debt Payments made pursuant to Section 6.03(ii)(f)(B) and Investments made pursuant to Section 6.04(ee).

“Availability Period” shall mean, with respect to any Class of Revolving Facility Commitments, the period from and including the Closing Date (or, if later, the effective date for such Class of Revolving Facility Commitments) to but excluding the earlier of the Revolving Facility Maturity Date for such Class and, in the case of each of the Revolving Facility Loans, Revolving Facility Borrowings, Swingline Loans and Letters of Credit under any Class of Revolving Facility Commitments, the date of termination of the Revolving Facility Commitments of such Class.

“Available Unused Commitment” shall mean, with respect to a Revolving Facility Lender under any Class of Revolving Facility Commitments at any time, an amount equal to the amount by which (a) the applicable Revolving Facility Commitment of such Revolving Facility Lender at such time exceeds (b) the applicable Revolving Facility Credit Exposure (excluding the Swingline Exposure) of such Revolving Facility Lender at such time.

“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 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).

“Bankruptcy Code” shall mean Title 11 of the United States Code entitled “Bankruptcy,” as now or hereafter in effect, and any successor thereto.

“Benchmark” shall have the meaning assigned to such term in Section 2.14.

“Benchmark Replacement” shall have the meaning assigned to such term in Section 2.14.

“Benchmark Replacement Adjustment” shall have the meaning assigned to such term in Section 2.14.

“Benchmark Replacement Conforming Changes” shall have the meaning assigned to such term in Section 2.14.

“Benchmark Replacement Date” shall have the meaning assigned to such term in Section 2.14.

“Benchmark Transition Event” shall have the meaning assigned to such term in Section 2.14.

“Benchmark Unavailability Period” shall have the meaning assigned to such term in Section 2.14.

“Beneficial Ownership Certification” shall mean, with respect to the Borrower, a certification regarding beneficial ownership as required by the Beneficial Ownership Regulation, which certification shall be substantially similar in form and substance to the form of Certification Regarding Beneficial Owners of Legal Entity Customers published jointly, in May 2018, by the Loan Syndications and Trading Association and Securities Industry and Financial Markets Association or such other form satisfactory to the Administrative Agent.

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

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

“Board” shall mean the Board of Governors of the Federal Reserve System of the United States of America.

“Board of Directors” shall mean, as to any person, the board of directors, the board of managers, the sole manager or other governing body of such person or any duly appointed committee thereof.

“Borrower” shall have the meaning assigned to such term in the introductory paragraph to this Agreement, or any permitted successor thereto.

“Borrower Materials” shall have the meaning assigned to such term in Section 5.04.

“Borrowing” shall mean a group of Loans of a single Class and Type, and made on a single date and, in the case of Eurodollar Loans, as to which a single Interest Period is in effect.

“Borrowing Minimum” shall mean (a) in the case of Eurodollar Loans, \$1,000,000, (b) in the case of ABR Loans, \$1,000,000 and (c) in the case of Swingline Loans, \$500,000.

“Borrowing Multiple” shall mean (a) in the case of Eurodollar Loans, \$500,000, (b) in the case of ABR Loans, \$250,000 and (c) in the case of Swingline Loans, \$100,000.

“Borrowing Request” shall mean a request by the Borrower in accordance with the terms of Section 2.03 and substantially in the form of Exhibit D-1 or another form (including any form on an electronic platform or electronic transmission system as shall be approved by the Administrative Agent) approved by the Administrative Agent and appropriately completed and signed by a Responsible Officer of the Borrower.

“Builder Basket” shall mean, as of any date of determination (the “Builder Basket Reference Time”), a cumulative amount equal to

(a) the sum of (without duplication)

(i) \$23,000,000; plus

(ii) 50% of Consolidated Net Income (which shall not be less than zero) for the period from the first day of the fiscal quarter of the Borrower during which the Closing Date occurred to and including the last day for the most recently ended fiscal quarter of the Borrower prior to the Builder Basket Reference Time plus

(iii) the amount of any capital contribution to, or the proceeds of any issuance of Qualified Equity Interests of, the Borrower after the Closing Date (other than any amount received from any Subsidiary), plus the fair market value, as reasonably determined in good faith by the Borrower, of cash equivalents, marketable securities or other property, in each case received by the Borrower or any of the Subsidiaries as a capital contribution or in return for any issuance of Qualified Equity Interests (other than any amounts received from the Borrower or any of the Subsidiaries), in each case, during the period from and including the day immediately following the Closing Date through and including such Builder Basket Reference Time; plus

(iv) the aggregate principal amount of any Indebtedness or Disqualified Equity Interests, in each case, of the Borrower or any of Subsidiaries issued after the Closing Date (other than Indebtedness or such Disqualified Equity Interests issued to the Borrower or any Subsidiaries), which has been converted into or exchanged for Equity Interests of the Borrower or any Subsidiary that does not constitute Disqualified Equity Interests, together with the fair market value of any cash equivalents and the fair market value (as reasonably determined in good faith by the Borrower) of any assets received by the Borrower or such Subsidiary upon such exchange or conversion, in each case, during the period from and including the day immediately following the Closing Date through and including such Builder Basket Reference Time; plus

(v) the net cash proceeds received by the Borrower or any Subsidiaries during the period from and including the day immediately following the Closing Date through and including such Builder Basket Reference Time in connection with the Disposition to any Person (other than the Borrower or any Subsidiaries) of any Investment made pursuant to Section 6.04(bb); plus

(vi) to the extent not already reflected as a return of capital with respect to such Investment for purposes of determining the amount of such Investment, the proceeds received by the Borrower or any Subsidiary during the period from and including the day immediately following the Closing Date through and including such Builder Basket Reference Time in connection with cash returns, cash profits, cash distributions and similar cash amounts, including cash principal repayments of loans, in each case received in respect of any Investment made after the Closing Date pursuant to Section 6.04(bb); plus

(vii) an amount equal to the sum of (A) the amount of any Investment by the Borrower or any Subsidiaries pursuant to Section 6.04(bb) in any Unrestricted Subsidiary that has been re-designated as a Subsidiary or has been merged, consolidated or amalgamated with or into, or is liquidated, wound up or dissolved into, the Borrower or any Subsidiaries, (B) the fair market value (as reasonably determined in good faith by the Borrower) of the assets of any Unrestricted Subsidiary that have been transferred, conveyed or otherwise distributed to the Borrower or any Subsidiaries and (C) the Net Proceeds of any Disposition of any Unrestricted Subsidiary (including the issuance or sale of Equity Interest thereof) received by the Borrower or any Subsidiaries, in each case, during the period from and including the day immediately following the Closing Date through and including such Builder Basket Reference Time; plus

(viii) the amount of any Declined Prepayment Amount since the Closing Date; minus

(b) an amount equal to the sum of

(i) Restricted Payments made pursuant to Section 6.03(i)(n), plus

(ii) Restricted Debt Payments made pursuant to Section 6.03(ii)(f)(A)), plus

(iii) Investments made pursuant to Section 6.04(bb),

in each case, after the Closing Date and prior to such Builder Basket Reference Time or contemporaneously therewith.

“Builder Basket Reference Time” shall have the meaning assigned to such term in the definition of “Builder Basket.”

“Business Day” shall mean any day that is not a Saturday, Sunday or other day on which commercial banks in New York City are authorized or required by law to remain closed; provided that, when used in connection with a Eurodollar Loan, the term “Business Day” shall also exclude any day on which banks are not open for dealings in deposits in Dollars in the London interbank market.

“Canadian Dollars” shall mean the lawful currency of Canada.

“Capital Expenditures” shall mean, with respect to any Person for any period, the aggregate amount, without duplication, of (a) all expenditures (whether paid in cash or accrued as liabilities and including in all events all amounts expended or capitalized as Capitalized Lease Obligations) that would, in accordance with GAAP, be included as additions to property, plant and equipment, (b) other capital expenditures of such Person for such period (whether paid in cash or accrued as liabilities and including in all events all amounts expended or capitalized as Capitalized Lease Obligations) that are reported in the Borrower’s consolidated statement of cash flows for such period and (c) other capital expenditures of such Person for such period (whether paid in cash or accrued as liabilities and including in all events all amounts expended or capitalized as Capitalized Lease Obligations, including any capitalized bonus payment).

“Capitalized Lease Obligations” shall mean, at the time any determination thereof is to be made, the amount of the liability in respect of a capital lease that would at such time be required to be capitalized and reflected as a liability on the balance sheet (excluding the footnotes thereto) in accordance with GAAP; provided that the Borrower may choose for any obligations of any person that are or would be characterized as operating lease obligations in accordance with GAAP on December 31, 2018 (whether or not such operating lease obligations were in effect on such date) to be accounted for as operating lease obligations (and not as Capitalized Lease Obligations) for purposes of this Agreement regardless of any change in GAAP following such date that would otherwise require such obligations to be recharacterized (on a prospective or retroactive basis or otherwise) as Capitalized Lease Obligations.

“Captive Insurance Subsidiary” shall mean any Subsidiary that is subject to regulation as an insurance company.

“Cash Collateralize” shall mean to pledge and deposit with, or deliver to, the Collateral Agent, for the benefit of one or more of the Issuing Banks or Lenders, as collateral for Revolving L/C Exposure or obligations of the Lenders to fund participations in respect of Revolving L/C Exposure, cash or deposit account balances or, if the Collateral Agent and each Issuing Bank shall agree in their sole discretion, other credit support, in each case pursuant to documentation in form and substance reasonably satisfactory to the Collateral Agent and each applicable Issuing Bank. “Cash Collateral” and “Cash Collateralization” shall have a meaning correlative to the foregoing and shall include the proceeds of such cash collateral and other credit support.

“Cash Equivalents” or “cash equivalents” shall mean, as at any date of determination,

(a) Dollars, Euro, Pounds, Canadian Dollars or such other currencies held by the Borrower or any Subsidiary from time to time in the ordinary course of business;

(b) readily marketable securities (i) issued or directly and unconditionally guaranteed or insured as to interest and principal by the government of the US, Canada, the United Kingdom or by any member nation of the European Union or (ii) issued by any agency or instrumentality of any of the foregoing, the obligations of which are backed by the full faith and credit of the US, Canada, the United Kingdom or any such member nation of the European Union, as applicable, in each case having average maturities of not more than twelve months from the date of

acquisition thereof and, in each case, repurchase agreements and reverse repurchase agreements relating thereto;

(c) readily marketable direct obligations issued by any state, commonwealth or territory of the US or any political subdivision, taxing authority or any public instrumentality thereof or any foreign government, in each case having average maturities of not more than 12 months from the acquisition;

(d) commercial paper having average maturities of not more than 12 months from the date of creation thereof and having, at the time of the acquisition thereof, a rating of at least A-2 from S&P or at least P-2 from Moody's (or, if at any time either S&P or Moody's is not rating such obligations, an equivalent rating from another nationally recognized statistical rating agency);

(e) deposits, money market deposits, time deposit accounts, certificates of deposit or bankers' acceptances (or similar instruments) maturing within one year after such date and issued or accepted by any Lender or by any bank organized under, or authorized to operate as a bank under, the laws of the US, any state thereof or the District of Columbia or any political subdivision thereof and that has capital and surplus of not less than \$100,000,000 and, in each case, repurchase agreements and reverse repurchase agreements relating thereto (any such bank being an "Approved Bank");

(f) securities with maturities of six months or less from the date of acquisition backed by standby letters of credit issued by any commercial bank having capital and surplus of not less than \$100,000,000;

(g) marketable short-term money market and similar highly liquid funds having a rating of at least P-2 or A-2 from either Moody's or S&P, respectively (or, if at any time either S&P or Moody's is not rating such obligations, an equivalent rating from another nationally recognized statistical rating agency);

(h) investments with average maturities of 12 months or less from the date of acquisition in money market funds rated AAA- (or the equivalent thereof) or better by S&P or Aaa3 (or the equivalent thereof) or better by Moody's (or, if at any time either S&P or Moody's is not rating such obligations, an equivalent rating from another nationally recognized statistical rating agency);

(i) shares of any money market mutual fund that has (i) substantially all of its assets invested in the types of investments referred to in clauses (a) through (h) above, (ii) net assets of not less than \$250,000,000 and (iii) a rating of at least A-2 from S&P or at least P-2 from Moody's (or, if at any time either S&P or Moody's is not rating such fund, an equivalent rating from another nationally recognized statistical rating agency); and

(j) solely with respect to any Captive Insurance Subsidiary, any investment that such Captive Insurance Subsidiary is not prohibited to make in accordance with applicable law.

The term “Cash Equivalents” and “cash equivalents” shall also include (x) Investments of the type and maturity described in clauses (b) through (j) above of foreign obligors, which Investments or obligors (or the parent companies thereof) have the ratings described in such clauses or equivalent ratings from comparable foreign rating agencies and (y) other short-term Investments utilized by Foreign Subsidiaries in accordance with normal investment practices for cash management in Investments that are analogous to the Investments described in clauses (b) through (j) and in this paragraph.

“Cash Management Agreement” shall mean any agreement to provide to the Borrower or any Subsidiary cash management services for collections, treasury management services (including controlled disbursement, overdraft, automated clearing house fund transfer services, return items and interstate depository network services), any demand deposit, payroll, trust or operating account relationships, commercial credit cards, merchant card, purchase or debit cards, non-card e-payables services, and other cash management services, including electronic funds transfer services, lockbox services, stop payment services and wire transfer services.

“Cash Management Bank” shall mean any person that, at the time it enters into a Cash Management Agreement (or on the Closing Date), is an Agent, an Arranger, a Lender or an Affiliate of any such person.

“CFC” shall mean a “controlled foreign corporation” within the meaning of section 957(a) of the Code.

“Change in Law” shall mean (a) the adoption of any law, rule or regulation after the Closing Date, (b) any change in law, 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 Issuing Bank with any written request, guideline or directive (whether or not having the force of law) of any Governmental Authority made or issued after the Closing Date; provided, however, that notwithstanding anything herein to the contrary, (x) all requests, rules, guidelines or directives under or issued in connection with the Dodd-Frank Wall Street Reform and Consumer Protection Act, all interpretations and applications thereof and any compliance by a Lender with any request or directive relating thereto and (y) all requests, rules, guidelines or directives promulgated under or in connection with, all interpretations and applications of, and any compliance by a Lender with any request or directive relating to International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States of America or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case under clauses (x) and (y) be deemed to be a “Change in Law,” regardless of the date enacted, adopted or issued but only to the extent it is the general policy of an Issuing Bank or Lender to impose applicable increased costs or costs in connection with capital adequacy requirements similar to those described in clauses (a) and (b) of Section 2.15 generally on other similarly situated borrowers under similar circumstances under agreements permitting such impositions. Notwithstanding the foregoing, FATCA (as defined below) shall not be considered a “Change in Law.”

“Change of Control” shall mean, at any time, and for any reason whatsoever, (A) any “person” or “group” (as such terms are used in Sections 13(d) and 14(d) of the Exchange Act)

shall become the “beneficial owner” (as defined in Rules 13(d)-3 and 13(d)-5 under such Act), directly or indirectly, of more than thirty-five percent (35%) of the then outstanding voting stock of the Borrower.

For purposes of this definition, including other defined terms used herein in connection with this definition, (i) “beneficial ownership” shall be as defined in Rules 13(d)-3 and 13(d)-5 under the Exchange Act as in effect on the date hereof and (ii) the words “person” and “group” shall be within the meaning of Section 13(d) or 14(d) of the Exchange Act, but shall exclude any employee benefit plan of such Person or group or its subsidiaries and any Person acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan.

Notwithstanding anything to the contrary in this definition or any provision of Section 13(d)-3 or 13(d)-5 of the Exchange Act, a Person or group shall not be deemed to beneficially own Equity Interests to be acquired by such Person or group pursuant to a stock or asset purchase agreement, merger agreement, option agreement, warrant agreement or similar agreement (or voting or option or similar agreement related thereto) until the consummation of the acquisition of Equity Interest in connection with the transactions contemplated by such agreement.

“Charges” shall have the meaning assigned to such term in Section 9.09.

“Class” shall mean, (a) when used in respect of any Loan or Borrowing, whether such Loan or the Loans comprising such Borrowing are Initial Term Loans, Other Term Loans established as a separate Class, Initial Revolving Loans or Other Revolving Loans established as a separate Class; and (b) when used in respect of any Commitment, whether such Commitment is in respect of a commitment to make Initial Term Loans, Other Term Loans of a specified Class, Initial Revolving Loans or Other Revolving Loans of a specified Class.

“Class Loans” shall have the meaning assigned to such term in Section 9.08(f).

“Closing Date” shall mean the first date on which the conditions set forth in Section 4.01 are satisfied (or waived in accordance with Section 9.08).

“Closing Date Refinancing” shall mean, to the extent not previously repaid, the repayment and termination of that certain Amended and Restated Loan and Security Agreement, dated as of September 25, 2020, by and among the Borrower, Magnite Hopper, Inc. (f/k/a Rubicon Project Hopper, Inc.), Magnite Bell, Inc. (f/k/a Rubicon Project Bell, Inc.) and Silicon Valley Bank.

“Code” shall mean the Internal Revenue Code of 1986, as amended.

“Collateral” shall mean all the “Collateral” as defined in any Security Document and shall also include all other property that is subject or purported to be subject to any Lien in favor of the Collateral Agent or any Subagent for the benefit of the Secured Parties pursuant to any Security Document; provided, that notwithstanding anything to the contrary herein or in any Security Document or other Loan Document, in no case shall the Collateral include any Excluded Property.

“Collateral Agent” shall mean the Administrative Agent acting as collateral agent for the Secured Parties, together with its successors and permitted assigns in such capacity.

“Collateral Agreement” shall mean the Collateral Agreement substantially in the form of Exhibit L to be dated as of the Closing Date, as may be amended, restated, amended and restated, supplemented or otherwise modified from time to time, among the Borrower, each Guarantor and the Collateral Agent.

“Collateral and Guarantee Requirement” shall mean the requirement that (in each case, subject to the last three paragraphs of Section 5.10, and subject to Schedule 5.13 (which, for the avoidance of doubt, shall override the applicable clauses of this definition of “Collateral and Guarantee Requirement”)):

(a) on the Closing Date, the Collateral Agent shall have received from (i) the Borrower and each Guarantor, a counterpart of the Collateral Agreement and (ii) each Guarantor, a counterpart of the Guarantee Agreement, in each case duly executed and delivered on behalf of such person;

(b) on the Closing Date, (i)(x) all outstanding Equity Interests directly owned by the Loan Parties on the Closing Date, other than Excluded Securities, and (y) all Indebtedness owing to any Loan Party on the Closing Date, other than Excluded Securities, shall have been pledged or assigned for security purposes pursuant to the Security Documents and (ii) the Collateral Agent shall have received certificates or other instruments (if any) representing such Equity Interests and any notes or other instruments required to be delivered pursuant to the applicable Security Documents, together with stock powers, note endorsements or other instruments of transfer with respect thereto (as applicable) endorsed in blank;

(c) in the case of any person that becomes a Guarantor or a Successor Borrower after the Closing Date, the Agents shall have received (i) in the case of a Guarantor, a supplement to the Guarantee Agreement and (ii) supplements to the Collateral Agreement and any other Security Documents, if applicable, in the form specified therefor or otherwise reasonably acceptable to the Administrative Agent, in each case, duly executed and delivered on behalf of such Guarantor;

(d) (x) all outstanding Equity Interests of any person that becomes a Guarantor or a Successor Borrower after the Closing Date and that are held by a Loan Party and (y) all Equity Interests directly acquired by a Loan Party after the Closing Date, in each case other than Excluded Securities, in each case, shall have been pledged and delivered promptly, but in no event later than thirty (30) days (or such longer period as agreed by the Administrative Agent in its reasonable discretion) pursuant to the Security Documents, together with stock powers or other instruments of transfer with respect thereto (as applicable) endorsed in blank;

(e) except as otherwise contemplated by this Agreement or any Security Document, all documents and instruments, including Uniform Commercial Code

financing statements, and filings with the United States Copyright Office and the United States Patent and Trademark Office, and all other actions reasonably requested by the Collateral Agent (including those required by applicable Requirements of Law) to be delivered, filed, registered or recorded to create the Liens intended to be created by the Security Documents (in each case, including any supplements thereto) and perfect such Liens to the extent required by, and with the priority required by, the Security Documents, shall have been delivered, filed, registered or recorded or delivered to the Collateral Agent for filing, registration or the recording substantially concurrently with, or promptly following, the execution and delivery of each such Security Document;

(f) evidence of insurance required by the terms of Section 5.02 hereof shall have been received by the Collateral Agent to the extent required by Section 5.02;

(g) after the Closing Date, the Collateral Agent shall have received, (i) such other Security Documents as may be required to be delivered pursuant to Section 5.10 or the Security Documents, and (ii) upon reasonable request by the Collateral Agent, evidence of compliance with any other requirements of Section 5.10;

(h) subject to Section 5.10(f) for any Mortgaged Property acquired after the Closing Date, the Collateral Agent shall have received with respect to any Mortgaged Property (other than an Excluded Property), a Mortgage, in each case, in form and substance reasonably acceptable to the Collateral Agent:

(i) evidence that (A) counterparts of such Mortgage have been duly executed, acknowledged and delivered and such Mortgage is in form suitable for filing or recording in all filing or recording offices that the Collateral Agent may deem reasonably necessary in order to create a valid and subsisting Lien on such Mortgaged Property in favor of the Collateral Agent for the benefit of the Secured Parties, (B) such Mortgage has been duly recorded or filed, as applicable, and (C) all filing and recording taxes and fees have been paid or otherwise provided for in a manner reasonably satisfactory to the Collateral Agent;

(ii) a fully paid policy of lender's title insurance (a "Mortgage Policy") in an amount reasonably acceptable to the Collateral Agent (not to exceed the fair market value of such Mortgaged Property (as determined by the Borrower in good faith)) issued by a nationally recognized title insurance company in the applicable jurisdiction that is reasonably acceptable to the Collateral Agent, insuring the relevant Mortgage as having created a valid subsisting first priority Lien on the real property described therein, subject only to Permitted Liens, together with such endorsements as the Collateral Agent may reasonably request to the extent the same are available in the applicable jurisdiction;

(iii) if requested by the Collateral Agent, a customary legal opinion of local counsel in the jurisdiction in which such Mortgaged Property is located covering the enforceability of such Mortgage and such other customary matters, in such form and substance as the Collateral Agent may reasonably request;

(iv) a new survey or an existing survey, together with a no change affidavit, in either case sufficient for the relevant title insurance company to remove the standard survey exception and issue the survey-related endorsements in the Mortgage Policy covering such Mortgaged Property;

(v) an appraisal (if required under the Financial Institutions Reform Recovery and Enforcement Act of 1989, as amended); and

(vi) a “Life-of-Loan” flood determination (together with a notice about special flood hazard area status and flood disaster assistance duly executed by the Borrower together with evidence of flood insurance for any such Mortgaged Property 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 successor act thereto); and

(i) after the Closing Date, the Borrower, the Collateral Agent and the parties thereto shall have entered into Control Agreements with respect to each deposit account maintained by a Loan Party in respect of which a Control Agreement is required to be in effect pursuant to the Collateral Agreement.

Notwithstanding anything to the contrary in this Agreement or in the other Loan Documents, it is understood that to the extent any Collateral (other than Collateral with respect to which a lien may be perfected by (A) the filing of a Uniform Commercial Code financing statement or (B) delivery and taking possession of stock certificates of the Target and any Wholly-Owned Domestic Subsidiary of the Borrower or the Target; provided, that the delivery of stock certificates of the Target and its Wholly-Owned Domestic Subsidiaries shall only be required to be delivered on the Closing Date to the extent they have been received from the Target by the Closing Date after the use of commercially reasonable efforts; otherwise such stock certificates may be delivered up to 15 Business Days after the Closing Date (or such later date as is reasonably agreed by the Administrative Agent)) is not or cannot be provided or the security interest of the Collateral Agent therein is not or cannot be perfected on the Closing Date after the use of commercially reasonable efforts by the Borrower to do so and without undue burden and expense, then the provision and/or perfection of the security interest in such Collateral shall not constitute a condition precedent to any Credit Event on the Closing Date but, instead, shall be required to be delivered and perfected within 90 days after the Closing Date (subject to extension by the Administrative Agent in its reasonable discretion).

“Commitment Fee” shall have the meaning assigned to such term in Section 2.12(a).

“Commitments” shall mean (a) with respect to any Lender, such Lender’s Revolving Facility Commitment, Initial Term Loan Commitment, Other Revolving Facility Commitment and/or Other Term Loan Commitment, and (b) with respect to any Swingline Lender, its Swingline Commitment (it being understood that a Swingline Commitment does not increase the applicable Swingline Lender’s Revolving Facility Commitment).

“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.

“Compounded SOFR” shall have the meaning assigned to such term in Section 2.14.

“Consolidated Interest Coverage Ratio” shall mean on any date the ratio of (i) EBITDA of the Borrower and its Subsidiaries to (ii) Consolidated Interest Expense of the Borrower and its Subsidiaries, in each case, for the most recently ended Test Period on or prior to such date, all determined on a consolidated basis in accordance with GAAP; provided, that the Consolidated Interest Coverage Ratio shall be determined on a Pro Forma Basis.

“Consolidated Interest Expense” shall mean, with respect to any Person for any period, consolidated cash interest expense of such Person and its subsidiaries for such period with respect to all outstanding Consolidated Total Debt of such Person and its subsidiaries, including amortization of original issue discount resulting from the issuance of Indebtedness at less than par, amortization of deferred financing costs, debt issuance costs, commissions, fees and expenses and any other amounts of non-cash interest expense and any capitalized interest, whether paid or accrued, net of cash interest income of such Person and its subsidiaries, to the extent such expenses were deducted (and not added back) in computing Consolidated Net Income, but excluding, for the avoidance of doubt, (a) non-cash interest expense attributable to the movement of the mark-to-market valuation of obligations under hedging agreements or other derivative instruments pursuant to FASB Accounting Standards Codification No. 815-Derivatives and Hedging, (b) any one-time cash costs associated with breakage in respect of hedging agreements for interest rates, (c) commissions, discounts, yield and other fees and Charges (including any interest expense) incurred in connection with any Permitted Receivables Financing, (d) all non-recurring interest expense or “additional interest” for failure to timely comply with registration rights obligations, (e) any interest expense attributable to the exercise of appraisal rights and the settlement of any claims or actions (whether actual, contingent or potential) with respect thereto and with respect to the Transactions or any other Investment, all as calculated on a consolidated basis in accordance with GAAP, (f) any payments with respect to make-whole premiums or other breakage costs of any Indebtedness, including any Indebtedness issued or incurred in connection with the Transactions, (g) penalties and interest relating to taxes, (h) accretion or accrual of discounted liabilities not constituting Indebtedness, (i) any interest expense attributable to a parent company resulting from push down accounting, (j) any expense resulting from the discounting of Indebtedness in connection with the application of recapitalization or purchase accounting and (k) expensing of bridge, arrangement, structuring, commitment or other financing fees.

For purposes of this definition, interest on a Capitalized Lease Obligation shall be deemed to accrue at an interest rate reasonably determined by such Person to be the rate of interest implicit in such Capitalized Lease Obligation in accordance with GAAP. For the avoidance of doubt, Consolidated Interest Expense shall not include any principal payments respect to any Indebtedness.

“Consolidated Net Income” shall mean, with respect to any Person on a consolidated basis, an amount equal to the sum of net income (loss), determined in accordance with GAAP, but excluding, without duplication:

(a) any net income (loss) of any Person if such Person is not the Borrower or a Subsidiary, except that the Person’s equity in the net income of any such Person for such period will be included in such Consolidated Net Income up to the aggregate amount of cash or Cash Equivalents actually distributed as a dividend or other distribution or return on investment;

(b) any net after tax effect of gains or losses (less all fees and expenses chargeable thereto) attributable to any asset Disposition (including asset retirement costs) outside the ordinary course of business;

(c) (i) any gain or GAAP Charge from (A) any extraordinary item and/or (B) any nonrecurring or unusual item (including any non-recurring or unusual accruals or reserves in respect of any extraordinary, non-recurring or unusual items) and/or (ii) any GAAP Charge associated with and/or payment of any actual or prospective legal settlement, fine, judgment or order;

(d) any GAAP Charge attributable to the development, undertaking and/or implementation of any Cost Saving Initiatives (including (x) in connection with any integration, restructuring or transition, any reconstruction, decommissioning, recommissioning or reconfiguration of fixed assets for alternative uses, any facility/location opening and/or pre-opening, any inventory optimization program and/or any curtailment and/or (y) for the avoidance of doubt, in connection with the Transactions or any Permitted Business Acquisition, Investment or Disposition), any business optimization GAAP Charge, any restructuring GAAP Charge (including any GAAP Charge relating to any Tax restructuring and/or any acquisitions after the Closing Date and adjustments to existing reserves and whether or not classified as a restructuring expense on the consolidated financial statements), any GAAP Charge relating to the closure or consolidation of any facility or location and/or discontinued operations (including but not limited to severance, rent termination costs, moving costs and legal costs), any systems implementation GAAP Charge, any severance GAAP Charge, any GAAP Charge relating to entry into a new market, any GAAP Charge relating to any strategic initiative, any signing GAAP Charge, any retention or completion bonus, any other recruiting, signing and retention GAAP Charge, any expansion and/or relocation GAAP Charge, any GAAP Charge associated with any curtailments or modification to any pension and post-retirement employee benefit plan (including any settlement of pension liabilities and charges resulting from changes in estimates, valuations and judgments thereof), any software development GAAP Charge, any GAAP Charge associated with new systems design, any implementation GAAP Charge, any project startup GAAP Charge, any GAAP Charge in connection with new operations, any consulting GAAP Charge and/or any business development GAAP Charge;

(e) Transaction Costs (including any GAAP Charges associated with the rollover, acceleration or payout of Equity Interests held by management of the Target or any of its direct or indirect subsidiaries or parent companies in connection with the Transactions and any other payments contemplated by the Acquisition Agreement as in effect on the Closing Date);

(f) any GAAP Charge (including any transaction or retention bonus or similar payment or any amortization thereof for such period) incurred in connection with the consummation of any transaction (including any such transaction consummated prior to the Closing Date and any such transaction undertaken but not completed), including any issuance or offering of Equity Interests, any Disposition, any recapitalization, any merger, consolidation or amalgamation, any option buyout or any incurrence, repayment, refinancing, amendment or modification of Indebtedness (including any amortization or write-off of debt issuance or deferred financing costs, premiums and prepayment penalties) or any similar transaction and/or any Investment, including any Permitted Business Acquisition, and/or “growth” Capital Expenditure, including, in each case any earnout obligation expense, integration expense or nonrecurring merger costs incurred during such period as a result of any such transactions (including, for the avoidance of doubt, the effects of expensing all transaction-related expenses in accordance with FASB Accounting Standards Codification 805 and gains or losses associated with FASB Accounting Standards Codification 460);

(g) the amount of any GAAP Charge that is actually reimbursed or reimbursable by one or more third parties pursuant to indemnification or reimbursement provisions or similar agreements or insurance; provided that the relevant Person in good faith expects to receive reimbursement for such fee, cost, expense or reserve within the next four fiscal quarters (it being understood that to the extent any reimbursement amount is not actually received within such four fiscal quarters, such reimbursement amount shall be deducted in calculating Consolidated Net Income in the next succeeding fiscal quarter);

(h) any net gain or GAAP Charge with respect to (i) any disposed, abandoned, divested and/or discontinued asset, property or operation (other than (A) at the option of the Borrower, any asset, property or operation pending the disposal, abandonment, divestiture and/or termination thereof and (B) dispositions of inventory in the ordinary course of business) and/or (ii) any location that has been closed during such period;

(i) any net income or GAAP Charge attributable to the early extinguishment of Indebtedness;

(j) any GAAP Charge that is established, adjusted and/or incurred, as applicable, or that is required to be established, adjusted or incurred, as applicable, as a result of the Transactions in accordance with GAAP;

(k) (i) the effects of adjustments (including the effects of such adjustments pushed down to the relevant Person and its subsidiaries) in component amounts required or permitted by GAAP (including in the inventory, property and equipment, lease, software, goodwill, intangible asset, in-process research and development, deferred revenue, advanced billing and debt line items thereof), resulting from the application of acquisition method, purchase and/or recapitalization accounting in relation to the Transactions or any consummated acquisition or similar Investment or recapitalization accounting or the amortization or write-off of any amounts thereof, net of Taxes and/or (ii) the cumulative effect of any change in accounting principles (effected by way of either a cumulative effect adjustment or a retroactive application, in each

case, in accordance with GAAP) and/or any change resulting from the adoption or modification of accounting principles and/or policies in accordance with GAAP;

(l) any non-cash compensation GAAP Charge and/or any other non-cash GAAP Charge arising from the granting of any stock option or similar arrangement (including any profits interest), the granting of any stock appreciation right, management equity plan, employee benefit plan or agreement, stock option plan and/or similar arrangement (including any repricing, amendment, modification, substitution or change of any such stock option, stock appreciation right, profits interest or similar arrangement);

(m) amortization of intangible assets;

(n) any impairment charge or asset write-off or write-down (including related to intangible assets (including goodwill), long-lived assets, and investments in debt and equity securities);

(o) (i) any realized or unrealized gain or loss in respect of (A) any obligation under any Hedging Agreement as determined in accordance with GAAP and/or (B) any other derivative instrument pursuant to, in the case of this clause (B), Financial Accounting Standards Board's Accounting Standards Codification No. 815-Derivatives and Hedging and (ii) any realized or unrealized foreign currency exchange gain or loss (including any currency re-measurement of Indebtedness, any net gain or loss resulting from Hedging Agreements for currency exchange risk associated with the foregoing or any other currency related risk and any gain or loss resulting from intercompany Indebtedness);

(p) any deferred Tax expense associated with any Tax deduction or net operating loss arising as a result of the Transactions, or the release of any valuation allowance related to any such item; and

(q) any non-cash GAAP Charges related to adjustments to historical Tax exposures (provided, in each case, that the cash payment in respect thereof in such future period shall be subtracted from Consolidated Net Income for the period in which such cash payment was made).

In addition, to the extent not already included in Consolidated Net Income, Consolidated Net Income shall include the amount of proceeds received or due from business interruption insurance in an amount representing the earnings for the applicable period that such proceeds are intended to replace (whether or not received during such period so long as such Person in good faith expects to receive the same within the next four fiscal quarters; it being understood that to the extent such proceeds are not actually received within the next four fiscal quarters, such proceeds shall be deducted in calculating Consolidated Net Income for such fiscal quarters).

“Consolidated Total Assets” shall mean, as of any date of determination, the total assets of the Borrower and its Subsidiaries, determined on a consolidated basis in accordance with GAAP, but excluding amounts attributable to Investments in Unrestricted Subsidiaries, as set forth on the consolidated balance sheet of the Borrower as of the last day of the Test Period ending immediately prior to such date for which financial statements of the Borrower and its

subsidiaries (after giving effect to the Acquisition) have been delivered (or were required to be delivered) pursuant to Section 4.01(i), 5.04(a) or 5.04(b), as applicable. Consolidated Total Assets shall be determined on a Pro Forma Basis.

“Consolidated Total Debt” shall mean, as of any date of determination, (a) the aggregate principal amount of Indebtedness of the Borrower and its Subsidiaries outstanding on such date, determined on a consolidated basis in accordance with GAAP (but excluding the effects of any discounting of Indebtedness resulting from the application of purchase accounting in connection with any Permitted Business Acquisition), consisting of Indebtedness for borrowed money, drawn but unreimbursed obligations under Letters of Credit and similar facilities only to the extent such drawn but unreimbursed Letters of Credit and similar facilities are unreimbursed for three (3) Business Days, Capitalized Lease Obligations and debt obligations evidenced by bonds, debentures, notes, loan agreements or other similar instruments minus (b) the aggregate amount of Unrestricted Cash and Cash Equivalents of the Borrower and its Subsidiaries as of such date which aggregate amount of Unrestricted Cash and Cash Equivalents shall be determined without giving pro forma effect to the proceeds of Indebtedness incurred on such date minus (c) the aggregate amount of cash and Cash Equivalents of the Borrower and its Subsidiaries restricted in favor of any of the Secured Parties as of such date which aggregate amount of cash and Cash Equivalents shall be determined without giving pro forma effect to the proceeds of Indebtedness incurred on such date; provided, Consolidated Total Debt shall not include (w) Letters of Credit (or other letters of credit and bankers’ acceptances), except to the extent of Unreimbursed Amounts (or unreimbursed amounts) thereunder, (x) Swap Obligations, (y) Indebtedness in respect of any Permitted Receivables Financing and (z) Non-Recourse Indebtedness.

“Consolidated Working Capital” shall mean, with respect to the Borrower and the Subsidiaries on a consolidated basis at any date of determination, Current Assets at such date of determination minus Current Liabilities at such date of determination; provided, that increases or decreases in Consolidated Working Capital shall be calculated without regard to any changes in Current Assets or Current Liabilities as a result of (a) any reclassification in accordance with GAAP of assets or liabilities, as applicable, between current and noncurrent or (b) the effects of purchase accounting.

“Contract Consideration” shall have the meaning assigned to such term in the definition of the term “Excess Cash Flow.”

“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 “Controls” and “Controlled” shall have meanings correlative thereto.

“Control Agreement” shall mean, with respect to any deposit account (other than an Excluded Account) maintained by any Loan Party, a control agreement in form and substance reasonably satisfactory to the Collateral Agent, duly executed and delivered by such Loan Party and the depository bank with which such account is maintained.

“Corresponding Tenor” shall have the meaning assigned to such term in Section 2.14.

“Cost Saving Initiative” shall have the meaning assigned to such term in the definition of “EBITDA”.

“Credit Event” shall mean the funding of any Loan (but excluding, for the avoidance of doubt, any continuation or conversion of a Loan from one Type to another) and/or any L/C Credit Extension.

“Current Assets” shall mean, with respect to the Borrower and the Subsidiaries on a consolidated basis at any date of determination, the sum of all assets (other than cash or Cash Equivalents) that would, in accordance with GAAP, be classified on a consolidated balance sheet of the Borrower and the Subsidiaries as current assets at such date of determination, other than amounts related to current or deferred Taxes based on income or profits.

“Current Liabilities” shall mean, with respect to the Borrower and the Subsidiaries on a consolidated basis at any date of determination, all liabilities that would, in accordance with GAAP, be classified on a consolidated balance sheet of the Borrower and the Subsidiaries as current liabilities at such date of determination, other than (a) the current portion of any Indebtedness, (b) accruals of interest expense (excluding interest expense that is due and unpaid), (c) accruals for current or deferred Taxes based on income or profits and (d) accruals, if any, of transaction costs resulting from the Transactions.

“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 of America or other applicable jurisdictions from time to time in effect.

“Declined Prepayment Amount” shall have the meaning assigned to such term in Section 2.10(d).

“Declining Term Lender” shall have the meaning assigned to such term in Section 2.10(d).

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

“Default Actions” shall have the meaning assigned to such term in Section 9.26.

“Defaulting Lender” shall mean, subject to Section 2.24, any Lender that (a) has failed to (i) fund all or any portion of its Loans within two (2) Business Days of the date such Loans were required to be funded hereunder or (ii) pay to the Administrative Agent, any Issuing Bank, the Swingline Lender or any other Lender any other amount required to be paid by it hereunder (including in respect of its participation in Letters of Credit or Swingline Loans) within two (2) Business Days of the date when due, (b) has notified the Borrower, the Swingline Lender, the Administrative Agent or any Issuing Bank in writing that it does not intend or expect to comply with its funding obligations hereunder or generally under other agreements in which it commits to extend credit, or has made a public statement to that effect, (c) has failed, within three (3)

Business Days after written request by the Administrative Agent or the Borrower, to confirm in writing to the Administrative Agent and the Borrower that it will comply with its prospective funding obligations hereunder (provided that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon receipt of such written confirmation by the Administrative Agent and the Borrower) or (d) has, or has a direct or indirect parent company that has, (i) become the subject of a case or proceeding under any Debtor Relief Law, (ii) had appointed for it a receiver, custodian, conservator, trustee, administrator, assignee for the benefit of creditors or similar person charged with reorganization or liquidation of its business or assets, including the Federal Deposit Insurance Corporation or any other state or federal regulatory authority acting in such a capacity or (iii) become the subject of a Bail-in Action; provided, that a Lender shall not be a Defaulting Lender solely by virtue of the ownership or acquisition of any equity interest in that Lender or any direct or indirect parent company thereof by a Governmental Authority so long as such ownership interest does not result in or provide such Lender with immunity from the jurisdiction of courts within the United States 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. Any determination by the Administrative Agent that a Lender is a Defaulting Lender under any one or more of clauses (a) through (d) above shall be conclusive and binding absent manifest error, and such Lender shall be deemed to be a Defaulting Lender (subject to Section 2.24) upon delivery of written notice of such determination to the Borrower, each Issuing Bank, the Swingline Lender and each Lender.

“Designated Non-Cash Consideration” shall mean the Fair Market Value of non-cash consideration received by the Borrower or one of its Subsidiaries in connection with an Asset Sale that is so designated as Designated Non-Cash Consideration pursuant to a certificate of a Responsible Officer of the Borrower, setting forth such valuation, less the amount of cash or cash equivalents received in connection with a subsequent disposition of such Designated Non-Cash Consideration.

“Disinterested Director” shall mean, with respect to any person and transaction, a member of the Board of Directors of such person who does not have any material direct or indirect financial interest in or with respect to such transaction.

“Dispose” or “Disposed of” shall mean to convey, sell, lease, assign, transfer or otherwise dispose of any property, business or asset. The term “Disposition” shall have a correlative meaning to the foregoing.

“Disqualified Equity Interests” shall mean, with respect to any person, any Equity Interests of such person that, by its terms (or by the terms of any security or other Equity Interests into which it is convertible or for which it is exchangeable), or upon the happening of any event or condition (a) matures or is mandatorily redeemable (other than solely for Qualified Equity Interests of the Borrower or any Subsidiary), pursuant to a sinking fund obligation or otherwise, (b) is redeemable at the option of the holder thereof (other than solely for Qualified Equity Interests of the Borrower or any Subsidiary), in whole or in part, (c) provides for the scheduled, mandatory payments of dividends in cash or (d) is or becomes convertible into or

exchangeable for Indebtedness or any other Equity Interests that would constitute Disqualified Equity Interests, in the case of each of the foregoing clauses (a), (b), (c) and (d), prior to the date that is ninety-one (91) days after the Latest Maturity Date in effect at the time of issuance thereof and except as a result of a change of control or asset sale so long as any rights of the holders thereof upon the occurrence of a change of control or asset sale event shall be subject to the prior repayment in full of the Loans and all other Loan Obligations that are accrued and payable and the termination of the Commitments (provided, that only the portion of the Equity Interests that so mature or are mandatorily redeemable, are so convertible or exchangeable or are so redeemable at the option of the holder thereof prior to such date shall be deemed to be Disqualified Equity Interests). Notwithstanding the foregoing: (i) any Equity Interests issued to any employee or to any plan for the benefit of employees of the Borrower or the Subsidiaries or by any such plan to such employees shall not constitute Disqualified Equity Interests solely because they may be required to be repurchased by the Borrower in order to satisfy applicable statutory or regulatory obligations or as a result of such employee's termination, death or disability and (ii) any class of Equity Interests of such person that by its terms authorizes such person to satisfy its obligations thereunder by delivery of Equity Interests that are not Disqualified Equity Interests shall not be deemed to be Disqualified Equity Interests.

"Disqualified Lender" shall mean, collectively, those persons that are competitors (or Affiliates of such competitors clearly identifiable as Affiliates of such competitors on the basis of such Affiliates' names) of the Borrower or its Subsidiaries or the Target and its Subsidiaries identified in writing to the Administrative Agent from time to time; provided that the foregoing shall not apply retroactively to disqualify any assignment to the extent such assignment was acquired by a party that was not a Disqualified Lender at the time of such assignment; provided, further, that a "competitor" or an Affiliate of a competitor shall not include any bona fide debt fund or investment vehicle that is engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of business and for which no personnel involved with the relevant competitor (A) makes investment decisions or (B) has access to non-public information relating to the Borrower or any person that forms part of the Borrower's business.

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

"Dollar Equivalent" means, for any amount, at the time of determination thereof, (a) if such amount is expressed in dollars, such amount and (b) if such amount is expressed in a Permitted Foreign Currency, the equivalent of such amount in dollars determined by using the rate of exchange for the purchase of dollars with the Permitted Foreign Currency last provided (either by publication or otherwise provided to the Administrative Agent) by Reuters on the Business Day (New York City time) immediately preceding the date of determination or if such service ceases to be available or ceases to provide a rate of exchange for the purchase of dollars with the Permitted Foreign Currency, as provided by such other publicly available information service which provides that rate of exchange at such time in place of Reuters chosen by the Administrative Agent in its sole discretion (or if such service ceases to be available or ceases to provide such rate of exchange, the equivalent of such amount in dollars as determined by the

Administrative Agent using any method of determination it deems appropriate in its sole discretion).

“Domestic Subsidiary” shall mean any Subsidiary that is not a Foreign Subsidiary.

“DQ List” shall have the meaning assigned to such term in Section 9.04(h).

“Early Opt-in Election” shall have the meaning assigned to such term in Section 2.14.

“EBITDA” shall mean, with respect to any Person and its Subsidiaries on a consolidated basis for any period, the sum of:

(a) Consolidated Net Income for such period; plus

(b) without duplication, and, to the extent already deducted (and not added back) in arriving at such Consolidated Net Income, the sum of the following amounts for such period:

(i) total interest expense and, to the extent not reflected in such total interest expense, any losses on hedging obligations or other derivative instruments entered into for the purpose of hedging interest rate risk, and bank and letter of credit, letter of guaranty and bankers’ acceptance fees and costs of surety bonds in connection with financing activities;

(ii) Taxes paid and any provision for Taxes, including income, capital, profit, revenue, state, foreign, provincial, franchise, excise and similar Taxes, property Taxes, foreign withholding Taxes and foreign unreimbursed value added Taxes (including penalties and interest related to any such Tax or arising from any Tax examination, pursuant to any Tax sharing arrangement or as a result of any Tax distribution and in respect of repatriated funds) of such Person paid or accrued during such period;

(iii) (A) depreciation and (B) amortization (including amortization of goodwill, software, internal labor costs, deferred financing fees or costs and other intangible assets);

(iv) any non-cash GAAP Charge, including the excess of GAAP rent expense over actual cash rent paid during such period due to the use of straight line rent for GAAP purposes (provided that (x) to the extent that any such non-cash GAAP Charge represents an accrual or reserve for any potential cash item in any future period, (A) such Person may elect not to add back such non-cash GAAP Charge in the current period and (B) to the extent such Person elects to add back such non-cash GAAP Charge, the cash payment in respect thereof in such future period shall be subtracted from EBITDA (as a deduction in calculating net income or otherwise) to such extent and (y) any non-cash GAAP Charge representing amortization of a prepaid cash item that was paid and not expensed in a prior period shall be excluded);

(v) (A) any GAAP Charge incurred as a result of, in connection with or pursuant to, any management equity plan, profits interest or stock option plan or any

other management or employee benefit plan or agreement, any pension plan (including any post-employment benefit scheme to which the relevant pension trustee has agreed), any stock subscription or shareholder agreement, any employee benefit trust, any employee benefit scheme or any similar equity plan or agreement (including any deferred compensation arrangement), including any payment made to option holders in connection with, or as a result of, any distribution being made to, or share repurchase from, a shareholder, which payments are being made to compensate option holders as though they were shareholders at the time of, and entitled to share in, such distribution or share repurchase and (B) any GAAP Charge incurred in connection with the rollover, acceleration or payout of Equity Interests held by management of such Person (or any parent company thereof), the Borrower and/or any subsidiary;

(vi) the amount of any GAAP Charge or deduction associated with any subsidiary that is attributable to any non-controlling interest and/or minority interest of any third party;

(vii) the amount of any contingent payments in connection with the licensing of intellectual property or other assets;

(viii) [reserved];

(ix) the amount of fees, expense reimbursements and indemnities paid to directors, including directors of the Borrower;

(x) the amount of any GAAP Charge incurred or accrued in connection with sales of receivables and related assets in connection with any Permitted Receivables Financing;

(xi) any net pension or other post-employment benefit costs representing amortization of unrecognized prior service costs, actuarial losses, including amortization of such amounts arising in prior periods, amortization of the unrecognized net obligation (and loss or cost) existing at the date of initial application of FASB Accounting Standards Codification 715, and any other items of a similar nature;

(xii) any impairment charge or asset write-off pursuant to Financial Accounting Standards Board Statement No. 142 or No. 144;

(xiii) expenses incurred in connection with business interruption and event cancellation insurance;

(xiv) any expenses or charges (other than depreciation or amortization expense) related to any equity offering, Investment, acquisition, disposition or recapitalization permitted hereunder or the incurrence of Indebtedness permitted to be incurred hereunder (including a refinancing thereof) (whether or not successful) (including such expenses or charges reimbursed or actually paid by a Person that is not the Borrower or one of its Subsidiaries or covered by indemnification or reimbursement provisions), including (A)

Transaction Costs, (B) such fees, expenses or charges related to the incurrence of the Loans and any other credit facilities or the offering of debt securities and (C) any amendment or other modification of this Agreement and any other credit facilities or the offering of debt securities;

(xv) expenses, charges and losses in the form of earn-out obligations and contingent consideration obligations (including to the extent accounted for as performance and retention bonuses, compensation or otherwise) and adjustments thereof and purchase price adjustments, in each case paid or payable in connection with Permitted Business Acquisitions, other Investments, acquisitions or Capital Expenditures;

(xvi) [reserved];

(xvii) the amount of any restructuring charge or provision (whether or not classified as a restructuring charge or provision under GAAP), integration cost or other business optimization expense or cost, including any one-time costs incurred in connection with acquisitions or divestitures after the Closing Date, any recruiting expenses and costs related to the closure and/or consolidation of facilities and to exiting lines of business and any reconstruction, recommissioning or reconfiguring of fixed assets for alternative use;

(xviii) any other non-cash charges, write-downs, expenses, losses or items reducing Consolidated Net Income for such period including any impairment charges or the impact of purchase accounting (provided, in connection with any such noncash charge, write-down or item required or anticipated to be made, to the extent it represents an accrual or reserve for a cash expenditure for a future period such Person may determine not to addback such non-cash charges, write-downs, expenses, losses or items in the current period and, to the extent such Person does decide to addback such charges, write-downs, expenses, losses or items in respect thereof in such future period such charges, write-downs, expenses, losses or items will not be added back to EBITDA to the extent of such adjustment previously added back) or other items classified by such Person as special items less other non-cash items of income increasing Consolidated Net Income (excluding any such noncash item of income to the extent it represents a receipt of cash in any future period);

(xix) realized foreign exchange losses resulting from the impact of foreign currency changes on the valuation of assets or liabilities on the balance sheet of such Person and its subsidiaries;

(xx) net realized losses from Swap Obligations or embedded derivatives that require similar accounting treatment;

(xxi) any costs or expenses incurred relating to environmental remediation, litigation or other disputes in respect of events and exposures; and

(xxii) any charge, loss or expense (including non-cash charges) relating to any Permitted Reorganization, including the amount of incremental amortization or depreciation arising as a result of any adjustments to inventory, equipment and other assets arising as a result of the consummation of, and any other charge, loss or expense arising from other accounting effects of the consummation of, such Permitted Reorganization; plus

(c) without duplication, the amount of “run rate” cost savings, operating expense reductions and synergies (collectively, “Expected Cost Savings”) related to the Transactions or any Permitted Business Acquisition, Investment, Disposition, operating improvement, restructuring, cost savings initiative and/or any similar transaction or initiative (any such operating improvement, restructuring, cost savings initiative or similar transaction or initiative, a “Cost Saving Initiative”) projected by such Person in good faith and certified by a Responsible Officer of such Person to be realized as a result of actions that have been taken or initiated, are expected to be taken or with respect to which substantial steps have been taken or are expected to be taken (in each case in the good faith determination of such Person), including any cost savings, expenses and GAAP Charges (including restructuring and integration charges) in connection with, or incurred by or on behalf of, any joint venture of such Person or any of the subsidiaries (whether accounted for on the financial statements of any such joint venture or such Person in an amount proportionate to the percentage of Equity Interests of such joint venture that are beneficially owned by the Borrower) (i) with respect to the Transactions, on or prior to the date that is 24 months after the Closing Date (including actions initiated prior to the Closing Date or to the extent identified in the model or quality of earnings report identified in clause (e) of this definition) and (ii) with respect to any other Cost Saving Initiative whether initiated before, on or after the Closing Date, within 24 months after such Cost Saving Initiative (which Expected Cost Savings shall be added to EBITDA until fully realized and calculated on a Pro Forma Basis as though such Expected Cost Savings had been realized on the first day of the relevant period), net of the amount of actual benefits realized from such actions; provided that such cost savings are reasonably identifiable and factually supportable; plus

(d) to the extent not included in Consolidated Net Income for such period, the net income of any non-Wholly Owned Subsidiary up to the amount of cash or Cash Equivalents (x) actually distributed by such Person to a Loan Party or a Wholly-Owned Subsidiary or (y) that could have been distributed as a dividend or other distribution or return on investment by such Person to a Loan Party or a Wholly-Owned Subsidiary; plus

(e) without duplication, adjustments identified in the Borrower’s financial model or the quality of earnings report prepared in connection with the Transactions and delivered to the Arrangers on December 22, 2020; plus

(f) without duplication, to the extent not included in Consolidated Net Income for such period, cash actually received (or any netting arrangement resulting in reduced cash expenditures) during such period so long as the non-cash gain relating to the relevant cash receipt or netting arrangement was deducted in the calculation of EBITDA pursuant to clause (h) below for any previous period and not added back; minus

(g) any amount which, in the determination of Consolidated Net Income for such period, has been included for any non-cash income or non-cash gain, all as determined in accordance with GAAP (provided that if any non-cash income or non-cash gain represents an accrual or deferred income in respect of potential cash items in any future period, such Person may determine not to deduct the relevant non-cash gain or income in the then-current period); minus

(h) the amount of any cash payment made during such period in respect of any non-cash accrual, reserve or other non-cash GAAP Charge that is accounted for in a prior period and that was added to Consolidated Net Income to determine EBITDA for such prior period and that does not otherwise reduce Consolidated Net Income for the current period; minus

(i) to the extent not deducted in arriving at such Consolidated Net Income, the excess of actual cash rent paid over rent expense during such period due to the use of straight-line rent for GAAP purposes.

Notwithstanding the foregoing, but subject to any adjustment set forth above, EBITDA shall be \$12,000,000, \$8,000,000, \$32,000,000 and \$63,000,000 for the fiscal quarters ended March 31, 2020, June 30, 2020, September 30, 2020 and December 31, 2020. In addition, unless otherwise specified or unless the context otherwise requires, EBITDA shall refer to the EBITDA of the Borrower and its Subsidiaries.

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

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

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

“Environment” shall mean any and all environmental media and natural resources, including ambient and indoor air, surface water and groundwater (including potable water, navigable water and wetlands), the land surface or subsurface strata, and flora and fauna.

“Environmental Laws” shall mean all applicable laws (including common law), rules, regulations, codes, ordinances, orders, agreements binding on Borrower or its Subsidiaries, decrees or judgments, promulgated or entered into by or with any Governmental Authority, relating in any way to the Environment, preservation or reclamation of natural resources, any Hazardous Materials or to public or employee health and safety matters (to the extent relating to the Environment or Hazardous Materials).

“Environmental Permits” shall have the meaning assigned to such term in Section 3.16(b).

“Equity Interests” of any person shall mean any and all shares, interests, rights to purchase or otherwise acquire, warrants, options, participations or other equivalents of or interests in (however designated) equity or ownership of such person, including any preferred stock (including any preferred equity certificates (and any other similar instruments)), any limited or general partnership interest and any limited liability company membership interest, and any securities or other rights or interests convertible into or exchangeable for any of the foregoing, but excluding debt securities convertible or exchangeable into any of the foregoing.

“ERISA” shall mean the Employee Retirement Income Security Act of 1974, as amended.

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

“ERISA Event” shall mean (a) any Reportable Event or the requirements of Section 4043(b) of ERISA apply with respect to a Plan; (b) with respect to any Plan, the failure to satisfy the minimum funding standard under Section 412 of the Code or Section 302 of ERISA, whether or not waived; (c) a determination that any Plan is, or is expected to be, in “at-risk” status (as defined in Section 303(i)(4) of ERISA or Section 430(i)(4) of the Code); (d) the filing pursuant to Section 412(c) of the Code or Section 302(c) of ERISA of an application for a waiver of the minimum funding standard with respect to any Plan; (e) the failure to make by its due date a required installment under Section 430(j) of the Code with respect to any Plan or the failure to make by its due date any required contribution to a Multiemployer Plan; (f) the incurrence by the Borrower, a Subsidiary or any ERISA Affiliate of any liability under Title IV of ERISA with respect to the termination of any Plan or Multiemployer Plan; (g) the receipt by the Borrower, a Subsidiary or any ERISA Affiliate from the PBGC or a plan administrator of any notice relating to an intention to terminate any Plan or to appoint a trustee to administer any Plan under Section 4042 of ERISA; (h) the incurrence by the Borrower, a Subsidiary or any ERISA Affiliate of any liability with respect to the withdrawal or partial withdrawal from any Plan or Multiemployer Plan; (i) the receipt by the Borrower, a Subsidiary or any ERISA Affiliate of any notice, or the receipt by any Multiemployer Plan from the Borrower, a Subsidiary or any ERISA Affiliate of any notice, concerning the imposition of Withdrawal Liability or a determination that a Multiemployer Plan is, or is expected to be, insolvent or in reorganization, within the meaning of Title IV of ERISA, or in “endangered” or “critical” status, within the meaning of Section 432 of the Code or Section 305 of ERISA; (j) a failure by the Borrower, a Subsidiary or any ERISA Affiliate to pay when due (after expiration of any applicable grace period) any installment payment with respect to withdrawal liability under Section 4201 of ERISA; (k) the conditions for imposition of a lien under Section 303(k) of ERISA shall have been met with respect to any Plan; or (l) the withdrawal of any of the Borrower, a Subsidiary or any ERISA Affiliate from a Plan subject to Section 4063 of ERISA during a plan year in which such entity was a “substantial

employer” as defined in Section 4001(a)(2) of ERISA or a cessation of operations that is treated as such a withdrawal under Section 4062(e) of ERISA.

“Erroneous Payment” shall have the meaning assigned to such term in Section 8.16.

“Erroneous Payment Notice” shall have the meaning assigned to such term in Section 8.16.

“Escrow” has the meaning specified in the definition of “Indebtedness.”

“Escrowed Proceeds” means the proceeds from the offering of any debt securities or other Indebtedness paid into an escrow account with an independent escrow agent on the date of the applicable offering or incurrence pursuant to escrow arrangements that permit the release of amounts on deposit in such escrow account upon satisfaction of certain conditions or the occurrence of certain events. The term “Escrowed Proceeds” shall include any interest earned on the amounts held in escrow.

“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.

“Euro” or “€” shall mean the single currency of the European Union as constituted by the Treaty on European Union and adopted as lawful currency by certain member states under legislation of the European Union for European Monetary Union.

“Eurodollar,” when used in reference to any Loan or Borrowing, shall mean that such Loan, or the Loans comprising such Borrowing, bears interest at a rate determined by reference to the definition of “Eurodollar Rate.”

“Eurodollar Borrowing” shall have the meaning assigned to such term in Section 1.06.

“Eurodollar Loan” shall have the meaning assigned to such term in Section 1.06.

“Eurodollar Rate” shall mean for any Interest Payment Date with respect to an Interest Period for a Eurodollar Loan, the rate *per annum* obtained by multiplying (i) (a) the rate *per annum* equal to the rate determined by Administrative Agent to be the London Interbank Offered Rate (“LIBOR”) administered by the ICE Benchmark Administration (or any other person which takes over the administration of that rate) for deposits (for delivery on the first day of such period) with a term equivalent to such period in Dollars displayed on the ICE LIBOR USD page of the Reuters Screen (or any replacement Reuters page which displays that rate) or on the appropriate page of such other information service which publishes that rate from time to time in place of Reuters, determined as of approximately 11:00 a.m. (London, England time) on the date which is two Business Days prior to the commencement of such Interest Period (the “Interest Rate Determination Date”), or (b) in the event the rate referenced in the preceding clause (a) is not available, the rate *per annum* equal to the offered quotation rate to first class banks in the London interbank market by the Administrative Agent (or if the Administrative Agent does not

offer such rate, such rate as offered by an Arranger or a Revolving Facility Lender agreed to by the Borrower and the Administrative Agent) for deposits (for delivery on the first day of the relevant period) in Dollars of amounts in same day funds comparable to the principal amount of the applicable Loan of Administrative Agent, in its capacity as a Lender, for which the Eurodollar Rate is then being determined with maturities comparable to such period as of approximately 11:00 a.m. (London, England time) on such Interest Rate Determination Date, by (ii) the Statutory Reserve Rate; provided, however, that notwithstanding the foregoing (x) with respect to the Initial Term Loans, the Eurodollar Rate shall at no time be less than 0.75% and (y) with respect to the Initial Revolving Loans, the Eurodollar Rate shall at no time be less than zero.

“Eurodollar Term Borrowing” shall have the meaning assigned to such term in Section 1.06.

“Eurodollar Term Loan” shall have the meaning assigned to such term in Section 1.06.

“Event of Default” shall have the meaning assigned to such term in Section 7.01.

“Excess Cash Flow” shall mean, for any Excess Cash Flow Period, any amount (if positive) equal to:

(a) Consolidated Net Income for such Excess Cash Flow Period; plus

(b) an amount equal to the amount of all non-cash charges to the extent deducted in arriving at such Consolidated Net Income (provided, in each case, that if any non-cash charge represents an accrual or reserve for cash items in any future period, the cash payment in respect thereof in such future period shall be subtracted from Excess Cash Flow for such Excess Cash Flow Period in such future period); plus

(c) the decreases, if any, in Consolidated Working Capital from the first day to the last day of such Excess Cash Flow Period, but excluding any such decrease in Consolidated Working Capital arising from (i) the acquisition or Disposition of any Person by the Borrower or any Subsidiary or any Unrestricted Subsidiary designation, (ii) the reclassification during such period of current assets to long term assets or current liabilities to long term liabilities, (iii) the application of acquisition method, purchase and/or recapitalization accounting and/or (iv) the effect of any fluctuation in the amount of accrued and contingent obligations under any Hedging Agreement; plus

(d) an amount equal to the aggregate net non-cash loss on Dispositions by the Borrower and the Subsidiaries during such Excess Cash Flow Period (other than Dispositions in the ordinary course of business) to the extent deducted in arriving at such Consolidated Net Income; minus

(e) an amount equal to the amount of all non-cash gains for such Excess Cash Flow Period included in arriving at such Consolidated Net Income (including any amounts included in Consolidated Net Income pursuant to the last sentence of the definition of “Consolidated Net Income” to the extent such amounts are due but not received during such period; provided that

such amounts are added to Excess Cash Flow in the period received) and cash charges included in clauses (a) through (q) of the definition of “Consolidated Net Income” to the extent financed with internally generated cash flow of the Borrower or the Subsidiaries; minus

(f) the amount of Capital Expenditures made in cash during such period by (or committed during such period to be used for such purposes within the succeeding twelve-month period, subject to reversal of such deduction if any such committed amount is not actually expended within such twelve-month period) the Borrower and its Subsidiaries, except to the extent that such Capital Expenditures or acquisitions were financed with the proceeds of Indebtedness of the Borrower or the Subsidiaries (other than under any revolving indebtedness); minus

(g) the aggregate amount of all principal payments of Indebtedness of the Borrower and the Subsidiaries (including (A) the principal component of payments in respect of Capitalized Lease Obligations, (B) the amount of any scheduled repayment of Term Loans, any mandatory prepayment of Term Loans from any Asset Sale and other prepayments of Term Loans and (C) prepayments of Revolving Facility Loans to the extent such prepayments of Revolving Facility Loans are accompanied by a permanent and concurrent commitment reduction thereunder; provided, that deductions for voluntary prepayments pursuant this clause (g) shall not apply to the extent such voluntary prepayment is financed with the proceeds of long-term Indebtedness (other than under any revolving indebtedness); provided, further, that to the extent the amount of prepayments exceeds the amount of prepayments required to be made from Excess Cash Flow for such year, when taken together with other payments required for such year, then such excess amounts may be applied to the next subsequent fiscal year at the option of the Borrower; minus

(h) the aggregate amount of cash consideration paid by the Borrower and the Subsidiaries (on a consolidated basis) in connection with Investments (including acquisitions) made during such period (or committed during such period to be used for such purposes within the succeeding twelve-month period, subject to reversal of such deduction if any such committed amount is not actually expended within such twelve-month period) pursuant to Section 6.04 to the extent that such Investments were financed with internally generated cash flow of the Borrower and the Subsidiaries; minus

(i) the amount of Restricted Payments during such period (on a consolidated basis) by the Borrower and the Subsidiaries (or committed during such period to be used for such purposes within the succeeding twelve-month period, subject to reversal of such deduction if any such committed amount is not actually expended within such twelve-month period) made in compliance with Section 6.03 to the extent such Restricted Payments were financed with internally generated cash flow of the Borrower and the Subsidiaries; minus

(j) without duplication of amounts deducted from Excess Cash Flow in prior periods, the aggregate consideration required to be paid in cash by the Borrower or any of the Subsidiaries pursuant to binding contracts (the “Contract Consideration”) entered into prior to or during such period relating to Permitted Business Acquisitions, Capital Expenditures or other Investments to be consummated or made during the period of four consecutive fiscal quarters of

the Borrower following the end of such period, provided that to the extent the aggregate amount of internally generated cash actually utilized to finance such Permitted Business Acquisitions, Capital Expenditures or other Investments during such period of four consecutive fiscal quarters is less than the Contract Consideration, the amount of such shortfall shall be added to the calculation of Excess Cash Flow at the end of such period of four consecutive fiscal quarters; minus

(k) an amount equal to the aggregate net non-cash gain on Dispositions by the Borrower and the Subsidiaries during such Excess Cash Flow Period (other than Dispositions in the ordinary course of business) to the extent included in arriving at such Consolidated Net Income; minus

(l) increases in Consolidated Working Capital from the first day to the last day of such Excess Cash Flow Period but excluding any such increase in Consolidated Working Capital arising from (i) the acquisition or Disposition of any Person by the Borrower or any Subsidiary or any Unrestricted Subsidiary designation, (ii) the reclassification during such period of current assets to long term assets or current liabilities to long term liabilities, (iii) the application of acquisition method, purchase and/or recapitalization accounting and (iv) the effect of any fluctuation in the amount of accrued and contingent obligations under any Hedging Agreement; minus

(m) cash payments by the Borrower and the Subsidiaries during such Excess Cash Flow Period in respect of purchase price holdbacks, earn out obligations or long-term liabilities of the Borrower and the Subsidiaries other than Indebtedness to the extent such payments are not expensed during such Excess Cash Flow Period or are not deducted in arriving at such Consolidated Net Income to the extent financed with internally generated cash flow of the Borrower or any Subsidiaries; minus

(n) the aggregate amount of expenditures actually made by the Borrower and any Subsidiary in cash during such Excess Cash Flow Period (including expenditures for the payment of financing fees and cash restructuring charges) to the extent that such expenditures are not expensed during such Excess Cash Flow Period or are not deducted in arriving at such Consolidated Net Income, to the extent that such expenditure was financed with internally generated cash flow of the Borrower or any Subsidiaries; minus

(o) the amount of Taxes (including penalties and interest) paid in cash and/or Tax reserves set aside or payable (without duplication) in such Excess Cash Flow Period to the extent they exceed the amount of Tax expense deducted in arriving at such Consolidated Net Income for such Excess Cash Flow Period; minus

(p) amounts excluded under clause (g) of the definition of "Consolidated Net Income" for such Excess Cash Flow Period, to the extent the relevant indemnification, reimbursement or insurance proceeds have not yet been received; minus

(q) cash expenditures in respect of Hedging Agreements during such Excess Cash Flow Period to the extent not deducted in arriving at such Consolidated Net Income.

For purposes of this definition of “Excess Cash Flow,” (i) “deducted in arriving at such Consolidated Net Income” shall mean deducted in calculating the net income (loss) of the Borrower and the Subsidiaries and not thereafter excluded pursuant to the definition of Consolidated Net Income, (ii) “included in arriving at such Consolidated Net Income” shall mean included in calculating the net income (loss) of the Borrower and the Subsidiaries and not thereafter excluded pursuant to the definition of Consolidated Net Income and (iii) amounts shall be deducted from, or added to, Consolidated Net Income without duplication.

“Excess Cash Flow Period” shall mean each fiscal year of the Borrower, commencing with the fiscal year of the Borrower ending December 31, 2021 (the measurement period for which shall commence with the first day of the calendar month commencing immediately following the Closing Date and which shall end on December 31, 2021).

“Exchange Act” shall mean the Securities Exchange Act of 1934, as amended.

“Excluded Account” shall mean each deposit account (a) the funds in which are used solely for the payment of salaries and wages, payroll taxes, withholding taxes, workers’ compensation, employee benefit payments and similar expenses in the ordinary course of business, (b) that is a zero-balance disbursement account, (c) that is used solely for paying taxes, including sales taxes, (d) the funds in which consist solely of (i) funds held by the Borrower or any Subsidiary in trust for any director, officer or employee of the Borrower or any Subsidiary or any employee benefit plan maintained by the Borrower or any Subsidiary, (ii) funds representing deferred compensation for the directors and employees of the Borrower or any Subsidiary, (iii) funds held as part of escrow arrangements permitted under the terms of this Agreement or (iv) any fiduciary or trust account, (e) held in any non-U.S. jurisdiction, and (f) with an average monthly balance of less than \$500,000, not to exceed \$2,000,000 in the aggregate at any time for all accounts that are Excluded Accounts pursuant to this clause (f).

“Excluded Affiliates” shall mean Affiliates of the Lenders that are engaged as principals primarily in private equity, mezzanine financing or venture capital or any of such Affiliate’s respective officers, directors, employees, attorneys, accountants, advisors and other representatives (other than, in each case, such Persons directly engaged by the Borrower or its Affiliates as part of the Transactions and a limited number of senior employees who are required, in accordance with industry regulations or such Lenders’ (or its Affiliates’) internal policies and procedures, to act in a supervisory capacity and such Lenders’ internal legal, compliance, risk management, credit or investment committee members).

“Excluded Indebtedness” shall mean all Indebtedness not incurred in violation of Section 6.01.

“Excluded Property” shall have the meaning assigned to such term in Section 5.10.

“Excluded Securities” shall mean any of the following:

(a) any Equity Interests or Indebtedness with respect to which the Collateral Agent and the Borrower reasonably agree that the cost or other consequences of pledging

such Equity Interests or Indebtedness in favor of the Secured Parties under the Security Documents (including Tax consequences) are likely to be excessive in relation to the value to be afforded thereby;

(b) any Equity Interests or Indebtedness to the extent, and for so long as, the pledge thereof would be prohibited by any Requirement of Law (other than to the extent such prohibition is rendered ineffective under the Uniform Commercial Code or any other Requirement of Law notwithstanding such prohibition);

(c) any Equity Interests of any person that is not the Borrower or a Wholly-Owned Subsidiary to the extent (A) that a pledge thereof to secure the Secured Obligations (as defined in the Collateral Agreement) is prohibited by (i) any applicable organizational documents, joint venture agreement, shareholder agreement or similar agreement or (ii) any other contractual obligation with an unaffiliated third party not in violation of Section 6.08 that was existing on the Closing Date or at the time of the acquisition of such subsidiary and was not created in contemplation of such acquisition, but, in the case of this subclause (A), only to the extent, and for so long as, such prohibition is not terminated or rendered unenforceable or otherwise deemed ineffective by the Uniform Commercial Code or any other Requirement of Law, (B) any organizational documents, joint venture agreement, shareholder agreement or similar agreement (or other contractual obligation referred to in subclause (A)(ii) above) prohibits such a pledge without the consent of any other party; provided, that this clause (B) shall not apply if (1) such other party is a Loan Party or a Wholly-Owned Subsidiary, (2) consent has been obtained to consummate such pledge (it being understood that the foregoing shall not be deemed to obligate the Borrower or any Subsidiary to obtain any such consent) and for so long as such organizational documents, joint venture agreement, shareholder agreement or similar agreement (or other contractual obligation referred to in subclause (A)(ii) above) or replacement or renewal thereof is in effect or (3) such prohibition is terminated or rendered unenforceable or otherwise deemed ineffective by the Uniform Commercial Code or any other Requirement of Law, or (C) a pledge thereof to secure the Secured Obligations (as defined in the Collateral Agreement) would give any other party (other than a Loan Party or a Wholly-Owned Subsidiary) to any organizational documents, joint venture agreement, shareholder agreement or similar agreement governing such Equity Interests the right to terminate its obligations thereunder, but only to the extent, and for so long as, such right of termination is not terminated or rendered unenforceable or otherwise deemed ineffective by the Uniform Commercial Code or any other Requirement of Law;

(d) any Equity Interests of any Immaterial Subsidiary (except to the extent perfected by filing of a UCC financing statement), Insurance Subsidiary or Unrestricted Subsidiary;

(f) any Margin Stock;

(g) (i) voting Equity Interests (and any other interests constituting "voting stock" within the meaning of Treasury Regulation Section 1.956-2(c)(2)) in excess of

65% of all such voting Equity Interests in any CFC or FSHCO directly owned by the Borrower or a Guarantor; and

(h) voting Equity Interests (and any other interests constituting “voting stock” within the meaning of Treasury Regulation Section 1.956-2(c)(2)) constituting more than (i) 65% of the voting Equity Interests and (ii) 100% of non-voting Equity Interests, in each case of any entity that is treated as a “disregarded entity” and is a FSHCO.

“Excluded Subsidiary” shall mean any of the following:

(a) each Immaterial Subsidiary,

(b) each Domestic Subsidiary that is a non-Wholly-Owned Subsidiary (for so long as such Subsidiary remains a non-Wholly-Owned Subsidiary),

(c) each Domestic Subsidiary that is prohibited from Guaranteeing or granting Liens to secure the Obligations by any Requirement of Law or that would require consent, approval, license or authorization of a Governmental Authority or other third party (other than the Borrower or a Wholly-Owned Subsidiary) to Guarantee or grant Liens to secure the Obligations (unless such consent, approval, license or authorization has been received, it being understood that the Borrower and its Subsidiaries shall have no obligation to obtain any such consent, approval, license or authorization),

(d) each Domestic Subsidiary acquired pursuant to a Permitted Business Acquisition or other Investment permitted hereunder that, at the time of such Permitted Business Acquisition or other Investment, has assumed Indebtedness not incurred in contemplation of such Permitted Business Acquisition or other Investment and each subsidiary that is a subsidiary thereof that guarantees such Indebtedness, in each case, to the extent such Indebtedness prohibits such Subsidiary from becoming a Guarantor,

(e) any Foreign Subsidiary (including for the avoidance of doubt any CFC),

(f) any Domestic Subsidiary that is a subsidiary of a Foreign Subsidiary that is either a CFC or a FSHCO,

(g) any Subsidiary that is a FSHCO,

(h) any other Domestic Subsidiary with respect to which the Administrative Agent and the Borrower reasonably agree that the cost or other consequences (including Tax consequences) of providing a Guarantee to secure the Obligations are likely to be excessive in relation to the value to be afforded thereby,

(i) each Unrestricted Subsidiary,

(j) each Insurance Subsidiary,

(k) each special purpose entity,

- (l) each not-for-profit subsidiary,
- (m) each receivables subsidiary, and
- (n) each Subsidiary listed on Schedule 1.01A hereto.

“Excluded Swap Obligation” shall mean, with respect to any Guarantor, any Swap Obligation if, and to the extent that, all or a portion of the Guarantee of such Guarantor of, or the grant by such Guarantor of a security interest to secure, such Swap Obligation (or any Guarantee thereof) is or becomes illegal under the Commodity Exchange Act or any rule, regulation or order of the Commodity Futures Trading Commission (or the application or official interpretation of any thereof) by virtue of (a) such Guarantor’s failure for any reason to constitute an “eligible contract participant” as defined in the Commodity Exchange Act and the regulations thereunder or (b) in the case of a Swap Obligation subject to a clearing requirement pursuant to Section 2(h) of the Commodity Exchange Act (or any successor provision thereto), because such Guarantor is a “financial entity,” as defined in Section 2(h)(7)(C)(i) of the Commodity Exchange Act (or any successor provision thereto), in each case at the time the Guarantee of such Guarantor or the grant of such security interest becomes effective with respect to such Swap Obligation, unless otherwise agreed between the Administrative Agent and the Borrower. If a Swap Obligation arises under a master agreement governing more than one swap, such exclusion shall apply only to the portion of such Swap Obligation that is attributable to swaps for which such Guarantee or security interest is or becomes illegal.

“Excluded Taxes” shall mean, with respect to the Administrative Agent, any Lender, any Issuing Bank or any other recipient of any payment to be made by or on account of any obligation of any Loan Party hereunder or under any other Loan Document, any of the following Taxes imposed on or with respect to any such recipient or required to be withheld or deducted from a payment to any such recipient: (i) Taxes imposed on or measured by its net income (however denominated), franchise and similar Taxes, and branch profits Taxes, in each case imposed by a jurisdiction (including any political subdivision thereof) as a result of such recipient being organized in, having its principal office in, being engaged in a trade or business in, or in the case of any Lender, having its applicable Lending Office in, such jurisdiction, or as a result of any other present or former connection with such jurisdiction (other than any such connection arising solely from any Loan Document or any transactions pursuant to any Loan Document), (ii) any branch profits Taxes or similar Taxes imposed by any jurisdiction in which the Borrower is located or carries on a trade or business, (iii) in the case of a Lender, U.S. federal withholding Tax imposed on amounts payable to or for the account of a Lender with respect to an applicable interest in a Loan or a Commitment pursuant to laws in force at the time such Lender acquires such interest in the Loan or Commitment or, to the extent a Lender acquires an interest in a Loan not funded pursuant to a prior Commitment, acquires such interest in such Loan (other than to the extent such Lender is an assignee pursuant to a request by the Borrower under Section 2.19(b) or 2.19(c)) or designates a new Lending Office, except in each case to the extent that such Lender (or its assignor, if any) was entitled, immediately prior to the designation of a new Lending Office (or assignment), to receive additional amounts or indemnification payments from any Loan Party with respect to such withholding Tax pursuant to Section 2.17,

(iv) any Tax attributable to the Administrative Agent's, any Lender's, any Issuing Bank's or any other recipient's failure to comply with Section 2.17(d) or Section 2.17(f) and (v) any Tax imposed under FATCA.

"Existing Class Loans" shall have the meaning assigned to such term in Section 9.08(f).

"Existing Letters of Credit" shall have the meaning assigned to such term in Section 2.05(a)(i).

"Expected Cost Savings" shall have the meaning assigned to such term in the definition of the term "EBITDA".

"Extended Revolving Facility Commitment" shall have the meaning assigned to such term in Section 2.22(a).

"Extended Revolving Loan" shall have the meaning assigned to such term in Section 2.22(a).

"Extended Term Loan" shall have the meaning assigned to such term in Section 2.22(a).

"Extending Lender" shall have the meaning assigned to such term in Section 2.22(a).

"Extension" shall have the meaning assigned to such term in Section 2.22(a).

"Extension Amendment" shall have the meaning assigned to that term in Section 2.22(b).

"Facility" shall mean the respective facility and commitments utilized in making Loans and credit extensions hereunder, it being understood that, as of the Closing Date there are two Facilities (*i.e.*, the Initial Term Facility and the Revolving Facility) and thereafter, the term "Facility" may include any other Class of Commitments and the extensions of credit thereunder or, without duplication, Term Loans.

"Fair Market Value" shall mean, with respect to any asset or property, the price that could be negotiated in an arms'-length transaction between a willing seller and a willing buyer, neither of whom is under undue pressure or compulsion to complete the transaction (as determined in good faith by the management of the Borrower), including, at the option of the Borrower, reliance on the most recent real property Tax bill or assessment in the case of Real Property.

"FATCA" shall mean Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future Treasury regulations promulgated thereunder or official administrative interpretations thereof, any agreements entered into pursuant to Section 1471(b)(1) of the Code, or any legislation, rules or practices adopted pursuant to any intergovernmental agreement, treaty or convention entered into in connection with the implementation of such Sections of the Code.

“Federal Funds Rate” shall mean, for any day, the rate per annum equal to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day; provided that (a) if such day is not a Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day, and (b) if no such rate is so published on such next succeeding Business Day, the Federal Funds Rate for such day shall be the average rate (rounded upward, if necessary, to a whole multiple of 1/100 of 1%) charged to the Administrative Agent on such day on such transactions as determined by the Administrative Agent; provided that if the Federal Funds Rate on any day would otherwise be less than 0%, then the Federal Funds Rate on such day shall be deemed to be 0%.

“Federal Reserve Bank of New York’s Website” shall have the meaning assigned to such term in Section 2.14.

“Fees” shall mean the Commitment Fees, the L/C Participation Fees, the Issuing Bank Fees and the Administrative Agent Fees.

“Financial Covenant” shall mean the covenant of the Borrower set forth in Section 6.10.

“Financial Officer” of any person shall mean the Chief Financial Officer, principal accounting officer, Treasurer, Assistant Treasurer, Controller or other executive responsible for the financial affairs of such person.

“First Lien Net Leverage Ratio” shall mean, as of any date of determination, the ratio of (i) Consolidated Total Debt that is secured by a Lien on any assets of the Borrower or any of its Subsidiaries (other than if secured by Junior Liens) to (ii) EBITDA of the Borrower and its Subsidiaries for the most recently ended Test Period on or prior to such date, all determined on a consolidated basis in accordance with GAAP; provided, that the First Lien Net Leverage Ratio shall be determined on a Pro Forma Basis.

“Fixed Amounts” shall have the meaning assigned to such term in Section 1.09.

“Fixed Incremental Amount” shall mean, at any time, the sum of:

(a) the greater of \$85,000,000 and 75.0% of EBITDA calculated on a Pro Forma Basis, for the most recently ended Test Period of the Borrower, plus

(b) the amount of any optional prepayment of any Term Loan in accordance with Section 2.11(a), all voluntary prepayments of Revolving Loans accompanied by corresponding voluntary permanent reductions of Revolving Facility Commitments and any Incremental Facilities or Incremental Equivalent Debt, so long as, in the case of any such optional prepayment or assignment, the relevant prepayment or assignment and/or purchase was not funded with the proceeds of any long-term Indebtedness other than Indebtedness under any revolving credit facility, plus

(c) the aggregate principal amount of any Term Loan reduction resulting from any assignment of such Term Loan to (and/or purchase of such Term Loan by) the Borrower and/or any Subsidiary (limited, in the case of purchases made at a discount to par value, to the actual purchase price of such Term Loan paid in cash), limited, in the case of Incremental Facilities or Incremental Equivalent Debt, to Incremental Facilities or Incremental Equivalent Debt incurred in reliance upon the Fixed Incremental Amount, so long as, in the case of any such optional prepayment or assignment, the relevant prepayment or assignment and/or purchase was not funded with the proceeds of any long-term Indebtedness other than Indebtedness under any revolving credit facility; minus

(d) the aggregate outstanding principal amount of all Incremental Facilities and/or Incremental Equivalent Debt incurred or issued in reliance on the Fixed Incremental Amount.

“Foreign Lender” shall mean a Lender that is not a U.S. Person.

“Foreign Subsidiary” shall mean any Subsidiary that is incorporated or organized under the laws of any jurisdiction other than the United States of America, any state thereof or the District of Columbia.

“Flood Insurance Laws” shall mean, collectively, (i) the National Flood Insurance Act of 1968, (ii) the Flood Disaster Protection Act of 1973, (iii) the National Flood Insurance Reform Act of 1994, (iv) the Flood Insurance Reform Act of 2004 and (v) the Biggert-Waters Flood Insurance Reform Act of 2012, each as now or hereafter in effect or any successor statute thereto, and in each case, together with all statutory and regulatory provisions consolidating, amending, replacing, supplementing, implementing or interpreting any of the foregoing, as amended or modified from time to time.

“Fronting Exposure” shall mean, at any time there is a Defaulting Lender, (a) with respect to any Issuing Bank, such Defaulting Lender’s Revolving Facility Percentage of Revolving L/C Exposure with respect to Letters of Credit issued by such Issuing Bank other than such Revolving L/C Exposure as to which such Defaulting Lender’s participation obligation has been reallocated to other Lenders or Cash Collateralized in accordance with the terms hereof and (b) with respect to the Swingline Lender, such Defaulting Lender’s Swingline Exposure other than Swingline Loans as to which such Defaulting Lender’s participation obligation has been reallocated to other Lenders.

“FSHCO” shall mean any Subsidiary substantially all of the assets of which (directly or through one or more disregarded entities for U.S. federal income tax purposes) consist of Indebtedness and/or Equity Interests (including, for this purpose, any debt or other instrument treated as equity for U.S. federal income tax purposes) of one or more Foreign Subsidiaries that are CFCs.

“GAAP” shall mean generally accepted accounting principles in effect from time to time in the United States of America, applied on a consistent basis, subject to the provisions of Section 1.02.

“GAAP Charge” shall mean any fee (including third party consultant fees and other similar fees), loss, charge, expense, cost, accrual or reserve of any kind (in each case, if applicable, as defined under GAAP).

“Governmental Authority” shall mean any federal, state, local or foreign court or governmental agency, authority, instrumentality or regulatory or legislative body.

“Guarantee” of or by any person (the “guarantor”) shall mean (a) any obligation, contingent or otherwise, of the guarantor guaranteeing or having the economic effect of guaranteeing any Indebtedness or other monetary obligation payable or performable by another person (the “primary obligor”) in any manner, whether directly or indirectly, and including any obligation of the guarantor, direct or indirect, (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation, (ii) to purchase or lease property, securities or services for the purpose of assuring the owner of such Indebtedness or other obligation of the payment thereof, (iii) to maintain working capital, equity capital or any other financial statement condition or liquidity of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other obligation or (iv) entered into for the purpose of assuring in any other manner the holders of such Indebtedness or other obligation of the payment thereof or to protect such holders against loss in respect thereof (in whole or in part), or (b) any Lien on any assets of the guarantor securing any Indebtedness or other obligation (or any existing right, contingent or otherwise, of the holder of Indebtedness or other obligation to be secured by such a Lien) of any other person, whether or not such Indebtedness or other obligation is assumed by the guarantor (other than Liens on Equity Interests of Unrestricted Subsidiaries securing Indebtedness of such Unrestricted Subsidiaries); provided, however, that the term “Guarantee” shall not include endorsements of instruments for deposit or collection in the ordinary course of business or customary and reasonable indemnity obligations in effect on the Closing Date or entered into in connection with any acquisition or Disposition of assets permitted by this Agreement (other than such obligations with respect to Indebtedness). The amount of any Guarantee shall be deemed to be an amount equal to the stated or determinable amount of the Indebtedness or other obligation in respect of which such Guarantee is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by such person in good faith. The amount of the Indebtedness or other obligation subject to any Guarantee provided by any person for purposes of clause (b) above shall (unless the applicable Indebtedness has been assumed by such person or is otherwise recourse to such person) be deemed to be equal to the lesser of (A) the aggregate unpaid amount of such Indebtedness or other obligation and (B) the Fair Market Value of the property encumbered thereby. “Guaranteed” and “Guaranteeing” shall have meanings correlative thereto.

“Guarantee Agreement” shall mean the Guarantee Agreement substantially in the form of Exhibit M to be dated as of the Closing Date as may be amended, restated, supplemented or otherwise modified from time to time, between each Guarantor and the Administrative Agent.

“guarantor” shall have the meaning assigned to such term in the definition of the term “Guarantee.”

“Guarantors” shall mean (i) each Subsidiary of the Borrower that executes the Guarantee Agreement on the Closing Date and (ii) each Subsidiary of the Borrower that becomes a Loan Party pursuant to Section 5.10(c), whether existing on the Closing Date or established, created or acquired after the Closing Date, unless and until such time as the respective Subsidiary is released from its obligations under the Guarantee Agreement in accordance with the terms and provisions hereof or thereof; provided that no Excluded Subsidiary shall be a Guarantor.

“Hazardous Materials” shall mean all pollutants, contaminants, wastes, chemicals, materials, substances and constituents, including explosive or radioactive substances or petroleum by products or petroleum distillates, asbestos or asbestos-containing materials, polychlorinated biphenyls, radon gas or pesticides, fungicides, fertilizers or other agricultural chemicals, of any nature subject to regulation or which can give rise to liability under any Environmental Law.

“Hedge Bank” shall mean any person that is (or any Affiliate of any person that is) an Agent, an Arranger or a Lender on the Closing Date (or any person that becomes an Agent, Arranger or Lender or Affiliate thereof after the Closing Date) and that enters into or has entered into a Hedging Agreement with the Borrower or any Subsidiary, in each case, in its capacity as a party to such Hedging Agreement.

“Hedge Termination Value” shall mean, in respect of any one or more Hedging Agreements, after taking into account the effect of any legally enforceable netting agreement relating to such Hedging Agreement, (a) for any date on or after the date such Hedging Agreements have been closed out and termination value(s) determined in accordance therewith, such termination value(s), and (b) for any date prior to the date referenced in clause (a), the amount(s) determined as the mark to market value(s) for such Hedging Agreement, as determined by the Hedge Bank (or the Borrower, if no Hedge Bank is party to such Hedging Agreement) in accordance with the terms thereof and in accordance with customary methods for calculating mark-to-market values under similar arrangements by the Hedge Bank (or the Borrower, if no Hedge Bank is party to such Hedging Agreement).

“Hedging Agreement” shall mean any agreement with respect to any swap, forward, future or derivative transaction, or option or similar agreement involving, or settled by reference to, one or more rates, currencies, commodities, equity or debt instruments or securities, or economic, financial or pricing indices or measures of economic, financial or pricing risk or value, or credit spread transaction, repurchase transaction, reserve repurchase transaction, securities lending transaction, weather index transaction, spot contracts, fixed price physical delivery contracts, or any similar transaction or any combination of these transactions, in each case of the foregoing, whether or not exchange traded; provided that “Hedging Agreement” shall not include (i) convertible Indebtedness or any Permitted Convertible Indebtedness Call Transaction, (ii) any accelerated share repurchase contract, share call option or similar contract with respect to the Borrower’s Equity Interests entered into to consummate a repurchase of such Equity Interests, (iii) any forward sale contract with respect to the Borrower’s Equity Interests or (iv) put and call options and forward arrangements entered into in connection with joint ventures and other business investments, acquisitions and dispositions permitted under this Agreement.

“Honor Date” shall have the meaning assigned to such term in Section 2.05(c)(i).

“Immaterial Subsidiary” shall mean any Subsidiary that did not, as of the last day of the fiscal quarter of the Borrower and its Subsidiaries most recently ended for which financial statements (or pro forma financial statements, as applicable) have been (or were required to be) delivered pursuant to Section 4.01(i), 5.04(a) or 5.04(b), have (x) assets with a value equal to or in excess of 2.5% of Consolidated Total Assets or (y) operating revenue which is equal to or greater than 2.5% of the consolidated operating revenues of the Borrower and its Subsidiaries on such date. Notwithstanding the foregoing, if at any time all Immaterial Subsidiaries, taken as a whole, (i) have total assets at such time exceeding 5.0% of the Consolidated Total Assets of the Borrower and its subsidiaries on such date or (ii) have operating revenue which is greater than 5.0% of the consolidated operating revenues of the Borrower and its Subsidiaries on such date, then the Borrower shall designate which of such Subsidiaries shall no longer constitute “Immaterial Subsidiaries” for purposes of this Agreement to the extent necessary to cause such excess to be eliminated; provided, that if no such designation is made by the Borrower, then one or more of such Immaterial Subsidiaries shall be deemed not to be Immaterial Subsidiaries in descending order based on the amounts of their Consolidated Total Assets or operating revenue, as applicable, until such excess shall have been eliminated.

“Increased Amount” of any Indebtedness shall mean any increase in the amount of such Indebtedness in connection with any accrual of interest, the accretion of accreted value, the amortization of original issue discount, the payment of interest in the form of additional Indebtedness or in the form of common stock of the Borrower, the accretion of original issue discount or liquidation preference and increases in the amount of Indebtedness outstanding solely as a result of fluctuations in the exchange rate of currencies.

“Incremental Amount” shall mean, at any time, the sum of:

- (a) the Fixed Incremental Amount; plus
- (b) an unlimited amount (such amount, the “Ratio Incremental Amount”) so long as, immediately after giving effect to the relevant Incremental Facility or Incremental Equivalent Debt:
 - (i) in the case of any Incremental Facility or Incremental Equivalent Debt secured by Liens on the Collateral ranking *pari passu* with the Liens securing the Loan Obligations (without regard to control of remedies), on a Pro Forma Basis after giving effect to such Incremental Facility or Incremental Equivalent Debt and the use of the proceeds thereof, the First Lien Net Leverage Ratio does not exceed (x) 1.90:1.00 or (y) solely in the case of any such Incremental Facility or Incremental Equivalent Debt being incurred to finance a Permitted Business Acquisition or other similar Investment permitted hereunder, the First Lien Net Leverage Ratio as of the last day of the most recently ended Test Period;
 - (ii) in the case of any Incremental Facility or Incremental Equivalent Debt secured by Liens on the Collateral ranking junior to the Liens securing the Loan

Obligations, on a Pro Forma Basis after giving effect to such Incremental Facility or Incremental Equivalent Debt and the use of the proceeds thereof, the Secured Net Leverage Ratio does not exceed (x) 1.90:1.00 or (y) solely in the case of any such Incremental Facility or Incremental Equivalent Debt being incurred to finance a Permitted Business Acquisition or other similar Investment permitted hereunder, the Secured Net Leverage Ratio as of the last day of the most recently ended Test Period; or

(iii) in the case of any Incremental Facility or Incremental Equivalent Debt that is unsecured, on a Pro Forma Basis after giving effect to such Incremental Facility or Incremental Equivalent Debt and the use of the proceeds thereof, either, as elected by the Borrower, (A) the Consolidated Interest Coverage Ratio is at least equal to either (x) 2.00:1.00 or (y) solely in the case of any such Incremental Facility or Incremental Equivalent Debt being incurred to finance a Permitted Business Acquisition or other similar Investment permitted hereunder, the Consolidated Interest Coverage Ratio as of the most recently ended Test Period, or (B) the Total Net Leverage Ratio does not exceed either (x) 5.90:1.00 or (y) solely in the case of any such Incremental Facility or Incremental Equivalent Debt being incurred to finance a Permitted Business Acquisition or other similar Investment permitted hereunder, the Total Net Leverage Ratio as of the most recently ended Test Period;

provided that (x) the Borrower may elect to use the Ratio Incremental Amount (to the extent compliant therewith) prior to the Fixed Incremental Amount regardless of whether there is capacity under the Fixed Incremental Amount, and if the Fixed Incremental Amount, on the one hand, and the Ratio Incremental Amount, on the other hand, are available and the Borrower does not make an election, the Borrower will be deemed to have elected the Ratio Incremental Amount (to the extent compliant therewith), with the balance being incurred under clauses (b) and (c) of the Fixed Incremental Amount and, thereafter, under clause (a) of the Fixed Incremental Amount and (y) the Borrower may elect to use capacity under the Fixed Incremental Amount on the same date that the Borrower uses capacity under the Ratio Incremental Amount, by first calculating the capacity under clause (i), (ii) or (iii) of the Ratio Incremental Amount, as applicable, without regard to the any use of capacity under the Fixed Incremental Amount; provided, further, that the Borrower may redesignate all of any portion of any such Indebtedness originally designated as incurred pursuant to the Fixed Incremental Amount as incurred pursuant to the Ratio Incremental Amount if, at the time of such redesignation, the Borrower would be permitted to incur such Incremental Facility or Incremental Equivalent Debt under the Ratio Incremental Amount (for purposes of clarity, with any such redesignation having the effect of increasing the Borrower's ability to incur indebtedness under the Fixed Incremental Amount as of the date of such redesignation by the amount of such Indebtedness so redesignated). For purposes of any determination under this definition, the calculation of compliance with the First Lien Net Leverage Ratio, the Secured Net Leverage Ratio, the Total Net Leverage Ratio and the Consolidated Interest Coverage Ratio (and the relevant components thereof, including "Consolidated Total Debt", "EBITDA", "Consolidated Net Income" and "Consolidated Interest Expense") for purposes of incurring any Indebtedness hereunder, (x) in the case of an incurrence of Incremental Revolving Facility Commitments, such calculation shall be made assuming that such then incurred Incremental Revolving Facility Commitments are fully drawn and (y) with

respect to the amount of any Indebtedness in a currency other than Dollars, the equivalent amount in Dollars of Indebtedness in any currency other than Dollars shall be calculated based on the arithmetic mean of the average monthly spot exchange rates quoted by the Bloomberg Foreign Exchange Rates & World Currencies Page (or any successor page thereto, or in the event such rate does not appear on any Bloomberg Page, by reference to such other publicly available service for displaying exchange rates as may be agreed upon by the Administrative Agent and the Borrower) for each month within the most recently ended Test Period.

“Incremental Assumption Agreement” shall mean an Incremental Assumption Agreement in form and substance reasonably satisfactory to the Administrative Agent, among the Borrower, the Administrative Agent and, if applicable, one or more Incremental Term Lenders and/or Incremental Revolving Facility Lenders.

“Incremental Commitment” shall mean an Incremental Term Loan Commitment or an Incremental Revolving Facility Commitment.

“Incremental Equivalent Debt” shall have the meaning assigned to such term in Section 6.01(q)(i).

“Incremental Facility” shall mean the Incremental Commitments and the Incremental Loans made thereunder.

“Incremental Loan” shall mean an Incremental Term Loan or an Incremental Revolving Loan.

“Incremental Revolving Facility Commitment” shall mean the commitment of any Lender, established pursuant to Section 2.21, to make Revolving Facility Loans to the Borrower and to acquire risk participations in Letters of Credit and Swingline Loans as provided herein.

“Incremental Revolving Facility Lender” shall mean a Lender with an Incremental Revolving Facility Commitment or an outstanding Incremental Revolving Loan.

“Incremental Revolving Loan” shall mean Revolving Facility Loans made by one or more Revolving Facility Lenders to the Borrower pursuant to an Incremental Revolving Facility Commitment.

“Incremental Term Lender” shall mean a Lender with an Incremental Term Loan Commitment or an outstanding Incremental Term Loan.

“Incremental Term Loan Commitment” shall mean the commitment of any Lender, established pursuant to Section 2.21, to make Incremental Term Loans to the Borrower.

“Incremental Term Loans” shall mean, to the extent permitted by Section 2.21 and provided for in the relevant Incremental Assumption Agreement, additional Initial Term Loans or Other Incremental Term Loans.

“Incurrence-Based Amounts” shall have the meaning assigned to such term in Section 1.09.

“Indebtedness” of any person shall mean, without duplication, (a) all obligations of such person for borrowed money, (b) all obligations of such person evidenced by bonds, debentures, notes or similar instruments (except any such obligation issued in the ordinary course of business with a maturity date of no more than six months in a transaction intended to extend payment terms of trade payables or similar obligations to trade creditors incurred in the ordinary course of business), (c) all obligations of such person under conditional sale or other title retention agreements relating to property or assets purchased by such person (except any such obligation that constitutes a trade payable or similar obligation to a trade creditor incurred in the ordinary course of business), (d) all obligations of such person issued or assumed as the deferred purchase price of property or services (except any such balance that (i) constitutes a trade payable or similar obligation to a trade creditor incurred in the ordinary course of business, (ii) any earnout obligations until such obligation becomes a liability on the balance sheet of such person in accordance with GAAP, (iii) any such obligations incurred under ERISA and (iv) liabilities accrued in the ordinary course of business) which purchase price is due more than six months after the date of placing the property in service or taking delivery and title thereto, (e) all Guarantees by such person of Indebtedness of others described in clauses (a) through (d) above, (f) all Capitalized Lease Obligations of such person, (g) the net obligations of any person under any Hedging Agreements, to the extent the foregoing would appear on a balance sheet of such person as a liability in accordance with GAAP, (h) the principal component of all unreimbursed obligations of such person as an account party in respect of drawn letters of credit, (i) the principal component of all unreimbursed obligations of such person in respect of drawn bankers’ acceptances, (j) the amount of all obligations of such person with respect to the redemption, repayment or other repurchase of any Disqualified Equity Interests (excluding accrued dividends that have not increased the liquidation preference of such Disqualified Equity Interests) and (k) all Indebtedness of others secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien on property owned or acquired by such person (other than Liens on Equity Interests of Unrestricted Subsidiaries securing Indebtedness of such Unrestricted Subsidiaries), whether or not the Indebtedness secured thereby has been assumed.

Notwithstanding the foregoing, and where applicable, “Indebtedness” will not include:

- (i) all intercompany Indebtedness and any obligations arising from intercompany transfer pricing arrangements having a term not exceeding 364 days (inclusive of any roll-over or extensions of terms) and made in the ordinary course of business;
- (ii) the amount of any net obligation under any Hedging Agreement on any date shall be deemed to be the Hedge Termination Value thereof as of such date;
- (iii) contingent obligations incurred in the ordinary course of business;
- (iv) in connection with any Permitted Business Acquisition or other Investment, any post-closing payment adjustments to which the seller may become entitled to the extent such

payment is determined by a final closing balance sheet or such payment depends on the performance of the Person or assets acquired after the closing; provided, however, that to the extent such payment becomes fixed and determined, the amount is paid within ninety (90) days thereafter;

(v) deferred compensation payable to directors, officers, employees or consultants and any obligations in respect of workers' compensation claims, early retirement obligations, pension fund obligations or contributions or social security or wage Taxes;

(vii) any Indebtedness that has been defeased in accordance with GAAP or defeased pursuant to the deposit of cash or Cash Equivalents (in any amount sufficient to satisfy all such Indebtedness obligations at maturity or redemption, as applicable, and all payments of interest and premium, if any) in a trust or account created or pledged for the sole benefit of the holders of such Indebtedness, and subject to no other Liens, and the other applicable terms of the instrument governing such Indebtedness;

(viii) current and long term deferred income, current and deferred income taxes payable, capitalized payments in lieu of property taxes in accordance with GAAP, in each case accrued in the ordinary course of business;

(vi) deferred or prepaid revenues;

(ix) prepayments or deposits received from clients or customers in the ordinary course of business;

(x) obligations in respect of letters of credit and bank guarantees provided by the Borrower or any of its Subsidiaries in the ordinary course of business, to the extent such letters of credit or bank guarantees are not drawn upon or, if and to the extent drawn upon, are reimbursed no later than the tenth (10th) Business Day following receipt by such Person of a demand for reimbursement following such drawing;

(xi) obligations under any license, permit or other approval (or guarantees given in respect of such obligations) incurred prior to the Closing Date or in the ordinary course of business;

(xii) obligations in respect of performance, completion, surety, Tax, appeal, judgment, advance payment, customs, guarantees or similar instruments provided by the Borrower or any Subsidiaries in the ordinary course of business;

(xiii) Escrowed Proceeds and other obligations which would otherwise constitute Indebtedness but which have been cash collateralized and obligations incurred in advance of, and the proceeds of which are to be applied in connection with, the consummation of a transaction solely to the extent that the proceeds thereof are and continue to be held in an escrow, trust, collateral or similar account or arrangement (collectively, an "Escrow") and are not otherwise made available for any other purpose and are used for such purpose (it being understood that in

any event, any such proceeds held in such Escrow shall be not deemed to be unrestricted cash), and

(xiv) any Increased Amount.

The amount of Indebtedness of any person for purposes of clause (k) above shall (unless such Indebtedness has been assumed by such person or is otherwise recourse to such person) be deemed to be equal to the lesser of (A) the aggregate unpaid amount of such Indebtedness and (B) the Fair Market Value of the property encumbered thereby.

Notwithstanding anything in this Agreement to the contrary, Indebtedness shall not include, and shall be calculated without giving effect to, the effects of Financial Accounting Standards Board Accounting Standards Codification 825 and related interpretations to the extent such effects would otherwise increase or decrease an amount of Indebtedness for any purpose under this Agreement as a result of accounting for any embedded derivatives created by the terms of such Indebtedness and any such amounts that would have constituted Indebtedness for purposes of this Agreement but for the application of this sentence shall not be deemed an incurrence of Indebtedness for purposes of this Agreement.

“Indemnified Taxes” shall mean all Taxes imposed on or with respect to any payment by or on account of any obligation of any Loan Party hereunder or under any other Loan Document other than (a) Excluded Taxes and (b) Other Taxes.

“Indemnitee” shall have the meaning assigned to such term in Section 9.05(b).

“Information” shall have the meaning assigned to such term in Section 3.14(a).

“Information Memorandum” shall mean the Confidential Information Memorandum dated March, 2021 as modified or supplemented prior to the Closing Date.

“Initial Revolving Loan” shall mean a Revolving Facility Loan made (i) pursuant to the Revolving Facility Commitments in effect on the Closing Date (as the same may be amended from time to time in accordance with this Agreement) or (ii) pursuant to any Incremental Revolving Facility Commitment on the same terms as (and forming a single Class with) the Revolving Facility Commitments referred to in clause (i) of this definition.

“Initial Term Facility” shall mean the Initial Term Loan Commitments and the Initial Term Loans made hereunder.

“Initial Term Lender” shall mean, at any time, any Lender that holds an Initial Term Loan Commitment or Initial Term Loans at such time.

“Initial Term Loan Commitment” shall mean, with respect to each Term Lender, the commitment of such Term Lender to make Initial Term Loans hereunder. The amount of each Term Lender’s Initial Term Loan Commitment as of the Closing Date is set forth on Schedule 2.01. The aggregate amount of the Initial Term Loan Commitments as of the Closing Date is \$360,000,000.

“Initial Term Loan Installment Date” shall have the meaning assigned to such term in Section 2.10(a)(i).

“Initial Term Loan Maturity Date” shall mean the date that is the seven year anniversary of the Closing Date; provided that if on any date prior to the date that is the seven year anniversary of the Closing Date (any such date, an “Initial Term Loan Maturity Reference Date”), (x) the Borrower’s 0.25% convertible senior notes due 2026 and (y) any Indebtedness incurred to refinance or otherwise extend the maturity date of the Borrower’s 0.25% convertible senior notes due 2026, is outstanding and scheduled to mature or similarly become due on or prior to the date that is ninety-one (91) days after the Initial Term Loan Maturity Reference Date, the Initial Term Loan Maturity Date shall instead be the Initial Term Loan Maturity Reference Date; provided, further, that, in each case, if any such day is not a Business Day, the Initial Term Loan Maturity Reference Date shall be the Business Day immediately preceding such day.

“Initial Term Loan Maturity Reference Date” shall have the meaning assigned to such term in the definition of “Initial Term Loan Maturity Date”.

“Initial Term Loans” shall mean the term loans made by the Term Lenders to the Borrower on the Closing Date pursuant to Section 2.01(a).

“Insurance Subsidiary” shall have the meaning assigned to such term in Section 6.04(x).

“Intellectual Property” shall mean the following intellectual property rights, including both statutory and common law rights, if applicable: (a) copyrights, registrations and applications for registration thereof, (b) trademarks, service marks, trade names, slogans, domain names, logos, trade dress and registrations and applications of registrations thereof, (c) patents, as well as any reissued and reexamined patents and any patent applications, as well as any related continuation, continuation in part and divisional applications and patents issuing therefrom and (d) trade secrets and confidential information, including ideas, designs, concepts, compilations of information, methods, techniques, procedures, processes and other knowhow, whether or not patentable.

“Intercreditor Agreement” shall have the meaning assigned to such term in Section 8.11.

“Interest Election Request” shall mean a request by the Borrower to convert or continue a Borrowing in accordance with Section 2.07 and substantially in the form of Exhibit E or another form (including any form on an electronic platform or electronic transmission system as shall be approved by the Administrative Agent) approved by the Administrative Agent.

“Interest Payment Date” shall mean, (a) as to any Eurodollar Loan, the last day of each Interest Period applicable to such Loan and the Maturity Date of the Facility under which such Loan was made; provided, however, that if any Interest Period for a Eurodollar Loan exceeds three months, the respective dates that fall every three months after the beginning of such Interest Period shall also be Interest Payment Dates; provided that if such date is not a Business Day, the Interest Payment Date shall be the next succeeding Business Day; and (b) as to any ABR Loan or

Swingline Loan, the last Business Day of each March, June, September and December and the Maturity Date of the applicable Facility under which such Loan was made.

“Interest Period” shall mean, as to each Eurodollar Loan, the period commencing on the date such Eurodollar Loan is disbursed or converted to or continued as a Eurodollar Loan and ending on the date one, three or six months thereafter, as selected by the Borrower in its Borrowing Request or Interest Election Request, or such other period that is requested by the Borrower and consented to by the Administrative Agent and all applicable Lenders; provided that:

(i) any Interest Period that would otherwise end on a day that is not a Business Day shall be extended to the next succeeding Business Day unless, in the case of a Eurodollar Loan, such Business Day falls in another calendar month, in which case such Interest Period shall end on the next preceding Business Day;

(ii) any Interest Period pertaining to a Eurodollar Loan that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall end on the last Business Day of the calendar month at the end of such Interest Period; and

(iii) no Interest Period for any Loan shall extend beyond the Maturity Date of the Facility under which such Loan was made.

“Interest Rate Determination Date” shall have the meaning assigned to such term in the definition of the term “Eurodollar Rate”.

“Investment” shall have the meaning assigned to such term in Section 6.04.

“IRS” shall mean the U.S. Internal Revenue Service.

“ISDA CDS Definitions” shall have the meaning assigned to such term in Section 9.26.

“ISDA Definitions” shall have the meaning assigned to such term in Section 2.14.

“ISP” shall mean, with respect to any Letter of Credit, the “International Standby Practices 1998” published by the International Chamber of Commerce, publication number 590 (or such later version thereof as may be in effect at the time of issuance).

“Issuer Documents” shall mean with respect to any Letter of Credit, the Letter of Credit Request, and any other document, agreement and instrument entered into by the Issuing Bank and the Borrower (or any Subsidiary) or in favor of the Issuing Bank and relating to such Letter of Credit.

“Issuing Bank” shall mean (i) each person listed as having a Letter of Credit Commitment on Schedule 2.01 and (ii) each other Issuing Bank designated pursuant to Section 2.05(k), in each case in its capacity as an issuer of Letters of Credit hereunder, and its successors in such capacity. An Issuing Bank may, in its discretion, arrange for one or more

Letters of Credit to be issued by Affiliates of such Issuing Bank, in which case the term “Issuing Bank” shall include any such Affiliate with respect to Letters of Credit issued by such Affiliate.

“Issuing Bank Fees” shall have the meaning assigned to such term in Section 2.12(b).

“Junior Liens” shall mean Liens on the Collateral that are junior to the Liens thereon securing the Loan Obligations.

“Latest Maturity Date” shall mean, at any date of determination, the latest Maturity Date then in effect on such date of determination.

“L/C Advance” shall mean, with respect to each Revolving Facility Lender, such Lender’s funding of its participation in any L/C Borrowing in accordance with its Revolving Facility Percentage.

“L/C Borrowing” shall mean an extension of credit resulting from a drawing under any Letter of Credit which has not been reimbursed on the date when made or refinanced as a Revolving Facility Borrowing.

“L/C Credit Extension” shall mean, with respect to any Letter of Credit, the issuance thereof or extension of the expiry date thereof, or the increase of the amount thereof.

“L/C Obligations” shall mean, as at any date of determination, the aggregate amount available to be drawn under all outstanding Letters of Credit plus the aggregate of all Unreimbursed Amounts, including all L/C Borrowings. For purposes of computing the amount available to be drawn under any Letter of Credit, the amount of such Letter of Credit shall be determined in accordance with Section 1.07 (and, in the case of any Letter of Credit denominated in a Permitted Foreign Currency, based on the Dollar Equivalent thereof at such time).

“L/C Participation Fee” shall have the meaning assigned to such term in Section 2.12(b).

“LCA Election” shall have the meaning assigned to such term in Section 1.10.

“LCA Test Date” shall have the meaning assigned to such term in Section 1.10.

“Lender” shall mean each financial institution listed on Schedule 2.01 (other than any such person that has ceased to be a party hereto pursuant to an Assignment and Acceptance in accordance with Section 9.04), as well as any person that becomes a “Lender” hereunder pursuant to Section 9.04, Section 2.21, Section 2.22 or Section 2.23. Unless the context clearly indicates otherwise, the term “Lenders” shall include any Swingline Lender.

“Lending Office” shall mean, as to any Lender, the applicable branch, office or Affiliate of such Lender designated by such Lender to make Loans.

“Letter of Credit” shall mean any letter of credit issued hereunder, providing for the payment of cash upon the honoring of a presentation thereunder and shall include the Existing Letters of Credit.

“Letter of Credit Commitment” shall mean, as to any Issuing Bank, the amount set forth on Schedule 2.01 opposite such Issuing Bank’s name or, in the case of an Issuing Bank that becomes an Issuing Bank after the Closing Date, the amount notified in writing to the Administrative Agent by the Borrower and such Issuing Bank; provided that the Letter of Credit Commitment of any Issuing Bank may be increased or decreased if agreed in writing between the Borrower and such Issuing Bank (each acting in its sole discretion) and notified in writing to the Administrative Agent by such persons.

“Letter of Credit Facility Expiration Date” shall mean, with respect to any Revolving Facility, the fifth Business Day prior to the Revolving Facility Maturity Date for such Revolving Facility.

“Letter of Credit Request” shall mean a request by the Borrower substantially in the form of Exhibit D-3 or such other form (including any form on an electronic platform or electronic transmission system as shall be approved by the applicable Issuing Bank) as shall be approved by the applicable Issuing Bank.

“Letter of Credit Sublimit” shall mean \$15,000,000, as such amount may be reduced pursuant to Section 2.08. The Letter of Credit Sublimit is part of, and not in addition to, the Revolving Facility.

“Lien” shall mean any mortgage, pledge, hypothecation, assignment, encumbrance, lien (statutory or other), charge or other security interest of any kind or nature whatsoever (including any conditional sale or other title retention agreement, any easement, right of way or other encumbrance on title to real property, and any capital lease that would constitute a Capitalized Lease Obligation having substantially the same economic effect as any of the foregoing), in each case, in the nature of security; provided that in no event shall an operating lease be deemed to constitute a Lien.

“Limited Condition Transaction” shall mean (i) any Permitted Business Acquisition or other Investment, including by means of a merger, amalgamation or consolidation, by the Borrower or one or more of its Subsidiaries, the consummation of which is not conditioned upon the availability of, or on obtaining, third party financing or in connection with which any fee or expense would be payable by the Borrower or its Subsidiaries to the seller or target in the event financing to consummate the acquisition is not obtained as contemplated by the definitive acquisition agreement, (ii) any Restricted Payment subject to an irrevocable declaration by the Board of Directors of the Borrower or any Subsidiary that is payable within 60 days of the date of declaration, the consummation of which is not conditioned upon the availability of, or on obtaining, third party financing and/or (iii) any repayment or redemption of Indebtedness of the Borrower or any of its Subsidiaries, the consummation of which is not conditioned upon the availability of, or on obtaining, third party financing.

“Loan Documents” shall mean (i) this Agreement, (ii) the Guarantee Agreement, (iii) the Security Documents, (iv) each Incremental Assumption Agreement, (v) each Extension Amendment, (vi) each Refinancing Amendment, (vii) any Intercreditor Agreement and (viii) any Note issued under Section 2.09(e).

“Loan Obligations” shall mean (a) the due and punctual payment by the Borrower of (i) the unpaid principal of and interest, fees and expenses (including interest, fees and expenses accruing during the pendency of any bankruptcy, insolvency, receivership or other similar case or proceeding, regardless of whether allowed or allowable in such case or proceeding) on the Loans made to the Borrower under this Agreement, when and as due, whether at maturity, by acceleration, upon one or more dates set for prepayment or otherwise, (ii) each payment required to be made by the Borrower under this Agreement in respect of any Letter of Credit, when and as due, including payments in respect of reimbursement of disbursements, interest, fees and expenses thereon (including interest, fees and expenses accruing during the pendency of any bankruptcy, insolvency, receivership or other similar case or proceeding, regardless of whether allowed or allowable in such case or proceeding) and obligations to provide Cash Collateral and (iii) all other monetary obligations of the Borrower owed under or pursuant to this Agreement and each other Loan Document, including obligations to pay fees, expense reimbursement obligations and indemnification obligations, whether primary, secondary, direct, contingent, fixed or otherwise (including monetary obligations incurred during the pendency of any bankruptcy, insolvency, receivership or other similar case or proceeding, regardless of whether allowed or allowable in such case or proceeding), and (b) the due and punctual payment of all monetary obligations of each other Loan Party under or pursuant to each of the Loan Documents (including monetary obligations incurred during the pendency of any bankruptcy, insolvency, receivership or other similar case or proceeding, regardless of whether allowed or allowable in such case or proceeding).

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

“Loans” shall mean the Term Loans, the Revolving Facility Loans and the Swingline Loans.

“Local Time” shall mean New York City time (daylight or standard, as applicable).

“Majority Lenders” of any Facility shall mean, at any time, Lenders under such Facility having Term Loans and Revolving Facility Commitments (or, if the Revolving Facility Commitments have terminated, Revolving Facility Credit Exposure) representing more than 50% of the sum of all Term Loans and Revolving Facility Commitments (or, if the Revolving Facility Commitments have terminated, Revolving Facility Credit Exposure) under such Facility at such time (subject to the last paragraph of Section 9.08(b)).

“Margin Stock” shall have the meaning assigned to such term in Regulation U.

“Material Adverse Effect” shall mean (i) on the Closing Date, a “Material Adverse Effect” (as defined in the Acquisition Agreement) and (ii) at any time thereafter, a material adverse effect on (a) the business, financial condition or results of operations of the Borrower and its Subsidiaries, taken as a whole, (b) the ability of the Borrower and the Guarantors, taken as a whole, to perform their payment obligations under the Facilities or (c) the material rights and material remedies of the Administrative Agent and the Lenders (taken as a whole) under the applicable Loan Documents.

“Material Indebtedness” shall mean Indebtedness (other than Indebtedness under this Agreement) of any one or more of the Borrower or any Significant Subsidiary in an aggregate principal amount exceeding the greater of (x) \$15,000,000 and (y) 12.5% of EBITDA for the most recently ended Test Period.

“Maturity Date” shall mean (i) with respect to any Revolving Facility, the Revolving Facility Maturity Date thereof, and (ii) with respect to any Term Facility, the Term Facility Maturity Date thereof.

“Maximum Rate” shall have the meaning assigned to such term in Section 9.09.

“MFN Provision” shall have the meaning assigned to such term in Section 2.21(b)(v).

“Minimum L/C Collateral Amount” shall mean, at any time, in connection with any Letter of Credit, (i) with respect to Cash Collateral consisting of cash or deposit account balances, an amount equal to 102% of the Revolving L/C Exposure with respect to such Letter of Credit at such time and (ii) otherwise, an amount sufficient to provide credit support with respect to such Revolving L/C Exposure as determined by the Administrative Agent and the applicable Issuing Bank in their sole discretion.

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

“Mortgage” shall mean any mortgage, deed of trust, deed to secure debt or other agreement which conveys or evidences a Lien in favor of the Collateral Agent, for its benefit and the benefit of the Secured Parties, on any Mortgaged Property constituting Collateral.

“Mortgage Policy” has the meaning assigned to such term in the definition of “Collateral and Guarantee Requirement”.

“Mortgaged Property” shall mean any owned real property that has a fair market value (as determined by the Borrower in good faith) in excess of \$1,000,000 (a) as of the Closing Date, with respect to any real property owned by any Loan Party as of the Closing Date or (b) as of the date of acquisition thereof, with respect to any real property acquired by any Loan Party after the Closing Date; provided, that notwithstanding anything to the contrary herein or in any Security Document or other Loan Document, in no case shall the Mortgaged Property include any Excluded Property.

“Multiemployer Plan” shall mean a multiemployer plan as defined in Section 4001(a)(3) of ERISA to which the Borrower or any Subsidiary or any ERISA Affiliate is making or accruing an obligation to make contributions, or has within any of the preceding six plan years made or accrued an obligation to make contributions.

“Net Proceeds” shall mean:

(a) 100% of the cash proceeds actually received by the Borrower or any Subsidiary (including any cash payments received by way of deferred payment of principal pursuant to a note or installment receivable or purchase price adjustment receivable or otherwise, but only as

and when received) from any Asset Sale under Sections 6.05(d), 6.05(g), 6.05(m) or 6.05(n) or from any Recovery Event, net of (i) attorneys' fees, accountants' fees, investment banking fees, survey costs, title insurance premiums, and related search and recording charges, transfer Taxes, deed or mortgage recording Taxes, other customary expenses and brokerage, consultant and other customary fees actually incurred in connection therewith, (ii) required payments of Indebtedness and required payments of other obligations relating to the applicable asset (other than pursuant to the Loan Documents), (iii) repayments of Other First Lien Debt (limited to its proportionate share of such prepayment, based on the principal amount of such then outstanding debt as a percentage of the aggregate principal amount of all then outstanding Term Loans and Other First Lien Debt), (iv) Taxes paid or payable (in the good faith determination of the Borrower) as a direct result thereof, (v) the amount of any reasonable reserve established in accordance with GAAP against any adjustment to the sale price or any liabilities (other than any Taxes deducted pursuant to clause (i) or (iv) above) (x) related to any of the applicable assets and (y) retained by the Borrower or any of the Subsidiaries including, without limitation, pension and other post-employment benefit liabilities and liabilities related to environmental matters or against any indemnification obligations (provided that (1) the amount of any reduction of such reserve (other than in connection with a payment in respect of any such liability), prior to the date occurring 18 months after the date of the respective Asset Sale, shall be deemed to be cash proceeds of such Asset Sale occurring on the date of such reduction and (2) the amount of any such reserve that is maintained as of the date occurring 18 months after the date of the applicable Asset Sale shall be deemed to be Net Proceeds from such Asset Sale as of such date) and (vi) in the case of any Asset Sale or Recovery Event by any Subsidiary that is not a Guarantor, amounts applied to repay Indebtedness (other than Indebtedness (x) owed to the Borrower or any Subsidiary or (y) under any revolving credit facility except to the extent there is a corresponding reduction in the commitments thereunder); provided, that, if the Borrower shall deliver a certificate of a Responsible Officer of the Borrower to the Administrative Agent promptly following receipt of any such proceeds setting forth the Borrower's intention to use any portion of such proceeds, within 12 months of such receipt, to acquire, maintain, develop, construct, improve, upgrade or repair assets useful in the business of the Borrower and/or the Subsidiaries or to make Permitted Business Acquisitions and other Investments permitted hereunder (excluding Investments in Cash Equivalents or intercompany Investments in Subsidiaries) or to reimburse the cost of any of the foregoing incurred on or after the date on which the Asset Sale or Recovery Event, as applicable, then such proceeds shall not constitute Net Proceeds except to the extent not, within 365 days of such receipt, so used or contractually committed to be so used (it being understood that if any portion of such proceeds are not so used within such 365 day period but within such 365 day period are contractually committed to be used, then such proceeds if not so used within 180 days following the end of such 365 day period shall constitute Net Proceeds as of such date without giving effect to this proviso); provided, further, that no net cash proceeds calculated in accordance with the foregoing shall constitute Net Proceeds unless such net cash proceeds realized in a single transaction or series of related transactions shall exceed \$5,000,000 (and thereafter only net cash proceeds in excess of such amount shall constitute Net Proceeds);

(b) [Reserved]; and

(c) 100% of the cash proceeds from the incurrence, issuance or sale by the Borrower or any Subsidiary of any Indebtedness (other than Excluded Indebtedness, except for Refinancing Notes and Refinancing Term Loans), net of all fees (including investment banking fees), commissions, costs and other expenses, in each case incurred in connection with such issuance or sale.

“Net Short Lender” shall have the meaning assigned to such term in Section 9.26.

“Net Short Representation” shall mean, with respect to any Lender (other than an Unrestricted Lender) at any time, a representation and warranty (including any deemed representation and warranty, as the case may be) from such Lender to the Borrower that is not a Net Short Lender.

“New Class Loans” shall have the meaning assigned to such term in Section 9.08(f).

“Next Available Term SOFR” shall have the meaning assigned to such term in Section 2.14.

“Non-Consenting Lender” shall have the meaning assigned to such term in Section 2.19(c).

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

“Non-Extension Notice Date” shall have the meaning given that term in Section 2.05(b)(iii).

“Non-Recourse Indebtedness” means Indebtedness that is non-recourse to the Borrower or any of its Subsidiaries.

“Note” shall have the meaning assigned to such term in Section 2.09(e).

“Obligations” shall mean, collectively, (a) the Loan Obligations, (b) obligations in respect of any Secured Cash Management Agreement and (c) obligations in respect of any Secured Hedge Agreement (including, in each case, monetary obligations incurred during the pendency of any bankruptcy, insolvency, receivership or other similar case or proceeding, regardless of whether allowed or allowable in such case or proceeding).

“Other First Lien Debt” shall mean any obligations secured by Other First Liens (including any Incremental Equivalent Debt or Refinancing Notes secured by Other First Liens).

“Other First Liens” shall mean Liens on the Collateral that are equal and ratable with the Liens thereon securing the Loan Obligations (without regard to control of remedies).

“Other Incremental Term Loans” shall have the meaning assigned to such term in Section 2.21(a).

“Other Revolving Facility Commitments” shall mean, collectively, (a) Extended Revolving Facility Commitments and (b) Replacement Revolving Facility Commitments.

“Other Revolving Loans” shall mean, collectively (a) Extended Revolving Loans and (b) Replacement Revolving Loans.

“Other Taxes” shall mean any and all present or future stamp, court or documentary, intangible, recording, filing, or similar Taxes arising from any payment made hereunder or under any other Loan Document or from the execution, registration, delivery or enforcement of, consummation or administration of, from the receipt or perfection of security interest under, or otherwise with respect to, the Loan Documents, except any such Taxes imposed as a result of any other present or former connection with such jurisdiction (other than any such connection arising solely from any Loan Document or any transactions pursuant to any Loan Document) imposed with respect to an assignment (other than with respect to an assignment pursuant to a request by the Borrower under Section 2.19(b) or 2.19(c)).

“Other Term Facilities” shall mean the Other Term Loan Commitments and the Other Term Loans made thereunder.

“Other Term Loan Commitments” shall mean, collectively, (a) Incremental Term Loan Commitments with respect to Other Term Loans and (b) commitments to make Refinancing Term Loans.

“Other Term Loan Installment Date” shall have, with respect to any Class of Other Term Loans established pursuant to an Incremental Assumption Agreement, an Extension Amendment or a Refinancing Amendment, the meaning assigned to such term in Section 2.10(a)(ii).

“Other Term Loans” shall mean, collectively, (a) Other Incremental Term Loans, (b) Extended Term Loans and (c) Refinancing Term Loans.

“Participant” shall have the meaning assigned to such term in Section 9.04(c)(i).

“Participant Register” shall have the meaning assigned to such term in Section 9.04(c)(ii).

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

“Perfection Certificate” shall mean the Perfection Certificate with respect to the Borrower and the other Loan Parties in the form attached hereto as Exhibit I, or such other form as is reasonably satisfactory to the Administrative Agent, as the same may be supplemented from time to time to the extent required by Section 5.04(e).

“Permitted Business Acquisition” shall mean any acquisition of all or substantially all the assets or business of, or all or a majority of the Equity Interests (other than directors’ qualifying shares) not previously held by the Borrower or its Subsidiaries in, or merger, consolidation or amalgamation with, a person or business unit or division or line of business of a person (or any subsequent investment made in a person or business unit or division or line of business

previously acquired in a Permitted Business Acquisition), so long as (i) subject to Section 1.10 for a Limited Condition Transaction, no Event of Default shall have occurred and be continuing immediately after giving effect thereto or would result therefrom; (ii) all transactions related thereto shall be consummated in accordance with applicable material laws; (iii) any acquired or newly formed Subsidiary shall not be liable for any Indebtedness except for Indebtedness permitted by Section 6.01; and (iv) any acquired Equity Interests or any Equity Interests in any entity newly formed in connection with such transactions shall be Equity Interests of a Subsidiary (except as permitted by a provision of Section 6.04 (other than Section 6.04(k))).

“Permitted Convertible Indebtedness Call Transaction” shall mean any purchase by the Borrower of a call or capped call option (or substantively equivalent derivative transaction) on the Borrower’s common Equity Interests in connection with the issuance of any convertible Indebtedness otherwise permitted hereunder, or any refinancing, refunding, extension or renewal thereof as permitted by Section 6.01, and any sale by the Borrower of a call option or warrant (or substantively equivalent derivative transaction) on the Borrower’s common Equity Interests; provided that the purchase price for the Permitted Convertible Indebtedness Call Transaction does not exceed the net proceeds from the issuance of such convertible notes issued in connection with the Permitted Convertible Indebtedness Call Transaction or any such refinancing, refunding, extension or renewal thereof as permitted by Section 6.01, as applicable.

“Permitted First Lien Intercreditor Agreement” shall mean, with respect to any Liens on Collateral that are intended to be *pari passu* with any Lien securing the Loan Obligations, one or more intercreditor agreements in form and substance reasonably satisfactory to the Administrative Agent and the Borrower.

“Permitted Foreign Currency” means, with respect to any Letter of Credit, any foreign currency that is reasonably requested by the Borrower from time to time and that has been agreed to by the applicable Issuing Bank.

“Permitted Investments” shall mean Investments in any Cash Equivalents.

“Permitted Junior Intercreditor Agreement” shall mean, with respect to any Liens on Collateral that are intended to be junior to any Liens securing the Loan Obligations, one or more intercreditor agreements, each of which shall be in form and substance reasonably satisfactory to the Administrative Agent and the Borrower.

“Permitted Liens” shall have the meaning assigned to such term in Section 6.02.

“Permitted Receivables Financing” shall mean, collectively, any receivables, securitizations or other receivables financing (including any factoring program) in an aggregate outstanding amount not to exceed (solely when incurred or created) \$10,000,000 (provided that with respect to Permitted Receivables Financings incurred in the form of a factoring program, the outstanding amount of such Permitted Receivables Financing for the purposes of this definition shall be deemed to be equal to the Permitted Receivables Net Investment for the most recently ended Test Period) so long as such financings are non-recourse to the Borrower and any of the Subsidiaries (except for (a) recourse to any Foreign Subsidiaries in a manner customary in the

relevant local market, (b) any customary limited recourse obligations, (c) any performance undertaking or guarantee that is no more extensive in any material respect than customary performance undertakings or (d) an unsecured parent guarantee, and, in each case, reasonable extensions thereof).

“Permitted Receivables Net Investment” shall mean the aggregate cash amount paid by the purchasers under any Permitted Receivables Financing in the form of a factoring program in connection with their purchase of accounts receivable and customary related assets or interests therein, as the same may be reduced from time to time by collections with respect to such accounts receivable and related assets or otherwise in accordance with the terms of such Permitted Receivables Financing (but excluding any such collections used to make payments of commissions, discounts, yield and other fees and charges incurred in connection with any Permitted Receivables Financing in the form of a factoring program which are payable to any Person other than the Borrower or any of the Subsidiaries).

“Permitted Refinancing Indebtedness” shall mean any Indebtedness issued in exchange for, or the net proceeds of which are used to extend, refinance, renew, replace, defease or refund (collectively, to “Refinance”), any Indebtedness (including successive refinancings thereof); provided, that (a) the principal amount (or accreted value, if applicable) of such Permitted Refinancing Indebtedness does not exceed the principal amount (or accreted value, if applicable) and an amount equal to any existing revolving commitments unutilized thereof of the Indebtedness so Refinanced (plus unpaid accrued interest and premium (including tender premiums) thereon and underwriting discounts, defeasance costs, fees, commissions and expenses), (b) (i) the final maturity date of such Permitted Refinancing Indebtedness is on or after the final maturity date of the Indebtedness being Refinanced and (ii) the Weighted Average Life to Maturity of such Permitted Refinancing Indebtedness is greater than or equal to the Weighted Average Life to Maturity of the Indebtedness being Refinanced (provided that such Indebtedness may be incurred in the form of a customary “bridge” or other interim credit facility intended to be refinanced or replaced with long-term indebtedness so long as, subject only to customary conditions the failure of which to be satisfied would otherwise result in an Event of Default, it would either be automatically converted into or required to be exchanged for permanent financing which satisfies the requirements of this clause (b)), (c) if the Indebtedness being Refinanced is by its terms subordinated in right of payment to any Obligations, such Permitted Refinancing Indebtedness shall be subordinated in right of payment to such Obligations on terms in the aggregate not materially less favorable to the Lenders as those contained in the documentation governing the Indebtedness being Refinanced (as determined by the Borrower in good faith), (d) no Permitted Refinancing Indebtedness shall have obligors that are not obligors with respect to the Indebtedness being so Refinanced; provided that, if any of the Guarantees of the Indebtedness being Refinanced were subordinated to the Obligations, the Guarantees of the Permitted Refinancing Indebtedness shall be subordinated to the Obligations on no less favorable terms, (e) if the Indebtedness being Refinanced is secured (and permitted to be secured), such Permitted Refinancing Indebtedness may be secured by Liens on the same (or any subset of the) assets as secured (or would have been required to secure) the Indebtedness being Refinanced, on terms in the aggregate that are no less favorable to the Secured Parties than the Indebtedness being refinanced or on terms otherwise permitted by Section 6.02 (as

determined by the Borrower in good faith), (f) if the Indebtedness being Refinanced was subject to a Permitted First Lien Intercreditor Agreement or a Permitted Junior Intercreditor Agreement, and if the respective Permitted Refinancing Indebtedness is to be secured by the Collateral, the Permitted Refinancing Indebtedness shall likewise be subject to a Permitted First Lien Intercreditor Agreement or a Permitted Junior Intercreditor Agreement, as applicable and (g) if the Indebtedness being Refinanced is the Borrower's 0.25% convertible senior notes due 2026 (or any Permitted Refinancing Indebtedness incurred to Refinance any such Indebtedness), such Permitted Refinancing Indebtedness must also be in the form of unsecured debt securities (and, in the case of any such Permitted Refinancing Indebtedness that is not convertible into the Borrower's Equity Interests, the final maturity date of such Permitted Refinancing Indebtedness must be on or after the date that is 91 days after the latest Term Loan Maturity Date) unless the Indebtedness incurred to Refinance such Indebtedness is otherwise Excluded Indebtedness.

"Permitted Reorganization" shall mean any transaction or undertaking, including Investments, in connection with internal reorganizations and or restructurings (including in connection with tax planning and corporate reorganizations), so long as, after giving effect thereto (w) the Loan Parties shall comply with the Collateral and Guarantee Requirement as required by Section 5.10, (x) the security interest of the Lenders in the Collateral, taken as a whole, is not materially impaired, (y) any pledges of Equity Interests that are part of the Collateral are maintained or replaced with equivalent pledges and (z) such transaction is not otherwise materially adverse to Lenders.

"Permitted Sale Lease-Back Transaction" shall mean (i) any sale and lease-back transaction entered into prior to the Closing Date and (ii) any sale and lease-back transactions by the Borrower and/or any of its Subsidiaries with aggregate net proceeds for all such transactions made pursuant to this clause (ii) not to exceed (calculated at the time of such transaction) \$10,000,000.

"Person" or "person" shall mean any natural person, corporation, business trust, joint venture, association, company, partnership, limited liability company or government, individual or family trusts, or any agency or political subdivision thereof.

"Plan" shall mean any employee pension benefit plan (other than a Multiemployer Plan) that is (i) subject to the provisions of Title IV of ERISA or Section 412 of the Code or Section 302 of ERISA, (ii) sponsored or maintained (at the time of determination or at any time within the five years prior thereto) by the Borrower, any Subsidiary or any ERISA Affiliate and (iii) in respect of which the Borrower, any Subsidiary or any ERISA Affiliate is (or, if such plan were terminated, would under Section 4069 of ERISA be deemed to be) an "employer" as defined in Section 3(5) of ERISA.

"Platform" shall have the meaning assigned to such term in Section 5.04.

"Pledged Collateral" shall have the meaning assigned to such term in the Collateral Agreement.

“Pounds” and “£” shall mean the lawful currency of the United Kingdom of Great Britain and Northern Ireland.

“primary obligor” shall have the meaning assigned to such term in the definition of the term “Guarantee.”

“Pro Forma Basis” shall mean, as to any person, for any events as described below that occur subsequent to the commencement of a period for which the financial effect of such events is being calculated, and giving effect to the events for which such calculation is being made, such calculation as will give pro forma effect to such events as if such events occurred on the first day of the most recent Test Period ended on or before the occurrence of such event (the “Reference Period”): (i) any Asset Sale and any asset acquisition, Investment (or series of related Investments) in excess of the greater of \$5,000,000 and an amount equal to 5.0% of EBITDA (provided, that the Borrower may elect to give effect to any Asset Sale, acquisition, Investment (or series of related Investments) below such threshold), merger, amalgamation, consolidation (including the Transactions) (or any similar transaction or transactions), any dividend, distribution or other similar payment, (ii) any operational changes or restructurings of the business of the Borrower or any of its Subsidiaries that the Borrower or any of its Subsidiaries has determined to make and/or made during or subsequent to the Reference Period in connection with the Transactions, Permitted Business Acquisitions and similar acquisitions and which are expected to have a continuing impact and are factually supportable, which would include cost savings resulting from head count reduction, closure of facilities and other operational changes and other cost savings in connection therewith, (iii) the designation of any Subsidiary as an Unrestricted Subsidiary or of any Unrestricted Subsidiary as a Subsidiary and (iv) any incurrence, repayment, repurchase or redemption of Indebtedness (or any issuance, repurchase or redemption of Disqualified Equity Interests or preferred stock), other than fluctuations in revolving borrowings in the ordinary course of business (and not resulting from a transaction as described in clause (i) above).

Pro forma calculations made pursuant to the definition of this term “Pro Forma Basis” shall be determined in good faith by a Responsible Officer of the Borrower. Any such pro forma calculation may include adjustments appropriate, in the reasonable good faith determination of the Borrower and set forth in a certificate of a Responsible Officer, to reflect operating expense reductions, other operating improvements, synergies or such operational changes or restructurings described in clause (ii) of the immediately preceding paragraph reasonably expected to result from the applicable pro forma event in the twenty four (24) month period following the consummation of the pro forma event, which may be reasonably allocated to the Borrower or any of its Subsidiaries in the reasonable good faith determination of the Borrower. The Borrower shall deliver to the Administrative Agent a certificate of a Responsible Officer of the Borrower setting forth such demonstrable or additional operating expense reductions and other operating improvements or synergies and information and calculations supporting them in reasonable detail.

If any Indebtedness bears a floating rate of interest and is being given pro forma effect, the interest on such Indebtedness shall be calculated as if the rate in effect on the date on which

the relevant calculation is being made had been the applicable rate for the entire period (taking into account any hedging obligations applicable to such Indebtedness if such hedging obligation has a remaining term in excess of 12 months). Interest on a Capitalized Lease Obligation shall be deemed to accrue at an interest rate reasonably determined by a responsible financial or accounting officer of the Borrower to be the rate of interest implicit in such Capitalized Lease Obligation in accordance with GAAP. For purposes of making the computation referred to above, interest on any Indebtedness under a revolving credit facility computed on a *pro forma* basis shall be computed based upon the average daily balance of such Indebtedness during the applicable period, except to the extent the outstandings thereunder are reasonably expected to increase as a result of any transactions described in clause (i) of the first paragraph of this definition of “Pro Forma Basis” which occurred during the respective period or thereafter and on or prior to the date of determination. Interest on Indebtedness that may optionally be determined at an interest rate based upon a factor of a prime or similar rate, a eurocurrency interbank offered rate, or other rate, shall be deemed to have been based upon the rate actually chosen, or, if none, then based upon such optional rate chosen as the Borrower may designate.

Pro Rata Extension Offers” shall have the meaning assigned to such term in Section 2.22(a).

Pro Rata Share” shall have the meaning assigned to such term in Section 9.08(f).

Projections” shall mean the projections of the Borrower and the Subsidiaries included in the Information Memorandum and any other projections and any forward-looking statements (including statements with respect to booked business) of such entities furnished to the Lenders or the Administrative Agent by or on behalf of the Borrower or any of the Subsidiaries prior to the Closing Date.

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

Public Lender” shall have the meaning assigned to such term in Section 5.04.

Purchase Offer” shall have the meaning assigned to such term in Section 2.25(a).

Qualified Equity Interests” shall mean any Equity Interest other than Disqualified Equity Interests.

Rate” shall have the meaning assigned to such term in the definition of the term “Type.”

Rate Election Notice” shall have the meaning assigned to such term in Section 2.14.

Ratio Incremental Amount” shall have the meaning assigned to such term in the definition of “Incremental Amount”.

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 in fee or leased by the Borrower or any Subsidiary, 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, incidental to the ownership, lease or operation thereof.

“Recovery Event” shall mean any event that gives rise to the receipt by the Borrower or any of its Subsidiaries of any insurance proceeds or condemnation awards in respect of any equipment, fixed assets or Real Property (including any improvements thereon).

“Reference Period” shall have the meaning assigned to such term in the definition of the term “Pro Forma Basis.”

“Reference Time” shall have the meaning assigned to such term in Section 2.14.

“Refinance” shall have the meaning assigned to such term in the definition of the term “Permitted Refinancing Indebtedness,” and “Refinanced” and “Refinancing” shall have meanings correlative thereto.

“Refinancing Amendment” shall have the meaning assigned to such term in Section 2.23(e).

“Refinancing Effective Date” shall have the meaning assigned to such term in Section 2.23(a).

“Refinancing Notes” shall mean any secured or unsecured or subordinated notes or loans issued by the Borrower or any Guarantor (whether under an indenture, a credit agreement or otherwise) and the Indebtedness represented thereby; provided, that (a) 100% of the Net Proceeds of such Refinancing Notes are used to permanently reduce Term Loans and/or replace Revolving Facility Commitments substantially simultaneously with the issuance thereof; (b) the principal amount (or accreted value, if applicable) of such Refinancing Notes does not exceed the principal amount (or accreted value, if applicable) of the aggregate portion of the Term Loans so reduced and/or Revolving Facility Commitments so replaced (plus unpaid accrued interest and premium (including tender premiums) thereon and underwriting discounts, defeasance costs, fees, commissions and expenses); (c) subject to clause (e) below, the final maturity date of such Refinancing Notes is on or after the Term Facility Maturity Date or the Revolving Facility Maturity Date, as applicable, of the Term Loans so reduced or the Revolving Facility Commitments so replaced; (d) subject to clause (e) below, the Weighted Average Life to Maturity of such Refinancing Notes is greater than or equal to the Weighted Average Life to Maturity of the Term Loans so repaid or the Revolving Facility Commitments so replaced; (e) if any such Refinancing Notes are not Other First Lien Debt, it does not (1) mature prior to the date that is 91 days after the Latest Maturity Date or have a Weighted Average Life to Maturity less than the Weighted Average Life to Maturity of the Initial Term Loans and Initial Revolving Loans (or any later maturing Facility then in effect) plus 91 days and (2) have mandatory prepayment, redemption or offer to purchase events more onerous to the Borrower (as reasonably determined in good faith by the Borrower) than those set forth in the Initial Term Loans and Initial Revolving Loans (other than (x) in the case of notes, customary offers to repurchase or mandatory prepayment provisions upon a change of control, asset sale or event of loss and

customary acceleration rights after an event of default and (y) in the case of loans, amortization to the extent permitted above and other than mandatory and voluntary prepayment provisions which are, when taken as a whole, consistent in all material respects with, or not materially less favorable to the Borrower and its Subsidiaries than, those applicable to the Term Loans and/or Revolving Facility Commitments, as the case may be being refinanced, with such Indebtedness to provide that any such mandatory prepayments as a result of asset sales, events of loss, or excess cash flow, shall be allocated on a pro rata basis or a less than pro rata basis (but not a greater than pro rata basis) with the Term Loans then outstanding pursuant to this Agreement); (f) there shall be no obligor with respect thereto that is not a Loan Party; (g) if the Indebtedness being refinanced was (A) contractually subordinated to any Facility in right of payment, such Refinancing Notes shall be contractually subordinated to such Facility on the same basis, (B) junior to any Facility in right of security, such Refinancing Notes shall be junior in right of security to such Facility on the same or more junior basis or be unsecured or (C) unsecured, such Refinancing Notes shall be unsecured; (h) if such Refinancing Notes are secured, such Refinancing Notes shall be secured by all or a portion of the Collateral, but shall not be secured by any assets of the Borrower or its subsidiaries other than the Collateral; (i) Refinancing Notes that are secured by Collateral shall be subject to the provisions of a Permitted First Lien Intercreditor Agreement or a Permitted Junior Intercreditor Agreement, as applicable; and (j) all other terms applicable to such Refinancing Notes (other than provisions relating to original issue discount, upfront fees, interest rates and any other pricing terms (which original issue discount, upfront fees, interest rates and other pricing terms shall not be subject to the provisions set forth in this clause (j)) taken as a whole shall (as determined by the Borrower in good faith) be substantially similar to, or not materially more favorable to the lenders providing such Refinancing Notes than, the terms, taken as a whole, applicable to the Term Loans so reduced or the Revolving Facility Commitments so replaced (except to the extent such covenants and other terms (x) apply solely to any period after the Latest Maturity Date, (y) are otherwise reasonably acceptable to the Administrative Agent or (z) reflect market terms and conditions (as determined by the Borrower in good faith) at the time of incurrence or issuance, as determined by the Borrower in good faith); provided that such Refinancing Notes may be incurred in the form of a customary “bridge” or other interim credit facility intended to be refinanced or replaced with long-term indebtedness so long as, subject only to customary conditions the failure of which to be satisfied would otherwise result in an Event of Default, it would either be automatically converted into or required to be exchanged for permanent financing which satisfies the requirements of the foregoing clauses (c), (d) and (e), as applicable.

“Refinancing Term Loans” shall have the meaning assigned to such term in Section 2.23(a).

“Refunding Capital Stock” shall have the meaning assigned to such term in Section 6.03(i)(q).

“Register” shall have the meaning assigned to such term in Section 9.04(b)(iv).

“Regulated Bank” shall mean an Approved Bank that is (i) a U.S. depository institution the deposits of which are insured by the Federal Deposit Insurance Corporation; (ii) a

corporation organized under section 25A of the U.S. Federal Reserve Act of 1913; (iii) a branch, agency or commercial lending company of a foreign bank operating pursuant to approval by and under the supervision of the Board under 12 CFR part 211; (iv) a non-U.S. branch of a foreign bank managed and controlled by a U.S. branch referred to in clause (iii); or (v) any other U.S. or non-U.S. depository institution or any branch, agency or similar office thereof supervised by a bank regulatory authority in any jurisdiction.

“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.

“Related Fund” shall mean, with respect to any Lender that is a fund that invests in bank or commercial loans and similar extensions of credit, any other fund that invests in bank or commercial loans and similar extensions of credit and is advised or managed by (a) such Lender, (b) an Affiliate of such Lender or (c) an entity (or an Affiliate of such entity) that administers, advises or manages such Lender.

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

“Release” shall mean any spilling, leaking, seepage, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, disposing, depositing, emanating or migrating in, into, onto or through the Environment.

“Relevant Governmental Body” shall have the meaning assigned to such term in Section 2.14.

“Replacement Revolving Facility” shall have the meaning assigned to such term in Section 2.23(c).

“Replacement Revolving Facility Commitments” shall have the meaning assigned to such term in Section 2.23(c).

“Replacement Revolving Facility Effective Date” shall have the meaning assigned to such term in Section 2.23(c).

“Replacement Revolving Loans” shall have the meaning assigned to such term in Section 2.23(c).

“Reportable Event” shall mean any reportable event as defined in Section 4043(c) of ERISA or the regulations issued thereunder, other than those events as to which the 30-day notice period referred to in Section 4043(c) of ERISA has been waived, with respect to a Plan.

“Repricing Event” shall mean (i) any prepayment or repayment of Initial Term Loans with the proceeds of, or conversion of all or any portion of the Initial Term Loans into, any new or replacement tranche of broadly syndicated first-lien secured term loan Indebtedness that is secured on the Collateral bearing interest at All-in Yield less than the All-in Yield applicable to the Initial Term Loans (as such comparative rates are determined by the Administrative Agent in consultation with the Borrower) and (ii) any amendment to this Agreement whose primary purpose is to directly or indirectly reduce the All-in Yield applicable to the Initial Term Loans (it being understood that any prepayment premium with respect to a Repricing Event shall apply to any required assignment by a Non-Consenting Lender in connection with any such amendment pursuant to Section 2.19(c)); provided, that in no event shall any such prepayment, repayment, refinancing, substitution, replacement, amendment, waiver or other modification in connection with a Change of Control or Transformative Acquisition constitute a Repricing Event. Any determination by the Administrative Agent in consultation with the Borrower of the All-in Yield for purposes of this definition shall be conclusive and binding on all Lenders holding the Initial Term Loans.

“Required Lenders” shall mean, at any time, Lenders having Term Loans and Revolving Facility Commitments (or, if the Revolving Facility Commitments have terminated, Revolving Facility Credit Exposure) that, taken together, represent more than 50% of the sum of (x) all Term Loans and (y) all Revolving Facility Commitments (or, if the Revolving Facility Commitments have terminated, Revolving Facility Credit Exposure) at such time; provided, that the Term Loans, Revolving Facility Commitments and Revolving Facility Credit Exposure of any Defaulting Lender shall be disregarded in determining Required Lenders at any time.

“Required Percentage” shall mean, with respect to any Excess Cash Flow Period, 50%; provided, that, if the First Lien Net Leverage Ratio as of the end of such Excess Cash Flow Period is (x) less than or equal to 1.40:1.00 but greater than 0.90:1.00, such percentage shall be 25% or (y) less than or equal to 0.90:1.00, such percentage shall be 0%

“Required Revolving Facility Lenders” shall mean, at any time with respect to any Revolving Facility, Revolving Facility Lenders having Revolving Facility Commitments under such Revolving Facility (or if the Revolving Facility Commitments under such Revolving Facility have terminated, Revolving Facility Credit Exposure under such Revolving Facility) that, taken together, represents more than 50% of the sum of all Revolving Facility Commitments under such Revolving Facility (or, if the Revolving Facility Commitments under such Revolving Facility have terminated, Revolving Facility Credit Exposure under such Revolving Facility at such time); provided, that the Revolving Facility Commitments and Revolving Facility Credit Exposure of any Defaulting Lender shall be disregarded in determining Required Revolving Facility Lenders at any time.

“Requirement of Law” shall mean, as to any person, any law, treaty, rule, regulation, statute, order, ordinance, decree, judgment, consent decree, writ, injunction, settlement

agreement or governmental requirement enacted, promulgated or imposed or entered into or agreed by any Governmental Authority, in each case applicable to or binding upon such person or any of its property or assets or to which such person or any of its property or assets is subject.

“Resolution Authority” shall mean an EEA Resolution Authority or, with respect to any UK Financial Institution, a UK Resolution Authority.

“Responsible Officer” of any person shall mean any manager, executive officer or Financial Officer of such person and any other officer or similar official thereof responsible for the administration of the obligations of such person in respect of this Agreement, or any other duly authorized employee or signatory of such person.

“Restricted Debt Payments” shall have the meaning assigned to such term in Section 6.03(ii).

“Restricted Payments” shall have the meaning assigned to such term in Section 6.03(i). The amount of any Restricted Payment made other than in the form of cash or cash equivalents shall be the Fair Market Value thereof.

“Reuters” means Thomson Reuters Corporation, a corporation incorporated under and governed by the Business Corporations Act (Ontario), Canada, or a successor thereto.

“Revaluation Date” means with respect to any Letter of Credit denominated in a Permitted Foreign Currency, each of the following: (i) the date on which such Letter of Credit is issued, (ii) the first Business Day of each calendar month, (iii) the date of any amendment of such Letter of Credit that has the effect of increasing the face amount thereof, (iv) on the Business Day immediately following each Honor Date in respect of such Letter of Credit and (v) such additional dates as the Administrative Agent or any applicable Issuing Bank shall reasonably determine.

“Revolving Facility” shall mean the Revolving Facility Commitments of any Class and the extensions of credit made hereunder by the Revolving Facility Lenders of such Class and, for purposes of Section 9.08(b), shall refer to all such Revolving Facility Commitments as a single Class.

“Revolving Facility Borrowing” shall mean a Borrowing comprised of Revolving Facility Loans of the same Class.

“Revolving Facility Commitment” shall mean, with respect to each Revolving Facility Lender, the commitment of such Revolving Facility Lender to make Revolving Facility Loans pursuant to Section 2.01(b), expressed as an amount representing the maximum aggregate permitted amount of such Revolving Facility Lender’s Revolving Facility Credit Exposure hereunder, as such commitment may be (a) reduced from time to time pursuant to Section 2.08, (b) reduced or increased from time to time pursuant to assignments by or to such Lender under Section 9.04, and (c) increased, extended or replaced as provided under Section 2.21, 2.22 or 2.23. The initial amount of each Lender’s Revolving Facility Commitment on the Closing Date is

set forth on Schedule 2.01, or in the Assignment and Acceptance, Incremental Assumption Agreement, Extension Amendment or Refinancing Amendment pursuant to which such Lender shall have assumed its Revolving Facility Commitment, as applicable. The aggregate amount of the Lenders' Revolving Facility Commitments on the Closing Date is \$52,500,000.

“Revolving Facility Credit Exposure” shall mean, at any time with respect to any Class of Revolving Facility Commitments, the sum of (a) the aggregate principal amount of the Revolving Facility Loans of such Class outstanding at such time, (b) the Swingline Exposure applicable to such Class at such time and (c) the Revolving L/C Exposure applicable to such Class at such time minus, for the purpose of the Financial Covenant only and only if all Revolving Facility Commitments shall have been terminated, the amount of Letters of Credit that have been Cash Collateralized in an amount equal to the Minimum L/C Collateral Amount at such time. The Revolving Facility Credit Exposure of any Revolving Facility Lender at any time shall be the product of (x) such Revolving Facility Lender's Revolving Facility Percentage of the applicable Class and (y) the aggregate Revolving Facility Credit Exposure of such Class of all Revolving Facility Lenders, collectively, at such time.

“Revolving Facility Lender” shall mean a Lender with a Revolving Facility Commitment or with outstanding Revolving Facility Loans.

“Revolving Facility Loan” shall mean a Loan made by a Revolving Facility Lender pursuant to Section 2.01(b). Unless the context otherwise requires, the term “Revolving Facility Loans” shall include the Other Revolving Loans.

“Revolving Facility Maturity Date” shall mean, as the context may require, (a) with respect to the Revolving Facility in effect on the Closing Date, December 14, 2025 and (b) with respect to any other Classes of Revolving Facility Commitments, the maturity dates specified therefor in the applicable Extension Amendment or Refinancing Amendment.

“Revolving Facility Percentage” shall mean, with respect to any Revolving Facility Lender of any Class, the percentage of the total Revolving Facility Commitments of such Class represented by such Lender's Revolving Facility Commitment of such Class. If the Revolving Facility Commitments of such Class have terminated or expired, the Revolving Facility Percentages of such Class shall be determined based upon the Revolving Facility Commitments of such Class most recently in effect, giving effect to any assignments pursuant to Section 9.04.

“Revolving L/C Exposure” of any Revolving Facility of any Class shall mean at any time the aggregate L/C Obligations under such Revolving Facility at such time. The Revolving L/C Exposure of any Revolving Facility Lender under any Revolving Facility at any time shall mean its applicable Revolving Facility Percentage of the aggregate Revolving L/C Exposure under such Revolving Facility at such time.

“S&P” shall mean Standard & Poor's Ratings Group, Inc.

“Sanctioned Country” shall mean, at any time, a country or territory which is itself the subject or target of any Sanctions (at the time of this Agreement, Crimea region of Ukraine, Cuba, Iran, North Korea and Syria).

“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 the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State, (b) Her Majesty’s Treasury, (c) the European Union or (d) the United Nations Security Council.

“Screened Affiliate” means any Affiliate of a Lender (i) that makes investment decisions independently from such Lender and any other Affiliate of such Lender that is not a Screened Affiliate (and such Lender and any other Affiliate of such Lender that is not a Screened Affiliate shall make investment decisions independently from such Screened Affiliates), (ii) that has in place customary information screens between it and such Lender and any other Affiliate of such Lender that is not a Screened Affiliate and such screens prohibit the sharing of information with respect to the Borrower or its Subsidiaries between or among (x) such Lender and any other Affiliates of such Lender that are not Screened Affiliates and (y) any Screened Affiliate, (iii) whose investment policies are not directed by such Lender or any other Affiliate of such Lender that is not a Screened Affiliate in connection with its investment in the Loans, (iv) who does not have the ability to influence the investment policies of such Lender or any other Affiliate of such Lender that is not a Screened Affiliate in connection with such Lender’s or any Affiliate of such Lender’s investment in the Loans and (v) whose investment decisions are not influenced by the investment decisions of such Lender or any other Affiliate of such Lender in connection with its investment in the Loans; provided, that such Lender shall have no knowledge of such Screened Affiliate’s holdings or investment positions and such Screened Affiliate shall have no knowledge of such Lender’s holdings or investment positions (other than, in each case, a limited number of senior employees who are required, in accordance with industry regulations or such Lender’s (or such Screened Affiliate’s) internal policies and procedures, to act in a supervisory capacity and such Lenders’ internal legal, compliance or risk management committee members). No Affiliate of a Lender shall be considered a Screened Affiliate unless and until the applicable Lender has provided the Borrower and the Administrative Agent with written certification or deemed certification of such Screened Affiliate’s compliance with the requirements of a Screened Affiliate under this definition.

“SEC” shall mean the Securities and Exchange Commission or any successor thereto.

“Secured Cash Management Agreement” shall mean any Cash Management Agreement that is entered into by and between the Borrower or any Subsidiary and any Cash Management Bank, including any such Cash Management Agreement that is in effect on the Closing Date, that is designated in writing by the Borrower and such Cash Management Bank to the Administrative Agent as a Secured Cash Management Agreement.

“Secured Hedge Agreement” shall mean any Hedging Agreement that is entered into by and between the Borrower or any Subsidiary and any Hedge Bank, including any such Hedging Agreement that is in effect on the Closing Date, that is designated in writing by the Borrower and

such Hedge Bank to the Administrative Agent as a Secured Hedge Agreement. Notwithstanding the foregoing, for all purposes of the Loan Documents, any Guarantee of, or grant of any Lien to secure, any obligations in respect of a Secured Hedge Agreement by a Guarantor shall not include any Excluded Swap Obligations with respect to such Guarantor.

“Secured Net Leverage Ratio” shall mean, as of any date of determination, the ratio of (i) Consolidated Total Debt that is secured by a Lien on any assets of the Borrower or any of its Subsidiaries to (ii) EBITDA of the Borrower and its Subsidiaries for the most recently ended Test Period on or prior to such date, all determined on a consolidated basis in accordance with GAAP; provided, that the Secured Net Leverage Ratio shall be determined on a Pro Forma Basis.

“Secured Parties” shall mean, collectively, the Administrative Agent, the Collateral Agent, each Lender, each Swingline Lender, each Issuing Bank, each Hedge Bank that is party to any Secured Hedge Agreement, each Cash Management Bank that is party to any Secured Cash Management Agreement and each Subagent appointed pursuant to Section 8.02 by the Administrative Agent with respect to matters relating to the Loan Documents or by the Collateral Agent with respect to matters relating to any Security Document.

“Securities Act” shall mean the Securities Act of 1933, as amended.

“Security Documents” shall mean the Collateral Agreement, each Notice of Grant of Security Interest in Intellectual Property (as defined in the Collateral Agreement), the Mortgages, the Control Agreements and each other security agreement, pledge agreement or other instruments or documents executed and delivered pursuant to the foregoing or entered into or delivered after the Closing Date to the extent required by this Agreement or any other Loan Document, including pursuant to Section 5.10.

“Senior Administration Fee” shall have the meaning assigned to such term in Section 2.12(c).

“Significant Subsidiary” shall mean each Subsidiary as to which a specified circumstance exists relating to a “Significant Subsidiary” that (when taken together with any other Subsidiaries as to which such circumstance then exists) (a) for the four fiscal quarter period of the Borrowing ending as of the last day of the fiscal quarter of the Borrower most recently ended for which financial statements (or pro forma financial statements, as applicable) have been (or were required to be) delivered pursuant to Section 4.01(i), 5.04(a) or 5.04(b), accounted for at least 5% of the combined EBITDA of the Borrower, consolidated with its Subsidiaries, for the last four fiscal quarters then ended or (b) as of the last day of the fiscal quarter of the Borrower most recently ended for which financial statements (or pro forma financial statements, as applicable) have been (or were required to be) delivered pursuant to Section 4.01(i), 5.04(a) or 5.04(b), has assets which represent at least 5% of Consolidated Total Assets.

“Similar Business” shall mean (i) any business the majority of whose revenues are derived from business or activities conducted by the Borrower and its Subsidiaries on the Closing Date and (ii) any business that is a reasonable extension, development or expansion of

any such business or any business similar, reasonably related, incidental, corollary, complementary, ancillary, synergistic or incidental to any of the foregoing.

“SOFR” shall have the meaning assigned to such term in Section 2.14.

“Soft Call Date” shall have the meaning assigned to such term in Section 2.12(d).

“Specified Representations” shall mean those representations and warranties of the Borrowers and the Guarantors set forth in Sections 3.01(a) (solely with respect to the Loan Parties), 3.01(d), 3.02(a), 3.02(b)(i)(B) (solely as it relates to the execution and delivery by the Borrower and each of the Guarantors of each of the Loan Documents to which it is a party, the borrowings and other extensions of credit hereunder on the date on which such representations and warranties are being made and the granting of the Liens in the Collateral pursuant to (and solely to the extent required under) the Loan Documents), 3.03, 3.10, 3.11, 3.17 (subject to the limitations set forth in the last paragraph of the definition of “Collateral and Guarantee Requirement”), 3.18, 3.23(c) and 3.24.

“Statutory Reserve Rate” shall mean a fraction (expressed as a decimal), the numerator of which is the number one and the denominator of which is the number one *minus* the aggregate of the maximum reserve percentages (including any marginal, special, emergency or supplemental reserves) expressed as a decimal established by the Board to which the Administrative Agent is subject with respect to the Eurodollar Rate, for Eurodollar funding (currently referred to as “Eurocurrency Liabilities” in Regulation D). Such reserve percentages shall include those imposed pursuant to such Regulation D. Eurodollar Loans shall be deemed to constitute eurocurrency funding and to be subject to such reserve requirements without benefit of or credit for proration, exemptions or offsets that may be available from time to time to any Lender under such Regulation D or any comparable regulation. The Statutory Reserve Rate shall be adjusted automatically on and as of the effective date of any change in any reserve percentage.

“Subagent” shall have the meaning assigned to such term in Section 8.02.

“Subordinated Indebtedness” shall mean (i) any Indebtedness of a Borrower that is contractually subordinated in right of payment to the Loan Obligations and (ii) any Indebtedness of any Guarantor that is contractually subordinated in right of payment to the Guarantee of such Guarantor of the Loan Obligations.

“subsidiary” shall mean, with respect to any person (referred to in this definition as the “parent”), any corporation, limited liability company, partnership, association or other business entity (a) of which securities or other ownership interests representing more than 50% of the ordinary voting power or more than 50% of the general partnership interests are, at the time any determination is being made, directly or indirectly, owned, Controlled or held, or (b) that is, at the time any determination is made, otherwise Controlled, by the parent or one or more subsidiaries of the parent or by the parent and one or more subsidiaries of the parent.

“Subsidiary” shall mean, unless otherwise specified or unless the context otherwise requires, a subsidiary of the Borrower. Notwithstanding the foregoing (and except for purposes

of the definition of “Unrestricted Subsidiary” contained herein) an Unrestricted Subsidiary shall be deemed not to be a Subsidiary of the Borrower or any of its Subsidiaries for purposes of this Agreement.

“Subsidiary Redesignation” shall have the meaning assigned to such term in the definition of “Unrestricted Subsidiary” in this Section 1.01.

“Successor Borrower” shall have the meaning assigned to such term in Section 6.05(q).

“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.

“SWIFT” shall have the meaning assigned to such term in Section 2.05(f).

“Swingline Borrowing” shall mean a Borrowing comprised of Swingline Loans.

“Swingline Borrowing Request” shall mean a request by the Borrower substantially in the form of Exhibit D-2 or such other form (including any form on an electronic platform or electronic transmission system as shall be approved by the Swingline Lender) as shall be approved by the Swingline Lender and appropriately completed and signed by a Responsible Officer of the Borrower.

“Swingline Commitment” shall mean, with respect to each Swingline Lender, the commitment of such Swingline Lender to make Swingline Loans pursuant to Section 2.04. The aggregate amount of the Swingline Commitments is \$15,000,000. The Swingline Commitment is part of, and not in addition to, the Revolving Facility Commitments.

“Swingline Exposure” shall mean at any time for any Revolving Facility the aggregate principal amount of all outstanding Swingline Borrowings under such Revolving Facility at such time. The Swingline Exposure of any Revolving Facility Lender under any Revolving Facility at any time shall mean its applicable Revolving Facility Percentage of the aggregate Swingline Exposure under such Revolving Facility at such time.

“Swingline Lender” shall mean the Administrative Agent, in its capacity as a lender of Swingline Loans.

“Swingline Loans” shall mean the swingline loans made to the Borrower pursuant to Section 2.04.

“Taxes” shall mean any and all present or future taxes, duties, levies, imposts, assessments, deductions, withholdings or other similar charges imposed by any Governmental Authority, whether computed on a separate, consolidated, unitary, combined or other basis and any interest, fines, penalties or additions to tax with respect to the foregoing.

“Term Borrowing” shall mean a Borrowing of Initial Term Loans or Other Term Loans.

“Term Facility” shall mean each of the Initial Term Facility and/or each of the Other Term Facilities.

“Term Facility Commitment” shall mean the commitment of a Term Lender to make Term Loans, including Initial Term Loans and/or Other Term Loans.

“Term Facility Maturity Date” shall mean, as the context may require, (a) with respect to the Initial Term Facility, the Initial Term Loan Maturity Date, and (b) with respect to any other Class of Term Loans, the maturity dates specified therefor in the applicable Incremental Assumption Agreement, Extension Amendment or Refinancing Amendment.

“Term Lender” shall mean a Lender with a Term Facility Commitment or with outstanding Term Loans.

“Term Loan Installment Date” shall mean any Initial Term Loan Installment Date or any Other Term Loan Installment Date.

“Term Loans” shall mean the Initial Term Loans and/or the Other Term Loans.

“Term SOFR” shall have the meaning assigned to such term in Section 2.14.

“Term Yield Differential” shall have the meaning assigned to such term in Section 2.21(b)(v).

“Termination Date” shall mean the date on which (a) all Commitments shall have been terminated, (b) the principal of and interest on each Loan and L/C Borrowing all Fees and all other expenses or amounts payable under any Loan Document and all other Loan Obligations shall have been paid in full in cash (other than in respect of contingent indemnification and expense reimbursement claims not then due), and (c) all Letters of Credit (other than those that have been Cash Collateralized with the Minimum L/C Collateral Amount in accordance with Section 2.05(k)) have been cancelled or have expired with no pending drawings and all amounts drawn or paid thereunder have been reimbursed in full in cash (or other arrangements satisfactory to the applicable Issuing Bank have been made).

“Test Period” shall mean, on any date of determination, the period of four consecutive fiscal quarters of the Borrower then most recently ended (taken as one accounting period) for which financial statements have been (or were required to be) delivered pursuant to Section 4.01(j), 5.04(a) or 5.04(b).

“Third Party Funds” shall mean any accounts or funds, or any portion thereof, received by the Borrower or any of its Subsidiaries as agent on behalf of third parties in accordance with a written agreement that imposes a duty upon Borrower or one or more of its Subsidiaries to collect and remit those funds to such third parties.

“Total Net Leverage Ratio” shall mean, as of any date of determination, the ratio of (i) Consolidated Total Debt to (ii) EBITDA of the Borrower and its Subsidiaries for the most recently ended Test Period on or prior to such date, all determined on a consolidated basis in

accordance with GAAP; provided, that the Total Net Leverage Ratio shall be determined on a Pro Forma Basis.

“Transaction Costs” shall mean fees, premiums, expenses, closing payments and other similar transaction costs (including original issue discount or upfront fees) payable or otherwise borne by Borrower and/or its subsidiaries in connection with the Transactions and the transactions contemplated thereby.

“Transaction Documents” shall mean the Acquisition Agreement and the Loan Documents.

“Transactions” shall mean, collectively (a) the consummation of the Acquisition; (b) the Closing Date Refinancing; (c) the other transactions, actions and/or restructurings that occur pursuant to or in connection with the foregoing (including, but not limited to, any transaction that occurs prior to or substantially concurrently with the Acquisition); and (d) the payment of all fees and expenses to be paid and owing in connection with the foregoing.

“Transformative Acquisition” shall mean any acquisition by the Borrower or any Subsidiary that is either (a) not permitted by the terms of the Loan Documents immediately prior to the consummation of such acquisition or (b) if permitted by the terms of the Loan Documents immediately prior to the consummation of such acquisition, would not provide the Borrower and its Subsidiaries with adequate flexibility under the Loan Documents for the continuation and/or expansion of their combined operations following such consummation, as reasonably determined by the Borrower acting in good faith.

“Treasury Capital Stock” shall have the meaning assigned to such term in Section 6.03(q).

“Type” shall mean, when used in respect of any Loan or Borrowing, the Rate by reference to which interest on such Loan or on the Loans comprising such Borrowing is determined. For purposes hereof, the term “Rate” shall mean the Eurodollar Rate and the ABR.

“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.

“Unadjusted Benchmark Replacement” shall have the meaning assigned to such term in Section 2.14.

“Uniform Commercial Code” or “UCC” shall mean the Uniform Commercial Code as the same may from time to time be in effect in the State of New York or the Uniform Commercial Code (or similar code or statute) of another jurisdiction, to the extent it may be required to apply to any item or items of Collateral.

“United States” and “US” shall mean the United States of America.

“Unreimbursed Amount” shall have the meaning assigned to such term in Section 2.05(c)(i).

“Unrestricted Cash” shall mean unrestricted cash and Cash Equivalents of the Borrower and its Subsidiaries and cash and Cash Equivalents of the Borrower and its Subsidiaries restricted in favor of the Lenders.

“Unrestricted Lender” shall mean any regulated Bank, any Revolving Facility Lender as of the Closing Date, any Arranger or any of their respective Affiliates.

“Unrestricted Subsidiary” shall mean (1) any Subsidiary of the Borrower, whether owned on, or acquired or created after, the Closing Date, that is designated after the Closing Date by the Borrower as an Unrestricted Subsidiary hereunder by written notice to the Administrative Agent; provided, that the Borrower shall only be permitted to so designate a new Unrestricted Subsidiary following the Closing Date so long as (a) no Event of Default pursuant to Section 7.01(b), (c), (h) or (i) is continuing or would result therefrom and (b) all Investments in such Unrestricted Subsidiary at the time of designation (as contemplated by the immediately following sentence) are permitted in accordance with the relevant requirements of Section 6.04; and (2) any subsidiary of an Unrestricted Subsidiary. The designation of any Subsidiary as an Unrestricted Subsidiary shall constitute an Investment by the Borrower (or its Subsidiaries) therein at the date of designation in an amount equal to the Fair Market Value of the Borrower’s (or its Subsidiaries’) Investments therein, which shall be required to be permitted on such date in accordance with Section 6.04. The Borrower may designate any Unrestricted Subsidiary to be a Subsidiary for purposes of this Agreement (each, a “Subsidiary Redesignation”); provided, that (i) no Event of Default pursuant to Section 7.01(b), (c), (h) or (i) is continuing or would result therefrom (after giving effect to the provisions of the immediately succeeding sentence) and (ii) the Borrower shall have delivered to the Administrative Agent an officer’s certificate executed by a Responsible Officer of the Borrower, certifying to the best of such officer’s knowledge, compliance with the requirements of preceding clause (i). The designation of any Unrestricted Subsidiary as a Subsidiary after the Closing Date shall constitute (i) the incurrence at the time of designation of any Investment, Indebtedness or Liens of such Subsidiary existing at such time and (ii) a return on any Investment by the applicable Loan Party (or its relevant Subsidiaries) in Unrestricted Subsidiaries pursuant to the preceding sentence in an amount equal to the Fair Market Value at the date of such designation of such Loan Party’s (or its relevant Subsidiaries’) Investment in such Subsidiary. The Borrower may not designate any Subsidiary as an Unrestricted Subsidiary hereunder if it is a “restricted subsidiary” (or other term with a substantially similar meaning) under the documentation governing any Incremental Equivalent Debt or Indebtedness incurred pursuant to Section 6.01(v)(x)(i) hereof and where any such

documentation provides for the ability to designate subsidiaries as “restricted” and “unrestricted” (or other terms with substantially similar meanings).

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

“U.S. Tax Compliance Certificate” shall have the meaning assigned to such term in Section 2.17(d)(ii)(C).

“USA PATRIOT Act” shall mean the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Title III of Pub. L. No. 107 56 (signed into law October 26, 2001)).

“Weighted Average Life to Maturity” shall mean, when applied to any Indebtedness at any date, the number of years obtained by dividing: (a) the sum of the products obtained by multiplying (i) 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 (ii) the number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment; by (b) the then outstanding principal amount of such Indebtedness.

“Wholly-Owned Domestic Subsidiary” shall mean a Wholly-Owned Subsidiary that is also a Domestic Subsidiary.

“Wholly-Owned Subsidiary” of any person shall mean a subsidiary of such person, all of the Equity Interests of which (other than directors’ qualifying shares or nominee or other similar shares required pursuant to applicable law) are owned by such person or another Wholly-Owned Subsidiary of such person. Unless the context otherwise requires, “Wholly-Owned Subsidiary” shall mean a Subsidiary of the Borrower that is a Wholly-Owned Subsidiary of the Borrower.

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

“Write-Down and Conversion Powers” shall mean, (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.

Terms Generally; GAAP. The definitions set forth or referred to in Section 1.01 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. The words “include,” “includes” and “including” shall be deemed to be followed by the phrase “without limitation.” All references herein to Articles, Sections, Exhibits and Schedules shall be deemed references to Articles and Sections of, and Exhibits and Schedules to, this Agreement unless the context shall otherwise require. Except as otherwise expressly provided herein, any reference in this Agreement to any Loan Document shall mean such document as amended, restated, amended and restated, supplemented or otherwise modified from time to time. Except as otherwise expressly provided herein (including, for the avoidance of doubt, the proviso in the definition of “Capitalized Lease Obligations”), all terms of an accounting or financial nature shall be construed in accordance with GAAP, as in effect from time to time; provided that, if at any time, any change in GAAP would affect the computation of any financial ratio or requirement in the Loan Documents and the Borrower notifies the Administrative Agent that the Borrower requests an amendment (or if the Administrative Agent notifies the Borrower that the Required Lenders request an amendment), the Administrative Agent, the Lenders and the Borrower shall negotiate in good faith to amend such ratio or requirement to preserve the original intent thereof in light of such change in GAAP (subject to the approval of the Required Lenders), regardless of whether any such notice is given before or after such change in GAAP or in the application thereof, then such financial ratio or requirement shall be interpreted on the basis of GAAP as in effect and applied immediately before such change shall have become effective until such provision is amended in accordance herewith. Notwithstanding any other provision contained herein, all terms of an accounting or financial nature used herein shall be construed, and all computations of amounts and ratios referred to herein shall be made (i) without giving effect to any election under Accounting Standards Codification 825-10-25 (or any other Accounting Standards Codification or Financial Accounting Standard having a similar result or effect) to value any Indebtedness or other liabilities of the Borrower or any Subsidiary at “fair value,” as defined therein, (ii) without giving effect to any treatment of Indebtedness in respect of convertible debt instruments under Accounting Standards Codification 470-20 (or any other Accounting Standards Codification or Financial Accounting Standard having a similar result or effect) to value any such Indebtedness in a reduced or bifurcated manner as described therein, and such Indebtedness shall at all times be valued at the full stated principal amount thereof and (iii) for the avoidance of doubt, except as provided in the definition of “Consolidated Net Income” and “EBITDA”, without giving effect to the financial condition, results and performance of the Unrestricted Subsidiaries.

For purposes of determining compliance at any time with Article VI, in the event that any Indebtedness, Lien, Restricted Payment, Restricted Debt Payment, Investment or Disposition, as applicable, meets the criteria of more than one of the categories of transactions or items permitted pursuant to any clause of such Sections 6.01, 6.02, 6.03, 6.04 or 6.05, the Borrower, in its sole discretion, may, from time to time, classify or reclassify such transaction or item (or portion thereof) and will only be required to include the amount and type of such transaction (or portion thereof) in any category. It is understood and agreed that any Indebtedness, Lien, Restricted Payment, Restricted Debt Payment, Investment or Disposition need not be permitted solely by reference to one category of permitted Indebtedness, Lien, Restricted Payment,

Restricted Debt Payment, Investment, Disposition, Affiliate transaction, restriction on subsidiary distribution and negative pledge clauses under Sections 6.01, 6.02, 6.03, 6.04 or 6.05, respectively, but may instead be permitted in part under any combination thereof. For the avoidance of doubt, a transaction or item that is permitted by one category of permitted Indebtedness, Lien, Restricted Payment, Restricted Debt Payment, Investment or Disposition under Section 6.01, 6.02, 6.03, 6.04 or 6.05, respectively, shall not be counted against any other category of permitted Indebtedness, Lien, Restricted Payment, Restricted Debt Payment, Investment or Disposition under Section 6.01, 6.02, 6.03, 6.04 or 6.05, respectively (i.e., each category shall be independent of each other category).

Effectuation of Transactions. Each of the representations and warranties of the Borrower contained in this Agreement (and all corresponding definitions) are made after giving effect to the Transactions, unless the context otherwise requires.

Timing of Payment or Performance. Except as otherwise expressly provided herein, when the payment of any obligation or the performance of any covenant, duty or obligation is stated to be due or performance required on a day which is not a Business Day, the date of such payment or performance shall extend to the immediately succeeding Business Day.

Times of Day. Unless otherwise specified herein, all references herein to times of day shall be references to Local Time.

Classification of Loans and Borrowings. For purposes of this Agreement, Loans may be classified and referred to by Class (e.g., a “Term Loan”) or by Type (e.g., a “Eurodollar Loan”) or by Class and Type (e.g., a “Eurodollar Term Loan”). Borrowings also may be classified and referred to by Class (e.g., a “Term Borrowing”) or by Type (e.g., a “Eurodollar Borrowing”) or by Class and Type (e.g., a “Eurodollar Term Borrowing”).

Letter of Credit Amounts. Unless otherwise specified herein, the amount of a Letter of Credit at any time shall be deemed to be the amount available to be drawn under such Letter of Credit during the remaining life of the Letter of Credit in effect at such time.

Cashless Rollovers. Notwithstanding anything to the contrary contained in this Agreement or in any other Loan Document, to the extent that any Lender extends the maturity date of, or replaces, renews or refinances, any of its then-existing Loans with Incremental Facilities, Refinancing Term Loans, Loans in connection with any Refinancing Revolving Facility Commitments, Extended Term Loans, Extended Revolving Facility Commitments or loans incurred under a new credit facility, in each case, to the extent such extension, replacement, renewal or refinancing is effected by means of a “cashless roll” by such Lender, such extension, replacement, renewal or refinancing shall be deemed to comply with any requirement hereunder or any other Loan Document that such payment be made “in Dollars”, “in immediately available funds”, “in cash” or any other similar requirement.

Certain Calculations. For purposes of determining the permissibility of any action, change, transaction or event that requires a calculation of any financial ratio or test, such financial ratio or test shall be calculated at the time such action is taken (subject to Section 1.10),

such change is made, such transaction is consummated or such event occurs, as the case may be, and no Default or Event of Default shall be deemed to have occurred solely as a result of a change in such financial ratio or test occurring after the time such action is taken, such change is made, such transaction is consummated or such event occurs, as the case may be. Notwithstanding anything to the contrary herein, with respect to any amounts incurred or transactions entered into (or consummated) in reliance on a provision of this Agreement that does not require compliance with a financial ratio or test (any such amounts, the “Fixed Amounts”) substantially concurrently with any amounts incurred or transactions entered into (or consummated) in reliance on a provision of this Agreement that requires compliance with a financial ratio or test (any such amounts, the “Incurrence-Based Amounts”), it is understood and agreed that the Fixed Amounts shall be disregarded in the calculation of the financial ratio or test applicable to the Incurrence-Based Amounts.

Limited Condition Transactions.

In connection with any action being taken solely in connection with a Limited Condition Transaction (including any contemplated incurrence or assumption of Indebtedness in connection therewith), for purposes of:

- (1) determining compliance with any provision of the Loan Documents (other than Section 6.10 hereof) that requires the calculation of the Consolidated Interest Coverage Ratio, Total Net Leverage Ratio, Secured Net Leverage Ratio or the First Lien Net Leverage Ratio;
- (2) determining the accuracy of representations and warranties and/or whether a Default or Event of Default shall have occurred and be continuing (or any subset of Defaults or Events of Default); or
- (3) testing availability under baskets set forth in the Loan Documents (including baskets measured as a percentage of EBITDA or Consolidated Total Assets or by reference to the Builder Basket);

in each case, at the option of the Borrower (the Borrower’s election, in writing to the Administrative Agent, to exercise such option in connection with any Limited Condition Transaction, an “LCA Election”), the date of determination of whether any such action is permitted hereunder shall be deemed to be the date the definitive agreements with respect to such Limited Condition Transaction are entered into or the date of delivery of the relevant notices, if any (the “LCA Test Date”), and if, on a Pro Forma Basis after giving pro forma effect to the Limited Condition Transaction and the other transactions to be entered into in connection therewith (including any incurrence of Indebtedness or Liens and the use of proceeds thereof) 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 or basket, such ratio or basket shall be deemed to have been complied with.

For the avoidance of doubt, if the Borrower has made an LCA Election and any of the ratios or baskets for which compliance was determined or tested as of the LCA Test Date are exceeded as a result of fluctuations in any such ratio or basket, including due to fluctuations in EBITDA of

the Borrower or any Subsidiary or the Person subject to such Limited Condition Transaction, at or prior to the consummation of the relevant transaction or action, such baskets or ratios will not be deemed to have been exceeded as a result of such fluctuations; provided, however, if any ratios improve or baskets increase as a result of such fluctuations, such improved ratios or baskets may be utilized.

If the Borrower has made an LCA Election for any Limited Condition Transaction, then, in connection with any subsequent calculation of the ratios or baskets on or following the relevant LCA Test Date and prior to the earlier of (i) the date on which such Limited Condition Transaction is consummated or (ii) the date that the definitive agreement for such Limited Condition Transaction is terminated or expires without consummation of such Limited Condition Transaction, any such ratio or basket shall be calculated on a Pro Forma Basis assuming such Limited Condition Transaction and other transactions in connection therewith (including any incurrence of Indebtedness or Liens and the use of proceeds thereof) have been consummated; provided that if such Limited Condition Transaction is terminated or expires without consummation of such Limited Condition Transaction, any action taken where compliance of such ratios or baskets was determined or tested assuming such Limited Condition Transaction and other transaction in connection therewith have been consummated will not be deemed to have been exceeded as a result of failure to consummate such Limited Condition Transaction and other transactions in connection therewith.

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): (i) 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 (ii) if any new Person comes into existence, such new Person shall be deemed to have been organized on the first date of its existence by the holders of its Equity Interest at such time.

Exchange Rates; Currency Equivalents. On each Revaluation Date, the Administrative Agent shall determine the Dollar Equivalent amounts of Letter of Credit extensions denominated in Permitted Foreign Currencies. Such Dollar Equivalent shall become effective as of such Revaluation Date and shall be the Dollar Equivalent of such amounts until the next Revaluation Date to occur. Except for purposes of financial statements delivered by the Borrower hereunder or calculating financial covenants hereunder or except as otherwise provided herein, the applicable amount of any Permitted Foreign Currency or purposes of the Loan Documents shall be such Dollar Equivalent amount as so determined by the Administrative Agent.

ARTICLE II.

The Credits

Commitments. Subject to the terms and conditions set forth herein:

(1) Each Initial Term Lender agrees, severally and not jointly, to make an Initial Term Loan in Dollars to the Borrower on the Closing Date in an aggregate principal amount not to exceed its Initial Term Loan Commitment.

(2) Each Revolving Facility Lender agrees, severally and not jointly, to make Revolving Facility Loans of a Class in Dollars to the Borrower from time to time during the Availability Period in an aggregate principal amount that will not result in (i) such Lender's Revolving Facility Credit Exposure of such Class exceeding such Lender's Revolving Facility Commitment of such Class or (ii) the Revolving Facility Credit Exposure of such Class exceeding the total Revolving Facility Commitments of such Class. Within the foregoing limits and subject to the terms and conditions set forth herein, the Borrower may borrow, prepay and reborrow Revolving Facility Loans.

(3) Each Lender having an Incremental Commitment agrees, severally and not jointly, subject to the terms and conditions set forth in the applicable Incremental Assumption Agreement, to make an Incremental Loan to the Borrower, in an aggregate principal amount not to exceed its Incremental Commitment.

(4) The full amount of the Term Loans pursuant to the Initial Term Loan Commitments must be drawn in a single drawing on the Closing Date. Term Loans that are repaid or prepaid may not be reborrowed.

Loans and Borrowings.

(5) Each Loan shall be made as part of a Borrowing consisting of Loans of the same Class and of the same Type made by the Lenders ratably in accordance with their respective Commitments of the applicable Class (or, in the case of Swingline Loans, in accordance with the Swingline Commitment). The failure of any Lender to make any Loan required to be made by it shall not relieve any other Lender of its obligations hereunder; provided, that the Commitments of the Lenders are several and no Lender shall be responsible for any other Lender's failure to make Loans as required.

(6) Subject to Section 2.14, each Borrowing (other than a Swingline Borrowing) shall be comprised entirely of ABR Loans or Eurodollar Loans as the Borrower may request in accordance herewith. Each Swingline Borrowing shall be an ABR Borrowing. Each Lender at its option may make any ABR Loan or Eurodollar Loan by causing any domestic or foreign branch or Affiliate of such Lender to make such Loan (and in the case of an Affiliate, the provisions of Sections 2.15, 2.16 and 2.17 shall apply to such Affiliate to the same extent as to such Lender); provided, that any exercise of such option shall not affect the obligation of the Borrower to repay such Loan in accordance with the terms of this Agreement and such Lender shall not be entitled to any amounts payable under Section 2.15 or 2.17 solely in respect of increased costs resulting from such exercise and existing at the time of such exercise.

(7) At the commencement of each Interest Period for any Eurodollar Revolving Facility Borrowing, such Borrowing shall be in an aggregate amount that is an integral multiple of the Borrowing Multiple and not less than the Borrowing Minimum. At the time that each ABR

Revolving Facility Borrowing is made, such Borrowing shall be in an aggregate amount that is an integral multiple of the Borrowing Multiple and not less than the Borrowing Minimum; provided, that an ABR Revolving Facility Borrowing may be in an aggregate amount that is equal to the entire unused available balance of the Revolving Facility Commitments or as contemplated by Section 2.04(c) or Section 2.05(c). Each Swingline Borrowing shall be in an amount that is an integral multiple of the Borrowing Multiple and not less than the Borrowing Minimum. Borrowings of more than one Type and Class may be outstanding at the same time; provided, however, that the Borrower shall not be entitled to request any Borrowing that, if made, and after giving effect to all Borrowings, all conversions of Loans from one type to another, and all continuations of Loans of the same type, would result in more than (i) 10 (ten) Eurodollar Borrowings outstanding under the Revolving Facility at any time and (ii) 6 (six) Eurodollar Borrowings outstanding under each other Facility. Borrowings having different Interest Periods, regardless of whether they commence on the same date, shall be considered separate Borrowings.

(8) Notwithstanding any other provision of this Agreement, the Borrower shall not be entitled to request, or to elect to convert or continue, any Borrowing of any Class if the Interest Period requested with respect thereto would end after the Maturity Date for such Class.

Requests for Borrowings.

(9) To request a Revolving Facility Borrowing and/or a Term Borrowing, the Borrower shall notify the Administrative Agent of such request (a) in the case of a Eurodollar Borrowing, not later than 12:00 noon, Local Time, three (3) Business Days before the date of the proposed Borrowing or (b) in the case of an ABR Borrowing, by telephone, not later than 10:00 a.m. Local Time, on the Business Day of the proposed Borrowing (or, in each case, such later time as is acceptable to the Administrative Agent); provided, that (i) if the Borrower wishes to request Eurodollar Loans having an Interest Period other than one, three or six months in duration as provided in the definition of "Interest Period," the applicable notice must be received by the Administrative Agent not later than 12:00 noon, Local Time four (4) Business Days prior to the requested date of such Borrowing, conversion or continuation, whereupon the Administrative Agent shall give prompt notice to the applicable Lenders of such request and determine whether the requested Interest Period is acceptable to all of them and not later than 12:00 noon, Local Time, three (3) Business Days before the requested date of such Borrowing, the Administrative Agent shall notify the Borrower (which notice may be by telephone) whether or not the requested Interest Period has been consented to by all the applicable Lenders and (ii) any such notice of an ABR Revolving Facility Borrowing as contemplated by Section 2.04(c) or Section 2.05(c) may be given no later than 12:00 noon, Local Time, on the date of the proposed Borrowing. Each such Borrowing Request shall be irrevocable (other than in the case of any notice given in respect of the Closing Date, which may be conditioned upon the consummation of the Acquisition) and (in the case of telephonic requests) shall be confirmed promptly by hand delivery or electronic means to the Administrative Agent of a written Borrowing Request signed by the Borrower. Each such telephonic and written Borrowing Request shall specify the following information in compliance with Section 2.02:

whether such Borrowing is to be a Borrowing of Initial Term Loans, Other Term Loans or Revolving Facility Loans of a particular Class, as applicable;

the aggregate amount of the requested Borrowing;

the date of such Borrowing, which shall be a Business Day;

whether such Borrowing is to be an ABR Borrowing or a Eurodollar Borrowing;

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"; and

the location and number of the Borrower's account to which funds are to be disbursed.

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 the 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 applicable Lender of the details thereof and of the amount of such Lender's Loan to be made as part of the requested Borrowing.

Swingline Loans.

(10) Subject to the terms and conditions set forth herein, the Swingline Lender hereby agrees to make Swingline Loans under any Revolving Facility in Dollars to the Borrower from time to time during the Availability Period, in an aggregate principal amount at any time outstanding that will not result in (i) the aggregate principal amount of outstanding Swingline Loans exceeding the Swingline Lender's Swingline Commitment or (ii) the Revolving Facility Credit Exposure of the applicable Class exceeding the total Revolving Facility Commitments of such Class; provided, that the Swingline Lender shall not be required to make a Swingline Loan to refinance an outstanding Swingline Borrowing and the Swingline Lender shall not be under any obligation to make any Swingline Loan if it shall determine (which determination shall be conclusive and binding absent manifest error) that it has, or by the making of such Swingline Loan may have, Fronting Exposure. Within the foregoing limits and subject to the terms and conditions set forth herein, the Borrower may borrow, prepay and reborrow Swingline Loans.

(11) To request a Swingline Borrowing, the Borrower shall notify the Administrative Agent and the Swingline Lender of such request by telephone (confirmed by a Swingline Borrowing Request), not later than 2:00 p.m., Local Time, on the day of a proposed Swingline Borrowing. Each such notice and Swingline Borrowing Request shall be irrevocable and shall specify (i) the requested date of such Swingline Borrowing (which shall be a Business Day) and (ii) the amount of the requested Swingline Borrowing. The Swingline Lender shall consult with the Administrative Agent as to whether the making of the Swingline Loan is in accordance with the terms of this Agreement prior to the Swingline Lender funding such Swingline Loan. The

Swingline Lender shall make each Swingline Loan on the proposed date thereof by wire transfer of immediately available funds by 4:00 p.m., Local Time, to the account of the Borrower.

(12) The Swingline Lender may, by written notice given to the Administrative Agent not later than 12:00 noon, Local Time, on any Business Day, require the Revolving Facility Lenders under the applicable Revolving Facility to acquire participations on such Business Day in all or a portion of the outstanding Swingline Loans made by it under such Revolving Facility. Such notice shall specify the aggregate amount of such Swingline Loans in which the Revolving Facility Lenders will participate. Promptly upon receipt of such notice, the Administrative Agent will give notice thereof to each such Lender, specifying in such notice such Revolving Facility Lender's applicable Revolving Facility Percentage of such Swingline Loan or Loans. Each Revolving Facility Lender hereby absolutely and unconditionally agrees, promptly upon receipt of notice as provided above (and in any event, if such notice is received by 12:00 noon, Local Time, on a Business Day no later than 2:00 p.m. Local Time on such Business Day and if received after 12:00 noon, Local Time, on a Business Day, no later than 12:00 noon, Local Time on the immediately succeeding Business Day), to pay to the Administrative Agent for the account of the Swingline Lender, such Revolving Facility Lender's applicable Revolving Facility Percentage of such Swingline Loan or Loans. Each Revolving Facility Lender acknowledges and agrees that its respective obligation to acquire participations in Swingline Loans pursuant to this paragraph is absolute and unconditional and shall not be affected by any circumstance whatsoever, including the occurrence and continuance of a Default or Event of Default or reduction or termination of any Commitments, and that each such payment shall be made without any offset, abatement, withholding or reduction whatsoever. Each Revolving Facility Lender shall comply with its obligation under this paragraph by wire transfer of immediately available funds, in the same manner as provided in Section 2.06 with respect to Loans made by such Revolving Facility Lender (and Section 2.06 shall apply, mutatis mutandis, to the payment obligations of the Lenders), and the Administrative Agent shall promptly pay to the Swingline Lender the amounts so received by it from the Revolving Facility Lenders. The Administrative Agent shall notify the Borrower of any participations in any Swingline Loan acquired pursuant to this paragraph (c), and thereafter payments in respect of such Swingline Loan shall be made to the Administrative Agent and not to the Swingline Lender. Any amounts received by the Swingline Lender from the Borrower (or other party on behalf of the Borrower) in respect of a Swingline Loan after receipt by such Swingline Lender of the proceeds of a sale of participations therein shall be promptly remitted to the Administrative Agent; any such amounts received by the Administrative Agent shall be promptly remitted by the Administrative Agent to the Revolving Facility Lenders that shall have made their payments pursuant to this paragraph and to such Swingline Lender, as their interests may appear; provided, that any such payment so remitted shall be repaid to such Swingline Lender or to the Administrative Agent, as applicable, if and to the extent such payment is required to be refunded to the Borrower for any reason. The purchase of participations in a Swingline Loan pursuant to this paragraph shall not relieve the Borrower of any default in the payment thereof.

Letters of Credit.

(13) The Letter of Credit Commitment. Subject to the terms and conditions set forth herein, (A) each Issuing Bank agrees, in reliance upon the agreements of the Revolving Facility Lenders set forth in this Section 2.05, (1) from time to time on any Business Day during the period from the Closing Date until the Letter of Credit Facility Expiration Date for the applicable Revolving Facility, to issue Letters of Credit in Dollars or a Permitted Foreign Currency for the account of the Borrower or any of its Subsidiaries under any Revolving Facility, and to amend or extend Letters of Credit previously issued by it, in accordance with Section 2.05(b), and (2) to honor drawings under the Letters of Credit; and (B) the Revolving Facility Lenders under each Revolving Facility severally agree to participate in Letters of Credit issued for the account of the Borrower or any of its Subsidiaries under such Revolving Facility and any drawings thereunder; provided that after giving effect to any L/C Credit Extension with respect to any Letter of Credit, (w) the Revolving Facility Credit Exposure under the applicable Revolving Facility shall not exceed the Revolving Facility Commitments thereunder, (x) the Revolving Facility Credit Exposure of any Lender under the applicable Revolving Facility shall not exceed such Lender's Revolving Facility Commitment thereunder, (y) the outstanding amount of the L/C Obligations under all Revolving Facilities shall not exceed the Letter of Credit Sublimit and (z) unless otherwise agreed by such Issuing Bank in its sole discretion, the outstanding amount of the L/C Obligations in respect of Letters of Credit issued by any Issuing Bank shall not exceed such Issuing Bank's Letter of Credit Commitment. Each request by the Borrower for the issuance or amendment of a Letter of Credit shall be deemed to be a representation by the Borrower that the L/C Credit Extension so requested complies with the conditions set forth in the proviso to the preceding sentence. Within the foregoing limits, and subject to the terms and conditions hereof, the Borrower's and its Subsidiaries' ability to obtain Letters of Credit shall be fully revolving, and accordingly the Borrower and its Subsidiaries may, during the foregoing period, obtain Letters of Credit to replace Letters of Credit that have expired or that have been drawn upon and reimbursed. The previously issued letters of credit listed on Schedule 2.05 (the "Existing Letters of Credit"), shall, subject to the satisfaction of the applicable conditions set forth in Article IV, be deemed to be Letters of Credit under this Agreement as of the Closing Date.

No Issuing Bank shall issue any Letter of Credit under any Revolving Facility if:

subject to Section 2.05(b)(iii), the expiry date of the requested Letter of Credit would occur more than twelve months after the date of issuance or the then-current expiration date, unless the Required Revolving Facility Lenders under such Revolving Facility have approved such expiry date; or

the expiry date of the requested Letter of Credit would occur after the Letter of Credit Facility Expiration Date for such Revolving Facility, unless (x) all the Revolving Facility Lenders under such Revolving Facility and such Issuing Bank have approved such expiry date or (y) such Letter of Credit is Cash Collateralized on terms and pursuant to arrangements satisfactory to the applicable Issuing Bank.

No Issuing Bank shall be under any obligation to issue any Letter of Credit if:

any order, judgment or decree of any Governmental Authority or arbitrator shall by its terms purport to enjoin or restrain such Issuing Bank from issuing the Letter of

Credit, or any Requirement of Law applicable to such Issuing Bank or any request or directive (whether or not having the force of law) from any Governmental Authority with jurisdiction over such Issuing Bank shall prohibit, or request that such Issuing Bank refrain from, the issuance of letters of credit generally or the Letter of Credit in particular or shall impose upon such Issuing Bank with respect to the Letter of Credit any restriction, reserve or capital requirement (for which such Issuing Bank is not otherwise compensated hereunder) not in effect on the Closing Date, or shall impose upon such Issuing Bank any unreimbursed loss, cost or expense which was not applicable on the Closing Date and which such Issuing Bank in good faith deems material to it;

the issuance of the Letter of Credit would violate one or more policies of such Issuing Bank applicable to letters of credit generally;

except as otherwise agreed by the Administrative Agent and such Issuing Bank, the Letter of Credit is in an initial stated amount of less than \$250,000 or the Dollar Equivalent thereof;

[reserved];

any Revolving Facility Lender under the applicable Revolving Facility is at that time a Defaulting Lender, unless such Issuing Bank has entered into arrangements, including for the delivery of Cash Collateral, satisfactory to such Issuing Bank (in its sole discretion) with the Borrower or such Lender to eliminate such Issuing Bank's actual or reasonably determined potential Fronting Exposure (after giving effect to Section 2.24(a)(iv) with respect to the Defaulting Lender arising from either the Letter of Credit then proposed to be issued or that Letter of Credit and all other L/C Obligations as to which such Issuing Bank has actual or reasonably determined potential Fronting Exposure, as it may elect in its sole discretion); or

the Letter of Credit contains any provisions for automatic reinstatement of the stated amount after any drawing thereunder.

No Issuing Bank shall amend any Letter of Credit if such Issuing Bank would not have been permitted at such time to issue the Letter of Credit in its amended form under the terms of this Section 2.05(a).

No Issuing Bank shall be under any obligation to amend any Letter of Credit if (A) such Issuing Bank would have no obligation at such time to issue the Letter of Credit in its amended form under the terms hereof or (B) the beneficiary of the Letter of Credit does not accept the proposed amendment to the Letter of Credit.

Subject to the provisions of Section 2.05(f), each Issuing Bank shall act on behalf of the Revolving Facility Lenders under the applicable Revolving Facility with respect to any Letters of Credit issued by it under such Revolving Facility and the documents associated therewith, and each Issuing Bank shall have all of the benefits and immunities (A) provided to the Administrative Agent in Article IX with respect to any acts taken or omissions suffered by

such Issuing Bank in connection with Letters of Credit issued by it or proposed to be issued by it and Issuer Documents pertaining to such Letters of Credit as fully as if the term “Administrative Agent” as used in Article VIII included such Issuing Bank with respect to such acts or omissions, and (B) as additionally provided herein with respect to the Issuing Banks.

Any Issuing Bank may resign at any time by giving 30 days’ prior notice to the Administrative Agent, the Revolving Facility Lenders and the Borrower. After the resignation of an Issuing Bank hereunder, the retiring Issuing Bank shall remain a party hereto and shall continue to have all the rights and obligations of an Issuing Bank under this Agreement and the other Loan Documents with respect to Letters of Credit issued by it prior to such resignation, but shall not be required to issue additional Letters of Credit or to extend, reinstate, or increase any existing Letter of Credit.

For the avoidance of doubt and notwithstanding any other provisions hereunder, Goldman Sachs Bank USA, as an Issuing Bank, shall be under no obligation to issue any Letter of Credit other than a standby Letter of Credit.

(14) Procedures for Issuance and Amendment of Letters of Credit; Auto-Extension Letters of Credit.

Each Letter of Credit shall be issued or amended, as the case may be, upon the request of the Borrower delivered to the applicable Issuing Bank (with a copy to the Administrative Agent) in the form of a Letter of Credit Request, appropriately completed and signed by a Responsible Officer of the Borrower. Such Letter of Credit Request may be sent by facsimile, by United States mail, by overnight courier, by electronic transmission using the system provided by the applicable Issuing Bank, by personal delivery or by any other means acceptable to such Issuing Bank. Such Letter of Credit Request must be received by the applicable Issuing Bank and the Administrative Agent not later than 12:00 noon at least two (2) Business Days (or such later date and time as the Administrative Agent and such Issuing Bank may agree in a particular instance in their sole discretion) prior to the proposed issuance date or date of amendment, as the case may be. In the case of a request for the issuance of a Letter of Credit, such Letter of Credit Request shall specify in form and detail reasonably satisfactory to the applicable Issuing Bank: (A) the proposed issuance date of the requested Letter of Credit (which shall be a Business Day); (B) the amount thereof; (C) the expiry date thereof; (D) the name and address of the beneficiary thereof; (E) the documents to be presented by such beneficiary in case of any drawing thereunder; (F) the full text of any certificate to be presented by such beneficiary in case of any drawing thereunder; (G) if more than one Revolving Facility is then in effect, the Revolving Facility under which such Letter of Credit is to be issued; and (H) such other matters as the applicable Issuing Bank may reasonably request. In the case of a request for an amendment of any outstanding Letter of Credit, such Letter of Credit Request shall specify in form and detail reasonably satisfactory to the applicable Issuing Bank (1) the Letter of Credit to be amended; (2) the proposed date of amendment thereof (which shall be a Business Day); (3) the nature of the proposed amendment; and (4) such other matters as the applicable Issuing Bank may reasonably request. Additionally, the Borrower shall furnish to the applicable Issuing Bank and the Administrative Agent such other documents and information pertaining to

such requested Letter of Credit issuance or amendment, including any Issuer Documents, as such Issuing Bank or the Administrative Agent may reasonably request pursuant to its policies of general applicability to other account parties for whom such Issuing Bank issues letters of credit.

Promptly after receipt of any Letter of Credit Request, the applicable Issuing Bank will confirm with the Administrative Agent (by telephone or in writing) that the Administrative Agent has received a copy of such Letter of Credit Request from the Borrower and, if not, such Issuing Bank will provide the Administrative Agent with a copy thereof. Unless the applicable Issuing Bank has received written notice from the Required Revolving Facility Lenders, the Administrative Agent or any Loan Party, at least one Business Day prior to the requested date of issuance or amendment of the applicable Letter of Credit, that one or more applicable conditions contained in Article IV shall not then be satisfied (solely with respect to an issuance), then, subject to the terms and conditions hereof, such Issuing Bank shall, on the requested date, issue a Letter of Credit for the account of the Borrower (or the applicable Subsidiary) or issue the applicable amendment, as the case may be, in each case in accordance with such Issuing Bank's usual and customary business practices. Immediately upon the issuance of each Letter of Credit under a Revolving Facility and each amendment increasing the amount of a Letter of Credit, each Revolving Facility Lender under such Revolving Facility shall be deemed to, and hereby irrevocably and unconditionally agrees to, purchase from the applicable Issuing Bank a risk participation in such Letter of Credit in an amount equal to the product of such Revolving Facility Lender's Revolving Facility Percentage of such Revolving Facility times the amount of such Letter of Credit.

If the Borrower so requests in any applicable Letter of Credit Request, an Issuing Bank shall agree to issue a Letter of Credit that has automatic extension provisions (each, an "Auto-Extension Letter of Credit"); provided that any such Auto-Extension Letter of Credit must permit such Issuing Bank to prevent any such extension at least once in each twelve-month period (commencing with the date of issuance of such Letter of Credit) by giving prior notice to the beneficiary thereof not later than a day (the "Non-Extension Notice Date") in each such twelve-month period to be agreed upon at the time such Letter of Credit is issued. Unless otherwise directed by the applicable Issuing Bank, the Borrower shall not be required to make a specific request to such Issuing Bank for any such extension. Once an Auto-Extension Letter of Credit has been issued, the Revolving Facility Lenders shall be deemed to have authorized (but may not require) such Issuing Bank to permit the extension of such Letter of Credit at any time to an expiry date not later than the Letter of Credit Facility Expiration Date of the applicable Revolving Facility; provided, however, that no Issuing Bank shall permit any such extension if (A) such Issuing Bank has determined that it would not be permitted at such time to issue such Letter of Credit in its revised form (as extended) under the terms hereof (by reason of the provisions of clause (ii) or (iii) of Section 2.05(a) or otherwise), or (B) it has received notice (which may be by telephone or in writing) on or before the day that is seven Business Days before the Non-Extension Notice Date (1) from the Administrative Agent that the Required Revolving Facility Lenders under the applicable Revolving Facility have elected not to permit such extension or (2) from the Administrative Agent or the Borrower that one or more of the applicable conditions specified in Article IV is not then satisfied, and in each such case directing such Issuing Bank not to permit such extension.

Promptly after its delivery of any Letter of Credit or any amendment to a Letter of Credit to an advising bank with respect thereto or to the beneficiary thereof, each Issuing Bank will also deliver to the Borrower and the Administrative Agent a true and complete copy of such Letter of Credit or amendment.

(15) Drawings and Reimbursements; Funding of Participations.

Upon receipt from the beneficiary of any Letter of Credit of a compliant drawing under such Letter of Credit, the applicable Issuing Bank shall notify the Borrower and the Administrative Agent thereof. Not later than 11:00 a.m. one Business Day after the date of notice of any payment by an Issuing Bank under a Letter of Credit or, if the Borrower shall have received such notice from the Issuing Bank later than 11:00 a.m. on any Business Day, not later than 4:00 p.m. on the next Business Day (each such date of payment by an Issuing Bank, an “Honor Date”), the Borrower shall reimburse such Issuing Bank through the Administrative Agent in an amount equal to the amount of such drawing; provided that, in the case of a drawing in a Permitted Foreign Currency, the applicable Issuing Bank may require the Borrower to reimburse such Issuing Bank through the Administrative Agent in an amount equal to the Dollar Equivalent of such Permitted Foreign Currency drawing. If the Borrower fails to so reimburse the applicable Issuing Bank by such time, the Administrative Agent shall promptly notify each Revolving Facility Lender under the applicable Revolving Facility of the Honor Date, the amount of the unreimbursed drawing (the “Unreimbursed Amount”), and the amount of such Revolving Facility Lender’s Revolving Facility Percentage thereof. In such event, the Borrower shall be deemed to have requested a Borrowing of ABR Revolving Facility Loans under the applicable Revolving Facility to be disbursed on such date in an amount equal to the Unreimbursed Amount, without regard to the minimum and multiples specified in Section 2.02 for the principal amount of ABR Loans, but subject to the amount of the unutilized portion of the Revolving Facility Commitments under Section 4.02 and the conditions set forth in Section 4.02 (other than the delivery of a Borrowing Request). Any notice given by an Issuing Bank or the Administrative Agent pursuant to this Section 2.05(c)(i) may be given by telephone if immediately confirmed in writing; provided that the lack of such an immediate confirmation shall not affect the conclusiveness or binding effect of such notice.

Each Revolving Facility Lender under the applicable Revolving Facility shall upon any notice pursuant to Section 2.05(c)(i) make funds available (and the Administrative Agent may apply Cash Collateral provided for this purpose) for the account of the applicable Issuing Bank to the Administrative Agent in an amount equal to its applicable Revolving Facility Percentage of the Unreimbursed Amount not later than 1:00 p.m. on the Business Day specified in such notice by the Administrative Agent, whereupon, subject to the provisions of Section 2.05(c)(iii), each Revolving Facility Lender that so makes funds available shall be deemed to have made an ABR Revolving Facility Loan to the Borrower in such amount. The Administrative Agent shall remit the funds so received to the applicable Issuing Bank.

With respect to any Unreimbursed Amount that is not fully refinanced by a Revolving Facility Borrowing of ABR Loans because the conditions set forth in Section 4.02 cannot be satisfied or for any other reason, the Borrower shall be deemed to have incurred from

the applicable Issuing Bank an L/C Borrowing in the amount of the Unreimbursed Amount that is not so refinanced, which L/C Borrowing shall be due and payable on demand (together with interest) and shall bear interest at the rate applicable to ABR Revolving Facility Loans of the applicable Class. In such event, each Revolving Facility Lender's payment to the Administrative Agent for the account of the applicable Issuing Bank pursuant to Section 2.05(c)(ii) shall be deemed payment in respect of its participation in such L/C Borrowing and shall constitute an L/C Advance from such Lender in satisfaction of its participation obligation under this Section 2.05; provided that the amount of any drawing that is not reimbursed on the Honor Date shall bear interest at the rate applicable to ABR Revolving Facility Loans from and including the date of drawing to but excluding the date such amount becomes an Unreimbursed Amount.

Until each Revolving Facility Lender under the applicable Revolving Facility funds its Revolving Facility Loan or L/C Advance pursuant to this Section 2.05(c) to reimburse an Issuing Bank for any amount drawn under any Letter of Credit, interest in respect of such Lender's Revolving Facility Percentage of such amount shall be solely for the account of such Issuing Bank.

Each Revolving Facility Lender's obligation to make Revolving Facility Loans or L/C Advances to reimburse the Issuing Banks for amounts drawn under Letters of Credit, as contemplated by this Section 2.05(c), shall be absolute and unconditional and shall not be affected by any circumstance, including (A) any setoff, counterclaim, recoupment, defense or other right which such Lender may have against any Issuing Bank, the Borrower or any other person for any reason whatsoever; (B) the occurrence or continuance of a Default or (C) any other occurrence, event or condition, whether or not similar to any of the foregoing; provided, however, that each Revolving Facility Lender's obligation to make Revolving Facility Loans pursuant to this Section 2.05(c) is subject to the conditions set forth in Section 4.02 (other than delivery by the Borrower of a Borrowing Request). No such making of an L/C Advance shall relieve or otherwise impair the obligation of the Borrower to reimburse any Issuing Bank for the amount of any payment made by such Issuing Bank under any Letter of Credit, together with interest as provided herein.

If any Revolving Facility Lender fails to make available to the Administrative Agent for the account of an Issuing Bank any amount required to be paid by such Lender pursuant to the foregoing provisions of this Section 2.05(c) by the time specified in Section 2.05(c)(ii), then, without limiting the other provisions of this Agreement, such Issuing Bank shall be entitled to recover from such Lender (acting through the Administrative Agent), on demand, such amount with interest thereon for the period from the date such payment is required to the date on which such payment is immediately available to such Issuing Bank at a rate per annum equal to the greater of the Federal Funds Rate and a rate determined by such Issuing Bank in accordance with banking industry rules on interbank compensation, plus any administrative, processing or similar fees customarily charged by such Issuing Bank in connection with the foregoing. If such Lender pays such amount (with interest and fees as aforesaid), the amount so paid (minus the foregoing interest and fees) shall constitute such Lender's Revolving Facility Loan included in the relevant Revolving Facility Borrowing or L/C Advance in respect of the relevant L/C Borrowing, as the case may be. A certificate of an Issuing Bank submitted to any

Revolving Facility Lender (through the Administrative Agent) with respect to any amounts owing under this Section 2.05(c)(vi) shall be conclusive absent manifest error.

(16) Repayment of Participations.

At any time after an Issuing Bank has made a payment under any Letter of Credit and has received from any Revolving Facility Lender such Lender's L/C Advance in respect of such payment in accordance with Section 2.05(c), if the Administrative Agent receives for the account of such Issuing Bank any payment in respect of the related Unreimbursed Amount or interest thereon (whether directly from the Borrower or otherwise, including proceeds of Cash Collateral applied thereto by the Administrative Agent), the Administrative Agent will distribute to such Lender its Revolving Facility Percentage thereof in the same funds as those received by the Administrative Agent.

If any payment received by the Administrative Agent for the account of an Issuing Bank pursuant to Section 2.05(c)(i) is required to be returned under any of the circumstances described in Section 9.22 (including pursuant to any settlement entered into by such Issuing Bank in its discretion), each Revolving Facility Lender shall pay to the Administrative Agent for the account of such Issuing Bank its Revolving Facility Percentage thereof on demand of the Administrative Agent, plus interest thereon from the date of such demand to the date such amount is returned by such Lender, at a rate per annum equal to the Federal Funds Rate from time to time in effect. The obligations of the Lenders under this clause shall survive the payment in full of the Obligations and the termination of this Agreement.

(17) Obligations Absolute. The obligation of the Borrower to reimburse the relevant Issuing Bank for each drawing under each Letter of Credit and to repay each L/C Borrowing shall be absolute, unconditional and irrevocable, and shall be paid strictly in accordance with the terms of this Agreement under all circumstances, including the following:

any lack of validity or enforceability of such Letter of Credit, this Agreement, or any other Loan Document;

the existence of any claim, counterclaim, setoff, defense or other right that the Borrower or any Subsidiary may have at any time against any beneficiary or any transferee of such Letter of Credit (or any person for whom any such beneficiary or any such transferee may be acting), such Issuing Bank or any other person, whether in connection with this Agreement, the transactions contemplated hereby or by such Letter of Credit or any agreement or instrument relating thereto, or any unrelated transaction;

any draft, demand, certificate or other document presented under such Letter of Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect; or any loss or delay in the transmission or otherwise of any document required in order to make a drawing under such Letter of Credit;

waiver by such Issuing Bank of any requirement that exists for such Issuing Bank's protection and not the protection of the Borrower or any waiver by such Issuing Bank which does not in fact materially prejudice the Borrower;

honor of a demand for payment presented electronically even if such Letter of Credit requires that demand be in the form of a draft;

any payment made by such Issuing Bank in respect of an otherwise complying item presented after the date specified as the expiration date of, or the date by which documents must be received under such Letter of Credit if presentation after such date is authorized by the UCC or the ISP or other applicable rules or the express terms of the Letter of Credit, as applicable;

any payment by such Issuing Bank under such Letter of Credit against presentation of a draft or certificate that does not strictly comply with the terms of such Letter of Credit; or any payment made by such Issuing Bank under such Letter of Credit to any person purporting to be a trustee in bankruptcy, debtor-in-possession, assignee for the benefit of creditors, liquidator, receiver or other representative of or successor to any beneficiary or any transferee of such Letter of Credit, including any arising in connection with any case or proceeding under any Debtor Relief Law; or

any other circumstance or happening whatsoever, whether or not similar to any of the foregoing, including any other circumstance that might otherwise constitute a defense available to, or a discharge of, the Borrower or any of its Subsidiaries.

The Borrower shall promptly examine a copy of each Letter of Credit and each amendment thereto that is delivered to it and, in the event of any claim of noncompliance with the Borrower's instructions or other irregularity, the Borrower will promptly notify the relevant Issuing Bank. The Borrower shall be conclusively deemed to have waived any such claim against the relevant Issuing Bank and its correspondents unless such notice is given as aforesaid.

(18) Role of Issuing Banks. Each Lender and the Borrower agree that, in paying any drawing under a Letter of Credit, other than in respect of any sight draft, certificates and documents expressly required by the Letter of Credit, no Issuing Bank shall have any responsibility to obtain any document or to ascertain or inquire as to the validity or accuracy of any such document or the authority of the person executing or delivering any such document. None of the Issuing Banks, the Administrative Agent, any of their respective Related Parties nor any correspondent, participant or assignee of the Issuing Banks shall be liable to any Lender for (i) any action taken or omitted in connection herewith at the request or with the approval of the Revolving Facility Lenders or the Required Revolving Facility Lenders, as applicable, under the applicable Revolving Facility; (ii) any action taken or omitted in the absence of gross negligence or willful misconduct or (iii) the due execution, effectiveness, validity or enforceability of any document or instrument related to any Letter of Credit or Issuer Document. The Borrower hereby assumes all risks of the acts or omissions of any beneficiary or transferee with respect to its use of any Letter of Credit; provided, however, that this assumption is not intended to, and shall not, preclude the Borrower's pursuing such rights and remedies as it may have against the beneficiary

or transferee at law or under any other agreement. None of the Issuing Banks, the Administrative Agent, any of their respective Related Parties nor any correspondent, participant or assignee of any Issuing Bank shall be liable or responsible for any of the matters described in clauses (i) through (viii) of Section 2.05(e); provided, however, that anything in such clauses to the contrary notwithstanding, the Borrower may have a claim against an Issuing Bank, and such Issuing Bank may be liable to the Borrower, to the extent, but only to the extent, of any direct, as opposed to consequential or exemplary, damages suffered by the Borrower which the Borrower proves were caused by such Issuing Bank's willful misconduct or gross negligence, or such Issuing Bank's willful failure to pay under any Letter of Credit after the presentation to it by the beneficiary of documents strictly complying with the terms and conditions of a Letter of Credit. In furtherance and not in limitation of the foregoing, each Issuing Bank may accept documents that appear on their face to be in compliance with the terms of the Letter of Credit, without responsibility for further investigation, regardless of any notice or information to the contrary, and no Issuing Bank shall be responsible for the validity or sufficiency of any instrument transferring or purporting to transfer a Letter of Credit or the rights or benefits thereunder or proceeds thereof, in whole or in part, which may prove to be invalid or ineffective for any reason. Any Issuing Bank may send a Letter of Credit or conduct any communication to or from the beneficiary via the Society for Worldwide Interbank Financial Telecommunication ("SWIFT") message or overnight courier, or any other commercially reasonable means of communicating with a beneficiary.

(19) Applicability of ISP. Unless otherwise expressly agreed by the relevant Issuing Bank and the Borrower when a Letter of Credit is issued (including any such agreement applicable to an Existing Letter of Credit), (i) the rules of the ISP shall be stated therein to apply to each Letter of Credit. Notwithstanding the foregoing, no Issuing Bank shall be responsible to the Borrower for, and no Issuing Bank's rights and remedies against the Borrower shall be impaired by, any action or inaction of such Issuing Bank required or permitted under any law, order, or practice that is required or permitted to be applied to any Letter of Credit or this Agreement, including any Requirements of Law or any order of a jurisdiction where such Issuing Bank or the beneficiary is located, the practice stated in the ISP or in the decisions, opinions, practice statements, or official commentary of the ICC Banking Commission, the Bankers Association for Finance and Trade (BAFT), or the Institute of International Banking Law & Practice, whether or not any Letter of Credit chooses such law or practice.

(20) Conflict with Issuer Documents. In the event of any conflict between the terms hereof and the terms of any Issuer Document, the terms hereof shall control.

(21) Letters of Credit Issued for Subsidiaries. Notwithstanding that a Letter of Credit issued or outstanding hereunder is in support of any obligations of, or is for the account of, a Subsidiary, the Borrower shall be obligated to reimburse the applicable Issuing Bank hereunder for any and all drawings under such Letter of Credit. The Borrower hereby acknowledges that the issuance of Letters of Credit for the account of subsidiaries inures to the benefit of the Borrower, and that the Borrower's business derives substantial benefits from the businesses of such subsidiaries.

(22) Cash Collateralization Following Certain Events. If and when the Borrower is required to Cash Collateralize any Revolving L/C Exposure relating to any outstanding Letters of Credit pursuant to any of Section 2.11(d), 2.11(e), 2.24(a)(v) or 7.01, the Borrower shall deposit in an account with or at the direction of the Collateral Agent, in the name of the Collateral Agent and for the benefit of the Revolving Facility Lenders under each Revolving Facility, an amount in cash equal to 102% of the Revolving L/C Exposure under such Revolving Facility as of such date plus any accrued but unpaid interest thereon (or, in the case of Sections 2.11(d), 2.11(e) and 2.24(a)(v), the portion thereof required by such sections). Each deposit of Cash Collateral (x) made pursuant to this paragraph or (y) made by the Administrative Agent pursuant to Section 2.24(a)(ii), in each case, shall be held by the Collateral Agent as collateral for the payment and performance of the obligations of the Borrower under this Agreement. The Collateral Agent shall have exclusive dominion and control, including the exclusive right of withdrawal, over such account and the Borrower hereby grants the Collateral Agent, for the benefit of the Secured Parties, a security interest in such account. Such deposits shall not bear interest. Moneys in such account shall be applied by the Collateral Agent to reimburse each Issuing Bank for any disbursements under any Letter of Credit for which such Issuing Bank has not been reimbursed and, to the extent not so applied, shall be held for the satisfaction of the reimbursement obligations of the Borrower for the Revolving L/C Exposure at such time or, if the maturity of the Loans has been accelerated (but subject to the consent of Lenders with Revolving L/C Exposure representing greater than 50% of the total Revolving L/C Exposure), be applied to satisfy other Loan Obligations. If the Borrower is required to provide an amount of Cash Collateral hereunder as a result of the occurrence of an Event of Default or the existence of a Defaulting Lender or the occurrence of a limit under Section 2.11(d) or (e) being exceeded, such amount (to the extent not applied as aforesaid) shall be returned to the Borrower within three (3) Business Days after all Events of Default have been cured or waived or the termination of the Defaulting Lender status or the limits under Sections 2.11(d) and (e) no longer being exceeded, as applicable.

(23) Additional Issuing Banks. From time to time, the Borrower may by notice to the Administrative Agent designate any Revolving Facility Lender (in addition to the initial Issuing Banks) which agrees (in its sole discretion) to act in such capacity and is reasonably satisfactory to the Administrative Agent as an Issuing Bank. Each such additional Issuing Bank shall execute a counterpart of this Agreement upon the approval of the Administrative Agent (which approval shall not be unreasonably withheld, conditioned or delayed) and shall thereafter be an Issuing Bank hereunder for all purposes.

(24) Reporting. Unless otherwise requested by the Administrative Agent, each Issuing Bank (other than the Administrative Agent or its Affiliates) shall (i) provide to the Administrative Agent copies of any notice received from the Borrower pursuant to Section 2.05(b) no later than the next Business Day after receipt thereof (or, if earlier, the time specified thereon) and (ii) report in writing to the Administrative Agent (A) on or prior to each Business Day on which such Issuing Bank expects to issue, amend or extend any Letter of Credit, the date of such issuance, amendment or extension, and the aggregate amount of the Letters of Credit to be issued, amended or extended by it and outstanding after giving effect to such issuance, amendment or extension occurred (and whether the amount thereof changed), and

the Issuing Bank shall be permitted to issue, amend or extend such Letter of Credit if the Administrative Agent shall not have advised the Issuing Bank that such issuance, amendment or extension would not be in conformity with the requirements of this Agreement, (B) on each Business Day on which such Issuing Bank makes any disbursement under any Letter of Credit, the date of such disbursement and the amount of such disbursement and (C) on any other Business Day, such other information with respect to the outstanding Letters of Credit issued by such Issuing Bank as the Administrative Agent shall reasonably request.

(25) Amounts. For the avoidance of doubt, each reference to an “amount” in this Section 2.05 that describes an obligation in respect of a Letter of Credit shall be deemed to refer to the Dollar amount or the Permitted Foreign Currency amount, as applicable.

Funding of Borrowings.

(26) Each Lender shall make each Loan to be made by it hereunder on the proposed date thereof by wire transfer of immediately available funds by 12:00 noon, Local Time, to the account of the Administrative Agent most recently designated by it for such purpose by notice to the Lenders; provided, that Swingline Loans shall be made as provided in Section 2.04. The Administrative Agent will make such Loans available to the Borrower by promptly crediting the amounts so received, in like funds, to an account of the Borrower as specified in the applicable Borrowing Request; provided, that Borrowings made to finance the reimbursement of any disbursement under any Letter of Credit and reimbursements as provided in Section 2.05(c) shall be remitted by the Administrative Agent to the applicable Issuing Bank.

(27) Unless the Administrative Agent shall have received notice from a Lender prior to the proposed date of any Borrowing of Eurodollar Loans (or, in the case of any Borrowing of ABR Loans, prior to 11:00 a.m., Local Time, on the date of such Borrowing) that such Lender will not make available to the Administrative Agent such Lender’s share of such Borrowing, the Administrative Agent may assume that such Lender has made such share available on such date in accordance with clause (a) of this Section and may, in reliance upon such assumption, make available to the Borrower a corresponding amount. In such event, if a Lender has not in fact made its share of the Borrowing available to the Administrative Agent, then the applicable Lender and the Borrower severally agree to pay to the Administrative Agent forthwith on demand such amount with interest thereon, for each day from and including the date such amount is made available to the Borrower to but excluding the date of payment to the Administrative Agent, at (i) in the case of a payment to be made by such Lender, the greater of (A) the Federal Funds Rate and (B) a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation or (ii) in the case of a payment to be made by the Borrower, the interest rate then applicable to ABR Loans of the applicable Class. If such Lender pays such amount to the Administrative Agent, then such amount shall constitute such Lender’s Loan included in such Borrowing. The foregoing shall be without prejudice to any claim such Borrower may have against a Lender that shall have failed to make such payment to the Administrative Agent.

Interest Elections.

(28) Each Borrowing initially shall be of the Type, and under the applicable Class, 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. The Borrower may elect different options with respect to different portions of the affected Borrowing, in which case each such portion shall be allocated ratably among the Lenders holding the Loans comprising such Borrowing, and the Loans comprising each such portion shall be considered a separate Borrowing. This Section 2.07 shall not apply to Swingline Loans, which may not be converted or continued. Notwithstanding any other provision of this Section 2.07, the Borrower shall not be permitted to change the Class of any Borrowing.

(29) To make an election pursuant to this Section, the Borrower shall notify the Administrative Agent of such election (by telephone or irrevocable written notice), by the time that a Borrowing Request would be required under Section 2.03 if the Borrower were requesting a Borrowing of the Type and Class resulting from such election to be made on the effective date of such election. Each such telephonic Interest Election Request shall be irrevocable and shall be confirmed promptly by hand delivery or electronic means to the Administrative Agent of a written Interest Election Request signed by the Borrower. Notwithstanding any contrary provision herein, this Section 2.07 shall not be construed to permit the Borrower to (i) elect an Interest Period for Eurodollar Loans that does not comply with Section 2.02(d) or (ii) convert any Borrowing to a Borrowing of a Type not available under the Class of Commitments or Loans pursuant to which such Borrowing was made.

(30) Each telephonic and written Interest Election Request shall specify the following information in compliance with Section 2.02:

the Borrowing to which such Interest Election Request applies and, if different options are being elected with respect to different portions thereof, the portions thereof to be allocated 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);

the effective date of the election made pursuant to such Interest Election Request, which shall be a Business Day;

whether the resulting Borrowing is to be an ABR Borrowing or a Eurodollar Borrowing; and

if the resulting Borrowing is a Eurodollar Borrowing, the Interest Period to be applicable thereto after giving effect to such election, which Interest Period 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 the Borrower shall be deemed to have selected an Interest Period of one month's duration. If less than all the outstanding principal amount of any Borrowing shall be converted or continued, then each resulting Borrowing shall be in an integral multiple of the

Borrowing Multiple and not less than the Borrowing Minimum and satisfy the limitations specified in Section 2.02(d) regarding the maximum number of Borrowings of the relevant Type.

(31) Promptly following receipt of an Interest Election Request, the Administrative Agent shall advise each Lender to which such Interest Election Request relates of the details thereof and of such Lender's portion of each resulting Borrowing.

(32) If the Borrower fails to deliver a timely Interest Election Request with respect to a Eurodollar Borrowing 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 and the Administrative Agent, at the written request (including a request through electronic means) of the Required Lenders, so notifies the Borrower, then, so long as an Event of Default is continuing (i) no outstanding Borrowing may be converted to or continued as a Eurodollar Borrowing and (ii) unless repaid, each Eurodollar Borrowing shall be converted to an ABR Borrowing at the end of the then current Interest Period.

Termination and Reduction of Commitments.

(33) Unless previously terminated, the Revolving Facility Commitments of each Class shall automatically and permanently terminate on the applicable Revolving Facility Maturity Date for such Class. On the Closing Date (after giving effect to the funding of the Initial Term Loans to be made on such date), the Initial Term Loan Commitments of each Term Lender with an Initial Term Loan Commitment as of the Closing Date will automatically and permanently terminate.

(34) The Borrower may at any time terminate, or from time to time reduce, the Revolving Facility Commitments of any Class; provided, that (i) each reduction of the Revolving Facility Commitments of any Class shall be in an amount that is an integral multiple of \$1,000,000 and not less than \$1,000,000 (or, if less, the remaining amount of the Revolving Facility Commitments of such Class) and (ii) the Borrower shall not terminate or reduce the Revolving Facility Commitments of any Class if, after giving effect to any concurrent prepayment of the Revolving Facility Loans in accordance with Section 2.11 and any Cash Collateralization of Letters of Credit in accordance with Section 2.05(j), as applicable, the Revolving Facility Credit Exposure of such Class (excluding any Cash Collateralized Letter of Credit, to the extent so Cash Collateralized) would exceed the total Revolving Facility Commitments of such Class.

(35) The Borrower shall notify the Administrative Agent of any election to terminate or reduce the Revolving Facility Commitments of any Class under clause (b) of this Section 2.08 at least three (3) Business Days prior to the effective date of such termination or reduction (or such shorter period acceptable to the Administrative Agent), specifying such election and the effective date thereof. Promptly following receipt of any notice, the Administrative Agent shall advise the applicable Lenders of the contents thereof. Each notice delivered by the Borrower pursuant to this Section 2.08 shall be irrevocable; provided, that a notice of termination or

reduction of the Revolving Facility Commitments of any Class delivered by the Borrower may state that such notice is conditioned upon the effectiveness of other credit facilities, indentures or similar agreements or other transactions, 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 termination or reduction of the Commitments 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.

Repayment of Loans; Evidence of Debt.

(36) The Borrower hereby unconditionally promise to pay (i) to the Administrative Agent for the account of each Revolving Facility Lender the then unpaid principal amount of each Revolving Facility Loan on the Revolving Facility Maturity Date applicable to such Revolving Facility Loans, (ii) to the Administrative Agent for the account of each Lender the then unpaid principal amount of each Term Loan of such Lender as provided in Section 2.10 and (iii) to the Swingline Lender the then unpaid principal amount of each Swingline Loan made under any Revolving Facility on the Revolving Facility Maturity Date for such Revolving Facility; provided, that on each date that a Revolving Facility Borrowing is made by the Borrower, the Borrower shall repay all Swingline Loans then outstanding.

(37) 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, including the amounts of principal and interest payable and paid to such Lender from time to time hereunder.

(38) The Administrative Agent shall maintain accounts in which it shall record (i) the amount of each Loan made hereunder, the Facility, Class and Type thereof and the Interest Period (if any) 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) any amount received by the Administrative Agent hereunder for the account of the Lenders and each Lender's share thereof.

(39) The entries made in the accounts maintained pursuant to clause (b) or (c) of this Section 2.09 shall be prima facie evidence of the existence and amounts of the obligations recorded therein; 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 obligation of the Borrower to repay the Loans in accordance with the terms of this Agreement.

(40) Any Lender may request that Loans made by it be evidenced by a promissory note (a "Note"). In such event, the Borrower shall prepare, 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) and in the form attached hereto as Exhibit H, or in another form approved by such Lender, the Administrative Agent and the Borrower in their sole discretion. Thereafter, unless otherwise agreed to by the applicable Lender, the Loans evidenced by such promissory note and interest thereon shall at all times (including after assignment pursuant to Section 9.04)

be represented by one or more promissory notes in such form payable to the payee named therein (or, if requested by such payee, to such payee and its registered assigns).

Repayment of Term Loans and Revolving Facility Loans and Prepayment Procedures.

(41) Subject to the other clauses of this Section 2.10 and to Section 9.08(e),

the Borrower shall repay principal of outstanding Initial Term Loans on the last Business Day of each March, June, September and December of each year (commencing on the last Business Day of the first full fiscal quarter of the Borrower commencing after the Closing Date) and on the Initial Term Loan Maturity Date (each such date being referred to as an “Initial Term Loan Installment Date”), in an aggregate principal amount of Initial Term Loans equal to (i) for each Initial Term Loan Installment Date prior to the Initial Term Loan Maturity Date, 0.25% of the aggregate principal amount of the Initial Term Loans incurred on the Closing Date and (ii) in the case of such payment due on the Initial Term Loan Maturity Date, an amount equal to the then unpaid principal amount of such Initial Term Loans outstanding;

in the event that any Other Term Loans are made, the Borrower shall repay such Other Term Loans on the dates and in the amounts set forth in the related Incremental Assumption Agreement, Extension Amendment or Refinancing Amendment (each such date being referred to as an “Other Term Loan Installment Date”); and

to the extent not previously paid, all outstanding Term Loans shall be due and payable on the applicable Term Facility Maturity Date.

(42) To the extent not previously paid, all outstanding Revolving Facility Loans and Swingline Loans shall be due and payable on the applicable Revolving Facility Maturity Date.

(43) Any mandatory prepayment of Term Loans pursuant to Section 2.11(b) or Section 2.11(c) shall be applied so that the aggregate amount of such prepayment is allocated among the Initial Term Loans and the Other Term Loans, if any, pro rata based on the aggregate principal amount of outstanding Initial Term Loans and Other Term Loans, if any, to reduce amounts due on the succeeding Term Loan Installment Dates for such Classes; provided, that, subject to the pro rata application to Loans outstanding within any respective Class of Loans, with respect to mandatory prepayments of Term Loans pursuant to Section 2.11(b)(1) and 2.11(c), any Class of Other Term Loans may receive less than its pro rata share thereof (so long as the amount by which its pro rata share exceeds the amount actually applied to such Class is applied to repay (on a pro rata basis) the outstanding Initial Term Loans and any other Classes of then outstanding Other Term Loans, in each case to the extent the respective Class receiving less than its pro rata share has consented thereto). Any optional prepayments of the Term Loans pursuant to Section 2.11(a) shall be applied to the remaining installments of the Term Loans under the applicable Class or Classes as the Borrower may in each case direct.

Prior to any prepayment of any Loan under any Facility hereunder, the Borrower shall select the Borrowing or Borrowings under the applicable Facility to be prepaid and shall notify

the Administrative Agent (and, in the case of prepayment of a Swingline Loan, the Swingline Lender) by telephone (confirmed by electronic means) of such selection not later than (i) 10:00 a.m., Local Time, in the case of an ABR Borrowing or any Swingline Loan, on the scheduled date of such prepayment and (ii) 2:00 p.m., Local Time, in the case of a Eurodollar Borrowing, at least three (3) Business Days before the scheduled date of such prepayment (or, in each case, such shorter period acceptable to the Administrative Agent (and Swingline Lender, if applicable)). Each such notice shall be irrevocable; provided, that a notice of prepayment may state that such notice is conditioned upon the effectiveness of other credit facilities, indentures or similar agreements or other transactions, in which case such notice may be revoked by the Borrower (by notice to the Administrative Agent (and Swingline Lender, if applicable) on or prior to the specified effective date) if such condition is not satisfied. Each repayment of a Borrowing (x) in the case of the Revolving Facility of any Class, shall be applied to the Revolving Facility Loans included in the repaid Borrowing such that each Revolving Facility Lender receives its ratable share of such repayment (based upon its respective Revolving Facility Percentage of such Class at the time of such repayment) and (y) in all other cases, shall be applied ratably to the Loans included in the repaid Borrowing. All repayments of Loans shall be accompanied by (1) accrued interest on the amount repaid to the extent required by Section 2.13(d) and (2) break funding payments pursuant to Section 2.16. In connection with any prepayment of any Loan of any Lender hereunder that would otherwise occur from the proceeds of new Loans being funded hereunder on the date of such prepayment, if agreed to by the Borrower and such Lender in a writing provided to the Administrative Agent, the portion of the existing Loan of such Lender that would otherwise be prepaid on such date may instead be converted on a “cashless roll” basis into a like principal amount of the new Loans being funded on such date.

(44) The Borrower shall notify the Administrative Agent in writing of any mandatory prepayment of Term Loans required to be made pursuant to Section 2.11(b)(1) or 2.11(c) at least four (4) Business Days prior to the date of such prepayment. Each such notice shall specify the date of such prepayment and provide a reasonably detailed calculation of the amount of such prepayment. The Administrative Agent will promptly notify each Term Lender of the contents of any such prepayment notice and of such Term Lender’s ratable portion of such prepayment (based on such Lender’s pro rata share of each relevant Class of the Term Loans). Any Term Lender (a “Declining Term Lender”) may elect, by delivering written notice to the Administrative Agent and the Borrower no later than 5:00 p.m. one (1) Business Day after the date of such Term Lender’s receipt of notice from the Administrative Agent regarding such prepayment, that the full amount of any mandatory prepayment otherwise required to be made with respect to the Term Loans held by such Term Lender pursuant to Section 2.11(b)(1) or 2.11(c) not be made (the aggregate amount of such prepayments declined by the Declining Term Lenders, the “Declined Prepayment Amount”). If a Term Lender fails to deliver notice setting forth such rejection of a prepayment to the Administrative Agent within the time frame specified above or such notice fails to specify the principal amount of the Term Loans to be rejected, any such failure will be deemed an acceptance of the total amount of such mandatory prepayment of Term Loans. Any Declined Prepayment Amount which would otherwise have been applied to such Term Loans of the Declining Term Lenders shall instead be retained by the Borrower. For the avoidance of doubt, the Borrower may, at its option, apply any amounts retained in

accordance with the immediately preceding sentence to prepay loans in accordance with Section 2.11(a) below.

Prepayment of Loans.

(45) The Borrower shall have the right at any time and from time to time to prepay any Loan in whole or in part, without premium or penalty (but subject to Section 2.12(d), Section 2.12(e) and Section 2.16 and subject to prior notice in accordance with the provisions of Section 2.10(c)), in an aggregate principal amount that is an integral multiple of \$500,000 and not less than \$1,000,000 or, if less, the amount outstanding, subject to prior notice in accordance with the first sentence of Section 2.10(d).

(46) Following the Closing Date, the Borrower shall make a prepayment in an amount equal to (1) the amount of all Net Proceeds (other than Net Proceeds of the kind described in the following clauses (2) and (3)) within ten (10) Business Days after receipt thereof to prepay Term Loans in accordance with clauses (c) and (d) of Section 2.10; and (2) the amount of all Net Proceeds from any issuance or incurrence of Refinancing Notes, Refinancing Term Loans and Replacement Revolving Facility Commitments (other than solely by means of extending or renewing then existing Refinancing Notes, Refinancing Term Loans and Replacement Revolving Facility Commitments without resulting in any Net Proceeds) no later than three (3) Business Days after the date on which such Refinancing Notes, Refinancing Term Loans and Replacement Revolving Facility Commitments are issued or incurred, to prepay Term Loans and/or Revolving Facility Commitments in accordance with Section 2.23 and the definition of "Refinancing Notes" (as applicable). Notwithstanding anything to the contrary in this Section 2.11(b) or elsewhere in this Agreement, to the extent that (A) any or all of the Net Proceeds from any Foreign Subsidiary are prohibited by any Requirement of Law from being loaned, distributed or otherwise transferred to Borrower (provided that the Borrower and such Subsidiary shall take all commercially reasonable actions available under local law to permit such repatriation or to remove such prohibitions) or any Domestic Subsidiary or materially adverse consequences (including Tax consequences) to the Borrower or any Subsidiary (as reasonably determined by the Borrower) would result therefrom or (B) any or all of the Net Proceeds received by a Subsidiary other than a Guarantor are prohibited from being transferred to the Borrower for application in accordance with this Section 2.11(b) by any applicable organizational documents, joint venture agreement, shareholder agreement, or similar agreement or any other contractual obligation with an unaffiliated third party (including any agreement governing Indebtedness) that was not created in contemplation of such event resulting in Net Proceeds, then in each case the portion of such Net Proceeds so affected will not be required to be applied at the times provided in this Section 2.11(b) but may be retained by the applicable Subsidiary or applied in any other manner not prohibited by this Agreement. Notwithstanding the foregoing, in no event shall the Borrower be required to repatriate cash held at a Foreign Subsidiary in order to make a required mandatory prepayment; provided that, for the sake of clarity, this sentence shall not impact the obligation of the Borrower to make any such prepayment.

(47) Not later than ten (10) Business Days after the date on which the annual financial statements are, or are required to be, delivered under Section 5.04(a) with respect to each Excess

Cash Flow Period, the Borrower shall calculate the Excess Cash Flow of the Borrower and its Subsidiaries for such Excess Cash Flow Period and the Borrower shall apply an amount to prepay Term Loans equal to (i) the Required Percentage of such Excess Cash Flow minus, without duplication of any amount deducted from Consolidated Net Income in calculating Excess Cash Flow for such period, (ii) to the extent not financed using the proceeds of funded Indebtedness (other than revolving indebtedness), the sum of (a) the amount of any voluntary payments of Term Loans and amounts used to repurchase outstanding principal of Term Loans during such Excess Cash Flow Period pursuant to Sections 2.11(a) and Section 2.25 (it being understood that the amount of any such payments pursuant to Section 2.25 shall be calculated to equal the amount of cash used to repay principal and not the principal amount deemed prepaid therewith), (b) the amount of any voluntary payments of Revolving Facility Loans to the extent that Revolving Facility Commitments are terminated or reduced pursuant to Section 2.08 by the amount of such payments and (c) the amount used to fund voluntary prepayments, voluntary repurchases or voluntary redemptions of any other Indebtedness, in each case to the extent secured on a pari passu basis with the Obligations under this Agreement (other than Indebtedness under any revolving credit facility except to the extent there is a corresponding reduction in the commitments thereunder), plus, in each case, at the option of the Borrower and without duplication of any amounts previously deducted under this clause (ii), the amount of any such voluntary payments, voluntary repurchases or voluntary redemptions of such Indebtedness after the end of such Excess Cash Flow Period but before the date of prepayment under this clause (c). Such calculation will be set forth in a certificate signed by a Financial Officer of the Borrower delivered to the Administrative Agent setting forth the amount, if any, of Excess Cash Flow for such fiscal year, the amount of any required prepayment in respect thereof and the calculation thereof in reasonable detail. Notwithstanding anything to the contrary in this Section 2.11(c) or elsewhere in this Agreement, to the extent that (A) any or all of Excess Cash Flow that is attributable to a Foreign Subsidiary is prohibited by any Requirement of Law from being loaned, distributed or otherwise transferred to Borrower or any Domestic Subsidiary (provided that the Borrower and such Subsidiary shall take all commercially reasonable actions available under local law to permit such repatriation or to remove such prohibitions) or materially adverse Tax consequences (as reasonably determined by the Borrower) would result therefrom or (B) any or all of the Excess Cash Flow that is attributable to a Subsidiary other than a Guarantor are prohibited from being transferred to the Borrower for application in accordance with this Section 2.11(c) by any applicable organizational documents, joint venture agreement, shareholder agreement, or similar agreement or any other contractual obligation with an unaffiliated third party (including any agreement governing Indebtedness), then the portion of such Excess Cash Flow so affected will not be required to be applied at the times provided in this Section 2.11(c) but may be retained by the applicable Subsidiary or applied in any other manner not prohibited by this Agreement. Notwithstanding the foregoing, in no event shall the Borrower be required to repatriate cash held at a Foreign Subsidiary in order to make a required mandatory prepayment; provided that, for the sake of clarity, this sentence shall not impact the obligation of the Borrower to make any such prepayment

(48) In the event (other than as a result of any revaluation of the Dollar Equivalent of the Revolving Exposure on any Revaluation Date) that the aggregate amount of Revolving Facility Credit Exposure of any Class exceeds the total Revolving Facility Commitments of such

Class, the Borrower shall prepay Revolving Facility Borrowings and/or Swingline Borrowings of such Class (or, if no such Borrowings are outstanding, provide Cash Collateral in respect of outstanding Letters of Credit pursuant to Section 2.05(j)) in an aggregate amount equal to such excess. In addition, if solely as a result of changes in the exchange rate of any Permitted Foreign Currency, the Administrative Agent notifies the Borrower that either (i) the Dollar Equivalent of the L/C Obligations exceeds the Letter of Credit Sublimit or (ii) the Dollar Equivalent of the Revolving Facility Credit Exposure of any Class exceeds the total Revolving Facility Commitments of such Class, then in either such case the Borrower shall, at the request of the Administrative Agent, within ten (10) days of receipt of such notice, provide Cash Collateral in respect of outstanding Letters of Credit denominated in such Permitted Foreign Currency in an aggregate amount such that the applicable exposure does not exceed the applicable amount set forth above.

(49) Prepayments pursuant to this Section 2.11 shall be in accordance with the procedures specified in clauses (c) and (d) of Section 2.10 (including, for the avoidance of doubt, that Term Lenders may decline such prepayments and the Borrower may retain any Declined Prepayment Amount).

Fees.

(50) The Borrower agrees to pay to the Administrative Agent for the account of each Lender, on the first Business Day following the end of each March, June, September and December (commencing on the first such Business Day that is at least three months after the Closing Date) and on the date on which the Revolving Facility Commitments of any Class of all the Lenders shall be terminated as provided herein, a commitment fee (a "Commitment Fee") in Dollars on the daily amount of the applicable Available Unused Commitment of such Lender during the preceding quarter (or other period commencing with the Closing Date or ending with the date on which the last of the Revolving Facility Commitments of such Lender shall be terminated) at a rate equal to the Applicable Commitment Fee. All Commitment Fees shall be computed on the basis of the actual number of days elapsed (including the first day but excluding the last) in a year of 360 days. The Commitment Fee due to each Lender shall commence to accrue on the Closing Date and shall cease to accrue on the date on which the last of the Revolving Facility Commitments of such Lender shall be terminated as provided herein.

(51) The Borrower agrees to pay from time to time (i) to the Administrative Agent for the account of each Revolving Facility Lender of each Class, on the first Business Day following the end of each March, June, September and December (commencing on the first such Business Day that is at least three months after the Closing Date) and on the date on which the Revolving Facility Commitments of all the Lenders in such Class shall be terminated as provided herein, a fee (an "L/C Participation Fee") on such Lender's Revolving Facility Percentage of the daily average Revolving L/C Exposure (excluding the portion thereof attributable to unreimbursed disbursements under any Letter of Credit) of such Class, during the preceding quarter (or other period commencing with the Closing Date or ending with the Revolving Facility Maturity Date or the date on which the Revolving Facility Commitments of such Class shall be terminated; provided, that any such fees accruing after the date on which such Revolving Facility

Commitments terminate shall be payable on demand) at the rate per annum equal to the Applicable Margin for Eurodollar Revolving Facility Borrowings of such Class effective for each day in such period, and (ii) to each Issuing Bank, for its own account (x) on the last Business Day of each March, June, September and December (commencing on the last Business Day of the first fiscal quarter commencing after the Closing Date) and on the date on which the Revolving Facility Commitments of all the Lenders shall be terminated, a fronting fee in Dollars in respect of each Letter of Credit issued by such Issuing Bank for the period from and including the date of issuance of such Letter of Credit to and including the termination of such Letter of Credit, computed at a rate per annum to be agreed between the Borrower or such Issuing Bank (but not in any event to exceed 0.125% per annum) of the daily available amount of such Letter of Credit (or such lesser amount as may be acceptable to the Issuing Bank in its sole discretion, or with respect to any additional Issuing Bank designated in accordance with Section 2.05(k) after the Closing Date, such greater amount as may be agreed with the Borrower), plus (y) in connection with the issuance, amendment, cancellation, document examination, presentment, renewal, extension or transfer of any such Letter of Credit or any disbursement thereunder, such Issuing Bank's customary documentary and processing fees and charges (collectively, "Issuing Bank Fees"). All L/C Participation Fees and Issuing Bank Fees that are payable on a per annum basis shall be computed on the basis of the actual number of days elapsed (including the first day but excluding the last) in a year of 360 days.

(52) The Borrower agrees to pay to the Administrative Agent, for the account of the Administrative Agent, the "Senior Administration Fee" as set forth in the Agent Fee Letter, in the amounts and, at the times specified therein (the "Administrative Agent Fees").

(53) If any Repricing Event occurs prior to the date occurring 12 months (the "Soft Call Date") after the Closing Date, the Borrower agrees to pay to the Administrative Agent, for the ratable account of each Term Lender with Initial Term Loans that are subject to such Repricing Event, a fee in an amount equal to 1.00% of the aggregate principal amount of the Initial Term Loans subject to such Repricing Event. Such fees shall be earned, due and payable upon the date of the occurrence of the respective Repricing Event. For the avoidance of doubt, after the Soft Call Date, the Initial Term Loans may be prepaid in whole or in part at any time without premium or penalty.

(54) All Fees shall be paid on the dates due, in Dollars and immediately available funds, to the Administrative Agent for distribution, if and as appropriate, among the Lenders, except that Issuing Bank Fees shall be paid directly to the applicable Issuing Banks. Once paid, none of the Fees shall be refundable under any circumstances.

(55) On the Closing Date, the Borrower agrees to pay to the Administrative Agent, for the account of the Lenders, a fee of 3.00% of the aggregate principal amount of Term Loans held by each Lender.

Interest.

(56) The Loans comprising each ABR Borrowing (including each Swingline Loan) shall bear interest at the ABR plus the Applicable Margin.

(57) The Loans comprising each Eurodollar Borrowing shall bear interest at the Eurodollar Rate for the Interest Period in effect for such Borrowing plus the Applicable Margin

(58) Notwithstanding the foregoing, if any principal of or interest on any Loan or any Fees or other monetary amount payable by the Borrower hereunder is not paid when due, whether at stated maturity, upon acceleration or otherwise, such overdue amount shall bear interest, after as well as before judgment, at a rate per annum equal to (i) in the case of overdue principal of any Loan, 2% plus the rate otherwise applicable to such Loan as provided in the preceding clauses of this Section 2.13 or (ii) in the case of any other overdue monetary amount, 2% plus the rate applicable to ABR Loans as provided in clause (a) of this Section; provided, that this clause (c) shall not apply to any Event of Default that has been waived by the Lenders pursuant to Section 9.08.

(59) Accrued interest on each Loan shall be payable in arrears (i) on each Interest Payment Date for such Loan, (ii) in the case of Revolving Facility Loans, upon termination of the applicable Revolving Facility Commitments and (iii) in the case of the Term Loans, on the applicable Term Facility Maturity Date; provided, that (A) interest accrued pursuant to clause (c) of this Section 2.13 shall be payable on demand, (B) in the event of any repayment or prepayment of any Loan (other than a prepayment of a Revolving Facility Loan that is an ABR Loan that is not made in conjunction with a permanent commitment reduction), accrued interest on the principal amount repaid or prepaid shall be payable on the date of such repayment or prepayment, (C) 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 and (D) any Loan that is repaid on the same day on which it is made shall bear interest for one day.

(60) All interest hereunder shall be computed on the basis of a year of 360 days, except that interest computed by reference to the ABR 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 ABR or Eurodollar Rate shall be determined by the Administrative Agent, and such determination shall be conclusive absent manifest error.

Effect of Benchmark Transition Event.

(61) Benchmark Replacement. Notwithstanding anything to the contrary herein or in any other Loan Document, if a Benchmark Transition Event or an Early Opt-in Election, as applicable, and its related Benchmark Replacement Date have occurred prior to the Reference Time in respect of any determination of the Benchmark on any date, the Benchmark Replacement will replace the then-current Benchmark for all purposes hereunder or under any Loan Document in respect of such determination on such date and all determinations on all subsequent dates. If the Benchmark Replacement is determined in accordance with clause (1) or (2) of the definition of "Benchmark Replacement," such Benchmark Replacement will become effective as of the Reference Time on the applicable Benchmark Replacement Date without any amendment to, or further action or consent of any other party to, this Agreement. If the Benchmark Replacement is determined in accordance with clause (3) of the definition of

“Benchmark Replacement,” such Benchmark Replacement will become effective at 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 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. The parties hereto shall take commercially reasonable efforts to cooperate to ensure that any changes pursuant to this Section 2.14 qualify for either of the safe harbors under proposed U.S. Treasury Regulations Section 1.1001-6(b)(2)(ii) (or any successors thereto) or as a modification described in Section 4.02 of Rev. Proc. 2020-44.

(62) Benchmark Replacement Conforming Changes. In connection with the implementation 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.

(63) Notices; Standards for Decisions and Determinations. The Administrative Agent will promptly notify the Borrower and the Lenders of (i) any occurrence of a Benchmark Transition Event or an Early Opt-in Election, as applicable, and its related Benchmark Replacement Date, (ii) the implementation of any Benchmark Replacement, (iii) the effectiveness of any Benchmark Replacement Conforming Changes, (iv) the removal or reinstatement of any tenor of Term SOFR pursuant to clause (d) below and (v) the commencement or conclusion of any Benchmark Unavailability Period. Any determination, decision or election that may be made by the Administrative Agent pursuant to this Section 2.14 including any determination with respect to a tenor, rate or adjustment or of the occurrence or non-occurrence of an event, circumstance or date and any decision to take or refrain from taking any action or any selection, will be conclusive and binding absent manifest error and may be made in its sole discretion and without consent from any other party hereto, except, in each case, as expressly required pursuant to this Section 2.14.

(64) Unavailability of Tenor of Term SOFR. Notwithstanding anything to the contrary herein or in any other Loan Document, at any time and with respect to any Interest Period, if the Benchmark at such time is Term SOFR and Term SOFR for the applicable tenor is not displayed on a screen or other information service that publishes such rate from time to time as selected by the Administrative Agent in its reasonable discretion, the Administrative Agent may (i) modify the definition of “Interest Period” for all determinations of interest at or after such time to remove such unavailable tenor and (ii) if Term SOFR, as applicable, for the applicable tenor is displayed on such screen or information service after its removal pursuant to clause (i) above, modify the definition of “Interest Period” for all determinations of interest at or after such time to reinstate such previously removed tenor.

(65) Benchmark Unavailability Period. Upon the Borrower’s receipt of notice of the commencement of a Benchmark Unavailability Period, the Borrower may revoke any request for a Eurodollar Borrowing of, conversion to or continuation of Eurodollar Loans to be made,

converted or continued during any Benchmark Unavailability Period and, failing that, the Borrower will be deemed to have converted any such request into a request for a Borrowing of or conversion to ABR Loans. During any Benchmark Unavailability Period, the component of ABR based upon the then-current Benchmark will not be used in any determination of ABR.

(66) Certain Defined Terms. As used in this Section 2.14:

“Benchmark” means, initially, LIBOR; provided that if a Benchmark Transition Event or an Early Opt-in Election, as applicable, and its related Benchmark Replacement Date have occurred with respect to LIBOR or the then-current Benchmark, then “Benchmark” means the applicable Benchmark Replacement to the extent that such Benchmark Replacement has become effective pursuant to clause (a) of this Section 2.14.

“Benchmark Replacement” means, for any Interest Period, the first alternative set forth in the order below that can be determined by the Administrative Agent as of the Benchmark Replacement Date:

(1) the sum of: (a) Term SOFR or, if the Administrative Agent determines that Term SOFR for the applicable Corresponding Tenor cannot be determined, Next Available Term SOFR, and (b) the Benchmark Replacement Adjustment;

(2) the sum of: (a) Compounded SOFR and (b) the Benchmark Replacement Adjustment;

(3) the sum of: (a) the alternate rate of interest that has been selected by the Administrative Agent and the Borrower as the replacement for the then-current Benchmark for the applicable Corresponding Tenor giving due consideration to (i) any selection or recommendation of a replacement rate or the mechanism for determining such a rate by the Relevant Governmental Body at such time or (ii) any evolving or then-prevailing market convention for determining a rate of interest as a replacement for the then-current Benchmark for U.S. dollar-denominated syndicated credit facilities at such time and (b) the Benchmark Replacement Adjustment;

provided that, in the case of clauses (1) and (2) above, such rate, or the underlying rates component thereof, is or are displayed on a screen or other information service that publishes such rate or rates from time to time as selected by the Administrative Agent in its reasonable discretion. If the Benchmark Replacement as determined pursuant to clause (1), (2) or (3) above would be less than zero, the Benchmark Replacement will be deemed to be zero for the purposes of this Agreement.

“Benchmark Replacement Adjustment” means, for any Interest Period:

(1) for purposes of clauses (1) and (2) of the definition of “Benchmark Replacement,” the first alternative set forth in the order below that can be determined by the Administrative Agent as of the Benchmark Replacement Date:

(a) the spread adjustment, or method for calculating or determining such spread adjustment, (which may be a positive or negative value or zero) that has been selected or recommended by the Relevant Governmental Body for the applicable Unadjusted Benchmark Replacement;

(b) the spread adjustment (which may be a positive or negative value or zero) that would apply to the fallback rate for a derivative transaction referencing the ISDA Definitions to be effective upon an index cessation event with respect to USD LIBOR for the Corresponding Tenor; and

(2) for purposes of clause (3) of the definition of “Benchmark Replacement,” the spread adjustment, or method for calculating or determining such spread adjustment, (which may be a positive or negative value or zero) that has been selected by the Administrative Agent and the Borrower for the applicable Corresponding Tenor giving due consideration to (i) any selection or recommendation of a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of the then-current Benchmark with the applicable Unadjusted Benchmark Replacement by the Relevant Governmental Body at such time or (ii) any evolving or then-prevailing market convention for determining a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of the then-current Benchmark with the applicable Unadjusted Benchmark Replacement for U.S. dollar-denominated syndicated credit facilities at such time;

provided that, in the case of clause (1) above, such adjustment is displayed on a screen or other information service that publishes such Benchmark Replacement Adjustment from time to time as selected by the Administrative Agent in its reasonable discretion.

“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 “Interest Period,” timing and frequency of determining rates and making payments of interest and other administrative matters) that the Administrative Agent decides may be appropriate to reflect the adoption and implementation of such Benchmark Replacement and to permit the administration thereof by the Administrative Agent in a manner substantially consistent with market practice (or, if the Administrative Agent decides that adoption of any portion of such market practice is not administratively feasible or if the Administrative Agent determines that no market practice for the administration of the Benchmark Replacement exists, in such other manner of administration as the Administrative Agent decides is reasonably necessary in connection with the administration of this Agreement).

“Benchmark Replacement Date” means the earliest to occur of the following events with respect to the then-current Benchmark:

(1) in the case of clause (1) or (2) of the definition of “Benchmark Transition Event,” the later of (a) the date of the public statement or publication of information

referenced therein and (b) the date on which the administrator of the Benchmark permanently or indefinitely ceases to provide the Benchmark;

(2) in the case of clause (3) of the definition of “Benchmark Transition Event,” the date of the public statement or publication of information referenced therein; or

(3) in the case of an Early Opt-in Election, the first Business Day after the Rate Election Notice is provided to each of the other parties hereto.

For the avoidance of doubt, if the event giving rise to the Benchmark Replacement Date occurs on the same day as, but earlier than, the Reference Time in respect of any determination, the Benchmark Replacement Date will be deemed to have occurred prior to the Reference Time for such determination.

“Benchmark Transition Event” means the occurrence of one or more of the following events with respect to the then-current Benchmark:

(1) a public statement or publication of information by or on behalf of the administrator of the Benchmark announcing that such administrator has ceased or will cease to provide the Benchmark, permanently or indefinitely, provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide the Benchmark;

(2) a public statement or publication of information by the regulatory supervisor for the administrator of the Benchmark, the central bank for the currency of the Benchmark, an insolvency official with jurisdiction over the administrator for the Benchmark, a resolution authority with jurisdiction over the administrator for the Benchmark or a court or an entity with similar insolvency or resolution authority over the administrator for the Benchmark, which states that the administrator of the Benchmark has ceased or will cease to provide the Benchmark permanently or indefinitely, provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide the Benchmark; or

(3) a public statement or publication of information by the regulatory supervisor for the administrator of the Benchmark announcing that the Benchmark is no longer representative.

“Benchmark Unavailability Period” means, if a Benchmark Transition Event and its related Benchmark Replacement Date have occurred with respect to the then-current Benchmark and solely to the extent that the then-current Benchmark has not been replaced with a Benchmark Replacement pursuant to clauses (1) or (2) of the definition of “Benchmark Replacement,” the period (x) beginning at the time that such Benchmark Replacement Date pursuant to clauses (1) or (2) of that definition has occurred if, at such time, no Benchmark Replacement has replaced the then-current Benchmark for all purposes hereunder or under any Loan Document in accordance with this Section 2.14

and (y) ending at the time that a Benchmark Replacement has replaced the then-current Benchmark for all purposes hereunder or under any Loan Document in accordance with this Section 2.14.

“Compounded SOFR” means the compounded average of SOFRs for the applicable Corresponding Tenor, with the rate, or methodology for this rate, and conventions for this rate (which may include compounding in arrears with a lookback and/or suspension period as a mechanism to determine the interest amount payable prior to the end of each Interest Period) being established by the Administrative Agent in accordance with:

(1) the rate, or methodology for this rate, and conventions for this rate selected or recommended by the Relevant Governmental Body for determining compounded SOFR; provided that:

(2) if, and to the extent that, the Administrative Agent determines that Compounded SOFR cannot be determined in accordance with clause (1) above, then the rate, or methodology for this rate, and conventions for this rate that the Administrative Agent determines are substantially consistent with at least five currently outstanding U.S. dollar-denominated syndicated credit facilities at such time (as a result of amendment or as originally executed) that are publicly available for review;

provided, further, that if the Administrative Agent decides that any such rate, methodology or convention determined in accordance with clause (1) or clause (2) is not administratively feasible for the Administrative Agent, then Compounded SOFR will be deemed unable to be determined for purposes of the definition of “Benchmark Replacement.”

“Corresponding Tenor” with respect to a Benchmark Replacement means a tenor (including overnight) having approximately the same length (disregarding business day adjustment) as the applicable tenor for the applicable Interest Period with respect to the then-current Benchmark.

“Early Opt-in Election” means the occurrence of:

(1) a notification by the Administrative Agent to (or the request by the Borrower to the Administrative Agent to notify) each of the other parties hereto that at least five currently outstanding U.S. dollar-denominated syndicated credit facilities at such time contain (as a result of amendment or as originally executed) as a benchmark interest rate, in lieu of LIBOR, Term SOFR plus a Benchmark Replacement Adjustment (and such syndicated credit facilities are identified in such notice and are publicly available for review), and

(2) the joint election by the Administrative Agent, the Borrower and the Required Lenders by affirmative vote to declare that an Early Opt-in Election has

occurred and the provision by the Administrative Agent of written notice of such election to each of the other parties hereto (the “Rate Election Notice”).

“Federal Reserve Bank of New York’s Website” means the website of the Federal Reserve Bank of New York at <http://www.newyorkfed.org>, or any successor source.

“ISDA Definitions” means the 2006 ISDA Definitions published by the International Swaps and Derivatives Association, Inc. or any successor thereto, as amended or supplemented from time to time, or any successor definitional booklet for interest rate derivatives published from time to time.

“Next Available Term SOFR” means, at any time, for any Interest Period, Term SOFR for the longest tenor that can be determined by the Administrative Agent that is shorter than the applicable Corresponding Tenor.

“Reference Time” with respect to any determination of the Benchmark means (1) if the Benchmark is LIBOR, 11:00 a.m. (London time) on the day that is two London banking days preceding the date of such determination, and (2) if the Benchmark is not LIBOR, the time determined by the Administrative Agent in accordance with the Benchmark Replacement Conforming Changes.

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

“SOFR” with respect to any day means the secured overnight financing rate published for such day by the Federal Reserve Bank of New York, as the administrator of the benchmark, (or a successor administrator) on the Federal Reserve Bank of New York’s Website.

“Term SOFR” means the forward-looking term rate for the applicable Corresponding Tenor based on SOFR that has been selected or recommended by the Relevant Governmental Body.

“Unadjusted Benchmark Replacement” means the Benchmark Replacement excluding the Benchmark Replacement Adjustment.

Increased Costs.

1. If any Change in Law shall:

impose, modify or deem applicable any reserve, special deposit compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended by, any Lender or Issuing Bank; or

subject the Administrative Agent, any Lender or any Issuing Bank to any Tax with respect to any Loan Document (other than (i) Indemnified Taxes and Other Taxes indemnifiable under Section 2.17 or (ii) Excluded Taxes); or

impose on any Lender or Issuing Bank or the London or other relevant interbank market any other condition affecting this Agreement or Eurodollar Loans made by such Lender or any Letter of Credit or participation therein;

and the result of any of the foregoing shall be to increase the cost to such Lender of making or maintaining any Eurodollar Loan or of maintaining its obligation to make any such Loan or to increase the cost to such Lender or Issuing Bank of participating in, issuing or maintaining any Letter of Credit or to reduce the amount of any sum received or receivable by such Lender or Issuing Bank hereunder, whether of principal, interest or otherwise, then the Borrower will pay to the Administrative Agent, such Lender or Issuing Bank, as applicable, such additional amount or amounts as will compensate the Administrative Agent such Lender or Issuing Bank, as applicable, for such additional costs incurred or reduction suffered; provided that the Borrower shall not be liable for such compensation if (x) the relevant Change in Law occurs on a date prior to the date such Lender becomes a party hereto, (y) such Lender invokes Section 2.20 or (z) in the case of any request for reimbursement under clause (iii) above resulting from a market disruption, (A) the relevant circumstances do not generally affect the banking market or (B) the applicable request has not been made by Lenders constituting Required Lenders.

2. If any Lender or Issuing Bank determines that any Change in Law regarding capital or liquidity requirements has or would have the effect of reducing the rate of return on such Lender's or Issuing Bank's capital or on the capital of such Lender's or Issuing Bank's holding company, if any, as a consequence of this Agreement or the Loans or Commitments made by, or participations in Letters of Credit or Swingline Loans held by, such Lender, or the Letters of Credit issued by such Issuing Bank, to a level below that which such Lender or such Issuing Bank or such Lender's or such Issuing Bank's holding company could have achieved but for such Change in Law (taking into consideration such Lender's or such Issuing Bank's policies and the policies of such Lender's or such Issuing Bank's holding company with respect to capital adequacy and liquidity), then within 30 days of receipt by the Borrower of the certificate contemplated by Section 2.15(c) the Borrower shall pay to such Lender or such Issuing Bank, as applicable, such additional amount or amounts as will compensate such Lender or such Issuing Bank or such Lender's or such Issuing Bank's holding company for any such reduction suffered.

3. A certificate of a Lender or an Issuing Bank setting forth the amount or amounts necessary to compensate such Lender or Issuing Bank or its holding company, as applicable, as specified in clause (a) or (b) of this Section 2.15 shall be delivered to the Borrower and shall be conclusive absent manifest error; provided, that any such certificate claiming amounts described in clause (x) or (y) of the definition of "Change in Law" shall, in addition, state the basis upon which such amount has been calculated and certify that such Lender's or Issuing Bank's demand for payment of such costs hereunder, and such method of allocation is not inconsistent with its treatment of other borrowers, which as a credit matter, are similarly situated to the Borrower and which are subject to similar provisions.

4. Promptly after any Lender or Issuing Bank has determined that it will make a request for increased compensation pursuant to this Section 2.15, such Lender or Issuing Bank shall notify the Borrower thereof. Failure or delay on the part of any Lender or Issuing Bank to demand compensation pursuant to this Section 2.15 shall not constitute a waiver of such Lender's or Issuing Bank's right to demand such compensation; provided, that the Borrower shall not be required to compensate a Lender or an Issuing Bank pursuant to this Section 2.15 for any increased costs or reductions incurred more than 180 days prior to the date that such Lender or Issuing Bank, as applicable, notifies the Borrower of the Change in Law giving rise to such increased costs or reductions and of such Lender's or Issuing Bank's intention to claim compensation therefor; provided, further, that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the 180-day period referred to above shall be extended to include the period of retroactive effect thereof.

Break Funding Payments. In the event of (a) the payment of any principal of any Eurodollar Loan other than on the last day of an Interest Period applicable thereto (including as a result of an Event of Default or as a result of any prepayment pursuant to Section 2.10 or 2.11), (b) the conversion of any Eurodollar Loan other than on the last day of the Interest Period applicable thereto, (c) the failure to borrow, convert, continue or prepay any Eurodollar Loan on the date specified in any notice delivered pursuant hereto (whether or not such notice may be revoked under Section 2.10(c)) or (d) the assignment of any Eurodollar Loan other than on the last day of the Interest Period applicable thereto as a result of a request by the Borrower pursuant to Section 2.19, then, in any such event, the Borrower shall compensate each Lender for the loss, cost and expense attributable to such event. Such loss, cost or expense to any Lender shall be deemed to include an amount determined by such Lender (it being understood that the deemed amount shall not exceed the actual amount) to be the excess, if any, of (i) the amount of interest that would have accrued on the principal amount of such Loan had such event not occurred, at the Eurodollar 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), over (ii) the amount of interest that 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 deposits in Dollars 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 2.16 shall be delivered to the Borrower and shall be conclusive absent manifest error. The Borrower shall pay such Lender the amount shown as due on any such certificate within 30 days after receipt thereof.

Taxes.

5. All payments made by or on behalf of a Loan Party under this Agreement or any other Loan Document shall be made free and clear of, and without deduction or withholding for or on account of, any Taxes; provided that if a Loan Party, the Administrative Agent or any other applicable withholding agent shall be required by any applicable Requirement of Law to deduct or withhold any Taxes from such payments, then (i) the applicable withholding agent shall make such deductions or withholdings as are reasonably determined by the applicable withholding

agent to be required by any applicable Requirement of Law, (ii) the applicable withholding agent shall timely pay the full amount deducted or withheld to the relevant Governmental Authority within the time allowed and in accordance with applicable Requirements of Law, and (iii) to the extent withholding or deduction is required to be made on account of Indemnified Taxes or Other Taxes, the sum payable by the Loan Party shall be increased as necessary so that after all required deductions and withholdings have been made (including deductions or withholdings applicable to additional sums payable under this Section 2.17) the Administrative Agent or any Lender, as applicable, receives an amount equal to the sum it would have received had no such deductions or withholdings been made. Whenever any Indemnified Taxes or Other Taxes are payable by a Loan Party, as promptly as possible thereafter, such Loan Party shall send to the Administrative Agent for its own account or for the account of a Lender, as the case may be, a copy of an official receipt issued by the relevant 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 or such Lender, as applicable. Without duplication, after any payment of Taxes by any Loan Party or the Administrative Agent to a Governmental Authority as provided in this Section 2.17, the Borrower shall deliver to the Administrative Agent or the Administrative Agent shall deliver to the Borrower, as the case may be, a copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of any return required by applicable Requirements of Law to report such payment or other evidence of such payment reasonably satisfactory to the Borrower or the Administrative Agent, as the case may be.

6. Without duplication of amounts paid pursuant to Section 2.17(a), the Borrower shall timely pay any Other Taxes imposed on or incurred by the Administrative Agent or any Lender to the relevant Governmental Authority in accordance with applicable law.

7. The Borrower shall, without duplication of any additional amounts paid pursuant to Section 2.17(a)(iii) or any amounts paid pursuant to Section 2.17(b), indemnify and hold harmless the Administrative Agent and each Lender, within fifteen (15) Business Days after written demand therefor, for the full amount of any Indemnified Taxes or Other Taxes imposed on the Administrative Agent or such Lender, as applicable, as the case may be (including Indemnified Taxes or Other Taxes imposed or asserted on or attributable to amounts payable under this Section 2.17), and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate setting forth in reasonable detail the basis and calculation of the amount of such payment or liability delivered to the Borrower by a Lender or by the Administrative Agent (as applicable) on its own behalf or on behalf of a Lender shall be conclusive absent manifest error.

8. Any Lender that is entitled to an exemption from or reduction of withholding Tax under the law of the jurisdiction in which the Borrower is located, or any treaty to which such jurisdiction is a party, with respect to payments under this Agreement shall deliver to the Borrower (with a copy to the Administrative Agent), at the time(s) and in the manner(s) prescribed by applicable law or reasonably requested by the Borrower or the Administrative Agent such properly completed and executed documentation prescribed by applicable law or

reasonably requested by the Borrower as will permit such payments to be made without withholding or at a reduced rate. In addition, any Lender, if reasonably requested by the Borrower, shall deliver such other documentation prescribed by applicable law or reasonably requested by the Borrower as will enable the Borrower to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation set forth in paragraphs (d)(i), (ii)(A), (ii)(B), (ii)(C), (ii)(D), and (iii), and paragraph (f) of this Section 2.17) shall not be required if in the Lender's reasonable judgment such completion, execution or submission would subject such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender.

Each person that shall become a Participant pursuant to Section 9.04 or a Lender pursuant to Section 9.04 shall, upon the effectiveness of the related transfer, be required to provide all the forms and statements required pursuant to this Section 2.17(d) and Section 2.17(f); provided that a Participant shall furnish all such required forms and statements only to the participating Lender.

Each Lender and Administrative Agent that is a U.S. Person shall deliver, at the time(s) and in the manner prescribed by applicable law or reasonably requested by the Borrower, to the Borrower and the Administrative Agent (as applicable), a properly completed and duly executed IRS Form W-9 or any successor form, certifying that such person is exempt from U.S. backup withholding Tax on payments made hereunder.

Without limiting the foregoing,

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

in the case of a Foreign Lender (or, if such Foreign Lender is disregarded as an entity separate from its owner for U.S. federal income tax purposes, the person treated as its owner for such purposes) eligible for the benefits of an income tax treaty to which the United States is a party (x) with respect to payments of interest under any Loan Document, duly completed and executed originals of IRS Form W-8BEN or IRS Form W-8BEN-E, whichever is applicable, establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "interest" article of such tax treaty and (y) with respect to any other applicable payments under any Loan Document, duly completed and executed originals of IRS Form W-8BEN or IRS Form W-8BEN-E, whichever is applicable, establishing an exemption from, or reduction of, U.S. federal

withholding Tax pursuant to the “business profits” or “other income” article of such tax treaty;

duly completed and executed originals of IRS Form W-8ECI with respect to such Foreign Lender (or, if such Foreign Lender is disregarded as an entity separate from its owner for U.S. federal income tax purposes, with respect to the person treated as its owner for such purposes);

in the case of a Foreign Lender (or, if such Foreign Lender is disregarded as an entity separate from its owner for U.S. federal income tax purposes, the person treated as its owner for such purposes) entitled to the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate substantially in the form of Exhibit J-1 to the effect that such Foreign Lender is not a “bank” within the meaning of Section 881(c)(3)(A) of the Code, a “10-percent shareholder” of the Borrower within the meaning of Section 871(h)(3)(B) of the Code, or a “controlled foreign corporation” related to the Borrower, as described in Section 881(c)(3)(C) of the Code (a “U.S. Tax Compliance Certificate”) and (y) duly completed and executed originals of IRS Form W-8BEN or IRS Form W-8BEN-E, whichever is applicable;

to the extent a Foreign Lender (or, if such Foreign Lender is disregarded as an entity separate from its owner for U.S. federal income tax purposes, the person treated as its owner for such purposes) is not the beneficial owner of such payments, duly completed and executed originals of IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BEN or IRS Form W-8BEN-E, whichever is applicable, a U.S. Tax Compliance Certificate substantially in the form of Exhibit J-1 or Exhibit J-3, IRS Form W-9, and/or other certification documents from each beneficial owner, as applicable; provided that if the Foreign Lender is a partnership and one or more direct or indirect partners of such Foreign Lender are claiming the portfolio interest exemption, such Foreign Lender may provide a U.S. Tax Compliance Certificate substantially in the form of Exhibit J-2 or Exhibit J-4 on behalf of each such direct and indirect partner; or

executed copies of any other form prescribed by applicable Requirements of Law as a basis for claiming exemption from or a reduction in U.S. federal withholding Tax, duly completed, together with such supplementary documentation as may be prescribed by applicable Requirements of Law to permit the Borrower or the Administrative Agent to determine the withholding or deduction required to be made;

The Administrative Agent and each Lender (A) shall promptly notify the Borrower and the Administrative Agent of any change in circumstance that would modify or render invalid any claimed exemption or reduction, and (B) agrees that if any form or

certification it previously delivered pursuant to this Section 2.17 expires or becomes inaccurate in any respect, it shall promptly (x) update such form or certification or (y) notify the Borrower and the Administrative Agent in writing of its legal inability to do so.

On or before the date that Goldman Sachs Bank USA (and any successor or replacement Administrative Agent) becomes the Administrative Agent hereunder, it shall deliver to the Borrower a duly completed and executed copy of either (i) IRS Form W-9 (or any successor form) or (ii) a U.S. branch withholding certificate on IRS Form W-8IMY (or any successor form) evidencing its agreement with the Borrower to be treated as a U.S. Person (with respect to amounts received on account of any Lender) and IRS Form W-8ECI (or any successor form) (with respect to amounts received on its own account), with the effect that, in any case, the Borrower will be entitled to make payments hereunder to the Administrative Agent without withholding or deduction on account of U.S. federal withholding Tax.

9. If any Lender or the Administrative Agent, as applicable, determines in good faith that it has received a refund of an Indemnified Tax or Other Tax for which a payment has been made by a Loan Party pursuant to this Agreement or any other Loan Document, which refund in the good faith judgment of such Lender or the Administrative Agent, as the case may be, is attributable to such payment made by such Loan Party, then the Lender or the Administrative Agent, as the case may be, shall reimburse the Loan Party for such amount (net of all reasonable out-of-pocket expenses of such Lender or the Administrative Agent, as the case may be, and without interest other than any interest received thereon from the relevant Governmental Authority with respect to such refund) as the Lender or Administrative Agent, as the case may be, determines in good faith to be the portion of the refund as will leave it, after such reimbursement, in no better or worse position (taking into account expenses or any Taxes imposed on the refund) than it would have been in if the Indemnified Tax or Other Tax giving rise to such refund had not been imposed in the first instance; provided that the Loan Party, upon the request of the Lender or the Administrative Agent agrees to repay the amount paid over to the Loan Party (plus any penalties, interest (solely with respect to the time period during which the Loan Party actually held such funds, except to the extent that the refund was initially claimed at the written request of such Loan Party) or other charges imposed by the relevant Governmental Authority) to the Lender or the Administrative Agent in the event the Lender or the Administrative Agent is required to repay such refund to such Governmental Authority. In such event, such Lender or the Administrative Agent, as the case may be, shall, at the Borrower's request, provide the Borrower with a copy of any notice of assessment or other evidence of the requirement to repay such refund received from the relevant Governmental Authority (provided that such Lender or the Administrative Agent may delete any information therein that it deems confidential). A Lender or the Administrative Agent shall claim any refund that it determines is available to it, unless it concludes in its reasonable discretion that it would be adversely affected by making such a claim. No Lender nor the Administrative Agent shall be obliged to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to any Loan Party in connection with this clause (e) or any other provision of this Section 2.17.

For purposes of this clause (e), all references to “refund” shall include the monetary benefit of a credit received in lieu of a refund.

10. If a payment made to any Lender or any Agent under this Agreement or any other Loan Document would be subject to U.S. federal withholding Tax imposed by FATCA if such Lender or such Agent were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender or such Agent shall deliver to the Borrower and the Administrative Agent at the time or times prescribed by law and at such time or times reasonably requested by the Borrower or the Administrative Agent such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Borrower or the Administrative Agent as may be necessary for the Borrower and the Administrative Agent to comply with their obligations under FATCA, to determine whether such Lender has or has not complied with such Lender’s obligations under FATCA or to determine the amount, if any, to deduct and withhold from such payment. Solely for purposes of this Section 2.17(f), “FATCA” shall include any amendments made to FATCA after the date of this Agreement.

11. Each Lender authorizes the Administrative Agent to deliver to the Borrower and to any successor Administrative Agent any documentation provided by the Lender to the Administrative Agent pursuant to Section 2.17(d) or (f).

12. The agreements in this Section 2.17 shall survive the termination of this Agreement and the payment of the Loans and all other amounts payable under any Loan Document.

For purposes of this Section 2.17, the term “Lender” includes any Issuing Bank and the term “applicable Requirement of Law” includes FATCA.

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

13. Unless otherwise specified (including in Section 2.17(a)), the Borrower shall make each payment required to be made by it hereunder (whether of principal, interest, fees or reimbursement of any disbursement under any Letter of Credit, or of amounts payable under Sections 2.15, 2.16 or 2.17, or otherwise) prior to 2:00 p.m., Local Time, on the date when due, in immediately available funds, without condition or deduction for any defense, recoupment, set-off or counterclaim. Any amounts received after such time on any date may, in the discretion of the Administrative Agent, be deemed to have been received on the next succeeding Business Day for purposes of calculating interest thereon. All such payments shall be made to the Administrative Agent to the applicable account designated to the Borrower by the Administrative Agent, except payments to be made directly to the applicable Issuing Bank or the Swingline Lender as expressly provided herein and except that payments pursuant to Sections 2.15, 2.16, 2.17 and 9.05 shall be made directly to the persons entitled thereto. The Administrative Agent shall distribute any such payments received by it for the account of any other person to the appropriate recipient promptly following receipt thereof. Except as otherwise expressly provided herein, if any payment hereunder shall be due on a day that is not a Business Day, the date for

payment shall be extended to the next succeeding Business Day, and, in the case of any payment accruing interest, interest thereon shall be payable for the period of such extension. All payments made under the Loan Documents shall be made in Dollars. Any payment required to be made by the Administrative Agent hereunder shall be deemed to have been made by the time required if the Administrative Agent shall, at or before such time, have taken the necessary steps to make such payment in accordance with the regulations or operating procedures of the clearing or settlement system used by the Administrative Agent to make such payment.

14. If any Lender shall, by exercising any right of set-off or counterclaim or otherwise, obtain payment in respect of any principal of, or interest on, any of its Term Loans, Revolving Facility Loans or participations in any disbursement under any Letter of Credit or Swingline Loans resulting in such Lender receiving payment of a greater proportion of the aggregate amount of its Term Loans, Revolving Facility Loans and participations in any disbursement under any Letter of Credit and Swingline 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 Term Loans, Revolving Facility Loans and participations in any disbursement under any Letter of Credit and Swingline Loans of such Class of such other Lenders to the extent necessary so that the benefit of all such payments shall be shared by all such Lenders ratably in accordance with the principal amount of each such Lender's respective Term Loans, Revolving Facility Loans and participations in any disbursement under any Letter of Credit and Swingline Loans and accrued interest thereon; 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 clause (c) shall not be construed to apply to any payment made by the Borrower pursuant to and in accordance with the express terms of this Agreement or any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans or participations in any disbursement under any Letter of Credit to any assignee or participant. The Borrower consents to the foregoing and agrees, to the extent it may effectively do so under applicable law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against the Borrower rights of set-off and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of the Borrower in the amount of such participation.

15. Unless the Administrative Agent shall have received notice from the Borrower prior to the date on which any payment is due to the Administrative Agent for the account of the relevant Lenders or the applicable Issuing Bank 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 relevant Lenders or the applicable Issuing Bank, as applicable, the amount due. In such event, if the Borrower has not in fact made such payment, then each of the relevant Lenders or the applicable Issuing Bank, as applicable, severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender or Issuing Bank with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at the greater of the Federal Funds

Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.

16. Subject to Section 2.24, if any Lender shall fail to make any payment required to be made by it pursuant to Section 2.04(b), 2.05(d) or (e), 2.06, or 2.18(c), then the Administrative Agent may, in its discretion (notwithstanding any contrary provision hereof), (i) 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 and/or (ii) hold any such amounts in a segregated account as cash collateral for, and application to, any future funding obligations of such Lender under any such Section; in the case of each of clauses (i) and (ii) above, in any order as determined by the Administrative Agent in its discretion.

Mitigation Obligations; Replacement of Lenders.

17. If any Lender requests compensation under Section 2.15, or if the Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.17 or mitigate the applicability of Section 2.20 or any event that gives rise to the operation of Section 2.20, then such Lender shall use reasonable efforts to designate a different Lending Office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or Affiliates, if, in the reasonable judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 2.15 or 2.17, as applicable, in the future or mitigate the applicability of Section 2.20 or any event that gives rise to the operation of Section 2.20 and (ii) would not subject such Lender to any material unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender in any material respect. The Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.

18. If (i) any Lender requests compensation under Section 2.15 (in excess of that being charged by other Lenders under the applicable Facility) or gives notice under Section 2.20, (ii) the Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.17 (in a material amount in excess of that being charged by other Lenders), or (iii) any Lender is a Defaulting Lender, then the Borrower may, at its sole expense and effort, upon notice to such Lender and the Administrative Agent, require any such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in Section 9.04), all its interests, rights and obligations under the Loan Documents to an assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment); provided, that (i) the Borrower shall have received the prior written consent of the Administrative Agent (and, if in respect of any Revolving Facility Commitment, the Swingline Lender and each Issuing Bank), to the extent consent would be required under Section 9.04(b) for an assignment of Loans or Commitments, as applicable, which consent, in each case, shall not unreasonably be withheld, (ii) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans and participations in any disbursement under any Letter of Credit and Swingline Loans, accrued

interest thereon, accrued fees and all other amounts payable to it hereunder from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrower (in the case of all other amounts), (iii) in the case of any such assignment resulting from a claim for compensation under Section 2.15, payments required to be made pursuant to Section 2.17 or a notice given under Section 2.20, such assignment will result in a reduction in such compensation or payments and (iv) such assignment does not conflict with any applicable Requirement of Law. A Lender shall not be required to make any such assignment and delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Borrower to require such assignment and delegation cease to apply. Nothing in this Section 2.19 shall be deemed to prejudice any rights that the Borrower may have against any Lender that is a Defaulting Lender. No action by or consent of the removed Lender shall be necessary in connection with such assignment, which shall be immediately and automatically effective upon payment of such purchase price. In connection with any such assignment the Borrower, Administrative Agent, such removed Lender and the replacement Lender shall otherwise comply with Section 9.04, provided, that if such removed Lender does not comply with Section 9.04 within one Business Day after the Borrower's request, compliance with Section 9.04 (but only on the part of the removed Lender) shall not be required to effect such assignment.

19. If any Lender (such Lender, a "Non-Consenting Lender") has failed to consent to a proposed amendment, waiver or consent which pursuant to the terms of Section 9.08 requires the consent of all Lenders or all of the Lenders adversely affected and with respect to which the Required Lenders shall have granted their consent, then the Borrower shall have the right (unless such Non-Consenting Lender grants such consent) at its sole expense (including with respect to the processing and recordation fee referred to in Section 9.04(b)(ii)(C)) to replace such Non-Consenting Lender by requiring such Non-Consenting Lender to (and any such Non-Consenting Lender agrees that it shall, upon the Borrower's request) assign its Loans and its Commitments (or, at the Borrower's option, the Loans and Commitments under the Facility that is the subject of the proposed amendment, waiver or consent) hereunder to one or more assignees reasonably acceptable to (i) the Administrative Agent (unless, in the case of a Term Loan, such assignee is a Lender, an Affiliate of a Lender or an Approved Fund) and (ii) if in respect of any Revolving Facility Commitment, the Swingline Lender and the Issuing Bank; provided, that: (i) all Loan Obligations of the Borrower owing to such Non-Consenting Lender being replaced in respect of the assigned interest shall be paid in full in same day funds to such Non-Consenting Lender concurrently with such assignment, (ii) the replacement Lender shall purchase the foregoing by paying to such Non-Consenting Lender a price equal to the principal amount thereof plus accrued and unpaid interest thereon and the Borrower shall pay any amount required by Section 2.12(d), if applicable, and (iii) the replacement Lender shall grant its consent with respect to the applicable proposed amendment, waiver or consent. No action by or consent of the Non-Consenting Lender shall be necessary in connection with such assignment, which shall be immediately and automatically effective upon payment of such purchase price. In connection with any such assignment the Borrower, Administrative Agent, such Non-Consenting Lender and the replacement Lender shall otherwise comply with Section 9.04; provided, that if such Non-Consenting Lender does not comply with Section 9.04 within one Business Day after the Borrower's request, compliance with Section 9.04 (but only on the part of the Non-Consenting Lender) shall not be required to effect such assignment.

Illegality. If any Lender reasonably determines that any Change in Law has made it unlawful, or that any Governmental Authority has asserted after the Closing Date that it is unlawful, for any Lender or its applicable Lending Office to make, maintain or fund any Eurodollar Loans, or to determine or charge interest rates based upon the Eurodollar Rate, or any Governmental Authority has imposed material restrictions on the authority of such Lender to purchase or sell, or to take deposits of, Dollars in the London interbank market then, on notice thereof by such Lender to the Borrower through the Administrative Agent, (i) any obligations of such Lender to make or continue Eurodollar Loans or to convert ABR Borrowings to Eurodollar Borrowings shall be suspended and (ii) if such notice asserts the illegality of such Lender making or maintaining ABR Loans the interest rate on which is determined by reference to the Eurodollar Rate component of the ABR, the interest rate on which ABR Loans of such Lender shall, if necessary to avoid such illegality, be determined by the Administrative Agent without reference to the Eurodollar Rate component of the ABR, in each case until such Lender notifies the Administrative Agent and the Borrower that the circumstances giving rise to such determination no longer exist. Upon receipt of such notice, (x) the Borrower shall upon demand from such Lender (with a copy to the Administrative Agent), convert all Eurodollar Borrowings of such Lender to ABR Borrowings (the interest rate on such ABR Loans of such Lender shall, if necessary to avoid such illegality, be determined by the Administrative Agent without reference to the Eurodollar Rate component of the ABR), either on the last day of the Interest Period therefor, if such Lender may lawfully continue to maintain such Eurodollar Borrowings to such day, or immediately, if such Lender may not lawfully continue to maintain such Loans and (y) if such notice asserts the illegality of such Lender determining or charging interest rates based upon the Eurodollar Rate, the Administrative Agent shall during the period of such suspension compute the ABR applicable to such Lender without reference to the Eurodollar Rate component thereof until the Administrative Agent is advised in writing by such Lender that it is no longer illegal for such Lender to determine or charge interest rates based upon the Eurodollar Rate. Upon any such prepayment or conversion, the Borrower shall also pay accrued interest on the amount so prepaid or converted.

Incremental Commitments.

20. The Borrower may, by written notice to the Administrative Agent from time to time, request Incremental Term Loan Commitments and/or Incremental Revolving Facility Commitments, as applicable, in an amount not to exceed the Incremental Amount available at the time such Incremental Term Loans are funded or Incremental Revolving Facility Commitments are established from one or more Incremental Term Lenders and/or Incremental Revolving Facility Lenders (which, in each case, may include any existing Lender) willing to provide such Incremental Term Loans and/or Incremental Revolving Facility Commitments, as the case may be, in their sole discretion (and no approval of any existing Lender other than in its capacity, if any, as a lender providing all or part of any Incremental Term Loan Commitments and/or Incremental Revolving facility Commitments shall be required); provided, that each Incremental Revolving Facility Lender providing a commitment to make revolving loans shall be subject to the approval of the Administrative Agent and, to the extent the same would be required for an assignment under Section 9.04, each Issuing Bank and the Swingline Lender (which approvals shall not be unreasonably withheld, conditioned or delayed). Such notice shall set forth (i) the

amount of the Incremental Term Loan Commitments and/or Incremental Revolving Facility Commitments being requested (which shall be in minimum increments of \$1,000,000 and a minimum amount of \$5,000,000, or equal to the remaining Incremental Amount or, in each case, such lesser amount approved by the Administrative Agent), (ii) the date on which such Incremental Term Loan Commitments and/or Incremental Revolving Facility Commitments are requested to become effective and (iii) in the case of Incremental Term Loan Commitments, whether such Incremental Term Loan Commitments are to be (x) commitments to make term loans with terms identical to (and which shall together with any then outstanding Initial Term Loans form a single Class of) Initial Term Loans or (y) commitments to make term loans with pricing, maturity, amortization, participation in mandatory prepayments and/or other terms different from the Initial Term Loans (“Other Incremental Term Loans”).

21. The Borrower and each Incremental Term Lender and/or Incremental Revolving Facility Lender shall execute and deliver to the Administrative Agent an Incremental Assumption Agreement and such other documentation as the Administrative Agent shall reasonably specify to evidence the Incremental Term Loan Commitment of such Incremental Term Lender and/or Incremental Revolving Facility Commitment of such Incremental Revolving Facility Lender. Each Incremental Assumption Agreement shall specify the terms of the applicable Incremental Term Loans and/or Incremental Revolving Facility Commitments; provided, that:

any (x) commitments to make additional Initial Term Loans shall have the same terms as the Initial Term Loans, and shall form part of the same Class as the Initial Term Loans and (y) Incremental Revolving Facility Commitments shall have the same terms as the then outstanding Class of Revolving Facility Commitments (or, if more than one Class of Revolving Facility Commitments is then outstanding, the Revolving Facility Commitments with the then latest Revolving Facility Maturity Date) and shall require no scheduled amortization or mandatory commitment reduction prior to the Maturity Date of all then outstanding Revolving Facility Commitments,

the Other Incremental Term Loans incurred pursuant to this Section 2.21 shall be entitled to benefit from the same guarantees as, and shall be entitled to be secured on a *pari passu* or junior basis by the same Collateral securing the Initial Term Loans (subject, in the case of any Incremental Term Loans secured on a junior basis, to a customary and reasonably satisfactory Intercreditor Agreement),

except in the case of a bridge loan the terms of which provide for an automatic extension of the maturity date thereof to a date that is not earlier than the Initial Term Loan Maturity Date, the final maturity date of any Incremental Term Loans shall be no earlier than the Initial Term Loan Maturity Date in effect at the date of incurrence of such Incremental Term Loans and, subject to clause (i) above, except as to pricing, amortization, final maturity date and participation in mandatory prepayments (which shall, subject to the other clauses of this proviso, be determined by the Borrower and the Incremental Term Lenders in their sole discretion), shall have terms that are reasonably satisfactory in all respects to the Administrative Agent to the extent that such terms,

except to the extent set forth above or below, are not substantially similar to the Initial Term Loans; provided, that any terms (x) that are added for the benefit of the Initial Term Lenders and the Revolving Facility Lenders pursuant to an amendment hereto (with no consent of the Lenders being required) or (y) that are only applicable to periods after the Initial Term Loan Maturity Date, in each case, shall be deemed reasonably satisfactory to the Administrative Agent,

except in the case of a bridge loan the terms of which provide for an automatic extension of the maturity date thereof to a date that is not earlier than the Initial Term Loan Maturity Date, the Weighted Average Life to Maturity of any Incremental Term Loans that are not Initial Term Loans shall be no shorter than the remaining Weighted Average Life to Maturity of the Initial Term Loans,

with respect to any Incremental Term Loan secured on a *pari passu* basis with the Loan Obligations, the All-in Yield shall be as agreed by the respective Incremental Term Lenders and the Borrowers, except that the All-in Yield in respect of any such Incremental Term Loan may exceed the All-in Yield in respect of the Initial Term Loans by no more than 0.50%, or if it does so exceed such All-in Yield (such difference, the “Term Yield Differential”) then the Applicable Margin (or the “LIBOR floor” as provided in the following proviso) applicable to such Initial Term Loans shall be increased such that after giving effect to such increase, the Term Yield Differential shall not exceed 0.50%; provided, that to the extent any portion of the Term Yield Differential is attributable to a higher “LIBOR floor” being applicable to such Incremental Term Loans, such floor shall only be included in the calculation of the Term Yield Differential to the extent such floor is greater than the Eurodollar Rate in effect for an Interest Period of three months’ duration at such time, and, with respect to such excess, the “LIBOR floor” applicable to the outstanding Initial Term Loans shall be increased to an amount not to exceed the “LIBOR floor” applicable to such Incremental Term Loans prior to any increase in the Applicable Margin applicable to such Initial Term Loans then outstanding (this clause (v), the “MFN Provision”),

such Other Incremental Term Loans may require participation on a pro rata basis or a less than pro rata basis (but not a greater than pro rata basis) with the Initial Term Loans in any mandatory prepayment hereunder,

such Other Incremental Term Loans may require participation on a pro rata basis or non-pro rata basis with the Initial Term Loans in any voluntary prepayment hereunder,

there shall be no borrower (other than the Borrower) or guarantor (other than the Guarantors) in respect of any Incremental Term Loan Commitments or Incremental Revolving Facility Commitments,

any Incremental Revolving Facility Commitment will be documented solely as an increase to the commitments with respect to the Revolving Facility Commitments, without any change in terms except for such upfront fees as may be agreed between the

Lenders providing such Incremental Revolving Facility Commitments and the Borrower; and

Other Incremental Term Loans and Incremental Revolving Facility Commitments shall not be secured by any asset of the Borrower or its Subsidiaries other than the Collateral.

Each party hereto hereby agrees that, upon the effectiveness of any Incremental Assumption Agreement, this Agreement shall be amended to the extent (but only to the extent) necessary to reflect the existence and terms of the Incremental Term Loan Commitments and/or Incremental Revolving Facility Commitments evidenced thereby as provided for in Section 9.08(e). Any amendment to this Agreement or any other Loan Document that is necessary to effect the provisions of this Section 2.21 and any such collateral and other documentation shall be deemed "Loan Documents" hereunder and may be memorialized in writing by the Administrative Agent with the Borrower's consent (not to be unreasonably withheld) and furnished to the other parties hereto.

22. Notwithstanding the foregoing, no Incremental Term Loan Commitment or Incremental Revolving Facility Commitment shall become effective under this Section 2.21 unless (i) no Event of Default shall have occurred and be continuing; provided, that in the event that any tranche of Incremental Term Loans is used to finance a Limited Condition Transaction, (A) to the extent the Incremental Term Lenders participating in such tranche of Incremental Term Loans agree, the foregoing clause (i) shall be tested at the time of the execution of the acquisition agreement, the declaration of the dividend by the Board of Directors of the Borrower or the applicable Subsidiary or the giving of the irrevocable notice of repayment or redemption, as applicable related to such Limited Condition Transaction and (B) no Event of Default shall exist under Section 7.01(b) or 7.01(c) or, with respect to the Borrower only, under Sections 7.01(h) or 7.01(i) at the time such Incremental Term Loans are incurred; (ii) the representations and warranties of the Borrower set forth in this Agreement shall be true and correct in all material respects (other than to the extent qualified by materiality or "Material Adverse Effect," in which case, such representations and warranties shall be true and correct); provided, that in the event that the tranche of Incremental Term Loans is used to finance a Limited Condition Transaction and to the extent the Incremental Term Lenders participating in such tranche of Incremental Term Loans agree, the foregoing clause (ii) shall be limited to the Specified Representations (with the representation in Section 3.18 made on the date of funding of such Incremental Term Loans and after giving effect to such Limited Condition Transaction and other transactions on such date in connection therewith) and those representations of the seller or the target company (as applicable) included in the acquisition agreement related to the person or business to be acquired that are material to the interests of the Lenders and only to the extent that the Borrower or its applicable Subsidiary has the right to terminate its obligations under such acquisition agreement as a result of a failure of such representations to be accurate; and (iii) the Administrative Agent shall have received documents and legal opinions consistent with those delivered on the Closing Date as to such matters as are reasonably requested by the Administrative Agent. The Administrative Agent shall promptly notify each Lender as to the effectiveness of each Incremental Assumption Agreement.

23. Each of the parties hereto hereby agrees that the Administrative Agent may take any and all actions as may be reasonably necessary to ensure that (i) all Incremental Term Loans (other than Other Incremental Term Loans), when originally made, are included in each Borrowing of the outstanding applicable Class of Term Loans on a pro rata basis, and (ii) all Revolving Facility Loans in respect of Incremental Revolving Facility Commitments, when originally made, are included in each Borrowing of the applicable Class of outstanding Revolving Facility Loans on a pro rata basis. The Borrower agrees that Section 2.16 shall apply to any conversion of Eurodollar Loans to ABR Loans reasonably required by the Administrative Agent to effect the foregoing.

Extensions of Loans and Commitments.

24. Notwithstanding anything to the contrary in this Agreement, including Section 2.18(b) (which provisions shall not be applicable to this Section 2.22), pursuant to one or more offers made from time to time by the Borrower to all Lenders of any Class of Term Loans and/or Revolving Facility Commitments on a pro rata basis (based, in the case of an offer to the Lenders under any Class of Term Loans, on the aggregate outstanding Term Loans of such Class and, in the case of an offer to the Lenders under any Revolving Facility, on the aggregate outstanding Revolving Facility Commitments under such Revolving Facility, as applicable), and on the same terms to each such Lender ("Pro Rata Extension Offers"), the Borrower is hereby permitted to consummate transactions with individual Lenders that agree to such transactions from time to time to extend the maturity date of such Lender's Loans and/or Commitments of such Class and to otherwise modify the terms of such Lender's Loans and/or Commitments of such Class pursuant to the terms of the relevant Pro Rata Extension Offer (including, without limitation, increasing the interest rate or fees payable in respect of such Lender's Loans and/or Commitments and/or modifying the amortization schedule in respect of such Lender's Loans). For the avoidance of doubt, the reference to "on the same terms" in the preceding sentence shall mean, (i) in the case of an offer to the Lenders under any Class of Term Loans, that all of the Term Loans of such Class are offered to be extended for the same amount of time and that the interest rate changes and fees payable with respect to such extension are the same and (ii) in the case of an offer to the Lenders under any Revolving Facility, that all of the Revolving Facility Commitments of such Facility are offered to be extended for the same amount of time and that the interest rate changes and fees payable with respect to such extension are the same. Any such extension (an "Extension") agreed to between the Borrower and any such Lender (an "Extending Lender") will be established under this Agreement by implementing an Other Term Loan for such Lender if such Lender is extending an existing Term Loan (such extended Term Loan, an "Extended Term Loan") or an Other Revolving Facility Commitment for such Lender if such Lender is extending an existing Revolving Facility Commitment (such extended Revolving Facility Commitment, an "Extended Revolving Facility Commitment," and any Revolving Facility Loan made pursuant to such Extended Revolving Facility Commitment, an "Extended Revolving Loan"). Each Pro Rata Extension Offer shall specify the date on which the Borrower proposes that the Extended Term Loan shall be made or the proposed Extended Revolving Facility Commitment shall become effective, which shall be a date not earlier than five (5) Business Days after the date on which notice is delivered to the Administrative Agent (or such shorter period agreed to by the Administrative Agent in its reasonable discretion).

25. The Borrower and each Extending Lender shall execute and deliver to the Administrative Agent an amendment to this Agreement (an “Extension Amendment”) and such other documentation as the Administrative Agent shall reasonably specify to evidence the Extended Term Loans and/or Extended Revolving Facility Commitments of such Extending Lender. Each Extension Amendment shall specify the terms of the applicable Extended Term Loans and/or Extended Revolving Facility Commitments; provided, that (i) except as to interest rates, fees and any other pricing terms, and amortization, final maturity date and participation in prepayments and commitment reductions (which shall, subject to clauses (ii) and (iii) of this proviso, be determined by the Borrower and set forth in the Pro Rata Extension Offer), the Extended Term Loans shall have the same terms as the existing Class of Term Loans from which they are extended except for any terms which shall not apply until after the then Latest Maturity Date, (ii) the final maturity date of any Extended Term Loans shall be no earlier than the Term Facility Maturity Date of the Class of Term Loans subject to such Pro Rata Extension Offer, (iii) 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 Class of Term Loans to which such offer relates, (iv) except as to interest rates, fees, any other pricing terms and final maturity (which shall be determined by the Borrower and set forth in the Pro Rata Extension Offer), any Extended Revolving Facility Commitment shall have the same terms as the existing Class of Revolving Facility Commitments from which they are extended except for any terms which shall not apply until after the then Latest Maturity Date and, in respect of any other terms that would affect the rights or duties of any Issuing Bank or Swingline Lender, such terms as shall be reasonably satisfactory to such Issuing Bank or Swingline Lender, and (v) any Extended Term Loans may require participation on a pro rata basis or a less than pro rata basis (but not a greater than pro rata basis) than the Initial Term Loans in any mandatory prepayment hereunder. Upon the effectiveness of any Extension Amendment, this Agreement shall be amended to the extent (but only to the extent) necessary to reflect the existence and terms of the Extended Term Loans and/or Extended Revolving Facility Commitments evidenced thereby as provided for in Section 9.08(e). Any such deemed amendment may be memorialized in writing by the Administrative Agent with the Borrower’s consent (not to be unreasonably withheld) and furnished to the other parties hereto. If provided in any Extension Amendment with respect to any Extended Revolving Facility Commitments, and with the consent of the Swingline Lender and each Issuing Bank, participations in Swingline Loans and Letters of Credit shall be reallocated to lenders holding such Extended Revolving Facility Commitments in the manner specified in such Extension Amendment, including upon effectiveness of such Extended Revolving Facility Commitment or upon or prior to the maturity date for any Class of Revolving Facility Commitments.

26. Upon the effectiveness of any such Extension, the applicable Extending Lender’s Term Loan will be automatically designated an Extended Term Loan and/or such Extending Lender’s Revolving Facility Commitment will be automatically designated an Extended Revolving Facility Commitment. For purposes of this Agreement and the other Loan Documents, (i) if such Extending Lender is extending a Term Loan, such Extending Lender will be deemed to have an Other Term Loan having the terms of such Extended Term Loan and (ii) if such Extending Lender is extending a Revolving Facility Commitment, such Extending Lender will

be deemed to have an Other Revolving Facility Commitment having the terms of such Extended Revolving Facility Commitment.

27. Notwithstanding anything to the contrary set forth in this Agreement or any other Loan Document (including without limitation this Section 2.22), (i) no Extended Term Loan or Extended Revolving Facility Commitment is required to be in any minimum amount or any minimum increment, (ii) any Extending Lender may extend all or any portion of its Term Loans and/or Revolving Facility Commitment pursuant to one or more Pro Rata Extension Offers (subject to applicable proration in the case of over participation) (including the extension of any Extended Term Loan and/or Extended Revolving Facility Commitment), (iii) there shall be no condition to any Extension of any Loan or Commitment at any time or from time to time other than notice to the Administrative Agent of such Extension and the terms of the Extended Term Loan or Extended Revolving Facility Commitment implemented thereby, (iv) all Extended Term Loans, Extended Revolving Facility Commitments and all obligations in respect thereof shall be Loan Obligations of the relevant Loan Parties under this Agreement and the other Loan Documents that rank equally and ratably in right of security with all other Obligations of the Class being extended (and all other Obligations secured by the same priority of Lien securing the Term Loans or Revolving Facility Loans being extended), (v) no Issuing Bank or Swingline Lender shall be obligated to provide Swingline Loans or issue Letters of Credit under such Extended Revolving Facility Commitments unless it shall have consented thereto and (vi) there shall be no borrower (other than the Borrower) and no guarantors (other than the Guarantors) in respect of any such Extended Term Loans or Extended Revolving Facility Commitments.

28. Each Extension shall be consummated pursuant to procedures set forth in the associated Pro Rata Extension Offer; provided, that the Borrower shall cooperate with the Administrative Agent prior to making any Pro Rata Extension Offer to establish reasonable procedures with respect to mechanical provisions relating to such Extension, including, without limitation, timing, rounding and other adjustments.

Refinancing Amendments.

29. Notwithstanding anything to the contrary in this Agreement, including Section 2.18(b) (which provisions shall not be applicable to this Section 2.23), the Borrower may by written notice to the Administrative Agent at any time after the Closing Date establish one or more additional tranches of term loans under this Agreement (such loans, "Refinancing Term Loans"), all Net Proceeds of which are used to Refinance in whole or in part any Class of Term Loans pursuant to Section 2.11(b)(2). Each such notice shall specify the date (each, a "Refinancing Effective Date") on which the Borrower proposes that the Refinancing Term Loans shall be made, which shall be a date not earlier than ten (10) Business Days after the date on which such notice is delivered to the Administrative Agent (or such shorter period agreed to by the Administrative Agent in its sole discretion); provided, that:

after giving effect to the borrowing of such Refinancing Term Loans on the Refinancing Effective Date each of the conditions set forth in Section 4.02 shall be satisfied;

the final maturity date of the Refinancing Term Loans shall be no earlier than the earlier of (x) the final maturity date of the refinanced Indebtedness and (y) the Latest Maturity Date in effect at the time of incurrence thereof;

the Weighted Average Life to Maturity of such Refinancing Term Loans shall be no shorter than the lesser of (x) the then-remaining Weighted Average Life to Maturity of the refinanced Indebtedness and (y) the Weighted Average Life to Maturity of the Class of Term Loans then outstanding with the greatest remaining Weighted Average Life to Maturity;

the aggregate principal amount of the Refinancing Term Loans shall not exceed the outstanding principal amount of the refinanced Indebtedness plus amounts used to pay fees, premiums, costs and expenses (including original issue discount) and accrued interest associated therewith;

all other terms applicable to such Refinancing Term Loans (other than provisions relating to original issue discount, upfront fees, interest rates and any other pricing terms and optional prepayment or mandatory prepayment terms, which shall be as agreed between the Borrower and the Lenders providing such Refinancing Term Loans) shall be substantially similar to, or (as determined by the Borrower in good faith) not materially more favorable to the lenders providing such Refinancing Term Loans, taken as a whole, as reasonably determined by the Borrower in good faith, than the terms applicable to the Term Loans being refinanced (except to the extent such covenants and other terms (x) apply solely to any period after the Latest Maturity Date, (y) are otherwise reasonably acceptable to the Administrative Agent or (z) reflect market terms and conditions (as determined by the Borrower in good faith) at the time of incurrence);

there shall be no borrower (other than the Borrower) and no guarantors (other than the Guarantors) in respect of such Refinancing Term Loans;

Refinancing Term Loans shall not be secured by any asset of the Borrower and its Subsidiaries other than the Collateral;

Refinancing Term Loans may participate (x) on a pro rata basis or on a less than pro rata basis (but not on a greater than pro rata basis) in any mandatory prepayments (other than as provided otherwise in the case of such prepayments pursuant to Section 2.11(b)(2)) hereunder and (y) on a pro-rata or on a non-pro rata basis in any voluntary prepayments, as specified in the applicable Refinancing Amendment;

30. The Borrower may approach any Lender or any other person that would be a permitted Assignee pursuant to Section 9.04 to provide all or a portion of the Refinancing Term Loans; provided, that any Lender offered or approached to provide all or a portion of the Refinancing Term Loans may elect or decline, in its sole discretion, to provide a Refinancing Term Loan. Any Refinancing Term Loans made on any Refinancing Effective Date shall be designated an additional Class of Term Loans for all purposes of this Agreement; provided, further, that any Refinancing Term Loans may, to the extent provided in the applicable

Refinancing Amendment governing such Refinancing Term Loans, be designated as an increase in any previously established Class of Term Loans made to the Borrower.

31. Notwithstanding anything to the contrary in this Agreement, including Section 2.18(b) (which provisions shall not be applicable to this Section 2.23), the Borrower may by written notice to the Administrative Agent at any time after the Closing Date establish one or more additional Facilities (each, a “Replacement Revolving Facility”) providing for revolving commitments (“Replacement Revolving Facility Commitments” and the revolving loans thereunder, “Replacement Revolving Loans”), which replace in whole or in part any Class of Revolving Facility Commitments under this Agreement. Each such notice shall specify the date (each, a “Replacement Revolving Facility Effective Date”) on which the Borrower proposes that the Replacement Revolving Facility Commitments shall become effective, which shall be a date not less than ten (10) Business Days after the date on which such notice is delivered to the Administrative Agent (or such shorter period agreed to by the Administrative Agent in its reasonable discretion); provided, that: (i) after giving effect to the establishment of such Replacement Revolving Facility Commitments on the Replacement Revolving Facility Effective Date, each of the conditions set forth in Section 4.02 shall be satisfied; (ii) after giving effect to the establishment of any Replacement Revolving Facility Commitments and any concurrent reduction in the aggregate amount of any other Revolving Facility Commitments, the aggregate amount of Revolving Facility Commitments shall not exceed the aggregate amount of the Revolving Facility Commitments outstanding immediately prior to the applicable Replacement Revolving Facility Effective Date plus amounts used to pay fees, premiums, costs and expenses (including upfront fees) and accrued interest associated therewith; (iii) no Replacement Revolving Facility Commitments shall have a final maturity date (or require commitment reductions or amortizations) prior to the Revolving Facility Maturity Date for the Revolving Facility Commitments being replaced; (iv) all other terms applicable to such Replacement Revolving Facility (other than provisions relating to (x) fees, interest rates and other pricing terms and prepayment and commitment reduction and optional redemption terms which shall be as agreed between the Borrower and the Lenders providing such Replacement Revolving Facility Commitments and (y) the amount of any letter of credit sublimit and swingline commitment under such Replacement Revolving Facility, which shall be as agreed between the Borrower, the Lenders providing such Replacement Revolving Facility Commitments, the Administrative Agent and the replacement issuing bank and replacement swingline lender, if any, under such Replacement Revolving Facility Commitments) shall be substantially similar to, or (as determined by the Borrower in good faith) not materially more favorable to the lenders providing such Refinancing Term Loans, taken as a whole, as reasonably determined by the Borrower in good faith, than the terms applicable to the Revolving Facility Commitments being refinanced (except to the extent such covenants and other terms (x) apply solely to any period after the Latest Maturity Date, (y) are otherwise reasonably acceptable to the Administrative Agent or (z) reflect market terms and conditions (as determined by the Borrower in good faith) at the time of incurrence); (v) there shall be no borrower (other than the Borrower) and no guarantors (other than the Guarantors) in respect of such Replacement Revolving Facility; and (vi) Replacement Revolving Facility Commitments and extensions of credit thereunder shall not be secured by any asset of the Borrower and its Subsidiaries other than the Collateral. In addition, the Borrower may establish Replacement Revolving Facility Commitments to refinance and/or replace all or

any portion of a Term Loan hereunder (regardless of whether such Term Loan is repaid with the proceeds of Replacement Revolving Loans or otherwise), so long as the aggregate amount of such Replacement Revolving Facility Commitments does not exceed the aggregate amount of Term Loans repaid at the time of establishment thereof plus amounts used to pay fees, premiums, costs and expenses (including upfront fees) and accrued interest associated therewith (it being understood that such Replacement Revolving Facility Commitment may be provided by the Lenders holding the Term Loans being repaid and/or by any other person that would be a permitted Assignee hereunder) so long as (i) after giving effect to the establishment of such Replacement Revolving Facility Commitments on the Replacement Revolving Facility Effective Date each of the conditions set forth in Section 4.02 shall be satisfied to the extent required by the relevant agreement governing such Replacement Revolving Facility Commitments, (ii) the remaining life to termination of such Replacement Revolving Facility Commitments shall be no shorter than the Weighted Average Life to Maturity then applicable to the refinanced Term Loans, (iii) the final termination date of the Replacement Revolving Facility Commitments shall be no earlier than the Term Facility Maturity Date of the refinanced Term Loans, (iv) such Replacement Revolving Loans shall be secured by Liens on Collateral with the same priority as the Term Loans being refinanced, (v) there shall be no borrower (other than the Borrower) and no guarantors (other than the Guarantors) in respect of such Replacement Revolving Facility and (vi) all other terms applicable to such Replacement Revolving Facility (other than provisions relating to (x) fees, interest rates and other pricing terms and prepayment and commitment reduction and optional redemption terms which shall be as agreed between the Borrower and the Lenders providing such Replacement Revolving Facility Commitments and (y) the amount of any letter of credit sublimit and swingline commitment under such Replacement Revolving Facility, which shall be as agreed between the Borrower, the Lenders providing such Replacement Revolving Facility Commitments, the Administrative Agent and the replacement issuing bank and replacement swingline lender, if any, under such Replacement Revolving Facility Commitments) shall be substantially similar to, or (as determined by the Borrower in good faith) not materially more favorable to the lenders providing such Refinancing Term Loans, taken as a whole, as reasonably determined by the Borrower in good faith, than the terms applicable to the Revolving Facility Commitments being refinanced (except to the extent such covenants and other terms (x) apply solely to any period after the Latest Maturity Date, (y) are otherwise reasonably acceptable to the Administrative Agent or (z) reflect market terms and conditions (as determined by the Borrower in good faith) at the time of incurrence). Solely to the extent that an Issuing Bank or Swingline Lender is not a replacement issuing bank or replacement swingline lender, as the case may be, under a Replacement Revolving Facility, it is understood and agreed that such Issuing Bank or Swingline Lender shall not be required to issue any letters of credit or swingline loan under such Replacement Revolving Facility and, to the extent it is necessary for such Issuing Bank or Swingline Lender to withdraw as an Issuing Bank or Swingline Lender, as the case may be, at the time of the establishment of such Replacement Revolving Facility, such withdrawal shall be on terms and conditions reasonably satisfactory to such Issuing Bank or Swingline Lender, as the case may be, in its sole discretion. The Borrower agrees to reimburse each Issuing Bank or Swingline Lender, as the case may be, in full upon demand, for any reasonable and documented out-of-pocket cost or expense attributable to such withdrawal.

32. The Borrower may approach any Lender or any other person that would be a permitted Assignee of a Revolving Facility Commitment pursuant to Section 9.04 to provide all or a portion of the Replacement Revolving Facility Commitments (subject to receipt of any consents that would be required for an assignment of Revolving Facility Commitments to such person pursuant to Section 9.04); provided, that any Lender offered or approached to provide all or a portion of the Replacement Revolving Facility Commitments may elect or decline, in its sole discretion, to provide a Replacement Revolving Facility Commitment. Any Replacement Revolving Facility Commitment made on any Replacement Revolving Facility Effective Date shall be designated an additional Class of Revolving Facility Commitments for all purposes of this Agreement; provided, that any Replacement Revolving Facility Commitments may, to the extent provided in the applicable Refinancing Amendment, be designated as an increase in any previously established Class of Revolving Facility Commitments.

33. The Borrower and each Lender providing the applicable Refinancing Term Loans and/or Replacement Revolving Facility Commitments (as applicable) shall execute and deliver to the Administrative Agent an amendment to this Agreement (a "Refinancing Amendment") and such other documentation as the Administrative Agent shall reasonably specify to evidence such Refinancing Term Loans and/or Replacement Revolving Facility Commitments (as applicable). For purposes of this Agreement and the other Loan Documents, (A) if a Lender is providing a Refinancing Term Loan, such Lender will be deemed to have an Other Term Loan having the terms of such Refinancing Term Loan and (B) if a Lender is providing a Replacement Revolving Facility Commitment, such Lender will be deemed to have an Other Revolving Facility Commitment having the terms of such Replacement Revolving Facility Commitment. Notwithstanding anything to the contrary set forth in this Agreement or any other Loan Document (including without limitation this Section 2.23), (i) no Refinancing Term Loan or Replacement Revolving Facility Commitment is required to be in any minimum amount or any minimum increment, (ii) this Agreement shall impose no condition to any incurrence of any Refinancing Term Loan or Replacement Revolving Facility Commitment at any time or from time to time other than those set forth in clauses (a) or (c) above, as applicable, and (iii) all Refinancing Term Loans, Replacement Revolving Facility Commitments and all obligations in respect thereof shall be Loan Obligations under this Agreement and the other Loan Documents and shall have the same rank and Lien priority as the Term Facility or Revolving Facility being refinanced or replaced, as applicable.

Defaulting Lenders.

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

Waivers and Amendments. Such Defaulting Lender's right to approve or disapprove any amendment, waiver or consent with respect to this Agreement shall be restricted as set forth in the definitions of "Majority Lenders," "Required Lenders," or "Required Revolving Facility Lenders," as applicable, and Section 9.08.

Defaulting Lender Waterfall. Any payment of principal, interest, fees or other amounts received by the Administrative Agent for the account of such Defaulting Lender (whether voluntary or mandatory, at maturity, following an Event of Default or otherwise) or received by the Administrative Agent from a Defaulting Lender pursuant to Section 9.06 shall be applied at such time or times as may be determined by the Administrative Agent as follows: first, to the payment of any amounts owing by such Defaulting Lender to the Administrative Agent hereunder, second, to the payment on a pro rata basis of any amounts owing by such Defaulting Lender to any Issuing Bank or the Swingline Lender hereunder, third, to Cash Collateralize the Issuing Banks' Fronting Exposure with respect to such Defaulting Lender in accordance with Section 2.05(j), fourth, as the Borrower may request (so long as no Default or Event of Default then exists), to the funding of any Loan in respect of which such Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by the Administrative Agent, fifth, if so determined by the Administrative Agent and the Borrower, to be held in a deposit account and released pro rata in order to (x) satisfy such Defaulting Lender's potential future funding obligations with respect to Loans under this Agreement and (y) Cash Collateralize the Issuing Banks' future Fronting Exposure with respect to such Defaulting Lender with respect to future Letters of Credit issued under this Agreement, in accordance with Section 2.05(j), sixth, to the payment of any amounts owing to the Lenders, the Issuing Banks or the Swingline Lender as a result of any judgment of a court of competent jurisdiction obtained by any Lender, Issuing Bank or Swingline Lender against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement, seventh, so long as no Default or Event of Default then exists, to the payment of any amounts owing to the Borrower as a result of any judgment of a court of competent jurisdiction obtained by the Borrower against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement, and eighth, to such Defaulting Lender or as otherwise directed by a court of competent jurisdiction. Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender or to post Cash Collateral pursuant to this Section 2.24 shall be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto.

Certain Fees.

No Defaulting Lender shall be entitled to receive any Commitment Fee for any period during which that Lender is a Defaulting Lender (and, except as provided in clause (C) below, the Borrower shall not be required to pay any such fee that otherwise would have been paid to that Defaulting Lender).

Each Defaulting Lender shall be entitled to receive L/C Participation Fees for any period during which that Lender is a Defaulting Lender only to the extent allocable to its pro rata share of the stated amount of Letters of Credit for which it has provided Cash Collateral.

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

Reallocation of Participations to Reduce Fronting Exposure. All or any part of such Defaulting Lender's participation in Letters of Credit and Swingline Loans under any Revolving Facility shall be reallocated among the Non-Defaulting Lenders in accordance with their respective pro rata Commitments under such Revolving Facility (calculated without regard to such Defaulting Lender's Commitment) such reallocation does not cause the aggregate Revolving Facility Credit Exposure of any Non-Defaulting Lender under such Revolving Facility to exceed such Non-Defaulting Lender's Revolving Facility Commitment under such Revolving Facility. Subject to Section 9.23, no reallocation hereunder shall constitute a waiver or release of any claim of any party hereunder against a Defaulting Lender arising from that Lender having become a Defaulting Lender, including any claim of a Non-Defaulting Lender as a result of such Non-Defaulting Lender's increased exposure following such reallocation.

Cash Collateral, Repayment of Swingline Loans. If the reallocation described in clause (iv) above cannot, or can only partially, be effected, the Borrower shall, without prejudice to any right or remedy available to it hereunder or under law, within five (5) Business Days following the written request of the (i) Administrative Agent or (ii) the Swingline Lender or any Issuing Bank, as applicable (with a copy to the Administrative Agent), (x) first, prepay Swingline Loans in an amount equal to the Swingline Lender's Fronting Exposure and (y) second, Cash Collateralize the Issuing Banks' Fronting Exposure in accordance with the procedures set forth in Section 2.05(j).

35. Defaulting Lender Cure. If the Borrower, the Administrative Agent, the Swingline Lender and each Issuing Bank agree in writing that a Lender is no longer a Defaulting Lender, the Administrative Agent will so notify the parties hereto, whereupon as of the effective date specified in such notice and subject to any conditions set forth therein (which may include arrangements with respect to any Cash Collateral), that Lender will, to the extent applicable, purchase at par (together with any break funding costs incurred by the non-Defaulting Lenders as a result of such purchase) that portion of outstanding Revolving Facility Loans of the other Lenders or take such other actions as the Administrative Agent may determine to be necessary to cause the Loans and funded and unfunded participations in Letters of Credit and Swingline Loans to be held pro rata by the Lenders in accordance with their Revolving Facility Commitments (without giving effect to Section 2.24(a)(iv)), whereupon such Lender will cease to be a Defaulting Lender; provided, that no adjustments will be made retroactively with respect

to fees accrued or payments made by or on behalf of the Borrower while that Lender was a Defaulting Lender; provided, further, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender.

Loan Repurchases.

36. Subject to the terms and conditions set forth or referred to below, the Borrower may from time to time, at its discretion, conduct modified Dutch auctions in order to purchase Term Loans of one or more Classes (as determined by the Borrower) (each, a "Purchase Offer"), each such Purchase Offer to be managed exclusively by the Administrative Agent (or such other financial institution chosen by the Borrower and reasonably acceptable to the Administrative Agent) (in such capacity, the "Auction Manager"), so long as the following conditions are satisfied:

each Purchase Offer shall be conducted in accordance with the procedures, terms and conditions set forth in this Section 2.25 and the Auction Procedures;

no Default or Event of Default shall be continuing on the date of the delivery of each notice of an auction and at the time of (and immediately after giving effect to) the purchase of any Term Loans in connection with any Purchase Offer or shall result therefrom;

the principal amount (calculated on the face amount thereof) of each and all Classes of Term Loans that the Borrower offers to purchase in any such Purchase Offer shall be no less than \$10,000,000 (unless another amount is agreed to by the Administrative Agent) (across all such Classes);

the principal amount of all Term Loans of the applicable Class or Classes so purchased by the Borrower shall automatically be cancelled and retired by the Borrower on the settlement date of the relevant purchase (and may not be resold) (without any increase to EBITDA as a result of any gains associated with cancellation of debt), and in no event shall the Borrower be entitled to any vote hereunder in connection with such Term Loans;

no more than one Purchase Offer with respect to any Class may be ongoing at any one time;

either (A) (x) the Borrower shall represent and warrant that no Loan Party has any material non-public information with respect to the Loan Parties or their Subsidiaries, or with respect to the Loans or the securities of any such person, that (A) has not been previously disclosed in writing to the Administrative Agent and the Lenders (other than because such Lender does not wish to receive such material non-public information) prior to such time and (B) could reasonably be expected to have a material effect upon, or otherwise be material to, a Lender's decision to participate in the Purchase Offer or (y)

shall state that it cannot make such representation set forth in clause (A)(x) or (B) such Purchase Offer shall contain customary “big boy” representations; and

any Purchase Offer with respect to any Class shall be offered to all Term Lenders holding Term Loans of such Class on a pro rata basis.

37. The Borrower must terminate any Purchase Offer if it fails to satisfy one or more of the conditions set forth above which are required to be met at the time which otherwise would have been the time of purchase of Term Loans pursuant to such Purchase Offer. If the Borrower commences any Purchase Offer (and all relevant requirements set forth above which are required to be satisfied at the time of the commencement of such Purchase Offer have in fact been satisfied), and if at such time of commencement the Borrower reasonably believes that all required conditions set forth above which are required to be satisfied at the time of the consummation of such Purchase Offer shall be satisfied, then the Borrower shall have no liability to any Term Lender for any termination of such Purchase Offer as a result of its failure to satisfy one or more of the conditions set forth above which are required to be met at the time which otherwise would have been the time of consummation of such Purchase Offer, and any such failure shall not result in any Default or Event of Default hereunder. With respect to all purchases of Term Loans of any Class or Classes made by the Borrower pursuant to this Section 2.25, (x) the Borrower shall pay on the settlement date of each such purchase all accrued and unpaid interest (except to the extent otherwise set forth in the relevant offering documents), if any, on the purchased Term Loans of the applicable Class or Classes up to the settlement date of such purchase and (y) such purchases (and the payments made by the Borrower and the cancellation of the purchased Loans, in each case in connection therewith) shall not constitute voluntary or mandatory payments or prepayments for purposes of Section 2.11 hereof.

38. The Administrative Agent and the Lenders hereby consent to the Purchase Offers and the other transactions effected pursuant to and in accordance with the terms of this Section 2.25; provided, that notwithstanding anything to the contrary contained herein, no Lender shall have an obligation to participate in any such Purchase Offer. For the avoidance of doubt, it is understood and agreed that the provisions of Sections 2.16, 2.18 and 9.04 will not apply to the purchases of Term Loans pursuant to Purchase Offers made pursuant to and in accordance with the provisions of this Section 2.25. The Auction Manager acting in its capacity as such hereunder shall be entitled to the benefits of the provisions of Article VIII and Section 9.05 to the same extent as if each reference therein to the “Agents” were a reference to the Auction Manager, and the Administrative Agent shall cooperate with the Auction Manager as reasonably requested by the Auction Manager in order to enable it to perform its responsibilities and duties in connection with each Purchase Offer.

39. Notwithstanding anything in this Agreement to the contrary, any Lender may assign all or a portion of its rights and obligations with respect to the Term Loans or the Term Loan Commitments, under this Agreement to the Borrower or any Subsidiaries through open market purchases on a pro-rata or non-pro rata basis, in each case subject to the following limitations:

(x) if the assignee is a Subsidiary, upon such assignment, transfer or contribution, the applicable assignee will automatically be deemed to have contributed or transferred the principal amount of such Term Loans, plus all accrued and unpaid interest thereon, to the Borrower or (y) if the assignee is the Borrower, (including through the contribution or transfers set forth in clause (x)), the principal amount of such Term Loans, along with all accrued and unpaid interest thereon, so contributed, assigned or transferred to the Borrower will be deemed automatically cancelled and extinguished upon such assignment, contribution or transfer; and

no Event of Default shall be continuing or shall result therefrom

40. This Section 2.25 shall supersede any provisions in this Agreement to the contrary.

ARTICLE III.

Representations and Warranties

On (i) the Closing Date (in each case, after giving effect to the Transactions) and (ii) the date of each Credit Event (after the Closing Date), as provided in Section 4.02, the Borrower represents and warrants to the Lenders that (it being understood and agreed that the only representations and warranties in this Article III or any other Loan Document that are required to be true and correct as a condition to the Closing Date, the funding of the Loans on the Closing Date and the use of the proceeds thereof on the Closing Date to consummate the Acquisition are solely those referred to in Section 4.01(c)):

Organization; Powers. The Borrower and each of the Subsidiaries which is a Loan Party (a) is a partnership, limited liability company, corporation or other entity duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization (to the extent that each such concept exists in such jurisdiction), (b) has all requisite power and authority to own its property and assets and to carry on its business as now conducted, (c) is qualified to do business in each jurisdiction where such qualification is required, except in the case of clause (a) (other than with respect to the Borrower), clause (b) (other than with respect to the Borrower), and clause (c), where the failure so to be or have, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect, and (d) has the power and authority to execute, deliver and perform its obligations under each of the Loan Documents and each other agreement or instrument contemplated thereby to which it is or will be a party and, in the case of the Borrower, to borrow and otherwise obtain credit hereunder.

Authorization. The execution, delivery and performance by the Borrower and each of the Guarantors of each of the Loan Documents to which it is a party and the borrowings and other extensions of credit hereunder (a) have been duly authorized by all corporate, stockholder, partnership, limited liability company or other organizational action required to be obtained by the Borrower and such Guarantors and (b) will not (i) violate (A) any provision of law, statute, rule or regulation applicable to the Borrower or any such Guarantor, (B) the certificate or articles of incorporation or other constitutive documents (including any partnership, limited liability

company or operating agreements) or by-laws of the Borrower, or any such Guarantor, (C) any applicable order of any court or any law, rule, regulation or order of any Governmental Authority applicable to the Borrower or any such Guarantor or (D) any provision of any indenture, agreement or other instrument to which the Borrower or any such Guarantor is a party or by which any of them or any of their property is or may be bound, (ii) result in a breach of or constitute (alone or with due notice or lapse of time or both) a default under, give rise to a right of or result in any cancellation or acceleration of any right or obligation (including any payment) under any such indenture, agreement or other instrument, where any such conflict, violation, breach or default referred to in clause (i) (other than clause (i)(B)) or (ii) of this Section 3.02(b), would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, or (iii) result in the creation or imposition of any Lien upon or with respect to any property or assets now owned or hereafter acquired by the Borrower or any such Guarantor, other than the Liens created by the Loan Documents and Permitted Liens.

Enforceability. This Agreement has been duly executed and delivered by the Borrower and constitutes, and each other Loan Document when executed and delivered by the Borrower and each Guarantor that is party thereto will constitute, a legal, valid and binding obligation of such Loan Party enforceable against the Borrower and each such Guarantor in accordance with its terms, subject to (a) the effects of bankruptcy, insolvency, moratorium, reorganization, fraudulent conveyance or other similar laws affecting creditors' rights generally, (b) general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law), (c) implied covenants of good faith and fair dealing, and (d) the need for filings and registrations necessary to perfect the Liens on the Collateral granted by the Loan Parties in favor of the Collateral Agent.

Governmental Approvals. No action, consent or approval of, registration or filing with or any other action by any Governmental Authority is or will be required for the execution, delivery or performance of each Loan Document to which the Borrower or any Guarantor is a party, except for (a) the filing of Uniform Commercial Code financing statements, (b) filings with the United States Patent and Trademark Office and the United States Copyright Offices, (c) such as have been made or obtained and are in full force and effect, (d) such actions, consents and approvals the failure of which to be obtained or made would not reasonably be expected to have a Material Adverse Effect and (e) filings or other actions listed on Schedule 3.04 and any other filings or registrations required to be made under the terms of the Security Documents to perfect Liens created by the Security Documents.

Financial Statements. (a) The audited consolidated balance sheets and the statements of income, and cash flow (i) for the Borrower and its consolidated subsidiaries as of and for each fiscal year of the Borrower in the three-fiscal year period ended on December 31, 2020 and (ii) for the Target and its consolidated subsidiaries as of and for each fiscal year of the Target in the two-fiscal year period ended December 31, 2020, including the notes thereto, if applicable, present fairly in all material respects the consolidated financial position of the Borrower and its consolidated subsidiaries or the Target and its consolidated subsidiaries (as applicable) as of the dates and for the periods referred to therein and the results of operations and cash flows for the

periods then ended, and were prepared in accordance with GAAP applied on a consistent basis throughout the periods covered thereby.

No Material Adverse Effect. Since December 31, 2020, there has been no event or circumstance that, individually or in the aggregate with other events or circumstances, has had or would reasonably be expected to have a Material Adverse Effect.

Title to Properties. Each of the Borrower and the Subsidiaries has valid title in fee simple or equivalent to, or valid leasehold interests in, or easements or other limited property interests in, all its Real Properties and has valid title to its personal property and assets, in each case, free and clear of all Liens except for Permitted Liens and except for defects in title that do not materially interfere with its ability to conduct its business as currently conducted or to utilize such properties and assets for their intended purposes and except where the failures to have such title or such Liens would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

Subsidiaries. Schedule 3.08 sets forth as of the Closing Date, after giving effect to the Transactions, the name and jurisdiction of incorporation, formation or organization of each subsidiary of the Borrower and, as to each such subsidiary, the percentage of the Equity Interests of such subsidiary owned by the Borrower or by any such subsidiary.

Litigation; Compliance with Laws.

41. There are no actions, suits, proceedings or investigations at law or in equity or by or on behalf of any Governmental Authority or in arbitration now pending, or, to the knowledge of the Borrower, threatened in writing against the Borrower or any of the Subsidiaries or any business, property or rights of any such person (i) that involve any Loan Document, to the extent that the applicable action, suit, proceeding or investigation is brought by the Borrower or any of its Subsidiaries or (ii) that would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, except for any action, suit or proceeding at law or in equity or by or on behalf of any Governmental Authority or in arbitration which has been disclosed on Schedule 3.09 or in the Borrower's Annual Report on Form 10-K for the year ended December 31, 2020.

42. None of the Borrower, the Subsidiaries and their respective properties or assets is in violation of (nor will the continued operation of their material properties and assets as currently conducted violate) any law, rule or regulation (including any zoning, building, ordinance, code or approval or any building permit, but excluding any Environmental Laws, which are the subject of Section 3.16) or any restriction of record or indenture, agreement or instrument affecting any Real Property, or is in default with respect to any judgment, writ, injunction or decree of any Governmental Authority, where such violation or default would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

Federal Reserve Regulations. No part of the proceeds of any Loans and no Letter of Credit will be used by the Borrower and its Subsidiaries in any manner that would result in a violation of Regulation T, Regulation U or Regulation X.

Investment Company Act. None of the Borrower or any of the Subsidiaries are required to be registered as an “investment company” within the meaning of the Investment Company Act of 1940, as amended.

Use of Proceeds.

43. The Borrower will use the proceeds of the Revolving Facility Loans and Swingline Loans, and may request the issuance of Letters of Credit, solely for general corporate purposes (including, without limitation, for working capital purposes, for capital expenditures, for the Transactions, for Permitted Business Acquisitions and, in the case of Letters of Credit, for the back-up or replacement of existing letters of credit); provided, that on the Closing Date, no more than \$10,000,000 may be used to finance a portion of the Transactions plus additional amounts for ordinary course working capital needs.

44. The Borrower will use the proceeds of the Initial Term Loans borrowed on the Closing Date directly or indirectly to finance a portion of the Transactions and for general corporate purposes.

45. The Borrower will use the proceeds of any Incremental Loans solely for general corporate purposes of the Borrower and its Subsidiaries (including Permitted Business Acquisitions, Capital Expenditures and permitted Restricted Payments) or as otherwise set forth in the applicable Incremental Assumption Agreement.

Tax Returns.

46. Except as would not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect, the Borrower and each of the Subsidiaries has filed or caused to be filed all federal, state, local and non-U.S. Tax returns required to have been filed by it (including in its capacity as withholding agent) and each such Tax return is true and correct; and

47. Except as would not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect, the Borrower and each of the Subsidiaries has timely paid or caused to be timely paid all Taxes shown to be due and payable by it on the returns referred to in clause (a) and all other Taxes or assessments (or made adequate provision (in accordance with GAAP) for the payment of all Taxes due), except Taxes or assessments for which the Borrower or any of the Subsidiaries (as the case may be) has set aside on its books adequate reserves in accordance with GAAP and, to the extent such Taxes are due and payable pursuant to a governmental assessment, the amount thereof is being contested in good faith by appropriate proceedings.

No Material Misstatements.

48. All written information (other than the Projections, forward looking information and information of a general economic or industry specific nature) (the “Information”) concerning the Borrower, the Subsidiaries, the Transactions and any other transactions contemplated hereby included in the Information Memorandum or otherwise prepared by or on

behalf of the foregoing or their representatives and made available to any Lenders or the Administrative Agent in connection with the Transactions or the other transactions contemplated hereby, when taken as a whole, was true and correct in all material respects, as of the date such Information was furnished to the Lenders (and as of the Closing Date, with respect to Information provided prior thereto) and did not, taken as a whole, contain any untrue statement of a material fact as of any such date or omit to state a material fact necessary in order to make the statements contained therein, taken as a whole, not materially misleading in light of the circumstances under which such statements were made.

49. The Projections and other forward looking information prepared by or on behalf of the Borrower or any of their representatives and that have been made available to any Lenders or the Administrative Agent in connection with the Transactions or the other transactions contemplated hereby have been prepared in good faith based upon assumptions believed by the Borrower to be reasonable as of the date thereof (it being understood that such Projections and other forward looking information are as to future events and are not to be viewed as facts, such Projections and other forward looking information are subject to significant uncertainties and contingencies and that actual results during the period or periods covered by any such Projections or other forward looking information may differ significantly from the projected results, and that no assurance can be given that the projected results will be realized), as of the date such Projections and information were furnished to the Lenders.

EEA Financial Institutions. No Loan Party is an EEA Financial Institution.

Environmental Matters. Except as to matters that would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect: (a) no written notice, request for information, order, complaint or penalty has been received by the Borrower or any of its Subsidiaries, and there are no judicial, administrative or other actions, suits or proceedings pending or, to the Borrower's knowledge, threatened which allege a violation of or liability under any Environmental Laws, in each case relating to the Borrower or any of its Subsidiaries, (b) each of the Borrower and its Subsidiaries has all environmental permits, licenses, authorizations and other approvals necessary for its operations to comply with all Environmental Laws ("Environmental Permits") and is in compliance with the terms of such Environmental Permits and with all other Environmental Laws, (c) no Hazardous Material is located at, on or under any property currently or, to Borrower's knowledge, formerly owned, operated or leased by the Borrower or any of its Subsidiaries that would reasonably be expected to give rise to any cost, liability or obligation of the Borrower or any of its Subsidiaries under any Environmental Laws or Environmental Permits, and no Hazardous Material has been generated, used, treated, stored, handled, disposed of or controlled, transported or released by Borrower or its Subsidiaries, or, to the Borrower's knowledge, otherwise at any location in a manner that would reasonably be expected to give rise to any cost, liability or obligation of the Borrower or any of its Subsidiaries under any Environmental Laws or Environmental Permits, (d) there are no agreements in which the Borrower or any of its Subsidiaries has expressly assumed or undertaken responsibility for any known or reasonably likely liability or obligation of any other person arising under or relating to Environmental Laws and (e) there has been no written environmental assessment or audit (other than customary assessments not revealing anything that

would reasonably be expected to result in a Material Adverse Effect) conducted during the past five years, by or on behalf of the Borrower or any of the Subsidiaries of any property currently or, to the Borrower's knowledge, formerly owned, operated or leased by the Borrower or any of the Subsidiaries that is in the current possession or control of Borrower or its Subsidiaries or of which Borrower has knowledge that has not been made available to the Administrative Agent prior to the Closing Date.

Security Documents.

50. Each Security Document when executed by the applicable parties thereto is effective to create in favor of the Collateral Agent for the benefit of the Secured Parties a legal, valid and enforceable security interest in the Collateral described therein and proceeds thereof to the extent contemplated by such Security Document and the other Loan Documents. Subject to the last paragraph in the definition of Collateral and Guarantee Requirement, in the case of the Pledged Collateral described in the Collateral Agreement, when certificates or promissory notes, as applicable, representing such Pledged Collateral and required to be delivered under the applicable Security Document are delivered to the Collateral Agent, and in the case of the other Collateral described in the Collateral Agreement (other than the Intellectual Property), when financing statements and other filings specified in the Perfection Certificate are filed in the offices specified in the Perfection Certificate, the Collateral Agent (for the benefit of the Secured Parties) shall have a fully perfected Lien (subject to no Liens other than Permitted Liens) on, and security interest in, all right, title and interest of the Loan Parties in such Collateral and, subject to Section 9-315 of the New York Uniform Commercial Code, the proceeds thereof, as security for the Obligations to the extent perfection can be obtained by filing Uniform Commercial Code financing statements or possession, in each case prior and superior in right to the Lien of any other person (except Permitted Liens).

51. Subject to the last paragraph in the definition of Collateral and Guarantee Requirement, when the Collateral Agreement or an ancillary document thereunder is properly filed and recorded in the United States Patent and Trademark Office and the United States Copyright Office, and, with respect to Collateral in which a security interest cannot be perfected by such filings, upon the proper filing of the financing statements referred to in clause (a) above, the Collateral Agent (for the benefit of the Secured Parties) shall have a fully perfected Lien on, and security interest in, all right, title and interest of the Loan Parties thereunder in the material United States Intellectual Property included in the Collateral listed in such ancillary document, in each case prior and superior in right to the Lien of any other person, except for Permitted Liens (it being understood that subsequent recordings in the United States Patent and Trademark Office and the United States Copyright Office may be necessary to perfect a Lien on material registered trademarks and patents, trademark and patent applications and registered copyrights acquired by the Loan Parties after the Closing Date).

52. Notwithstanding anything herein (including this Section 3.17) or in any other Loan Document to the contrary, neither the Borrower nor any other Loan Party makes any representation or warranty as to the effects of perfection or non-perfection, the priority or the enforceability of any pledge of or security interest in any Equity Interests of any Foreign

Subsidiary, or as to the rights and remedies of the Agents or any Lender with respect thereto, under foreign law.

Solvency. Immediately after giving effect to the Transactions on the Closing Date and the making of the Loans on the Closing Date and the application of the proceeds of such Loans, (i) the fair value of the assets of the Borrower and its Subsidiaries on a consolidated basis, exceeds, on a consolidated basis, their debts and liabilities, subordinated, contingent or otherwise; (ii) the present fair saleable value of the property of the Borrower and its Subsidiaries, on a consolidated basis, is greater than the amount that will be required to pay the probable liability, on a consolidated basis, of their debts and other liabilities, subordinated, contingent or otherwise, as such debts and other liabilities become absolute and matured; (iii) the Borrower and its Subsidiaries, on a consolidated basis, are able to pay their debts and liabilities, subordinated, contingent or otherwise, as such debts and liabilities become absolute and matured; and (iv) the Borrower and its Subsidiaries, on a consolidated basis, are not engaged in, and are not about to engage in, business for which they have unreasonably small capital. For purposes of the foregoing, the amount of any contingent liability at any time shall be computed as the amount that would reasonably be expected to become an actual and matured liability.

ERISA. No ERISA Event has occurred or is reasonably expected to occur that, when taken together with all other such ERISA Events, could reasonably be expected to result in a Material Adverse Effect. None of the Borrower, any Subsidiary nor any ERISA Affiliate has engaged in a transaction that could be subject to Section 4069 or 4212(c) of ERISA that would reasonably be expected to result in a Material Adverse Effect.

Labor Matters. Except as, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect: (a) there are no strikes or other labor disputes pending or threatened against the Borrower or any of the Subsidiaries; (b) the hours worked and payments made to employees of the Borrower and the Subsidiaries have not been in violation of the Fair Labor Standards Act or any other applicable law dealing with such matters; and (c) all payments due from the Borrower or any of the Subsidiaries or for which any claim may be made against the Borrower or any of the Subsidiaries, 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 the Borrower or such Subsidiary to the extent required by GAAP.

Insurance. Schedule 3.21 sets forth a true, complete and correct description, in all material respects, of all material insurance (excluding any title insurance) maintained by or on behalf of any Loan Party as of the Closing Date after giving effect to the Transactions. As of such date, such insurance is in full force and effect.

Intellectual Property; Licenses, Etc. Except as would not reasonably be expected to have a Material Adverse Effect or as set forth in Schedule 3.22, (a) the Borrower and each of its Subsidiaries owns, or possesses the right to use, all Intellectual Property that are used or held for use or is otherwise reasonably necessary in the operation of their respective businesses, (b) to the knowledge of the Borrower and its Subsidiaries, the Borrower and its Subsidiaries are not interfering with, infringing upon, misappropriating or otherwise violating Intellectual Property of any person and (c) (i) no claim or litigation regarding any of the Intellectual Property owned by

the Borrower and its Subsidiaries is pending or, to the knowledge of the Borrower, threatened and (ii) to the knowledge of the Borrower, no claim or litigation regarding any other Intellectual Property described in the foregoing clauses (a) and (b) is pending or threatened.

USA PATRIOT Act. The Borrower and each of its Subsidiaries is in compliance in all material respects with the United and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Public Law 107-56, and other applicable anti-money laundering laws. As of the Closing Date, the information included in the Beneficial Ownership Certification is true and correct in all respects.

Anti-Corruption Laws and Sanctions. (a) Neither (i) the Borrower nor any Subsidiary, (ii) to the knowledge of the Borrower, any director, officer, employee, agent or affiliate of the Borrower or any Subsidiary of the Borrower, nor (iii) any director or officer of any Subsidiary, is the subject of Sanctions or in violation of any applicable Anti-Corruption Laws, (b) neither the Borrower nor any Subsidiary is located, organized or resident in a Sanctioned Country and (c) no part of the proceeds of the Loans and no Letter of Credit shall be used, directly or, to the knowledge of the Borrower, indirectly, in a manner that would result in a violation of applicable Anti-Corruption Laws or Sanctions by any party hereto.

ARTICLE IV.

Conditions of Lending

Closing Date. The obligations of (i) (a) the Revolving Facility Lenders to make Revolving Facility Loans and the Swingline Lender to make Swingline Loans, (b) any Issuing Bank to issue, amend or extend or renew Letters of Credit or increase the amounts of Letters of Credit hereunder and (c) each Lender with an Initial Term Loan Commitment to make Initial Term Loans to the Borrower, in each case, on the Closing Date are subject solely to the satisfaction (or waiver in accordance with Section 9.08) of the following conditions at or prior to the Closing Date:

53. The Administrative Agent shall have received from the Borrower a counterpart of this Agreement signed on behalf of the Borrower.

54. To the extent required to be satisfied on the Closing Date, the Collateral and Guarantee Requirement shall be satisfied as of the Closing Date.

55. (i) The Specified Representations are true and correct in all material respects as of the Closing Date (after giving effect to the Transactions) 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 as of such earlier date); provided that any representation and warranty that is qualified as to “materiality,” “Material Adverse Effect” or similar language shall be true and correct (after giving effect to any qualification therein) in all respects on such respective dates, (ii) the Acquisition Agreement Specified Representations are true and correct to the extent contemplated by the definition of “Acquisition Agreement Specified Representations”, and (iii) the

Administrative Agent shall have received a certificate of a Responsible Officer of the Borrower certifying that the conditions set forth in the foregoing clauses (c)(i), (c)(ii) and (l) below have been satisfied.

56. The Administrative Agent shall have received a Borrowing Request with respect to the Initial Term Loan as required by Section 2.03

57. The Lenders shall have received a solvency certificate substantially in the form of Exhibit C and signed by the chief financial officer, chief accounting officer or other officer with equivalent duties of the Borrower confirming the solvency of the Borrower and its Subsidiaries on a consolidated basis immediately after giving effect to the Transactions on the Closing Date.

58. The Administrative Agent shall have received, on behalf of itself, the Lenders and each Issuing Bank, a written opinion of Gibson, Dunn & Crutcher LLP, as counsel for the Loan Parties, or such other firm as may be reasonably acceptable to the Administrative Agent, with respect to the enforceability of the Loan Documents and other related matters, in each case (A) dated the Closing Date, (B) addressed to each Issuing Bank, the Administrative Agent, the Collateral Agent and the Lenders on the Closing Date and (C) in form and substance reasonably satisfactory to the Administrative Agent covering such matters relating to the Loan Documents as the Administrative Agent shall reasonably request.

59. The Administrative Agent shall have received a certificate of the Secretary or Assistant Secretary or similar officer of each Loan Party dated the Closing Date and certifying:

that attached thereto is a true and complete copy of the certificate or articles of incorporation, certificate of limited partnership, certificate of formation or other equivalent constituent and governing documents, including all amendments thereto, of such Loan Party, certified as of a recent date by the Secretary of State (or other similar official or Governmental Authority) of the jurisdiction of its organization or by the Secretary or Assistant Secretary or similar officer of such Loan Party or other person duly authorized by the constituent documents of such Loan Party,

that attached thereto is a true and complete copy of the by-laws (or partnership agreement, limited liability company agreement or other equivalent constituent and governing documents) of such Loan Party as in effect on the Closing Date and at all times since a date prior to the date of the resolutions described in the following clause (iii),

that attached thereto is a true and complete copy of resolutions duly adopted by the Board of Directors (or equivalent governing body) of such Loan Party (or its managing general partner or managing member), authorizing the execution, delivery and performance of the Loan Documents to which such person is a party and that such resolutions have not been modified, rescinded or amended and are in full force and effect on the Closing Date, and

as to the incumbency and specimen signature of each officer or authorized signatory executing any Loan Document or any other document delivered in connection herewith on behalf of such Loan Party.

60. The Administrative Agent shall have received a completed Perfection Certificate, dated the Closing Date and signed by a Responsible Officer of each Loan Party, together with the results of a search of the Uniform Commercial Code (or equivalent), Tax and judgment, United States Patent and Trademark Office and United States Copyright Office filings made with respect to the Loan Parties in the jurisdictions contemplated by the Perfection Certificate and copies of the financing statements (or similar documents) disclosed by such search and evidence reasonably satisfactory to the Administrative Agent that the Liens indicated by such financing statements (or similar documents) are Permitted Liens or have been, or will be simultaneously or substantially concurrently with the Closing Date, released.

61. Substantially concurrently with the initial Credit Event on the Closing Date, the Acquisition shall be consummated in all material respects in accordance with the Acquisition Agreement after giving effect to any modifications, amendments, consents or waivers thereto, other than those modifications, amendments, consents or waivers by the Borrower that are materially adverse to the interests of the Lenders or Arrangers in their respective capacities as such, unless consented to in writing by the Arrangers (such consent not to be unreasonably withheld, delayed or conditioned).

62. The Administrative Agent shall have received (A) audited consolidated balance sheets and related statements of income, stockholders' equity and cash flows of the Borrower the last three full fiscal years ended at least 90 days prior to the Closing Date, (B) audited consolidated balance sheets and related statements of income, stockholders' equity and cash flows of the Target for the fiscal year ended December 31, 2019 and for each fiscal ended thereafter and ended at least 105 days prior to the Closing Date, (C) unaudited consolidated balance sheets and related statements of income and cash flows of each of the Borrower and the Target for each subsequent interim quarterly period ended at least 45 days prior to the Closing Date (excluding the fourth quarter of any fiscal year) and (D) *pro forma* financial information (which shall in any event be limited to a pro forma income statement and a pro forma balance sheet) of the Borrower and its subsidiaries (after giving effect to the Acquisition) as of and for the twelve-month period ending on the last day of the most recently completed four-fiscal quarter period of the Borrower ended at least 105 days prior to the Closing Date (if such period is a fiscal year) or at least 45 days prior to the Closing Date (if such period is a fiscal quarter), which pro forma financial information need not (1) be prepared in compliance with Regulation S-X of the Securities Act of 1933, as amended, or (2) include adjustments for purchase accounting (including adjustments of the type contemplated by Financial Accounting Standards Board Accounting Standards Codification 805, (formerly SFAS 141R)) (it being understood that any purchase accounting adjustments may be preliminary in nature and be based only on estimates and allocations determined by the Borrower); provided that the filing by the Borrower of the required audited financial statements on Form 10-K or required unaudited financial statements on Form 10-Q, in each case, will satisfy the requirements under clauses (A) or (C), as applicable, of this Section 4.01(j) with respect to the Borrower.

63. The Administrative Agent shall have received, at least three (3) Business Days prior to the Closing Date, (x) all documentation and other information required with respect to the Loan Parties by regulatory authorities under applicable “know your customer” and anti-money laundering rules and regulations, including without limitation the USA PATRIOT Act and (y) a Beneficial Ownership Certification, in each case, to the extent requested in writing at least 10 Business Days prior to the Closing Date.

64. Since the date of the Acquisition Agreement, there has not been any event, occurrence, change, development or state of circumstances or facts that has had or would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

65. Prior to or substantially concurrently with the initial Credit Event, the Closing Date Refinancing shall have occurred and all other third party Indebtedness for borrowed money of the Borrower, the Target and their respective Subsidiaries (other than Indebtedness incurred pursuant to the Senior Credit Facilities) that is outstanding on the Closing Date will be repaid, redeemed, defeased or otherwise discharged, all commitments thereunder will be terminated and all Liens related thereto will be released, except for any third party Indebtedness for borrowed money of the Borrower, the Target and their respective Subsidiaries permitted to remain outstanding with the approval of the Arrangers (not to be unreasonably withheld, delayed or conditioned).

66. The Agents and Arrangers shall have received all fees payable thereto or to any Lender on or prior to the Closing Date and, to the extent invoiced at least three (3) Business Days prior to the Closing Date, reimbursement or payment of all reasonable and documented out-of-pocket expenses (including reasonable fees, charges and disbursements of Cravath, Swaine & Moore LLP), in each case, required to be reimbursed or paid by the Loan Parties hereunder, under the Arranger Fee Letter, the Agent Fee Letter or under any Loan Document on or prior to the Closing Date.

Subsequent Credit Events. Each Credit Event after the Closing Date is subject to the satisfaction (or waiver in accordance with Section 9.08) of the following conditions on the date of each Borrowing and on the date of each issuance or renewal of a Letter of Credit:

67. The Administrative Agent shall have received, in the case of a Borrowing, a Borrowing Request as required by Section 2.03 (or a Borrowing Request shall have been deemed given) or, in the case of the issuance of a Letter of Credit, the applicable Issuing Bank and the Administrative Agent shall have received a notice requesting the issuance of such Letter of Credit as required by Section 2.05(b).

68. Except as set forth in Section 2.21(c) with respect to Incremental Term Loans used to finance a Limited Condition Transaction, the representations and warranties of the Borrowers and each other Loan Party contained in Article III or any other Loan Document shall be true and correct in all material respects on and as of the date of such Credit Event; provided, that, to the extent that such representations and warranties specifically refer to an earlier date, they shall be true and correct in all material respects as of such earlier date; provided, further, that any representation and warranty that is qualified as to “materiality,” “Material Adverse

Effect” or similar language shall be true and correct (after giving effect to any qualification therein) in all respects on such respective dates.

69. Except as set forth in Section 2.21(c) with respect to Incremental Term Loans used to finance a Limited Condition Transaction, at the time of and immediately after such Credit Event (other than an amendment, extension or renewal of a Letter of Credit without any increase in the stated amount of such Letter of Credit), as applicable, no Event of Default or Default shall be continuing.

Determinations Under Section 4.01. For purposes of determining compliance with the conditions specified in Section 4.01, each Lender shall be deemed to have consented to, approved or accepted or to be satisfied with each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to the Administrative Agent or the Lenders unless an officer of the Administrative Agent responsible for the transactions contemplated by this Agreement shall have received written notice from such Lender prior to, with respect to conditions specified in Section 4.01, the Closing Date, specifying its objection thereto in reasonable detail. The Administrative Agent shall promptly notify the Lenders and the Borrower in writing of the occurrence of the Closing Date and each such notification shall be conclusive and binding.

ARTICLE V.

Affirmative Covenants

The Borrower covenants and agrees with each Lender that from and after the Closing Date until the Termination Date, unless the Required Lenders shall otherwise consent in writing, the Borrower will, and (except in the case of Sections 5.04 and 5.05) will cause each of the Subsidiaries to:

Existence; Business and Properties.

70. Do or cause to be done all things necessary to preserve, renew and keep in full force and effect its legal existence, except (i) in the case of a Subsidiary of the Borrower, where the failure to do so would not reasonably be expected to have a Material Adverse Effect, (ii) as otherwise permitted under Section 6.05 and 6.09 and (iii) for the liquidation or dissolution of Subsidiaries if the assets of any such Subsidiary (to the extent they exceed estimated liabilities of such Subsidiary) are acquired by the Borrower or a Wholly-Owned Subsidiary of the Borrower in such liquidation or dissolution; provided, that (x) Guarantors may not be liquidated into Subsidiaries that are not Loan Parties and (y) Domestic Subsidiaries may not be liquidated into Foreign Subsidiaries (except in each case as permitted under Section 6.05); provided that neither the Borrower nor any of the Subsidiaries shall be required to preserve any such existence (other than the Borrower) if a Responsible Officer of such Person or such Person’s Board of Directors determines that the preservation thereof is no longer desirable in the conduct of the business of such Person, and that the loss thereof is not disadvantageous in any material respect to such Person or to the Lenders.

71. Except where the failure to do so would not reasonably be expected to have a Material Adverse Effect, do or cause to be done all things necessary to (i) lawfully obtain, preserve, renew, extend and keep in full force and effect the permits, franchises, authorizations, Intellectual Property, licenses and rights with respect thereto used in the conduct of its business (provided that neither the Borrower nor any of the Subsidiaries shall be required to preserve any such permits, franchise, authorizations, Intellectual Property, license or rights if a Responsible Officer of such Person or such Person's Board of Directors determines that the preservation thereof is no longer desirable in the conduct of the business of such Person, and that the loss thereof is not disadvantageous in any material respect to such Person or to the Lenders) and (ii) at all times maintain, protect and preserve all property necessary to the normal conduct of its business and keep such property in good repair, working order and condition (casualty, condemnation and ordinary wear and tear excepted), from time to time make, or cause to be made, all needed and proper repairs necessary in order that the business carried on in connection therewith, if any, may be properly conducted (in each case except as permitted by this Agreement).

Insurance. Maintain, with financially sound and reputable insurance companies, insurance (subject to customary deductibles and retentions) in such amounts and against such risks as are customarily maintained by similarly situated companies engaged in the same or similar businesses operating in the same or similar locations (as determined by the Borrower in good faith but not, for the avoidance of doubt, flood insurance except to the extent required by applicable Requirements of Law), and to cause (within 30 days (or such longer period as agreed by the Administrative Agent in its reasonable discretion) following the commencement of any insurance policy (or 90 days (or such longer period as agreed by the Administrative Agent in its reasonable discretion) following the Closing Date with respect to any insurance policy in existence on the Closing Date)) the Collateral Agent to be listed as a lenders loss payee or mortgagee, as applicable, on property and casualty policies with respect to tangible personal property and assets constituting Collateral located in the United States of America and as an additional insured on all general liability policies. Notwithstanding the foregoing, the Borrower and the Subsidiaries may (i) maintain all such insurance with any combination of primary and excess insurance, (ii) maintain any or all such insurance pursuant to master or so-called "blanket policies" insuring any or all Collateral and/or other assets which do not constitute Collateral (and in such event the lenders loss payee endorsement shall be limited or otherwise modified accordingly), and/or (iii) self-insure with respect to such risks with respect to which companies of established reputation engaged in the same general line of business in the same general area usually self-insure (as reasonably determined by the Borrower).

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 successor act thereto), then the Borrower shall (i) maintain, or cause to be maintained 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.

Taxes. Pay its obligations in respect of all Tax liabilities, assessments and governmental charges, before the same shall become delinquent or in default, except where (i) the Borrower or a Subsidiary thereof has set aside on its books adequate reserves therefor in accordance with GAAP and, to the extent due and payable pursuant to a governmental assessment, the amount thereof is being contested in good faith by appropriate proceedings or (ii) the failure to make payment could not reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect.

Financial Statements, Reports, Etc. Furnish to the Administrative Agent (which will promptly furnish such information to the Lenders):

72. within 90 days after the end of each fiscal year, a consolidated balance sheet and related statements of operations showing the financial position of the Borrower and its Subsidiaries as of the close of such fiscal year and the consolidated results of their operations during such year and setting forth in comparative form the corresponding figures for the prior fiscal year (and including, to the extent not otherwise included in the Borrower's annual report on Form 10-K for such fiscal year, a customary "management discussion and analysis of financial condition and results of operations"), which consolidated balance sheet and related statements of operations and audited by independent public accountants of recognized national standing and accompanied by an opinion of such accountants (which opinion shall not be qualified as to the status of the Borrower as a going concern other than resulting solely from (x) an upcoming maturity date of any Indebtedness occurring within one year from the time such opinion is delivered, (y) an anticipated or actual financial covenant default or (z) the activities, operations, financial results, assets or liabilities of any Unrestricted Subsidiary) to the effect that such consolidated financial statements fairly present, in all material respects, the financial position and results of operations of the Borrower and its Subsidiaries on a consolidated basis in accordance with GAAP;

73. within 45 days after the first three fiscal quarters of each fiscal year, a consolidated balance sheet and related statements of operations showing the financial position of the Borrower and its Subsidiaries as of the close of such fiscal quarter and the consolidated results of their operations during such fiscal quarter and the then-elapsed portion of the fiscal year and setting forth in comparative form the corresponding figures for the corresponding periods of the prior fiscal year (and including, to the extent not otherwise including in the Borrower's quarterly report on Form 10-Q for such fiscal quarter, a customary "management discussion and analysis of financial condition and results of operations") and which consolidated balance sheet and related statements of operations shall be certified by a Financial Officer of the Borrower on behalf of the Borrower as fairly presenting, in all material respects, the financial position and results of operations of the Borrower and its Subsidiaries on a consolidated basis in accordance with GAAP (subject to normal year-end audit adjustments and the absence of certain footnotes);

74. within five Business Days of delivery of financial statements under clause (a) or (b) above, a certificate of a Financial Officer of the Borrower (i) certifying that no Event of Default or Default has occurred since the date of the last certificate delivered pursuant to this

Section 5.04(c) (or since the Closing Date in the case of the first such certificate) or, if such an Event of Default or Default has occurred during such period, specifying the nature and extent thereof and any corrective action taken or proposed to be taken with respect thereto, (ii) commencing with the end of the first full fiscal quarter after the Closing Date, setting forth computations in reasonable detail showing the First Lien Net Leverage Ratio as of the most recently ended Test Period (and, solely to the extent the Financial Covenant is then applicable, compliance with the Financial Covenant), (iii) a summary of the pro forma adjustments necessary to eliminate the accounts of Unrestricted Subsidiaries (if any) from the consolidated statement of operations and the consolidated balance sheet and (iv) a list identifying each subsidiary of the Borrower as a Subsidiary or an Unrestricted Subsidiary as of the date of delivery of such certificate or confirming that there is no change in such information since the later of the Closing Date and the date of the last such list;

75. promptly, from time to time, such other information regarding the operations, business affairs and financial condition of the Borrower or any of the Subsidiaries; provided, however, that neither the Borrower nor any Subsidiary shall be required to disclose or provide any information (i) that constitutes non-financial trade secrets or non-financial proprietary information of the Borrower or any of its subsidiaries or any of their respective customers and/or suppliers, (ii) in respect of which disclosure to the Administrative Agent or any Lender (or any of their respective representatives) is prohibited by any applicable Requirement of Law, (iii) that is subject to attorney-client or similar privilege or constitutes attorney work product or (iv) in respect of which the Borrower or any Subsidiary owes confidentiality obligations to any third party (provided that such confidentiality obligations were not entered into in contemplation of the requirements of this Section 5.04(d)); and

76. concurrently with the delivery of financial statements under clause (a) above, an updated Perfection Certificate reflecting all changes since the date of the information most recently received pursuant to this clause (e) or Section 4.02, as applicable (or a certificate of a Responsible Officer certifying as to the absence of any changes to the previously delivered update, if applicable).

The Borrower hereby acknowledges that (a) the Administrative Agent and/or the Arrangers may, but shall not be obligated to, make available to the Lenders and the Issuing Banks materials and/or information provided by or on behalf of the Borrower hereunder (collectively, "Borrower Materials") by posting the Borrower Materials on IntraLinks, Syndtrak, ClearPar or a substantially similar electronic transmission system (the "Platform") and (b) certain of the Lenders (each, a "Public Lender") may have personnel who do not wish to receive material non-public information with respect to the Borrower or its Affiliates, or the respective securities of any of the foregoing, and who may be engaged in investment and other market-related activities with respect to such persons' securities. The Borrower hereby agrees that (w) the Borrower Materials that are to be distributed to the Public Lenders shall be clearly and conspicuously marked "PUBLIC" which, at a minimum, shall mean that the word "PUBLIC" shall appear prominently on the first page thereof; (x) by marking Borrower Materials "PUBLIC," the Borrower shall be deemed to have authorized the Administrative Agent, the Arrangers, the Issuing Banks and the Lenders to treat such Borrower Materials as not containing

any material non-public information (although it may be sensitive and proprietary) with respect to the Borrower, its Subsidiaries or any of their respective securities for purposes of United States Federal and state securities laws; (y) all Borrower Materials marked “PUBLIC” are permitted to be made available through a portion of the Platform designated “Public Side Information”; and (z) the Administrative Agent and the Arrangers shall be entitled to treat any Borrower Materials that are not marked “PUBLIC” as being suitable only for posting on a portion of the Platform not designated “Public Side Information.”

Litigation and Other Notices. Furnish to the Administrative Agent (which will promptly thereafter furnish to the Lenders) written notice of the following promptly after any Responsible Officer of the Borrower obtains actual knowledge thereof:

77. any Event of Default or Default, specifying the nature and extent thereof and the corrective action (if any) proposed to be taken with respect thereto;

78. the filing or commencement of, or any written threat or notice of intention of any person to file or commence, any action, suit or proceeding, whether at law or in equity or by or before any Governmental Authority or in arbitration, against the Borrower or any of the Subsidiaries as to which an adverse determination is reasonably probable and which, if adversely determined, would reasonably be expected to have a Material Adverse Effect;

79. any other development specific to the Borrower or any of the Subsidiaries that is not a matter of general public knowledge and that has had, or would reasonably be expected to have, a Material Adverse Effect;

80. promptly, such additional information regarding compliance by any Lender with the Beneficial Ownership Regulation, as the Administrative Agent may from time to time reasonably request; and

81. the occurrence of any ERISA Event that, together with all other ERISA Events that have occurred, would reasonably be expected to have a Material Adverse Effect.

Compliance with Laws. Comply with all laws, rules, regulations and orders of any Governmental Authority applicable to it or its property, except where the failure to do so, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect; provided, that this Section 5.06 shall not apply to Environmental Laws, which are the subject of Section 5.09, or to laws related to Taxes, which are the subject of Section 5.03.

Maintaining Records; Access to Properties and Inspections. Maintain all financial records in accordance with GAAP and permit any persons designated by the Administrative Agent or, upon the occurrence and continuance of an Event of Default pursuant to Section 7.01(b),(c), (h) or (i), any Lender to visit and inspect the financial records and the properties of the Borrower or any of the Subsidiaries at reasonable times, upon reasonable prior notice to the Borrower, and to make extracts from and copies of such financial records, and permit any persons designated by the Administrative Agent or, upon the occurrence and continuance of an Event of Default pursuant to Section 7.01(b), (c), (h) or (i), any Lender upon

reasonable prior notice to the Borrower to discuss the affairs, finances and condition of the Borrower or any of the Subsidiaries with the officers thereof and independent accountants therefor (so long as the Borrower has the opportunity to participate in any such discussions with such accountants); provided that (a) only the Administrative Agent on behalf of the Lenders may exercise the rights of the Administrative Agent and the Lenders under this Section 5.07, (b) except as expressly set forth in clause (c) below during the continuance of an Event of Default, (i) the Administrative Agent shall not exercise such rights more often than one time during any calendar year and (ii) only one such time per calendar year shall be at the expense of the Borrower and the Subsidiaries, (c) when an Event of Default has occurred and is continuing, the Administrative Agent (or any of its representatives or independent contractors) may do any of the foregoing at the expense of the Borrower at any time during normal business hours and upon reasonable advance notice and (d) notwithstanding anything to the contrary herein, neither the Borrower nor any Subsidiary shall be required to disclose, permit the inspection, examination or making of copies of or taking abstracts from, or discuss any document, information or other matter (i) that constitutes non-financial trade secrets or non-financial proprietary information of the Borrower and its subsidiaries and/or any of their respective customers and/or suppliers, (ii) in respect of which disclosure to the Administrative Agent or any Lender (or any of their respective representatives or contractors) is prohibited by applicable Requirements of Law, (iii) that is subject to attorney-client or similar privilege or constitutes attorney work product or (iv) in respect of which the Borrower or any Subsidiary owes confidentiality obligations to any third party (provided that such confidentiality obligations were not entered into in contemplation of the requirements of this Section 5.07).

Use of Proceeds. Use the proceeds of the Loans made and use the Letters of Credit issued only in the manner contemplated by Section 3.12.

Compliance with Environmental Laws. Comply, and make reasonable efforts to cause all lessees and other persons occupying its properties to comply, with all applicable Environmental Laws; and obtain and renew all required Environmental Permits, except, in each case with respect to this Section 5.09, to the extent the failure to do so would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

Further Assurances; Additional Security.

82. Execute any and all further documents, financing statements, agreements and instruments, and take all such further actions (including the filing and recording of financing statements and other documents), that the Collateral Agent may reasonably request (including those required by applicable law), to satisfy the Collateral and Guarantee Requirement and to cause the Collateral and Guarantee Requirement to be and remain satisfied, all at the expense of the Loan Parties and provide to the Collateral Agent, from time to time upon reasonable request, evidence reasonably satisfactory to the Collateral Agent as to the perfection and priority of the Liens created or intended to be created by the Security Documents.

83. If any asset is acquired by any Loan Party after the Closing Date or owned by an entity at the time it becomes a Loan Party (in each case other than (x) assets constituting Collateral under a Security Document that automatically become subject to the Lien of such

Security Document upon acquisition thereof and (y) assets constituting Excluded Property) such Loan Party will, (i) notify the Collateral Agent of such acquisition or ownership and (ii) cause such asset to be subjected to a valid and perfected Lien (subject to no Liens other than Permitted Liens) securing the Obligations by, and take, and cause the Guarantors to take, such actions as shall be reasonably requested by the Collateral Agent to cause the Collateral and Guarantee Requirement to be satisfied with respect to such asset, including actions described in clause (a) of this Section 5.10, all at the expense of the Loan Parties, subject to the penultimate and last paragraphs of this Section 5.10 and the definition of “Excluded Property.”

84. If any additional direct or indirect Subsidiary of the Borrower is formed, including by division, acquired or ceases to constitute an Excluded Subsidiary following the Closing Date and such Subsidiary is (1) a direct or indirect Wholly-Owned Domestic Subsidiary of the Borrower that is not an Excluded Subsidiary or (2) any other Domestic Subsidiary of the Borrower that may be designated in writing to the Administrative Agent by the Borrower in its sole discretion, within thirty (30) Business Days after the date such Subsidiary is formed or acquired or meets such criteria (or first becomes subject to such requirement) or such longer period as the Collateral Agent may agree in its sole discretion, cause such Subsidiary to become a Guarantor and cause the Collateral and Guarantee Requirement to be satisfied with respect to such Subsidiary and with respect to any Equity Interest in or Indebtedness of such Subsidiary owned by or on behalf of any Guarantor, subject to the third to last and penultimate paragraphs of this Section 5.10. Notwithstanding anything to the contrary herein, in no circumstance shall an Excluded Subsidiary become a Guarantor unless designated as a Guarantor by the Borrower (with any such designation of a Foreign Subsidiary being subject to the Administrative Agent’s consent as to the jurisdiction of organization thereof (such consent not to be unreasonably withheld, conditioned or delayed)) and no Subsidiary (other than any Subsidiary that is subject to clauses (a) and/or (h) of the definition of Excluded Subsidiary) that is designated as a Guarantor by the Borrower shall be released solely on the basis that it was not required to become a Guarantor.

85. Furnish to the Collateral Agent prompt (and in any event within 30 days of the applicable change) written notice of any change (A) in any Loan Party’s corporate or organization name, (B) in any Loan Party’s identity or organizational structure, (C) in any Loan Party’s organizational identification number (to the extent relevant in the applicable jurisdiction of organization) and (D) in any Loan Party’s jurisdiction of organization, accompanied by certified Organizational Documents reflecting such changes, and take all action reasonably satisfactory to the Collateral Agent to maintain the perfection and priority of the security interest of the Collateral Agent for the benefit of the Secured Parties in the Collateral, if applicable.

86. If any Foreign Subsidiary of the Borrower is formed or acquired after the Closing Date (with any Subsidiary Redesignation resulting in an Unrestricted Subsidiary becoming a Subsidiary being deemed to constitute the acquisition of a Subsidiary) and if such Subsidiary is a “first tier” Foreign Subsidiary of a Loan Party, within sixty (60) days after the date such Foreign Subsidiary is formed or acquired or such longer period as the Collateral Agent may agree in its reasonable discretion, cause the Collateral and Guarantee Requirement to be satisfied with respect to any Equity Interest in such Foreign Subsidiary owned by or on behalf of any Loan

Party, subject to the penultimate and last paragraphs of this Section 5.10 and the definition of “Excluded Property”.

87. Within 90 days after the acquisition by the Borrower or any Guarantor of any Mortgaged Property (or such longer period as the Administrative Agent may reasonably agree), the Borrower shall or shall cause such Loan Party to comply with the requirements set forth in clause (g) of the definition of “Collateral and Guarantee Requirement”.

88. The Borrower will, concurrently with the next delivery of a certificate under Section 5.04(c), notify the Administrative Agent of the existence of any deposit account maintained by a Loan Party in respect of which a Control Agreement is required to be in effect pursuant to the Collateral Agreement.

Notwithstanding anything to the contrary in this Agreement or in the other Loan Documents, the Collateral and Guarantee Requirement and the other provisions of this Section 5.10 and the other Loan Documents with respect to Collateral need not be satisfied with respect to any of the following (collectively, the “Excluded Property”): (i) (a) any interest in fee owned real property that is not in excess of \$1,000,000 individually and (b) all leasehold interests in real property (including requirements to deliver landlord lien waivers, estoppels and collateral access letters); (ii) motor vehicles, airplanes and other assets subject to certificates of title (other than to the extent that a security interest therein can be perfected by the filing of a financing statement under the Uniform Commercial Code); (iii) letters of credit and letter of credit rights (other than to the extent that a security interest therein can be perfected by the filing of a financing statement under the Uniform Commercial Code); (iv) commercial tort claims (as defined in the Uniform Commercial Code) reasonably expected to result in a recovery of less than \$10,000,000; (v) leases, licenses, permits and other agreements or any property subject to a purchase money security interest or similar arrangement to the extent, and so long as, the pledge thereof as Collateral would violate the terms thereof or create a right of termination in favor of any other party thereto (other than the Borrower or a Subsidiary), but only to the extent, and for so long as, such prohibition or limitation is not terminated or rendered unenforceable or otherwise deemed ineffective by the Uniform Commercial Code, the Bankruptcy Code or other Debtor Relief Law or other Requirement of Law, other proceeds and receivable thereof, the assignment of which is expressly deemed effective under applicable law; (vi) other assets to the extent the pledge thereof or the security interest therein is prohibited by applicable law, rule or regulation (other than to the extent such prohibition is not terminated or rendered unenforceable or otherwise deemed ineffective by the Uniform Commercial Code, Bankruptcy Code or any other Requirement of Law) or which could require governmental (including regulatory) consent, approval, license or authorization to be pledged (unless such consent, approval, license or authorization has been received) other than to the extent such requirement is not terminated or rendered unenforceable or otherwise deemed ineffective by the Uniform Commercial Code, Bankruptcy Code or any other Requirement of Law; (viii) those assets as to which the Administrative Agent and the Borrower shall reasonably agree that the costs or other adverse consequences (including, without limitations, Tax consequences) of obtaining such security interest are excessive in relation to the value of the security to be afforded thereby; (ix) “intent-to-use” trademark applications prior to the filing of a “Statement of Use” or “Amendment to

Allege Use” with respect thereto, to the extent that the grant of a security interest therein would impair the validity or enforceability of, or render void or voidable or result in the cancellation of the applicable grantor’s right, title or interest therein or in any trademark issued as a result of such application under applicable law; (x) any governmental licenses, permits or state or local franchises, charters and authorizations, to the extent Liens and security interests therein are prohibited or restricted thereby after giving effect to the applicable anti-assignment provisions of the UCC and other applicable law; (xi) property and assets to the extent that a pledge thereof or creation of security interest therein is restricted by applicable law, rule or regulation or which would require governmental consent, approval, license or authorization (in each case, only for so long as such restriction remains in effect or until such consent, approval or license is obtained, as applicable), other than to the extent such prohibition or limitation is rendered ineffective under the UCC or other applicable law notwithstanding such prohibition; (xii) Excluded Securities; (xiii) any intercompany loans, Indebtedness or receivables owed by any CFC or FSHCO (or treated as owed by any CFC or FSHCO for income tax purposes); (xiv) cash collateral that is the subject of a deposit or pledge constituting a Permitted Lien, but only to the extent the agreements governing such deposit or pledge prohibit the existence of a Lien therein in favor of the Administrative Agent; (xv) any assets of any CFC or FSHCO or any Subsidiary thereof and (xvi) for the avoidance of doubt, any assets of any person other than a Loan Party; provided, further that the Borrower may in its sole discretion elect to exclude any property from the definition of Excluded Property by expressly notifying the Collateral Agent of its decision to do so with reference to this proviso.

In addition, in no event shall (1) landlord, mortgagee and bailee waivers or similar subordination agreements be required, (2) notices be required to be sent to account debtors or other contractual third parties unless an Event of Default has occurred and is continuing and (3) foreign-law governed security documents or perfection under foreign law be required.

Notwithstanding anything herein to the contrary, (A) the Collateral Agent may grant extensions of time or waiver or modification of requirement for (x) the creation or perfection of security interests in, (y) the obtaining of insurance with respect to particular assets or (z) any other action required pursuant to the Collateral and Guarantee Requirement (including extensions beyond the Closing Date for the perfection of security interests in the assets of the Loan Parties on such date), in each case, where it reasonably determines, in consultation with the Borrower, that perfection or obtaining of such items (or the satisfaction by the Loan Parties of the Collateral and Guarantee Requirement) cannot reasonably be accomplished without undue effort or expense or is otherwise impracticable by the time or times at and/or in the form or manner in which it would otherwise be required by this Agreement or the other Loan Documents and (B) Liens required to be granted from time to time pursuant to, or any other requirements of, the Collateral and Guarantee Requirement and the Security Documents shall be subject to exceptions and limitations set forth in the Security Documents.

Ratings. Use commercially reasonable efforts to obtain and to maintain (a) public ratings from Moody’s and S&P for the Term Loans and (b) public corporate credit ratings and corporate family ratings from Moody’s and S&P in respect of the Borrower; provided, however, in each

case, that the Borrower and its Subsidiaries shall not be required to obtain or maintain any specific rating.

Restricted and Unrestricted Subsidiaries. Designate any Subsidiary as an Unrestricted Subsidiary only in accordance with the definition of “Unrestricted Subsidiary” contained herein.

Post-Closing. Take all necessary actions to satisfy the items described on Schedule 5.13 within the applicable period of time specified in such Schedule (or such longer period as the Administrative Agent may agree in its sole discretion). All representations and warranties contained in this Agreement and the other Loan Documents shall be deemed modified (or waived on a limited basis) to the extent necessary to give effect to the foregoing (and to permit the taking of the actions described in this Section 5.13 within the time periods specified thereon), and, to the extent any provision of this Agreement or any other Loan Document would be violated or breached (or any non-compliance with any such provision would result in a Default or Event of Default hereunder) as a result of any such extended deadline, such provision shall be deemed modified (or waived on a limited basis) to the extent necessary to give effect to this Section 5.13.

Quarterly Lender Calls. Following delivery of the financial statements pursuant to Section 5.04(a) or (b), as applicable, promptly host a conference call with a Financial Officer of the Borrower, such other members of senior management of the Borrower as the Borrower deems appropriate, the Lenders and the Lenders’ respective representatives and advisors to review the financial information presented therein at a time as may be agreed between the Borrower and the Administrative Agent; provided that the requirements set forth in this Section 5.14 may be satisfied with a public earnings calls for the applicable period.

ARTICLE VI.

Negative Covenants

The Borrower covenants and agrees with each Lender that from the Closing Date until the Termination Date, unless the Required Lenders (or, in the case of the Financial Covenant, the Required Revolving Facility Lenders) shall otherwise consent in writing, the Borrower will not, and the Borrower will not permit any of the Subsidiaries to:

Indebtedness. Incur, create, assume or otherwise become directly or indirectly liable with respect to any Indebtedness, except:

89. Indebtedness, including Capitalized Lease Obligations (other than Indebtedness described in Section 6.01(b) below), existing or committed on the Closing Date (provided, that any such Indebtedness that is owed to any person other than the Borrower and/or one or more of its Subsidiaries, in an aggregate amount in excess of \$1,000,000 shall be set forth in Schedule 6.01) and any Permitted Refinancing Indebtedness incurred to Refinance such Indebtedness;

90. Indebtedness created hereunder (including pursuant to Section 2.21, Section 2.22 and Section 2.23) and under the other Loan Documents and any Refinancing Notes incurred to Refinance such Indebtedness;

91. Indebtedness of the Borrower or any Subsidiary pursuant to Hedging Agreements entered into for non-speculative purposes;

92. Indebtedness owed to (including obligations in respect of letters of credit or bank guarantees or similar instruments for the benefit of) any person providing workers' compensation, health, disability or other employee benefits or property, casualty or liability insurance to the Borrower or any Subsidiary, pursuant to reimbursement or indemnification obligations to such person, in each case in the ordinary course of business or consistent with past practice or industry practices;

93. Indebtedness of the Borrower to any Subsidiary and of any Subsidiary to the Borrower or any other Subsidiary; provided, that (i) Indebtedness of any Subsidiary that is not a Loan Party owing to a Loan Party pursuant to this Section 6.01(e) shall be subject to Section 6.04(b) and (ii) Indebtedness owed by any Loan Party to any Subsidiary that is not a Guarantor pursuant to this Section 6.01(e) shall be subordinated in right of payment to the Loan Obligations on terms reasonably satisfactory to the Administrative Agent or at least as favorable to the Lender as those set forth in the form of intercompany note attached as Exhibit G;

94. Indebtedness in respect of performance bonds, bid bonds, appeal bonds, surety bonds and completion guarantees and similar obligations, in each case provided in the ordinary course of business or consistent with past practice or industry practices, including those incurred to secure health, safety and environmental obligations in the ordinary course of business or consistent with past practice or industry practices;

95. Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument drawn against insufficient funds in the ordinary course of business or other cash management services, in each case arising in the ordinary course of business;

96. (i) Indebtedness of a Subsidiary acquired after the Closing Date or a person merged or consolidated with the Borrower or any Subsidiary after the Closing Date and Indebtedness otherwise assumed by any Loan Party in connection with the acquisition of assets or Equity Interests (including a Permitted Business Acquisition), where such acquisition, merger, amalgamation or consolidation is not prohibited by this Agreement, in each case, pursuant to this subclause (h)(i); provided, that, (x) Indebtedness acquired or assumed pursuant to this subclause (h)(i) shall be in existence prior to the respective merger or acquisition of assets or Equity Interests (including a Permitted Business Acquisition) and shall not have been created in contemplation thereof or in connection therewith, and (y) immediately after giving effect to the acquisition or assumption of such Indebtedness, (A) if such Indebtedness is secured by a Lien that is *pari passu* with the Lien securing the Initial Term Loans, the Revolving Facility Loans or Other First Lien Debt, the First Lien Net Leverage Ratio, calculated on a Pro Forma Basis for the then most recently ended Test Period, shall not be greater than either (x) 1.90:1.00 or (y) the First Lien Net Leverage Ratio for the then most recently ended Test Period, (B) if such Indebtedness is secured by a Junior Lien, the Secured Net Leverage Ratio, calculated on a Pro Forma Basis for the then most recently ended Test Period, shall not be greater than either (x) 1.90:1.00 or (y) the Secured Net Leverage Ratio for the then most recently ended Test Period and (C) if such

Indebtedness is unsecured, either, as elected by the Borrower, (a) the Consolidated Interest Coverage Ratio is at least equal to either (x) 2.00:1.00 or (y) the Consolidated Interest Coverage Ratio for the then most recently ended Test Period, or (b) the Total Net Leverage Ratio, calculated on a Pro Forma Basis for the then most recently ended Test Period shall not be greater than (x) 5.90:1.00 or (y) the Total Net Leverage Ratio for the then most recently ended Test Period; *provided*, that the aggregate outstanding amount of Indebtedness by Subsidiaries that are not Guarantors under this clause (h) and under clause (v) below (such outstanding amount measured solely when incurred, created or assumed) shall not exceed the greater of (x) \$25,000,000 and (y) 20.0% of EBITDA for the most recently ended Test Period (plus any increase in the amount thereof in connection with any refinancing, renewal or extension thereof to the extent such increase is permitted by the definition of “Permitted Refinancing Indebtedness”); and (ii) any Permitted Refinancing Indebtedness incurred to Refinance any such Indebtedness;

97. (x) mortgage financings and other Indebtedness incurred by the Borrower or any Subsidiary prior to or within 360 days after the acquisition, lease, construction, repair, replacement or improvement of fixed or capital assets in order to finance such acquisition, lease, construction, repair, replacement or improvement (whether through the direct purchase of property or the Equity Interests of any person owning such property) and (y) Capitalized Lease Obligations (and, in each case of clause (x) and (y), any Permitted Refinancing Indebtedness in respect thereof) in an aggregate principal outstanding amount pursuant to this clause (i) (such outstanding amount measured solely at the time of incurrence, creation or assumption) not to exceed the greater of (x) \$25,000,000 and (y) 20.0% of EBITDA for the most recently ended Test Period (plus any increase in the amount thereof in connection with any refinancing, renewal or extension thereof to the extent such increase is permitted by the definition of “Permitted Refinancing Indebtedness”);

98. Indebtedness of the Borrower and/or any Subsidiary (including, for the avoidance of doubt, any Guarantees thereof), in an aggregate principal outstanding amount (such outstanding amount measured solely when incurred, created or assumed) pursuant to this clause (j) that, together with any Permitted Refinancing Indebtedness in respect thereof, does not exceed the greater of (x) \$45,000,000 and (y) 40.0% of EBITDA for the most recently ended Test Period (plus any increase in the amount thereof in connection with any refinancing, renewal or extension thereof to the extent such increase is permitted by the definition of “Permitted Refinancing Indebtedness”);

99. Guarantees (A) by the Borrower of Indebtedness of any Subsidiary, (B) by any Subsidiary that is not a Guarantor or a Subsidiary of a Guarantor of Indebtedness of any other Subsidiary that is not a Guarantor or a Subsidiary of a Guarantor and (C) by any Guarantor or Subsidiary of such Guarantor of Indebtedness of any other Subsidiary of such Guarantor;

100. Indebtedness arising from agreements of the Borrower or any Subsidiary providing for indemnification, adjustment of purchase or acquisition price or similar obligations (including earn-outs), in each case, in connection with any Permitted Business Acquisition or

similar Investment or the disposition of any business, assets or a Subsidiary not prohibited by this Agreement;

101. Indebtedness in respect of letters of credit, bank guarantees, warehouse receipts or similar instruments issued in the ordinary course of business or consistent with past practice or industry practices and not supporting obligations in respect of Indebtedness for borrowed money;

102. obligations in respect of Cash Management Agreements in the ordinary course of business;

103. Indebtedness in the ordinary course of business in respect of obligations of the Borrower or any Subsidiary to pay the deferred purchase price of goods or services or progress payments in connection with such goods and services; provided, that such obligations are in connection with open accounts extended by suppliers on customary trade terms in the ordinary course of business and not in connection with the borrowing of money or any Hedging Agreements;

104. Indebtedness representing deferred compensation to employees, consultants or independent contractors of the Borrower or any Subsidiary in the ordinary course of business;

105. (i) Indebtedness in an outstanding amount not to exceed (such outstanding amount measured solely when incurred, created or assumed) the then available Incremental Amount consisting of the issuance of senior secured (on a *pari passu* basis with the Loan Obligations), junior lien, unsecured or subordinated notes or loans (including “mezzanine” debt and bridge loans), (“Incremental Equivalent Debt”); provided that such Incremental Equivalent Debt shall be subject to (a) Sections 2.21(b)(ii), 2.21(b)(iii), 2.21(b)(iv), 2.21(b)(viii), 2.21(b)(x), 2.21(c)(i) and 2.21(c)(ii), (b) if such Incremental Equivalent Debt consists of term loans secured on a *pari passu* basis with the Loan Obligations, 2.21(b)(v), (c) if the Incremental Equivalent Debt is a notes issuance, no mandatory prepayment or redemption provisions other than customary prepayments for notes offerings required as a result of a “change of control” or asset sales or other prepayment events consistent with market practice at the time of issuance, (d) if such Incremental Equivalent Debt consists of loans, the terms thereof, to the extent not substantially similar to the terms of the Term Loans, being, taken as a whole, not materially more restrictive than the terms of the Initial Term Loans and Initial Revolving Loans as determined in good faith by the Borrower (but excluding any terms (x) that are added in the Initial Term Loans and Initial Revolving Loans for the benefit of the Lenders pursuant to an amendment hereto (with no consent of the Lenders being required), (y) that are only applicable to periods after the Initial Term Loan Maturity Date or (z) reflect market terms and conditions (as determined by the Borrower in good faith) at the time of incurrence or issuance) and (ii) any Permitted Refinancing Indebtedness incurred to Refinance any such Indebtedness and (e) if such Incremental Equivalent Debt is secured by Collateral, it shall be subject to the provisions of a Permitted First Lien Intercreditor Agreement or a Permitted Junior Intercreditor Agreement, as applicable;

106. (i) Capitalized Lease Obligations and any other Indebtedness incurred by the Borrower or any Subsidiary arising from any Permitted Sale Lease-Back Transaction and (ii) any Permitted Refinancing Indebtedness in respect thereof;

107. Indebtedness issued by the Borrower or any Subsidiary to current or former officers, directors and employees, their respective estates, spouses or former spouses to finance the purchase or redemption of Equity Interests of the Borrower permitted by Section 6.03;

108. Indebtedness consisting of obligations of the Borrower or any Subsidiary under deferred compensation or other similar arrangements of such person in connection with the Transactions and Permitted Business Acquisitions or any other Investment permitted hereunder;

109. 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;

110. (x) Indebtedness of the Borrower and/or any Subsidiary (measured solely when incurred, created or assumed) pursuant to this clause (v)(x) so long as:

any such Indebtedness secured by Liens on the Collateral ranking *pari passu* with the Liens securing the Initial Term Loans, the Revolving Facility Loans or Other First Lien Debt (without regard to control of remedies) or is otherwise secured by an asset of a non-Loan Party, on a Pro Forma Basis immediately after giving effect to such Indebtedness and the use of the proceeds thereof, the First Lien Net Leverage Ratio does not exceed either (x) 1.90:1.00 or (y) if incurred in connection with a Permitted Business Acquisition or other permitted Investment, the First Lien Net Leverage Ratio for the then most recently ended Test Period prior to giving effect to such incurrence of Indebtedness and any transactions occurring in connection therewith; provided that (x) any such Indebtedness pursuant to this clause (i) that is secured by Collateral shall be subject to the provisions of a Permitted First Lien Intercreditor Agreement and (y) any such Indebtedness pursuant to this clause (i) that consists of term loans secured on a *pari passu* basis with the Loan Obligations shall be subject to the provisions of Section 2.21(b)(v);

any such Indebtedness secured by Junior Liens, on a Pro Forma Basis immediately after giving effect to such Indebtedness and the use of the proceeds thereof, the Secured Net Leverage Ratio does not exceed either (x) 1.90:1.00 or (y) if incurred in connection with a Permitted Business Acquisition or other permitted Investment, the Secured Net Leverage Ratio for the then most recently ended Test Period prior to giving effect to such incurrence of Indebtedness and any transactions occurring in connection therewith; provided that any such Indebtedness pursuant to this clause (ii) that is secured by Collateral shall be subject to the provisions of a Permitted Junior Intercreditor Agreement; and

any such Indebtedness that is unsecured, on a Pro Forma Basis immediately after giving effect to such Indebtedness and the use of the proceeds thereof, either, as elected by the Borrower, (A) the Consolidated Interest Coverage Ratio is at least equal to either (x) 2.00:1.00 or (y) if incurred in connection with a Permitted Business Acquisition or other permitted Investment, the Consolidated Interest Coverage Ratio for the then most recently ended Test Period prior to giving effect to such incurrence of Indebtedness and any transactions occurring in connection therewith, or (B) the Total Net Leverage Ratio

does not exceed (x) 5.90:1.00 or (y) if incurred in connection with a Permitted Business Acquisition or other permitted Investment, the Total Net Leverage Ratio for the then most recently ended Test Period prior to giving effect to such incurrence of Indebtedness and any transactions occurring in connection therewith; and

(y) any Permitted Refinancing Indebtedness incurred to Refinance any such Indebtedness;

provided, that the aggregate outstanding amount of Indebtedness (such outstanding amount measured solely when incurred, created or assumed) by Subsidiaries that are not Guarantors under this clause (v) and under clause (h) above shall not exceed the greater of (x) \$25,000,000 and (y) 20.0% of EBITDA (plus any increase in the amount thereof in connection with any refinancing, renewal or extension thereof to the extent such increase is permitted by the definition of “Permitted Refinancing Indebtedness”);

111. [reserved];

112. [reserved];

113. [reserved];

114. (i) Indebtedness pursuant to this clause (z)(i) in respect of Permitted Receivables Financings and (ii) any Permitted Refinancing Indebtedness incurred to Refinance any such Indebtedness;

115. so long as no Event of Default is continuing or would result therefrom, Indebtedness of any Subsidiary that is not a Loan Party in an outstanding amount (such outstanding amount measured solely when incurred, created or assumed) pursuant to this clause (aa) that, together with any Permitted Refinancing Indebtedness in respect thereof, does not exceed the greater of \$25,000,000 and 20.0% of EBITDA for the most recently ended Test Period (plus any increase in the amount thereof in connection with any refinancing, renewal or extension thereof to the extent such increase is permitted by the definition of “Permitted Refinancing Indebtedness”);

116. Guarantees by the Borrower and/or any Subsidiary of Indebtedness or other obligations of the Borrower, any Subsidiary and/or any joint venture with respect to Indebtedness otherwise permitted pursuant to this Section 6.01 or other obligations not prohibited by this Agreement; provided that in the case of any Guarantee by any Loan Party of the obligations of any non-Loan Party, the related Investment is permitted under Section 6.04;

117. Indebtedness issued by the Borrower or any Subsidiary to any current or former director, officer, employee, member of management, manager or consultant of the Borrower or any subsidiary (or their respective immediate family members) to finance the purchase or redemption of Equity Interests of the Borrower permitted by Section 6.03;

118. to the extent constituting Indebtedness, obligations arising under the Acquisition Agreement;
119. [reserved];
120. Indebtedness of the Borrower and/or any Subsidiary in respect of any letter of credit or bank guarantee issued in favor of any Issuing Bank to support any Defaulting Lender's participation in Letters of Credit issued hereunder;
121. Indebtedness of the Borrower and/or any Subsidiary supported by any Letter of Credit or any other letter of credit, bank guaranty or similar instrument otherwise permitted by this Section 6.01;
122. unfunded pension fund and other employee benefit plan obligations and liabilities of the Borrower and/or any Subsidiary in the ordinary course of business to the extent that the unfunded amounts would not otherwise cause an Event of Default under Section 7.01(k);
123. without duplication of any other Indebtedness, all premiums (if any), interest (including post-petition interest and payment in kind interest), accretion or amortization of original issue discount, fees, expenses and charges with respect to Indebtedness of the Borrower and/or any Subsidiary otherwise permitted under this Section 6.01;
124. Indebtedness of the Borrower or any Subsidiary in connection with, or as a result of, their exercise of appraisal rights and the settlement of any claims or actions (whether actual, contingent or potential) with respect thereto, in each case, with respect to the Transactions or any other Investment permitted hereunder;
125. Indebtedness of any subsidiary that is a joint venture in an outstanding amount (such outstanding amount measured solely when incurred, created or assumed) pursuant to this clause (kk) that, together with any Permitted Refinancing Indebtedness in respect thereof, does not exceed the greater of \$5,000,000 and 5.0% of EBITDA for the most recently ended Test Period (plus any increase in the amount thereof in connection with any refinancing, renewal or extension thereof to the extent such increase is permitted by the definition of "Permitted Refinancing Indebtedness"); and
126. customer deposits and advance payments received in the ordinary course of business from customers for goods and services purchased in the ordinary course of business.

For purposes of determining compliance with this Section 6.01 or Section 6.02, the amount of any Indebtedness denominated in any currency other than Dollars shall be calculated based on currency exchange rates in effect, in the case of such Indebtedness incurred (in respect of term Indebtedness) or committed (in respect of revolving Indebtedness) on or prior to the Closing Date, on the Closing Date and, in the case of such Indebtedness incurred (in respect of term Indebtedness) or committed (in respect of revolving Indebtedness) after the Closing Date, on the date on which such Indebtedness was incurred (in respect of term Indebtedness) or committed (in respect of revolving Indebtedness); provided, that if such Indebtedness is incurred

to refinance other Indebtedness denominated in a currency other than Dollars (or in a different currency from the Indebtedness being refinanced), and such refinancing would cause the applicable Dollar-denominated restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of such refinancing, such Dollar-denominated restriction shall be deemed not to have been exceeded so long as the principal amount of such refinancing Indebtedness does not exceed (i) the outstanding or committed principal amount, as applicable, of such Indebtedness being refinanced plus (ii) the aggregate amount of fees, underwriting discounts, premiums (including tender premiums), defeasance costs and other costs and expenses incurred in connection with such refinancing.

This Agreement will not treat (1) unsecured Indebtedness as subordinated or junior in right of payment to secured Indebtedness merely because it is unsecured or (2) senior Indebtedness as subordinated or junior in right of payment to any other senior Indebtedness merely because it has a junior priority with respect to the same collateral.

Liens. Create, incur, assume or suffer to exist any Lien on any property or assets (including stock or other securities of any person) of the Borrower or any Subsidiary now owned or hereafter acquired by it, except the following (collectively, “Permitted Liens”):

127. Liens on property or assets of the Borrower and/or the Subsidiaries existing on the Closing Date and, to the extent securing Indebtedness in an aggregate principal amount in excess of \$1,000,000, set forth on Schedule 6.02(a) and any modifications, replacements, renewals or extensions thereof; provided, that such Liens shall secure only those obligations that they secure on the Closing Date (and any Permitted Refinancing Indebtedness in respect of such obligations permitted by Section 6.01) and shall not subsequently apply to any other property or assets of the Borrower or any Subsidiary other than (A) after-acquired property that is affixed or incorporated into the property or property type covered by such Lien and (B) proceeds and products thereof;

128. any Lien created under the Loan Documents (including Liens under the Security Documents securing obligations in respect of Secured Hedge Agreements and Secured Cash Management Agreements);

129. any Lien on any property or asset of the Borrower or any Subsidiary securing Indebtedness or Permitted Refinancing Indebtedness permitted by Section 6.01(h); provided, that (i) such Lien is not created in contemplation of or in connection with such acquisition or such person becoming a Subsidiary, as the case may be, and (ii) such Lien does not apply to any other property or assets of the Borrower or any of the Subsidiaries not securing such Indebtedness at the date of the acquisition of such property or asset and accessions and additions thereto and proceeds and products thereof (other than accessions thereto and proceeds thereof so acquired or any after-acquired property of such person becoming a Subsidiary (but not of the Borrower or any other Loan Party, including any Loan Party into which such acquired entity is merged) required to be subjected to such Lien pursuant to the terms of such Indebtedness (and Permitted Refinancing Indebtedness in respect thereof));

130. Liens for Taxes, assessments or other governmental charges or levies not yet delinquent by more than 30 days or that are being contested in good faith in compliance with Section 5.03;

131. Liens imposed by law, constituting landlord's, carriers', warehousemen's, mechanics', materialmen's, repairmen's, supplier's, construction or other like Liens, securing obligations that are not overdue by more than 60 days or that are being contested in good faith by appropriate proceedings and in respect of which, if applicable, the Borrower or any Subsidiary shall have set aside on its books reserves in accordance with GAAP;

132. (i) pledges and deposits and other Liens made in the ordinary course of business in compliance with the Federal Employers Liability Act or any other workers' compensation, unemployment insurance and other social security laws or regulations and deposits securing liability to insurance carriers under insurance or self-insurance arrangements in respect of such obligations and (ii) pledges and deposits and other Liens securing liability for reimbursement or indemnification obligations of (including obligations in respect of letters of credit or bank guarantees for the benefit of) insurance carriers providing property, casualty or liability insurance to the Borrower or any Subsidiary;

133. deposits and other Liens to secure the performance of bids, trade contracts (other than for Indebtedness), leases (other than Capitalized Lease Obligations), statutory obligations, surety and appeal bonds, performance and return of money bonds, bids, leases, government contracts, trade contracts, agreements with utilities, and other obligations of a like nature (including letters of credit in lieu of any such bonds or to support the issuance thereof), in each case to the extent such deposits and other Liens are in the ordinary course of business, including those incurred to secure health, safety and environmental obligations in the ordinary course of business;

134. zoning, land use and building restrictions, regulations and ordinances, easements, survey exceptions, minor encroachments by and on the Real Property, railroad trackage rights, sidings and spur tracks, leases (other than Capitalized Lease Obligations), subleases, licenses, special assessments, rights-of-way, covenants, conditions, restrictions and declarations on or with respect to the use of Real Property, reservations, restrictions and leases of or with respect to oil, gas, mineral, riparian and water rights and water usage, servicing agreements, development agreements, site plan agreements and other similar encumbrances in the ordinary course of business and title defects or irregularities that are of a minor nature and that, in the aggregate, do not interfere in any material respect with the ordinary conduct of the business of the Borrower or any Subsidiary;

135. Liens securing Indebtedness permitted by Sections 6.01(i); provided, that such Liens do not apply to any property or assets of the Borrower and/or any Subsidiary other than the property or assets acquired, leased, constructed, replaced, repaired or improved with such Indebtedness (or the Indebtedness Refinanced thereby), and accessions and additions thereto, proceeds and products thereof, customary security deposits and related property; provided, further, that individual financings provided by one lender may be cross-collateralized to other financings provided by such lender (and its Affiliates);

136. Liens arising out of any Permitted Sale Lease-Back Transaction, so long as such Liens attach only to the property sold and being leased in such transaction and any accessions and additions thereto or proceeds and products thereof and related property;

137. (i) Liens securing judgments, awards, attachments and/or decrees and notice of lis pendens and associated rights relating to litigation that do not constitute an Event of Default under Section 7.01(j) and (ii) any pledge and/or deposit securing any settlement of litigation;

138. any interest or title of a ground lessor or any other lessor, sublessor or licensor under any ground leases or any other leases, subleases or licenses entered into by the Borrower or any Subsidiary in the ordinary course of business, and all Liens suffered or created by any such ground lessor or any other lessor, sublessor or licensor (or any predecessor in interest) with respect to any such interest or title in the real property which is subject thereof;

139. Liens that are contractual rights of set-off (i) relating to the establishment of depository relations with banks and other financial institutions not given in connection with the issuance of Indebtedness, (ii) relating to pooled deposits, sweep accounts, reserve accounts or similar accounts of the Borrower or any Subsidiary to permit satisfaction of overdraft or similar obligations in the ordinary course of business of the Borrower or any Subsidiary, including with respect to credit card charge-backs and similar obligations, or (iii) relating to purchase orders and other agreements entered into with customers, suppliers or service providers of the Borrower or any Subsidiary in the ordinary course of business;

140. Liens (i) arising solely by virtue of any statutory or common law provision or customary contractual provision in account documentation relating to banker's liens, rights of setoff or similar rights, (ii) attaching to commodity trading accounts or other commodity brokerage accounts in the ordinary course of business, (iii) encumbering reasonable customary initial deposits and margin deposits and similar Liens attaching to brokerage accounts in the ordinary course of business and not for speculative purposes, (iv) in respect of Third Party Funds, (v) in favor of credit card companies pursuant to agreements therewith or (vi) in favor of banks or other financial institutions related to check, draft or similar instruments drawn against insufficient funds in the ordinary course of business or other cash management services;

141. Liens securing obligations in respect of letters of credit, bank guarantees, warehouse receipts, or similar obligations permitted under Section 6.01 and in the ordinary course of business or consistent with past practice or industry practices and not supporting obligations in respect of Indebtedness for borrowed money;

142. leases or subleases, and licenses or sublicenses (including with respect to any fixtures, furnishings, equipment, vehicles or other personal property, or Intellectual Property), granted to others in the ordinary course of business not interfering in any material respect with the business of the Borrower and its Subsidiaries, taken as a whole;

143. 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;

144. Liens solely on any cash earnest money deposits made by the Borrower or any of the Subsidiaries in connection with any letter of intent or purchase agreement in respect of any Investment permitted hereunder;
145. Liens with respect to property or assets of any Subsidiary that is not a Loan Party securing obligations in respect of Indebtedness of any Subsidiary that is not a Loan Party permitted under Section 6.01;
146. Liens (a) on any amounts held by a trustee under any indenture or other debt agreement issued in escrow pursuant to customary escrow arrangements pending the release thereof, or under any indenture or other debt agreement pursuant to customary discharge, redemption or defeasance provisions or (b) on any amounts subject to an Escrow, pending the application of such amounts in connection with the consummation of a transaction;
147. the prior rights of consignees and their lenders under consignment arrangements entered into in the ordinary course of business;
148. agreements to subordinate any interest of the Borrower or any Subsidiary in any accounts receivable or other proceeds arising from inventory consigned by the Borrower or any of their Subsidiaries pursuant to an agreement entered into in the ordinary course of business;
149. Liens arising from precautionary Uniform Commercial Code financing statements regarding operating leases or other obligations not constituting Indebtedness;
150. Liens (i) on Equity Interests in joint ventures (A) securing obligations of such joint venture or (B) pursuant to the relevant joint venture agreement or arrangement, (ii) customary rights of first refusal and tag, drag and similar rights in joint venture agreements and agreements with respect to non-Wholly-Owned Subsidiaries and (iii) on Equity Interests in Unrestricted Subsidiaries;
151. [reserved];
152. [reserved];
153. Liens securing insurance premiums financing arrangements;
154. in the case of Real Property that constitutes a leasehold interest, any Lien to which the fee simple interest (or any superior leasehold interest) is subject (including ground leases in respect of real property on which facilities owned or leased by the Borrower or any of the Subsidiaries are located);
155. Liens securing Indebtedness or other obligations (i) of the Borrower or a Subsidiary in favor of the Borrower or any Guarantor and (ii) of any Subsidiary that is not a Guarantor in favor of any Subsidiary that is not a Guarantor;
156. Liens on cash or Cash Equivalents securing Hedging Agreements in the ordinary course of business;

157. Liens on goods or inventory the purchase, shipment or storage price of which is financed by a letter of credit or bank guarantee issued or created for the account of the Borrower or any Subsidiary in the ordinary course of business; provided, that such Lien secures only the obligations of the Borrower or such Subsidiaries in respect of such letter of credit, bank guarantee or banker's acceptance to the extent permitted under Section 6.01;

158. Subordination, non-disturbance and/or attornment agreements with any ground lessor, lessor or any mortgagor of any of the foregoing, with respect to any ground lease or other lease or sublease entered into by Borrower or any Subsidiary;

159. Liens on Collateral that are Other First Liens or Junior Liens, so long as such Other First Liens or Junior Liens secure Indebtedness permitted by Sections 6.01(b), 6.01(q) and/or 6.01(v);

160. Liens arising out of conditional sale, title retention or similar arrangements for the sale or purchase of goods by the Borrower or any of the Subsidiaries in the ordinary course of business;

161. with respect to any Real Property which is acquired in fee after the Closing Date, Liens which exist immediately prior to the date of acquisition, excluding any Liens securing Indebtedness which is not otherwise permitted hereunder; provided, that (i) such Lien is not created in contemplation of or in connection with such acquisition and (ii) such Lien does not apply to any other property or assets of the Borrower or any of its Subsidiaries;

162. [Reserved];

163. Liens permitted under the Acquisition Agreement to remain outstanding after the Closing Date and any modifications, replacements, renewals or extensions thereof; provided, that such Liens shall secure only those obligations that they secure on the Closing Date (and any Permitted Refinancing Indebtedness in respect of such obligations permitted by Section 6.01);

164. Liens on assets and Equity Interests of Subsidiaries that are not Loan Parties (including Equity Interests owned by such persons) securing Indebtedness of Subsidiaries that are not Loan Parties;

165. Liens on receivables and related assets in connection with Section 6.01(z);

166. Liens on assets that are not Collateral pursuant to this clause (nn) (x) securing Indebtedness in an amount then outstanding (such outstanding amount measured solely when incurred, created or assumed), not to exceed the greater of (a) \$12,000,000 and (b) 10.0% of EBITDA for the most recently ended Test Period or (y) so long as the Initial Term Loans and Initial Revolving Loans are equally and ratably secured;

167. Liens (i) incidental to the conduct of the Borrower's and/or its Subsidiaries' businesses or the ownership of its property not securing any Indebtedness of the Borrower or a Subsidiary of the Borrower, and which do not in the aggregate materially detract from the value

of the Borrower's and its Subsidiaries' property when taken as a whole, or materially impair the use thereof in the operation of its business and/or (ii) with respect to property or assets of the Borrower and/or any Subsidiary securing obligations under this clause (oo)(ii) in an aggregate outstanding principal amount (such outstanding amount measured solely when incurred, created or assumed) that, together with the aggregate principal amount of other obligations that are secured pursuant to this clause (oo)(ii), immediately after giving effect to such Liens, would not exceed the greater of (x) \$45,000,000 and (y) 40.0% of EBITDA for the most recently ended Test Period.

168. leases, licenses, subleases or sublicenses granted to others in the ordinary course of business (and other agreements pursuant to which the Borrower or any Subsidiary has granted rights to end users to access and use the Borrower's or any Subsidiary's products, technologies or services) which do not secure any Indebtedness, and which do not materially interfere with the ordinary conduct of business of the Borrower and any of the Subsidiaries, taken as a whole;

169. Liens on securities that are the subject of repurchase agreements constituting Investments permitted under Section 6.04 arising out of such repurchase transaction and reasonable customary initial deposits and margin deposits and similar Liens attaching to commodity trading accounts or other brokerage accounts maintained in the ordinary course of business and not for speculative purposes;

170. Liens securing Indebtedness permitted by 6.01(jj) (to the extent arising by operation of law) and/or 6.01(kk) (only with respect to the assets of the joint venture); and

171. with respect to any Foreign Subsidiary, Liens arising mandatorily by legal requirements (and not as a result of under-capitalization of such Foreign Subsidiary).

Restricted Payments; Restricted Debt Payments.

(A) Declare or pay any dividend or make any other distribution (by reduction of capital or otherwise), whether in cash, property, securities or a combination thereof, with respect to any of its Equity Interests (other than dividends and distributions on Equity Interests payable solely by the issuance of Qualified Equity Interests of the person declaring, paying or making such dividends or distributions) or (B) directly or indirectly redeem, purchase, retire or otherwise acquire for value (or permit any Subsidiary to purchase or acquire) any of its Equity Interests or set aside any amount for any such purpose (other than through the issuance of Qualified Equity Interests) (all of the foregoing, "Restricted Payments"); provided, however, that:

Restricted Payments may be made to the Borrower or any Subsidiary (provided, that Restricted Payments made by a non-Wholly-Owned Subsidiary must be made on a pro rata basis (or more favorable basis from the perspective of the Borrower or such Subsidiary) to the Borrower or any Subsidiary that is a direct or indirect parent of such Subsidiary based on its ownership interests in such non-Wholly-Owned Subsidiary);

the Borrower may repurchase, redeem, retire or otherwise acquire or retire for value Equity Interests of the Borrower or any subsidiary thereof held by any future,

present or former employee, director, officer or consultant (or any immediate family member thereof) of the Borrower or any subsidiary of any of the foregoing (or any options, warrants, restricted stock units or stock appreciation rights or other equity-linked interests issued with respect to any of such Equity Interests), together with any amounts needed to pay amounts needed to pay social security and medicare taxes for such Person's share of any payroll or employment Taxes related to the foregoing:

(A) with cash and Cash Equivalents (and including, to the extent constituting a Restricted Payment, amounts paid in respect of Indebtedness issued to evidence any obligation to repurchase, redeem, retire or otherwise acquire or retire for value the Equity Interests of the Borrower or any subsidiary thereof held by any future, present or former employee, director, officer or consultant (or any immediate family member thereof) of the Borrower or any subsidiary of any of the foregoing) in an amount not to exceed \$10,000,000, which, if not used in such fiscal year, may be carried forward to succeeding fiscal years; provided that the aggregate amount of Restricted Payments in any fiscal year pursuant to this clause (A) shall not exceed \$15,000,000;

(B) with the proceeds of any sale or issuance of the Equity Interest of the Borrower (to the extent such proceeds are contributed in respect of Qualified Equity Interests, the Borrower or any Subsidiary, are not used to increase the Builder Basket or the Available Excluded Contribution Amount); and/or

(C) with the net proceeds of any key-person life insurance policy;

any person may make non-cash repurchases of Equity Interests deemed to occur upon exercise or settlement of stock options or other Equity Interests to the extent such Equity Interests represent a portion of the exercise price of or withholding obligation with respect to such options or other Equity Interests;

so long as no Event of Default is continuing or would result therefrom, Restricted Payments may be made pursuant to this clause (d) from a substantially concurrent receipt of proceeds of any equity contribution (that is not in exchange for Disqualified Equity Interests) or any issuance of Qualified Equity Interests received by the Borrower after the Closing Date that do not increase either the Builder Basket or the Available Excluded Contribution Amount;

any payments in connection with a Permitted Convertible Indebtedness Call Transaction;

Restricted Payments may be made to make payments, in cash, in lieu of the issuance of fractional shares, upon the exercise of warrants or upon the conversion or exchange of Equity Interests of any such person;

so long as no Event of Default has occurred and is continuing, Restricted Payments may be made pursuant to this clause (g) in an aggregate amount not to exceed the greater of (x) \$17,000,000 and (y) 15% of EBITDA for the last Test Period;

[reserved];

[reserved];

[reserved];

[reserved];

[reserved];

[reserved];

Restricted Payments may be made pursuant to this clause (n) in an amount not to exceed the portion, if any, of the Builder Basket on such date that the Borrower elects to apply to this clause (n) so long as (x) with respect to the portion of the Builder Basket referred to in clauses (iii), (iv) and (vii) of the definition thereof, no Event of Default pursuant to Section 7.01(b), (c), (h) or (i) has occurred and is continuing at the time of the Restricted Payment and (y) with respect any other portion of the Builder Basket, (i) no Event of Default has occurred and is continuing at the time of such Restricted Payment and (ii) the Total Net Leverage Ratio, calculated on a Pro Forma Basis would not exceed 5.40:1.00;

so long as no Event of Default has occurred and is continuing, Restricted Payments may be made pursuant to this clause (o) in an amount not to exceed the Available Excluded Contribution Amount;

to the extent constituting a Restricted Payment, Restricted Payments may be made under any transactions permitted by Sections (i) 6.01, (ii) 6.03(ii), (iii) 6.04, (iv) 6.05 and (v) 6.06;

Restricted Payments may be made pursuant to this clause (q) to (i) redeem, repurchase, retire or otherwise acquire any Equity Interest ("Treasury Capital Stock") of the Borrower and/or any Subsidiary in exchange for, or out of the proceeds of the substantially concurrent sale (other than to the Borrower and/or any Subsidiary) of, Qualified Equity Interests of the Borrower ("Refunding Capital Stock") and (ii) declare and pay dividends on any Treasury Capital Stock out of the proceeds of the substantially concurrent sale (other than to the Borrower or a Subsidiary) of any Refunding Capital Stock;

to the extent constituting a Restricted Payment, the consummation of the Transactions;

Restricted Payments may be made pursuant to this clause (s) to repurchase Equity Interests upon the exercise of warrants, options or other securities convertible into or exchangeable for Equity Interests if such Equity Interests represents all or a portion of the exercise price of such warrants, options or other securities convertible into or exchangeable for Equity Interests as part of a “cashless” exercise or required withholding or similar Taxes;

to the extent constituting a Restricted Payment, payments of cash upon settlements of conversions or exchanges of convertible notes; and

unlimited Restricted Payments may be made pursuant to this clause (u); provided that at the time of such Restricted Payment, (A) the Total Net Leverage Ratio, calculated on a Pro Forma Basis, would not exceed 4.15:1.00 and (B) no Event of Default has occurred and is continuing or would result therefrom.

make any payment in cash on or in respect of principal of or interest on any Indebtedness secured by Junior Liens or any Subordinated Indebtedness, in each case that constitutes Material Indebtedness (collectively, “Junior Financing”), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of any such Junior Financing, more than one year prior to the scheduled maturity date thereof (collectively, “Restricted Debt Payments”), except:

with respect to any purchase, defeasance, redemption, repurchase, repayment or other acquisition or retirement thereof made by exchange for, or out of the proceeds of, Permitted Refinancing Indebtedness permitted by Section 6.01;

as part of an applicable high yield discount obligation catch-up payment;

payments of regularly scheduled principal and interest and payments of fees, expenses and indemnification obligations as and when due;

so long as, at the time of delivery of an irrevocable notice with respect thereto, no Event of Default exists or would result therefrom, Restricted Debt Payments pursuant to this clause (d) in an aggregate amount not to exceed the greater of \$17,000,000 and 15.0% of EBITDA for the most recently ended Test Period;

(A) Restricted Debt Payments in exchange for, or with proceeds of any issuance of, Qualified Equity Interests of the Borrower and/or any Subsidiary and/or any capital contribution in respect of Qualified Equity Interests of the Borrower or any Subsidiary (in each case, other than to the Borrower or any of the Subsidiaries received by the Borrower after the Closing Date that do not increase either the Builder Basket or the Available Excluded Contribution Amount), (B) Restricted Debt Payments as a result of the conversion of all or any portion of any Junior Financing into Qualified Equity Interests of the Borrower and/or any Subsidiary and (C) to the extent constituting a Restricted Debt Payment, payment in-kind interest with respect to any Junior Financing that is permitted under Section 6.01;

Restricted Debt Payments pursuant to this clause (f) in an aggregate amount not to exceed (A) the portion, if any, of the Builder Basket on such date that the Borrower elects to apply to this clause (f)(A) so long as (x) with respect to the portion of the Builder Basket referred to in clauses (iii), (iv) and (vii) of the definition thereof, no Event of Default pursuant to Section 7.01(b), (c), (h) or (i) has occurred and is continuing or would result therefrom and (y) with respect any other portion of the Builder Basket, (i) no Event of Default has occurred and is continuing or would result therefrom and (ii) the Total Net Leverage Ratio, calculated on a Pro Forma Basis would not exceed 5.40:1.00, and/or (B) the portion, if any, of the Available Excluded Contribution Amount on such date that the Borrower elects to apply to this clause (f)(B);

unlimited Restricted Debt Payments pursuant to this clause (g); provided that at the time of such Restricted Debt Payment, (A) the Total Net Leverage Ratio, calculated on a Pro Forma Basis would not exceed 4.15:1.00 and (B) no Event of Default has occurred and is continuing or would result therefrom;

Restricted Debt Payments that at the time of such Restricted Debt Payment would have been permitted as Restricted Payments at such time as set forth in Section 6.03(i); provided that such Restricted Debt Payments shall constitute usage of the applicable permitted Restricted Payment basket; and

to the extent constituting a Restricted Debt Payment, payments of cash upon settlements of conversions or exchanges of convertible notes.

Investments, Loans and Advances. (i) Purchase or acquire (including pursuant to any merger with a person that is a non-Wholly-Owned Subsidiary immediately prior to such merger) any Equity Interests, evidences of Indebtedness or other securities of any other person, (ii) make any loans or advances to or Guarantees of the Indebtedness of any other person, or (iii) purchase or otherwise acquire, in one transaction or a series of related transactions, (x) all or substantially all of the property and assets or business of another person or (y) assets constituting a business unit, line of business or division of such person (each of the foregoing, an "Investment"), except:

Investments in connection with the Transactions;

Investments by the Borrower or any Subsidiary in the Borrower or any Subsidiary; provided that (i) the outstanding amount (valued at the time of the making thereof, and without giving effect to any write-downs or write-offs thereof) of such Investments by Loan Parties in Subsidiaries that are not Loan Parties shall not exceed the greater of (x) \$17,000,000 and (y) 15.0% of EBITDA for the most recently ended Test Period;

Investments in cash and Cash Equivalents;

Investments arising out of the receipt by the Borrower or any Subsidiary of noncash consideration for the Disposition of assets permitted under Section 6.05;

loans and advances to officers, directors, employees or consultants of the Borrower or any Subsidiary (i) in an aggregate outstanding amount pursuant to this clause (e)(i) (valued at the time of the making thereof, and without giving effect to any write-downs or write-offs thereof) not to exceed the greater of \$1,000,000 and 1.0% of EBITDA for the most recently ended Test Period, (ii) in respect of payroll payments and expenses in the ordinary course of business and (iii) in connection with such person's purchase of Equity Interests of the Borrower;

accounts receivable, security deposits and prepayments arising and trade credit granted in the ordinary course of business and any assets or securities received in satisfaction or partial satisfaction thereof from financially troubled account debtors to the extent reasonably necessary in order to prevent or limit loss and any prepayments and other credits to suppliers made in the ordinary course of business;

Hedging Agreements entered into for non-speculative purposes;

Investments (not in Subsidiaries, which are provided in clause (b) above) existing on, or contractually committed as of, the Closing Date and set forth on Schedule 6.04 and any extensions, renewals, replacements or reinvestments thereof, so long as the aggregate amount of all Investments pursuant to this clause (h) is not increased at any time above the amount of such Investment existing or committed on the Closing Date (other than pursuant to an increase as required by the terms of any such Investment as in existence on the Closing Date or as otherwise permitted by this Section 6.04);

Investments resulting from pledges and deposits under Sections 6.02(a), (f), (g), (m), (n), (q), (r), (t), (dd), (ii) and (kk);

Investments by the Borrower or any Subsidiary in an aggregate outstanding amount pursuant to this clause (j) (valued at the time of the making thereof, and without giving effect to any write-downs or write-offs thereof) not to exceed the greater of (x) \$35,000,000 and (y) 30.0% of EBITDA for the most recently ended Test Period (such outstanding amount measured solely at the time of the making of any such Investment); provided, that if any Investment pursuant to this Section 6.04(j) is made in any person that was not a Subsidiary on the date on which such Investment was made but becomes a Subsidiary thereafter, then such Investment may, at the option of the Borrower, upon such person becoming a Subsidiary and so long as such person remains a Subsidiary, be deemed to have been made pursuant to Section 6.04(b) (to the extent permitted by the provisions thereof) and not in reliance on this Section 6.04(j);

Investments (including Permitted Business Acquisitions) pursuant to this clause (k); provided that (i) the outstanding amount (valued at the time of the making thereof, and without giving effect to any write-downs or write-offs thereof) of such Investments in Subsidiaries that do not become Guarantors shall not exceed the greater of (x) \$23,000,000 and (y) 20.0% of EBITDA for the most recently ended Test Period and (ii) after giving effect to such Investment, the Total Net Leverage Ratio, on a Pro Forma Basis, would be less than or equal to 5.40:1.00;

Investments received in connection with the bankruptcy or reorganization of, or settlement of delinquent accounts and disputes with or judgments against, customers and suppliers, in each case in the ordinary course of business or Investments acquired by the Borrower or a Subsidiary as a result of a foreclosure by the Borrower or any of the Subsidiaries with respect to any secured Investments or other transfer of title with respect to any secured Investment in default;

Investments of a Subsidiary acquired after the Closing Date or of a person merged into the Borrower or merged into or consolidated with a Subsidiary after the Closing Date, in each case, (i) to the extent such acquisition, merger, amalgamation or consolidation is permitted under this Section 6.04, (ii) in the case of any acquisition, merger, amalgamation or consolidation, in accordance with Section 6.05 and (iii) to the extent that such Investments were not made in contemplation of or in connection with such acquisition, merger, amalgamation or consolidation and were in existence on the date of such acquisition, merger, amalgamation or consolidation;

acquisitions by the Borrower of obligations of one or more officers or other employees of the Borrower or its Subsidiaries in connection with such officer's or employee's acquisition of Equity Interests of the Borrower, so long as no cash is actually advanced by the Borrower or any of the Subsidiaries to such officers or employees in connection with the acquisition of any such obligations;

Guarantees by the Borrower or any Subsidiary of operating leases (other than Capitalized Lease Obligations) or of other obligations that do not constitute Indebtedness of the kind described in clauses (b), (f), (g), (h), (i) or (j) of the definition thereof, in each case entered into by the Borrower or any Subsidiary in the ordinary course of business;

Investments to the extent that payment for such Investments is made with Qualified Equity Interests of the Borrower;

Investments in the ordinary course of business consisting of Uniform Commercial Code Article 3 endorsements for collection or deposit and Uniform Commercial Code Article 4 customary trade arrangements with customers;

any Permitted Convertible Indebtedness Call Transaction;

advances in the form of a prepayment of expenses, so long as such expenses are being paid in accordance with customary trade terms of the Borrower or such Subsidiary;

Investments by the Borrower and/or any Subsidiary pursuant to this clause (t), if the Borrower or any Subsidiary would otherwise be permitted to make a Restricted Payment under Section 6.03(i) in such amount (provided, that the amount of any such Investment shall also be deemed to be a Restricted Payment under Section 6.03(i) for all purposes of this Agreement);

so long as no Event of Default has occurred and is continuing or would result therefrom, Investments in joint ventures in an outstanding amount pursuant to this clause (u) (valued at the time of the making thereof, and without giving effect to any write-downs or write-offs thereof) not to exceed the greater of (x) \$5,000,000 and (y) 5.0% of EBITDA for the most recently ended Test Period;

Investments consisting of the licensing or contribution of Intellectual Property pursuant to joint marketing or other similar arrangements with other persons;

to the extent constituting Investments, purchases and acquisitions of inventory, supplies, materials and equipment or purchases of contract rights or licenses or leases of Intellectual Property in each case in the ordinary course of business;

any Investment in fixed income or other assets by any Subsidiary that is a so-called “captive” insurance company (each, an “Insurance Subsidiary”) consistent with its customary practices of portfolio management;

Investments in connection with Permitted Reorganizations;

Investments pursuant to this clause (z) funded with the sale of Equity Interests of the Borrower or contributions to the Borrower that does not increase the Builder Basket or the Available Excluded Contribution Amount or consideration paid in Equity Interests of the Borrower;

Investments held by the Target and its subsidiaries on the Closing Date and permitted under the Acquisition Agreement;

so long as no Event of Default pursuant to Section 7.01(b), (c), (h) and (i) has occurred and is continuing or would result therefrom, Investments pursuant to this clause (bb) of up to the available amount of the Builder Basket at the time such Investment is made;

Investments pursuant to this clause (cc), so long as, at the time any such Investment is made and immediately after giving effect thereto, (i) no Event of Default shall have occurred and is continuing and (ii) the Total Net Leverage Ratio, on a Pro Forma Basis, would be less than or equal to 4.40:1.00;

Investments consisting of (or resulting from) Indebtedness permitted under Section 6.01, Permitted Liens, Restricted Payments permitted under Section 6.03(i) (other than 6.03(i)(p)(iii)), Restricted Debt Payments permitted by Section 6.03(ii) and mergers, consolidations, amalgamations, liquidations, windings up, dissolutions or Dispositions permitted by Section 6.05;

Investments pursuant to this clause (ee) made with the Available Excluded Contribution Amount;

Investments pursuant to this clause (ff) that at the time any such Investment is made would have been permitted as Restricted Debt Payments at such time as set forth in Section 6.03(ii); provided that any Investment made as provided above in lieu of any such Restricted Debt Payment shall reduce availability under the applicable Restricted Debt Payment basket under Section 6.03(ii);

Investments pursuant to this clause (gg) that at the time any such Investment is made would have been permitted as Restricted Payments at such time as set forth in Section 6.03(i); provided that any Investment made as provided above in lieu of any such Restricted Payment shall reduce availability under the applicable Restricted Payment basket under Section 6.03(i);

Investments in the Borrower or any Subsidiary and/or any joint venture in connection with intercompany cash management arrangements and related activities in the ordinary course of business;

any Investment made by any Unrestricted Subsidiary prior to the date on which such Unrestricted Subsidiary is designated as a Subsidiary so long as the relevant Investment was not made in contemplation of the designation of such Unrestricted Subsidiary as a Subsidiary;

Investments in subsidiaries in the form of receivables and related assets required in connection with a Permitted Receivables Financing;

contributions to a "rabbi" trust for the benefit of employees, directors, consultants, independent contractors or other service providers or other grantor trust subject to claims of creditors in the case of a bankruptcy of the Borrower;

to the extent that they constitute Investments, purchases and acquisitions of inventory, supplies, materials or equipment or purchases, acquisitions, licenses or leases of other assets, intellectual property, or other rights or the contribution of intellectual property pursuant to joint marketing arrangements, in each case in the ordinary course of business; and

commission, travel and similar advances to officers, directors, employees and consultants made in the ordinary course of business.

Neither the Borrower nor any Restricted Subsidiary will transfer to an Unrestricted Subsidiary the ownership of (x) any intellectual property or (y) any other assets (other than cash or Cash Equivalents), in either case, that the Borrower determines in good faith is material to the Borrower and its Restricted Subsidiaries taken as a whole.

The amount of any Investment made other than in the form of cash or cash equivalents shall be the Fair Market Value thereof valued at the time of the making thereof, and without giving effect to any subsequent write-downs or write-offs thereof. For the avoidance of doubt,

the outstanding amount of any Investment pursuant to this Section 6.04 shall be reduced by any returns on such Investments received by the Borrower or any Subsidiary.

Mergers, Consolidations; Asset Sales. Merge into, amalgamate with or consolidate with any other person, or permit any other person to merge into, amalgamate with or consolidate with it, or Dispose of (solely in one non-ordinary course transaction or in a series of related non-ordinary course transactions other than, in each case, sales of assets in the ordinary course of business) all or any part of its assets or any Equity Interests of any Subsidiary (whether now owned or hereafter acquired), in each case, for (x) any individual Disposition involving assets with a Fair Market Value in excess of the greater of \$2,500,000 and 2.0% of EBITDA of the Borrower and its Subsidiaries for the most recently ended Test Period or (y) all such Dispositions made since the Closing Date involving assets with an aggregate Fair Market Value in excess of the greater of \$5,000,000 and 5.0% of EBITDA of the Borrower and its Subsidiaries for the most recently ended Test Period, except that this Section 6.05 shall not prohibit:

(i) the purchase and Disposition of inventory or equipment or other assets (including on an intercompany basis), (ii) the acquisition or lease (pursuant to an operating lease) of any other asset, (iii) the Disposition of surplus, obsolete, damaged or worn out equipment or other property and (iv) the Disposition of Cash Equivalents, in each case pursuant to this clause (a) (as determined in good faith by the Borrower), by the Borrower or any Subsidiary in the ordinary course of business or, with respect to operating leases, otherwise for Fair Market Value on market terms;

if at the time thereof and immediately after giving effect thereto no Event of Default shall have occurred and be continuing or would result therefrom, (i) the merger, amalgamation or consolidation of any Subsidiary with or into the Borrower in a transaction in which such Borrower is the survivor, (ii) the merger, amalgamation or consolidation of any Subsidiary with or into any Guarantor in a transaction in which the surviving or resulting entity is or becomes a Guarantor and, in the case of each of clauses (i) and (ii), no person other than the Borrower or a Guarantor receives any consideration (unless otherwise permitted by Section 6.04), (iii) the merger, amalgamation or consolidation of any Subsidiary that is not a Guarantor with or into any other Subsidiary that is not a Guarantor, (iv) the liquidation or dissolution or change in form of entity of any Subsidiary if (x) the Borrower determines in good faith that such liquidation, dissolution or change in form is in the best interests of the Borrower and is not materially disadvantageous to the Lenders and (y) the same meets the requirements contained in the proviso to Section 5.01(a), (v) any Subsidiary may merge, amalgamate or consolidate with any other person in order to effect an Investment permitted pursuant to Section 6.04 so long as the continuing or surviving person shall be a Subsidiary (unless otherwise permitted by Section 6.04 (other than Section 6.04(m)(ii))), which shall be a Loan Party if the merging, amalgamating or consolidating Subsidiary was a Loan Party and which together with each of its Subsidiaries shall have complied with any applicable requirements of Section 5.10 or (vi) any Subsidiary may merge, amalgamate or consolidate with any other person in order to effect an Asset Sale otherwise permitted pursuant to this Section 6.05;

Dispositions from a Loan Party to any other Loan Party;

Dispositions of any property subject to a Permitted Sale Lease-Back Transaction; provided, that the Net Proceeds thereof, if any, are applied in accordance with Section 2.11(b) to the extent required thereby.

(i) Investments permitted by Section 6.04 (other than Section 6.04(m)(ii)), Permitted Liens, and Restricted Payments and Restricted Debt Payments permitted by Section 6.03 and (ii) the Transactions to the extent otherwise prohibited by this Section 6.05;

the discount or sale, in each case without recourse and in the ordinary course of business, of past due receivables arising in the ordinary course of business, but only in connection with the compromise or collection thereof consistent with customary industry practice (and not as part of any bulk sale or financing of receivables);

Dispositions of assets; provided, that (i) the Net Proceeds thereof, if any, are applied in accordance with Section 2.11(b) to the extent required thereby, (ii) any such Dispositions shall comply with the final sentence of this Section 6.05 and (iii) the Borrower may not dispose of all or substantially all of the assets of the Borrower and its Subsidiaries taken as a whole in one transaction or a series of related transactions pursuant to this clause (g);

Permitted Business Acquisitions (including any merger, consolidation or amalgamation in order to effect a Permitted Business Acquisition); provided, that following any such merger, consolidation or amalgamation involving the Borrower, such Borrower is the surviving entity or the requirements of Section 6.05(q) are otherwise complied with;

leases, licenses or subleases or sublicenses of any real or personal property in the ordinary course of business;

Dispositions of inventory or Dispositions or abandonment of Intellectual Property of the Borrower and its Subsidiaries determined in good faith by the management of the Borrower to be no longer economically practicable to maintain or useful or necessary in the operation of the business of the Borrower or any of the Subsidiaries;

the settlement or early termination of any Permitted Convertible Indebtedness Call Transaction;

the Transactions;

exchanges or swaps of assets in exchange for other assets (including any combination of assets along with cash or Cash Equivalents so long as the Net Proceeds thereof, if any, are applied in accordance with Section 2.11(b) to the extent required

thereby) of comparable or greater value or usefulness to the business of the Borrower and its Subsidiaries as a whole, determined in good faith by the management of the Borrower;

Dispositions of non-core assets acquired in connection with a Permitted Business Acquisition or other permitted Investment or made to obtain the approval of an anti-trust authority and any Dispositions made to comply with an order of any agency or state authority or other regulatory body or any applicable law or regulation, in each case so long as the Net Proceeds thereof, if any, are applied in accordance with Section 2.11(b) to the extent required thereby;

Dispositions of (i) accounts receivable in the ordinary course of business (including any discount and/or forgiveness thereof and sales to factors or similar third parties) or in connection with the collection or compromise thereof and (ii) receivables and related assets pursuant to any Permitted Receivables Financing;

licensing arrangements entered into in the ordinary course of business;

if at the time thereof and immediately after giving effect thereto no Event of Default shall be continuing or would result therefrom, (A) any Subsidiary or any other person may be merged, amalgamated or consolidated with or into the Borrower; provided that the Borrower shall be the surviving entity or (B) any Subsidiary or any other person may be merged, amalgamated or consolidated with or into the Borrower or all or substantially all of the assets of the Borrower and its Subsidiaries taken as a whole may be Disposed of to any person; provided that, in the case of this subclause (B) either the Borrower shall be the surviving entity or, if the surviving person (or the person to whom all or substantially all of the assets of the Borrower and its Subsidiaries are disposed) is not the Borrower (such other person, the “Successor Borrower”), (1) the Successor Borrower shall be an entity organized or existing under the laws of the United States, any state thereof or the District of Columbia, (2) the Successor Borrower shall expressly assume all the obligations of the Borrower under this Agreement and the other Loan Documents pursuant to a supplement hereto or thereto in form reasonably satisfactory to the Administrative Agent and shall satisfy the Collateral and Guarantee Requirement to the extent required by Section 5.10, (3) each Guarantor, unless it is the other party to such merger, amalgamation or consolidation, shall have by a supplement to the Guarantee Agreement, as applicable, confirmed that its guarantee thereunder shall apply to any Successor Borrower’s obligations under this Agreement, (4) each Guarantor, unless it is the other party to such merger, amalgamation or consolidation, shall have by a supplement to any applicable Security Document affirmed that its obligations thereunder shall apply to its guarantee as reaffirmed pursuant to clause (3), and (5) the Successor Borrower shall have delivered to the Administrative Agent (x) a certificate of a Responsible Officer stating that such merger, amalgamation or consolidation does not violate this Agreement or any other Loan Document and (y) if requested by the Administrative Agent, an opinion of counsel to the effect that such merger, amalgamation or consolidation does not violate this Agreement or any other Loan Document and covering such other matters as are contemplated by the Collateral and Guarantee

Requirement to be covered in opinions of counsel (it being understood that if the foregoing are satisfied, the Successor Borrower will succeed to, and be substituted for, the Borrower under this Agreement); provided that this subclause (B) shall not apply at any time any Revolving Facility Commitments are outstanding;

Dispositions to the extent that (i) the relevant property is exchanged for credit against the purchase price of similar replacement property or (ii) the proceeds of the relevant Disposition are promptly applied to the purchase price of such replacement property;

Dispositions of Investments in joint ventures to the extent required by, or made pursuant to, buy/sell arrangements between joint venture or similar parties set forth in the relevant joint venture arrangements and/or similar binding arrangements;

Dispositions and/or terminations of leases, subleases, licenses or sublicenses (including the provision of software under any open source license), (i) the Disposition or termination of which will not materially interfere with the business of the Borrower and any of the Subsidiaries or (ii) which relate to closed facilities or the discontinuation of any product or business line;

(i) any termination of any lease in the ordinary course of business, (ii) any expiration of any option agreement in respect of real or personal property and (iii) any surrender or waiver of contractual rights or the settlement, release or surrender of contractual rights or litigation claims (including in tort) in the ordinary course of business;

Dispositions of property subject to foreclosure, casualty, eminent domain or condemnation proceedings (including in lieu thereof or any similar proceeding);

Dispositions or consignments of equipment, inventory or other assets (including leasehold interests in real property) with respect to facilities that are temporarily not in use, held for sale or closed (or otherwise in connection with the closing or sale of any facility);

[reserved];

terminations or unwinds of Hedging Agreements;

Dispositions of Equity Interests of, or sales of Indebtedness or other securities of, Unrestricted Subsidiaries; and

Dispositions of real property and related assets in the ordinary course of business in connection with relocation activities for directors, officers, employees or consultants of the Borrower and/or any Subsidiary.

Neither the Borrower nor any Restricted Subsidiary will transfer to an Unrestricted Subsidiary the ownership of (x) any intellectual property or (y) any other assets (other than cash

or Cash Equivalents), in either case, that the Borrower determines in good faith is material to the Borrower and its Restricted Subsidiaries taken as a whole.

Notwithstanding anything to the contrary contained in Section 6.05 above, no Disposition of assets under Section 6.05(g) shall in each case be permitted unless, (i) no Event of Default shall have occurred and be continuing at the time of such Disposition pursuant to Section 6.05(g) or would result therefrom, (ii) such Disposition pursuant to Section 6.05(g) is for Fair Market Value, and (iii) with respect to (x) any individual Disposition pursuant to Section 6.05(g) involving assets with a Fair Market Value exceeding \$2,500,000 or (y) series of related Dispositions pursuant to Section 6.05(g) involving assets with an aggregate Fair Market Value exceeding \$5,000,000, at least 75% of the proceeds of such Disposition (except to Loan Parties) consist of cash or Cash Equivalents; provided, that for purposes of this clause (iii), each of the following shall be deemed to be cash: (a) the amount of any liabilities (as shown on the Borrower's or such Subsidiary's most recent balance sheet or in the notes thereto) that are assumed by the transferee of any such assets or are otherwise cancelled in connection with such transaction, (b) any notes or other obligations or other securities or assets received by the Borrower or such Subsidiary from the transferee that are converted by the Borrower or such Subsidiary into cash within 180 days after receipt thereof (to the extent of the cash and Cash Equivalents received) and (c) any Designated Non-Cash Consideration outstanding received by the Borrower or any of its Subsidiaries having an aggregate Fair Market Value not to exceed, in the aggregate for all Dispositions under Section 6.05(g), the greater of (x) \$2,500,000 and (y) 2.0% of EBITDA for the most recently ended Test Period when received (with the Fair Market Value of each item of Designated Non-Cash Consideration being measured solely at the time received and without giving effect to subsequent changes in value).

Transactions with Affiliates.

172. Sell or transfer any property or assets to, or purchase or acquire any property or assets from, or otherwise engage in any other transaction with, any of its Affiliates (other than the Borrower and the Subsidiaries or any person that becomes a Subsidiary as a result of such transaction) unless such transaction is (i) otherwise permitted (or required) under this Agreement; or (ii) upon terms that are substantially no less favorable to the Borrower or such Subsidiary, as applicable, than would be obtained in a comparable arm's-length transaction with a person that is not an Affiliate or is otherwise fair to the Borrower or such Subsidiary from a financial point of view, in each case, as determined by the Board of Directors of the Borrower or such Subsidiary in good faith.

173. The foregoing clause (a) shall not prohibit, to the extent otherwise permitted under this Agreement,

any issuance of securities, or other payments, awards or grants in cash, securities or otherwise pursuant to, or the funding of, employment arrangements, equity purchase agreements, stock options and stock ownership plans approved by the Board of Directors of the Borrower,

Transaction Costs,

transactions among the Borrower or any Subsidiary or any entity that becomes a Subsidiary as a result of such transaction (including via merger, consolidation or amalgamation in which the Borrower or a Subsidiary is the surviving entity),

the payment of fees, reasonable out-of-pocket costs and indemnities to directors, officers, consultants and employees of the Borrower and the Subsidiaries in the ordinary course of business,

to the extent constituting affiliate transactions, the consummation of the Transactions,

(A) any employment agreements entered into by the Borrower or any of the Subsidiaries in the ordinary course of business, (B) any subscription agreement or similar agreement pertaining to the repurchase of Equity Interests pursuant to put/call rights or similar rights with employees, officers or directors and (C) any employee compensation, benefit plan or arrangement, any health, disability or similar insurance plan which covers employees, and any reasonable employment contract and transactions pursuant thereto,

Indebtedness permitted under Section 6.01, Restricted Payments and Restricted Debt Payments permitted under Section 6.03 and Investments permitted under Section 6.04,

transactions for the purchase or sale of goods, equipment, products, parts and services entered into in the ordinary course of business,

any transaction in respect of which the Borrower delivers to the Administrative Agent a letter addressed to the Board of Directors of the Borrower from an accounting, appraisal or investment banking firm, in each case of nationally recognized standing that is in the good faith determination of the Borrower qualified to render such letter, which letter states that (i) such transaction is on terms that are substantially no less favorable to the Borrower or such Subsidiary, as applicable, than would be obtained in a comparable arm's-length transaction with a person that is not an Affiliate or (ii) such transaction is fair to the Borrower or such Subsidiary, as applicable, from a financial point of view,

transactions with joint ventures for the purchase or sale of goods, equipment, products, parts and services entered into in the ordinary course of business or any other transaction with a joint venture that is not otherwise prohibited by the Loan Documents,

affiliate transactions constituting part of any Permitted Reorganization,

transactions between the Borrower or any of the Subsidiaries and any person, a director of which is also a director of the Borrower; provided, however, that such director abstains from voting as a director of the Borrower on any matter involving such other person,

transactions permitted by, and complying with, the provisions of Section 6.05,

intercompany transactions undertaken in good faith (as certified by a Responsible Officer of the Borrower) for the purpose of improving the consolidated Tax efficiency of the Borrower and the Subsidiaries and not for the purpose of circumventing any covenant set forth herein,

payments, loans (or cancellation of loans) or advances to employees or consultants that are (i) approved by a majority of the Disinterested Directors of the Borrower in good faith, (ii) made in compliance with applicable law and (iii) otherwise permitted under this Agreement,

transactions with customers, clients or suppliers, or purchasers or sellers of goods or services, in each case in the ordinary course of business that are fair to the Borrower or the Subsidiaries,

transactions existing on the Closing Date and described on Schedule 6.06,

transactions entered into by a Person prior to the time such Person becomes a Subsidiary or is merged or consolidated into the Borrower or a Subsidiary (provided such transaction is not entered into in contemplation of such event), and

transactions where the only consideration paid by any Loan Party is Qualified Equity Interests of the Borrower or any Subsidiary.

Business of the Borrower and the Subsidiaries; Etc. Engage at any time in any material respect in any business or business activity substantially different from any business or business activity conducted by any of them on the Closing Date or any Similar Business.

Restrictions on Subsidiary Distributions and Negative Pledge Clauses. Permit the Borrower or any Subsidiary to enter into any agreement or instrument that by its terms restricts (A) the payment of dividends or other distributions or the making of cash advances to the Borrower or any Subsidiary that is a direct or indirect parent of such Subsidiary or (B) the granting of Liens by the Borrower or any Subsidiary to secure the Obligations, in each case other than those arising under any Loan Document, except, in each case, restrictions existing by reason of:

restrictions imposed by applicable law;

(i) contractual encumbrances or restrictions existing on the Closing Date, (ii) any agreements that does not materially expand the scope of any such encumbrance or restriction (as determined in good faith by the Borrower) beyond those restrictions applicable on the Closing Date or (iii) with respect to any Subsidiary, any restriction that is not materially more restrictive (as determined by the Borrower in good faith) than the most restrictive restrictions applicable to such Subsidiary existing on the Closing Date;

any restriction on a Subsidiary imposed pursuant to an agreement entered into for the sale or disposition of the Equity Interests or assets of a Subsidiary pending the closing of such sale or disposition;

customary provisions in joint venture agreements and other similar agreements applicable to joint ventures entered into in the ordinary course of business;

any restrictions imposed by any agreement relating to secured Indebtedness permitted by this Agreement to the extent that such restrictions apply only to the specific property or assets securing such Indebtedness;

any restrictions imposed by any agreement relating to (i) Indebtedness permitted pursuant to Sections 6.01(c) or 6.01(n), in each case, solely with respect to any accounts, cash, cash equivalents or cash collateral related thereto, (ii) Indebtedness permitted pursuant to Sections 6.01(h), 6.01(ee) or 6.01(kk), in each case, solely with respect to the Subsidiary to which such Indebtedness relates, (iii) Indebtedness permitted pursuant to Sections 6.01(i) or 6.01(r), in each case, solely with respect to the assets to which such Indebtedness relates, (iv) Indebtedness of a non-Loan Party that is permitted pursuant to Section 6.01, solely with respect to the Subsidiary to which such Indebtedness relates, (v) Indebtedness permitted pursuant to Sections 6.01(b) and 6.01(q), (vii) any Permitted Receivables Financing solely with respect to the assets subject to such Permitted Receivables Financing and (viii) Indebtedness incurred pursuant to Section 6.01 or Permitted Refinancing Indebtedness in respect thereof, to the extent such restrictions are not materially more restrictive, taken as a whole, than the restrictions contained in this Agreement (in each case, as determined in good faith by the Borrower);

customary provisions contained in leases or licenses of Intellectual Property and other similar agreements entered into in the ordinary course of business;

customary provisions restricting subletting or assignment of any lease governing a leasehold interest;

customary provisions restricting assignment, mortgaging or hypothecation of any agreement entered into in the ordinary course of business;

customary restrictions and conditions contained in any agreement relating to the sale, transfer, lease or other disposition of any asset permitted under Section 6.05 pending the consummation of such sale, transfer, lease or other disposition;

Permitted Liens and customary restrictions and conditions contained in the document relating thereto, so long as (1) such restrictions or conditions relate only to the specific asset subject to such Lien, and (2) such restrictions and conditions are not created for the purpose of avoiding the restrictions imposed by this Section 6.08;

customary net worth provisions contained in Real Property leases entered into by Subsidiaries, so long as the Borrower has determined in good faith that such net worth

provisions would not reasonably be expected to impair the ability of the Borrower and its Subsidiaries to meet their ongoing obligations;

any agreement in effect at the time a person becomes a Subsidiary, so long as such agreement was not entered into in contemplation of such person becoming a Subsidiary;

customary restrictions contained in leases, subleases, licenses or Equity Interests or asset sale agreements otherwise permitted hereby as long as such restrictions relate to the Equity Interests and assets subject thereto;

restrictions on cash or other deposits imposed by customers under contracts entered into in the ordinary course of business;

restrictions in agreements (other than agreements governing Indebtedness of Subsidiaries) that (as determined in good faith by the Borrower) will not prevent the Borrower from satisfying its payment obligations in respect of the Facilities;

restrictions arising under or as a result of applicable Requirements of Law or the terms of any license, authorization, concession or permit;

restrictions arising in any Hedging Agreement and/or any agreement relating to Cash Management Agreement;

any prohibitions on the creation of any Lien on, or transfer of, any aircraft; and

any encumbrances or restrictions imposed by any amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings of or similar arrangements to the contracts, instruments or obligations referred to in clauses (a) through (s) above; provided, that such amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements, refinancings or similar arrangements are, in the good faith judgment of the Borrower, no more restrictive with respect to such dividend and other payment restrictions than those contained in the dividend or other payment restrictions as contemplated by such provisions prior to such amendment, modification, restatement, renewal, increase, supplement, refunding, replacement, refinancing or similar arrangement.

Amendments to Junior Financing. The Borrower will not (nor will it permit any of the Subsidiaries to) effect any waiver, supplement, modification or amendment of any indenture, instrument or agreement governing any Junior Financing if (i) such waiver, supplement, modification or amendment has the effect of modifying such Junior Financing in a manner that would not have been permitted under this Agreement at the time such Junior Financing was incurred and (ii) the effect of such waiver, supplement, modification or amendment would be materially adverse to the Lenders (it being understood that the foregoing limitation shall not otherwise prohibit debt refinancing, replacement or exchange permitted pursuant to Section 6.03(ii)).

Financial Covenant. Except with the written consent of the Required Revolving Facility Lenders, permit the First Lien Net Leverage Ratio as of the last day of any Test Period (commencing with the first full fiscal quarter ending after the Closing Date) to be greater than 3.25:1.00.

Notwithstanding the foregoing, this Section 6.10 shall be in effect (and shall only be in effect) as of the last day of any Test Period when the aggregate amount of L/C Obligations and Revolving Facility Loans outstanding as of the end of such fiscal quarter (with respect to L/C Obligations, excluding (x) undrawn Letters of Credit of up to \$7,500,000 and (y) Letters of Credit then outstanding that have been Cash Collateralized) exceeds 35% of the aggregate amount of all Revolving Facility Commitments (excluding, for any such determination made in respect of any of the first four full fiscal quarters following the Closing Date, the amount of Revolving Facility Loans funded on the Closing Date and used to finance a portion of the Transactions, ordinary course working capital needs of the Borrower and/or purchase price adjustments) (it being understood that in all cases calculation of compliance with this Section 6.10 shall be determined as of the last day of such Test Period).

ARTICLE VII.

Events of Default

Events of Default. In case of the happening of any of the following events (each, an “Event of Default”):

any representation or warranty made or deemed made by the Borrower or any Guarantor herein or in any other Loan Document or any certificate or document delivered pursuant hereto or thereto shall prove to have been false or misleading in any material respect when so made or deemed made, and if such incorrect representation or warranty is capable of being cured (including by a restatement of any relevant financial statements), such incorrectness shall remain incorrect for a period of thirty (30) days after notice thereof from the Administrative Agent to the Borrower;

default shall be made in (i) the payment of any principal of any Loan or L/C Borrowing when and as the same shall become due and payable and such default shall continue unremedied for a period of three (3) Business Days or (ii) the failure to deposit Cash Collateral when due, whether at the due date thereof or at a date fixed for prepayment thereof or by acceleration thereof or otherwise, and such default shall continue unremedied for a period of five (5) Business Days;

default shall be made in the payment of any interest on any Loan or in the payment of any Fee or any other amount (other than an amount referred to in clause (b) above) due under any Loan Document, when and as the same shall become due and payable, and such default shall continue unremedied for a period of five (5) Business Days;

default shall be made in the due observance or performance by the Borrower of any covenant, condition or agreement contained in, Section 5.01(a) (solely with respect to the Borrower) or 5.05(a) or in Article VI; provided, that the failure to observe or perform the Financial Covenant shall not constitute an Event of Default with respect to any Term Facility unless the Required Revolving Facility Lenders have accelerated the Revolving Facility Loans then outstanding as a result of such breach and such declaration has not been rescinded;

default shall be made in the due observance or performance by the Borrower or any of the Guarantors of any covenant, condition or agreement contained in any Loan Document (other than those specified in clauses (b), (c) and (d) above) and such default shall continue unremedied for a period of 30 days after notice thereof from the Administrative Agent to the Borrower;

the Borrower or any Guarantor (whether as primary obligor or as guarantor or other surety) shall fail to pay any principal of, or premium or interest on, any Material Indebtedness that is outstanding, when and as the same shall become due and payable (whether at scheduled maturity, required prepayment, acceleration, demand or otherwise), and such failure shall continue after the applicable grace period, if any, specified in the agreement or instrument evidencing or governing such Indebtedness; or any other event shall occur or condition shall exist under any agreement or instrument relating to such Indebtedness and shall continue after the applicable grace period, if any, specified in such agreement or instrument, if the effect of such event or condition is to accelerate, or permit to the acceleration of, the maturity of such Indebtedness; or any such Indebtedness shall be declared due and payable, or required to be prepaid or redeemed (other than by a regularly scheduled required prepayment or redemption), purchased or defeased, or any offer to prepay, redeem, purchase or defease such Indebtedness shall be required to be made, in each case prior to the stated maturity thereof; provided, that (A) such failure is unremedied and is not waived by the holders of such Indebtedness prior to any termination of the Commitments or acceleration of the Loans pursuant to this Section 7.01 and (B) this clause (f) shall not apply to (I) any secured Indebtedness that becomes due as a result of the voluntary sale or transfer of the property or assets securing such Indebtedness if (x) such sale or transfer is permitted hereunder and under the documents providing for such Indebtedness and (y) repayments are made as required by the terms of the respective Indebtedness or (II) any conversion of, or event which permits the conversion of, convertible debt (whether or not such conversion is to be settled in cash or capital stock or a combination thereof) and the settlement of any Permitted Convertible Indebtedness Call Transaction);

there shall have occurred a Change of Control;

an involuntary case or proceeding shall be commenced or an involuntary petition shall be filed in a court of competent jurisdiction seeking (i) relief in respect of the Borrower or any Significant Subsidiary, or of a substantial part of the property or assets of the Borrower or any Significant Subsidiary, under the Bankruptcy Code, or any other

federal, state or foreign bankruptcy, insolvency, receivership or any other Debtor Relief Law, (ii) the appointment of a receiver, trustee, custodian, sequestrator, conservator, examiner, liquidator or similar official for the Borrower or any of the Significant Subsidiaries or for a substantial part of the property or assets of the Borrower or any of the Significant Subsidiaries or (iii) the winding-up, liquidation, reorganization, dissolution, compromise, arrangement or other relief of the Borrower or any Significant Subsidiary (except in a transaction permitted hereunder); and any such case or proceeding or petition shall continue undismissed for 60 days or an order or decree approving or ordering any of the foregoing shall be entered;

the Borrower or any Significant Subsidiary shall (i) voluntarily commence any case or proceeding or file any petition seeking relief under the Bankruptcy Code, as now constituted or hereafter amended, or any other federal, state or foreign bankruptcy, insolvency, receivership or any other Debtor Relief Law, (ii) consent to the institution of, or fail to contest in a timely and appropriate manner, any case or proceeding or the filing of any petition described in clause (h) above, (iii) apply for or consent to, or fail to contest in a timely and appropriate manner, the appointment of a receiver, trustee, custodian, sequestrator, conservator, examiner, liquidator or similar official for the Borrower or any of the Significant Subsidiaries or for a substantial part of the property or assets of the Borrower or any Significant Subsidiary, (iv) file an answer admitting the material allegations of a petition filed against it in any such case or proceeding, (v) make a general assignment for the benefit of creditors or (vi) become unable or fail generally to pay its debts as they become due;

the failure by the Borrower or any Significant Subsidiary to pay any final judgment in excess of \$15,000,000 (to the extent not paid or covered by self-insurance (if applicable) or by insurance or indemnities as to which the relevant third party insurance company or third party has been notified of such judgment and has not denied coverage), which judgments are not discharged or effectively waived or stayed for a period of 60 consecutive days, or any action shall be legally taken by a judgment creditor to attach or levy upon assets or properties of the Borrower or any Significant Subsidiary to enforce any such judgment;

(i) an ERISA Event shall have occurred, (ii) the PBGC shall institute proceedings (including giving notice of intent thereof) to terminate any Plan or Plans or (iii) the Borrower, any Subsidiary or any ERISA Affiliate shall have been notified by the trustees, administrator or other fiduciary of a Multiemployer Plan that such Multiemployer Plan is being terminated, within the meaning of Title IV of ERISA; and in each case in clauses (i) through (iii) above, such event or condition, together with all other such events or conditions, if any, would reasonably be expected to result in a Material Adverse Effect; or

(i) any Loan Document shall for any reason (other than the occurrence of the Termination Date) be asserted in writing by the Borrower or any Guarantor not to be a legal, valid and binding obligation of any party thereto, (ii) any security interest purported

to be created by any Security Document shall cease to be (other than in accordance with its terms), or shall be asserted in writing by the Borrower or any other Loan Party not to be, a valid and perfected security interest with respect to assets that constitute a material portion of the Collateral (perfected as or having the priority required by this Agreement or the relevant Security Document and subject to such limitations and restrictions as are set forth herein and therein) in the securities, assets or properties covered thereby, except to the extent that any such loss of perfection or priority results from a release of Collateral in accordance with the terms hereof or thereof, the occurrence of the Termination Date, the limitations of foreign laws, rules and regulations as they apply to pledges of Equity Interests in Foreign Subsidiaries or the application thereof, or from failure of the Collateral Agent to maintain possession of certificates actually delivered to it representing securities pledged under the Collateral Agreement, to file any filings with the United States Patent and Trademark Office or the United States Copyright Office, or to file Uniform Commercial Code continuation statements (so long as such failure does not result from the breach or non-compliance with the Loan Documents by any Loan Party), or (iii) a material portion of the Guarantees pursuant to the Loan Documents by the Guarantors guaranteeing the Obligations, shall cease to be in full force and effect (other than in accordance with the terms thereof), or shall be asserted in writing by the Borrower or any Guarantor not to be in effect or not to be legal, valid and binding obligations (other than in accordance with the terms thereof).

then, and in every such event (other than an event with respect to the Borrower described in clause (h) or (i) above), and at any time thereafter during the continuance of such event, the Administrative Agent, at the request of the Required Lenders (or, in the case of a failure to observe or perform the Financial Covenant, where the Required Revolving Facility Lenders have accelerated any Revolving Facility Loans then outstanding as a result of such breach and such declaration has not been rescinded, the Required Revolving Facility Lenders) may, 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 (in which case any principal not so declared to be due and payable may thereafter be declared to be due and payable), 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 Borrower 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 Borrower, anything contained herein or in any other Loan Document to the contrary notwithstanding and (iii) demand Cash Collateral pursuant to Section 2.05(j); and in any event with respect to the Borrower described in clause (h) or (i) 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 Borrower accrued hereunder and under any other Loan Document, shall automatically become due and payable and the Administrative Agent shall be deemed to have made a demand for Cash Collateral to the full extent permitted under Section 2.05(j), without presentment, demand, protest or any other notice of any kind, all of which are hereby expressly waived by the Borrower, anything contained herein or in any other Loan Document to the contrary notwithstanding; provided, that notwithstanding anything to the

contrary in this Agreement (including whether any representation or warranty made or to be made as a condition to the Closing Date or otherwise was inaccurate or will be inaccurate when made or the funding of each Loan on the Closing Date, in each case, except as otherwise specified in Section 4.01), prior to the funding of the Initial Term Loans and any Revolving Facility Loans on the Closing Date and the use of proceeds thereof to consummate the Acquisition, (x) no Commitment may be terminated and no Lender may refuse to participate in the making of any Loan on the Closing Date, (y) no Secured Party may exercise any right of set-off or counterclaim in connection herewith and (z) no Loan may be declared due and payable, in each case, to the extent to do so would prevent, limit or delay the funding of the Loans on the Closing Date and the use of the proceeds thereof to consummate the Acquisition (it being understood that the funding of the Loans on the Closing Date are subject solely to the satisfaction or waiver of the conditions set forth in Section 4.01)).

[Reserved].

Application of Funds. Any proceeds of Collateral received by the Administrative Agent or the Collateral Agent (whether as a result of any realization on the Collateral, any setoff or recoupment rights, any distribution in connection with any case or proceedings or other action of any Loan Party in respect of Debtor Relief Laws or otherwise and whether received in cash or otherwise) (i) not constituting (A) a specific payment of principal, interest, fees or other sum payable under the Loan Documents (which shall be applied on a pro rata basis among the relevant Lenders under the Class of Loans being prepaid as specified by the Borrower) or (B) a mandatory prepayment (which shall be applied in accordance with Section 2.11) or (ii) after an Event of Default has occurred and is continuing and the Administrative Agent so elects or the Required Lenders so direct, shall be applied, subject to the provisions of any applicable Intercreditor Agreement, ratably first, to pay any fees, indemnities, or expense reimbursements due to the Administrative Agent, the Collateral Agent and any Issuing Bank from the Borrower (including post-petition fees, indemnities or expense reimbursements hereunder, whether or not an allowed claim in any case or proceeding under any Debtor Relief Laws), second, to pay any fees or expense reimbursements then due hereunder to the Secured Parties (all in their respective capacities as such) from the Borrower, third, to pay interest (including post-petition interest, whether or not an allowed claim in any case or proceeding under any Debtor Relief Laws) then due and payable on the Loans and on obligations arising under each Secured Cash Management Agreement and Secured Hedge Agreement ratably, fourth, to repay principal on the Loans and unreimbursed disbursements under any Letter of Credit, to Cash Collateralize all outstanding Letters of Credit, and to pay any other amounts owing with respect to Secured Cash Management Agreements and Secured Hedge Agreements and any other Obligations due to the Secured Parties ratably; provided, that amounts which are applied to Cash Collateralize outstanding Letters of Credit that remain available after expiry of the applicable Letter of Credit shall be applied in the manner set forth herein, fifth, after all Obligations have been paid in full, to the Borrower or as otherwise required by Requirements of Law.

Notwithstanding the foregoing, Obligations arising under Secured Cash Management Agreements and Secured Hedge Agreements shall be excluded from the application described above if the Administrative Agent has not received written notice thereof, together with such

supporting documentation as the Administrative Agent may reasonably request, from the applicable Cash Management Bank or Hedge Bank, as the case may be. Each Cash Management Bank or Hedge Bank not a party to this Agreement that has given the notice contemplated by the preceding sentence shall, by such notice, be deemed to have acknowledged and accepted the appointment of the Administrative Agent and the Collateral Agent as its agent pursuant to the terms of Article VIII hereof for itself and its Affiliates as if it were a “Lender” party hereto.

ARTICLE VIII.

The Agents

Appointment.

174. Each Lender (in its capacities as a Lender and the Swingline Lender (if applicable) and on behalf of itself and its Affiliates as potential counterparties to Secured Cash Management Agreements and Secured Hedge Agreements) and each Issuing Bank (in such capacities and on behalf of itself and its Affiliates as potential counterparties to Secured Cash Management Agreements and Secured Hedge Agreements) hereby irrevocably designates and appoints the Administrative Agent as the agent of such Lender under this Agreement and the other Loan Documents, including as the Collateral Agent for such Lender and the other Secured Parties under the Security Documents, and each such Lender irrevocably authorizes the Administrative Agent, in such capacity, to take such action 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 expressly delegated to the Administrative Agent by the terms of this Agreement and the other Loan Documents, together with such other powers as are reasonably incidental thereto. Notwithstanding any provision to the contrary elsewhere in this Agreement, the Administrative Agent shall not have any duties or responsibilities, except those expressly set forth herein, or any fiduciary relationship with any Lender, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any other Loan Document or otherwise exist against the Administrative Agent. The provisions of this Article (other than the final paragraph of Section 8.12 hereof) are solely for the benefit of the Administrative Agent, the Lenders and the Issuing Banks, and neither the Borrower nor any other Loan Party shall have any rights as a third-party beneficiary of any such provisions.

175. In furtherance of the foregoing, each Lender (in its capacities as a Lender and the Swingline Lender (if applicable) and on behalf of itself and its Affiliates as potential counterparties to Secured Cash Management Agreements or Secured Hedge Agreements) and each Issuing Bank (in such capacities and on behalf of itself and its Affiliates as potential counterparties to Secured Cash Management Agreements and Secured Hedge Agreements) hereby appoints and authorizes the Collateral Agent to act as the agent of such Lender for purposes of acquiring, holding and enforcing any and all Liens on Collateral granted by any of the Loan Parties to secure any of the Obligations, together with such powers and discretion as are reasonably incidental thereto. In this connection, the Collateral Agent (and any Subagents appointed by the Collateral Agent pursuant to Section 8.02 for purposes of holding or enforcing any Lien on the Collateral (or any portion thereof) granted under the Security Documents, or for

exercising any rights or remedies thereunder at the direction of the Collateral Agent) shall be entitled to the benefits of this Article VIII (including Section 8.07) as though the Collateral Agent (and any such Subagents) were an “Agent” under the Loan Documents, as if set forth in full herein with respect thereto.

Delegation of Duties. The Administrative Agent and the Collateral Agent may execute any of their respective duties under this Agreement and the other Loan Documents (including for purposes of holding or enforcing any Lien on the Collateral (or any portion thereof)) by or through agents, employees or attorneys-in-fact and shall be entitled to advice of counsel and other consultants or experts concerning all matters pertaining to such duties. No Agent shall be responsible for the negligence or misconduct of any such agents, employees or attorneys-in-fact selected by it with reasonable care. Each Agent may also from time to time, when it deems it to be necessary or desirable, appoint one or more trustees, co-trustees, collateral co-agents, collateral subagents or attorneys-in-fact (each, a “Subagent”) with respect to all or any part of the Collateral; provided, that no such Subagent shall be authorized to take any action with respect to any Collateral unless and except to the extent expressly authorized in writing by the Administrative Agent or the Collateral Agent. Should any instrument in writing from the Borrower or any other Loan Party be required by any Subagent so appointed by an Agent to more fully or certainly vest in and confirm to such Subagent such rights, powers, privileges and duties, the Borrower shall, or shall cause such Loan Party to, execute, acknowledge and deliver any and all such instruments promptly upon request by such Agent. If any Subagent, or successor thereto, shall become incapable of acting, resign or be removed, all rights, powers, privileges and duties of such Subagent, to the extent permitted by law, shall automatically vest in and be exercised by the Administrative Agent or the Collateral Agent until the appointment of a new Subagent. No Agent shall be responsible for the negligence or misconduct of any agent, attorney-in-fact or Subagent that it selects with reasonable care.

Exculpatory Provisions. None of the Agents, their respective Affiliates or any of their respective officers, directors, employees, agents, attorneys-in-fact or Affiliates shall be (a) liable for any action lawfully taken or omitted to be taken by it or such person under or in connection with this Agreement or any other Loan Document (except to the extent that any of the foregoing are found by a final and non-appealable decision of a court of competent jurisdiction to have resulted from its or such person’s own gross negligence or willful misconduct) or (b) responsible in any manner to any of the Lenders for any recitals, statements, representations or warranties made by any Loan Party or any officer thereof contained in this Agreement or any other Loan Document or in any certificate, report, statement or other document referred to or provided for in, or received by any Agent under or in connection with, this Agreement or any other Loan Document or for the value, validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement or any other Loan Document or for the creation, perfection or priority of any Lien purported to be created by the Loan Documents or to assure that the Liens granted to the Collateral Agent pursuant to any Loan Document have been properly or sufficiently or lawfully created, perfected, protected or enforced or are entitled to any particular priority or for the value or the sufficiency of any Collateral or for any failure of any Loan Party to perform its obligations hereunder or under the other Loan Documents. No Agent shall be under any obligation to any Lender to ascertain or to inquire as to the observance or performance of any of the agreements

contained in, or conditions of, this Agreement or any other Loan Document, or to inspect the properties, books or records of any Loan Party. No Agent shall have any duties or obligations except those expressly set forth herein and in the other 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 the respective 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 expressly provided for herein or in the other Loan Documents); provided, that the Administrative Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose the Administrative Agent to liability or that is contrary to any Loan Document or applicable law, including for the avoidance of doubt any action that may be in violation of the automatic stay under any Debtor Relief Laws or that may affect a forfeiture, modification or termination of property of a Defaulting Lender in violation of any Debtor Relief Laws and (c) no Agent shall, except as expressly set forth herein and in the other Loan Documents, have any duty to disclose, or be liable for the failure to disclose, any information relating to the Borrower or any of its Subsidiaries or any of their respective Affiliates that is communicated to or obtained by such Agent or any of its Affiliates in any capacity. The Agents shall be deemed not to have knowledge of any Default or Event of Default unless and until written notice describing such Default or Event of Default is given to the Administrative Agent in accordance with Section 8.05. 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 this Agreement or any other 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 herein or therein or the occurrence of any Default or Event of Default, (iv) the validity, enforceability, effectiveness or genuineness of this Agreement, any other Loan Document or any other agreement, instrument or document, or the creation, perfection or priority of any Lien purported to be created by the Security Documents, (v) the value or the sufficiency of any Collateral or (vi) the satisfaction of any condition set forth in Article IV or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent. The Administrative Agent shall not 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 Lenders. Without limiting the generality of the foregoing, the Administrative Agent shall not (x) be obligated to ascertain, monitor or inquire as to whether any Lender or Participant or prospective Lender or Participant is a Disqualified Lender or a Net Short Lender or (y) have any liability with respect to or arising out of any assignment or participation of Loans and/or Commitments, or disclosure of confidential information, to any Disqualified Lender. The Administrative Agent shall not be responsible or have any liability for costs or expenses suffered by the Borrower, any of its Subsidiaries, any Lender or any Issuing Bank as a result of any determination of any Dollar Equivalent.

Reliance by Agents. 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 the proper person. Each Agent also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper person, and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to any Credit Event that by its terms must be fulfilled to the satisfaction of a Lender or any Issuing Bank, each Agent may presume that such condition is satisfactory to such Lender or Issuing Bank unless such Agent shall have received notice to the contrary from such Lender or Issuing Bank prior to such Credit Event. Each Agent may consult with legal counsel (including counsel to the Borrower), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts. Each Agent may deem and treat the Lender specified in the Register with respect to any amount owing hereunder as the owner thereof for all purposes unless a written notice of assignment, negotiation or transfer thereof shall have been filed with such Agent in accordance with Section 9.04. Each Agent shall be fully justified in failing or refusing to take any action under this Agreement or any other Loan Document unless it shall first receive such advice or concurrence of the Required Lenders (or, if so specified by this Agreement, all or other Lenders) as it deems appropriate or it shall first be indemnified to its satisfaction by the Lenders against any and all liability and expense that may be incurred by it by reason of taking or continuing to take any such action. Each Agent shall in all cases be fully protected in acting, or in refraining from acting, under this Agreement and the other Loan Documents in accordance with a request of the Required Lenders (or, if so specified by this Agreement, all or other Lenders), and such request and any action taken or failure to act pursuant thereto shall be binding upon all the Lenders and all future holders of the Loans.

Notice of Default. No Agent shall be deemed to have knowledge or notice of the occurrence of any Default or Event of Default unless such Agent has received written notice from a Lender or the Borrower referring to this Agreement, describing such Default or Event of Default and stating that such notice is a "Notice of Default." In the event that the Administrative Agent receives such a notice, the Administrative Agent shall give notice thereof to the Lenders. The Administrative Agent shall take such action with respect to such Default or Event of Default as shall be reasonably directed by the Required Lenders (or, if so specified by this Agreement, all or other Lenders); provided, that unless and until the Administrative Agent shall have received such directions, the Administrative Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Default or Event of Default as it shall deem advisable in the best interests of the Lenders.

Non-Reliance on Agents and Other Lenders. Each Lender and Issuing Bank expressly acknowledges that neither the Agents nor any of their respective Related Parties have made any representations or warranties to it and that no act by any Agent hereafter taken, including any review of the affairs of a Loan Party or any Affiliate of a Loan Party, shall be deemed to constitute any representation or warranty by any Agent to any Lender. Each Lender and Issuing Bank represents to the Agents that it has, independently and without reliance upon any Agent or any other Lender or any of their respective Related Parties, and based on such documents and information as it has deemed appropriate, made its own appraisal of, and investigation into the business, operations, property, financial and other condition and creditworthiness of, the Loan

Parties and their Affiliates and made its own decision to make its Loans hereunder and enter into this Agreement. Each Lender also represents that it will, independently and without reliance upon any Agent or any other Lender or any of their respective Related Parties, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit analysis, appraisals and decisions in taking or not taking action under this Agreement and the other Loan Documents, and to make such investigation as it deems necessary to inform itself as to the business, operations, property, financial and other condition and creditworthiness of the Loan Parties and their Affiliates. Except for notices, reports and other documents expressly required to be furnished to the Lenders by the Administrative Agent hereunder, the Administrative Agent shall not have any duty or responsibility to provide any Lender with any credit or other information concerning the business, operations, property, condition (financial or otherwise), prospects or creditworthiness of any Loan Party or any Affiliate of a Loan Party that may come into the possession of the Administrative Agent or any of its Related Parties.

Indemnification. The Lenders agree to indemnify each Agent and the Revolving Facility Lenders agree to indemnify each Issuing Bank and Swingline Lender, in each case in its capacity as such (to the extent not reimbursed by the Borrower and without limiting the obligation of the Borrower to do so), in the amount of its pro rata share (based on its aggregate Revolving Facility Credit Exposure and, in the case of the indemnification of each Agent, outstanding Term Loans and unused Commitments hereunder; provided, that the aggregate principal amount of Swingline Loans owing to the Swingline Lender and of any disbursement under any Letter of Credit owing to any Issuing Bank shall be considered to be owed to the Revolving Facility Lenders ratably in accordance with their respective Revolving Facility Credit Exposure) (determined at the time such indemnity is sought or, if the respective Obligations have been repaid in full, as determined immediately prior to such repayment in full), from and against any and all liabilities, obligations, claims (including intra-party claims), losses, damages, penalties, actions, judgments, suits, 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 such Issuing Bank or Swingline Lender in any way relating to or arising out of the Commitments, this Agreement, any of the other Loan Documents or any documents contemplated by or referred to herein or therein or the transactions contemplated hereby or thereby or any action taken or omitted by such Agent, Issuing Bank or Swingline Lender under or in connection with any of the foregoing; provided, that no Lender shall be liable for the payment of any portion of such liabilities, obligations, claims, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements that are found by a final and non-appealable decision of a court of competent jurisdiction to have resulted from such Agent's, Issuing Bank's or Swingline Lender's gross negligence or willful misconduct. The failure of any Lender to reimburse any Agent, Issuing Bank or Swingline Lender, as the case may be, promptly upon demand for its ratable share of any amount required to be paid by the Lenders to such Agent, Issuing Bank or Swingline Lender, as the case may be, as provided herein shall not relieve any other Lender of its obligation hereunder to reimburse such Agent or such Issuing Bank, as the case may be, for its ratable share of such amount, but no Lender shall be responsible for the failure of any other Lender to reimburse such Agent, Issuing Bank or Swingline Lender, as the case may be, for such other Lender's ratable share of such amount. To the extent that the Borrower for any reason fails to indefeasibly pay any amount required under Section 9.05 to be paid by it to the Administrative

Agent (or any sub-agent thereof), any Issuing Bank, the Swingline Lender or any Related Party of any of the foregoing, each Lender severally agrees to pay to the Administrative Agent (or any such sub-agent), such Issuing Bank, the Swingline Lender or such Related Party, as the case may be, such Lender's pro rata share (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought) based on each Lender's share of the aggregate principal amount of Term Loans and Revolving Facility Commitments in effect at such time (or, if the Revolving Facility Commitments have terminated, Revolving Facility Credit Exposure at such time) of such unpaid amount (including any such unpaid amount in respect of a claim asserted by such Lender), such payment to be made severally among them based on such Lenders' Pro Rata Share (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought), provided, further that, the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the Administrative Agent (or any such sub-agent), such Issuing Bank or the Swingline Lender in its capacity as such, or against any Related Party of any of the foregoing acting for the Administrative Agent (or any such subagent), the Issuing Bank or the Swingline Lender in connection with such capacity.

The agreements in this Section shall survive the payment of the Loans and all other amounts payable hereunder.

Agent in Its Individual Capacity. Each Agent and its Affiliates may make loans to, accept deposits from, and generally engage in any kind of business with any Loan Party as though such Agent were not an Agent. With respect to its Loans made or renewed by it and with respect to any Letter of Credit issued, or Letter of Credit or Swingline Loan participated in, by it, each Agent shall have the same rights and powers under this Agreement and the other Loan Documents as any Lender and may exercise the same as though it were not an Agent, and the terms "Lender" and "Lenders" shall include each Agent in its individual capacity.

Successor Administrative Agent. The Administrative Agent may resign as Administrative Agent and Collateral Agent under this Agreement and the other Loan Documents upon 30 days' notice to the Lenders and the Borrower. Any such resignation by the Administrative Agent hereunder shall also constitute its resignation as an Issuing Bank and the Swingline Lender, as applicable, in which case the resigning Administrative Agent (x) shall not be required to issue any further Letters of Credit or make any additional Swingline Loans hereunder and (y) shall maintain all of its rights as Issuing Bank or Swingline Lender, as the case may be, with respect to any Letters of Credit issued by it, or Swingline Loans made by it, prior to the date of such resignation. Upon any such resignation, then the Required Lenders shall have the right, subject to the reasonable consent of the Borrower (so long as no Event of Default under Section 7.01(b), (c), (h) or (i) shall have occurred and be continuing), to appoint a successor which shall be a bank with an office in the United States, or an Affiliate of any such bank with an office in the United States, whereupon such successor agent shall succeed to the rights, powers and duties of the Administrative Agent and Collateral Agent, and the term "Administrative Agent" shall mean such successor agent effective upon such appointment and approval, and the former Administrative Agent's rights, powers and duties as Administrative Agent shall be terminated, without any other or further act or deed on the part of such former Administrative

Agent or any of the parties to this Agreement or any holders of the Loans. If no successor agent has accepted appointment as Administrative Agent by the date that is 30 days following a retiring Administrative Agent's notice of resignation, and the retiring Administrative Agent's resignation shall nevertheless thereupon become effective (except in the case of the Collateral Agent holding collateral security on behalf of such Secured Parties, the retiring Collateral Agent shall continue to hold such collateral security as nominee until such time as a successor Collateral Agent is appointed), and the Lenders shall assume and perform all of the duties of the Administrative Agent and Collateral Agent hereunder until such time, if any, as the Required Lenders appoint a successor agent as provided for above. After any retiring Administrative Agent's resignation as Administrative Agent, the provisions of this Article VIII and Section 9.05 shall inure to its benefit as to any actions taken or omitted to be taken by it, its Subagents and their respective Related Parties while it was Administrative Agent under this Agreement and the other Loan Documents.

Arrangers, Etc. Notwithstanding any other provision of this Agreement or any provision of any other Loan Document, each of the persons named on the cover page hereof as Arranger, syndication agent or documentation agent is named as such for recognition purposes only, and in its capacity as such shall have no rights, duties, responsibilities or liabilities with respect to this Agreement or any other Loan Document, except that each such person and its Affiliates shall be entitled to the rights expressly stated to be applicable to them in Sections 4.01, 9.05 and 9.17 (subject to the applicable obligations and limitations as set forth therein).

Security Documents and Collateral Agent. The Lenders and the other Secured Parties authorize the Collateral Agent to release any Collateral or Guarantors in accordance with Section 9.18 or if approved, authorized or ratified in accordance with Section 9.08.

The Lenders and the other Secured Parties hereby irrevocably authorize and instruct the Collateral Agent to, without any further consent of any Lender or any other Secured Party, enter into (or acknowledge and consent to) or amend, renew, extend, supplement, restate, replace, waive or otherwise modify any Permitted First Lien Intercreditor Agreement, any Permitted Junior Intercreditor Agreement and any other intercreditor or subordination agreement contemplated by this Agreement (in form satisfactory to the Collateral Agent and deemed appropriate by it) with the collateral agent or other representative of holders of Indebtedness secured (and permitted to be secured) by a Lien on assets constituting all or a portion of the Collateral under any of Sections 6.02 (and in accordance with the relevant requirements thereof) (any of the foregoing, an "Intercreditor Agreement"). The Lenders and the other Secured Parties irrevocably agree that (x) the Collateral Agent may rely exclusively on a certificate of a Responsible Officer of the Borrower as to whether any such other Liens are permitted hereunder and as to the respective assets constituting Collateral that secure (and are permitted to secure) such Indebtedness hereunder and (y) any Intercreditor Agreement entered into by the Collateral Agent shall be binding on the Secured Parties, and each Lender and other Secured Party hereby agrees that it will take no actions contrary to the provisions of, if entered into and if applicable, any Intercreditor Agreement. Furthermore, the Lenders and the other Secured Parties hereby authorize the Administrative Agent and the Collateral Agent to release any Lien on any property granted to or held by the Administrative Agent or the Collateral Agent under any Loan

Document (i) to the holder of any Lien on such property that is permitted by Section 6.02(c), (i), (j), (t), (x), (ll) or (mm), in each case to the extent the contract or agreement pursuant to which such Lien is granted prohibits any other Liens on such property or (ii) that is or becomes Excluded Property; and the Administrative Agent and the Collateral Agent shall do so upon reasonable request of the Borrower; provided, that prior to any such request, the Borrower shall have in each case delivered to the Administrative Agent a certificate of a Responsible Officer of the Borrower certifying (x) that such Lien is permitted under this Agreement, (y) in the case of a request pursuant to clause (i) of this sentence, that the contract or agreement pursuant to which such Lien is granted prohibits any other Lien on such property and (z) in the case of a request pursuant to clause (ii) of this sentence, that (A) such property is or has become Excluded Property and (B) if such property has become Excluded Property as a result of a contractual restriction, such restriction does not violate Section 6.08.

Right to Realize on Collateral, Enforce Guarantees, and Credit Bidding. In the event of the pendency of any case or proceeding under any Debtor Relief Laws or other judicial proceeding relative to any Loan Party, (i) the Administrative Agent (irrespective of whether the principal of any Obligation shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on the Borrower) shall be entitled and empowered, by intervention in such case or proceeding or otherwise (A) to file and prove a claim for the whole amount of the principal and interest and fees and expenses owing and unpaid in respect of any or all of the Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders, the Issuing Banks and the Administrative Agent and any Subagents allowed in such judicial proceeding, and (B) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same, and (ii) any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender and Issuing Bank to make such payments to the Administrative Agent and, if the Administrative Agent shall consent to the making of such payments directly to the Lenders and the Issuing Banks, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Administrative Agent and its agents and counsel, and any other amounts due the Administrative Agent under the Loan Documents. Nothing contained herein shall be deemed to authorize the Administrative Agent to authorize or consent to or accept or adopt on behalf of any Lender or Issuing Bank any plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Lender or Issuing Bank or to authorize the Administrative Agent to vote in respect of the claim of any Lender or Issuing Bank in any such case or proceeding.

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 (a) no Secured Party shall have any right individually to realize upon any of the Collateral or to enforce any Guarantee set forth in any Loan Document, it being understood and agreed that all powers, rights and remedies hereunder may be exercised solely by the Administrative Agent, on behalf of the Secured Parties in accordance with the terms hereof, and all powers, rights and remedies under the Security Documents may be exercised solely by the Collateral Agent; provided that, notwithstanding the foregoing, the Lenders may exercise the set-off rights

contained in Section 9.06 in the manner set forth therein, and (b) in the event of a foreclosure by the Collateral Agent on any of the Collateral pursuant to a public or private sale or other disposition, the Collateral Agent or any Lender may be the purchaser or licensor of any or all of such Collateral at any such sale or other disposition and the Collateral Agent, as agent for and representative of the Secured Parties (but not any Lender or Lenders in its or their respective individual capacities unless the Required Lenders shall otherwise agree in writing), shall be entitled, for the purpose of bidding and making settlement or payment of the purchase price for all or any portion of the Collateral sold at any such public sale, to use and apply any of the Obligations as a credit on account of the purchase price for any collateral payable by the Collateral Agent at such sale or other Disposition.

The Secured Parties hereby irrevocably authorize the Administrative Agent, at the direction of the Required Lenders, to credit bid all or any portion of the Obligations (including accepting some or all of the Collateral in satisfaction of some or all of the Secured Obligations pursuant to a deed in lieu of foreclosure or otherwise) and in such manner purchase (either directly or through one or more acquisition vehicles) all or any portion of the Collateral (a) at any sale thereof conducted under the provisions of the Bankruptcy Code, including under Sections 363, 1123 or 1129 of the Bankruptcy Code or any other federal, state or foreign bankruptcy, insolvency, receivership or any other Debtor Relief Law in any other jurisdictions to which a Loan Party is subject or (b) at any other sale or foreclosure or acceptance of Collateral in lieu of debt conducted by (or with the consent or at the direction of) the Administrative Agent (whether by judicial action or otherwise) in accordance with any applicable Law. In connection with any such credit bid and purchase, the Obligations owed to the Secured Parties shall be entitled to be, and shall be, credit bid on a ratable basis (with Obligations with respect to contingent or unliquidated claims receiving contingent interests in the acquired assets on a ratable basis that would vest upon the liquidation of such claims in an amount proportional to the liquidated portion of the contingent claim amount used in allocating the contingent interests) in the asset or assets so purchased (or in the Equity Interests or debt instruments of the acquisition vehicle or vehicles that are used to consummate such purchase). In connection with any such bid (i) the Administrative Agent shall be authorized (x) to form one or more acquisition vehicles to make a bid, (y) to adopt documents providing for the governance of the acquisition vehicle or vehicles (provided that any actions by the Administrative Agent with respect to such acquisition vehicle or vehicles, including any disposition of the assets or Equity Interests thereof shall be governed, directly or indirectly, by the vote of the Required Lenders, irrespective of the termination of this Agreement and without giving effect to the limitations on actions by the Required Lenders contained in clauses (i) through (vii) of Section 9.08(b) of this Agreement, and (z) the Administrative Agent shall be authorized to assign the relevant Obligations to any such acquisition vehicle pro rata to the Lenders, as a result of which each of the Lenders shall be deemed to have received a pro rata portion of any Equity Interests and/or debt instruments issued by such an acquisition vehicle on account of the assignment of the Obligations to be credit bid, all without the need for any Secured Party or acquisition vehicle to take any further action, and (ii) to the extent that Obligations that are assigned to an acquisition vehicle are not used to acquire Collateral for any reason (as a result of another bid being higher or better, because the amount of Obligations assigned to the acquisition vehicle exceeds the amount of debt credit bid by the acquisition vehicle or otherwise), such Obligations shall automatically be reassigned to

the Lenders pro rata and the Equity Interests and/or debt instruments issued by any acquisition vehicle on account of the Obligations that had been assigned to the acquisition vehicle shall automatically be cancelled, without the need for any Secured Party or any acquisition vehicle to take any further action.

Withholding Tax. To the extent required by any applicable Requirement of Law, the Administrative Agent may withhold from any payment to any Lender an amount equivalent to any applicable withholding Tax. If the IRS or any authority of the United States or other jurisdiction asserts a claim that the Administrative Agent did not properly withhold Tax from amounts paid to or for the account of any Lender for any reason (including because the appropriate form was not delivered, was not properly executed, or because such Lender failed to notify the Administrative Agent of a change in circumstances that rendered the exemption from, or reduction of, withholding Tax ineffective), such Lender shall indemnify the Administrative Agent (to the extent that the Administrative Agent has not already been reimbursed by any applicable Loan Party and without limiting the obligation of any applicable Loan Party to do so) fully for all amounts paid, directly or indirectly, by the Administrative Agent as Tax or otherwise, including penalties, fines, additions to Tax and interest, together with all expenses incurred, including legal expenses, allocated staff costs and any out of pocket expenses. 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 to the Administrative Agent under this Section 8.13.

Secured Cash Management Agreements and Secured Hedge Agreements. No Cash Management Bank or Hedge Bank that obtains the benefits of Section 7.03, any Guarantee or any Collateral by virtue of the provisions hereof or of the Guarantee Agreement or any Security Document shall have any right to notice of any action or to consent to, direct or object to any action hereunder or under any other Loan Document or otherwise in respect of the Collateral (including the release or impairment of any Collateral) other than in its capacity as a Lender and, in such case, only to the extent expressly provided in the Loan Documents. Notwithstanding any other provision of this Article VIII to the contrary, the Administrative Agent shall not be required to verify the payment of, or that other satisfactory arrangements have been made with respect to, Secured Obligations arising under Secured Cash Management Agreements and Secured Hedge Agreements unless the Administrative Agent has received written notice of such Secured Obligations, together with such supporting documentation as the Administrative Agent may reasonably request, from the applicable Cash Management Bank or Hedge Bank, as the case may be.

Certain ERISA Matters.

176. Each Lender (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent and not, for the avoidance of doubt, to or for the benefit of the Borrower or any other Loan Party, that at least one of the following is and will be true:

such Lender is not using “plan assets” (within the meaning of Section 3(42) of ERISA or otherwise) of one or more Benefit Plans with respect to such Lender’s entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments or this Agreement,

the transaction exemption set forth in one or more PTEs, such as PTE 84-14 (a class exemption for certain transactions determined by independent qualified professional asset managers), PTE 95-60 (a class exemption for certain transactions involving insurance company general accounts), PTE 90-1 (a class exemption for certain transactions involving insurance company pooled separate accounts), PTE 91-38 (a class exemption for certain transactions involving bank collective investment funds) or PTE 96-23 (a class exemption for certain transactions determined by in-house asset managers), is applicable with respect to such Lender’s entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement,

(A) such Lender is an investment fund managed by a “Qualified Professional Asset Manager” (within the meaning of Part VI of PTE 84-14), (B) such Qualified Professional Asset Manager made the investment decision on behalf of such Lender to enter into, participate in, administer and perform the Loans, the Letters of Credit, the Commitments and this Agreement, (C) the entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement satisfies the requirements of sub-sections (b) through (g) of Part I of PTE 84-14 and (D) to the best knowledge of such Lender, the requirements of subsection (a) of Part I of PTE 84-14 are satisfied with respect to such Lender’s entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement, or

such other representation, warranty and covenant as may be agreed in writing between the Administrative Agent, in its sole discretion, and such Lender.

177. In addition, unless either (1) sub-clause (i) in the immediately preceding clause (a) is true with respect to a Lender or (2) a Lender has provided another representation, warranty and covenant in accordance with sub-clause (iv) in the immediately preceding clause (a), such Lender further (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent and not, for the avoidance of doubt, to or for the benefit of the Borrower or any other Loan Party, that the Administrative Agent is not a fiduciary with respect to the assets of such Lender involved in such Lender’s entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement (including in connection with the reservation or exercise of any rights by the Administrative Agent under this Agreement, any Loan Document or any documents related hereto or thereto).

Erroneous Payments.

178. Each Lender and each Issuing Bank hereby agrees that (i) if the Administrative Agent notifies such Lender or Issuing Bank that the Administrative Agent has determined in its sole discretion that any funds received by such Lender or Issuing Bank from the Administrative Agent or any of its Affiliates were erroneously transmitted to, or otherwise erroneously or mistakenly received by, such Lender or Issuing Bank (whether or not known to such Lender or Issuing Bank) (whether as a payment, prepayment or repayment of principal, interest, fees or otherwise; individually and collectively, a “Erroneous Payment”) and demands the return of such Erroneous Payment (or a portion thereof), such Lender or Issuing Bank shall promptly, but in no event later than one Business Day thereafter, return to the Administrative Agent the amount of any such Erroneous Payment (or portion thereof) as to which such a demand was made, in same day funds (in the currency so received), together with interest thereon in respect of each day from and including the date such Erroneous Payment (or portion thereof) was received by such Lender or Issuing Bank to the date such amount is repaid to the Administrative Agent in same day funds at the greater of the Federal Funds Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation from time to time in effect and (ii) to the extent permitted by applicable law, such Lender or Issuing Bank shall not assert any right or claim to the Erroneous Payment, and hereby waives, any claim, counterclaim, defense or right of set-off or recoupment with respect to any demand, claim or counterclaim by the Administrative Agent for the return of any Erroneous Payments received, including without limitation waiver of any defense based on “discharge for value” or any similar doctrine. A notice of the Administrative Agent to any Lender or any Issuing Bank under this clause (a) shall be conclusive, absent manifest error.

179. Without limiting immediately preceding clause (a), each Lender and each Issuing Bank hereby further agrees that if it receives an Erroneous Payment 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 sent by the Administrative Agent (or any of its Affiliates) with respect to such Erroneous Payment (an “Erroneous Payment Notice”), (y) that was not preceded or accompanied by an Erroneous Payment Notice, or (z) that such Lender or Issuing Bank otherwise becomes aware was transmitted, or received, in error or by mistake (in whole or in part), in each case, an error has been made (and that it is deemed to have knowledge of such error at the time of receipt of such Erroneous Payment) with respect to such Erroneous Payment, and to the extent permitted by applicable law, such Lender or Issuing Bank shall not assert any right or claim to the Erroneous Payment, and hereby waives, any claim, counterclaim, defense or right of set-off or recoupment with respect to any demand, claim or counterclaim by the Administrative Agent for the return of any Erroneous Payments received, including without limitation waiver of any defense based on “discharge for value” or any similar doctrine. Each Lender and each Issuing Bank agrees that, in each such case, it shall promptly (and, in all events, within one Business Day of its knowledge (or deemed knowledge) of such error) notify the Administrative Agent of such occurrence and, upon demand from the Administrative Agent, it shall promptly, but in all events no later than one Business Day thereafter, return to the Administrative Agent the amount of any such Erroneous Payment (or portion thereof) as to which such a demand was made in same day funds (in the currency so received), together with interest thereon in respect of each day from and including the date such Erroneous Payment (or portion thereof) was received by such Lender or Issuing Bank to the date such amount is repaid

to the Administrative Agent in same day funds at the greater of the Federal Funds Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation from time to time in effect, shall cause each of the Guarantors to agree that (x) in the event an Erroneous Payment (or portion thereof) is not recovered from any Lender or Issuing Bank that has received such Erroneous Payment (or portion thereof) for any reason, the Administrative Agent shall be subrogated to all the rights of such Lender or Issuing Bank with respect to such amount and (y) an Erroneous Payment shall not pay, prepay, repay, discharge or otherwise satisfy any Obligations owed by the Borrower or any other Loan Party.

180. Each party's obligations under this Section 8.16 shall survive the resignation or replacement of the Administrative Agent, the termination of the Commitments or the repayment, satisfaction or discharge of all Obligations (or any portion thereof) under any Loan Document.

ARTICLE IX.

Miscellaneous

Notices; Communications.

181. Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in Section 9.01(b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by telecopier or other electronic means as follows, and all notices and other communications expressly permitted hereunder to be given by telephone shall be made to the applicable telephone number, as follows:

if to any Loan Party or the Administrative Agent, any Issuing Bank as of the Closing Date or the Swingline Lender to the address, telecopier number, electronic mail address or telephone number specified for such person on Schedule 9.01; and

if to any other Lender or Issuing Bank, to the address, telecopier number, electronic mail address or telephone number specified in its Administrative Questionnaire.

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

183. Notices sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received. Notices sent by telecopier shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next Business Day for the recipient). Notices delivered through electronic communications to the extent provided in Section 9.01(b) above shall be effective as provided in such Section 9.01(b).

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

185. Documents required to be delivered pursuant to Section 5.04 may be delivered electronically (including as set forth in Section 9.17) and if so delivered, shall be deemed to have been delivered on the date (i) on which the Borrower posts such documents, or provides a link thereto on the Borrower's website on the Internet at the website address listed on Schedule 9.01, or (ii) on which such documents are posted on the Borrower's behalf on an Internet or intranet website, if any, to which each Lender and the Administrative Agent have access (whether a commercial, third-party website or whether sponsored by the Administrative Agent); provided, that (A) the Borrower shall deliver paper copies of such documents to the Administrative Agent or any Lender that requests the Borrower to deliver such paper copies until a written request to cease delivering paper copies is given by the Administrative Agent or such Lender and (B) the Borrower shall notify the Administrative Agent (by telecopier or electronic mail) of the posting of any such documents and provide to the Administrative Agent by electronic mail electronic versions (i.e., soft copies) of such documents. Except for such certificates required by Section 5.04(c), the Administrative Agent shall have no obligation to request the delivery or to maintain copies of the documents referred to above, and in any event shall have no responsibility to monitor compliance by the Borrower with any such request for delivery, and each Lender shall be solely responsible for requesting delivery to it or maintaining its copies of such documents.

Survival of Agreement. All covenants, agreements, representations and warranties made by the Loan Parties herein, in the other Loan Documents and in the certificates or other instruments prepared or 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 making by the Lenders of the Loans and the execution and delivery of the Loan Documents and the issuance of the Letters of Credit, regardless of any investigation made by such persons or on their behalf, and shall continue in full force and effect until the Termination Date. Without prejudice to the survival of any other agreements contained herein, the provisions of Sections 2.15, 2.16, 2.17, 9.05, 9.16 and 9.22 and Article VIII shall survive and remain in full force and effect regardless of the consummation of the transactions contemplated hereby, the repayment of the Loans, the occurrence of the Termination Date or the termination of this Agreement or any other Loan Document or any provision hereof or thereof.

Binding Effect. This Agreement shall become effective when it shall have been executed by the Borrower and the Administrative Agent and when the Administrative Agent shall have received copies 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 Borrower, the

Administrative Agent, each Issuing Bank, each Swingline Lender, and each Lender and their respective permitted successors and assigns.

Successors and Assigns.

186. 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 (including any Affiliate of any Issuing Bank that issues any Letter of Credit), except that (i) other than as permitted by Section 6.05(q), the Borrower may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of each Lender (and any attempted assignment or transfer by the Borrower without such consent shall be null and void) and (ii) no Lender may assign or otherwise transfer its rights or obligations hereunder except in accordance with this Section 9.04. Nothing in this Agreement, expressed or implied, shall be construed to confer upon any person (other than the parties hereto, their respective successors and assigns permitted hereby (including any Affiliate of any Issuing Bank that issues any Letter of Credit), Participants (to the extent provided in clause (c) of this Section 9.04), and, to the extent expressly contemplated hereby, the Related Parties of each of the Agents, the Issuing Banks and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement or the other Loan Documents.

187. (i) Subject to the conditions set forth in subclause (ii) below, any Lender may assign to one or more assignees (each, an “Assignee”) all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitments and the Loans at the time owing to it) with the prior written consent of:

the Borrower (such consent not to be unreasonably withheld, delayed or conditioned), which consent will be deemed to have been given if the Borrower has not responded within ten (10) Business Days after the delivery of any request for such consent; provided, that no consent of the Borrower shall be required (x) for an assignment in connection with the primary syndication of the Facilities previously identified to and consented to (such consent not to be unreasonably withheld, delayed or conditioned) by the Borrower, (y) for an assignment of a Term Loan to a Lender, an Affiliate of a Lender, an Approved Fund (as defined below), or for an assignment of a Revolving Facility Commitment or Revolving Facility Loan to a Revolving Facility Lender, an Affiliate of a Revolving Facility Lender or Approved Fund with respect to a Revolving Facility Lender or (z) if an Event of Default under Section 7.01(b), (c), (h) or (i) has occurred and is continuing, for an assignment to any person;

the Administrative Agent (such consent not to be unreasonably withheld or delayed); provided, that no consent of the Administrative Agent shall be required for an assignment of all or any portion of a Term Loan to (x) a Lender, an Affiliate of a Lender, or an Approved Fund, or (y) the Borrower or an Affiliate of the Borrower made in accordance with Section 2.25; and

each Issuing Bank and the Swingline Lender (such consent, in each case, not to be unreasonably withheld or delayed); provided, that no consent of any Issuing Bank or the

Swingline Lender shall be required for an assignment of all or any portion of a Term Loan.

Notwithstanding the forgoing to the contrary, Goldman Sachs Bank USA may assign its Commitments or Loans to Goldman Sachs Lending Partners LLC without the consent of any party hereto.

Assignments (other than pursuant to Section 2.25) shall be subject to the following additional conditions:

except in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund or an assignment of the entire remaining amount of the assigning Lender's Commitments or Loans under any Facility, the amount of the applicable Commitments or Loans of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Acceptance with respect to such assignment is delivered to the Administrative Agent) shall not be less than (x) \$1,000,000 or an integral multiple of \$1,000,000 in excess thereof in the case of Term Loans and (y) \$5,000,000 or an integral multiple of \$1,000,000 in excess thereof in the case of Revolving Facility Loans or Revolving Facility Commitments, unless each of the Borrower and the Administrative Agent otherwise consent, which consent will be deemed to have been given if the Borrower has not responded within ten (10) Business Days after the delivery of any request for such consent; provided, that no such consent of the Borrower shall be required if an Event of Default under Section 7.01(b), (c), (h) or (i) has occurred and is continuing; provided, further, that such amounts shall be aggregated in respect of each Lender and its Affiliates or Approved Funds (with simultaneous assignments to or by two or more Related Funds being treated as one assignment), if any;

each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement; provided, that this clause 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;

the parties to each assignment shall (1) execute and deliver to the Administrative Agent an Assignment and Acceptance and any form required to be delivered pursuant to Section 2.17 via an electronic settlement system acceptable to the Administrative Agent or (2) if previously agreed with the Administrative Agent, manually execute and deliver to the Administrative Agent an Assignment and Acceptance, in each case together with a processing and recordation fee of \$3,500 (which fee may be waived or reduced in the sole discretion of the Administrative Agent);

the Assignee, if it shall not be a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire in which the assignee designates one or more credit contacts to whom all syndicate-level information (which may contain material non-public information about the Borrower and its Affiliates and their Related Parties or their respective securities) will be made available and who may receive such information in

accordance with the assignee's compliance procedures and applicable laws, including Federal and state securities laws; and

the Assignee shall not be (i) the Borrower or any of the Borrower's Affiliates or Subsidiaries except with respect to assignments to the Borrower in accordance with Section 2.25, (ii) any Disqualified Lender (subject to Section 9.04(h)), (iii) a natural person or (iv) a Defaulting Lender.

For the purposes of this Section 9.04, "Approved Fund" means any person (other than a natural person) that is engaged in making, purchasing, holding or investing in bank loans and similar extensions of credit in the ordinary course and that is administered or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that administers or manages a Lender.

Notwithstanding the foregoing or anything to the contrary herein, no Lender shall be permitted to assign or transfer any portion of its rights and obligations under this Agreement (A) with respect to the Initial Term Loan Commitments and Initial Term Loans, prior to the funding of the Initial Term Loans on the Closing Date and (B) with respect to the Revolving Facility Commitments, prior to the funding of all Revolving Facility Loans requested by the Borrower on the Closing Date, in each case, to any person, unless consented to by the Borrower. Any assigning Lender shall, in connection with any potential assignment, provide to the Borrower a copy of its request (including the name of the prospective assignee) concurrently with its delivery of the same request to the Administrative Agent irrespective of whether or not a Default or an Event of Default has occurred and is continuing.

Subject to acceptance and recording thereof pursuant to subclause (v) below, from and after the effective date specified in each Assignment and Acceptance the Assignee thereunder shall be a party hereto and, to the extent of the interest assigned by such Assignment and Acceptance, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Acceptance, be released from its obligations under this Agreement (and, in the case of an Assignment and Acceptance covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 2.15, 2.16, 2.17 and 9.05 (subject to the limitations and requirements of those Sections, including, without limitation, the requirements of Sections 2.17(d) and 2.17(f)) and continue to be bound by the requirements of Section 9.16). Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this Section 9.04 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 clause (c) of this Section 9.04 (except to the extent such participation is not permitted by such clause (c) of this Section 9.04, in which case such assignment or transfer shall be null and void).

The Administrative Agent, acting solely for this purpose as a non-fiduciary agent of the Borrower, shall maintain at one of its offices a copy of each Assignment and Acceptance delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal and interest amounts of the Loans and Revolving L/C

Exposure owing to, each Lender pursuant to the terms hereof from time to time (the “Register”). The entries in the Register shall be conclusive absent manifest error, and the Borrower, the Administrative Agent, the Issuing Banks, the Swingline Lender 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, notwithstanding notice to the contrary. The Register shall be available for inspection by the Borrower, and, in each case with respect to itself, any Issuing Bank, the Swingline Lender and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

Upon its receipt of a duly completed Assignment and Acceptance 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 clause (b)(ii)(C) of this Section 9.04, if applicable, and any written consent to such assignment required by clause (b) of this Section 9.04, the Administrative Agent shall accept such Assignment and Acceptance and promptly record the information contained therein in the Register; provided, that if either the assigning Lender or the assignee shall have failed to make any payment required to be made by it pursuant to Section 2.04(c), 2.05(d) or (e), 2.06(b), 2.18(c) or 8.07, the Administrative Agent shall have no obligation to accept such Assignment and Acceptance and record the information therein in the Register unless and until such payment shall have been made in full, together with all accrued interest thereon. No assignment, whether or not evidenced by a promissory note, shall be effective for purposes of this Agreement unless it has been recorded in the Register as provided in this subclause (v).

188. Any Lender may, without the consent of the Borrower or the Administrative Agent, the Issuing Banks or the Swingline Lender, sell participations in Loans and Commitments to one or more banks or other entities other than any person that, at the time of such participation, is (I) a natural person, (II) the Borrower or any of its Subsidiaries or any of their respective Affiliates or (III) a Disqualified Lender subject to Section 9.04(h) (a “Participant”) in all or a portion of such Lender’s rights and obligations under this Agreement (including all or a portion of its Commitments and the Loans owing to it); provided, that (A) such Lender’s obligations under this Agreement shall remain unchanged, (B) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (C) the Borrower, the Administrative Agent, the Issuing Banks 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 pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and the other Loan Documents and to approve any amendment, modification or waiver of any provision of this Agreement and the other Loan Documents; provided, that (x) such agreement may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver that both (1) requires the consent of each Lender directly affected thereby pursuant to the first proviso to Section 9.08(b) and (2) directly affects such Participant (but, for the avoidance of doubt, not any waiver of any Default or Event of Default) and (y) no other agreement with respect to amendment, modification or waiver may exist between such Lender and such Participant. Subject to clause (c)(iii) of this Section 9.04, the Borrower agrees that each Participant shall be entitled to the benefits of Sections 2.15, 2.16 and 2.17 (subject to the

limitations and requirements of those Sections and Section 2.19, including the requirements of Sections 2.17(d) and 2.17(f) (it being understood that the documentation required under Section 2.17(d) and 2.17(f) shall be delivered to the participating Lender)) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to clause (b) of this Section 9.04. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 9.06 as though it were a Lender; provided, that such Participant shall be subject to Section 2.18(b) as though it were a Lender.

Each Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of the Borrower, maintain a register on which it enters the name and address of each Participant and the principal amounts and interest amounts of each Participant's interest in the Loans or other obligations under the Loan Documents (the "Participant Register"). The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. Without limitation of the requirements of this Section 9.04(c), no Lender shall have any obligation to disclose all or any portion of a Participant Register to any person (including the identity of any Participant or any information relating to a Participant's interest in any Commitments, Loans or other Loan Obligations under any Loan Document), except to the extent that such disclosure is necessary to establish that such Commitment, Loan or other Loan Obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. For the avoidance of doubt, the Administrative Agent (in its capacity as Administrative Agent) shall have no responsibility for maintaining a Participant Register.

A Participant shall not be entitled to receive any greater payment under Section 2.15, 2.16 or 2.17 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless the sale of the participation to such Participant is made with the Borrower's prior written consent, which consent shall state that it is being given pursuant to this Section 9.04(c)(iii); provided, that each potential Participant shall provide such information as is reasonably requested by the Borrower in order for the Borrower to determine whether to provide its consent.

189. Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank and in the case of any Lender that is an Approved Fund, any pledge or assignment to any holders of obligations owed, or securities issued, by such Lender, including to any trustee for, or any other representative of, such holders, and this Section 9.04 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.

190. The Borrower, upon receipt of written notice from the relevant Lender, agrees to issue Notes to any Lender requiring Notes to facilitate transactions of the type described in clause (d) above.

191. Each purchase of Term Loans pursuant to Section 2.25 shall, for purposes of this Agreement, be deemed to be an automatic and immediate cancellation and extinguishment of such Term Loans and the Borrower shall, upon consummation of any such purchase, notify the Administrative Agent that the Register should be updated to record such event as if it were a prepayment of such Loans.

192. In connection with any assignment of rights and obligations of any Defaulting Lender hereunder, no such assignment shall be effective unless and until, in addition to the other conditions thereto set forth herein, the parties to the assignment shall make such additional payments to the Administrative Agent in an aggregate amount sufficient, upon distribution thereof as appropriate (which may be outright payment, purchases by the assignee of participations or subparticipations, or other compensating actions, including funding, with the consent of the Borrower and the Administrative Agent, the applicable pro rata share of Loans previously requested but not funded by the Defaulting Lender, to each of which the applicable assignee and assignor hereby irrevocably consent), to (x) pay and satisfy in full all payment liabilities then owed by such Defaulting Lender to the Administrative Agent, each Issuing Bank, each Swingline Lender or any other Lender hereunder (and interest accrued thereon) and (y) acquire (and fund as appropriate) its full pro rata share of all Loans and participations in Letters of Credit and Swingline Loans in accordance with its Revolving Facility Percentage; provided, that notwithstanding the foregoing, in the event that any assignment of rights and obligations of any Defaulting Lender hereunder shall become effective under applicable law without compliance with the provisions of this paragraph, then the assignee of such interest shall be deemed to be a Defaulting Lender for all purposes of this Agreement until such compliance occurs.

193. The Administrative Agent shall have the right, and the Borrower hereby expressly authorizes the Administrative Agent, to (A) post the list of Disqualified Lenders provided by the Borrower and any updates thereto from time to time (collectively, the “DQ List”) on the Platform, including that portion of the Platform that is designated for “public side” Lenders or (B) provide the DQ List to each Lender requesting the same. The Administrative Agent shall not 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 Lenders; provided, further, without limiting the generality of the foregoing clause, the Administrative Agent shall not (x) be obligated to ascertain, monitor or inquire as to whether any Lender or Participant or prospective Lender or Participant is a Disqualified Lender or (y) have any liability with respect to or arising out of any assignment or participation of Loans, or disclosure of confidential information, to any Disqualified Lender. With respect to any Lender or Participant that becomes a Disqualified Lender after the applicable assignment or participation, (x) such Assignee shall not retroactively be disqualified from becoming a Lender or Participant and (y) the execution by the Borrower of an Assignment and Acceptance with respect to such assignee will not by itself result in such Assignee no longer being considered a Disqualified Lender. Any assignment in

violation of this clause (h) shall not be void, but the Borrower shall have the right to (A) in the case of any outstanding Revolving Facility Commitments, terminate any Revolving Facility Commitment of such Disqualified Lender and repay all obligations of the Borrower owing to such Disqualified Lender in connection with such Revolving Facility Commitment, (B) in the case of outstanding Term Loans held by Disqualified Lenders, prepay such Term Loan by paying the lesser of (x) the principal amount thereof and (y) the amount that such Disqualified Lender paid to acquire such Term Loans, in each case plus accrued interest, accrued fees and all other amounts (other than principal amounts) payable to it hereunder and under the other Loan Documents and/or (C) require such Disqualified Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in this Section 9.04), all of its interest, rights and obligations under this Agreement and related Loan Documents to an Assignee in accordance with this Section 9.04 that shall assume such obligations at the lesser of (x) the principal amount thereof and (y) the amount that such Disqualified Lender paid to acquire such interests, rights and obligations, in each case plus accrued interest, accrued fees and all other amounts (other than principal amounts) payable to it hereunder and under the other Loan Documents; provided that (i) the Borrower shall have paid to the Administrative Agent the assignment fee (if any) specified in Section 9.04(b)(ii), (ii) such assignment does not conflict with applicable laws and (iii) in the case of clause (B), the Borrower shall not use the proceeds from any Loans to prepay Term Loans held by Disqualified Lenders.

Expenses; Indemnity.

194. The Borrower hereby agrees to pay (i) all reasonable and documented out-of-pocket expenses incurred by the Administrative Agent or the Collateral Agent, the Arrangers and their respective Affiliates in connection with the syndication and distribution (including via the internet or through a service such as Intralinks) of the credit facilities provided for herein, the preparation and administration of this Agreement and the other Loan Documents, or any amendments, modifications or waivers of the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated, but only to the extent the preparation of any such amendment, modification or waiver was requested by the Borrower), including the reasonable fees, charges and disbursements of one primary counsel for the Administrative Agent, the Collateral Agent and the Arrangers, and, if necessary, the reasonable and documented out-of-pocket fees, charges and disbursements of one local counsel per material jurisdiction that is reasonably necessary, (ii) all reasonable and documented out-of-pocket expenses incurred by any Issuing Bank in connection with the issuance, amendment, renewal or extension of any Letter of Credit or any demand for payment thereunder and (iii) so long as an Event of Default has occurred and is continuing, all reasonable and documented out-of-pocket expenses incurred by the Agents, any Issuing Bank or any Lender (other than any Excluded Affiliate) in connection with the enforcement of their rights in connection with this Agreement and any other Loan Document, in connection with the Loans made or the Letters of Credit issued hereunder, including all such reasonable and documented out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of such Loans or Letters of Credit and including the fees, charges and disbursements of a single counsel for all such persons, taken as a whole (and, in the case of an actual or perceived conflict of interest where such person affected

by such conflict informs the Borrower of such conflict and thereafter retains its own counsel, of another firm of such for such affected person).

195. The Borrower agrees to indemnify the Administrative Agent, the Collateral Agent, the Arrangers, each Issuing Bank, each Lender, each of their respective Affiliates (other than any Excluded Affiliate), successors and assignors, and each of their respective Related Parties (other than any Excluded Affiliate) (each such person being called an “Indemnitee”) against, and to hold each Indemnitee harmless from, any and all losses, claims (including intra-party claims), damages, liabilities and related expenses, including reasonable and documented out-of-pocket counsel fees, charges and disbursements (excluding the allocated costs of in house counsel and limited to not more than one counsel for all such Indemnitees, taken as a whole, and, if necessary, a single local counsel in each applicable jurisdiction (and, in the case of an actual or potential conflict of interest where the Indemnitee affected by such conflict informs the Borrower of such conflict and thereafter retains its own counsel, of another firm of counsel for such affected Indemnitee)), incurred by or asserted against any Indemnitee arising out of, in any way connected with, or as a result of (i) the execution or delivery of this Agreement or any other Loan Document or any agreement or instrument contemplated hereby or thereby, the performance by the parties hereto and thereto of their respective obligations thereunder or the consummation of the Transactions and the other transactions contemplated hereby, (ii) the use of the proceeds of the Loans or the use of any Letter of Credit (including any refusal by any Issuing Bank to honor a demand for payment under a Letter of Credit if the documents presented in connection with such demand do not strictly comply with the terms of such Letter of Credit), (iii) any violation of or liability under Environmental Laws related in any way to the Borrower or any Subsidiary, (iv) any actual or alleged presence, Release or threatened Release of or exposure to Hazardous Materials at, under, on, from or to any property owned, leased or operated by the Borrower or any Subsidiary except to the extent that Borrower can demonstrate by a preponderance of the evidence that such presence or Release (A) occurred, in the first instance, after the period of ownership, termination of lease or cessation of operations by the Borrower or any Subsidiary and (B) is not a presence or Release for which Borrower or any Subsidiary would have any liability under Environmental Law, or (v) any claim, litigation, investigation or proceeding relating to any of the foregoing, whether or not any Indemnitee is a party thereto and regardless of whether such matter is initiated by a third party or by the Borrower or any of their subsidiaries or Affiliates; provided, that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses (x) are determined by a final, non-appealable judgment of a court of competent jurisdiction to have resulted from (i) the gross negligence, bad faith or willful misconduct of such Indemnitee or any of its Related Parties or (ii) a material breach by an Indemnitee or any of its Related Parties or (y) arose from any claim, actions, suits, inquiries, litigation, investigation or proceeding that does not involve an act or omission of the Borrower or any of its Affiliates and is brought by an Indemnitee against another Indemnitee (other than any claim, actions, suits, inquiries, litigation, investigation or proceeding against any Agent or an Arranger in its capacity as such). None of the Indemnitees (or any of their respective affiliates), nor the Borrower or its subsidiaries (or any of their respective affiliates), shall be responsible or liable for any special, indirect, consequential or punitive damages, which may be alleged as a result of the Facilities or the Transactions; provided, that this sentence shall not limit the Borrower’s or its subsidiaries’ indemnity or reimbursement

obligation to the extent such special, indirect, consequential or punitive damages are included in any third party claim in connection with which an Indemnitee is otherwise entitled to indemnification thereunder. The provisions of this Section 9.05 shall remain operative and in full force and effect regardless of the expiration of the term of this Agreement, the consummation of the transactions contemplated hereby, the repayment of any of the Obligations, the occurrence of the Termination Date, the invalidity or unenforceability of any term or provision of this Agreement or any other Loan Document, or any investigation made by or on behalf of the Administrative Agent, any Issuing Bank or any Lender. All amounts due under this Section 9.05 shall be payable within 30 days after written demand therefor accompanied by reasonable documentation with respect to any reimbursement, indemnification or other amount requested.

196. This Section 9.05 shall not apply to any Taxes (other than Taxes that represent losses, claims, damages, liabilities and related expenses resulting from a non-Tax claim), which shall be governed exclusively by Section 2.17 and, to the extent set forth therein, Section 2.15.

197. To the fullest extent permitted by applicable law, no party hereto (or any of their Affiliates) shall assert, and hereby waives, any claim against any other party hereto (or any of their Affiliates), on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Loan Document or any agreement or instrument contemplated hereby, the transactions contemplated hereby or thereby, any Loan or Letter of Credit or the use of the proceeds thereof. Neither the Borrower nor any Guarantor nor any Indemnitee shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed by it through telecommunications, electronic or other information transmission systems (including the internet) in connection with this Agreement or the other Loan Documents or the transactions contemplated hereby or thereby except the extent determined by a final, non-appealable judgment of a court of competent jurisdiction to have resulted from the gross negligence, bad faith or willful misconduct of the Borrower, any Guarantor or such Indemnitee, as the case may be.

198. The agreements in this Section 9.05 shall survive the resignation of the Administrative Agent, the Collateral Agent or any Issuing Bank, the replacement of any Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all the other Obligations, the occurrence of the Termination Date and the termination of this Agreement, any other Loan Document or any provision hereof or thereof.

199. The Borrower shall not be liable for any settlement of any proceeding effected without the written consent of the Borrower (which consent shall not be unreasonably withheld, delayed or conditioned (it being understood that the withholding of consent due to non-satisfaction of either of the conditions described in clauses (i) and (ii) of the following sentence (with "Borrower" being substituted for "Indemnitee" in each such clause) shall be deemed reasonable)), but if any proceeding is settled with the written consent of the Borrower, or if there is a final judgment against any Indemnitee in any such proceeding, the Borrower agrees to indemnify and hold harmless each Indemnitee to the extent and in the manner set forth above. The Borrower shall not, without the prior written consent of the affected Indemnitee (which

consent shall not be unreasonably withheld, delayed or conditioned (it being understood that the withholding of consent due to non-satisfaction of either of the conditions described in clauses (i) and (ii) of this sentence shall be deemed reasonable)), effect any settlement of any pending or threatened proceeding in respect of which indemnity could have been sought hereunder by such Indemnatee unless (i) such settlement includes an unconditional release of such Indemnatee from all liability or claims that are the subject matter of such proceeding and (ii) such settlement does not include any statement as to any admission of fault, culpability, wrongdoing or failure to act of the relevant Indemnatee.

Right of Set-off. If an Event of Default shall have occurred and be continuing, each Lender, each Issuing Bank and each of their respective Affiliates is hereby authorized at any time and from time to time, to the fullest extent permitted by law, to set off and apply any and all deposits (general or special, time or demand, provisional or final and in whatever currency denominated) at any time held and other obligations at any time owing by such Lender or such Issuing Bank to or for the credit or the account of the Borrower or any Subsidiary against any of and all the obligations of the Borrower now or hereafter existing under this Agreement or any other Loan Document held by such Lender or such Issuing Bank, irrespective of whether or not such Lender or such Issuing Bank shall have made any demand under this Agreement or such other Loan Document and although the obligations may be unmatured; provided, that any recovery by any Lender or any Affiliate pursuant to its setoff rights under this Section 9.06 is subject to the provisions of Section 2.18(b); provided, further, that in the event that any Defaulting Lender shall exercise any such right of setoff, (x) all amounts so set off shall be paid over immediately to the Administrative Agent for further application in accordance with the provisions of Section 2.24 and, pending such payment, shall be segregated by such Defaulting Lender from its other funds and deemed held in trust for the benefit of the Administrative Agent and the Lenders, and (y) the Defaulting Lender shall provide promptly to the Administrative Agent a statement describing in reasonable detail the Obligations owing to such Defaulting Lender as to which it exercised such right of setoff. The rights of each Lender and each Issuing Bank under this Section 9.06 are in addition to other rights and remedies (including other rights of set-off) that such Lender or such Issuing Bank may have.

Applicable Law. **THIS AGREEMENT AND ANY CLAIMS, CONTROVERSY, DISPUTE OR CAUSES OF ACTION (WHETHER IN CONTRACT OR TORT OR OTHERWISE) BASED UPON, ARISING OUT OF OR RELATING TO THIS AGREEMENT SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF THE STATE OF NEW YORK;** provided, however, that (a) the interpretation of clause (a) of the definition Material Adverse Effect and whether there shall have occurred a Material Adverse Effect on the Acquired Business, (b) the determination of whether the condition in Section 4.01(h) has been satisfied and (c) the determination of whether the Acquisition Agreement Specified Representations are accurate and whether as a result of any inaccuracy of any such representations the Borrower or Acquisition Sub has the right to terminate the obligations of the Borrower or has the right to decline to consummate the Acquisition under the Acquisition Agreement, shall be governed by and construed in accordance with, the laws of the State of Delaware, without giving effect to any choice or conflict of law

provision or rule (whether of the State of Delaware or any other jurisdiction) that would cause the applicable of the laws of any jurisdiction other than the State of Delaware.

Waivers; Amendment.

200. No failure or delay of the Administrative Agent, the Collateral Agent, any Issuing Bank or any Lender in exercising any right or power hereunder or under any 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 the Administrative Agent, the Collateral Agent, each Issuing Bank 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 this Agreement or any other Loan Document or consent to any departure by the Borrower or any other Loan Party therefrom shall in any event be effective unless the same shall be permitted by clause (b) below, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. No notice or demand on the Borrower or any other Loan Party in any case shall entitle such person to any other or further notice or demand in similar or other circumstances. Without limiting the generality of the foregoing, the making of a Loan or issuance of a Letter of Credit shall not be construed as a waiver of any Default or Event of Default, regardless of whether the Administrative Agent, the Collateral Agent, any Lender or any Issuing Bank may have had notice or knowledge of such Default or Event of Default at the time.

201. Neither this Agreement nor any other Loan Document nor any provision hereof or thereof may be waived, amended or modified except (x) as provided in Section 2.14, 2.21, 2.22 or 2.23, (y) in the case of this Agreement, pursuant to an agreement or agreements in writing entered into by the Borrower and the Required Lenders (except that any waiver, amendment or modification of the Financial Covenant or of any defined term (or component defined term) but only to the extent as used therein (or any Default or Event of Default or exercise of remedies by the Required Revolving Facility Lenders in respect or as a result thereof) shall only require the Required Revolving Facility Lenders voting as a single Class rather than the Required Lenders) and (z) in the case of any other Loan Document, pursuant to an agreement or agreements in writing entered into by each Loan Party party thereto and the Administrative Agent and consented to by the Required Lenders; provided, however, that no such agreement shall:

decrease or forgive the principal amount of, or extend the final maturity of, or decrease the rate of interest on, any Loan or any reimbursement obligation with respect to any disbursement under any Letter of Credit, or extend the stated expiration of any Letter of Credit beyond the applicable Revolving Facility Maturity Date, without the prior written consent of each Lender directly adversely affected thereby (which, notwithstanding the foregoing, such consent of such Lender directly adversely affected thereby shall be the only consent required hereunder to make such modification); provided, that (1) any amendment to the financial definitions in this Agreement or to the MFN Provision shall not constitute a reduction in the rate of interest for purposes of this clause (i) even if the effect of such amendment would be to reduce the rate of interest on

any Loan or any reimbursement obligation with respect to any disbursement under any Letter of Credit or to reduce any fee payable hereunder, (2) only the consent of the Required Lenders shall be necessary to reduce or waive any obligation of the Borrower to pay interest or Fees at the applicable default rate set forth in Section 2.13(c) and (3) waivers or modifications of conditions precedent, covenants, Defaults or Events of Default or mandatory prepayments shall not constitute an a reduction in the principal or interest due for purposes of this clause (i);

increase or extend the Commitment of any Lender, or decrease the Commitment Fees, L/C Participation Fees or any other Fees of any Lender without the prior written consent of such Lender (which, notwithstanding the foregoing, with respect to any such extension or decrease, such consent of such Lender shall be the only consent required hereunder to make such modification); provided, that waivers or modifications of conditions precedent, covenants, Defaults or Events of Default, mandatory prepayments or extensions for administrative convenience as agreed by the Administrative Agent shall not constitute an increase or extension of the Commitments of any Lender for purposes of this clause (ii);

extend or waive any Term Loan Installment Date or reduce the amount due on any Term Loan Installment Date, extend or waive any Revolving Facility Maturity Date or reduce the amount due on any Revolving Facility Maturity Date or extend any date on which payment of interest on any Loan or any disbursement under any Letter of Credit or any Fees is due, without the prior written consent of each Lender directly adversely affected thereby; provided that no amendment, modification or waiver of, or consent to departure from, any condition precedent, representation, warranty, covenant, Default, Event of Default, prepayment premium, mandatory prepayment or mandatory reduction of the Loans shall constitute such an extension, waiver or reduction;

amend the provisions of Section 2.18(b) or Section 7.03 in a manner that would by its terms alter the pro rata sharing of payments required thereby, without the prior written consent of each Lender adversely affected thereby, in each case except in connection with any transaction permitted under Sections 2.21, 2.22, 2.23, 2.25 or otherwise provided in this Section 9.08;

amend or modify the provisions of this Section 9.08 or the definition of the terms "Required Lenders," "Majority Lenders," "Required Revolving Facility Lenders," or any other provision hereof specifying the number or percentage of Lenders required to waive, amend or modify any rights hereunder or make any determination or grant any consent hereunder, without the prior written consent of each Lender adversely affected thereby (it being understood that, with the consent of the Required Lenders, additional extensions of credit pursuant to this Agreement may be included in the determination of the Required Lenders on substantially the same basis as the Loans and Commitments are included on the Closing Date);

except as provided in Section 9.18 release all or substantially all of the Collateral or all or substantially all of the Guarantors from their respective Guarantees (other than in

connection with Dispositions permitted under Section 6.05) without the prior written consent of each Lender;

effect any waiver, amendment or modification that by its terms adversely affects the rights in respect of payments or collateral of Lenders participating in any Facility differently from those of Lenders participating in another Facility, without the consent of the Majority Lenders participating in the adversely affected Facility (it being agreed that the Required Lenders may waive, in whole or in part, any prepayment or Commitment reduction required by Section 2.11 so long as the application of any prepayment or Commitment reduction still required to be made is not changed);

[reserved];

amend the provisions of Section 9.04 to reduce the number or percentage of Lenders required to permit the Borrower to assign or otherwise transfer its rights or obligations under this Agreement without the prior written consent of each Lender; or

amend the provisions of Section 9.04 in a manner that would further restrict assignments of any Loans under this Agreement without the prior written consent of each Lender directly adversely affected thereby;

provided, further, that no such agreement shall amend, modify or otherwise affect the rights or duties of the Administrative Agent, the Collateral Agent, the Swingline Lenders or the Issuing Banks hereunder without the prior written consent of the Administrative Agent, the Collateral Agent, each Swingline Lender or each Issuing Bank affected thereby, as applicable; provided, further that, notwithstanding anything herein to the contrary, (A) solely with the consent of each Issuing Bank and, in the case of clause (x), the Administrative Agent, any such agreement may (x) increase or decrease the Letter of Credit Sublimit or (y) waive, amend or modify any condition precedent that pertains to the issuance of any Letter of Credit and (B) solely with the consent of the Swingline Lender and the Administrative Agent, (x) increase or decrease the Swingline Commitments or (y) waive, amend or modify any condition precedent as it pertains to any Swingline Loan. Each Lender shall be bound by any waiver, amendment or modification authorized by this Section 9.08 and any consent by any Lender pursuant to this Section 9.08 shall bind any Assignee of such Lender.

Notwithstanding anything to the contrary herein, no Defaulting Lender shall have the right to approve or disapprove any amendment, waiver or consent hereunder (and any amendment, waiver or consent which by its terms requires the consent of all Lenders or each affected Lender may be affected with the consent of the applicable Lenders other than Defaulting Lenders), except that (x) the Commitment of any Defaulting Lender may not be increased or extended without the consent of such Lender and (y) any waiver, amendment or modification requiring the consent of all Lenders or each affected Lender that by its terms affects any Defaulting Lender disproportionately adversely relative to other affected Lenders shall require the consent of such Defaulting Lender.

202. Without the consent of any Lender or Issuing Bank, the Loan Parties and the Administrative Agent and the Collateral Agent may (in their respective sole discretion, or shall, to the extent required or contemplated by any Loan Document) enter into any amendment, modification, supplement 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, to include holders of Other First Liens or (to the extent necessary or advisable under applicable local law) Junior Liens in the benefit of the Security Documents in connection with the incurrence of any Other First Lien Debt or Indebtedness permitted to be secured by Junior Liens and to give effect to any Intercreditor Agreement associated therewith, or as required by local law to give effect to, or protect, any security interest for the benefit of the Secured Parties in any property or so that the security interests therein comply with applicable law or this Agreement or in each case to otherwise enhance the rights or benefits of any Lender under any Loan Document.

203. Notwithstanding the foregoing, this Agreement may be amended (or amended and restated) with the written consent of the Required Lenders, the Administrative Agent and the Borrower (i) to permit additional extensions of credit to be outstanding hereunder from time to time and the accrued interest and fees and other obligations in respect thereof to share ratably in the benefits of this Agreement and the other Loan Documents with the Term Loans and the Revolving Facility Loans and the accrued interest and fees and other obligations in respect thereof and (ii) to include appropriately the holders of such extensions of credit in any determination of the requisite lenders required hereunder, including Required Lenders and the Required Revolving Facility Lenders. In addition, notwithstanding the foregoing, this Agreement may be amended (or amended and restated) with the written consent of the Borrower and the Administrative Agent (but without the consent of any Lender or Issuing Bank) to include any additional financial maintenance covenant (or any financial maintenance covenant that is already included in this Agreement but with covenant levels and component definitions that are more restrictive to the Borrower) for the benefit of the Lenders of all of the Facilities (but not fewer than all of the Facilities) then existing.

204. Notwithstanding the foregoing, technical and conforming modifications to the Loan Documents may be made with the consent of the Borrower and the Administrative Agent (but without the consent of any Lender) to the extent necessary (A) to integrate any Other Term Loan Commitments, Other Revolving Facility Commitments, Other Term Loans and Other Revolving Loans in a manner consistent with Sections 2.21, 2.22 and 2.23 as may be necessary to establish such Other Term Loan Commitments, Other Revolving Facility Commitment, Other Term Loans or Other Revolving Loans as a separate Class or tranche from the existing Term Facility Commitments, Revolving Facility Commitments, Term Loans or Revolving Facility Loans, as applicable, and, in the case of Extended Term Loans, to reduce the amortization schedule of the related existing Class of Term Loans proportionately, (B) to integrate any Other First Lien Debt, (C) to amend any provisions necessary for any Incremental Loan to be fungible with any Facility, so long as such amendment either provides the Lenders of such Facility with additional benefits or is not adverse to such Lenders, (D) to cure any ambiguity, omission, error, defect, inconsistency, obvious error or any error or omission of a technical nature or any

necessary or desirable technical change, in each case, in any provision of any Loan Document or (E) to cause such Loan Document to be consistent with the Credit Agreement or the other Loan Documents.

205. Each of the parties hereto hereby agrees that the Administrative Agent may take any and all action as may be necessary to ensure that all Term Loans established pursuant to Section 2.21 after the Closing Date that will be included in an existing Class of Term Loans outstanding on such date (an "Applicable Date"), when originally made, are included in each Borrowing of outstanding Term Loans of such Class (the "Existing Class Loans"), on a pro rata basis, and/or to ensure that, immediately after giving effect to such new Term Loans (the "New Class Loans" and, together with the Existing Class Loans, the "Class Loans"), each Lender holding Class Loans will be deemed to hold its Pro Rata Share of each Class Loan on the Applicable Date (but without changing the amount of any such Lender's Term Loans), and each such Lender shall be deemed to have effectuated such assignments as shall be required to ensure the foregoing. The "Pro Rata Share" of any Lender on the Applicable Date is the ratio of (1) the sum of such Lender's Existing Class Loans immediately prior to the Applicable Date plus the amount of New Class Loans made by such Lender on the Applicable Date over (2) the aggregate principal amount of all Class Loans on the Applicable Date.

Interest Rate Limitation. Notwithstanding anything herein to the contrary, if at any time the applicable interest rate, together with all fees and charges that are treated as interest under applicable law (collectively, the "Charges"), as provided for herein or in any other document executed in connection herewith, or otherwise contracted for, charged, received, taken or reserved by any Lender or any Issuing Bank, shall exceed the maximum lawful rate (the "Maximum Rate") that may be contracted for, charged, taken, received or reserved by such Lender or Issuing Bank in accordance with applicable law, the rate of interest payable hereunder, together with all Charges payable to such Lender or such Issuing Bank, shall be limited to the Maximum Rate; provided, that such excess amount shall be paid to such Lender or such Issuing Bank on subsequent payment dates to the extent not exceeding the legal limitation. In determining whether the interest contracted for, charged, or received by the Administrative Agent or a Lender exceeds the Maximum Rate, such person may, to the extent permitted by applicable law, (a) characterize any payment that is not principal as an expense, fee, or premium rather than interest, (b) exclude voluntary prepayments and the effects thereof and (c) amortize, prorate, allocate, and spread in equal or unequal parts the total amount of interest throughout the contemplated term of the Obligations hereunder.

Entire Agreement. This Agreement, the other Loan Documents and the agreements regarding certain Fees referred to herein constitute the entire contract between the parties relative to the subject matter hereof. Any previous agreement among or representations from the parties or their Affiliates with respect to the subject matter hereof is superseded by this Agreement and the other Loan Documents. Notwithstanding the foregoing, the Arranger Fee Letter and the Agent Fee Letter shall each survive the execution and delivery of this Agreement and remain in full force and effect. Nothing in this Agreement or in the other Loan Documents, expressed or implied, is intended to confer upon any party other than the parties hereto and thereto (and the Indemnitees, the Cash Management Banks under any Secured Cash Management Agreement and

the Hedge Banks under any Secured Hedge Agreement) rights, remedies, obligations or liabilities under or by reason of this Agreement or the other Loan Documents.

WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ANY OF THE OTHER LOAN DOCUMENTS (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS, AS APPLICABLE, BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 9.11.

Severability. In the event any one or more of the provisions contained in this Agreement or in any other Loan Document should be held invalid, illegal or unenforceable in any respect in any jurisdiction, the validity, legality and enforceability of the remaining provisions contained herein and therein shall not in any way be affected or impaired thereby as to such jurisdiction, and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction. The parties shall endeavor in good-faith negotiations to replace the 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.

Counterparts. This Agreement may be executed in two or more counterparts, each of which shall constitute an original but all of which, when taken together, shall constitute but one contract, and shall become effective as provided in Section 9.03. Delivery of an executed counterpart to this Agreement by facsimile transmission (or other electronic transmission pursuant to procedures approved by the Administrative Agent) shall be as effective as delivery of a manually signed original.

Headings. Article and Section headings and the Table of Contents used herein are for convenience of reference only, are not part of this Agreement and are not to affect the construction of, or to be taken into consideration in interpreting, this Agreement.

Jurisdiction; Consent to Service of Process.

206. The Borrower and each other Loan Party irrevocably and unconditionally agrees that it will not commence any action, litigation or proceeding of any kind or description, whether in law or equity, whether in contract or in tort or otherwise, against the Administrative Agent, the Collateral Agent, any Lender, any Issuing Bank, any Arranger or any Affiliate of the foregoing in any way relating to this Agreement or any other Loan Document or the transactions relating hereto or thereto, in any forum other than the courts of the State of New York sitting in New York County, Borough of Manhattan, and of the United States District Court of the Southern

District of New York, sitting in New York County, Borough of Manhattan, and any appellate court from any thereof, and each of the parties hereto irrevocably and unconditionally submits to the jurisdiction of such courts and agrees that all claims in respect of any such action, litigation or proceeding may be heard and determined in such New York State court or, to the fullest extent permitted by applicable law, in such federal court. Each of the parties hereto agrees that a final judgment in any such action, litigation or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Agreement or in any other Loan Document shall affect any right that the Administrative Agent, any Issuing Bank or any Lender may otherwise have to bring any action or proceeding relating to this Agreement or any other Loan Document against the Borrower or any other Loan Party or its properties in the courts of any jurisdiction.

207. Each of the parties hereto hereby irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, 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 or the other Loan Documents in any court referred to in paragraph (a) of this Section 9.15. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

208. Each party to this Agreement irrevocably consents to service of process in the manner provided for notices in Section 9.01. Nothing in this Agreement will affect the right of any party to this Agreement or any other Loan Document to serve process in any other manner permitted by law.

Confidentiality. Each of the Lenders, each Issuing Bank and each of the Agents agrees that it shall maintain in confidence any information relating to the Borrower and any Subsidiary or their respective businesses furnished to it by or on behalf of the Borrower or any Subsidiary (other than information that (a) has become generally available to the public other than as a result of a disclosure by such party in breach of this Section 9.16, (b) has been independently developed by such Lender, such Issuing Bank or such Agent without violating this Section 9.16 or (c) was available to such Lender, such Issuing Bank or such Agent from a third party having, to such person's knowledge, no obligations of confidentiality to the Borrower or any other Loan Party) and shall not reveal the same other than on a "need to know" basis to (x) its Related Parties (other than Excluded Affiliates) and (y) any numbering, administration or settlement service providers or to any person that approves or administers the Loans on behalf of such Lender (so long as each such person shall have been instructed to keep the same confidential in accordance with this Section 9.16 and such disclosing Lender, Issuing Bank or Agent, as applicable, remains responsible for such person's compliance with this paragraph), except: (A) to the extent necessary to comply with applicable laws or any legal process or the requirements of any Governmental Authority purporting to have jurisdiction over such person or its Related Parties, (in which case such Person shall, (i) to the extent permitted by applicable Requirements of Law, inform the Borrower promptly in advance thereof and (ii) use commercially reasonable efforts to ensure that any such information so disclosed is accorded confidential treatment), (B) as part of reporting or review procedures to, or examinations by, Governmental Authorities or

self-regulatory authorities (in which case such person shall, except with respect to any audit or examination conducted by bank accountants or any Governmental Authority exercising examination or regulatory authority, to the extent permitted by applicable Requirements of Law, (i) inform the Borrower promptly in advance thereof and (ii) use commercially reasonable efforts to ensure that any information so disclosed is accorded confidential treatment) (C) to its parent companies, Affiliates and their Related Parties including auditors, accountants, legal counsel and other advisors (so long as each such person shall have been instructed to keep the same confidential in accordance with this Section 9.16 and such disclosing Lender, Issuing Bank or Agent, as applicable, remains responsible for such person's compliance with this paragraph); provided, that in no case shall any information relating to the Borrower or any subsidiary or their respective businesses be provided to any Excluded Affiliate pursuant to this clause (C), (D) in connection with the exercise of any remedies under this Agreement or any other Loan Document or any suit, action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder, (E) to any pledgee under Section 9.04(d) or any other prospective assignee of, or prospective Participant in, any of its rights under this Agreement (so long as such person shall have been instructed to keep the same confidential in accordance with this Section 9.16 and such disclosing Lender, Issuing Bank or Agent, as applicable, remains responsible for such person's compliance with this paragraph), (F) to any direct or indirect contractual counterparty (or its Related Parties (other than Excluded Affiliates)) in Hedging Agreements or such contractual counterparty's professional advisor (so long as such contractual counterparty or professional advisor to such contractual counterparty agrees to be bound by the provisions of this Section 9.16 and such disclosing Lender, Issuing Bank or Agent, as applicable, remains responsible for such person's compliance with this paragraph), (G) on a confidential basis to (i) any rating agency in connection with rating the Borrower or its Subsidiaries or the facilities evidenced by this Agreement or (ii) the CUSIP Service Bureau or any similar agency in connection with the issuance and monitoring of CUSIP numbers with respect to the facilities evidenced by this Agreement, (H) with the prior written consent of the Borrower, (I) solely with respect to disclosing the existence of this Agreement, the size of the Facilities and the parties to the Loan Documents, to market data collectors, similar service providers to the lending industry, and service providers to the Administrative Agent, Collateral Agent, Issuing Banks and the Lenders, in each case in connection with the administration, settlement and management of this Agreement and the other Loan Documents and (J) to any other party to this Agreement. Notwithstanding anything herein to the contrary, in no event shall any information relating to the Borrower and any Subsidiary or their respective businesses furnished to any Lender, Issuing Bank or Agent by or on behalf of the Borrower or any Subsidiary be disclosed to (x) any Disqualified Lender or (y) any Excluded Affiliate.

Platform; Borrower Materials. THE PLATFORM IS PROVIDED "AS IS" AND "AS AVAILABLE." THE ADMINISTRATIVE AGENT, ITS RELATED PARTIES AND THE ARRANGERS DO NOT WARRANT THE ACCURACY OR COMPLETENESS OF THE BORROWER MATERIALS OR THE ADEQUACY OF THE PLATFORM, AND EXPRESSLY DISCLAIM LIABILITY FOR ERRORS IN OR OMISSIONS FROM THE BORROWER MATERIALS. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING 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 THE ADMINISTRATIVE AGENT, ANY OR ITS RELATED PARTIES OR ANY ARRANGER IN CONNECTION WITH THE BORROWER MATERIALS OR THE PLATFORM.

Release of Liens and Guarantees.

209. The Lenders, the Issuing Banks, the Swingline Lenders, and the other Secured Parties hereby irrevocably agree that the Liens granted to the Collateral Agent by the Loan Parties on any Collateral shall (1) be automatically released: (i) in full upon the occurrence of the Termination Date as set forth in Section 9.18(d) below; (ii) upon the Disposition (other than any lease or license) of such Collateral by any Loan Party to a person that is not (and is not required to become) a Loan Party in a transaction permitted by this Agreement (and the Collateral Agent may rely conclusively on a certificate to that effect provided to it by any Loan Party upon its reasonable request without further inquiry), (iii) to the extent that such Collateral comprises property leased to a Loan Party, upon termination or expiration of such lease (and the Collateral Agent may rely conclusively on a certificate to that effect provided to it by any Loan Party upon its reasonable request without further inquiry), (iv) if the release of such Lien is approved, authorized or ratified in writing by the Required Lenders (or such other percentage of the Lenders whose consent may be required in accordance with Section 9.08), (v) to the extent that the property constituting such Collateral is owned by any Guarantor, upon the release of such Guarantor from its obligations under the Guarantee in accordance with the Guarantee Agreement (and the Collateral Agent may rely conclusively on a certificate to that effect provided to it by any Loan Party upon its reasonable request without further inquiry), (vi) as required by the Collateral Agent to effect any Disposition of Collateral in connection with any exercise of remedies of the Collateral Agent pursuant to the Security Documents, or (v) if the property subject to such Lien becomes Excluded Property and (2) be released in the circumstances, and subject to the terms and conditions, provided in Section 8.11 (and the Collateral Agent may rely conclusively on a certificate to that effect provided to it by any Loan Party upon its reasonable request without any further inquiry). Any such release shall not in any manner discharge, affect, or impair the Obligations or any Liens (other than those being released) upon (or obligations (other than those being released) of the Loan Parties in respect of) all interests retained by the Loan Parties, including the proceeds of any Disposition, all of which shall continue to constitute part of the Collateral except to the extent otherwise released in accordance with the provisions of the Loan Documents.

210. In addition, the Lenders, the Issuing Banks and the other Secured Parties hereby irrevocably agree that the respective Subsidiary Guarantor shall be released from its respective Guarantee (i) automatically upon consummation of any transaction permitted hereunder (x) resulting in such Subsidiary ceasing to constitute a Subsidiary (including because such Subsidiary is designated an “Unrestricted Subsidiary”) or (y) in the case of any Subsidiary Guarantor which would not be required to be a Guarantor because it is or has become an Excluded Subsidiary as a result of a transaction permitted by this Agreement following which it has become (or remains) a Subsidiary of a Guarantor, in each case following a written request by the Borrower to the Administrative Agent requesting that such person no longer constitute a Guarantor and certifying its entitlement to the requested release (and the Collateral Agent may

rely conclusively on a certificate to the foregoing effect without further inquiry); provided that without the consent of the Required Lenders, no Loan Party shall be released from its obligations under the Loan Documents pursuant to clause (y) above if such Loan Party becomes an Excluded Subsidiary pursuant to clause (b) of the definition of “Excluded Subsidiary” solely by virtue of a Disposition or issuance of Equity Interests (unless, for the avoidance of doubt, another clause of the definition of “Excluded Subsidiary” is then applicable), unless such Disposition or issuance is for a legitimate business purpose on an arm’s length basis), or (ii) if the release of such Guarantor is approved, authorized or ratified by the Required Lenders (or such other percentage of Lenders whose consent is required in accordance with Section 9.08).

211. The Lenders, the Issuing Banks and the other Secured Parties hereby authorize the Administrative Agent and the Collateral Agent, as applicable, to execute and deliver any instruments, documents, and agreements necessary or desirable to evidence and confirm the release of any Guarantor or Collateral pursuant to the foregoing provisions of this Section 9.18, all without the further consent or joinder of any Lender or any other Secured Party. Upon the effectiveness of any such release, any representation, warranty or covenant contained in any Loan Document relating to any such Collateral or Guarantor shall no longer be deemed to be made. In connection with any release hereunder, the Administrative Agent and the Collateral Agent shall promptly (and the Secured Parties hereby authorize the Administrative Agent and the Collateral Agent to) take such action and execute any such documents as may be reasonably requested by the Borrower and at the Borrower’s expense in connection with the release of any Liens created by any Loan Document in respect of such Subsidiary, property or asset; provided, that (i) the Administrative Agent shall have received a certificate of a Responsible Officer of the Borrower containing such certifications as the Administrative Agent shall reasonably request, (ii) the Administrative Agent or the Collateral Agent shall not be required to execute any such document on terms which, in the applicable Agent’s reasonable opinion, would expose such Agent to liability or create any obligation or entail any consequence other than the release of such Liens without recourse or warranty and (iii) such release shall not in any manner discharge, affect or impair the Obligations or any Liens upon (or obligations of the Borrower or any Subsidiary in respect of) all interests retained by the Borrower or any Subsidiary, including the proceeds of the sale, all of which shall continue to constitute part of the Collateral. Any execution and delivery of documents pursuant to this Section 9.18(c) shall be without recourse to or warranty by the Administrative Agent or Collateral Agent.

212. Notwithstanding anything to the contrary contained herein or any other Loan Document, on the Termination Date, upon request of the Borrower, the Administrative Agent and/or the Collateral Agent, as applicable, shall (without notice to, or vote or consent of, any Secured Party) take such actions as shall be required to release its security interest in all Collateral, and to release all obligations under any Loan Document, whether or not on the date of such release there may be any (i) obligations in respect of any Secured Hedge Agreements or any Secured Cash Management Agreements and (ii) any contingent indemnification obligations or expense reimbursement claims not then due; provided, that the Administrative Agent shall have received a certificate of a Responsible Officer of the Borrower containing such certifications as the Administrative Agent shall reasonably request. Any such release of obligations shall be deemed subject to the provision that such obligations shall be reinstated if after such release any

portion of any payment in respect of the obligations guaranteed thereby shall be rescinded, avoided or must otherwise be restored or returned upon or otherwise in connection with 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. The Borrower agrees to pay all reasonable and documented out-of-pocket expenses incurred by the Administrative Agent or the Collateral Agent (and their respective representatives) in connection with taking such actions to release security interests in all Collateral and all obligations under the Loan Documents as contemplated by this Section 9.18(d).

213. Obligations of the Borrower or any of its Subsidiaries under any Secured Cash Management Agreement or Secured Hedge Agreement (after giving effect to all netting arrangements relating to such Secured Hedge Agreements) shall be secured and guaranteed pursuant to the Security Documents only to the extent that, and for so long as, the other Obligations are so secured and guaranteed. No person shall have any voting rights under any Loan Document solely as a result of the existence of obligations owed to it under any such Secured Hedge Agreement or Secured Cash Management Agreement. For the avoidance of doubt, no release of Collateral or Guarantors affected in the manner permitted by this Agreement shall require the consent of any holder of obligations under Secured Hedge Agreements or any Secured Cash Management Agreements.

USA PATRIOT Act and Beneficial Ownership Regulation Notice. Each Lender that is subject to the USA PATRIOT Act and the Beneficial Ownership Regulation and the Administrative Agent (for itself and not on behalf of any Lender) hereby notifies each Loan Party that pursuant to the requirements of the USA PATRIOT Act and the Beneficial Ownership Regulation, it is required to obtain, verify and record information that identifies such Loan Party, which information includes the name and address of such Loan Party and other information that will allow such Lender or the Administrative Agent, as applicable, to identify each Loan Party in accordance with the USA PATRIOT Act and the Beneficial Ownership Regulation. Each Loan Party shall use commercially reasonable efforts to, promptly following a request by the Administrative Agent or any Lender, provide all documentation and other information that the Administrative Agent or such Lender requests in order to comply with its ongoing obligations under applicable “know your customer” and anti-money laundering rules and regulations, including the USA PATRIOT Act and the Beneficial Ownership Regulation.

Agency of the Borrower for the Loan Parties. Each of the other Loan Parties hereby appoints the Borrower as its agent for all purposes relevant to this Agreement and the other Loan Documents, including the giving and receipt of notices and the execution and delivery of all documents, instruments and certificates contemplated herein and therein and all modifications hereto and thereto.

No Advisory or Fiduciary Responsibility. In connection with all aspects of each transaction contemplated hereby (including in connection with any amendment, waiver or other modification hereof or of any other Loan Document), the Borrower acknowledges and agrees

that: (i) (A) the arranging and other services regarding this Agreement provided by the Administrative Agent, the Arrangers and the Lenders are arm's-length commercial transactions between the Borrower and its Affiliates, on the one hand, and the Administrative Agent, the Arrangers and the Lenders, on the other hand, (B) the Borrower has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (C) the Borrower is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated hereby and by the other Loan Documents; (ii) (A) each of the Administrative Agent, the Arrangers and the Lenders is and has been acting solely as a principal and, except as expressly agreed in writing by the relevant parties, has not been, is not, and will not be acting as an advisor, agent or fiduciary for the Borrower, any of its Affiliates or any other person and (B) neither the Administrative Agent, any Arranger nor any Lender has any obligation to the Borrower or any of its Affiliates with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Loan Documents; and (iii) the Administrative Agent, the Arrangers, the Lenders, and their respective Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Borrower and its Affiliates, and neither the Administrative Agent, any Arranger nor any Lender has any obligation to disclose any of such interests to the Borrower or its Affiliates. To the fullest extent permitted by law, the Borrower hereby waives and releases any claims that it may have against the Administrative Agent, the Arrangers and the Lenders with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transaction contemplated hereby.

Payments Set Aside. (a) To the extent that any payment by or on behalf of the Borrower is made to the Administrative Agent, any Issuing Bank or any Lender, or the Administrative Agent, any Issuing Bank or any Lender exercises its right of setoff or recoupment, and such payment or the proceeds of such setoff or recoupment or any part thereof is subsequently invalidated, declared to be or avoided as fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by the Administrative Agent, such Issuing Bank or such Lender in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any case or proceeding under any Debtor Relief Law or otherwise, then (a) to the extent of such recovery, the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such setoff or recoupment had not occurred, and (b) each Lender and each Issuing Bank severally agrees to pay to the Administrative Agent upon demand its applicable share (without duplication) of any amount so recovered from or repaid by the Administrative Agent, plus interest thereon from the date of such demand to the date such payment is made at a rate per annum equal to the Federal Funds Rate from time to time in effect. The obligations of the Lenders and the Issuing Banks under clause (b) of the preceding sentence shall survive the payment in full of the Loan Obligations and the termination of this Agreement.

Acknowledgement and Consent to Bail-In of Affected 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 Lender or Issuing Bank that is an Affected 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 the applicable Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

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

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.

Acknowledgement Regarding Any Supported QFCs. To the extent that the Loan Documents provide support, through a guarantee or otherwise, for any Hedging Agreement 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 9.24, the following terms have the following meanings:

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

“Covered Entity” means any of the following: (i) a “covered entity” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b); (ii) a “covered bank” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 47.3(b); or (iii) a “covered FSI” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 382.2(b).

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

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

Electronic Execution of Assignments and Certain Other Documents. The words “execution,” “execute,” “signed,” “signature,” and words of like import in or related to any document to be signed in connection with this Agreement and the transactions contemplated hereby (including, without limitation, Assignment and Acceptances, amendments or other Borrowing Requests, Swingline Borrowing Requests, Letter of Credit Requests, Interest Election Requests, waivers and consents) shall be deemed to include electronic signatures, the electronic matching of assignment terms and contract formations on electronic platforms approved by the Administrative Agent, or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act; provided that notwithstanding anything contained herein to the contrary the Administrative Agent is under no obligation to agree to accept electronic signatures in any form or in any format unless expressly agreed to by the Administrative Agent pursuant to procedures approved by it.

Net Short Lenders. Notwithstanding anything to the contrary herein, in connection with any determination as to whether the Required Lenders or the Required Revolving Facility Lenders, as applicable, have (A) delivered (or not delivered) a notice of a Default or an Event of Default or a notice of acceleration under any Loan Document, (B) otherwise acted on any matter

related to a Default, an Event of Default or an acceleration under any Loan Document, or (C) directed or required the Administrative Agent to deliver (or not deliver) a notice of a Default or an Event of Default or a notice of acceleration under any Loan Document (clauses (A) through (C), the “Default Actions”), any Lender (other than (x) any Lender that is a Regulated Bank and (y) any Revolving Facility Lender as of the Closing Date (or as otherwise agreed among the Borrower, the applicable Revolving Facility Lender and the Administrative Agent)) that, as a result of its (or its Affiliates’ (other than any Screened Affiliates)) interest in any total return swap, total rate of return swap, credit default swap or other derivative contract (other than any such total return swap, total rate of return swap, credit default swap or other derivative contract entered into pursuant to bona fide market making activities), has a net short position with respect to the Loans and/or Commitments (each, a “Net Short Lender”), without the consent of the Borrower, shall have no right to take any Default Action, be counted as a Required Lender or Required Revolving Facility Lender with respect any Default Action or vote any of its Loans and Commitments with respect to any Default Action (and, with respect to any votes with respect to any Default Action, shall be deemed to have voted its interest as a Lender without discretion in the same proportion as the allocation of voting with respect to such matter by Lenders who are not Net Short Lenders). For purposes of determining whether a Lender (alone or together with its Affiliates (other than any Screened Affiliates)) has a “net short position” on any date of determination: (i) derivative contracts with respect to the Loans and Commitments and such contracts that are the functional equivalent thereof shall be counted at the notional amount thereof in Dollars, (ii) notional amounts in other currencies shall be converted to the dollar equivalent thereof by such Lender in a commercially reasonable manner consistent with generally accepted financial practices and based on the prevailing conversion rate (determined on a mid-market basis) on the date of determination, (iii) derivative contracts in respect of an index that includes any of the Borrower or other Loan Parties or any instrument issued or guaranteed by any of the Borrower or other Loan Parties shall not be deemed to create a short position with respect to the Loans and/or Commitments, so long as (x) such index is not created, designed, administered or requested by such Lender or its Affiliates (other than any Screened Affiliates) and (y) the Borrower and other Loan Parties and any instrument issued or guaranteed by any of the Borrower or other Loan Parties, collectively, shall represent less than 5% of the components of such index, (iv) derivative transactions that are documented using either the 2014 ISDA Credit Derivatives Definitions or the 2003 ISDA Credit Derivatives Definitions (collectively, the “ISDA CDS Definitions”) shall be deemed to create a short position with respect to the Loans and/or Commitments if such Lender or its Affiliates (other than any Screened Affiliates) is a protection buyer or the equivalent thereof for such derivative transaction and (x) the Loans or the Commitments are a “Reference Obligation” under the terms of such derivative transaction (whether specified by name in the related documentation, included as a “Standard Reference Obligation” on the most recent list published by Markit, if “Standard Reference Obligation” is specified as applicable in the relevant documentation or in any other manner), (y) the Loans or the Commitments would be a “Deliverable Obligation” under the terms of such derivative transaction or (z) any of the Borrower or other Loan Parties (or its successor) is designated as a “Reference Entity” under the terms of such derivative transactions, and (v) credit derivative transactions or other derivatives transactions not documented using the ISDA CDS Definitions shall be deemed to create a short position with respect to the Loans and/or Commitments if such transactions are functionally equivalent to a transaction that offers the Lender or its Affiliates

(other than any Screened Affiliates) protection in respect of the Loans or the Commitments, or as to the credit quality of any of the Borrower or other Loan Parties other than, in each case, as part of an index so long as (x) such index is not created, designed, administered or requested by such Lender or its Affiliates (other than any Screened Affiliates) and (y) the Borrower and other Loan Parties and any instrument issued or guaranteed by any of the Borrower or other Loan Parties, collectively, shall represent less than 5% of the components of such index. In connection with any such determination, each Lender shall promptly notify the Administrative Agent in writing that it is a Net Short Lender, or, in the absence of any such written notification to the Administrative Agent prior to the date of such determination, shall otherwise be deemed to have represented and warranted to the Borrower and the Administrative Agent that it is not a Net Short Lender (it being understood and agreed that the Borrower and the Administrative Agent shall be entitled to rely conclusively on each such representation and deemed representation). The Administrative Agent shall be entitled to rely conclusively on any Net Short Representation delivered, provided or made (or deemed delivered, provided or made) to it in accordance with this Agreement, shall have no duty to inquire as to or investigate the accuracy of any Net Short Representation, verify any statements in any officer's certificate delivered to it, or otherwise make any calculations, investigations or determinations with respect to any interest in any total return swap, total rate of return swap, credit default swap or other derivative contract or "net short positions" or any Person.

[Signature Page to Collateral Agreement]

FIFTH THIRD BANK, NATIONAL ASSOCIATION, as an Issuing
Bank and a
Revolving Facility Lender

By: /s/ Carlos Cruz
Name: Carlos Cruz
Title: Executive Director

[Signature Page to Collateral Agreement]

SILICON VALLEY BANK, as an Issuing Bank and a Revolving
Facility Lender

By: /s/ Robby Kumar
Name: Robby Kumar
Title: Managing Director

[Signature Page to Collateral Agreement]

SOCIÉTÉ GÉNÉRALE, as an Issuing Bank and a Revolving Facility Lender

By: /s/ Valtin Gallani
Name: Valtin Gallani
Title: Director

[Signature Page to Collateral Agreement]

FORM OF ASSIGNMENT AND ACCEPTANCE

This Assignment and Acceptance (the “**Assignment and Acceptance**”) is dated as of the Effective Date set forth below and is entered into by and [between][among] [Insert name(s) of Assignor(s)] ([the][each] “**Assignor**”) and [Insert name(s) of Assignee(s)] ([the][each, an] “**Assignee**”). [It is understood and agreed that the rights and obligations of [the Assignors][the Assignees]¹ hereunder are several and not joint.]² Capitalized terms used but not defined herein shall have the meanings given to them in the Credit Agreement identified below (as amended, supplemented or otherwise modified from time to time, the “**Credit Agreement**”), receipt of a copy of which is hereby acknowledged by [the][each] Assignee. The Standard Terms and Conditions set forth in Annex 1 attached hereto are hereby agreed to and incorporated herein by reference and made a part of this Assignment and Acceptance as if set forth herein in full.

For an agreed consideration, [the][each] Assignor hereby irrevocably sells and assigns to [the Assignee][the respective Assignees], and [the][each] Assignee hereby irrevocably purchases and assumes from [the Assignor][the respective Assignors], subject to and in accordance with the Standard Terms and Conditions and the Credit Agreement, as of the Effective Date inserted by the Administrative Agent as contemplated below (i) all of [the Assignor’s][the respective Assignors’] rights and obligations in [its capacity as a Lender][their respective capacities as Lenders] under the Credit Agreement and any other documents or instruments delivered pursuant thereto to the extent related to the amount and percentage interest identified below of all of such outstanding rights and obligations of [the Assignor][the respective Assignors] under the respective facilities identified below (including, without limitation, any letters of credit, guarantees, and swingline loans included in such facilities) and (ii) to the extent permitted to be assigned under applicable law, all claims, suits, causes of action and any other right of [the Assignor (in its capacity as a Lender)][the respective Assignors (in their respective capacities as Lenders)] against any Person, whether known or unknown, arising under or in connection with the Credit Agreement, any other documents or instruments delivered pursuant thereto or the loan transactions governed thereby or in any way based on or related to any of the foregoing, including, but not limited to, contract claims, tort claims, malpractice claims, statutory claims and all other claims at law or in equity related to the rights and obligations sold and assigned pursuant to clause (i) above (the rights and obligations sold and assigned by [the][any] Assignor to [the][any] Assignee pursuant to clauses (i) and (ii) above being referred to herein collectively as [the][an] “**Assigned Interest**”). [Each such][Such] sale and assignment is without recourse to [the][any] Assignor and, except as expressly provided in this Assignment and Acceptance, without representation or warranty by [the][any] Assignor.

1. Assignor[s]: ___

2. Assignee[s]: ___

[and is an Affiliate/Approved Fund of [identify Lender]³]

¹¹ Select as appropriate

²² Include bracketed language if there are either multiple Assignors or multiple Assignees

³³ Select as applicable

3. Borrower: Magnite, Inc., a Delaware corporation
4. Administrative Agent: Goldman Sachs Bank USA, as the administrative agent under the Credit Agreement
5. Credit Agreement: The Credit Agreement dated as of April 30, 2021, by and among Magnite, Inc., as Borrower, Goldman Sachs Bank USA, as Administrative Agent, Collateral Agent and Swingline Lender, and each Issuing Bank and Lender party thereto from time to time.
6. Assigned Interest[s]:

Assignor[s]	Assignee[s]	Facility Assigned	Aggregate Amount of Commitment/Loans for all Lenders	Amount of Commitment/Loans Assigned	Percentage Assigned of Commitment Loans ⁴	CUSIP Number
		Initial Term Loan Commitments/Loans	\$	\$	%	
		Revolving Facility Commitments/Loans	\$	\$	%	

[7. Trade Date: ___]⁵

Effective Date: [●], 20 [●] [TO BE INSERTED BY ADMINISTRATIVE AGENT AND WHICH SHALL BE THE EFFECTIVE DATE OF RECORDATION OF TRANSFER IN THE REGISTER THEREFOR.]

[The][Each] Assignee agrees to deliver to the Administrative Agent a completed Administrative Questionnaire in which [the] [each] Assignee designates one or more credit contacts to whom all syndicate-level information (which may contain material non-public information about the Borrower, the Loan Parties and their Related Parties or their respective securities) will be made available and who may receive such information in accordance with [the][each] Assignee's compliance procedures and applicable laws, including federal and state securities laws.

The terms set forth in this Assignment and Acceptance are hereby agreed to:

ASSIGNOR[S]

[NAME OF ASSIGNOR]

By: _____
 Name:
 Title:

⁴⁴ Set forth, to at least 9 decimals, as a percentage of the Commitment/Loans of all Lenders thereunder

⁵⁵ To be completed if the Assignor(s) and the Assignee(s) intend that the minimum assignment amount is to be determined as of the Trade Date

ASSIGNEE[S]

[NAME OF ASSIGNEE]

By: _____
Name:
Title:

[Consented to and]⁶ Accepted:

[GOLDMAN SACHS BANK USA
as Administrative Agent]⁷

By: _____
Name:
Title:

[GOLDMAN SACHS BANK USA
as Swingline Lender]

By: _____
Name:
Title:

[GOLDMAN SACHS BANK USA
as Issuing Bank]⁸

By: _____
Name:
Title:

⁶⁶ To be completed to the extent consents are required under the Credit Agreement

⁷⁷ Consent of the Administrative Agent shall not be required for an assignment of all or any portion of a Term Loan to a Lender, an Affiliate of a Lender or an Approved Fund or to the Borrower or an Affiliate of the Borrower in accordance with Section 2.25 of the Credit Agreement

⁸⁸ Consent of the Issuing Bank and the Swingline Lender shall not be required for an assignment of all or any portion of a Term Loan

[MAGNITE, INC.,
as Borrower]⁹

By: _____

Name:

Title:

⁹⁹ Consent of the Borrower shall not be required for an assignment of a Term Loan to a Lender, an Affiliate of a Lender or an Approved Fund, or of a Revolving Facility Commitment or Revolving Facility Loan to a Revolving Facility Lender, an Affiliate of a Revolving Facility Lender or an Approved Fund with respect to a Revolving Facility Lender or, in each case, if an Event of Default under Sections 7.01(b), (c), (h) or (i) of the Credit Agreement has occurred and is continuing. Consent of the Borrower shall be deemed to have been given if the Borrower has not responded within ten (10) Business Days after the delivery of any request for such consent

MAGNITE, INC. CREDIT AGREEMENT
STANDARD TERMS AND CONDITIONS FOR
ASSIGNMENT AND ACCEPTANCE

1. Representations and Warranties.

1.1 Assignor[s]. [The][Each] Assignor (a) represents and warrants that (i) it is the legal and beneficial owner of [the][the relevant] Assigned Interest, (ii) [the][such] Assigned Interest is free and clear of any lien, encumbrance or other adverse claim, (iii) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Acceptance and to consummate the transactions contemplated hereby and (iv) it is not a Defaulting Lender; and (b) assumes no responsibility with respect to (i) any statements, warranties or representations made in or in connection with the Credit Agreement or any other Loan Document, (ii) the execution, legality, validity, enforceability, genuineness, sufficiency or value of the Loan Documents or any collateral thereunder, (iii) the financial condition of the Borrower, any of its Subsidiaries or Affiliates or any other Person obligated in respect of any Loan Document, or (iv) the performance or observance by the Borrower, any of its Subsidiaries or Affiliates or any other Person of any of their respective obligations under any Loan Document.

1.2. Assignee[s]. [The][Each] Assignee (a) represents and warrants that (i) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Acceptance and to consummate the transactions contemplated hereby and to become a Lender under the Credit Agreement, (ii) it meets all the requirements to be an assignee under Section 9.04 of the Credit Agreement (subject to such consents, if any, as may be required thereunder), (iii) from and after the Effective Date, it shall be bound by the provisions of the Credit Agreement as a Lender thereunder and, to the extent of [the][the relevant] Assigned Interest, shall have the obligations of a Lender thereunder, (iv) it is sophisticated with respect to decisions to acquire assets of the type represented by the Assigned Interest and either it, or the Person exercising discretion in making its decision to acquire the Assigned Interest, is experienced in acquiring assets of such type, (v) it has received a copy of the Credit Agreement, and has received copies of the most recent financial statements delivered pursuant to Section 4.01(j), 5.04(a) or 5.04(b) thereof, as applicable, and such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into this Assignment and Acceptance and to purchase [the][such] Assigned Interest on the basis of which it has made such analysis and decision independently and without reliance on the Administrative Agent or any other Lender, (vi) attached to the Assignment and Acceptance is any documentation required to be delivered by it pursuant to the terms of the Credit Agreement, duly completed and executed by the Assignee and (vii) it is not a Disqualified Lender under the Credit Agreement; and (b) agrees that (i) it will, independently and without reliance on the Administrative Agent, the Assignor or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under the Loan Documents, and (ii) it will perform in accordance with

their terms all of the obligations which by the terms of the Loan Documents are required to be performed by it as a Lender.

2. Payments. From and after the Effective Date, the Administrative Agent shall make all payments in respect of [the] [each] Assigned Interest (including payments of principal, interest, fees and other amounts) to [the][the relevant] Assignor for amounts which have accrued to but excluding the Effective Date and to [the][the relevant] Assignee for amounts which have accrued from and after the Effective Date.

3. General Provisions. This Assignment and Acceptance shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns. This Assignment and Acceptance may be executed in any number of counterparts, which together shall constitute one instrument. Acceptance and adoption of the terms of this Assignment and Acceptance by the Assignee and the Assignor by Electronic Signature (as defined below) or delivery of an executed counterpart of a signature page of this Assignment and Acceptance by any Electronic System (as defined below) shall be effective as delivery of a manually executed counterpart of this Assignment and Acceptance. This Assignment and Acceptance shall be governed by, and construed in accordance with, the law of the State of New York.

“Electronic Signature” means an electronic sound, symbol, or process attached to, or associated with, a contract or other record and adopted by a person with the intent to sign, authenticate or accept such contract or record.

“Electronic System” means any electronic system, including e-mail, e-fax, Intralinks®, ClearPar®, Debt Domain, Syndtrak and any other Internet or extranet-based site, whether such electronic system is owned, operated or hosted by the Administrative Agent and the Issuing Bank and any of its respective Related Parties or any other person, providing for access to data protected by passcodes or other security system.

[Reserved]

B-1

FORM OF SOLVENCY CERTIFICATE
of
BORROWER
AND ITS SUBSIDIARIES

Pursuant to Section 4.01(e) of the Credit Agreement dated as of April 30, 2021 (the “Credit Agreement”; terms defined therein being used herein as therein defined), by and among Magnite, Inc., a Delaware corporation (the “Borrower”), Goldman Sachs Bank USA, as Administrative Agent, Collateral Agent and Swingline Lender, and each Issuing Bank and Lender party thereto from time to time, the undersigned hereby certifies, solely in such undersigned’s capacity as [chief financial officer] [*specify other officer with equivalent duties*] of the Borrower, and not individually, and without any personal liability, as follows:

As of the date hereof, after giving effect to the consummation of the Transactions, including the making of the Loans under the Credit Agreement on the date hereof, and after giving effect to the application of the proceeds of such Loans, that:

- a. The fair value of the assets of the Borrower and its Subsidiaries, on a consolidated basis, exceeds, on a consolidated basis, their debts and liabilities, subordinated, contingent or otherwise;
- b. The present fair saleable value of the property of the Borrower and its Subsidiaries, on a consolidated basis, is greater than the amount that will be required to pay the probable liability, on a consolidated basis, of their debts and other liabilities, subordinated, contingent or otherwise, as such debts and other liabilities become absolute and matured;
- c. The Borrower and its Subsidiaries, on a consolidated basis, are able to pay their debts and liabilities, subordinated, contingent or otherwise, as such liabilities become absolute and matured; and
- d. The Borrower and its Subsidiaries, on a consolidated basis, are not engaged in, and are not about to engage in, business for which they have unreasonably small capital.

For purposes of this Certificate, the amount of any contingent liability at any time shall be computed as the amount that would reasonably be expected to become an actual and matured liability. Capitalized terms used but not otherwise defined herein shall have the meanings assigned to them in the Credit Agreement.

The undersigned is familiar with the business and financial position of the Borrower and its Subsidiaries. In reaching the conclusions set forth in this Certificate, the undersigned has made such other investigations and inquiries as the undersigned has deemed appropriate, having taken into account the nature of the particular business anticipated to be conducted by the Borrower and its Subsidiaries after consummation of the Transactions.

[Signature Page Follows]

C-2

IN WITNESS WHEREOF, the undersigned has executed this Certificate in such undersigned's capacity as [chief financial officer][*specify other officer with equivalent duties*] of the Borrower, on behalf of the Borrower, and not individually, as of the date first stated above.

MAGNITE, INC.

By: _____

Name:

Title:

FORM OF BORROWING REQUEST

Date:¹⁰ [●], [●]

To: Goldman Sachs Bank USA, as administrative agent (in such capacity, the “Administrative Agent”), Collateral Agent and Swingline Lender under that certain Credit Agreement dated as of April 30, 2021 (as the same may be amended, supplemented, restated, amended and restated, or otherwise modified from time to time, the “Credit Agreement”), by and among Magnite, Inc., a Delaware corporation (the “Borrower”), the Administrative Agent, Collateral Agent and Swingline Lender, and each Issuing Bank and Lender party thereto from time to time.

Ladies and Gentlemen:

Reference is made to the above-described Credit Agreement. Terms defined in the Credit Agreement, wherever used herein, unless otherwise defined herein, shall have the same meanings herein as are prescribed by the Credit Agreement. The undersigned hereby notifies you, pursuant to Section 2.03 of the Credit Agreement, of the Borrowing specified below:

1. The Borrowing will be a Borrowing of ___Loans.¹¹
2. The aggregate amount of the proposed Borrowing is: \$___.
3. The Business Day of the proposed Borrowing is:___.
4. The Borrowing is a[n] [ABR Borrowing][Eurodollar Borrowing].
5. [The duration of the initial Interest Period for the [Eurodollar Borrowing] included in the Borrowing shall be ___month(s).]¹²
6. The location and number of the undersigned Borrower’s account to which the proceeds of such Borrowing are to be disbursed is___.

¹⁰¹⁰ The Borrower must notify the Administrative Agent (a) in the case of a Eurodollar Borrowing after the Closing Date, not later than 12:00 noon, Local Time, three (3) Business Days before the date of the proposed Borrowing or (b) in the case of an ABR Borrowing, by telephone, not later than 10:00 a.m., Local Time, on the Business Day of the proposed Borrowing. If the Borrower wishes to request Eurodollar Loans having an Interest Period other than one, three or six months in duration, the Borrower must notify the Administrative Agent not later than 12:00 noon, Local Time four (4) Business Days prior to the requested date of the proposed Borrowing. Any notice of an ABR Revolving Facility Borrowing as contemplated by Section 2.04(c) or 2.05(c) of the Credit Agreement may be given no later than 12:00 noon, Local Time, on the date of the proposed Borrowing. Each Borrowing Request will be irrevocable (other than in the case of any notice given in respect of the Closing Date, which may be conditioned upon the consummation of the Acquisition) and (in the case of telephonic requests) must be confirmed promptly by hand delivery or electronic means of this form, signed by the Borrower, to the Administrative Agent

¹¹¹¹ Specify whether the Borrowing is of Initial Term Loans, Other Term Loans or Revolving Facility Loans of a particular Class

¹²¹² Insert in the case of a Borrowing of Eurocurrency Loans 1, 3 or 6 months (or such other period that is requested by the Borrower, if agreed to by all relevant Lenders)

[The Borrower hereby represents and warrants to the Administrative Agent and the Lenders that, on and as of the date of the Borrowing contemplated by this Borrowing Request, the conditions to lending specified in Sections 4.02(b) and, to the extent applicable, 4.02(c) of the Credit Agreement shall have been satisfied.]¹³

[Remainder of Page Intentionally Left Blank]

¹³ Include only for borrowing requests made after Closing Date

This Borrowing Request is issued pursuant to and is subject to the Credit Agreement, executed as of the date first written above.

This Borrowing Request is issued pursuant to and is subject to the Credit Agreement, executed as of the date first written above.

MAGNITE, INC.

By:

Name:

Title:

D-1-3

[Signature Page to Borrowing Request]

FORM OF SWINGLINE BORROWING REQUESTDate:¹⁴ [●], [●]

To: Goldman Sachs Bank USA, as administrative agent (in such capacity, the “Administrative Agent”), Collateral Agent and Swingline Lender under that certain Credit Agreement dated as of April 30, 2021 (as the same may be amended, supplemented, restated, amended and restated, or otherwise modified from time to time, the “Credit Agreement”), by and among Magnite, Inc., a Delaware corporation (the “Borrower”), the Administrative Agent, Collateral Agent and Swingline Lender, and each Issuing Bank and Lender party thereto from time to time.

Ladies and Gentlemen:

Reference is made to the above-described Credit Agreement. Terms defined in the Credit Agreement, wherever used herein, unless otherwise defined herein, shall have the same meanings herein as are prescribed by the Credit Agreement. The undersigned hereby irrevocably notifies you, pursuant to Section 2.04(b) of the Credit Agreement, of the Swingline Borrowing specified below:

1. The Business Day of the proposed Swingline Borrowing is: [●].
2. The aggregate amount of the proposed Swingline Borrowing is: \$[●].
3. The location and number of the undersigned Borrower’s account to which the proceeds of such Swingline Borrowing are to be disbursed is [●].

The Borrower hereby represents and warrants to the Administrative Agent and the Lenders that, on and as of the date of the Borrowing contemplated by this Borrowing Request, the conditions to lending specified in Sections 4.02(b) and 4.02(c) of the Credit Agreement shall have been satisfied.

[Remainder of Page Intentionally Left Blank]

¹⁴¹⁴ The Borrower must notify the Administrative Agent and the Swingline Lender by telephone not later than 2:00 p.m., Local Time, on the day of the proposed Swingline Borrowing. Each telephonic Swingline Borrowing Request will be irrevocable and must be confirmed by delivery of this form to the Administrative Agent

This Swingline Borrowing Request is issued pursuant to and is subject to the Credit Agreement, executed as of the date first written above.

MAGNITE, INC.

By: _____

Name:

Title:

D-2-2

[Signature Page to Borrowing Request]

FORM OF LETTER OF CREDIT REQUEST¹⁵Date:¹⁶ [●], [●]

To: Goldman Sachs Bank USA, as administrative agent (in such capacity, the “Administrative Agent”), Collateral Agent and Swingline Lender under that certain Credit Agreement dated as of April 30, 2021 (as the same may be amended, supplemented, restated, amended and restated, or otherwise modified from time to time, the “Credit Agreement”), by and among Magnite, Inc., a Delaware corporation (the “Borrower”), the Administrative Agent, Collateral Agent and Swingline Lender, and each Issuing Bank and Lender party thereto from time to time.

Goldman Sachs Bank USA
 c/o Goldman Sachs Loan Operations
 Attention: Letter of Credit Department Manager
 2001 Ross Avenue, 29th
 Floor Dallas, TX 75201
 Telephone: 972-368-2790
 Fax: 917-977-4587
 Email: gs-loc-business@gs.com

[]¹⁷, as Issuing Bank
 under the Credit Agreement

—
 —
 —
 Attention: []

Ladies and Gentlemen:

Pursuant to Section 2.05(b) of the Credit Agreement, we hereby request that the Issuing Bank referred to above issue a standby Letter of Credit for the account of the undersigned on []¹⁸ (the “Date of Issuance”) in the aggregate amount of []¹⁹.

¹⁵¹⁵ To be included in the case of any original issuance of a Letter of Credit

¹⁶¹⁶ The Borrower must deliver, by facsimile, by United States mail, by overnight courier, by electronic transmission using the system provided by the applicable Issuing Bank (with a copy to the Administrative Agent), by personal delivery or by any other means acceptable to such Issuing Bank not later than 12:00 noon at least 2 Business Days in advance of the requested date of issuance, amendment or extension (or such later date and time as the Administrative Agent and such Issuing Bank in their sole discretion may agree)

¹⁷¹⁷ Insert name and address of Issuing Bank

¹⁸¹⁸ Insert date of requested issuance/amendment/extensions which shall be (x) a Business Day and (y) at least 2 Business Days after the date hereof (or such earlier date as the Administrative Agent and the Issuing Bank in their sole discretion may agree)

¹⁹¹⁹ Insert aggregate initial amount of the Letter of Credit

For purposes of this Letter of Credit Request, unless otherwise defined herein, each capitalized term used herein which is defined in the Credit Agreement shall have the respective meaning provided therein.

The beneficiary of the requested Letter of Credit will be []²⁰, the documents to be presented by such beneficiary in the case of any drawing under the requested Letter of Credit shall be [] and ²¹such Letter of Credit will have a stated expiration date of []²².

[]²³.

[]²⁴.

[]²⁵.

The Borrower hereby represents and warrants to the Administrative Agent and the Lenders that, on and as of the date of the Credit Event contemplated by this Letter of Credit Request, the conditions to lending specified in Sections 4.02(b) and 4.02(c) of the Credit Agreement shall have been satisfied.

[Remainder of Page Intentionally Left Blank]

²⁰²⁰ Insert name and address of beneficiary

²¹²¹ Insert documents to be presented by beneficiary in the case of any drawing under the requested Letter of Credit

²²²² Insert the last date upon which drafts may be presented which may not be later than the earlier of (x) one year after the date of issuance/extension/renewal and (y) the Letter of Credit Facility Expiration Date of the applicable Revolving Facility unless all the Revolving Facility Lenders under that Revolving Facility and the Issuing Bank have approved such expiry date or such Letter of Credit is Cash Collateralized on terms and pursuant to arrangements satisfactory to the Issuing Bank

²³²³ Insert the full text of any certificate to be presented by the beneficiary in case of any drawing under the requested Letter of Credit

²⁴²⁴ Insert the purpose and nature of the requested Letter of Credit

²⁵²⁵ If more than one Revolving Facility is then in effect, insert the Revolving Facility under which such Letter of Credit is to be issued

This Letter of Credit Request is issued pursuant to and is subject to the Credit Agreement, executed as of the date first written above.

MAGNITE, INC.

By: _____

Name:

Title:

D-3-3

[Signature Page to Letter of Credit Request]

FORM OF LETTER OF CREDIT AMENDMENT REQUEST²⁶

Date:²⁷ [●], [●]

To: Goldman Sachs Bank USA, as administrative agent (in such capacity, the “Administrative Agent”), Collateral Agent and Swingline Lender under that certain Credit Agreement dated as of April 30, 2021 (as the same may be amended, supplemented, restated, amended and restated, or otherwise modified from time to time, the “Credit Agreement”), by and among Magnite, Inc., a Delaware corporation (the “Borrower”), the Administrative Agent, Collateral Agent and Swingline Lender, and each Issuing Bank and Lender party thereto from time to time.

Goldman Sachs Bank USA

c/o Goldman Sachs Loan Operations Attention: Letter of Credit Department Manager 2001 Ross Avenue, 29th Floor Dallas, TX 75201 Telephone: 972-368-2790 Fax: 917-977-4587 Email: gs-loc-business@gs.com

[__]²⁸, as Issuing Bank
under the Credit Agreement

_____]

Attention: [_____]

Ladies and Gentlemen:

Pursuant to Section 2.05(b) of the Credit Agreement, we hereby request that the Issuing Bank referred to above [amend] [extend] that certain standby Letter of Credit issued on [__]²⁹ for the account of the undersigned on [__]³⁰ (the “Date of [Amendment][Extension]”) in the aggregate amount of [__]³¹.

²⁶²⁶ To be included in the case of any amendment or extension to an existing Letter of Credit

²⁷²⁷ The Borrower must deliver, by facsimile, by United States mail, by overnight courier, by electronic transmission using the system provided by the applicable Issuing Bank (with a copy to the Administrative Agent), by personal delivery or by any other means acceptable to such Issuing Bank not later than 12:00 noon at least two (2) Business Days in advance of the requested date of issuance, amendment or extension (or such later date and time as the Administrative Agent and such Issuing Bank in their sole discretion may agree)

²⁸²⁸ Insert name and address of Issuing Bank

²⁹²⁹ Insert initial issuance date of Letter of Credit being requested to be amended/extended

³⁰³⁰ Insert the proposed date of the amendment thereof (which shall be a Business Day)

³¹³¹ Insert amount requested

For purposes of this Letter of Credit Request, unless otherwise defined herein, each capitalized term used herein which is defined in the Credit Agreement shall have the respective meaning provided therein.

[____].³²

The Borrower hereby represents and warrants to the Administrative Agent and the Lenders that, on and as of the date of the Credit Event contemplated by this Letter of Credit Request, the conditions to lending specified in Sections 4.02(b) and 4.02(c) of the Credit Agreement shall have been satisfied.

[Remainder of Page Intentionally Left Blank]

³²³² Insert the nature of the proposed amendment

This Letter of Credit Request is issued pursuant to and is subject to the Credit Agreement, executed as of the date first written above.

MAGNITE, INC.

By: _____

Name:

Title:

FORM OF INTEREST ELECTION REQUESTDate:³³ _____, __

To: Goldman Sachs Bank USA, as administrative agent (in such capacity, the “Administrative Agent”), Collateral Agent and Swingline Lender under that certain Credit Agreement dated as of April 30, 2021 (as the same may be amended, supplemented, restated, amended and restated, or otherwise modified from time to time, the “Credit Agreement”), by and among Magnite, Inc., a Delaware corporation (the “Borrower”), the Administrative Agent, Collateral Agent and Swingline Lender, and each Issuing Bank and Lender party thereto from time to time.

Ladies and Gentlemen:

Reference is made to the above-described Credit Agreement. Terms defined in the Credit Agreement, wherever used herein, unless otherwise defined herein, shall have the same meanings herein as are prescribed by the Credit Agreement. This notice constitutes an Interest Election Request and the undersigned Borrower hereby makes an election with respect to Loans under the Credit Agreement, and in that connection the Borrower specifies the following information with respect to such election:

1. Borrowing to which this request applies (including Facility, Class, principal amount and Type of Loans subject to election):
_____.³⁴
2. Effective date of election (which shall be a Business Day):_____.
3. The Borrowing is to be [converted into] [continued as] [an ABR Borrowing] [a Eurodollar Borrowing].
4. [The duration of the Interest Period for the Eurodollar Borrowing, if any, included in the election shall be__months.³⁵]³⁶

[Remainder of Page Intentionally Left Blank]

³³³³ The Borrower must notify the Administrative Agent of such election (by telephone or irrevocable written notice) by the time that a Borrowing Request would be required under Section 2.03 if such Borrower were requesting a Borrowing of the Type and Class resulting from such election to be made on the effective date of such election. Each telephonic Interest Election Request will be irrevocable and must be confirmed promptly by hand delivery or electronic means of this form, signed by the Borrower, to the Administrative Agent

³⁴³⁴ If different options are being elected with respect to different portions of the Borrowing, the portions thereof must be allocated to each resulting Borrowing (in which case the information to be specified pursuant to Paragraphs 3 and 4 shall be specified for each resulting Borrowing)

³⁵³⁵ 1, 3 or 6 months (or such other period that is requested by the Borrower, if agreed to by all relevant Lenders)

³⁶³⁶ To be included if the interest election results in a Eurodollar Borrowing

This Interest Election Request is issued pursuant to and is subject to the Credit Agreement, executed as of the date first written above.

MAGNITE, INC.

By: _____

Name:

Title:

E-2

[Signature Page to Interest Election Request]

AUCTION PROCEDURES

This Exhibit F is intended to summarize certain basic terms of the modified Dutch auction (an “Auction”) procedures pursuant to and in accordance with the terms and conditions of Section 2.25 of that certain Agreement of which this Exhibit F is a part (as amended, supplemented, restated, amended and restated, or otherwise modified from time to time, the “Credit Agreement”). It is not intended to be a definitive statement of all of the terms and conditions of an Auction, the definitive terms and conditions for which shall be set forth in the applicable offering document. None of the Administrative Agent, the Auction Manager, or any of their respective affiliates or any officers, directors, employees, agents or attorneys-in-fact of such Persons (together with the Administrative Agent and its affiliates, the “Agent-Related Person”) makes any recommendation pursuant to any offering document as to whether or not any Lender should sell its Term Loans to the Borrower pursuant to any offering documents, nor shall the decision by the Administrative Agent, the Auction Manager or any other Agent-Related Person (or any of their affiliates) in its respective capacity as a Lender to sell its Term Loans to the Borrower be deemed to constitute such a recommendation. Each Lender should make its own decision on whether to sell any of its Term Loans and, if it decides to do so, the principal amount of and price to be sought for such Term Loans. In addition, each Lender should consult its own attorney, business advisor or tax advisor as to legal, business, tax and related matters concerning each Auction and the relevant offering documents. Capitalized terms not otherwise defined in this Exhibit F have the meanings assigned to them in the Credit Agreement.

1. Notice Procedures. In connection with each Auction, the Borrower will provide notification to the Auction Manager (for distribution to the Term Lenders of the applicable Class of Term Loans (each, an “Auction Notice”). Each Auction Notice shall contain (i) the maximum principal amount (calculated on the face amount thereof) of Term Loans of each applicable Class that the Borrower offers to purchase in such Auction (the “Auction Amount”) which shall be no less than \$10,000,000 (unless another amount is agreed to by the Administrative Agent); (ii) the range of discounts to par (the “Discount Range”) expressed as a range of prices per \$1,000 (in increments of \$5), at which the Borrower would be willing to purchase Term Loans of each applicable Class in such Auction; and (iii) the date on which such Auction will conclude, on which date Return Bids (as defined below) will be due by 1:00 p.m. (New York time) (as such date and time may be extended by the Auction Manager, such time the “Expiration Time”). Such Expiration Time may be extended for a period not exceeding three (3) Business Days upon notice by the Borrower to the Auction Manager received not less than 24 hours before the original Expiration Time; provided that only one extension per offer shall be permitted. An Auction shall be regarded as a “failed auction” in the event that either (x) the Borrower withdraws such Auction in accordance with the terms hereof or (y) the Expiration Time occurs with no Qualifying Bids (as defined below) having been received. In the event of a failed auction, the Borrower shall not be permitted to deliver a new Auction Notice prior to the date occurring three (3) Business Days after such withdrawal or Expiration Time, as the case may be. Notwithstanding anything to the contrary contained herein, the Borrower shall not initiate any Auction by delivering an Auction Notice to the Auction Manager until after the conclusion (whether successful or failed) of the previous Auction (if any), whether such conclusion occurs

by withdrawal of such previous Auction or the occurrence of the Expiration Time of such previous Auction.

2. Reply Procedures. In connection with any Auction, each Term Lender of each applicable Class wishing to participate in such Auction shall, prior to the Expiration Time, provide the Auction Manager with a notice of participation, in the form included in the respective offering document (each, a "Return Bid") which shall specify (i) a discount to par that must be expressed as a price per \$1,000 (in increments of \$5) in principal amount of Term Loans of each applicable Class (the "Reply Price") within the Discount Range and (ii) the principal amount of Term Loans of each applicable Class, in an amount not less than \$1,000,000 or an integral multiple of \$1,000 in excess thereof, that such Lender offers for sale at its Reply Price (the "Reply Amount"). A Term Lender may submit a Reply Amount that is less than the minimum amount and incremental amount requirements described above only if the Reply Amount comprises the entire amount of the Term Loans of each applicable Class held by such Term Lender. Term Lenders may only submit one Return Bid per Auction but each Return Bid may contain up to three (3) component bids, each of which may result in a separate Qualifying Bid and each of which will not be contingent on any other component bid submitted by such Term Lender resulting in a Qualifying Bid. In addition to the Return Bid, the participating Term Lender must execute and deliver, to be held by the Auction Manager, an assignment and acceptance in the form included in the offering document (each, an "Auction Assignment and Assumption"). The Borrower will not purchase any Term Loans of any applicable Class at a price that is outside of the applicable Discount Range, nor will any Return Bids (including any component bids specified therein) submitted at a price that is outside such applicable Discount Range be considered in any calculation of the Applicable Threshold Price (as defined below).

3. Acceptance Procedures. Based on the Reply Prices and Reply Amounts received by the Auction Manager, the Auction Manager, in consultation with the Borrower, will calculate the lowest purchase price (the "Applicable Threshold Price") for such Auction within the Discount Range for such Auction that will allow the Borrower to complete the Auction by purchasing the full Auction Amount (or such lesser amount of Term Loans for which the Borrower has received Qualifying Bids). The Borrower shall purchase Term Loans of each applicable Class from each Term Lender whose Return Bid is within the Discount Range and contains a Reply Price that is equal to or less than the Applicable Threshold Price (each, a "Qualifying Bid"). All Term Loans included in Qualifying Bids (including multiple component Qualifying Bids contained in a single Return Bid) received at a Reply Price lower than the Applicable Threshold Price will be purchased at such applicable Reply Prices and shall not be subject to proration.

4. Proration Procedures. All Term Loans of each applicable Class offered in Return Bids (or, if applicable, any component thereof) constituting Qualifying Bids at the Applicable Threshold Price will be purchased at the Applicable Threshold Price; provided, that if the aggregate principal amount (calculated on the face amount thereof) of all Term Loans of any applicable Class for which Qualifying Bids have been submitted in any given Auction at the Applicable Threshold Price would exceed the remaining portion of the Auction Amount (after deducting all Term Loans of such Class to be purchased at prices below the Applicable

Threshold Price), the Borrower shall purchase the Term Loans of such Class for which the Qualifying Bids submitted were at the Applicable Threshold Price ratably based on the respective principal amounts offered and in an aggregate amount equal to the amount necessary to complete the purchase of the Auction Amount. No Return Bids or any component thereof will be accepted above the Applicable Threshold Price.

5. Notification Procedures. The Auction Manager will calculate the Applicable Threshold Price and post the Applicable Threshold Price and proration factor onto an internet or intranet site (including an IntraLinks, SyndTrak or other electronic workspace) in accordance with the Auction Manager's standard dissemination practices by 4:00 p.m. New York time on the same Business Day as the date the Return Bids were due (as such due date may be extended in accordance with this Exhibit F). The Auction Manager will insert the principal amount of Term Loans of each applicable Class to be assigned and the applicable settlement date into each applicable Auction Assignment and Assumption received in connection with a Qualifying Bid. Upon the request of the submitting Lender, the Auction Manager will promptly return any Auction Assignment and Assumption received in connection with a Return Bid that is not a Qualifying Bid.

6. Auction Assignment and Assumption. Each Auction Notice and Auction Assignment and Assumption shall contain the following representations, warranties and covenants by the Borrower:

(a) The conditions set forth in Section 2.25 of the Credit Agreement have each been satisfied on and as of the date hereof, except to the extent that such conditions refer to conditions that must be satisfied as of a future date, in which case the Borrower must terminate any Auction if it fails to satisfy one of more of the conditions which are required to be met at the time which otherwise would have been the time of purchase of Term Loans of any applicable Class pursuant to an Auction.

(b) The representations and warranties of each Loan Party contained in Article III of the Credit Agreement or any other Loan Document, or which are contained in any document furnished at any time under or in connection herewith or therewith, shall be true and correct in all material respects on and as of the date hereof, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they shall be true and correct in all material respects as of such earlier date, and except that for purposes hereof, the representations and warranties contained in Section 3.05 of the Credit Agreement shall be deemed to refer to the most recent statements furnished pursuant to Section 4.01(j) or clauses (a) and (b) of Section 5.04 of the Credit Agreement.

7. Additional Procedures. Once initiated by an Auction Notice, the Borrower may withdraw an Auction only in the event that, (i) as of such time, no Qualifying Bid has been received by the Auction Manager or (ii) the Borrower has failed to meet a condition set forth in Section 2.25 of the Credit Agreement. Furthermore, in connection with any Auction, upon submission by a Lender of a Return Bid, such Lender will not have any withdrawal rights. Any Return Bid (including any component bid thereof) delivered to the Auction Manager may not be modified, revoked, terminated or cancelled by a Lender. However, an Auction may become void

if the conditions to the purchase of Term Loans of any applicable Class by the Borrower required by the terms and conditions of Section 2.25 of the Credit Agreement are not met. The purchase price in respect of each Qualifying Bid for which purchase by the Borrower is required in accordance with the foregoing provisions shall be paid directly by the Borrower to the respective assigning Lender on a settlement date as determined jointly by the Borrower and the Auction Manager (which shall be not later than ten (10) Business Days after the date Return Bids are due). The Borrower shall execute each applicable Auction Assignment and Assumption received in connection with a Qualifying Bid. All questions as to the form of documents and validity and eligibility of Term Loans of each applicable Class that are the subject of an Auction will be determined by the Auction Manager, in consultation with the Borrower, and their determination will be final and binding so long as such determination is not inconsistent with the terms of Section 2.25 of the Credit Agreement or this Exhibit F. The Auction Manager's interpretation of the terms and conditions of the offering document, in consultation with the Borrower, will be final and binding so long as such interpretation is not inconsistent with the terms of Section 2.25 of the Credit Agreement or this Exhibit F. None of the Administrative Agent, the Auction Manager, any other Agent-Related Person or any of their respective affiliates assumes any responsibility for the accuracy or completeness of the information concerning the Borrower, the Loan Parties, or any of their affiliates (whether contained in an offering document or otherwise) or for any failure to disclose events that may have occurred and may affect the significance or accuracy of such information. This Exhibit F shall not require the Borrower to initiate any Auction.

FORM OF INTERCOMPANY NOTE

INTERCOMPANY NOTE

New York, New York
April 30, 2021

FOR VALUE RECEIVED, each of the undersigned, to the extent a borrower from time to time from any other entity listed on the signature page hereto (each, in such capacity, a “**Payor**”), hereby promises to pay on demand to such other entity listed below (each, in such capacity, a “**Payee**”), in lawful money of the United States of America, or in such other currency as agreed upon from time to time by such Payor and such Payee, in immediately available funds, at such location in such country as such Payee shall from time to time designate, the unpaid principal amount of all loans and advances (including trade payables) made by such Payee to such Payor. Each Payor promises also to pay interest on the unpaid principal amount of all such loans and advances in like money at said location from the date of such loans and advances until paid at such rate per annum as shall be agreed upon from time to time by such Payor and such Payee.

Reference is made to the Credit Agreement dated as of April 30, 2021 (as amended, supplemented, restated, amended and restated or otherwise modified from time to time, the “**Credit Agreement**”), by and among Magnite, Inc., a Delaware corporation (the “**Borrower**”), Goldman Sachs Bank USA, as administrative agent (in such capacity, the “**Administrative Agent**”), as collateral agent (in such capacity, the “**Collateral Agent**”) and as Swingline Lender, and each Issuing Bank and Lender party thereto from time to time. Terms used herein which are defined in the Credit Agreement shall have such defined meanings in the Credit Agreement unless otherwise defined herein.

This Intercompany Note (this “**Note**”) contains the subordination provisions referred to in the Credit Agreement and has been pledged by each Payee that is a Loan Party to the Collateral Agent to the extent required pursuant to the terms of the Credit Agreement.

Each Payee hereby acknowledges and agrees that, subject in all respects to the terms of any applicable Intercreditor Agreement then in effect, upon the occurrence and during the continuance of an Event of Default, the Administrative Agent may exercise all rights with respect to this Note in accordance with the Security Documents. Each Payor also hereby acknowledges and agrees that this Note constitutes notice of assignment, pursuant to the relevant Security Documents, in respect of loans, advances and any other amounts evidenced by this Note owed to any Payee that is a Loan Party and further acknowledges the receipt of such notice of assignment.

The loans and advances evidenced by this Note owed (x) by any Payor that is a Loan Party to any Payee that is not a Loan Party and (y) by any Guarantor to the Borrower shall be subordinated and junior in right of payment, to the extent and in the manner hereinafter set forth, to all Obligations (the Obligations, and other indebtedness and obligations in connection

with any renewal, refunding, restructuring, or refinancing thereof, including interest, fees and expenses accruing after the commencement of any proceeding referred to in clause (i) below, “**Senior Indebtedness**”) as follows:

(i) in the event of any insolvency or bankruptcy proceedings, and any receivership, liquidation, reorganization or other similar proceedings in connection therewith, of any Payor that is a Loan Party, or to its property, and in the event of any proceedings for voluntary liquidation, dissolution or other winding up of such Payor in connection with an insolvency or bankruptcy event referred to above, then (x) the holders of Senior Indebtedness shall be paid in full in cash in respect of all amounts constituting Senior Indebtedness before any such Payee is entitled to receive (whether directly or indirectly), or make any demands for, any payment or distribution on account of this Note and (y) until the holders of Senior Indebtedness are paid in full in cash in respect of all amounts constituting Senior Indebtedness, any payment or distribution to which such Payee would otherwise be entitled (other than debt securities of such Payor that are subordinated, to at least the same extent as this Note, to the payment of all Senior Indebtedness then outstanding (such securities being hereinafter referred to as “**Restructured Debt Securities**”)) shall be made to the holders of Senior Indebtedness;

(ii) if any Event of Default occurs and is continuing and either (x) the Administrative Agent has given written notice to the Borrower that the Administrative Agent is thereby exercising its rights pursuant to this clause (ii) (provided that no such notice shall be required in the case of an Event of Default arising under Section 7.01(h) or 7.01(i) of the Credit Agreement) or (y) the Obligations under the Credit Agreement have been accelerated, then in either case, no payment or distribution of any kind or character shall be made by such Payor to such Payee with respect to this Note; and

(iii) if any Event of Default occurs and is continuing and any payment or distribution of any character, whether in cash, securities or other property (other than Restructured Debt Securities), in respect of this Note shall (despite these subordination provisions) be received by any Payee in violation of clause (i) or (ii) above before all Senior Indebtedness shall have been paid in full in cash, such payment or distribution shall be held in trust for the benefit of, and shall be paid over or delivered to, the Administrative Agents on behalf of the holders of Senior Indebtedness (or their representatives), ratably according to the respective aggregate amount remaining unpaid thereon, to the extent necessary to pay all Senior Indebtedness in full in cash.

It is understood that the indebtedness evidenced by this Note by any Payor to a Loan Party (other than the Borrower) shall not be subject to the subordination provisions set forth herein.

If any Payee that is not a Loan Party shall acquire by indemnification, subrogation or otherwise, any Lien, estate, right or other interest in any of the assets or properties of any Payor that is a Loan Party, such Lien, estate, right or other interest shall be subordinate in right of payment and all other respects to the Senior Indebtedness and the Lien of the Senior Indebtedness as provided herein, and each such Payee hereby waives any and all such rights it

may acquire by subrogation or otherwise to any Lien of the Senior Indebtedness or any portion thereof until such time as all Senior Indebtedness has been repaid in full in cash.

If, at any time, all or part of any payment with respect to Senior Indebtedness theretofore made (whether by any other Loan Party or any other Person or enforcement of any right of setoff or otherwise) is rescinded, avoided or must otherwise be returned by the holders of Senior Indebtedness for any reason whatsoever (including, without limitation, in connection with the insolvency, bankruptcy or reorganization of any other Loan Party or such other Persons), the subordination provisions set forth herein shall continue to be effective or be reinstated, as the case may be, all as though such payment had not been made.

To the fullest extent permitted by law, no present or future holder of Senior Indebtedness shall be prejudiced in its right to enforce the subordination of this Note by any act or failure to act on the part of any Payee that is not a Loan Party or by any act or failure to act on the part of such holder or any trustee or agent for such holder. Each Payee that is not a Loan Party and each Payor that is a Loan Party hereby agrees that the subordination of this Note is for the benefit of the Secured Parties and constitutes a "subordination agreement" within the meaning of Section 510(a) of the Bankruptcy Code or any similar provision of any other applicable Debtor Relief Law, and that the Administrative Agent may, on behalf of itself and the other Secured Parties, proceed to enforce the subordination provisions herein. If for any reason the Payees fail to file a proof of claim on account of the obligations evidenced by this Note at least ten (10) Business Days prior to the last date on which such proof of claim should, or is required to, be filed in order to be deemed timely filed in any insolvency or bankruptcy proceeding referred to above, the Payees hereby agree that the Administrative Agent shall be authorized (but not obligated) to file such proof of claim in the Payees' name.

Nothing contained in the subordination provisions set forth above is intended to or will impair, as between each Payor and each Payee, the obligations of such Payor, which are absolute and unconditional, to pay to such Payee the principal of and interest on this Note as and when due and payable in accordance with its terms, or is intended to or will affect the relative rights of such Payee and other creditors of such Payor other than the holders of Senior Indebtedness.

Each Payee is hereby authorized to record all loans and advances made by it to any Payor (all of which shall be evidenced by this Note), and all repayments or prepayments thereof, in its books and records, such books and records constituting prima facie evidence of the accuracy of the information contained therein; provided that the failure of any Payee to record such information shall not affect any Payor's obligations.

Each Payor hereby waives diligence, presentment, demand, protest or notice of any kind in connection with this Note. All payments under this Note shall be made without offset, counterclaim or deduction of any kind. Each Payor hereby acknowledges and agrees that upon the occurrence and during the continuance of an Event of Default, no amount owing by any Payor to any Payee shall be reduced in any way by any outstanding obligations of such Payee to such Payor, whether such obligations are monetary or otherwise.

This Note shall be binding upon each Payor and its successors and assigns, and the terms and provisions of this Note shall inure to the benefit of each Payee and its successors and assigns, including subsequent holders hereof. Notwithstanding anything to the contrary contained herein, in any other Loan Document or in any other promissory note or other instrument, this Note replaces and supersedes any and all promissory notes or other instruments heretofore outstanding which create or evidence any loans or advances made on, before or after the date hereof by any Payee to any Payor, except for the notes set forth on Schedule I attached hereto, which such schedule may be amended from time to time by written notice to the Administrative Agent.

From time to time after the date hereof, additional Subsidiaries of the Borrower may become parties hereto as Payor and as Payee, in each case by executing an Intercompany Note Joinder substantially in the form attached hereto as Exhibit A (each additional Subsidiary, a “**New Note Party**”). Upon execution of such Intercompany Note Joinder by such subsidiary, notice of which is hereby waived by the other Payors, each New Note Party shall be a Payor and/or a Payee, as the case may be, and shall be a party hereto as if such New Note Party were an original signatory hereof. Each Payor expressly agrees that its obligations arising hereunder shall not be affected or diminished by the addition or release of any other Payor or Payee hereunder. This Note shall be fully effective as to any Payor or Payee that is or becomes a party hereto regardless of whether any other Person becomes or fails to become or ceases to be a Payor or Payee hereunder.

No amendment, modification or waiver of, or consent with respect to, any provisions of this Note shall be effective unless the same shall be in writing and signed and delivered by each Payor and Payee whose rights or obligations shall be affected thereby; provided that until such time as the Termination Date has occurred under the Credit Agreement, the Administrative Agent shall have provided its prior written consent (such consent not to be unreasonably withheld, delayed or conditioned) to such amendment, modification, waiver or consent to the extent such amendment, modification, waiver or consent is adverse to the interests of the Lenders in any material respect.

[SIGNATURE PAGES FOLLOWS]

THIS NOTE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO THE PRINCIPLES OF CONFLICTS OF LAWS THEREOF.

[],
as payor and payee

By: _____

Name:

Title:

G-5

[SIGNATURE PAGE TO INTERCOMPANY NOTE]

SCHEDULE I

G-6

EXHIBIT A

[FORM OF] INTERCOMPANY NOTE JOINDER

This JOINDER dated as of [●] (this “**Joinder**”), to that certain Intercompany Note dated [], 2021 (as amended, supplemented, restated, amended and restated, or otherwise modified from time to time, the “**Note**”), by and among the entities listed on the signature pages thereto from time to time.

Reference is made to the Credit Agreement dated as of April 30, 2021 (as amended, supplemented, restated, amended and restated, or otherwise modified from time to time, the “**Credit Agreement**”), by and among Magnite, Inc., a Delaware corporation (the “**Borrower**”), Goldman Sachs Bank USA, as administrative agent (in such capacity, the “**Administrative Agent**”), as collateral agent (in such capacity, the “**Collateral Agent**”) and as Swingline Lender, and each Issuing Bank and Lender party thereto from time to time. Terms used herein which are defined in the Credit Agreement shall have such defined meanings in the Credit Agreement unless otherwise defined herein.

The undersigned party (the “**New Note Party**”) is executing this Joinder in accordance with the requirements of the Credit Agreement and subject to the terms thereof. Accordingly, the New Note Party agrees as follows:

The New Note Party by its signature below becomes a Payor and a Payee, as applicable, under the Note with the same force and effect as if originally named therein as a Payor and a Payee, as applicable, and the New Note Party hereby agrees to all the terms and provisions of the Note applicable to it as a Payor and a Payee, as applicable, thereunder. All references to Payor and Payee, as applicable, in the Note shall be deemed to include the New Note Party. The Note is hereby incorporated herein by reference, including, for sake of clarification only and without limitation, the subordination provisions set forth therein. Except as expressly supplemented hereby, the Note shall remain in full force and effect.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the New Note Party has duly executed this Joinder as of the day and year first above written.

NAME OF NEW NOTE PARTY

By: _____

Name:

Title:

G-8

[SIGNATURE PAGE TO INTERCOMPANY NOTE JOINDER]

FORM OF PROMISSORY NOTE

\$[]

New York, New York
[Date]

FOR VALUE RECEIVED, MAGNITE, INC. hereby promises to pay to [LENDER] or its registered assigns (the “Lender”), in lawful money of the United States of America in immediately available funds, to the Administrative Agent’s payment office initially located at 200 West Street, New York, NY 10282 on the [Term][Revolving] Facility Maturity Date (as defined in the Agreement) the principal sum of [] DOLLARS (\$[]) or, if less, the unpaid principal amount of all [Term] [Revolving Facility] Loans (as defined in the Agreement) made by the Lender pursuant to the Agreement, payable at such times and in such amounts as are specified in the Agreement.

The Borrower also promises to pay interest on the unpaid principal amount of each [Term] [Revolving Facility] Loan made by the Lender in like money at said office from the date hereof until paid at the rates and at the times provided in Section 2.13 of the Agreement.

This note (this “Note”) is one of the “Notes” referred to in Section 2.09(e) of the Credit Agreement, dated as of April 30, 2021 by and among Magnite, Inc., a Delaware corporation (the “Borrower”), Goldman Sachs Bank USA, as Administrative Agent, Collateral Agent and Swingline Lender, and each Issuing Bank and Lender party thereto from time to time (as amended, supplemented, restated, amended and restated, or otherwise modified from time to time, the “Agreement”) and is entitled to the benefits thereof and of the other Loan Documents (as defined in the Agreement). This Note is secured in accordance with the Security Documents (as defined in the Agreement) and is entitled to the benefits of the Guarantees (as defined in the Agreement) provided by the Guarantors pursuant to the Loan Documents (as each such term is defined in the Agreement). As provided in the Agreement, this Note is subject to voluntary prepayment and mandatory repayment prior to the [Term] [Revolving] Facility Maturity Date, in whole or in part, and [Term] [Revolving Facility] Loans may be converted from one Type (as defined in the Agreement) into another Type to the extent provided in the Agreement.

In case an Event of Default (as defined in the Agreement) shall occur and be continuing, the principal of and accrued interest on this Note may be declared to be due and payable in the manner and with the effect provided in the Agreement.

The Borrower hereby waives presentment, demand, protest or notice of any kind in connection with this Note.

THIS NOTE MAY NOT BE TRANSFERRED EXCEPT IN COMPLIANCE WITH THE TERMS OF THE AGREEMENT.

THIS NOTE AND ANY CLAIMS, CONTROVERSY, DISPUTE OR CAUSES OF ACTION (WHETHER IN CONTRACT OR TORT OR OTHERWISE) BASED UPON,

ARISING OUT OF OR RELATING TO THIS NOTE SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF THE STATE OF NEW YORK.

H-2

FORM OF PERFECTION CERTIFICATE

[See Attached]

PERFECTION CERTIFICATE

April 30, 2021

Reference is made to the Credit Agreement dated as of April 30, 2021 (as amended, supplemented or otherwise modified from time to time, the "Credit Agreement"), among Magnite, Inc., a Delaware corporation (the "Borrower"), the lenders party thereto and Goldman Sachs Bank USA, as Administrative Agent (in such capacity, the "Administrative Agent") and Collateral Agent (in such capacity, the "Collateral Agent"). Capitalized terms used but not defined herein have the meanings assigned thereto in the Credit Agreement or the Collateral Agreement referred to therein, as applicable.

The undersigned, a Responsible Officer, of the Borrower, hereby certifies to the Administrative Agent as follows:

1. Names. Set forth on Schedule 1(a), with respect to each Pledgor, is (i) the exact legal name of such Pledgor, as such name appears in its certificate of formation or organization, (ii) each other legal name such Pledgor has had in the past five years, together with the date of the relevant change, and (iii) each other name (including trade names or similar appellations) used by such Pledgor or any of its divisions or other business units in connection with the conduct of its business, the ownership of its properties or in any Federal or state tax filings at any time during the past five years.

Except as set forth on Schedule 1(b), no Pledgor has changed its legal identity or corporate structure in any way within the past five years. Changes in legal identity or corporate structure would include mergers, consolidations and acquisitions of all or substantially all of the assets of (or all or substantially all of the assets constituting a business unit, division, product line or line of business of) another Person or other acquisitions of material assets outside the ordinary course of business, as well as any change in the form or jurisdiction of organization or formation. With respect to any such change that has occurred within the past five years, set forth on Schedule 1(b) is the information required by clause (i) of Section 1(a) above as to each acquiree, constituent or seller party to such merger, consolidation or acquisition (each, a "Predecessor Entity").

2. Current Locations. (c) Set forth on Schedule 2(a) opposite the name of each Pledgor (and, in the case of clauses (i) and (ii), each Predecessor Entity as of immediately prior to the relevant change in legal identity or corporate structure) is the jurisdiction of formation or organization of such Person, the address of the chief executive office of such Person and each location where such Pledgor maintains any books or records relating to any Accounts.

Set forth on Schedule 2(b) opposite the name of each Pledgor are all other locations where such Pledgor maintains Equipment or other Collateral or otherwise maintains a place of business or other real property owned by such Pledgor not identified in Schedule 2(a).

3. UCC Filings. Schedule 3 sets forth, with respect to each Pledgor, the UCC filing office or county recorder's office in which a UCC filing is required to be made to perfect the Collateral Agent's security interest in the Collateral.

4. Stock Ownership and other Equity Interests. Set forth on Schedule 4 is a true and complete list, for each Pledgor, of all the stock, partnership interests, limited liability company membership interests or other Equity Interests owned by such Pledgor, specifying the issuer (including the jurisdiction of organization thereof) and certificate number of, and the number and percentage of ownership represented by, such Equity Interests.

5. Debt Instruments. Set forth on Schedule 5 is a true and complete list, for each Pledgor, of all promissory notes and other evidence of Indebtedness evidencing (a) Indebtedness of the Borrower and each Subsidiary owing to such Pledgor and (b) Indebtedness of any other Person in a principal amount of \$1,000,000, in each case specifying the debtor thereunder and the type and outstanding principal amount thereof.

6. Mortgage Filings. Set forth on Schedule 6 is true and complete list, with respect to each Mortgaged Property, of (a) the exact legal name of the Person that owns such property as such name appears in its certificate of formation or organization, (b) if different from the name identified pursuant to clause (a), the exact legal name of the current record owner of such property reflected in the records of the filing office for such property identified pursuant to clause (c) below and (c) the filing office in which a Mortgage with respect to such property must be filed or recorded in order for the Collateral Agent to obtain a perfected security interest therein.

7. Intellectual Property. Set forth on Schedule 7(a) in proper form for filing with the United States Patent and Trademark Office, is a true and complete list, with respect to each Pledgor, of each United States Patent (including each United States Patent application) owned by such Pledgor, in each case specifying the name of the registered owner, type, registration or application number and the expiration date (if already registered) thereof.

Set forth on Schedule 7(b), in proper form for filing with the United States Patent and Trademark Office, is a true and complete list, with respect to each Pledgor, of each United States Trademark (including each United States Trademark application) owned by such Pledgor, specifying the name of the registered owner, the registration or application number and the expiration date (if already registered) thereof.

Set forth on Schedule 7(c), in proper form for filing with the United States Copyright Office, is a true and complete list, with respect to each Pledgor, of (i) each United States Copyright (including each United States Copyright application) owned by such Pledgor, specifying the name of the registered owner, the title and the registration number (if already registered) thereof, and (ii) each exclusive United States Copyright

License granted to such Pledgor (with such Pledgor as a licensee), including a brief description thereof and the licensee and licensor thereunder.

8. Commercial Tort Claims. Set forth on Schedule 8 is a true and complete list of commercial tort claims in excess of \$1,000,000 held by any Pledgor, including a brief description thereof.

9. Deposit Accounts. Set forth on Schedule 9 is a true and complete list of deposit accounts maintained by each Pledgor, including the name and address of the depository institution, the type and purpose of each account and the account number.

IN WITNESS WHEREOF, the undersigned has duly executed this certificate as of the date first set forth above.

MAGNITE, INC.

by

Name:

Title:

SCHEDULE 1(a)

Legal Names

Exact Legal Name	Former Legal Names (including date of change)	Other Names

SCHEDULE 1(b)

Changes in Legal Identity or Corporate Structure

Pledgor	Description of Change	Date of Change

SCHEDULE 2(a)

Locations

Pledgor/Predecessor Entity	Jurisdiction of Organization	Chief Executive Office	Location of Books and Records

SCHEDULE 2(b)

Other Locations

Pledgor	Location

SCHEDULE 3

Schedule of Filings

UCC-1 Filings

Pledgor	Jurisdiction	UCC Filing Office/Local Filing Office

SCHEDULE 4

Equity Interests

Pledgor	Issuer	Jurisdiction of Organization of Issuer	Certificate No. (if uncertificated, please indicate so)	Number of Shares/Units Owned	Total Shares/Units Outstanding	Percentage of Ownership

SCHEDULE 5

Debt Instruments

Pledgor (Creditor)	Debtor	Type of Instrument	Outstanding Principal Amount

SCHEDULE 6

Mortgage Filings

SCHEDULE 7(a)

Intellectual Property

Patents/Patent Applications

Registered Owner	Title of Patent	Registration/Application Number	Expiration Date

SCHEDULE 7(b)

Intellectual Property

Trademarks/Trademark Applications

Registered Owner	Mark	Application/Registration Number	Expiration Date

SCHEDULE 7(c)

Intellectual Property

Copyrights/Copyright Applications

Exclusive Copyright Licenses

SCHEDULE 8

Commercial Tort Claims

SCHEDULE 9

Deposit Accounts

Pledgor	Depository Institution	Depository Institution Address	Type of Account	Account Number

U.S. TAX COMPLIANCE CERTIFICATE
(For Foreign Lenders That Are Not Treated As Partnerships For
U.S. Federal Income Tax Purposes)

Reference is made to the Credit Agreement, dated as of April 30, 2021 (as the same may be amended, supplemented, restated, amended and restated, or otherwise modified from time to time, the “Credit Agreement”), by and among Magnite, Inc., a Delaware corporation (the “Borrower”), Goldman Sachs Bank USA, as administrative agent (in such capacity, the “Administrative Agent”), Collateral Agent and Swingline Lender, and each Issuing Bank and Lender party thereto from time to time. Capitalized terms used but not otherwise defined herein shall have the meanings assigned to them in the Credit Agreement.

Pursuant to the provisions of Section 2.17(d)(ii) of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record and beneficial owner of the Loan(s) (as well as any Note(s) evidencing such Loan(s)) in respect of which it is providing this certificate, (ii) it is not a “bank” within the meaning of Section 881(c)(3)(A) of the Code, (iii) it is not a “10-percent shareholder” of the Borrower within the meaning of Section 871(h)(3)(B) of the Code and (iv) it is not a “controlled foreign corporation” related to the Borrower as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished the Borrower and the Administrative Agent with a certificate of its non-U.S. person status on IRS Form W-8BEN or W-8BEN-E, as applicable. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform the Borrower and the Administrative Agent in writing and (2) the undersigned shall have furnished the Borrower and the Administrative Agent a properly completed and currently effective certificate in either the calendar year in which payment is to be made by the Borrower or the Administrative Agent to the undersigned, or in either of the two calendar years preceding each such payment.

[Signature Page Follows]

[Foreign Lender]

By:

Name:

Title:

[Address]

Dated: _____, 20[]

J-1-2

U.S. TAX COMPLIANCE CERTIFICATE
(For Foreign Lenders That Are Treated As Partnerships For
U.S. Federal Income Tax Purposes)

Reference is made to the Credit Agreement, dated as of April 30, 2021 (as the same may be amended, supplemented, restated, amended and restated, or otherwise modified from time to time, the "Credit Agreement"), by and among Magnite, Inc., a Delaware corporation (the "Borrower"), Goldman Sachs Bank USA, as administrative agent (in such capacity, the "Administrative Agent"), Collateral Agent and Swingline Lender, and each Issuing Bank and Lender party thereto from time to time. Capitalized terms used but not otherwise defined herein shall have the meanings assigned to them in the Credit Agreement.

Pursuant to the provisions of Section 2.17(d)(ii) of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record owner of the Loan(s) (as well as any Note(s) evidencing such Loan(s)) in respect of which it is providing this certificate, (ii) its direct or indirect partners/members are the sole beneficial owners of such Loan(s) (as well as any Note(s) evidencing such Loan(s)), (iii) with respect to the extension of credit pursuant to the Credit Agreement or any other Loan Document, neither the undersigned nor any of its direct or indirect partners/members that is claiming the portfolio interest exemption (its "Applicable Partners/Members") is a "bank" extending credit pursuant to a loan agreement entered into in the ordinary course of its trade or business within the meaning of Section 881(c)(3)(A) of the Code, (iv) none of its Applicable Partners/Members is a "10-percent shareholder" of the Borrower within the meaning of Section 871(h)(3)(B) of the Code and (v) none of its Applicable Partners/Members is a "controlled foreign corporation" related to the Borrower as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished the Borrower and the Administrative Agent with an IRS Form W8IMY accompanied by one of the following forms from each of its partners/members claiming the portfolio interest exemption: (i) an IRS Form W-8BEN or W-8BEN-E, as applicable, or (ii) an IRS Form W8IMY accompanied by an IRS Form W-8BEN or W-8BEN-E, as applicable, from each of such partner's/member's beneficial owners that is claiming the portfolio interest exemption. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform the Borrower and the Administrative Agent in writing and (2) the undersigned shall have at all times furnished the Borrower and the Administrative Agent with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding each such payment.

[Signature Page Follows]

[Foreign Lender]

By: _____

Name:

Title:

[Address]

Dated: __, 20[]

J-2-2

U.S. TAX COMPLIANCE CERTIFICATE
(For Foreign Participants That Are Not Treated As Partnerships For
U.S. Federal Income Tax Purposes)

Reference is made to the Credit Agreement, dated as of April 30, 2021 (as the same may be amended, supplemented, restated, amended and restated, or otherwise modified from time to time, the “Credit Agreement”), by and among Magnite, Inc., a Delaware corporation (the “Borrower”), Goldman Sachs Bank USA, as administrative agent (in such capacity, the “Administrative Agent”), Collateral Agent and Swingline Lender, and each Issuing Bank and Lender party thereto from time to time. Capitalized terms used but not otherwise defined herein shall have the meanings assigned to them in the Credit Agreement.

Pursuant to the provisions of Section 2.17(d)(ii) and Section 9.04(c) of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record and beneficial owner of the participation in respect of which it is providing this certificate, (ii) it is not a “bank” within the meaning of Section 881(c)(3)(A) of the Code, (iii) it is not a “10-percent shareholder” of the Borrower within the meaning of Section 871(h)(3)(B) of the Code and (iv) it is not a “controlled foreign corporation” related to the Borrower as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished its participating Lender with a certificate of its non-U.S. person status on IRS Form W-8BEN or W-8BEN-E, as applicable. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform such Lender in writing and (2) the undersigned shall have at all times furnished such Lender with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding each such payment.

[Signature Page Follows]

[Foreign Lender]

By:

Name:

Title:

[Address]

Dated: ____, 20[]

J-3-2

U.S. TAX COMPLIANCE CERTIFICATE
(For Foreign Participants That Are Treated As Partnerships For
U.S. Federal Income Tax Purposes)

Reference is made to the Credit Agreement, dated as of April 30, 2021 (as the same may be amended, supplemented, restated, amended and restated, or otherwise modified from time to time, the “Credit Agreement”), by and among Magnite, Inc., a Delaware corporation (the “Borrower”), Goldman Sachs Bank USA, as administrative agent (in such capacity, the “Administrative Agent”), Collateral Agent and Swingline Lender, and each Issuing Bank and Lender party thereto from time to time. Capitalized terms used but not otherwise defined herein shall have the meanings assigned to them in the Credit Agreement.

Pursuant to the provisions of Section 2.17(d)(ii) and 9.04(c) of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record owner of the participation in respect of which it is providing this certificate, (ii) its direct or indirect partners/members are the sole beneficial owners of such participation, (iii) with respect to the extension of credit pursuant to the Credit Agreement or any other Loan Document, neither the undersigned nor any of its direct or indirect partners/members that is claiming the portfolio interest exemption (its “Applicable Partners/Members”) is a “bank” extending credit pursuant to a loan agreement entered into in the ordinary course of its trade or business within the meaning of Section 881(c)(3)(A) of the Code, (iv) none of its Applicable Partners/Members is a “10-percent shareholder” of the Borrower within the meaning of Section 871(h)(3) (B) of the Code and (v) none of its Applicable Partners/Members is a “controlled foreign corporation” related to the Borrower as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished its participating Lender with an IRS Form W-8IMY accompanied by one of the following forms from each of its partners/members claiming the portfolio interest exemption: (i) an IRS Form W-8BEN or W-8BEN-E, as applicable, or (ii) an IRS Form W-8IMY accompanied by an IRS Form W-8BEN or W-8BEN-E, as applicable, from each of such partner’s/member’s beneficial owners that is claiming the portfolio interest exemption. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform such Lender in writing and (2) the undersigned shall have at all times furnished such Lender with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding each such payment.

[Signature Page Follows]

[Foreign Participant]

By: _____

Name:

Title:

[Address]

Dated: ____, 20[]

J-4-2

[RESERVED]

FORM OF COLLATERAL AGREEMENT

[See Attached]

COLLATERAL AGREEMENT

dated and effective as of

April 30, 2021 Among

MAGNITE, INC.,

as the Borrower,

its Subsidiaries named herein

and

GOLDMAN SACHS BANK USA,
as Collateral Agent

TABLE OF CONTENTS

	<u>Page</u>
	<u>ARTICLE I</u>
	<u>Definitions</u>
<u>SECTION 1.1. Credit Agreement</u>	<u>1</u>
<u>SECTION 1.2. Other Defined Terms</u>	<u>1</u>
	<u>ARTICLE II</u>
	<u>Pledge of Securities</u>
<u>SECTION 2.1. Pledge</u>	<u>5</u>
<u>SECTION 2.2. Delivery of the Pledged Collateral</u>	<u>6</u>
<u>SECTION 2.3. Representations, Warranties and Covenants</u>	<u>7</u>
<u>SECTION 2.4. Certification of Limited Liability Company and Limited Partnership Interests</u>	<u>8</u>
<u>SECTION 2.5. Registration in Nominee Name; Denominations</u>	<u>9</u>
<u>SECTION 2.6. Voting Rights; Dividend and Interest, Etc</u>	<u>9</u>
	<u>ARTICLE III</u>
	<u>Security Interests in Other Personal Property</u>
<u>SECTION 3.1. Security Interest</u>	<u>11</u>
<u>SECTION 3.2. Representations and Warranties</u>	<u>13</u>
<u>SECTION 3.3. Covenants</u>	<u>15</u>
<u>SECTION 3.4. Other Actions</u>	<u>17</u>
<u>SECTION 3.5. Covenants Regarding Patent, Trademark and Copyright Collateral</u>	<u>18</u>
	<u>ARTICLE IV</u>
	<u>Remedies</u>
<u>SECTION 4.1. Remedies Upon Default</u>	<u>19</u>
<u>SECTION 4.2. Application of Proceeds</u>	<u>21</u>
<u>SECTION 4.3. Securities Act, Etc</u>	<u>22</u>
<u>SECTION 4.4. Collection of Receivables Assets</u>	<u>22</u>
<u>SECTION 4.5. Special Collateral Account</u>	<u>23</u>
<u>SECTION 4.6. Pledgors' Obligations Upon Event of Default</u>	<u>23</u>

ARTICLE V

Miscellaneous

<u>SECTION 5.1. Notices</u>	<u>23</u>
<u>SECTION 5.2. Security Interest Absolute</u>	<u>24</u>
<u>SECTION 5.3. Limitation By Law</u>	<u>24</u>
<u>SECTION 5.4. Binding Effect; Several Agreements</u>	<u>24</u>
<u>SECTION 5.5. Successors and Assigns</u>	<u>24</u>
<u>SECTION 5.6. Collateral Agent's Fees and Expenses; Indemnification</u>	<u>25</u>
<u>SECTION 5.7. Collateral Agent Appointed Attorney-in-Fact</u>	<u>25</u>
<u>SECTION 5.8. Governing Law</u>	<u>26</u>
<u>SECTION 5.9. Waivers; Amendment</u>	<u>26</u>
<u>SECTION 5.10. WAIVER OF JURY TRIAL</u>	<u>27</u>
<u>SECTION 5.11. Severability</u>	<u>27</u>
<u>SECTION 5.12. Counterparts</u>	<u>27</u>
<u>SECTION 5.13. Headings</u>	<u>27</u>
<u>SECTION 5.14. Jurisdiction; Consent to Service of Process</u>	<u>27</u>
<u>SECTION 5.15. Termination or Release</u>	<u>28</u>
<u>SECTION 5.16. Additional Subsidiaries</u>	<u>29</u>
<u>SECTION 5.17. General Authority of the Collateral Agent</u>	<u>29</u>
<u>SECTION 5.18. Subject to Intercreditor Agreements; Conflicts</u>	<u>30</u>
<u>SECTION 5.19. [Intentionally Omitted]</u>	<u>30</u>
<u>SECTION 5.20. Person Serving as Collateral Agent</u>	<u>30</u>
<u>SECTION 5.21. [Reserved]</u>	<u>31</u>
<u>SECTION 5.22. Secured Cash Management Agreements and Secured Hedge Agreements</u>	<u>31</u>

Schedules

- Schedule I Subsidiary Loan Parties
- Schedule II Pledged Stock; Pledged Debt
- Schedule III Intellectual Property
- Schedule IV Commercial Tort Claims

Exhibits

- Exhibit I Form of Supplement to the Collateral Agreement
- Exhibit II Form of Notice of Grant of Security Interest in Intellectual Property

COLLATERAL AGREEMENT dated and effective as of April 30, 2021 (this “**Agreement**”), is among Magnite, Inc., a Delaware corporation (the “**Borrower**”), each Subsidiary Loan Party (as defined below) listed on the signature pages hereof and each other Subsidiary Loan Party that becomes a party hereto after the date hereof (all such Subsidiary Loan Parties, together with the Borrower, the “**Pledgors**”) and Goldman Sachs Bank USA, as collateral agent for the Secured Parties referred to herein (together with its permitted successors and permitted assigns in such capacity, the “**Collateral Agent**”).

PRELIMINARY STATEMENT

Reference is made to the Credit Agreement, dated as of the date hereof (as amended, restated, supplemented or otherwise modified from time to time, the “**Credit Agreement**”), among the Borrower, the Lenders party thereto from time to time, the Issuing Banks party thereto from time to time, Goldman Sachs Bank USA, as administrative agent for the Lenders (together with its permitted successors and permitted assigns in such capacity, the “**Credit Agreement Agent**”) and collateral agent, and the other parties party thereto.

The Lenders and the Issuing Banks have agreed to extend credit to the Borrower subject to the terms and conditions set forth in the Credit Agreement. The obligations of the Lenders and the Issuing Banks to extend such credit are conditioned upon, among other things, the execution and delivery of this Agreement on or prior to the Closing Date. The Borrower and the Subsidiary Loan Parties, as affiliates of the Borrower, will derive substantial benefits from the extension of credit to the Borrower pursuant to the Credit Agreement. The Pledgors are willing to execute and deliver this Agreement in order to induce the Lenders and the Issuing Banks to extend such credit under the Credit Agreement.

Therefore, to induce the Lenders and the Issuing Banks to make their respective extensions of credit under the Credit Agreement the parties hereto agree as follows:

ARTICLE I.

Definitions

a. ***Credit Agreement.*** Capitalized terms used in this Agreement and not otherwise defined herein have the respective meanings assigned thereto in the Credit Agreement. All terms defined in the Uniform Commercial Code (as defined herein) and not defined in this Agreement or the Credit Agreement have the meanings specified therein. The term “instrument” shall have the meaning specified in the Uniform Commercial Code.

1. The rules of construction specified in Section 1.02 of the Credit Agreement also apply to this Agreement.

i. ***Other Defined Terms.*** As used in this Agreement, the following terms have the meanings specified below:

“Account Debtor” means any person who is or who may become obligated to any Pledgor under, with respect to or on account of an Account, Chattel Paper or General Intangibles.

“Agreement” has the meaning assigned to such term in the introductory paragraph of this agreement, as amended, restated, supplemented or otherwise modified from time to time.

“Article 9 Collateral” has the meaning assigned to such term in Section 3.1.

“Certain Funds Provisions” means the last paragraph in the definition of “Collateral and Guarantee Requirement”, the last paragraph of Section 5.10 of the Credit Agreement and Schedule 5.13 of the Credit Agreement.

“Collateral” means Article 9 Collateral and Pledged Collateral. For the avoidance of doubt, the term Collateral does not include any Excluded Property or Excluded Securities.

“Collateral Agent” has the meaning assigned to such term in the introductory paragraph of this Agreement.

“Copyright License” means any written agreement, now or hereafter in effect, granting any right to any Pledgor under any Copyright now or hereafter owned by any third party, and all rights of any Pledgor under any such agreement (including any such rights that such Pledgor has the right to license).

“Copyrights” means all of the following now directly owned or hereafter directly acquired by any Pledgor: (a) all copyright rights in any work subject to the copyright laws of the United States or any other country, whether as author, assignee, transferee, exclusive licensee or otherwise; (b) all registrations and applications for registration of any such Copyright in the United States or any other country, including registrations, supplemental registrations and pending applications for registration in the United States Copyright Office and the right to obtain all renewals thereof, including those listed on Schedule III; (c) all claims for, and rights to sue for, past or future infringements of any of the foregoing; and (d) all income, royalties, damages and payments now or hereafter due and payable with respect to any of the foregoing, including damages and payments for past or future infringement thereof.

“Credit Agreement” has the meaning assigned to such term in the preliminary statement of this Agreement.

“Credit Agreement Agent” has the meaning assigned to such term in the preliminary statement of this Agreement.

“Credit Agreement Documents” means the “Loan Documents” as defined in the Credit Agreement, as such documents or instruments may be amended, restated, supplemented or otherwise modified from time to time.

“Equity Interests” of any person means any and all shares, interests, rights to purchase or otherwise acquire, warrants, options, participations or other equivalents of or interests in (however designated) equity or ownership of such person, including any preferred

stock, any limited or general partnership interest and any limited liability company membership interest, and any securities or other rights or interests convertible into or exchangeable for any of the foregoing.

“Event of Default” means an “Event of Default” under and as defined in the Credit Agreement.

“Federal Securities Laws” has the meaning assigned to such term in Section 4.3.

“General Intangibles” means all “general intangibles” as defined in the Uniform Commercial Code, including all choses in action and causes of action and all other intangible personal property of any Pledgor of every kind and nature (other than Accounts) now owned or hereafter acquired by any Pledgor, including corporate or other business records, indemnification claims, contract rights (including rights under leases, whether entered into as lessor or lessee, swap agreements and other agreements), Intellectual Property, goodwill, registrations, franchises, tax refund claims and any guarantee, claim, security interest or other security held by or granted to any Pledgor to secure payment by an Account Debtor of any of the Accounts.

“Governmental Authority” means any federal, state, local or foreign court or governmental agency, authority, instrumentality or regulatory or legislative body.

“Intellectual Property” means all intellectual property of every kind and nature of any Pledgor, whether now owned or hereafter acquired by any Pledgor, including, inventions, designs, Patents, Copyrights, Trademarks, Patent Licenses, Copyright Licenses, Trademark Licenses, trade secrets, domain names, confidential or proprietary technical and business information, know-how, show-how or other data or information and all related documentation.

“Intellectual Property Collateral” has the meaning assigned to such term in Section 3.2.

“Intercreditor Agreements” means (a) a Permitted First Lien Intercreditor Agreement (upon and during the effectiveness thereof) and (b) any other intercreditor agreement (upon and during the effectiveness thereof) with respect to any other Indebtedness permitted under the Credit Agreement to be secured by a first priority Lien on all or any portion of the Collateral and that is entered into (including by the Collateral Agent) in compliance with the Credit Agreement.

“IP Agreements” means all material Copyright Licenses, Patent Licenses and Trademark Licenses, including, without limitation, the agreements set forth on Schedule III hereto.

“Notices of Grant of Security Interest in Intellectual Property” means the notices of grant of security interest substantially in the form attached hereto as Exhibit II or such other form as shall be reasonably acceptable to the Collateral Agent.

“Patent License” means any written agreement, now or hereafter in effect, granting to any Pledgor any right to make, use or sell any invention covered by a Patent, now or hereafter owned by any third party (including any such rights that such Pledgor has the right to license).

“Patents” means all of the following now directly owned or hereafter directly acquired by any Pledgor: (a) all letters patent of the United States or the equivalent thereof in any other country or jurisdiction, including those listed on Schedule III, and all applications for letters patent of the United States or the equivalent thereof in any other country or jurisdiction, including those listed on Schedule III; (b) all provisionals, reissues, extensions, continuations, divisions, continuations-in-part, reexaminations or revisions thereof, and the inventions disclosed or claimed therein, including the right to make, use, import and/or sell the inventions disclosed or claimed therein; (c) all claims for, and rights to sue for, past or future infringements of any of the foregoing and (d) all income, royalties, damages and payments now or hereafter due and payable with respect to any of the foregoing, including damages and payments for past or future infringement thereof.

“Perfection Certificate” means the Perfection Certificate with respect to the Borrower and the other Loan Parties in form and substance reasonably satisfactory to the Collateral Agent and delivered to the Collateral Agent as of the Closing Date, as the same may be supplemented from time to time to the extent required by Section 5.04(e) of the Credit Agreement.

“Permitted Liens” means Liens that are permitted pursuant to Section 6.02 of the Credit Agreement.

“Pledged Collateral” has the meaning assigned to such term in Section 2.1.

“Pledged Debt” has the meaning assigned to such term in Section 2.1.

“Pledged Securities” means any promissory notes, stock certificates or other certificated securities now or hereafter included in the Pledged Collateral, including all certificates, instruments or other documents representing or evidencing any Pledged Collateral.

“Pledged Stock” has the meaning assigned to such term in Section 2.1.

“Pledgor” means the Borrower, each Subsidiary Loan Party set forth on Schedule I and any other Subsidiary Loan Party that becomes a party hereto pursuant to Section 5.16. Notwithstanding anything to the contrary set forth herein, any entity that ceases to be a Guarantor (as defined in the Credit Agreement) in accordance with the terms of Section 9.18 of the Credit Agreement shall automatically cease to be a Pledgor.

“Proceeds” means all “Proceeds” as defined in the Uniform Commercial Code, including all proceeds of, and all other profits, products, rents or receipts, in whatever form, arising from the collection, sale, lease, exchange, assignment, licensing or other disposition of, or other realization upon, any Collateral, including all claims of the relevant Pledgor against third

parties for loss of, damage to or destruction of, or for proceeds payable under, or unearned premiums with respect to, policies of insurance in respect of, any Collateral, and any condemnation or requisition payments with respect to any Collateral.

“**Secured Obligations**” means the “Obligations” as defined in the Credit Agreement.

“**Security Interest**” has the meaning assigned to such term in Section 3.1.

“**Subsidiary Loan Party**” means any Subsidiary set forth on Schedule I and any Subsidiary that becomes a party hereto pursuant to Section 5.16.

“**Trademark License**” means any written agreement, now or hereafter in effect, granting to any Pledgor any right to use any Trademark now or hereafter owned by any third party (including any such rights that such Pledgor has the right to license).

“**Trademarks**” means all of the following now directly owned or hereafter directly acquired by any Pledgor: (a) all trademarks, service marks, corporate names, company names, business names, fictitious business names, trade styles, trade dress, logos, other source or business identifiers, designs and general intangibles of like nature, now existing or hereafter adopted or acquired, all registrations thereof (if any), and all registration and recording applications filed in connection therewith, including registrations and registration applications in the United States Patent and Trademark Office or any similar offices in any State of the United States or any other country or any political subdivision thereof, and all renewals thereof, including those listed on Schedule III; (b) all goodwill associated with or symbolized by the foregoing; (c) all claims for, and rights to sue for, past or future infringements, dilutions or other violations of any of the foregoing and (d) all income, royalties, damages and payments now or hereafter due and payable with respect to any of the foregoing, including damages and payments for past or future infringement, dilutions or other violations thereof.

“**Uniform Commercial Code**” means the Uniform Commercial Code as the same may from time to time be in effect in the State of New York or, where the context requires, the Uniform Commercial Code or any equivalent statute of any other relevant jurisdiction.

ARTICLE I.

Pledge of Securities

SECTION i..***Pledge***. As security for the payment or performance when due (whether at the stated maturity, by acceleration or otherwise), as the case may be, in full of its Secured Obligations, each Pledgor hereby collaterally assigns and pledges to the Collateral Agent, its permitted successors and permitted assigns, for the benefit of the Secured Parties, and hereby grants to the Collateral Agent, its permitted successors and permitted assigns, for the benefit of the Secured Parties, a security interest in all of such Pledgor’s right, title and interest in, to and under (whether now owned or hereafter acquired):

(1) all Equity Interests directly owned by it (including those listed on Schedule II) and any other Equity Interests obtained in the future by such Pledgor and any certificates representing all such Equity Interests (any such Equity Interests, the “**Pledged Stock**”); provided that the Pledged Stock shall not include any Excluded Securities or Excluded Property;

(2) (i) the debt obligations owed to such Pledgor listed opposite the name of such Pledgor on Schedule II, (ii) all other debt obligations existing on the Closing Date or in the future issued to such Pledgor, and (iii) the certificates, promissory notes and any other instruments, if any, evidencing such debt obligations (the property described in clauses (b)(i), (ii) and (iii) above, the “**Pledged Debt**”); provided that the Pledged Debt shall not include any Excluded Securities or Excluded Property;

(3) subject to Section 2.6, all payments of principal or interest, dividends, cash, instruments and other property from time to time received, receivable or otherwise distributed in respect of, in exchange for or upon the conversion of, and all other Proceeds received in respect of the Pledged Stock and the Pledged Debt;

(4) subject to Section 2.6, all rights and privileges of such Pledgor with respect to the Pledged Stock, Pledged Debt and other property referred to in clause (c) above; and

(5) all Proceeds of, and Security Entitlements in respect of, any of the foregoing (the Pledged Stock, Pledged Debt and other property referred to in this clause (e) and in clauses (c) and (d) above being collectively referred to as the “**Pledged Collateral**”); provided that the Pledged Collateral shall not include any Excluded Securities or Excluded Property;

TO HAVE AND TO HOLD, the Pledged Collateral together with all right, title, interest, powers, privileges and preferences pertaining or incidental thereto, unto the Collateral Agent, its permitted successors and permitted assigns, for the benefit of the Secured Parties; subject, however, to the terms, covenants and conditions hereinafter set forth and in the Credit Agreement.

SECTION ii..**Delivery of the Pledged Collateral.** Each Pledgor agrees promptly to deliver or cause to be delivered to the Collateral Agent (subject to the Certain Funds Provisions), for the benefit of the Secured Parties, any and all certificates or other instruments (if any) representing Pledged Securities, to the extent such Pledged Securities are either (i) Pledged Stock (other than any uncertificated securities) or (ii) in the case of promissory notes or other instruments evidencing Pledged Debt, are required to be delivered pursuant to paragraph (b) of this Section 2.2.

(1) To the extent any Indebtedness for borrowed money constituting Pledged Collateral owed to any Pledgor is evidenced by a duly executed promissory note in an individual amount in excess of \$5,000,000, such Pledgor shall promptly cause such promissory note to be pledged and delivered to the Collateral Agent, for the benefit of the Secured Parties, pursuant to

the terms hereof (except to the extent that a pledge or delivery of such promissory note would violate applicable law).

(2) Upon delivery to the Collateral Agent, (i) any Pledged Securities required to be delivered pursuant to the foregoing paragraphs (a) and (b) of this Section 2.2 shall be accompanied by undated stock powers or allonges, as applicable, duly executed by the applicable Pledgor in blank or other instruments of transfer reasonably satisfactory to the Collateral Agent, and by such other instruments and documents as the Collateral Agent may reasonably request and (ii) all other property comprising part of the Pledged Collateral delivered pursuant to the terms of this Agreement shall be accompanied to the extent necessary to perfect the security interest in or allow realization on the Pledged Collateral by proper instruments of assignment duly executed by the applicable Pledgor and such other instruments or documents (including issuer's acknowledgments in respect of uncertificated securities) as the Collateral Agent may reasonably request. Each delivery of Pledged Securities shall be accompanied by a schedule describing the securities, which schedule shall be deemed to be attached hereto as Schedule II (or a supplement to Schedule II, as applicable) and made a part hereof; provided that failure to attach any such schedule hereto shall not affect the validity of such pledge of such Pledged Securities. Each schedule so delivered shall supplement any prior schedules so delivered.

SECTION iii. **Representations, Warranties and Covenants.** The Pledgors, jointly and severally, represent, warrant and covenant to and with the Collateral Agent, for the benefit of the Secured Parties, that:

(a) Schedule II correctly sets forth (or, with respect to any Pledged Stock issued by an issuer that is not a subsidiary of the Borrower, correctly sets forth, to the knowledge of the relevant Pledgor), as of the Closing Date, the percentage of the issued and outstanding units of each class of the Equity Interests of the issuer thereof represented by the Pledged Stock and includes (i) all Equity Interests pledged hereunder and (ii) Pledged Debt pledged hereunder and in an individual principal amount in excess of \$5,000,000;

(b) the Pledged Stock and Pledged Debt (with respect to any Pledged Stock or Pledged Debt issued by an issuer that is not a subsidiary of the Borrower, to the knowledge of the relevant Pledgor), as of the Closing Date, (x) have been duly and validly authorized and issued by the issuers thereof and (y) (i) in the case of Pledged Stock, are fully paid and, with respect to Equity Interests constituting capital stock of a corporation, nonassessable and (ii) in the case of Pledged Debt, are legal, valid and binding obligations of the issuers thereof, subject to the effects of bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and other similar laws relating to or affecting creditors' rights generally, general equitable principles (whether considered in a proceeding at law or in equity) and any implied covenant of good faith and fair dealing;

(c) except for the security interests granted hereunder (and other security interests not prohibited by the Credit Agreement Documents), each Pledgor (i) is and, subject to any transfers not in violation of the Credit Agreement, will continue to be the direct owner, beneficially and of record, of the Pledged Securities indicated on Schedule

II (as may be supplemented from time to time pursuant to Section 2.2(c)) as owned by such Pledgor, (ii) holds the same free and clear of all Liens, other than Permitted Liens, (iii) will make no assignment, pledge, hypothecation or transfer of, or create or permit to exist any security interest in or other Lien on, the Pledged Collateral, other than pursuant to a transaction not prohibited by the Credit Agreement and other than Permitted Liens and (iv) subject to the rights of such Pledgor under the Credit Agreement Documents to Dispose of Pledged Collateral, will use commercially reasonable efforts to defend its title or interest thereto or therein against any and all Liens (other than Permitted Liens), however arising, of all persons;

(d) other than as set forth in the Credit Agreement, and except for restrictions and limitations imposed by the Credit Agreement Documents or securities laws generally or otherwise not prohibited by the Credit Agreement, the Pledged Stock (other than partnership interests and interests in any Person that is not a Wholly-Owned Subsidiary) is and will continue to be freely transferable and assignable, and none of the Pledged Stock is or will be subject to any option, right of first refusal, shareholders agreement, charter, by-law, memorandum of association or articles of association provisions or contractual restriction of any nature that might prohibit, impair, delay or otherwise affect the pledge of such Pledged Stock hereunder, the Disposition thereof pursuant hereto or the exercise by the Collateral Agent of rights and remedies hereunder other than under applicable Requirements of Law;

(e) each Pledgor has the power and authority to pledge the Pledged Collateral pledged by it hereunder in the manner hereby done or contemplated;

(f) other than as set forth in the Credit Agreement, as of the Closing Date, no consent or approval of any Governmental Authority, any securities exchange or any other person was or is necessary to the validity of the pledge effected hereby other than (x) such as have been obtained and are in full force and effect and (y) filings necessary to perfect the Liens on the Collateral granted by the Pledgors in favor of the Secured Parties;

(g) by virtue of the execution and delivery by the respective Pledgors of this Agreement or any supplement hereto, when any Pledged Securities are delivered to the Collateral Agent, for the benefit of the Secured Parties, in accordance with this Agreement (to the extent required hereunder) and financing statements naming the Collateral Agent as the secured party described in Section 3.2 are filed in the appropriate filing office, the Collateral Agent will obtain, for the benefit of the Secured Parties, a legal, valid and perfected lien upon and security interest in the Pledged Collateral under the Uniform Commercial Code or its equivalent in any applicable jurisdiction to the extent such lien and security interest may be created and perfected under the Uniform Commercial Code, subject to Permitted Liens; and

(h) each Pledgor that is an issuer of the Pledged Collateral, in order to establish the “control” of the Collateral Agent in respect of such Pledged Collateral, confirms that it has received notice of the security interest granted hereunder and consents to such security interest and, subject to the terms of any applicable Intercreditor

Agreement, agrees to comply with any instruction with respect to its Equity Interests from the Collateral Agent during the continuance of an Event of Default.

SECTION iv..*Certification of Limited Liability Company and Limited Partnership Interests.*

(1) As of the Closing Date, except as set forth on Schedule II, the Equity Interests in limited liability companies and limited partnerships that are pledged by the Pledgors hereunder and do not have a certificate described on Schedule II do not constitute a security under Section 8-103 of the Uniform Commercial Code or the corresponding code or statute of any other applicable jurisdiction.

(2) The Pledgors shall at no time elect to treat any interest in any limited liability company or limited partnership Controlled by a Pledgor and pledged hereunder as a “security” within the meaning of Article 8 of the Uniform Commercial Code or its equivalent in any jurisdiction or issue any certificate representing such interest, unless promptly thereafter (and in any event within thirty (30) Business Days or such longer period as the Collateral Agent may permit in its reasonable discretion) the applicable Pledgor provides notification to the Collateral Agent of such election and delivers, as applicable, any such certificate to the Collateral Agent pursuant to the terms hereof.

SECTION v..*Registration in Nominee Name; Denominations.* Subject to any applicable Intercreditor Agreement, the Collateral Agent, on behalf of the Secured Parties, shall have the right (in its sole and absolute discretion) to hold the Pledged Securities in the name of the applicable Pledgor, endorsed or assigned in blank or in favor of the Collateral Agent or, if an Event of Default shall have occurred and be continuing, in its own name as pledgee or the name of its nominee (as pledgee or as sub-agent). If an Event of Default shall have occurred and be continuing, each Pledgor will promptly give to the Collateral Agent copies of any notices or other communications received by it with respect to Pledged Securities registered in the name of such Pledgor. If an Event of Default shall have occurred and be continuing, the Collateral Agent shall have the right (provided that the Collateral Agent gives notice to the Borrower of its intent to exercise such right (other than during an Event of Default under Section 7.01(h) and 7.01(i))) to exchange the certificates representing Pledged Securities held by it for certificates of smaller or larger denominations for any purpose consistent with this Agreement, subject to any applicable Intercreditor Agreement. Subject to any applicable Intercreditor Agreement, each Pledgor shall cause any Subsidiary that is not a party to this Agreement to comply with a request by the Collateral Agent, pursuant to this Section 2.5, to exchange certificates representing Pledged s Securities of such Subsidiary for certificates of smaller or larger denominations.

SECTION vi..*Voting Rights; Dividend and Interest, Etc.* Unless and until an Event of Default shall have occurred and be continuing and the Collateral Agent shall have given at least one (1) Business Day’s advance written notice to the relevant Pledgors of the Collateral Agent’s intention to exercise its rights hereunder:

(a) Each Pledgor shall be entitled to exercise any and all voting and/or other consensual rights and powers inuring to an owner of Pledged Collateral or any part thereof for any purpose not prohibited by the terms of this Agreement or the Credit

Agreement Documents; provided that, except as not prohibited by the Credit Agreement, such rights and powers shall not be exercised in any manner that would materially and adversely affect the rights and remedies of any of the Collateral Agent or any other Secured Parties under this Agreement or any Credit Agreement Document or the ability of the Secured Parties to exercise the same.

(b) The Collateral Agent shall promptly execute and deliver to each Pledgor, or cause to be executed and delivered to such Pledgor, all such proxies, powers of attorney and other instruments as such Pledgor may reasonably request for the purpose of enabling such Pledgor to exercise the voting and/or consensual rights and powers it is entitled to exercise pursuant to subparagraph (i) above.

(c) Each Pledgor shall be entitled to receive and retain any and all dividends, interest, principal and other distributions paid on or distributed in respect of the Pledged Collateral to the extent and only to the extent that such dividends, interest, principal and other distributions are not prohibited by, and otherwise paid or distributed in accordance with, the terms and conditions of the Credit Agreement Documents and applicable laws; provided that (A) any noncash dividends, interest, principal or other distributions, payments or other consideration in respect thereof, including any rights to receive the same to the extent not so distributed or paid, that would constitute Pledged Securities, whether resulting from a subdivision, combination or reclassification of the outstanding Equity Interests of the issuer of any Pledged Securities, received in exchange for Pledged Securities or any part thereof, or in redemption thereof, as a result of any merger, consolidation, acquisition or other exchange of assets to which such issuer may be a party or otherwise or (B) any non-cash dividends and other distributions paid or payable in respect of any Pledged Securities that would constitute Pledged Securities, in connection with a partial or total liquidation or dissolution or in connection with a reduction of capital, capital surplus or paid in surplus, shall be and become part of the Pledged Collateral and be promptly delivered to the Collateral Agent, for the benefit of the Secured Parties to the extent required by Section 2.2(a) or by any other Credit Document, in the same form as so received (endorsed in a manner reasonably satisfactory to the Collateral Agent). So long as no Event of Default has occurred and is continuing, the Collateral Agent shall promptly deliver to each Pledgor any Pledged Securities in its possession if requested to be delivered to the issuer thereof in connection with any exchange or redemption of such Pledged Securities permitted by the Credit Agreement Documents in accordance with this Section 2.6(iii).

(1) Upon the occurrence and during the continuance of an Event of Default and after written notice by the Collateral Agent to the relevant Pledgor or Pledgors of the Collateral Agent's intention to exercise its rights hereunder, all rights of any Pledgor to receive dividends, interest, principal or other distributions that such Pledgor is authorized to receive pursuant to paragraph (a)(iii) of this Section 2.6 shall cease, and all such rights shall thereupon become vested, for the benefit of the Secured Parties, in the Collateral Agent which shall have the sole and exclusive right and authority to receive and retain such dividends, interest, principal or other distributions. All dividends, interest, principal or other distributions received by any

Pledgor contrary to the provisions of this Section 2.6 shall not be commingled by such Pledgor with any of its other funds or property but shall be held separate and apart therefrom, shall be held in trust for the benefit of the Collateral Agent, for the benefit of the Secured Parties, and shall be forthwith delivered to the Collateral Agent, for the benefit of the Secured Parties, in the same form as so received (endorsed in a manner reasonably satisfactory to the Collateral Agent). Any and all money and other property paid over to or received by the Collateral Agent pursuant to the provisions of this paragraph (b) shall be retained by the Collateral Agent in an account to be established by the Collateral Agent upon receipt of such money or other property and shall be applied in accordance with the provisions of Section 4.2. After all Events of Default have been cured or waived and the Borrower has delivered to the Collateral Agent a certificate of a Responsible Officer to that effect, the Collateral Agent shall promptly repay to each Pledgor (without interest) all dividends, interest, principal or other distributions that such Pledgor would otherwise be permitted to retain pursuant to the terms of paragraph (a)(iii) of this Section 2.6 and that remain in such account.

(2) Upon the occurrence and during the continuance of an Event of Default and after written notice by the Collateral Agent to the Borrower of the Collateral Agent's intention to exercise its rights hereunder, all rights of any Pledgor to exercise the voting and/or consensual rights and powers it is entitled to exercise pursuant to paragraph (a)(i) of this Section 2.6, and the obligations of the Collateral Agent under paragraph (a)(ii) of this Section 2.6, shall cease, and all such rights shall thereupon become vested in the Collateral Agent, for the benefit of the Secured Parties, which shall have the sole and exclusive right and authority to exercise such voting and consensual rights and powers; provided that the Collateral Agent shall have the right from time to time following and during the continuance of an Event of Default to permit the Pledgors to exercise such rights. After all Events of Default have been cured or waived and the Borrower has delivered to the Collateral Agent a certificate of a Responsible Officer to that effect, each Pledgor shall have the right to exercise the voting and/or consensual rights and powers that such Pledgor would otherwise be entitled to exercise pursuant to the terms of paragraph (a)(i) above and the obligations of the Collateral Agent under paragraph (a)(ii) shall be in effect.

ARTICLE II.

Security Interests in Other Personal Property

SECTION i..***Security Interest***. As security for the payment or performance when due (whether at the stated maturity, by acceleration or otherwise), as the case may be, in full of its Secured Obligations, each Pledgor hereby collaterally assigns and pledges to the Collateral Agent, its permitted successors and permitted assigns, for the benefit of the Secured Parties, and hereby grants to the Collateral Agent, its permitted successors and permitted assigns, for the benefit of the Secured Parties, a security interest (the "***Security Interest***") in all right, title and interest in, to and under any and all of the following assets and properties now owned or at any time hereafter acquired by such Pledgor or in which such Pledgor now has or at any time in the future may acquire any right, title or interest (collectively, the "***Article 9 Collateral***"):

- (a) all Accounts;
- (b) all Chattel Paper;
- (c) all cash, Cash Equivalents and Deposit Accounts;
- (d) all Documents;
- (e) all Equipment;
- (f) all Fixtures;
- (g) all General Intangibles (including, without limitation, all Intellectual Property);
- (h) all Instruments (other than Pledged Debt which is governed by Article II);
- (i) all Inventory and all other Goods not otherwise described above;
- (j) all Investment Property (other than the Pledged Collateral and Pledged Debt, which are governed by Article II);
- (k) all Letters of Credit and Letter of Credit Rights;
- (l) all Commercial Tort Claims reasonably expected to result in a recovery greater than \$10,000,000, as described on Schedule IV (as may be supplemented from time to time pursuant to Section 3.4 or the Supplement hereto in the form of Exhibit I);
- (m) all books and records pertaining to the Article 9 Collateral; and
- (n) to the extent not otherwise included, all Proceeds, Supporting Obligations and products of any and all of the foregoing and all collateral security and guarantees given by any person with respect to any of the foregoing.

Notwithstanding anything to the contrary in this Agreement or the other Credit Agreement Documents, this Agreement shall not constitute a grant of a security interest in (and the Article 9 Collateral shall not include), and the other provisions of the Credit Agreement Documents with respect to Collateral need not be satisfied with respect to, the Excluded Property or the Excluded Securities; provided that the Security Interest shall immediately attach to, and Article 9 Collateral shall immediately include, any such asset (or portion thereof) upon such asset (or portion thereof) ceasing to be Excluded Property or Excluded Securities.

(1) Each Pledgor hereby irrevocably authorizes the Collateral Agent for the benefit of the Secured Parties at any time and from time to time to file in any relevant United States jurisdiction any initial financing statements (including fixture filings) with respect to the Article 9 Collateral and the Pledged Collateral or any part thereof and amendments thereto that contain the information required by Article 9 of the Uniform Commercial Code or its equivalent

in each applicable United States jurisdiction for the filing of any financing statement or amendment, including (i) whether such Pledgor is an organization, the type of organization and any organizational identification number issued to such Pledgor, (ii) in the case of a financing statement filed as a fixture filing, a sufficient description of the real property to which such Article 9 Collateral relates and (iii) a description of collateral that describes such property in any other manner as the Collateral Agent may reasonably determine is necessary or advisable to ensure the perfection of the Security Interest in the Collateral granted under this Agreement, including describing such property as “all assets” or “all personal property” or words of similar effect. Each Pledgor agrees to provide such information to the Collateral Agent promptly upon request.

The Collateral Agent is further authorized to file with the United States Patent and Trademark Office or United States Copyright Office (or any successor office thereof) such documents as may be reasonably necessary or advisable for the purpose of perfecting, confirming, continuing, enforcing or protecting the Security Interest granted by each Pledgor in such Pledgor’s Patents, Trademarks and Copyrights, without the signature of such Pledgor (only if such signature cannot reasonably be obtained by the Collateral Agent), and naming such Pledgor or the Pledgors as debtors and the Collateral Agent as secured party.

(2) The security interest granted hereunder is security only and shall not subject the Collateral Agent or any other Secured Party to, or in any way alter or modify, any obligation or liability of any Pledgor with respect to or arising out of the Collateral.

(3) Notwithstanding anything to the contrary in this Agreement, in no event shall (A) any landlord, mortgagee and bailee waivers be required, (B) notices be sent to account debtors or other contractual third parties unless an Event of Default has occurred and is continuing and (C) foreign-law governed security documents or perfection under foreign law be required.

SECTION ii..Representations and Warranties. The Pledgors jointly and severally represent and warrant to the Collateral Agent, for the benefit of the Secured Parties, that:

(1) Each Pledgor has good and valid rights in and title to the Collateral with respect to which it has purported to grant a security interest hereunder, except where the failure to have such rights and title would not reasonably be expected to have individually or in the aggregate, a Material Adverse Effect, and has full power and authority to grant to the Collateral Agent the Security Interest in such Article 9 Collateral pursuant hereto, and to execute, deliver and perform its obligations in accordance with the terms of this Agreement (or any supplement hereto, as applicable), without the consent or approval of any other person as of the Closing Date other than any consent or approval that has been obtained and is in full force and effect or has otherwise been disclosed herein or in the Credit Agreement or any offering circular related thereto.

(2) The Perfection Certificate has been duly prepared, completed and executed and the information set forth therein, including the exact legal name of each Pledgor, is correct and complete, in all material respects, as of the Closing Date. Except as provided in

Section 5.10 of the Credit Agreement or in the definition of “Collateral and Guarantee Requirement” contained therein, the Uniform Commercial Code financing statements or other appropriate filings, recordings or registrations containing a description of the Collateral that have been prepared for filing in each governmental, municipal or other office specified in the Perfection Certificate constitute all the filings, recordings and registrations (other than filings required to be made in the United States Patent and Trademark Office and the United States Copyright Office in order to perfect the Security Interest in Article 9 Collateral consisting of United States Patents, United States registered Trademarks and United States registered Copyrights (including exclusive licenses of registered Copyrights)) that are necessary as of the Closing Date to publish notice of and protect the validity of and to establish a legal, valid and perfected security interest in favor of the Collateral Agent (for the benefit of the Secured Parties) in respect of all Collateral in which a security interest may be perfected by filing, recording or registration in the United States (or any political subdivision thereof), and no further or subsequent filing, refiling, recording, rerecording, registration or reregistration is necessary in any such jurisdiction, except as provided under applicable law with respect to the filing of continuation statements or amendments. Except as provided in Section 5.10 of the Credit Agreement, each Pledgor represents and warrants that the Notices of Grant of Security Interest in Intellectual Property executed by the applicable Pledgors containing descriptions of all Article 9 Collateral that consists of United States federally issued Patents (and Patents for which United States federal registration applications are pending), United States federally registered Trademarks (and Trademarks for which United States federal registration applications are pending) and United States federally registered Copyrights (and Copyrights for which United States federal registration applications are pending) (including exclusive licenses of registered Copyrights) have been delivered to the Collateral Agent for recording with the United States Patent and Trademark Office and the United States Copyright Office pursuant to 35 U.S.C. § 261, 15 U.S.C. § 1060 or 17 U.S.C. § 205 and the regulations thereunder, as applicable, and reasonably requested by the Collateral Agent, to protect the validity of and to establish a legal, valid and perfected security interest (or, in the case of Patents and Trademarks, notice thereof) in favor of the Collateral Agent, for the benefit of the Secured Parties, in respect of all Article 9 Collateral consisting of such Intellectual Property described in such Notices of Grant of Security Interest in Intellectual Property as of the Closing Date in which a security interest may be perfected by recording with the United States Patent and Trademark Office and the United States Copyright Office, and no further or subsequent filing, refiling, recording, rerecording, registration or reregistration is necessary (other than such actions as are necessary to perfect the Security Interest with respect to any Article 9 Collateral consisting of United States federally issued, registered or pending Patents, Trademarks and Copyrights acquired or developed (including registered Copyrights exclusively licensed) after the Closing Date).

(3) The Security Interest in Article 9 Collateral constitutes (i) a legal and valid security interest in all the Article 9 Collateral securing the payment and performance of the Secured Obligations, as applicable, (ii) subject to the filings described in Section 3.2(b), as of the Closing Date a perfected security interest in all Article 9 Collateral in which a security interest may be perfected by filing, recording or registering a financing statement or analogous document in the United States (or any political subdivision thereof) pursuant to the Uniform Commercial Code and (iii) a security interest that shall be perfected in all Article 9 Collateral in which a

security interest may be perfected upon the receipt and recording of the Notices of Grant of Security Interest in Intellectual Property with the United States Patent and Trademark Office and the United States Copyright Office, as applicable. The Security Interest in Article 9 Collateral is and shall be prior to any other Lien on any of the Article 9 Collateral other than Permitted Liens. Notwithstanding the foregoing, nothing in this Agreement shall require any Pledgor to make any filings or take any other actions to record or perfect the Collateral Agent's lien on and Security Interest in any Intellectual Property subsisting outside of the United States or to reimburse the Credit Agreement Agent for any costs or expense incurred in connection with making such filings or taking any other such action.

(4) As of the Closing Date, the Article 9 Collateral is owned by the Pledgors free and clear of any Lien, other than Permitted Liens.

(5) As of the Closing Date, no Pledgor holds any Commercial Tort Claim reasonably expected to result in a recovery greater than \$10,000,000 except as indicated on Schedule IV.

(6) Schedule V sets forth as of the Closing Date, a true and complete list, with respect to each Pledgor, of each Deposit Account (other than any Excluded Accounts), including the name and address of the depository institution, the type and purpose of each account and the account number.

(7) As to itself and its Article 9 Collateral consisting of Intellectual Property (the "**Intellectual Property Collateral**"), to each Pledgor's knowledge:

(a) As of the Closing Date, the Intellectual Property Collateral set forth on Schedule III includes a true and complete list of all of the issued and applied for United States federal Patents, registered and applied for United States federal Trademarks and United States federal registered Copyrights owned by and registered Copyrights exclusively licensed to such Pledgor as of the date hereof (other than Excluded Property).

(b) The Intellectual Property Collateral is subsisting and has not been adjudged invalid or unenforceable in whole or in part and, to the best of such Pledgor's knowledge, is valid and enforceable, except as would not reasonably be expected to have a Material Adverse Effect. Such Pledgor is not aware of any current uses of any item of Intellectual Property Collateral that would be expected to lead to such item becoming invalid or unenforceable, except as would not reasonably be expected to have a Material Adverse Effect.

(c) Except as would not reasonably be expected to have a Material Adverse Effect, (A) such Pledgor has made or performed all commercially reasonable acts, including without limitation filings, recordings and payment of all required fees and taxes, required to maintain and protect its interest in each and every item of Intellectual Property Collateral in full force and effect in the United States, and (B) such Pledgor has used proper statutory notice in connection with its use of each Patent, Trademark and Copyright in the Intellectual Property Collateral.

(d) With respect to each IP Agreement, the absence, termination or violation of which would reasonably be expected to have a Material Adverse Effect: (A) such Pledgor has not received any notice of termination or cancellation under such IP Agreement; (B) such Pledgor has not received a notice of a breach or default under such IP Agreement, which breach or default has not been cured or waived; and (C) such Pledgor is not in breach or default thereof in any material respect, and no event has occurred that, with notice or lapse of time or both, would constitute such a breach or default or permit termination, modification or acceleration under such IP Agreement.

(e) Except as would not reasonably be expected to have a Material Adverse Effect, no Intellectual Property Collateral is subject to any outstanding consent, settlement, decree, order, injunction, judgment or ruling restricting the use of any Intellectual Property Collateral or that would impair the validity or enforceability of such Intellectual Property Collateral.

SECTION iii. **Covenants.** Each Pledgor agrees promptly, and in any event within thirty (30) days of the change to notify in writing the Collateral Agent of any change in (i) its corporate or organization name, (ii) its identity or type of organization, (iii) its organizational identification number or (iv) its jurisdiction of organization, which notice shall include certified copies of the organizational documents of the applicable Pledgor. Each Pledgor agrees to make (unless the Collateral Agent has agreed in writing after receipt of such notice to make), within any applicable statutory period under the Uniform Commercial Code or its equivalent in any applicable jurisdiction that are required in order for the Collateral Agent to continue following such change to have a valid, legal and perfected security interest in all the Collateral in which a security interest may be perfected by such filing, for the benefit of the Secured Parties.

(1) Subject to any rights of such Pledgor to Dispose of Collateral provided for in the Credit Agreement Documents, each Pledgor shall, at its own expense, use commercially reasonable efforts to defend title to the Collateral against all persons (subject to its reasonable business judgment) and to defend the security interest of the Collateral Agent granted hereunder, for the benefit of the Secured Parties, in the Collateral and the priority thereof against any Lien other than Permitted Liens and except as permitted by the Credit Agreement Documents and except with respect to Collateral that such Pledgor determines in its reasonable business judgment is no longer necessary or beneficial to the conduct of such Pledgor's business.

(2) Each Pledgor agrees, at its own expense, to execute, acknowledge, deliver and cause to be duly filed all such further instruments and documents and take all such actions as the Collateral Agent may from time to time reasonably request to obtain, preserve, protect and perfect the security interest granted hereunder and the rights and remedies created hereby, including the payment of any fees and taxes together with any interest and penalties, if any, required in connection with the execution and delivery of this Agreement and the granting of the security interest granted hereunder and the filing of any financing statements (including fixture filings) or other documents in connection herewith or therewith, all in accordance with the terms hereof and the terms of the Credit Agreement. Without limiting the generality of the foregoing, each Pledgor hereby authorizes the Collateral Agent, with the consent of the relevant Pledgor

(such consent not to be unreasonably withheld), to supplement this Agreement by supplementing Schedule III or adding additional schedules hereto to specifically identify any asset or item that may constitute an issued or applied for United States federal Patent, registered or applied for United States Trademark or registered United States federal Copyright.

(3) [Reserved].

(4) The Collateral Agent may discharge past due taxes, assessments, charges, fees, Liens, security interests or other encumbrances at any time levied or placed on the Collateral and not a Permitted Lien or otherwise permitted by the Credit Agreement Documents, and may pay for the maintenance and preservation of the Collateral to the extent any Pledgor fails to do so as required by the Credit Agreement or this Agreement or the other Credit Agreement Documents and within a reasonable period of time after the Collateral Agent has requested that it do so; provided, however, that nothing in this Section 3.3(e) shall be interpreted as excusing any Pledgor from the performance of, or imposing any obligation on the Collateral Agent or any Secured Party to cure or perform, any covenants or other promises of any Pledgor with respect to taxes, assessments, charges, fees, Liens, security interests or other encumbrances and maintenance as set forth herein, in the other Credit Agreement Documents.

(5) Each Pledgor (rather than the Collateral Agent or any Secured Party) shall remain liable for the observance and performance of all the conditions and obligations to be observed and performed by it under each contract, agreement or instrument relating to the Collateral and, to the extent required by Section 9.05 of the Credit Agreement, each Pledgor jointly and severally agrees to indemnify and hold harmless the Collateral Agent and the Secured Parties from and against any and all liability for such performance.

(6) None of the Pledgors shall make or permit to be made an assignment, pledge or hypothecation of the Article 9 Collateral owned by it or in which it has an interest or shall grant any other Lien in respect of the Collateral owned by it or in which it has an interest, except as not prohibited by the Credit Agreement. None of the Pledgors shall make or permit to be made any transfer of the Collateral owned by it or in which it has an interest, except as not prohibited by the Credit Agreement or any Intercreditor Agreement.

(7) Each Pledgor irrevocably makes, constitutes and appoints the Collateral Agent (and all officers, employees or agents designated by the Collateral Agent) as such Pledgor's true and lawful agent (and attorney-in-fact) for the purpose, during the continuance of an Event of Default of making, settling and adjusting claims in respect of the Collateral under policies of insurance, endorsing the name of such Pledgor on any check, draft, instrument or other item of payment for the proceeds of such policies of insurance and for making all determinations and decisions with respect thereto. In the event that any Pledgor at any time or times shall fail to obtain or maintain any of the policies of insurance required by the Credit Agreement Documents or to pay any premium in whole or part relating thereto, the Collateral Agent may, without waiving or releasing any obligation or liability of the Pledgors hereunder or any Event of Default, in its reasonable discretion, obtain and maintain such policies of insurance and pay such premium and take any other actions with respect thereto as the Collateral Agent reasonably deems advisable. All sums disbursed by the Collateral Agent in connection with this

Section 3.3(h), including reasonable and documented attorneys' fees, court costs, expenses and other charges relating thereto, shall be payable, upon demand, by the Pledgors to the Collateral Agent and shall be additional Secured Obligations secured hereby.

(8) Each Pledgor shall keep and maintain, in all material respects, complete, accurate and proper books and records with respect to the Collateral owned by such Pledgor, and, after the occurrence and during the continuance of an Event of Default, furnish to the Collateral Agent, such reports relating to the Collateral as the Collateral Agent shall from time to time reasonably request.

SECTION iv..**Other Actions.** In order to further ensure the attachment, perfection and priority of, and the ability of the Collateral Agent to enforce, for the benefit of the Secured Parties, the Security Interest in the Article 9 Collateral, each Pledgor agrees, in each case at such Pledgor's own expense, to take the following actions with respect to the following Article 9 Collateral:

(1) **Instruments and Tangible Chattel Paper.** If any Pledgor shall at any time own or acquire any Instruments (other than debt obligations which constitute Pledged Debt which is governed by Article II and checks received and processed in the ordinary course of business) or Tangible Chattel Paper, in each case, constituting Collateral and evidencing an individual amount in excess of \$5,000,000, such Pledgor shall promptly (and in any event within fifty (50) days of the date on which it was received by such Pledgor or such longer period as the Collateral Agent may permit in its reasonable discretion) endorse, collaterally assign and deliver the same to the Collateral Agent for the benefit of the Secured Parties, accompanied by such instruments of transfer or assignment duly executed in blank as the Collateral Agent may from time to time reasonably request.

(2) **Commercial Tort Claims.** If any Pledgor shall at any time hold or acquire a Commercial Tort Claim in an amount reasonably expected to result in a recovery great than \$5,000,000, such Pledgor shall promptly notify the Collateral Agent thereof in a writing signed by such Pledgor, including a summary description of such claim, and deliver to the Collateral Agent in writing a supplement to Schedule IV including such description and shall grant to the Collateral Agent a security interest therein and in the proceeds thereof, all upon the terms of this Agreement.

(3) Accounts.

(a) For each Deposit Account (other than any Excluded Account) that any Pledgor at any time opens or maintains, such Pledgor shall use commercially reasonable efforts to cause the depository institution maintaining such Deposit Account to enter into a Control Agreement in form and substance reasonably satisfactory to the Collateral Agent in the case of each Deposit Account (other than an Excluded Account) (i) open on the Closing Date, within the time period specified in Schedule 5.13 to the Credit Agreement and (ii) opened or acquired after the Closing Date, within ninety (90) days (or such later date as the Collateral Agent, in its reasonable discretion, may agree) following the later of the date such Deposit Account is opened or acquired or ceases to be an Excluded Account. Each Control Agreement shall provide that the depository bank agrees

to comply with instructions from the Collateral Agent to such depository bank directing the disposition of funds from time to time credited to such deposit account, without further consent of such Pledgor or any other Person, upon delivery of a notice of exclusive control by the Collateral Agent. The Collateral Agent agrees with each Pledgor that the Collateral Agent shall not deliver any such notice of exclusive control unless an Event of Default has occurred and is continuing.

(b) No Pledgor shall be required, nor shall the Collateral Agent be authorized, to enter into any control agreements with respect to any Excluded Accounts, Securities Accounts or Commodity Accounts.

SECTION v..Covenants Regarding Patent, Trademark and Copyright Collateral. Except as not prohibited by the Credit Agreement Documents:

(1) Each Pledgor agrees that it will not knowingly do any act or omit to do any act whereby any Patent that is material to the normal conduct of such Pledgor's business may become prematurely invalidated, abandoned, lapsed or dedicated to the public.

(2) Each Pledgor will, for each material Trademark necessary to the normal conduct of such Pledgor's business, (i) maintain such Trademark in full force free from any adjudication of abandonment or invalidity for non-use and (ii) maintain the quality of products and services offered under such Trademark in a manner consistent with the operation of such Pledgor's business.

(3) Each Pledgor shall notify the Collateral Agent promptly if it knows that any United States federally issued or applied for Patent, United States federally registered or applied for Trademark or United States federally registered Copyright material to the normal conduct of such Pledgor's business may imminently become abandoned, lapsed or dedicated to the public, or of any materially adverse determination or development, excluding office actions and similar determinations or developments in the United States Patent and Trademark Office, United States Copyright Office, any court or any similar office of any country, regarding such Pledgor's ownership of any such material Patent, Trademark or Copyright or its right to register or to maintain the same.

(4) Each Pledgor, either by itself or through any agent, employee, licensee or designee, shall (i) inform the Collateral Agent on an annual basis (at the time of delivery of an updated Perfection Certificate pursuant to Section 5.04(e) of the Credit Agreement) of each application for, or registration or issuance of, any Patent or Trademark with the United States Patent and Trademark Office and each registration of any Copyright with the United States Copyright Office filed by or on behalf of, or issued to, or acquired by, any Pledgor during the preceding 12-month period and (ii) upon the reasonable request of the Collateral Agent, execute, deliver and file with the United States Patent and Trademark Office and/or United States Copyright Office, as applicable, any and all agreements, instruments, documents and papers necessary, or as reasonably requested by the Collateral Agent, to evidence the Collateral Agent's Security Interest in such Patent, Trademark or Copyright and the perfection thereof; provided that any such Patent, Trademark or Copyright created or acquired after the Closing Date shall

automatically become subject to the Security Interest and constitute Collateral to the extent such would have constituted Collateral if owned on the Closing Date without further action by any party.

(5) Each Pledgor shall exercise its reasonable business judgment consistent with its past practice in any proceeding before the United States Patent and Trademark Office or the United States Copyright Office with respect to maintaining and pursuing each application relating to any Patent, Trademark and/or Copyright (and obtaining the relevant grant or registration) material to the normal conduct of such Pledgor's business and to maintain (i) each United States federally issued Patent that is material to the normal conduct of such Pledgor's business and (ii) the registrations of each United States federally registered Trademark and each United States federally registered Copyright, in each case that is material to the normal conduct of such Pledgor's business, including, when applicable and necessary in such Pledgor's reasonable business judgment, timely filings of applications for renewal, affidavits of use, affidavits of incontestability and payment of maintenance fees, and, if any Pledgor believes necessary in its reasonable business judgment, to initiate opposition, interference and cancellation proceedings against third parties.

(6) In the event that any Pledgor knows that any Article 9 Collateral consisting of a Patent, Trademark or Copyright material to the normal conduct of its business has been materially infringed, misappropriated or diluted by a third party, such Pledgor shall promptly notify the Collateral Agent and shall, if such Pledgor deems it necessary in its sole reasonable business judgment, promptly sue and recover any and all damages and take such other actions as are reasonably appropriate under the circumstances.

(7) Upon and during the continuance of an Event of Default, at the request of the Collateral Agent, each Pledgor shall use commercially reasonable efforts to obtain all requisite consents or approvals from each licensor under each Copyright License, Patent License or Trademark License to effect the assignment or sub-license of all such Pledgor's right, title and interest thereunder to (in the Collateral Agent's reasonable discretion) the designee of the Collateral Agent or the Collateral Agent; provided, however, that nothing contained in this Section 3.5(g) should be construed as an obligation of any Pledgor to incur any costs or expenses in connection with obtaining such approval.

ARTICLE III.

Remedies

SECTION i. ***Remedies Upon Default.*** In accordance with, and to the extent consistent with, the terms of any applicable Intercreditor Agreement, the Collateral Agent may take any action specified in this Section 4.1. Upon the occurrence and during the continuance of an Event of Default, it is agreed that the Collateral Agent shall have the right to take any of or all the following actions at the same or different times upon the occurrence and during the continuance of an Event of Default: (a) exercise those rights and remedies provided in this Agreement, the Credit Agreement or any other Credit Agreement Document; provided that the Collateral Agent shall provide the applicable Pledgor with notice thereof prior to or promptly after such exercise,

(b) with respect to any Article 9 Collateral consisting of Intellectual Property, on demand, to cause the Security Interest to become an assignment, transfer and conveyance of any of or all such Article 9 Collateral by the applicable Pledgors to the Collateral Agent or to license or sublicense (subject to any such licensee's obligation to maintain the quality of the goods and/or services provided under any Trademark consistent with the quality of such goods and/or services provided by the Pledgors immediately prior to the Event of Default), whether general, special or otherwise, and whether on an exclusive or a nonexclusive basis any such Article 9 Collateral throughout the world on such terms and conditions and in such manner as the Collateral Agent shall determine (other than in violation of any then-existing licensing or trademark co-existence arrangements to the extent that waivers thereunder cannot be obtained with the use of commercially reasonable efforts, which each Pledgor hereby agrees to use) and (c) subject to the mandatory requirements of applicable law and the notice requirements described below, with or without legal process and with or without prior notice or demand for performance, to take possession of the Article 9 Collateral and without liability for trespass to the applicable Pledgor to enter any premises where the Article 9 Collateral or any records relating to the Article 9 Collateral may be located for the purpose of taking possession of or removing the Article 9 Collateral (provided that the Collateral Agent shall provide the applicable Pledgor with notice thereof prior to or promptly after such entry) and, generally, to exercise any and all rights afforded to a secured party under the Uniform Commercial Code or other applicable law (including, without limitation, any law governing the exercise of a bank's right of setoff or bankers' lien) or in equity; provided that the Collateral Agent shall provide the applicable Pledgor with notice thereof prior to or promptly after such exercise. The Collateral Agent agrees and covenants not to exercise any of the rights or remedies set forth in the preceding sentence unless and until the occurrence and during the continuance of an Event of Default. Without limiting the generality of the foregoing, each Pledgor agrees that the Collateral Agent shall have the right, subject to the mandatory requirements of applicable law, to sell or otherwise Dispose of all or any part of the Collateral at a public or private sale or at any broker's board or on any securities exchange, for cash, upon credit or for future delivery, as the Collateral Agent shall deem appropriate. The Collateral Agent shall be authorized in connection with any sale of a security (if it deems it advisable to do so) pursuant to the foregoing to restrict the prospective bidders or purchasers to persons who represent and agree that they are purchasing such security for their own account, for investment, and not with a view to the distribution or sale thereof. Upon consummation of any such Disposition of Collateral pursuant to this Section 4.1 the Collateral Agent shall have the right to assign, transfer, license and deliver to the purchaser or purchasers thereof the Collateral so sold (other than in violation of any then-existing licensing or trademark co-existence arrangements to the extent that waivers thereunder cannot be obtained with the use of commercially reasonable efforts, which each Pledgor hereby agrees to use). Each such purchaser at any such Disposition shall hold the property sold absolutely, free from any claim or right on the part of any Pledgor, and each Pledgor hereby waives and releases (to the extent permitted by law) all rights of redemption, stay, valuation and appraisal that such Pledgor now has or may at any time in the future have under any rule of law or statute now existing or hereafter enacted.

The Collateral Agent shall give the applicable Pledgors ten (10) Business Days' written notice (which each Pledgor agrees is reasonable notice within the meaning of Section

9-611 of the Uniform Commercial Code or its equivalent in other jurisdictions) of the Collateral Agent's intention to make any sale of Collateral. Such notice, in the case of a public sale, shall state the time and place for such sale and, in the case of a sale at a broker's board or on a securities exchange, shall state the board or exchange at which such sale is to be made and the day on which the Collateral, or portion thereof, will first be offered for sale at such board or exchange. Any such public sale shall be held at such time or times within ordinary business hours and at such place or places as the Collateral Agent may fix and state in the notice (if any) of such sale, and each Pledgor agrees that the internet shall constitute a "place" for purposes of Section 9-610(b) of the Uniform Commercial Code or its equivalent in any applicable jurisdiction. At any such sale, the Collateral, or the portion thereof, to be sold may be sold in one lot as an entirety or in separate parcels, as the Collateral Agent may (in its sole and absolute discretion) determine. The Collateral Agent shall not be obligated to make any sale of any Collateral if it shall determine not to do so, regardless of the fact that notice of sale of such Collateral shall have been given. The Collateral Agent may, without notice or publication, adjourn any public or private sale or cause the same to be adjourned from time to time by announcement at the time and place fixed for sale, and such sale may, without further notice, be made at the time and place to which the same was so adjourned. In the case of any sale of all or any part of the Collateral made on credit or for future delivery, the Collateral so sold may be retained by the Collateral Agent until the sale price is paid by the purchaser or purchasers thereof, but the Collateral Agent shall not incur any liability in the event that any such purchaser or purchasers shall fail to take up and pay for the Collateral so sold and, in the case of any such failure, such Collateral may be sold again upon notice given in accordance with provisions above. At any public (or, to the extent permitted by law, private) sale made pursuant to this Section 4.1, any Secured Party may bid for or purchase for cash, free (to the extent permitted by law) from any right of redemption, stay, valuation or appraisal on the part of any Pledgor (all such rights being also hereby waived and released to the extent permitted by law), the Collateral or any part thereof offered for sale and such Secured Party may, upon compliance with the terms of sale, hold, retain and Dispose of such property in accordance with Section 4.2 without further accountability to any Pledgor therefor. For purposes hereof, a written agreement to purchase the Collateral or any portion thereof shall be treated as a sale thereof; the Collateral Agent shall be free to carry out such sale pursuant to such agreement and no Pledgor shall be entitled to the return of the Collateral or any portion thereof subject thereto, notwithstanding the fact that after the Collateral Agent shall have entered into such an agreement all Events of Default shall have been remedied and the Secured Obligations paid in full. As an alternative to exercising the power of sale herein conferred upon it, the Collateral Agent may proceed by a suit or suits at law or in equity to foreclose this Agreement and to sell the Collateral or any portion thereof pursuant to a judgment or decree of a court or courts having competent jurisdiction or pursuant to a proceeding by a court-appointed receiver. To the extent permitted by applicable law, any sale pursuant to the provisions of this Section 4.1 shall be deemed to conform to the commercially reasonable standards as provided in Section 9-610(b) of the Uniform Commercial Code or its equivalent in other jurisdictions.

SECTION ii. ***Application of Proceeds.*** The Collateral Agent shall, subject to any applicable Intercreditor Agreement, promptly apply the proceeds, moneys or balances of any collection or sale of Collateral realized through the exercise by the Collateral Agent of its remedies hereunder,

as well as any Collateral consisting of cash at any time when remedies are being exercised hereunder, as set forth in Section 7.03 of the Credit Agreement.

The Collateral Agent shall have absolute discretion as to the time of application of any such proceeds, moneys or balances in accordance with this Agreement. Upon any sale of Collateral by the Collateral Agent (including pursuant to a power of sale granted by statute or under a judicial proceeding), the receipt of the purchase money by the Collateral Agent or of the officer making the sale shall be a sufficient discharge to the purchaser or purchasers of the Collateral so sold and such purchaser or purchasers shall not be obligated to see to the application of any part of the purchase money paid over to the Collateral Agent or such officer or be answerable in any way for the misapplication thereof.

SECTION iii..**Securities Act, Etc.** In view of the position of the Pledgor in relation to the Pledged Collateral, or because of other current or future circumstances, a question may arise under the Securities Act of 1933, as amended, or any similar federal statute hereafter enacted analogous in purpose or effect (such Act and any such similar statute as from time to time in effect being called the "**Federal Securities Laws**") with respect to any Disposition of the Pledged Collateral permitted hereunder. Each Pledgor understands that compliance with the Federal Securities Laws might very strictly limit the course of conduct of the Collateral Agent if the Collateral Agent were to attempt to Dispose of all or any part of the Pledged Collateral, and might also limit the extent to which or the manner in which any subsequent transferee of any Pledged Collateral could Dispose of the same. Similarly, there may be other legal restrictions or limitations affecting the Collateral Agent in any attempt to Dispose of all or part of the Pledged Collateral under applicable Blue Sky or other state securities laws or similar laws analogous in purpose or effect. Each Pledgor acknowledges and agrees that in light of such restrictions and limitations, the Collateral Agent, subject to the terms of any applicable Intercreditor Agreement, in its reasonable discretion, (a) may proceed to make such a sale whether or not a registration statement for the purpose of registering such Pledged Collateral or part thereof shall have been filed under the Federal Securities Laws or, to the extent applicable, Blue Sky or other state securities laws and (b) may approach and negotiate with a single potential purchaser to effect such sale. Each Pledgor acknowledges and agrees that any such sale might result in prices and other terms less favorable to the seller than if such sale were a public sale without such restrictions. In the event of any such sale, the Collateral Agent shall incur no responsibility or liability for selling all or any part of the Pledged Collateral at a price that the Collateral Agent, subject to the terms of any applicable Intercreditor Agreement, in its reasonable discretion, may in good faith deem reasonable under the circumstances, notwithstanding the possibility that a substantially higher price might have been realized if the sale were deferred until after registration as aforesaid or if more than a single purchaser were approached. The provisions of this Section 4.3 will apply notwithstanding the existence of a public or private market upon which the quotations or sales prices may exceed substantially the price at which the Collateral Agent sells.

SECTION iv..**Collection of Receivables Assets.** Subject to any Intercreditor Agreement, the Collateral Agent may at any time after the occurrence and during the continuance of an Event of Default, by giving each Pledgor written notice, elect to require that any Accounts of any Pledgor

be paid directly to the Collateral Agent for the benefit of the Secured Parties. In such event, each such Pledgor shall, and shall permit the Collateral Agent to, promptly notify the account debtors or obligors under the Accounts owned by such Pledgor of the Collateral Agent's interest therein and direct such account debtors or obligors to make payment of all amounts then or thereafter due under such Accounts directly to the Collateral Agent. Upon receipt of any such notice from the Collateral Agent, each Pledgor shall, so long as an Event of Default is continuing, thereafter hold in trust for the Collateral Agent, on behalf of the Secured Parties, all amounts and proceeds received by it with respect to the Accounts and other Collateral and promptly deliver to the Collateral Agent all such amounts and proceeds in the same form as so received, whether by cash, check, draft or otherwise, with any necessary endorsements. The Collateral Agent shall hold and apply funds so received as provided by the terms of Sections 4.2 and 4.5 hereof.

SECTION v..***Special Collateral Account.*** Subject to any Intercreditor Agreement, the Collateral Agent may, at any time after the occurrence and during the continuation of an Event of Default, require all cash proceeds of the Collateral to be deposited in a special non-interest bearing cash collateral account with the Collateral Agent promptly after receipt thereof by a Pledgor and held in such cash collateral account as security for its Secured Obligations. No Pledgor shall have any control whatsoever over such cash collateral account; provided that the Collateral Agent shall at the request of the Borrower, release all funds in such cash collateral account (less any amounts that have been applied in accordance with the immediately following sentence) to the applicable Pledgor promptly upon the cure or waiver of all Events of Default. Subject to any Intercreditor Agreement, the Collateral Agent may (and shall, at the direction of the Required Lenders), from time to time, apply the collected balances in said cash collateral account to the payment of the Secured Obligations then due in accordance with the terms of Section 4.2 hereof and the terms of any applicable Intercreditor Agreement.

SECTION vi..***Pledgors' Obligations Upon Event of Default.*** Upon the request of the Collateral Agent after the occurrence and during the continuance of an Event of Default, each Pledgor will:

(1) *Assembly of Collateral.* Assemble and make available to the Collateral Agent the Collateral at a place or places specified by the Collateral Agent that is reasonably convenient to the Collateral Agent and such Pledgor.

(2) *Secured Party Access.* Permit the Collateral Agent, by the Collateral Agent's representatives and agents, to enter, occupy and use any premises owned or, to the extent lawful and permitted, leased by any of the Pledgors where all or any part of the Collateral is located, to take possession of all or any part of the Collateral, to remove all or any part of the Collateral and to conduct sales of the Collateral, without any obligation to pay the Pledgor for such use and occupancy; provided that the Collateral Agent shall provide the applicable Pledgor with notice thereof prior to such occupancy or use.

ARTICLE IV.

Miscellaneous

SECTION i..**Notices.** All communications and notices hereunder shall (except as otherwise expressly permitted herein) be in writing and given as provided in Section 9.01 of the Credit Agreement. All communications and notices hereunder to any Pledgor shall be given to it in care of the Borrower, with such notice to be given as provided in Section 9.01 of the Credit Agreement.

SECTION ii..**Security Interest Absolute.** To the extent permitted by law, all rights of the Collateral Agent hereunder, the Security Interest in the Article 9 Collateral, the security interest in the Pledged Collateral and all obligations of each Pledgor hereunder shall be absolute and unconditional irrespective of (a) any lack of validity or enforceability of any Credit Agreement Document, any other agreement with respect to any of the Secured Obligations or any other agreement or instrument relating to any of the foregoing, (b) 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 Credit Agreement Document, any Intercreditor Agreement or any other agreement or instrument, (c) any exchange, release or non-perfection of any Lien on other collateral, or any release or amendment or waiver of or consent under or departure from any guarantee, securing or guaranteeing all or any of the Secured Obligations or (d) any other circumstance that might otherwise constitute a defense available to, or a discharge of, any Pledgor in respect of the Secured Obligations or this Agreement (other than a defense of payment or performance of such Secured Obligations (other than contingent indemnification and reimbursement obligations for which no claim has been made)).

SECTION iii..**Limitation By Law.** All rights, remedies and powers provided in this Agreement may be exercised only to the extent that the exercise thereof does not violate any applicable provision of law, and all the provisions of this Agreement are intended to be subject to all applicable mandatory provisions of law that may be controlling and to be limited to the extent necessary so that they shall not render this Agreement invalid, unenforceable, in whole or in part, or not entitled to be recorded, registered or filed under the provisions of any applicable law.

SECTION iv..**Binding Effect; Several Agreements.** This Agreement shall become effective as to any party to this Agreement when a counterpart hereof executed on behalf of such party shall have been delivered to the Collateral Agent and a counterpart hereof shall have been executed on behalf of the Collateral Agent, and thereafter shall be binding upon such party and the Collateral Agent and their respective permitted successors and permitted assigns, and shall inure to the benefit of such party, the Collateral Agent and the other Secured Parties and their respective permitted successors and permitted assigns, except that no party shall have the right to assign or transfer its rights or obligations hereunder or any interest herein or in the Collateral (and any such assignment or transfer shall be void) except as permitted under this Agreement and the Credit Agreement. This Agreement shall be construed as a separate agreement with respect to

each party and may be amended, modified, supplemented, waived or released in accordance with Section 5.9 or 5.15, as applicable.

SECTION v..**Successors and Assigns.** Whenever in this Agreement any of the parties hereto is referred to, such reference shall be deemed to include the permitted successors and permitted assigns of such party and all covenants, promises and agreements by or on behalf of any Pledgor or the Collateral Agent that are contained in this Agreement shall bind and inure to the benefit of their respective permitted successors and permitted assigns, provided that no Pledgor may assign, transfer or delegate any of its rights or obligations under this Agreement except as permitted by Section 5.4 or the Credit Agreement Documents.

SECTION vi..**Collateral Agent's Fees and Expenses; Indemnification.**

(1) The parties hereto agree that the Collateral Agent shall be entitled to reimbursement of its expenses incurred hereunder by the Pledgors, and the Collateral Agent and other Indemnitees shall be indemnified by the Pledgors, in each case of this clause (a), *mutatis mutandis*, as provided in Section 9.05 of the Credit Agreement.

(2) Any such amounts payable as provided hereunder shall be additional Secured Obligations secured hereby and by the other Security Documents. The provisions of this Section 5.6 shall remain operative and in full force and effect regardless of the resignation of the Collateral Agent, the termination of this Agreement, any other Credit Agreement Document or the consummation of the transactions contemplated hereby, the repayment of any of the Secured Obligations, the invalidity or unenforceability of any term or provision of this Agreement, any other Credit Agreement Document, or any investigation made by or on behalf of the Collateral Agent or any other Secured Party.

SECTION vii..**Collateral Agent Appointed Attorney-in-Fact.** Subject to the Intercreditor Agreements, each Pledgor hereby appoints the Collateral Agent as the attorney-in-fact of such Pledgor for the purpose of carrying out the provisions of this Agreement and taking any action and executing any instrument that the Collateral Agent may deem necessary or advisable to accomplish the purposes hereof, in each case upon the occurrence and during the continuance of an Event of Default, which appointment is irrevocable (until termination of this Agreement) and coupled with an interest. Without limiting the generality of the foregoing, subject to applicable Requirements of Law and any Intercreditor Agreements, the Collateral Agent shall have the right, upon the occurrence and during the continuance of an Event of Default and reasonable notice by the Collateral Agent to the Borrower of its intent to exercise such rights, with full power of substitution either in the Collateral Agent's name or in the name of such Pledgor, (a) to receive, endorse, assign or deliver any and all notes, acceptances, checks, drafts, money orders or other evidences of payment relating to the Collateral or any part thereof; (b) to demand, collect, receive payment of, give receipt for and give discharges and releases of all or any of the Collateral; (c) to ask for, demand, sue for, collect, receive and give acquittance for any and all moneys due or to become due under and by virtue of any Collateral; (d) to sign the name of any Pledgor on any invoice or bill of lading relating to any of the Collateral; (e) to send verifications of Accounts to any Account Debtor; (f) to commence and prosecute any and all suits, actions or proceedings at law or in equity in any court of competent jurisdiction to collect or otherwise,

realize on all or any of the Collateral or to enforce any rights in respect of any Collateral; (g) to settle, compromise, compound, adjust or defend any actions, suits or proceedings relating to all or any of the Collateral; (h) to notify, or to require any Pledgor to notify, Account Debtors to make payment directly to the Collateral Agent as contemplated by Section 4.4; and (i) to use, sell, assign, transfer, pledge, make any agreement with respect to or otherwise deal with all or any of the Collateral, and to do all other acts and things necessary to carry out the purposes of this Agreement, as fully and completely as though the Collateral Agent were the absolute owner of the Collateral for all purposes; provided that nothing herein contained shall be construed as requiring or obligating the Collateral Agent to make any commitment or to make any inquiry as to the nature or sufficiency of any payment received by the Collateral Agent, or to present or file any claim or notice, or to take any action with respect to the Collateral or any part thereof or the moneys due or to become due in respect thereof or any property covered thereby. Notwithstanding anything in this Section 5.7 to the contrary, the Collateral Agent agrees that it will not exercise any rights under the power of attorney provided for in this Section 5.7 unless an Event of Default shall have occurred and be continuing. The Collateral Agent and the other Secured Parties shall be accountable only for amounts actually received as a result of the exercise of the powers granted to them herein, and neither they nor their officers, directors, employees or agents shall be responsible to any Pledgor for any act or failure to act hereunder, except for their own or their Related Parties' gross negligence, bad faith or willful misconduct, as determined by a court of competent jurisdiction in a final and non-appealable judgment. For the avoidance of doubt, Section 8.03 of the Credit Agreement shall apply to the Collateral Agent as agent for the Secured Parties hereunder.

SECTION viii..*Governing Law.* THIS AGREEMENT AND ANY CLAIMS, CONTROVERSY, DISPUTE OR CAUSES OF ACTION (WHETHER IN CONTRACT OR TORT OR OTHERWISE) BASED UPON, ARISING OUT OF OR RELATING TO THIS AGREEMENT SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF THE STATE OF NEW YORK.

SECTION ix..*Waivers; Amendment.* No failure or delay by the Collateral Agent or any other Secured Party in exercising any right, power or remedy hereunder or under any other Credit Agreement Document shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or remedy, or any abandonment or discontinuance of steps to enforce such a right, power or remedy, preclude any other or further exercise thereof or the exercise of any other right, power or remedy. The rights, powers and remedies of the Collateral Agent and the other Secured Parties hereunder and under the other Credit Agreement Documents are cumulative and are not exclusive of any rights, powers or remedies that they would otherwise have. No waiver of any provision of this Agreement or consent to any departure by any Pledgor therefrom shall in any event be effective unless the same shall be permitted by paragraph (b) of this Section 5.9, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. Without limiting the generality of the foregoing, the making of a Loan or the issuance of a Letter of Credit shall not be construed as a waiver of any Default or Event of Default, regardless of whether the Collateral Agent or any other Secured Party may have had notice or knowledge of such Default or Event of Default at the time. No notice or

demand on any Pledgor in any case shall entitle any Pledgor to any other or further notice or demand in similar or other circumstances.

(1) Neither this Agreement nor any provision hereof may be waived, amended or modified except pursuant to an agreement or agreements in writing entered into by the Collateral Agent and the Pledgor or Pledgors with respect to which such waiver, amendment or modification is to apply, subject to any consent required in accordance with Section 9.08 of the Credit Agreement, and except as otherwise provided in any applicable Intercreditor Agreement. For the avoidance of doubt, the Collateral Agent is authorized to amend, supplement or otherwise modify this Agreement without further consent of any Lender in the circumstances expressly contemplated by the definitions of "Junior Liens" or "Other First Liens" in the Credit Agreement. The Collateral Agent may conclusively rely on a certificate of an officer of the Borrower as to whether any amendment contemplated by this Section 5.9(b) is permitted.

(2) Notwithstanding anything to the contrary contained herein, the Collateral Agent may (in its reasonable discretion) grant extensions of time or waivers of the requirement for the creation or perfection of security interests in or the obtaining of insurance (including title insurance) or surveys with respect to particular assets (including extensions beyond the Closing Date for the perfection of security interests in the assets of the Pledgors on such date) where it reasonably determines, in consultation with the Borrower, that perfection or obtaining of such items cannot be accomplished without undue effort or expense by the time or times at which it would otherwise be required by this Agreement, the other Credit Agreement Documents.

SECTION x..WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT, ANY OTHER CREDIT AGREEMENT DOCUMENT (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 5.10.

SECTION xi..Severability. In the event any one or more of the provisions contained in this Agreement or any other Credit Agreement Document should be held invalid, illegal or unenforceable in any respect in any jurisdiction, the validity, legality and enforceability of the remaining provisions contained herein and therein shall not in any way be affected or impaired thereby as to such jurisdiction, and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction. The parties shall endeavor in good-faith negotiations to replace the 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 xii..**Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall constitute an original but all of which when taken together shall constitute but one contract, and shall become effective as provided in Section 5.4. Delivery of an executed counterpart to this Agreement by facsimile or other electronic transmission shall be as effective as delivery of a manually signed original.

SECTION xiii..**Headings.** Article and Section headings and the Table of Contents used herein are for convenience of reference only, are not part of this Agreement and are not to affect the construction of, or to be taken into consideration in interpreting, this Agreement.

SECTION xiv..**Jurisdiction; Consent to Service of Process.** Each Pledgor hereby irrevocably and unconditionally agrees that it will not commence any action, litigation or proceeding of any kind or description, whether in law or equity, whether in contract or in tort or otherwise, against any other party to this Agreement or any Affiliate thereof, in any way relating to this Agreement, any other Credit Agreement Document or the transactions relating hereto or thereto, in any forum other than the courts of the State of New York sitting in New York County, Borough of Manhattan, and of the United States District Court of the Southern District of New York, sitting in New York County, Borough of Manhattan, and any appellate court from any thereof, and each of the parties hereto irrevocably and unconditionally submits to the jurisdiction of such courts and agrees that all claims in respect of any such action, litigation or proceeding may be heard and determined in such New York State court or, to the fullest extent permitted by applicable law, in such federal court. Each of the parties hereto agrees that a final judgment in any such action, litigation or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Agreement, any other Credit Agreement Document shall affect any right that the Collateral Agent or any other Secured Party may otherwise have to bring any action or proceeding relating to this Agreement or any other Credit Agreement Document against any Pledgor or its properties in the courts of any jurisdiction.

(1) Each party to this Agreement hereby irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, 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 or any other Credit Agreement Document in any court referred to in paragraph (a) of this Section 5.14. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

(2) Each party to this Agreement irrevocably consents to service of process in the manner provided for notices in Section 5.1. Nothing in this Agreement, any other Credit Agreement Document will affect the right of any party to this Agreement, any other Credit Agreement Document to serve process in any other manner permitted by law.

SECTION xv. **Termination or Release.** In each case subject to the terms of the Intercreditor Agreements:

(1) This Agreement and the pledges made by the Pledgors herein and all other security interests granted by the Pledgors hereby shall automatically terminate and be released upon the occurrence of the Termination Date.

(2) (i) A Pledgor shall automatically be released from its obligations hereunder if such Pledgor is released from its obligations under the Subsidiary Guarantee Agreement in accordance with Section 9.18(b) of the Credit Agreement and/or (ii) the Security Interest in any portion of the Collateral shall be automatically released upon the occurrence of any of the circumstances set forth in Section 9.18(a) of the Credit Agreement with respect to such portion of the Collateral, in the case of each of preceding clauses (i) and (ii), in accordance with the requirements of such Section (or clause thereof, as applicable), and all rights to the applicable Collateral shall revert to any applicable Pledgor.

(3) The Security Interest in any portion of the Collateral shall be automatically released upon such portion of the Collateral becoming Excluded Property or Excluded Securities (and the Collateral Agent may rely conclusively on a certificate to that effect provided to it by any Pledgor upon its reasonable request without any further inquiry).

(d) In connection with any termination or release pursuant to this Section 5.15, the Collateral Agent shall execute and deliver to any Pledgor, at such Pledgor's expense, all documents that such Pledgor shall reasonably request to evidence such termination or release (including Uniform Commercial Code termination statements), and will duly assign and transfer to such Pledgor, any of such released Collateral that is in the possession of the Collateral Agent and has not theretofore been sold or otherwise applied or released pursuant to this Agreement; provided that the Collateral Agent shall not be required to execute any such document on terms which, in the Collateral Agent's reasonable opinion, would expose the Collateral Agent to liability or create any obligation or entail any consequence other than such termination or release without representation or warranty. Any execution and delivery of documents pursuant to this Section 5.15 shall be made without recourse to or warranty by the Collateral Agent. In connection with any release pursuant to this Section 5.15, the applicable Pledgor shall be permitted to take any action in connection therewith consistent with such release including, without limitation, the filing of Uniform Commercial Code partial release amendments or termination statements, as applicable, in each case, as may be reasonably acceptable to the Collateral Agent with respect to the released portion of the Collateral. Upon the receipt of any necessary or proper instruments of termination, satisfaction or release prepared by the Borrower, the Collateral Agent shall execute, deliver or acknowledge such instruments or releases to evidence the release of any Collateral permitted to be released pursuant to this Agreement; provided that the Collateral Agent shall not be required to execute, deliver or acknowledge any such document on terms which, in the Collateral Agent's reasonable opinion, would expose the Collateral Agent to liability or create any obligation or entail any consequence other than such termination or release without representation or warranty. The Pledgors agree to pay all reasonable and documented out-of-pocket expenses incurred by the Collateral Agent (and its

representatives and counsel) in connection with the execution and delivery of such release documents or instruments.

SECTION xvi..***Additional Subsidiaries.*** Upon execution and delivery by any Subsidiary that is required or permitted to become a party hereto by Section 5.10 of the Credit Agreement or the Collateral and Guarantee Requirement of the Credit Agreement of an instrument substantially in the form of Exhibit I hereto (or another instrument reasonably satisfactory to the Collateral Agent and the Borrower), such subsidiary shall become a Pledgor hereunder with the same force and effect as if originally named as a Pledgor herein. The execution and delivery of any such instrument shall not require the consent of any other party to this Agreement. The rights and obligations of each party to this Agreement shall remain in full force and effect notwithstanding the addition of any new party to this Agreement.

SECTION xvii..***General Authority of the Collateral Agent.*** By acceptance of the benefits of this Agreement and any other Security Documents, each Secured Party (whether or not a signatory hereto) shall be deemed irrevocably (i) to consent to the appointment of the Collateral Agent as its agent hereunder and under such other Security Documents, (ii) to confirm that the Collateral Agent shall have the authority to act as the exclusive agent of such Secured Party for the enforcement of any provision of this Agreement and such other Security Documents against any Pledgor, the exercise of remedies hereunder or thereunder and the giving or withholding of any consent or approval hereunder thereunder relating to any Collateral or any Pledgor's obligations with respect thereto, (iii) to agree that it shall not take any action to enforce any provisions of this Agreement or any other Security Document against any Pledgor, to exercise any remedy hereunder or thereunder or to give any consents or approvals hereunder or thereunder except as expressly provided in this Agreement or any other Security Document and (iv) to agree to be bound by the terms of this Agreement and any other Security Documents and any applicable Intercreditor Agreement then in effect.

(1) Each Pledgor acknowledges that the rights and responsibilities of the Collateral Agent under this Agreement with respect to any action taken by the Collateral Agent or the exercise or non-exercise by the Collateral Agent of any option, voting right, request, judgment or other right or remedy provided for herein or resulting or arising out of this Agreement shall, as between the Collateral Agent and the Secured Parties, be governed by Article VIII of the Credit Agreement, any Permitted First Lien Intercreditor Agreement and such other agreements with respect thereto as may exist from time to time among them, but, as between the Collateral Agent and the Pledgors, the Collateral Agent shall be conclusively presumed to be acting as agent for the applicable Secured Parties with full and valid authority so to act or refrain from acting, and no Pledgor shall be under any obligation, or entitlement, to make any inquiry respecting such authority.

(2) It is expressly understood and agreed that the obligations of the Collateral Agent as holder of the Collateral and interests therein and with respect to the disposition thereof, and otherwise under this Agreement, are only those expressly set forth in this Agreement and Article VIII of the Credit Agreement. The Collateral Agent shall act hereunder on the terms and conditions set forth herein and in Article VIII of the Credit Agreement.

SECTION xviii..**Subject to Intercreditor Agreements; Conflicts.** Notwithstanding anything herein to the contrary, (i) the Liens and security interests granted to the Collateral Agent for the benefit of the Secured Parties pursuant to this Agreement and (ii) the exercise of any right or remedy by the Collateral Agent hereunder or the application of proceeds (including insurance and condemnation proceeds) of any Collateral, in each case, are subject to the limitations and provisions of any applicable Intercreditor Agreement to the extent provided therein. In the event of any conflict between the terms of such applicable Intercreditor Agreement and the terms of this Agreement, the terms of such applicable Intercreditor Agreement shall govern.

SECTION xix..[Intentionally Omitted].

SECTION xx..**Person Serving as Collateral Agent.** On the Closing Date, the Collateral Agent hereunder is the Credit Agreement Agent. Written notice of resignation by the Administrative Agent under (and as defined in) the Credit Agreement pursuant to the Credit Agreement shall also constitute notice of resignation as the Collateral Agent under this Agreement. Upon the acceptance of any appointment as the Administrative Agent under (and as defined in) the Credit Agreement by a successor, that successor shall thereupon succeed to and become vested with all the rights, powers, privileges and duties of the retiring Collateral Agent pursuant hereto. The Collateral Agent immediately prior to any change in Collateral Agent pursuant to this Section 5.20 (the “**Prior Collateral Agent**”) shall be deemed to have assigned all of its rights, powers and duties hereunder to the successor Collateral Agent determined in accordance with this Section 5.20 (the “**Successor Collateral Agent**”) and the Successor Collateral Agent shall be deemed to have accepted, assumed and succeeded to such rights, powers and duties. The Prior Collateral Agent shall cooperate with the Pledgors and such Successor Collateral Agent to ensure that all actions are taken that are necessary or reasonably requested by the Successor Collateral Agent to vest in such Successor Collateral Agent the rights granted to the Prior Collateral Agent hereunder with respect to the Collateral, including (a) the filing of amended financing statements in the appropriate filing offices, (b) to the extent that the Prior Collateral Agent holds, or a third party holds on its behalf, physical possession of or “control” (as defined in the New York UCC or the Uniform Commercial Code or its equivalent in any other applicable jurisdiction) (or any similar concept under foreign law) over Collateral pursuant to this Agreement or any other Security Document, the delivery to the Successor Collateral Agent of the Collateral in its possession or control together with any necessary endorsements to the extent required by this Agreement and (c) the execution and delivery of any further documents, financing statements or agreements and the taking of all such further action that may be required under any applicable law, or that the Successor Collateral Agent may reasonably request, all without recourse to, or representation or warranty by, the Collateral Agent, and at the sole cost and expense of the Pledgors.

SECTION xxi..[Reserved].

SECTION xxii..**Secured Cash Management Agreements and Secured Hedge Agreements.** No Secured Party that obtains the benefit of this Agreement shall have any right to notice of any action or to consent to, direct or object to, any action hereunder or otherwise in respect of the Collateral (including, without limitation, the release or impairment of any Collateral) other than

in its capacity as a Lender, a Issuing Bank or the Administrative Agent, and, in any such case, only to the extent expressly provided in the Credit Agreement Documents, including without limitation Article VIII of the Credit Agreement. Each Secured Party not a party to the Credit Agreement that obtains the benefit of this Agreement shall be deemed to have acknowledged and accepted the appointment of the Administrative Agent pursuant to the terms of the Credit Agreement, including, without limitation, under Article VIII of the Credit Agreement and the appointment.

[Signature Pages Follow]

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the day and year first above written.

MAGNITE, INC.

By: _____
Name:
Title:

Each as a Subsidiary Loan Party:

¶

MAGNITE HOPPER, INC.

By: _____
Name:
Title:

RUBICON PROJECT UNLATCH, INC.

Name:
Title:

¶

MAGNITE BELL, INC.

Name:
Title:

MAGNITE APEX, INC.

Name:
Title:

[Signature Page to Collateral Agreement]

MAGNITE CTV, INC.

Name:

Title:

SPOTX, INC.

Name:

Title:

[Signature Page to Collateral Agreement]

GOLDMAN SACHS BANK USA, as Collateral Agent

By: _____

Name:

Title:

[Signature Page to Collateral Agreement]

Subsidiary Loan Parties

Pledged Stock; Pledged Debt

A. Pledged Stock

Issuer	Record Owner	Certificate No.	Number and Class	Percentage of Equity Interest Owned	Percent (of Owned Equity Interests) Pledged

B. Pledged Debt

Payee	Payor	Principal	Date of Issuance	Maturity Date

Intellectual Property

A. U.S. Federally Issued or Applied for Patents.

Registrations:

OWNER	REGISTRATION NUMBER	DESCRIPTION

Applications:

OWNER	APPLICATION NUMBER	DESCRIPTION

B. U.S. Federally Registered Copyrights.

Registrations:

OWNER	TITLE	REGISTRATION NUMBER

Applications:

OWNER	TITLE	CASE NUMBER

C. U.S. Federally Registered or Applied for Trademarks.

Registrations:

OWNER	REGISTRATION NUMBER	TRADEMARK

Applications:

OWNER	APPLICATION NUMBER	DESCRIPTION

OTHER TRADEMARKS:

Registrations:

OWNER	REGISTRATION NUMBER	COUNTRY/STATE	TRADEMARK

D. IP Agreements.

Patent Licenses:

LICENSEE	LICENSOR	COUNTRY/STATE	REGISTRATION/ APPLICATION NUMBER	DESCRIPTION

Trademark License:

LICENSEE	LICENSOR	COUNTRY/STATE	REGISTRATION/ APPLICATION NUMBER	DESCRIPTION

Commercial Tort Claims

IV-1

Deposit Accounts

Pledgor	Depository Institution	Depository Institution Address	Type of Account	Account Number

Form of Supplement to the Collateral Agreement

SUPPLEMENT NO. [●] (this “**Supplement**”), dated as of [●], 20[●] to the U.S. Collateral Agreement dated as of April 30, 2021 (as amended, restated, supplemented or otherwise modified from time to time, the “**Collateral Agreement**”), among MAGNITE, INC., a Delaware corporation (the “**Borrower**”), each Subsidiary Loan Party listed on the signature pages thereof and each other Subsidiary Loan Party that becomes a party thereto after the date thereof (all such Subsidiary Loan Parties, together with the Borrower, the “**Pledgors**”) and GOLDMAN SACHS BANK USA, as collateral agent (together with its permitted successors and permitted assigns in such capacity, the “**Collateral Agent**”) for the Secured Parties (as defined therein).

A. Reference is made to the Credit Agreement, dated as of April 30, 2021 (as amended, restated, supplemented or otherwise modified from time to time, the “**Credit Agreement**”), among the Borrower, the Lenders party thereto from time to time, the Issuing Banks party thereto from time to time, Goldman Sachs Bank USA, as administrative agent and the Collateral Agent, and the other parties party thereto.

B. Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the Collateral Agreement.

C. The Pledgors have entered into the Collateral Agreement pursuant to the requirements set forth in the Credit Agreement. Section 5.16 of the Collateral Agreement provides that additional Subsidiary Loan Parties may become Pledgors under the Collateral Agreement by execution and delivery of an instrument in the form of this Supplement. The undersigned Subsidiary (the “**New Subsidiary**”) is executing this Supplement in accordance with the requirements of Section 5.10 of the Credit Agreement to become a Pledgor under the Collateral Agreement.

Accordingly, the New Subsidiary agrees as follows:

SECTION 1. In accordance with Section 5.16 of the Collateral Agreement, the New Subsidiary by its signature below becomes a Pledgor under the Collateral Agreement with the same force and effect as if originally named therein as a Pledgor and the New Subsidiary hereby (a) agrees to all the terms and provisions of the Collateral Agreement applicable to it as a Pledgor thereunder and (b) represents and warrants that the representations and warranties made by it as a Pledgor thereunder are true and correct in all material respects on and as of the date hereof. In furtherance of the foregoing, the New Subsidiary, as security for the payment and performance in full of its Secured Obligations, does hereby create and grant to the Collateral Agent, its permitted successors and permitted assigns, for the benefit of the Secured Parties, their permitted successors and permitted assigns, a security interest in and lien on all of the New Subsidiary’s right, title and interest in and to the Collateral (as defined in the Collateral Agreement) of the New Subsidiary, whether now owned or at any time hereafter acquired by the New Subsidiary; provided that, for the avoidance of doubt, the Collateral shall not include any Excluded Property or Excluded Securities. Each reference to a “Pledgor” in the Collateral Agreement shall be

deemed to include the New Subsidiary. The Collateral Agreement is hereby incorporated herein by reference.

SECTION 2. The New Subsidiary represents and warrants to the Collateral Agent and the other Secured Parties that this Supplement has been duly authorized, executed and delivered by it and constitutes its legal, valid and binding obligation, enforceable against it in accordance with its terms, subject to (i) the effects of bankruptcy, insolvency, fraudulent conveyance or other similar laws affecting creditors' rights generally, (ii) general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law) and (iii) implied covenants of good faith and fair dealing.

SECTION 3. This Supplement 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 Supplement shall become effective when the Collateral Agent shall have received a counterpart of this Supplement that bears the signature of the New Subsidiary. Delivery of an executed signature page to this Supplement by facsimile or other electronic transmission shall be as effective as delivery of a manually signed counterpart of this Supplement.

SECTION 4. The New Subsidiary hereby represents and warrants that, as of the date hereof, (a) set forth on Schedule I attached hereto is a true and correct schedule of any and all of (and, with respect to any Pledged Stock issued by an issuer that is not a subsidiary of the Borrower, correctly sets forth, to the knowledge of the New Subsidiary) the percentage of the issued and outstanding units of each class of the Equity Interests of the issuer thereof represented by the Pledged Stock and includes (i) all Equity Interests pledged hereunder and (ii) all Pledged Debt pledged hereunder now owned by the New Subsidiary required to be pledged in order to satisfy the Collateral and Guarantee Requirement or delivered pursuant to Section 2.2(a) and 2.2(b) of the Collateral Agreement, (b) set forth on Schedule II attached hereto is a list of any and all Intellectual Property now owned by the New Subsidiary consisting of Patents and Trademarks applied for or registered with the United States Patent and Trademark Office and Copyrights registered with the United States Copyright Office, (c) set forth on Schedule III attached hereto is a list of any and all Commercial Tort Claims reasonably expected to result in a recovery greater than \$1,000,000, (d) set forth on Schedule IV attached hereto is a list of all Deposit Accounts (other than any Excluded Accounts) of the New Subsidiary, including the name and address of the depository institution, the type and purpose of each account and the account number and (e) set forth under its signature hereto is the true and correct legal name of the New Subsidiary, its jurisdiction of organization and the location of its chief executive office. Schedule III hereto shall supplement Schedule IV to the Collateral Agreement.

SECTION 5. Except as expressly supplemented hereby, the Collateral Agreement shall remain in full force and effect.

SECTION 6. THIS SUPPLEMENT AND ANY CLAIMS, CONTROVERSY, DISPUTE OR CAUSES OF ACTION (WHETHER IN CONTRACT OR TORT OR OTHERWISE) BASED UPON, ARISING OUT OF OR RELATING TO THIS SUPPLEMENT SHALL

BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF THE STATE OF NEW YORK.

SECTION 7. In case any one or more of the provisions contained in this Supplement should be held invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein and in the Collateral Agreement shall not in any way be affected or impaired thereby (it being understood that the invalidity of a particular provision in a particular jurisdiction shall not in and of itself affect the validity of such provision in any other jurisdiction). The parties hereto shall endeavor in good-faith negotiations to replace the 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 8. All communications and notices hereunder shall (except as otherwise expressly permitted by the Collateral Agreement) be in writing and given as provided in Section 5.1 of the Collateral Agreement.

[Signature Page Follows]

IN WITNESS WHEREOF, the New Subsidiary has duly executed this Supplement to the Collateral Agreement as of the day and year first above written.

[NAME OF NEW SUBSIDIARY]

By: _____

Name:

Title:

Address:

Legal Name:

Jurisdiction of Formation:

[Signature Page to Supplement to Collateral Agreement]

Pledged Stock; Pledged Debt

A. Pledged Stock

Issuer	Record Owner	Certificate No.	Number and Class	Percentage of Equity Interest Owned	Percent Pledged

B. Pledged Debt

Payee	Payor	Principal	Date of Issuance	Maturity Date

Intellectual Property

A. U.S. Federally Issued or Applied for Patents Owned by [New Subsidiary]

U.S. Patent Registrations

Title	Patent No.	Issue Date

U.S. Patent Applications

Title	Application No.	Filing Date

B. U.S. Federally Registered Copyrights Owned by [New Subsidiary]

U.S. Copyright Registrations

Title	Registration No.	Registration Date

A. U.S. Federally Registered or Applied for Trademarks Owned by [New Subsidiary].

U.S. Trademark Registrations

Title	Registration No.	Registration Date

U.S. Trademark Applications

Title	Application No.	Filing Date

Commercial Tort Claims

Deposit Accounts

New Subsidiary	Depository Institution	Depository Institution Address	Type of Account	Account Number

Form of Notice of Grant of Security Interest in Intellectual Property

[FORM OF] NOTICE OF GRANT OF SECURITY INTEREST IN [COPYRIGHTS] [PATENTS] [TRADEMARKS], dated as of [DATE] (this “**Agreement**”), made by [●], a [●] [●] (the “**Pledgor**”), in favor of GOLDMAN SACHS BANK USA, as Collateral Agent (as defined below).

Reference is made to the Collateral Agreement dated as of April 30, 2021 (as amended, restated, supplemented or otherwise modified from time to time, the “**Collateral Agreement**”), among Magnite, Inc., a Delaware corporation (the “**Borrower**”), each Subsidiary Loan Party listed on the signature pages thereof and each other Subsidiary Loan Party that becomes a party thereto after the date thereof, as Pledgors (as defined therein), and Goldman Sachs Bank USA, as collateral agent (together with its permitted successors and permitted assigns in such capacity, the “**Collateral Agent**”) for the Secured Parties (as defined therein). The parties hereto agree as follows:

SECTION 1. **Terms.** Capitalized terms used in this Agreement and not otherwise defined herein have the meanings specified in the Collateral Agreement. The rules of construction specified in Section 1.1(b) of the Collateral Agreement also apply to this Agreement.

SECTION 2. **Grant of Security Interest.** As security for the payment and performance, as applicable, in full of its Secured Obligations, the Pledgor pursuant to the Collateral Agreement did, and hereby does, assign and pledge to the Collateral Agent, its permitted successors and permitted assigns, for the benefit of the Secured Parties, a continuing security interest in all of such Pledgor’s right, title and interest in, to and under any and all of the following assets now owned or at any time hereafter acquired by such Pledgor or in which such Pledgor now has or at any time in the future may acquire any right, title or interest (collectively, but excluding any Excluded Property, the “**IP Collateral**”):

[all Patents of the United States of America, including those listed on Schedule I;]

[all Copyrights of the United States of America, including those listed on Schedule I;]

[all Trademarks of the United States of America, including those listed on Schedule I;]

[provided, however, that the foregoing pledge, assignment and grant of security interest will not cover any Excluded Property, including, without limitation, any “intent-to-use” trademark applications, to the extent that the grant of a security interest therein would impair the validity or enforceability of, or render void or voidable or result in the cancellation of the applicable

grantor's right, title or interest therein or in any trademark issued as a result of such application under applicable federal law.]

SECTION 3. ***Collateral Agreement.*** The security interests granted to the Collateral Agent herein are granted in furtherance, and not in limitation of, the security interests granted to the Collateral Agent pursuant to the Collateral Agreement. Each Pledgor hereby acknowledges and affirms that the rights and remedies of the Collateral Agent with respect to the IP Collateral are more fully set forth in the Collateral Agreement, the terms and provisions of which are hereby incorporated herein by reference as if fully set forth herein. In the event of any conflict between the terms of this Agreement and the Collateral Agreement, the terms of the Collateral Agreement shall govern.

SECTION 4. ***Counterparts.*** This Agreement may be executed in two or more counterparts, each of which shall constitute an original but all of which when taken together shall constitute but one contract. Delivery of an executed counterpart to this Agreement by facsimile or other electronic transmission shall be as effective as delivery of a manually signed original.

SECTION 5. ***Governing Law.*** **THIS AGREEMENT AND ANY CLAIMS, CONTROVERSY, DISPUTE OR CAUSES OF ACTION (WHETHER IN CONTRACT OR TORT OR OTHERWISE) BASED UPON, ARISING OUT OF OR RELATING TO THIS AGREEMENT SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF THE STATE OF NEW YORK.**

[Signature Pages Follow]

I. IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the day and year first above written.

[Name of Pledgor]

By: _____

Name:

Title:

[Signature Page to Notice of Grant of Security Interest in [Patents][Trademarks][Copyrights]

GOLDMAN SACHS BANK USA,

By: _____

Name:

Title:

[Signature Page to Notice of Grant of Security Interest in [Patents][Trademarks][Copyrights]

[[5625734]]

Schedule I
to Notice of Grant of Security Interest in Patents

Patents Owned by [Name of Pledgor]

U.S. Patent Registrations

<u>Title</u>	<u>Patent No.</u>	<u>Issue Date</u>

U.S. Patent Applications

<u>Title</u>	<u>Application No.</u>	<u>Filing Date</u>

Schedule I
to Notice of Grant of Security Interest in Copyrights

Copyrights Owned by [Name of Pledgor]

U.S. Copyright Registrations

<u>Title</u>	<u>Registration No.</u>	<u>Registration Date</u>

Schedule I
to Notice of Grant of Security Interest in Trademarks

Trademarks Owned by [Name of Pledgor]

U.S. Trademark Registrations

<u>Title</u>	<u>Registration No.</u>	<u>Registration Date</u>

U.S. Trademark Applications

<u>Title</u>	<u>Application No.</u>	<u>Filing Date</u>

FORM OF GUARANTEE AGREEMENT

[See Attached]

GUARANTEE AGREEMENT

dated and effective as of April 30, 2021

Among

MAGNITE, INC.,

the Subsidiaries of MAGNITE, INC. named herein

and

GOLDMAN SACHS BANK USA, as Administrative Agent

TABLE OF CONTENTS

	<u>Page</u>
<u>1. DEFINITIONS</u>	<u>1</u>
<u>2. REPRESENTATIONS AND WARRANTIES</u>	<u>1</u>
<u>3. THE GUARANTY</u>	<u>2</u>
<u>4. FURTHER ASSURANCES</u>	<u>6</u>
<u>5. PAYMENTS FREE AND CLEAR OF TAXES</u>	<u>6</u>
<u>6. OTHER TERMS</u>	<u>6</u>
<u>7. INDEMNITY; SUBROGATION AND SUBORDINATION</u>	<u>8</u>
<u>8. GOVERNING LAW</u>	<u>10</u>
<u>9. JURISDICTION; CONSENT TO SERVICE OF PROCESS</u>	<u>10</u>
<u>10. WAIVER OF JURY TRIAL</u>	<u>11</u>
<u>11. RIGHT OF SET-OFF</u>	<u>11</u>
<u>12. ADDITIONAL SUBSIDIARIES</u>	<u>11</u>
<u>13. AGENCY OF BORROWER FOR GUARANTORS</u>	<u>12</u>
<u>14. COMMODITY EXCHANGE ACT ACKNOWLEDGEMENT</u>	<u>12</u>

This **GUARANTEE AGREEMENT**, dated as of April 30, 2021 (as amended, restated, supplemented or otherwise modified from time to time, this “Guaranty”), by and among Magnite, Inc., a Delaware corporation (the “Borrower”), each Subsidiary of the Borrower listed on the signature page hereof and each other Subsidiary of the Borrower that becomes a party hereto after the date hereof (the “Guarantors”) and GOLDMAN SACHS BANK USA, as administrative agent (in such capacity, together with any successor thereto, the “Administrative Agent”) for the Secured Parties.

WITNESSETH:

WHEREAS, the Borrower, the lenders party thereto from time to time (the “Lenders”), Goldman Sachs Bank USA, as Administrative Agent and Collateral Agent, and the other parties thereto from time to time, have entered into that certain Credit Agreement, dated as of the date hereof (as amended, restated, supplemented or otherwise modified from time to time, the “Credit Agreement”), providing for the extension of credit to the Borrower;

WHEREAS, it is a condition to the Closing Date under the Credit Agreement that each Guarantor shall have executed and delivered this Guaranty to guarantee the Obligations; and

WHEREAS, each Guarantor will obtain benefits from the extension of credit to the Borrower, and accordingly desires to execute this Guaranty in order to satisfy the conditions described in the preceding paragraph and to induce the Lenders to extend credit to the Borrower.

Accordingly, the parties hereto agree as follows:

1. DEFINITIONS

Capitalized terms used herein shall have the meanings assigned to them in the Credit Agreement unless otherwise defined herein. References to this “Guaranty” shall mean this Guaranty, including all amendments, modifications and supplements and any annexes, exhibits and schedules to any of the foregoing, and shall refer to this Guaranty as the same may be in effect at the time such reference becomes operative.

2. REPRESENTATIONS AND WARRANTIES

Each of the Guarantors party hereto on the Closing Date represents and warrants as of the Closing Date, and each Guarantor that becomes a party to this Guaranty pursuant to the execution of a supplement hereto in the form of Exhibit A hereto (with such modifications as shall be reasonably acceptable to the Administrative Agent, each, a “Guaranty Supplement”) represents and warrants as of the date of execution of such Guaranty Supplement to the Administrative Agent and the other Secured Parties:

(a) Such Guarantor (i) is a partnership, limited liability company, corporation or other entity duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization, except in each case where the failure to do so,

individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect, (ii) has all requisite power and authority to own its property and assets and to carry on its business as now conducted, except in each case where the failure to do so, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect, (iii) is qualified to do business in each jurisdiction where such qualification is required, except in each case where the failure to do so, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect and (iv) has the power and authority to execute, deliver and perform its obligations under this Guaranty (or any Guaranty Supplement hereto, as applicable) and each other agreement or instrument contemplated hereby to which it is or will be a party.

(b) The execution, delivery and performance by such Guarantor of this Guaranty (or any Guaranty Supplement hereto, as applicable) (i) have been duly authorized by all corporate, stockholder, partnership, limited liability company or other organizational action required to be obtained by such Guarantor and (ii) will not (A) violate (1) any provision of law, statute, rule or regulation applicable to such Guarantor, (2) the certificate or articles of incorporation or other constitutive documents (including any partnership, limited liability company or operating agreements) or by-laws of such Guarantor, (3) any applicable order of any court or any law, rule, regulation or order of any Governmental Authority applicable to such Guarantor or (4) any provision of any indenture, certificate of designation for preferred stock, agreement or other instrument to which such Guarantor is a party or by which it or any of its property is or may be bound, (B) result in a breach of or constitute (alone or with due notice or lapse of time or both) a default under, give rise to a right of or result in any cancellation or acceleration of any right or obligation (including any payment) under any such indenture, certificate of designation for preferred stock, agreement or other instrument, where any such conflict, violation, breach or default referred to in clause (ii)(A) or (ii)(B) of this Section 2(b), would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, or (C) result in the creation or imposition of any Lien upon or with respect to any property or assets now owned or hereafter acquired by such Guarantor, other than the Liens created by the Loan Documents and Permitted Liens.

(c) This Guaranty (or any Guaranty Supplement hereto, as applicable) has been duly executed and delivered by such Guarantor and constitutes a legal, valid and binding obligation of such Guarantor enforceable against such Guarantor in accordance with its terms, subject to (i) the effects of bankruptcy, insolvency, moratorium, reorganization, fraudulent conveyance or other similar laws affecting creditors' rights generally, (ii) general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law), (iii) implied covenants of good faith and fair dealing and (iv) the need for filings and registrations necessary to perfect the Liens on the Collateral granted by the Collateral Guarantors in favor of the Collateral Agent.

3. THE GUARANTY

(a) Guaranty of Guaranteed Obligations. Each Guarantor unconditionally guarantees to the Administrative Agent for the benefit of the Secured Parties, jointly and severally with the other Guarantors, as a primary obligor and not merely as a surety, the due and punctual payment and performance when due of the Obligations (the “Guaranteed Obligations”); provided that the Guaranteed Obligations of each Guarantor shall exclude any Obligations of such Guarantor as a counterparty or direct obligor under any Secured Cash Management Agreement or Secured Hedge Agreement. Each Guarantor further agrees that the Guaranteed Obligations may be extended, renewed or increased, in whole or in part, without notice to or further assent from it, and that it will remain bound upon its guarantee notwithstanding any extension, renewal or increase of any Guaranteed Obligation. To extent permitted by applicable law, each Guarantor waives presentment to, demand of payment from and protest to any other Loan Party of any of the Guaranteed Obligations, and also waives notice of acceptance of its guarantee and notice of protest for nonpayment.

(b) Guaranty of Payment. Each Guarantor further agrees that its guarantee hereunder constitutes an absolute, irrevocable and unconditional guarantee of payment when due (whether at stated maturity, by acceleration or otherwise) and not of collection, and waives any right to require that any resort be had by the Collateral Agent or any other Secured Party to any security held for the payment of the Guaranteed Obligations or to any balance of any deposit account or credit on the books of the Collateral Agent or any other Secured Party in favor of the Borrower or any other person.

(c) No Limitations. Except for termination or release of a Guarantor’s obligations hereunder as expressly provided for in Section 6(g) and subject to the provisions of Section 3(g), the obligations of each Guarantor hereunder shall not be subject to any reduction, limitation, impairment or termination for any reason, including any claim of waiver, release, surrender, alteration or compromise, and shall not be subject to any defense or set-off, counterclaim, recoupment or termination whatsoever by reason of the invalidity, illegality or un-enforceability of the Guaranteed Obligations or otherwise (other than defense of payment or performance). Without limiting the generality of the foregoing, the obligations of each Guarantor hereunder, to the fullest extent permitted by applicable law, shall not be discharged or impaired or otherwise affected by: (i) the failure of the Administrative Agent or any other Secured Party to assert any claim or demand or to exercise or enforce any right or remedy under the provisions of any Loan Document or otherwise; (ii) the failure of any other Guarantor to sign or become party to this Guaranty or any rescission, waiver, amendment or modification of, or any release from any of the terms or provisions of, any Loan Document or any other agreement, including with respect to any other Guarantor under this Guaranty; (iii) the failure to perfect any security interest in, or the exchange, substitution, release or any impairment of, any security held by the Collateral Agent or any other Secured Party for the Guaranteed Obligations; (iv) any default, failure or delay, willful or otherwise, in the performance of the Guaranteed Obligations; (v) any other act or omission that may or might in any manner or to any extent vary the risk of any Guarantor or otherwise operate as a discharge of any Guarantor as a matter of law or equity (other than the occurrence of the Termination Date); (vi) any illegality, irregularity, invalidity or enforceability of any Guaranteed Obligation or any part thereof or the genuineness, enforceability or validity of any agreement relating thereto or with respect to any collateral securing the Guaranteed Obligations

or any part thereof, or any other invalidity or unenforceability relating to or against any Loan Party of any of the Guaranteed Obligations, for any reason related to the Credit Agreement, any other Loan Document, any Secured Cash Management Agreement, any Secured Hedge Agreement or any provision of applicable law, decree, order or regulation of any jurisdiction purporting to prohibit the payment by any Loan Party of the Guaranteed Obligations, of any of the Guaranteed Obligations or otherwise affecting any term of any of the Guaranteed Obligations; (vii) any change in the corporate existence, structure or ownership of any Loan Party of any of the Guaranteed Obligations, or any insolvency, bankruptcy, reorganization or other similar proceeding affecting any Loan Party of the Guaranteed Obligations, or any of their respective assets or any resulting release or discharge of any Guaranteed Obligation (other than the occurrence of the Termination Date); (viii) the existence of any claim, set-off or other rights that such Guarantor may have at any time against any Loan Party, the Administrative Agent, or any other corporation or person, whether in connection herewith or any unrelated transactions; provided that nothing herein will prevent the assertion of any such claim by separate suit or compulsory counterclaim; (ix) any extension, renewal, settlement, indulgence, compromise, waiver or release of or with respect to the Guaranteed Obligations or any part thereof or any agreement relating thereto, or with respect to any obligation of any other guarantor of any of the Guaranteed Obligations, whether (in any such case) by operation of law or otherwise, or any failure or omission to enforce any right, power or remedy with respect to the Guaranteed Obligations or any part thereof or any agreement relating thereto, or with respect to any obligation of any other guarantor of any of the Guaranteed Obligations; (x) any modification or amendment of or supplement to the Credit Agreement or any other Loan Document, any Secured Cash Management Agreement or any Secured Hedge Agreement, including, without limitation, any such amendment which may increase the amount of, or the interest rates applicable to, any of the Guaranteed Obligations; (xi) any release, surrender, compromise, settlement, waiver, subordination or modification, with or without consideration, of any collateral securing the Guaranteed Obligations or any part thereof, any other guaranties with respect to the Guaranteed Obligations or any part thereof, or any other obligation of any person or entity with respect to the Guaranteed Obligations or any part thereof, or any nonperfection or invalidity of any direct or indirect security for the Guaranteed Obligations; (xii) the election by, or on behalf of, any one or more of the Secured Parties, in any proceeding instituted under the Bankruptcy Code, of the application of Section 1111(b)(2) of the Bankruptcy Code (or any equivalent or similar provisions under any Debtor Relief Law); (xiii) any borrowing or grant of a security interest by the Borrower or any of its Subsidiaries, as debtor-in-possession, under Section 364 of the Bankruptcy Code (or any equivalent or similar provisions under any Debtor Relief Law) or in any other bankruptcy or insolvency proceeding; and (xiv) any other circumstance (including, without limitation, any statute of limitations) or any existence of or reliance on any representation by the Administrative Agent that might otherwise constitute a defense to, or a legal or equitable discharge of, any Loan Party or any other guarantor or surety (other than defense of payment or performance or other than the occurrence of the Termination Date).

Except as otherwise set forth herein or in the Credit Agreement, each Guarantor expressly authorizes the Secured Parties (or the Administrative Agent and the Collateral Agent on behalf of the Secured Parties) to take and hold security in accordance with the terms of the Loan Documents for the payment and performance of the Guaranteed Obligations, to exchange, waive

or release any or all such security (with or without consideration), to enforce or apply such security and direct the order and manner of any sale thereof in their sole discretion or to release or substitute any one or more other guarantors or obligors upon or in respect of the Guaranteed Obligations, all without affecting the obligations of any Guarantor hereunder. To the fullest extent permitted by applicable law, each Guarantor waives any defense based on or arising out of any defense of any other Guarantor or the unenforceability of the Guaranteed Obligations or any part thereof from any cause, or the cessation from any cause of the liability of any other Guarantor, other than the occurrence of the Termination Date or the release of such Guarantor from this Guaranty pursuant to Section 6(g). The Administrative Agent and the other Secured Parties may, at their election and in accordance with the terms of the Loan Documents, foreclose on any security held by one or more of them by one or more judicial or nonjudicial sales, accept an assignment of any such security in lieu of foreclosure, compromise or adjust any part of the Guaranteed Obligations, make any other accommodation with any Loan Party or exercise any other right or remedy available to them against any Loan Party, without affecting or impairing in any way the liability of any Guarantor hereunder except to the extent the Termination Date shall have occurred. To the fullest extent permitted by applicable law, each Guarantor waives any defense arising out of any such election even though such election operates, pursuant to applicable law, to impair or to extinguish any right of reimbursement or subrogation or other right or remedy of such Guarantor against any other Guarantor, as the case may be, or any security.

(d) Reinstatement. Notwithstanding the provisions of Section 6(g)(i), each Guarantor agrees that its guarantee hereunder shall continue to be effective or be reinstated, as the case may be, if at any time payment, or any part thereof, of any Guaranteed Obligation is rescinded or must otherwise be restored or returned by the Administrative Agent or any other Secured Party upon the insolvency, bankruptcy, dissolution, liquidation or reorganization of any Loan Party, or upon or as a result of the appointment of a receiver, intervenor or conservator of, or trustee or similar officer for, any Loan Party or any substantial part of its property, or otherwise, all as though such payment had not been made.

(e) Agreement To Pay; Subrogation. In furtherance of the foregoing and not in limitation of any other right that the Administrative Agent or any other Secured Party has at law or in equity against any Guarantor by virtue hereof, upon the failure of any Loan Party to pay any Guaranteed Obligation when and as the same shall become due, whether at maturity, by acceleration, after notice of prepayment or otherwise, each Guarantor hereby promises to and will forthwith pay, or cause to be paid, to the Administrative Agent for distribution to the applicable Secured Party in cash in immediately available funds the amount of such unpaid Guaranteed Obligation. Upon payment by any Guarantor of any sums to the Administrative Agent as provided above, all rights of such Guarantor against any Loan Party arising as a result thereof by way of right of subrogation, contribution, reimbursement, indemnity or otherwise shall in all respects be subject to Section 7 hereof.

(f) Information. Each Guarantor assumes all responsibility for being and keeping itself informed of the financial condition and assets of each Loan Party and their respective subsidiaries and any and all endorsers and/or other guarantors of all or any part of the

Guaranteed Obligations, and of all other circumstances bearing upon the risk of nonpayment of the Guaranteed Obligations, or any part thereof, and the nature, scope and extent of the risks that such Guarantor assumes and incurs hereunder, and agrees that neither the Administrative Agent nor any other Secured Party will have any duty to advise such Guarantor of information known to it or any of them regarding such circumstances or risks. In the event any Secured Party (including the Administrative Agent), in its sole discretion, undertakes at any time or from time to time to provide any such information to a Guarantor, such Secured Party (including the Administrative Agent) shall be under no obligation (i) to undertake any investigation, (ii) to disclose any information which such Secured Party (including the Administrative Agent), pursuant to accepted or reasonable commercial finance or banking practices, wishes to maintain confidential or (iii) to make any other or future disclosures of such information or any other information to such Guarantor.

(g) **Maximum Liability.** Each Guarantor, and by its acceptance of this Guaranty, the Administrative Agent and each Secured Party hereby confirms that it is the intention of all such persons that this Guaranty and the Guaranteed Obligations of each Guarantor hereunder not constitute a fraudulent transfer or conveyance for purposes of the Bankruptcy Code or any other federal, state or foreign bankruptcy, insolvency, receivership or similar law, the Uniform Fraudulent Conveyance Act, the Uniform Fraudulent Transfer Act or any similar foreign, federal or state law to the extent applicable to this Guaranty and the Guaranteed Obligations of each Guarantor hereunder. To effectuate the foregoing intention, the Administrative Agent, the Secured Parties and the Guarantors hereby irrevocably agree that the Guaranteed Obligations of each Guarantor under this Guaranty at any time shall be limited to the maximum amount as will result in the Guaranteed Obligations of such Guarantor under this Guaranty not constituting a fraudulent transfer or conveyance.

4. FURTHER ASSURANCES

Each Guarantor agrees, upon the written request of the Administrative Agent, to execute and deliver to the Administrative Agent, from time to time, any additional instruments or documents reasonably considered necessary by the Administrative Agent to cause this Guaranty to be, become or remain valid and effective in accordance with its terms.

5. PAYMENTS FREE AND CLEAR OF TAXES

Each Guarantor agrees that (a) it will perform or observe all of the terms, covenants and agreements that Section 2.17 of the Credit Agreement requires such Guarantor to perform or observe, subject to the qualifications set forth therein, and (b) any payment required to be made by it hereunder shall be subject to Section 2.17 of the Credit Agreement, subject to the conditions and qualifications set forth therein.

6. OTHER TERMS

(a) **Entire Agreement.** This Guaranty, together with the other Loan Documents, constitutes the entire agreement between the parties with respect to the subject matter hereof and

thereof and supersedes all prior agreements relating to a guaranty of the Loans and other extensions of credit under the Loan Documents.

(b) Headings. The headings in this Guaranty are for convenience of reference only and are not part of the substance of this Guaranty.

(c) Severability. Whenever possible, each provision of this Guaranty shall be interpreted in such a manner to be effective and valid under applicable law, but if any provision of this Guaranty shall be prohibited by or invalid under applicable law in any jurisdiction, such provision shall, as to such jurisdiction, be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Guaranty and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction.

(d) Notices. All communications and notices hereunder shall (except as otherwise expressly permitted herein) be given as provided in Section 9.01 of the Credit Agreement.

(e) Successors and Assigns. This Guaranty is for the benefit of the Administrative Agent and the other Secured Parties and their respective permitted successors and permitted assigns. Whenever in this Guaranty any Guarantor is referred to, such reference shall be deemed to include the permitted successors and permitted assigns of such party and all covenants, promises and agreements by any Guarantor that are contained in this Guaranty shall bind and inure to the benefit of its respective permitted successors and assigns; provided, that no Guarantor shall have any right to assign its rights or obligations hereunder unless expressly permitted by the Credit Agreement or with such consents required by Section 9.08 of the Credit Agreement.

(f) No Waiver; Cumulative Remedies; Amendments. No failure or delay by the Administrative Agent or any other Secured Party in exercising any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy. The rights, powers and remedies of the Administrative Agent and each other Secured Party provided in this Guaranty, the Credit Agreement, each other Loan Document, any Secured Cash Management Agreement or any Secured Hedge Agreement are cumulative and are not exclusive of any rights, powers or remedies that it would otherwise have. No waiver of any provision of this Guaranty or consent to any departure by any Guarantor therefrom shall in any event be effective unless the same shall be permitted by this Section 6(f), 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 any Loan or the issuance, amendment, extension or renewal of any Letter of Credit shall not be construed as a waiver of any Default or Event of Default, regardless of whether the Administrative Agent or any other Secured Party may have had notice or knowledge of such Default or Event of Default at the time. No notice or demand on any Guarantor in any case shall entitle any Guarantor to any other or further notice or demand in similar or other circumstances. When making any demand hereunder against any of the Guarantors, the Administrative Agent or any other Secured Party may, but shall be under no obligation to, make a similar demand on any

other Loan Party or Guarantor, and any failure by the Administrative Agent or any other Secured Party to make any such demand or to collect any payments from any Loan Party or Guarantor or any release of any Loan Party or Guarantor shall not relieve any of the Guarantors in respect of which a demand or collection is not made or any of the Guarantors not so released of their several obligations or liabilities hereunder, and shall not impair or affect the rights and remedies, express or implied, or as a matter of law, of the Administrative Agent or any other Secured Party against any of the Guarantors. For the purposes hereof “demand” shall include the commencement and continuance of any legal proceedings. Neither this Guaranty nor any provision hereof may be waived, amended or modified (other than termination or release of this Guaranty pursuant to Section 6(g)) except pursuant to an agreement or agreements in writing entered into by the Administrative Agent and the Guarantor or Guarantors with respect to which such waiver, amendment or modification is to apply, subject to any consent required in accordance with Section 9.08 of the Credit Agreement; provided that the Administrative Agent may, without the consent of any Secured Party, consent to a departure by any Guarantor from any covenant of such Guarantor set forth herein to the extent such departure is consistent with the authority of the Administrative Agent or Collateral Agent set forth in the Credit Agreement.

(g) Termination and Release.

(i) This Guaranty shall automatically terminate on the Termination Date.

(ii) A Guarantor shall automatically be released from its obligations hereunder in accordance with Section 9.18 of the Credit Agreement.

(iii) In connection with any termination or release pursuant to this Section 6(g), the Administrative Agent shall execute and deliver to the Borrower all documents that the Borrower shall reasonably request to evidence such termination or release; provided, that (i) the Administrative Agent shall have received a certificate of a Responsible Officer of the Borrower containing such certifications as the Administrative Agent shall reasonably request, (ii) the Administrative Agent or the Collateral Agent shall not be required to execute any such document on terms which, in the applicable Agent’s reasonable opinion, would expose such Agent to liability or create any obligation or entail any consequence other than the applicable termination or release without recourse or warranty and (iii) in the case of a release under Section 6(g)(ii), such release shall not in any manner discharge, affect or impair the Guaranteed Obligations or the obligations of any other Guarantor hereunder. Any execution and delivery of documents pursuant to this Section 6(g) shall be made without recourse to or warranty by the Administrative Agent. The Borrower agrees to pay all reasonable and documented out-of-pocket expenses incurred by the Administrative Agent in connection with the execution and delivery of such documents.

(h) Counterparts. This Guaranty may be executed in two or more counterparts, each of which shall constitute an original but all of which, when taken together, shall constitute but one contract. Delivery of an executed counterpart to this Guaranty by facsimile or other electronic transmission shall be as effective as delivery of a manually signed original.

(i) No Strict Construction. The parties hereto have participated jointly in the negotiation and drafting of this Guaranty. In the event an ambiguity or question of intent or interpretation arises, this Guaranty shall be construed as if drafted jointly by the parties hereto and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provisions of this Guaranty.

7. INDEMNITY; SUBROGATION AND SUBORDINATION

(a) Indemnity and Subrogation. In addition to all such rights of indemnity and subrogation as the Guarantors may have under applicable law (but subject to Section 7(c)), the Borrower agrees that (i) in the event a payment shall be made by any Guarantor under this Guaranty in respect of any Guaranteed Obligation of the Borrower, the Borrower shall indemnify such Guarantor for the full amount of such payment and such Guarantor shall be subrogated to the rights of the person to whom such payment shall have been made to the extent of such payment and (ii) in the event any assets of any Guarantor shall be sold pursuant to any Security Document to satisfy in whole or in part a Guaranteed Obligation of the Borrower, the Borrower shall indemnify such Guarantor in an amount equal to the greater of the book value or the fair market value of the assets so sold.

(b) Contribution and Subrogation. Each Guarantor (a “Contributing Guarantor”) agrees (subject to Section 7(c)) that, in the event a payment shall be made by any other Guarantor hereunder in respect of any Guaranteed Obligation or assets of any other Guarantor shall be sold pursuant to any Security Document to satisfy any Guaranteed Obligation owed to any Secured Party and such other Guarantor (the “Claiming Guarantor”) shall not have been fully indemnified by the applicable Borrower as provided in Section 7(a) hereof, the Contributing Guarantor shall indemnify the Claiming Guarantor in an amount equal to the amount of such payment or the greater of the book value or the fair market value of such assets, as applicable, in each case multiplied by a fraction of which the numerator shall be the net worth of such Contributing Guarantor on the date hereof and the denominator shall be the aggregate net worth of all the Guarantors on the date hereof (or, in the case of any Guarantor becoming a party hereto pursuant to Section 5.10 of the Credit Agreement, the date of the supplement hereto executed and delivered by such Guarantor). Any Contributing Guarantor making any payment to a Claiming Guarantor pursuant to this Section 7(b) shall be subrogated to the rights of such Claiming Guarantor under Section 7(a) hereof to the extent of such payment. The provisions of this Section 7(b) shall in no respect limit the obligations and liabilities of any Guarantor to the Administrative Agent and the other Secured Parties, and each Guarantor shall remain liable to the Administrative Agent and the other Secured Parties for the full amount guaranteed by such Guarantor hereunder.

(c) Subordination, etc. Notwithstanding any provision of this Guaranty to the contrary, all rights of the Guarantors under Sections 7(a) and 7(b) and all other rights of indemnity, contribution or subrogation of any Guarantor under applicable law or otherwise shall be fully subordinated to the Guaranteed Obligations until the occurrence of the Termination Date. Notwithstanding any payment or payments made by any of the Guarantors hereunder or any set-off or appropriation or application of funds of any of the Guarantors by any Secured

Party, no Guarantor shall be entitled to be subrogated to any of the rights of the Administrative Agent or any other Secured Party against any Loan Party or any collateral security or guarantee or right of set-off held by any Secured Party for the payment of the Guaranteed Obligations until the Termination Date shall have occurred, nor shall any Guarantor seek or be entitled to seek any contribution or reimbursement from any Loan Party in respect of payments made by such Guarantor hereunder until the Termination Date shall have occurred. If any amount shall be paid to any Guarantor on account of such subrogation rights at any time prior to the Termination Date of the Guaranteed Obligations, such amount shall be held by such Guarantor in trust for the Administrative Agent and the other Secured Parties, segregated from other funds of such Guarantor, and shall, forthwith upon receipt by such Guarantor, be paid to the Administrative Agent to be credited and applied against the Guaranteed Obligations, whether matured or unmatured, in accordance with the terms of the Credit Agreement. No failure on the part of any Loan Party to make the payments required by Sections 7(a) and 7(b) (or any other payments required under applicable law or otherwise) shall in any respect limit the obligations and liabilities of the Borrower with respect to the Obligations or any Guarantor with respect to its obligations hereunder, and the Borrower shall remain liable for the full amount of the Obligations and each Guarantor shall remain liable for the full amount of the obligations of such Guarantor hereunder. The parties hereto acknowledge that the rights of contribution and indemnification hereunder shall constitute assets of the Guarantor or Guarantors to which such contribution and indemnification is owing.

Notwithstanding anything to the contrary contained above, upon the sale of all of the Equity Interests of any Guarantor and the release of such Guarantor from the provisions hereof (whether by the Administrative Agent or the Collateral Agent in connection with an exercise of its remedies or in accordance with the relevant provisions of the Credit Agreement), then any indemnification and contribution obligations otherwise provided above in this Section 7 with respect to the Guarantor which was so released shall terminate and be of no further force and effect, and if any other Guarantors have theretofore made payments hereunder with respect to the Guaranteed Obligations which have not yet been reimbursed in full, then any amount which would have otherwise been payable under this Section 7 by the Guarantor which has been released herefrom shall be reallocated to the remaining Guarantors based on their respective net worths as re-determined on such date.

8. GOVERNING LAW

THIS GUARANTY AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES UNDER THIS GUARANTY SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF THE STATE OF NEW YORK.

9. JURISDICTION; CONSENT TO SERVICE OF PROCESS

(a) Each Guarantor irrevocably and unconditionally agrees that it will not commence any action, litigation or proceeding of any kind or description, whether in law or equity, whether in contract or in tort or otherwise, against the Administrative Agent, any other Secured Party, or any Affiliate of the foregoing, in any way relating to this Guaranty or the transactions relating hereto, in any forum other than the courts of the State of New York sitting in New York County,

Borough of Manhattan, and of the United States District Court of the Southern District of New York sitting in New York County, Borough of Manhattan, and any appellate court from any thereof, and each of the parties hereto irrevocably and unconditionally submits to the jurisdiction of such courts and agrees that all claims in respect of any such action, litigation or proceeding may be heard and determined in such New York State court or, to the fullest extent permitted by applicable law, in such federal court. Each of the parties hereto agrees that a final judgment in any such action, litigation or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Guaranty shall affect any right that the Administrative Agent or any other Secured Party may otherwise have to bring any action or proceeding relating to this Guaranty against any Guarantor or its properties in the courts of any jurisdiction.

(b) Each of the parties hereto hereby irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, 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 Guaranty in any court referred to in paragraph (a) of this Section 9. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

(c) Each party to this Guaranty irrevocably consents to service of process in the manner provided for notices in Section 6(d). Nothing in this Guaranty will affect the right of any party to this Guaranty to serve process in any other manner permitted by law.

10. WAIVER OF JURY TRIAL

EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS GUARANTY (WHETHER BASED IN 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 GUARANTY BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 10.

11. RIGHT OF SET-OFF

If an Event of Default shall have occurred and be continuing, each Lender, each Issuing Bank and each of its Affiliates is hereby authorized at any time and from time to time, to the fullest extent permitted by applicable law, to set off and apply any and all deposits (general or special, time or demand, provisional or final and in whatever currency denominated) at any time held and other obligation at any time owing by such Lender or such Issuing Bank to or for the credit or the account of any Guarantor against any of and all the obligations of such Guarantor now or hereafter existing under this Guaranty held by such Lender or Issuing Bank, irrespective

of whether or not such Lender shall have made any demand under this Guaranty and although such obligations may be unmatured; provided, however, that (x) any recovery by any Lender, any Issuing Bank or any Affiliate pursuant to its set-off rights under this Section 11 is subject to the provisions of Section 2.18(c) of the Credit Agreement and (y) any Defaulting Lender's set-off right hereunder shall be subject to Section 9.06 of the Credit Agreement. Each Lender and each Issuing Bank agrees promptly to notify the Borrower and the Administrative Agent after any such set-off and application made by such Lender; provided that the failure to give such notice shall not affect the validity of such set-off and application. The rights of each Lender and each Issuing Bank under this Section 11 are in addition to other rights and remedies (including other rights of set-off) that such Lender and such Issuing Bank may have.

12. ADDITIONAL SUBSIDIARIES

Upon execution and delivery by any direct or indirect Subsidiary of the Borrower that is required to become a party hereto pursuant to Section 5.10 of the Credit Agreement (or that is referred to in the definition of Guarantor in the Credit Agreement) of a Guaranty Supplement, such Subsidiary shall become a Guarantor hereunder with the same force and effect as if originally named as a Guarantor herein. The execution and delivery of any such instrument shall not require the consent of any other party to this Guaranty. The rights and obligations of each party to this Guaranty shall remain in full force and effect notwithstanding the addition of any new party to this Guaranty. Each reference to "Guarantor" in this Guaranty shall be deemed to include such Subsidiary. Notwithstanding anything to the contrary herein, in no circumstance shall an Excluded Subsidiary be required to become a Guarantor.

13. AGENCY OF BORROWER FOR GUARANTORS

Each of the Guarantors hereby appoints the Borrower as its agent for all purposes relevant to this Guaranty and the other Loan Documents, including the giving and receipt of notices and the execution and delivery of all documents, instruments and certificates contemplated herein and therein and all modifications hereto and thereto.

14. COMMODITY EXCHANGE ACT ACKNOWLEDGEMENT

Each Qualified ECP Guarantor intends that this Guaranty constitute, and this Guaranty shall be deemed to constitute, a "keepwell, support, or other agreement" for the benefit of each other Guarantor for all purposes of Section 1a(18)(A)(v)(II) of the Commodity Exchange Act.

In this Guaranty, "Qualified ECP Guarantor" shall mean, in respect of any Swap Obligation, each Guarantor that has total assets exceeding \$10,000,000 at the time its guarantee hereunder becomes effective with respect to such Swap Obligation or such other person as constitutes an "eligible contract participant" as defined in the Commodity Exchange Act and the regulations thereunder (an "ECP") and can cause another person to qualify as an ECP at such time by entering into a keepwell, support or other agreement under Section 1a(18)(A)(v)(II) of the Commodity Exchange Act.

[Remainder of page intentionally left blank; signature pages follow]

IN WITNESS WHEREOF, the undersigned has caused this Guaranty to be executed and delivered as of the date first above written.

MAGNITE, INC., as Borrower

By: _____

Name:

Title:

Each as a Guarantor:

MAGNITE HOPPER, INC.

By: _____

Name:

Title:

RUBICON PROJECT UNLATCH, INC.

Name:

Title:

MAGNITE BELL, INC.

Name:

Title:

MAGNITE APEX, INC.

Name:

Title:

[Signature Page to Guarantee Agreement]

MAGNITE CTV, INC.

Name:

Title:

SPOTX, INC.

Name:

Title:

[Signature Page to Guarantee Agreement]

Accepted and Agreed to:

GOLDMAN SACHS BANK USA,
as Administrative Agent

By: _____
Name:
Title:

[Signature Page to Guarantee Agreement]

SUPPLEMENT NO. ____
TO GUARANTEE AGREEMENT

SUPPLEMENT NO. , dated as of __, __ (as amended, restated, supplemented or otherwise modified from time to time, this “Supplement”), to the Guarantee Agreement, dated as of April 30, 2021 (as amended, restated, supplemented or otherwise modified from time to time, the “Guaranty”), by and among Magnite, Inc., a Delaware corporation (“Borrower”) and each Subsidiary of the Borrower listed on the signature page thereof and each other Subsidiary that became a party thereto after the date thereof (together, the “Existing Guarantors”) and GOLDMAN SACHS BANK USA, as administrative agent (in such capacity, together with any successor thereto, the “Administrative Agent”) for the Secured Parties.

A. Reference is made to the Credit Agreement dated as of April 30, 2021 (as amended, supplemented, waived or otherwise modified from time to time, the “Credit Agreement”), among, *inter alios*, the Borrower, the lenders party thereto from time to time (the “Lenders”) and Goldman Sachs Bank USA, as Administrative Agent and Collateral Agent.

B. Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the Credit Agreement.

C. Each Existing Guarantor has entered into the Guaranty in order to induce the Lenders to make Loans and each Issuing Bank to issue Letters of Credit. Section 12 of the Guaranty provides that additional Subsidiaries may become Guarantors (as defined in the Guaranty) under the Guaranty by execution and delivery of an instrument in the form of this Supplement. The undersigned Subsidiary of the Borrower (the “New Subsidiary”) is executing this Supplement in accordance with the requirements of the Credit Agreement to become a Guarantor under the Guaranty in order to induce the Lenders to maintain and/or make additional Loans and each Issuing Bank to maintain and/or issue additional Letters of Credit, and as consideration for Loans previously made and Letters of Credit previously issued.

Accordingly, the New Subsidiary agrees as follows:

SECTION 1. In accordance with Section 12 of the Guaranty, the New Subsidiary by its signature below becomes a Guarantor under the Guaranty with the same force and effect as if originally named therein as a Guarantor and the New Subsidiary hereby agrees to all the terms and provisions of the Guaranty applicable to it as a Guarantor thereunder. In furtherance of the foregoing, the New Subsidiary does hereby guarantee to the Administrative Agent the due and punctual payment of the Guaranteed Obligations (as defined in the Guaranty) as set forth in the Guaranty. Each reference to a “Guarantor” in

the Guaranty and in this Supplement shall be deemed to include the New Subsidiary. The Guaranty is hereby incorporated herein by reference.

SECTION 2. The New Subsidiary represents and warrants (as to itself) to the Administrative Agent and the other Secured Parties that each of the representations and warranties set forth in Section 2 of the Guaranty are true and correct in all respects as of the date hereof.

SECTION 3. This Supplement may be executed in two or more counterparts, each of which shall constitute an original but all of which, when taken together, shall constitute but one contract. This Supplement shall become effective when the Administrative Agent shall have received a counterpart of this Supplement that bears the signature of the New Subsidiary. Delivery of an executed counterpart to this Supplement by facsimile or other electronic transmission shall be as effective as delivery of a manually signed original.

SECTION 4. Except as expressly supplemented hereby, the Guaranty shall remain in full force and effect.

SECTION 5. THIS SUPPLEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES UNDER THIS SUPPLEMENT SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF THE STATE OF NEW YORK.

SECTION 6. In the event any one or more of the provisions contained in this Supplement should be held invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein and in the Guaranty shall not in any way be affected or impaired thereby. The parties shall endeavor in good-faith negotiations to replace the 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 7. All communications and notices hereunder shall be in writing and given as provided in Section 6(d) of the Guaranty.

SECTION 8. The New Subsidiary agrees to reimburse the Administrative Agent for its reasonable and documented out-of-pocket expenses in connection with this Supplement, including the reasonable and documented fees, disbursements and other charges of counsel to the Administrative Agent, to the extent required by Section 9.05 of the Credit Agreement.

[Remainder of page intentionally left blank; signature page follows]

IN WITNESS WHEREOF, the New Subsidiary has duly executed this Supplement to the Guaranty as of the day and year first above written.

[Name of New Subsidiary]

By:

Name:

Title:

[Signature Page to Supplement to Guarantee Agreement]

REGISTRATION RIGHTS AGREEMENT

This REGISTRATION RIGHTS AGREEMENT (as the same may be amended from time to time in accordance with its terms, the “**Agreement**”) is made as of April 30, 2021, by and among Magnite, Inc., a Delaware corporation (the “**Company**”), and each of the Persons set forth on Schedule 1 (collectively, together with their Permitted Assignees (defined below), the “**Holder**”, and each a “**Holder**”). Capitalized terms used but not defined herein shall have the respective meanings ascribed to them in the Purchase Agreement (defined below).

WHEREAS, in connection with the transactions contemplated by the Stock Purchase Agreement (the “**Purchase Agreement**”), dated as of February 4, 2021, by and among, the Company, RTL US Holding, Inc., a Delaware corporation (the “**Seller**”), and, solely for purposes of Article 6 thereof, RTL Group S.A., a Société Anonyme, the parties hereto have agreed to enter into this Agreement pursuant to which the Company has agreed to grant the Holders certain registration rights with respect to the Common Shares held by the Holders (as set forth on Schedule 1) as more fully set forth herein.

THEREFORE, in consideration of the mutual covenants and agreements contained herein, the parties mutually agree as follows:

ARTICLE I. DEFINITIONS

Section i. Certain Definitions. As used in this Agreement, capitalized terms not otherwise defined herein shall have the meanings ascribed to them below:

“**Affiliate**” means, with respect to any Person, any other Person who directly or indirectly controls, is controlled by or is under common control with such first Person. For purposes of this definition, “control” when used with respect to any Person means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise, and the terms “controlling” and “controlled” have correlative meanings.

“**Automatic Shelf Registration Statement**” means an “automatic shelf registration statement” as defined in Rule 405 promulgated under the Securities Act.

“**Block Trade**” means an offering and/or sale of Registrable Securities by any Holder to one or more financial institutions in a private resale transaction or an underwritten registered shelf take-down transaction in the form of a bought deal, a block trade or a direct sale that does not include any substantial marketing efforts by the Company or its management prior to pricing.

“**Business Day**” means a day, other than Saturday, Sunday or other day on which commercial banks in Los Angeles, California, the Grand Duchy of Luxembourg or New York, New York are customarily closed, or required by Applicable Law to close.

“Common Shares” means shares of the Common Stock, par value \$0.00001 per share, of the Company, and any equity securities issued or issuable in exchange for or with respect thereto by way of a stock dividend, stock split or combination of shares or in connection with a reclassification, recapitalization, merger, consolidation or other reorganization or otherwise.

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

“FINRA” means the Financial Industry Regulatory Authority, Inc.

“Issuer Free Writing Prospectus” means an issuer free writing prospectus, as defined in Rule 433 under the Securities Act, relating to an offer of Registrable Securities.

“Person” means any individual, corporation, partnership, limited liability company, limited liability partnership, syndicate, person, trust, association, organization or other entity or any governmental or regulatory body or other agency or authority or political subdivision thereof, including any successor, by merger or otherwise, of any of the foregoing.

“Prospectus” means the prospectus included in a registration statement (including, without limitation, an Issuer Free Writing Prospectus a prospectus that includes any information previously omitted from a prospectus filed as part of an effective registration statement in reliance upon Rule 430A promulgated under the Securities Act), as amended or supplemented by any prospectus supplement, with respect to the terms of the offering of any portion of the Registrable Securities covered by a registration statement, and all other amendments and supplements to the Prospectus, including post-effective amendments, and all material incorporated by reference or deemed to be incorporated by reference in such Prospectus.

“Registrable Securities” means (a) Common Shares held by the Holders as of the date hereof and set forth on Schedule 1, and (b) Common Shares issued or issuable, directly or indirectly, in exchange for or with respect to the Common Shares referenced in clause (a) above (including by way of share split, share dividend, distribution, recapitalization, merger, exchange, replacement or similar event or otherwise); provided, however, that, as to any particular Registrable Securities, such securities shall cease to be Registrable Securities when: (i) a Registration Statement with respect to the sale of such securities shall have become effective under the Securities Act and such securities shall have been sold, transferred, disposed of or exchanged, in each case with or to a third party who is not a Permitted Assignee, in accordance with such Registration Statement; (ii) such securities shall have been otherwise transferred, new certificates for such securities not bearing a legend restricting further transfer shall have been delivered by the Company and subsequent public distribution of such securities shall not require registration under the Securities Act; (iii) such securities shall have ceased to be outstanding; (iv) such securities are sold without registration pursuant to Rule 144 promulgated under the Securities Act; (v) such securities become eligible for resale without volume or manner-of-sale restrictions and without current public information pursuant to Rule 144 promulgated under the Securities Act; or (vi) such securities have been sold to, or through, a broker, dealer or underwriter in a public distribution or other public securities transaction. Notwithstanding anything to the contrary, any particular Registrable Securities shall cease to be Registrable

Securities when such Registrable Securities have been transferred by a Holder to any transferee that is not a Permitted Assignee.

“**Registration Expenses**” means all fees and expenses incurred in connection with the Company’s performance of or compliance with the provisions of Article II, including, without limitation: (a) all registration, listing, qualification and filing fees (including FINRA filing fees), (b) fees and expenses of compliance with state securities or “blue sky” laws (including reasonable counsel fees in connection with the preparation of a blue sky and legal investment survey and FINRA filings), (c) printing and copying expenses, (d) messenger and delivery expenses, (e) expenses incurred in connection with any road show, (f) fees and disbursements of outside firm counsel for the Company, (g) with respect to each registration, the reasonable fees and disbursements of one counsel for the Holders selected by the Seller, (h) fees and disbursements of independent public accountants, including the expenses of any audit or “comfort” letter, and fees and expenses of other persons, including special experts, retained by the Company, (i) underwriter fees, excluding discounts and commissions, and any other expenses which are customarily borne by the issuer or seller of securities in a public equity offering and (j) all internal expenses of the Company (including all salaries and expenses of officers and employees performing legal or accounting duties).

“**SEC**” means the Securities and Exchange Commission.

“**Securities Act**” means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

tion ii. Index of Other Defined Terms. In addition to those terms defined in Section 1.1, the following terms shall have the respective meanings given thereto in the sections or paragraphs indicated below:

DEFINED TERMS

Agreement Preamble
Company Preamble
Holder(s) Preamble
Losses Section 2.5(a)
Permitted Assignee(s) Section 4.8
Purchase Agreement Preamble
Seller Preamble
Shelf Registration Section 2.1(a)
Shelf Registration Statement Section 2.1(a)
Suspension Period Section 2.1(b)(ii)

I. REGISTRATION RIGHTS

i. Shelf Registration.

1. Shelf Registration. As promptly as reasonably practicable after the receipt of a written request from the Seller, the Company shall prepare and file with the SEC a registration statement on Form S-1 or Form S-3 or an equivalent general registration form then in effect (a “**Shelf Registration Statement**”) providing for the resale from time to time on a delayed or continuous basis pursuant to Rule 415 under the Securities Act by the Holders of all of their Registrable Securities. If at the time of filing of the Shelf Registration Statement the Company is eligible for use of an Automatic Shelf Registration Statement, then such shelf registration statement shall be filed as an Automatic Shelf Registration Statement. The Shelf Registration Statement described in this Section 2.1(a) shall relate to the offer and sale of the Registrable Securities held by the Holders from time to time in accordance with the methods of distribution set forth in the applicable Shelf Registration Statement (hereinafter the “**Shelf Registration**”). The Company shall use its commercially reasonable efforts to address any comments from the SEC regarding such Shelf Registration Statement. The Shelf Registration Statement shall cover to the extent allowable under the Securities Act and the rules promulgated thereunder, such indeterminate number of additional Registrable Securities resulting from stock splits, stock dividends or similar transactions with respect to the Common Shares. The Company shall use its commercially reasonable efforts to cause the Shelf Registration Statement to become effective under the Securities Act as promptly as practicable following the initial filing thereof; *provided* that the Company shall not be required to take any action to cause the Shelf Registration Statement to be declared effective prior to the date the Lockup Period expires.

2. Continued Effectiveness.

a. Except as provided herein, the Company shall use its commercially reasonable efforts to keep the Shelf Registration Statement continuously effective pursuant to the rules, regulations or instructions under the Securities Act until the earliest of (A) the date as of which all of the Registrable Securities specified in such Shelf Registration Statement have been sold pursuant to such Shelf Registration Statement or another Registration Statement filed under the Securities Act, (B) such shorter period as Seller shall agree in writing and (C) the date that no Registrable Securities remain outstanding.

b. Upon written notice to the Holders of Registrable Securities, (A) the Company shall be entitled to suspend, for a period of time, the use of any Shelf Registration Statement or Prospectus if the Board of Directors of the Company determines in its good faith judgment, after consultation with counsel, that the Shelf Registration Statement or any Prospectus may contain an untrue statement of a material fact or omits any fact necessary to make the statements in the Shelf Registration Statement or Prospectus not misleading and (B) the Company shall not be required to amend or supplement the Shelf Registration Statement, any related Prospectus or any document incorporated therein by reference if the Board of Directors of the Company determines in its good faith judgment, after consultation with counsel, that such amendment would reasonably be expected to have a material adverse effect on any proposal or plan of the Company to effect a merger, acquisition, disposition, financing, reorganization, recapitalization or similar transaction, in each case that is material to the

Company (in case of each clause (A) and (B), a “**Suspension Period**”); provided that (1) the duration of all Suspension Periods may not exceed one hundred and twenty (120) days in the aggregate in any 12-month period and (2) the Company shall use its commercially reasonable efforts to amend the Shelf Registration Statement and/or Prospectus to correct such untrue statement or omission as soon as reasonably practicable. Each Holder agrees that upon receipt of any notice from the Company under this Section 2.1(b)(ii), such Holder will discontinue its disposition of Registrable Securities pursuant to the Shelf Registration Statement covering such Registrable securities until such Holder’s receipt of the copies of the supplemented or amended Prospectus and/or Shelf Registration Statement.

3. Certain Undertakings. Notwithstanding any other provisions of this Agreement to the contrary, the Company shall cause (i) the Shelf Registration Statement (as of the effective date of such Shelf Registration Statement), any amendment thereof (as of the effective date thereof) or supplement thereto (as of its date) (A) not to contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein not misleading and (B) to comply in all material respects as to form with all applicable requirements of the Securities Act and the Exchange Act, and (ii) any related Prospectus, as of its date, not to contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein, in the light of the circumstances in which they were made, not misleading; provided, however, the Company shall have no such obligations or liabilities with respect to any written information pertaining to any Holder and furnished in writing to the Company by or on behalf of such Holder specifically for inclusion therein. The Company agrees, to the extent necessary, to supplement or make amendments to each Shelf Registration Statement if required by applicable law.

4. Underwritten Shelf Take-Downs; Block Trades. The Seller and the Holders shall cooperate in good faith such that any sale of a material amount of Registrable Securities is conducted in an orderly fashion, whether such sale might occur pursuant to the Shelf Registration Statement or in a private resale transaction; and, in connection therewith, the Seller and the Holders will consider in good faith any proposal by the Company to arrange or facilitate an underwritten offering and sale or Block Trade of the Registrable Securities.

ii. Registration Procedures. Whenever the Company is required by the provisions of this Agreement to use commercially reasonable efforts to effect or cause the registration of any Registrable Securities under the Securities Act as provided in this Agreement, the Company, as expeditiously as possible:

1. shall prepare and file with the SEC the requisite registration statement, which shall comply as to form in all material respects with the requirements of the applicable form and shall include all financial statements required by the SEC to be filed therewith, and use commercially reasonable efforts to cause such registration statement to become and remain effective (provided, however, that before filing a registration statement or Prospectus or any amendments or supplements thereto, or comparable statements under securities or blue sky laws of any jurisdiction, the Company will furnish to one counsel for the Holders (selected by the

Seller), copies of all such documents proposed to be filed (including all exhibits thereto), which documents will be subject to the reasonable review and comment of such counsel, and the Company shall not file any registration statement or amendment thereto, any Prospectus or supplement thereto to which such parties shall reasonably object);

2. shall furnish, without charge, to each Holder of the securities covered by such registration statement, with copies of such registration statement, each amendment thereto, the Prospectus included or related to such registration statement, all in conformity with the requirements of the Securities Act, and such other documents as any Holder reasonably may request in order to facilitate the public sale or other disposition of the Registrable Securities owned by such Holder;

3. shall use commercially reasonable efforts to register or qualify the Registrable Securities covered by such registration statement under such other securities or "blue sky" laws of such jurisdictions as any Holder reasonably shall request, and do any and all other acts and things that may be reasonably necessary or advisable to enable such Holder to consummate the disposition of the Registrable Securities in such jurisdictions; provided, however, that in no event shall the Company be required to (i) qualify to do business as a foreign corporation in any jurisdiction where, but for the requirements of this Section 2.2(d), it would not be required to be so qualified, (ii) subject itself to taxation in any such jurisdiction or (iii) consent to general service of process in any such jurisdiction;

4. shall promptly notify each Holder:

a. when the registration statement, any pre-effective amendment, any Prospectus or supplement related thereto or any post-effective amendment to the registration statement has been filed and, with respect to the registration statement or any post-effective amendment, when the same has become effective;

b. of any request by the SEC or state securities authority for amendments or supplements to the registration statement or the prospectus related thereto or for additional information;

c. the issuance or threatened issuance by the SEC of any stop order suspending the effectiveness of the registration statement or the initiation or threatening of any proceedings for that purpose;

d. 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 securities or blue sky laws of any jurisdiction or the initiation of any proceeding for such purpose; and

e. of the existence of any fact of which the Company becomes aware which results in the registration statement, the Prospectus related thereto, any document incorporated therein by reference or the information conveyed to any purchaser at the time of sale to such purchaser containing an untrue statement of a material fact or

omitting to state a material fact required to be stated therein or necessary to make any statement therein not misleading;

5. shall use commercially reasonable efforts to cause all securities covered by such registration statement to be authorized to be listed on a national securities exchange if shares of the particular class of securities are at that time, or will be immediately following the offering, listed on such exchange;

6. shall provide and cause to be maintained a transfer agent and registrar for all such securities covered by such registration statement not later than the effective date of such registration statement;

7. shall enter into such customary agreements (including, if applicable, an underwriting agreement with a mutually agreeable underwriter) and take such other actions as the Seller shall reasonably request in order to expedite or facilitate the disposition of such securities (it being understood that the applicable holders of the securities that are to be distributed by any underwriters shall be parties to any such underwriting agreement);

8. shall use commercially reasonable efforts to obtain the withdrawal of any order suspending the effectiveness of the registration statement;

9. shall provide a CUSIP number for all Registrable Securities not later than the effective date of the applicable registration statement;

10. if applicable, shall cooperate with the Holders to facilitate the timely preparation and delivery of certificates not bearing any restrictive legends representing the Registrable Securities to be sold, and instruct any transfer agent and registrar of Registrable Securities to release any stop transfer orders in respect thereof;

11. shall cooperate with the Holders and their respective counsel in connection with any filings required to be made with FINRA;

12. in the event that the Company proposes an underwritten offering of the Registrable Securities, shall cause its officers to use their commercially reasonable efforts to support the marketing of the Registrable Securities covered by such offering (including participation of appropriate officers and employees (on a customary basis and upon reasonable advance notice) in "road shows" or other similar marketing efforts) to the extent reasonably necessary, in the view of the managing underwriter(s), to support the proposed sale of Registrable Securities; and

13. shall take all other reasonable steps necessary to effect (x) the registration and disposition of the Registrable Securities as required hereby and (y) the relevant hedging transaction pursuant to the No-Action Letter (if applicable).

The Company may require as a condition precedent to the Company's obligations under this Section 2.2 that each Holder as to which any registration is being effected furnish the Company

such information in writing regarding such Holder and the distribution of its Registrable Securities as the Company from time to time reasonably may request.

iii. Registration Expenses.

1. The Company shall pay all Registration Expenses with respect to any registration effected under Section 2.1.

2. Notwithstanding the foregoing, (i) the provisions of this Section 2.3 shall be deemed amended to the extent necessary to cause these expense provisions to comply with “blue sky” laws of each state in which the offering is made and (ii) in connection with any registration hereunder, each Holder shall pay all transfer taxes, if any, attributable to the sale of such Holder’s Registrable Securities.

iv. No Required Sale. Nothing in this Agreement shall be deemed to create an independent obligation on the part of any Holder to sell any Registrable Securities pursuant to any effective registration statement.

v. Indemnification.

1. In the event of any registration of any securities of the Company under the Securities Act pursuant to Article II, the Company will, and hereby agrees to, indemnify and hold harmless, to the fullest extent permitted by law, each Holder, its directors, officers, Affiliates, (and the directors and officers thereof), and each other Person, if any, who controls such holder within the meaning of the Securities Act, from and against any and all losses, claims, damages, expenses or liabilities, joint or several, actions or proceedings (whether commenced or threatened) and expenses (including reasonable fees of counsel and any amounts paid in any settlement effected with the Company’s consent) to which each such indemnified party may become subject under the Securities Act or otherwise in respect thereof (collectively, “Losses”), insofar as such Losses arise out of or are based upon any untrue statement or alleged untrue statement of a material fact or omission or alleged omission to state a material fact necessary to be stated or necessary in order to make the statements, in light of the circumstances under which they were made, not misleading, in any registration statement under which such securities were registered under the Securities Act, or amendment thereof or supplement thereto, or in any Prospectus, together with the documents incorporated by reference therein, and the Company will reimburse any such indemnified party for any legal or other expenses reasonably incurred by such indemnified party in connection with investigating or defending any such Loss as such expenses are incurred; provided, however, that the Company shall not be liable to any such indemnified party in any such case to the extent such Loss arises out of or is based upon any untrue statement or alleged untrue statement of a material fact or omission or alleged omission of a material fact made in such registration statement or amendment thereof or supplement thereto or in any such Prospectus in reliance upon and in conformity with information furnished in writing to the Company by or on behalf of such indemnified party specifically for use therein.

2. Each Holder whose Registrable Securities are included in the securities as to which any registration under Article II is being effected shall, severally and not jointly,

indemnify and hold harmless (in the same manner and to the same extent as set forth in paragraph (a) of this Section 2.5), to the fullest extent permitted by law, the Company, its officers and directors, each Person controlling the Company within the meaning of the Securities Act and all other prospective sellers and their respective directors, officers, Affiliates and respective controlling Persons with respect to any untrue statement or alleged untrue statement of any material fact in, or omission or alleged omission of any material fact from, such registration statement, any Prospectus utilized in connection therewith, if such statement or alleged statement or omission or alleged omission was made in reliance upon and in conformity with information furnished in writing to the Company or its representatives by or on behalf of such Holder specifically for use therein and reimburse such indemnified party for any legal or other expenses reasonably incurred in connection with investigating or defending any such Loss as such expenses are incurred. Such indemnity and reimbursement of expenses shall remain in full force and effect regardless of any investigation made by or on behalf of such indemnified party and shall survive the transfer of such securities by such holder.

3. Any Person entitled to indemnification under this Agreement promptly shall notify the indemnifying party in writing of the commencement of any action or proceeding with respect to which a claim for indemnification may be made pursuant to this Section 2.5, but the failure of any such Person to provide such notice shall not relieve the indemnifying party of its obligations under the preceding paragraphs of this Section 2.5, except to the extent the indemnifying party is materially prejudiced thereby, and shall not relieve the indemnifying party from any liability that it may have to any such Person otherwise than under this Article II. In case any action or proceeding is brought against an indemnified party and it shall notify the indemnifying party of the commencement thereof, the indemnifying party shall be entitled to participate therein and, unless in the reasonable opinion of outside counsel to the indemnified party a conflict of interest between such indemnified and indemnifying parties may exist in respect of such claim, to assume the defense thereof jointly with any other indemnifying party similarly notified, to the extent that it chooses, with counsel reasonably satisfactory to such indemnified party, and after notice from the indemnifying party to such indemnified party that it so chooses, the indemnifying party shall not be liable to such indemnified party for any legal or other expenses subsequently incurred by such indemnified party in connection with the defense thereof other than reasonable costs of investigation; provided, however, that (i) if the indemnifying party fails to take reasonable steps necessary to defend diligently the action or proceeding within 20 days after receiving notice from such indemnified party, (ii) if such indemnified party who is a defendant in any action or proceeding that is also brought against the indemnifying party reasonably shall have concluded that there may be one or more legal defenses available to such indemnified party that are not available to the indemnifying party or (iii) if representation of both parties by the same counsel is otherwise inappropriate under applicable standards of professional conduct, then, in any such case, the indemnified party shall have the right to assume or continue its own defense as set forth above (but with no more than one firm of counsel for all indemnified parties) and the indemnifying party shall be liable for any expenses therefor. Without the written consent of the indemnified party, which consent shall not be unreasonably withheld, no indemnifying party shall effect the settlement or compromise of, or consent to the entry of any judgment with respect to, any pending or threatened action or claim in respect of which indemnification or contribution may be sought hereunder, whether or not the

indemnified party is an actual or potential party to such action or claim, unless such settlement, compromise or judgment (A) includes an unconditional release of the indemnified party from all liability arising out of such action or claim and (B) does not include a statement as to or an admission of fault, culpability or a failure to act, by or on behalf of any indemnified party.

4. If for any reason the foregoing indemnity is unavailable or is insufficient to hold harmless an indemnified party under Section 2.5(a), (b) or (c), then each indemnifying party shall contribute to the amount paid or payable by such indemnified party as a result of any Loss in such proportion as is appropriate to reflect the relative fault of the indemnifying party, on the one hand, and the indemnified party, on the other hand, with respect to such offering of securities. The relative fault shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the indemnifying party or the indemnified party and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such untrue statement or omission. If, however, the allocation provided in the second preceding sentence is not permitted by applicable law, then each indemnifying party shall contribute to the amount paid or payable by such indemnified party in such proportion as is appropriate to reflect not only such relative faults but also the relative benefits of the indemnifying party and the indemnified party as well as any other relevant equitable considerations. The parties hereto agree that it would not be just and equitable if contributions pursuant to this Section 2.5(d) were to be determined by pro rata allocation or by any other method of allocation which does not take account of the equitable considerations referred to in the preceding sentences of this Section 2.11(d). The amount paid or payable in respect of any Loss shall be deemed to include any legal or other third party expenses reasonably incurred by such indemnified party in connection with investigating or defending any such Loss. No Person guilty of fraudulent misrepresentation within the meaning of Section 11(f) of the Securities Act shall be entitled to contribution from any Person who was not guilty of such fraudulent misrepresentation.

5. The indemnity and contribution agreements contained herein shall be in addition to any other rights to indemnification or contribution which any indemnified party may have pursuant to law or contract and shall remain operative and in full force and effect regardless of any investigation made or omitted by or on behalf of any indemnified party and shall survive the transfer of the Registrable Securities by any such party.

II. GENERAL

i. Company Filings. The Company covenants that, so long as it remains subject to the reporting provisions of the Exchange Act, it will timely file the reports required to be filed by it under the Securities Act or the Exchange Act or, if it is not required to file such reports, upon the request of any Holder it shall make publicly available other information so long as necessary to permit sales of such Registrable Securities in compliance with Rule 144 under the Securities Act, all to the extent required from time to time to enable such Holder to sell Registrable Securities without registration under the Securities Act within the limitation of the exemptions provided by

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

ii. Nominees for Beneficial Owners. If securities are held by a nominee for the beneficial owner thereof, the beneficial owner thereof may, at its option, be treated as the holder of such securities for purposes of any request or other action by any holder or holders pursuant to this Agreement or any determination of any number or percentage of shares constituting securities held by any holder or holders contemplated by this Agreement; provided, that the Company shall have received assurances reasonably satisfactory to it of such beneficial ownership.

iii. No Inconsistent Agreements. The rights granted to the Holders hereunder do not in any way conflict with and are not inconsistent with any other agreements to which the Company is a party or by which it is bound.

III. MISCELLANEOUS

i. Amendment and Waiver.

1. Any provision of this Agreement may be amended or waived if, and only if, such amendment or waiver is in writing and is signed by the Company and the Seller.

2. No failure or delay of any party in exercising any right or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such right or power, or any course of conduct, preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of the parties hereunder are cumulative and are not exclusive of any rights or remedies which they would otherwise have hereunder.

ii. Notices. All notices and other communications hereunder shall be in writing and shall be deemed duly given (a) on the date of delivery if delivered personally, (b) upon receipt of confirmation of successful transmission if delivered by electronic mail, (c) on the first Business Day following the date of dispatch if delivered utilizing a next-day service by a recognized next-day courier or (d) on the earlier of confirmed receipt or the fifth Business Day following the date of mailing if delivered by registered or certified mail, return receipt requested, postage prepaid. All notices hereunder shall be delivered to the addresses set forth below, or pursuant to such other instructions as may be designated in writing by the party to receive such notice:

a. if to any Holder, to the address set forth on Schedule 1;

b. if to the Company, to:

Magnite, Inc.
12181 Bluff Creek Drive, 4th Floor
Los Angeles, CA 90094
Attention: General Counsel

Telephone No.: (310) 207-0272
E-mail: legal@magnite.com

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

Gibson, Dunn & Crutcher LLP
333 South Grand Avenue
Los Angeles, CA 90071
Attention: Bradford P. Weirick
Telephone No.: (213)-229-7000
E-mail: bweirick@gibsondunn.com

or such other address as the Company or the applicable holder shall have specified to the other party in writing in accordance with this Section 4.2.

iii. Interpretation. When a reference is made in this Agreement to a Section, Article or Schedule, such reference shall be to a Section or Article of this Agreement or a Schedule attached hereto unless otherwise indicated. The headings contained in this Agreement are for convenience of reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. All words used in this Agreement will be construed to be of such gender or number as the circumstances require. The word “including” and words of similar import when used in this Agreement will mean “including, without limitation,” unless otherwise specified. Each of the parties hereto acknowledges that it has been represented by counsel in connection with this Agreement and the transactions contemplated by this Agreement. Accordingly, any rule of law or any legal decision that would require interpretation of any claimed ambiguities in this Agreement against the drafting party has no application and is expressly waived.

iv. Entire Agreement. This Agreement constitutes the entire agreement, and supersedes all prior written agreements, arrangements, communications and understandings and all prior and contemporaneous oral agreements, arrangements, communications and understandings between the parties with respect to the subject matter hereof and thereof.

v. No Third-Party Beneficiaries. Except as provided in Section 2.5, nothing in this Agreement, express or implied, is intended to or shall confer upon any Person other than the parties and their respective successors and permitted assigns any legal or equitable right, benefit or remedy of any nature under or by reason of this Agreement.

vi. Governing Law. This Agreement shall be governed by and construed in accordance with the law of the State of Delaware, without regard to the conflicts of law rules of such state that would cause the laws of any other jurisdiction to apply.

vii. Submission to Jurisdiction. The parties hereto agree that any suit, action or proceeding seeking to enforce any provision of, or based on any matter arising out of or in connection with, this Agreement or the transactions contemplated hereby shall be brought exclusively in the United States District Court for the District of Delaware or any Delaware State court sitting in

Wilmington, Delaware, so long as one of such courts shall have subject matter jurisdiction over such suit, action or proceeding, and that any cause of action arising out of this Agreement shall be deemed to have arisen from a transaction of business in the State of Delaware, and each of the parties hereby irrevocably consents to the exclusive jurisdiction of such courts (and of the appropriate appellate courts therefrom) in any such suit, action or proceeding and irrevocably waives, to the fullest extent permitted by law, any objection that it may now or hereafter have to the laying of the venue of any such suit, action or proceeding in any such court or that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum. Process in any such suit, action or proceeding may be served on any party anywhere in the world, whether within or without the jurisdiction of any such court. Without limiting the foregoing, each party agrees that service of process on such party as provided in Section 4.2 shall be deemed effective service of process on such party.

viii. Successors, Assigns and Transferees. The rights and obligations of each party hereto may not be assigned, in whole or in part, without the written consent of the Company; provided, however, that notwithstanding the foregoing, the rights and obligations set forth herein may be assigned, in whole or in part, by any Holder to any of its Affiliates, and such transferee shall, with the consent of the transferring holder, be treated as a “Holder” for all purposes of this Agreement (each Person to whom the rights and obligations are assigned in compliance with this Section 4.8 is a “**Permitted Assignee**” and all such Persons, collectively, are “**Permitted Assignees**”); provided, further, that such transferee shall only be admitted as a party hereunder upon its, his or her execution and delivery of a joinder agreement in substantially the form attached as Exhibit A hereto, agreeing to be bound by the terms and conditions of this Agreement as if such Person were a party hereto.

ix. Enforcement. The parties hereto agree that irreparable damage would occur, and that the parties would not have any adequate remedy at law, in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. It is accordingly agreed that the parties shall be entitled to an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions of this Agreement without proof of actual damages or otherwise in the Court of Chancery of the State of Delaware, provided that if jurisdiction is not then available in the Court of Chancery of the State of Delaware, then in any state or federal court located in the State of Delaware in addition to any other remedy to which any party is entitled at law or in equity. Each party agrees to waive any requirement for the securing or posting of any bond in connection with such remedy. The parties further agree not to assert that a remedy of specific performance is unenforceable, invalid, contrary to law or inequitable for any reason, nor to assert that a remedy of monetary damages would provide an adequate remedy.

x. Severability. Whenever possible, each provision or portion of any provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision or portion of 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 shall not affect any other provision or portion of any provision in such jurisdiction, and this Agreement shall be reformed, construed and enforced in such

jurisdiction as if such invalid, illegal or unenforceable provision or portion of any provision had never been contained herein.

xi. Waiver of Jury Trial. EACH OF THE PARTIES HERETO (ON BEHALF OF ITSELF AND ITS RELATED PARTIES) HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, LEGAL PROCEEDING OR COUNTERCLAIM (INCLUDING ANY ACTION, PROCEEDING OR COUNTERCLAIM INVOLVING ANY OF THE FINANCING SOURCE PARTIES) ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

xii. Counterparts. This Agreement may be executed in two or more counterparts, all of which shall be considered one and the same instrument and shall become effective when one or more counterparts have been signed by each of the parties and delivered to the other parties.

xiii. Facsimile or .pdf Signature. This Agreement may be executed by facsimile or .pdf signature and a facsimile or .pdf signature shall constitute an original for all purposes.

xiv. Time of Essence. Time is of the essence with regard to all dates and time periods set forth or referred to in this Agreement.

Signature pages follow.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

MAGNITE, INC.

By: /s/ David Day_____

Name: David Day

Title: Chief Financial Officer

Signature Page to Registration Rights Agreement

HOLDER:

RTL US HOLDING, INC.

By: /s/ Vera L. Noriega

Name: Vera L. Noriega

Title: Director

By: /s/ Siska Ghesquiere

Name: Siska Ghesquiere

Title: President

Signature Page to Registration Rights Agreement

Schedule 1

Holders

<u>Name</u>	<u>Issued and Outstanding Common Shares</u>	<u>Notice Address</u>
RTL US Holding, Inc.	12,374,315	RTL US Holding, Inc. c/o RTL Group S.A. 43 Boulevard Pierre Frieden L-1543 Luxembourg Grand Duchy of Luxembourg Attention: General Counsel Telephone No.: +352 2 486 5081 Email: legal@rtlgroup.com

FORM OF JOINDER

THIS JOINDER (this “Joinder”) to the Registration Rights Agreement dated as of [●], by and among Magnite, Inc., a Delaware corporation (the “Company”), and the Persons set forth on Schedule 1 thereto (the “Registration Rights Agreement”), is made and entered into as of [●], by and between the Company and [●] (the “Assuming Holder”). Capitalized terms used herein but not otherwise defined shall have the meanings set forth in the Registration Rights Agreement.

WHEREAS, the Assuming Holder has acquired certain Registrable Securities from [●].

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the parties to this Joinder hereby agree as follows:

1. Agreement to be Bound. The Assuming Holder hereby agrees that upon execution of this Joinder, it shall become a party to the Registration Rights Agreement and shall be fully bound by, and subject to, all of the covenants, terms and conditions of the Registration Rights Agreement as though an original party thereto and shall be deemed a Holder for all purposes thereof.

2. Successors and Assigns. Except as otherwise provided herein, this Joinder shall bind and inure to the benefit of and be enforceable by the Company and its successors, heirs and assigns and the Assuming Holder and its successors, heirs and assigns.

3. Notices. For purposes of Section 4.2 (*Notices*) of the Registration Rights Agreement, all notices, requests and demands to the Assuming Holder shall be directed to:

[Name]
[Address]

4. Incorporation by Reference. The provisions of Section 4.6 (*Governing Law*), Section 4.7 (*Submission to Jurisdiction*), Section 4.11 (*Waiver of Jury Trial*) and Section 4.12 (*Counterparts*) of the Registration Rights Agreement are incorporated herein by reference as if set forth in full herein and shall apply to the terms and provisions of this Joinder and the parties hereto *mutatis mutandis*.

5. Descriptive Headings. The descriptive headings of this Joinder are inserted for convenience only and do not constitute a part of this Joinder.

Signature Pages Follow

IN WITNESS WHEREOF, the parties hereto have executed this Joinder to the Registration Rights Agreement as of the date first written above.

MAGNITE, INC.

By: ___
Name:
Title:

[ASSUMING HOLDER]

By: ___
Name:
Title:

Signature Page to Joinder

**Certification of Principal Executive Officer
pursuant to
Exchange Act Rules 13a-14(a) and 15d-14(a),
as adopted pursuant to
Section 302 of the Sarbanes-Oxley Act of 2002**

I, Michael Barrett, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Magnite, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures as of the end of the period covered by this report based on such evaluation; and
 - d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Signature:

/s/ Michael Barrett

Michael Barrett
President and Chief Executive Officer
(Principal Executive Officer)

Date May 10, 2021

**Certification of Principal Financial Officer
pursuant to
Exchange Act Rules 13a-14(a) and 15d-14(a),
as adopted pursuant to
Section 302 of the Sarbanes-Oxley Act of 2002**

I, David Day, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Magnite, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures as of the end of the period covered by this report based on such evaluation; and
 - d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Signature:

/s/ David Day

David Day
Chief Financial Officer
(Principal Financial Officer)

Date May 10, 2021

**CERTIFICATIONS OF PRINCIPAL EXECUTIVE OFFICER AND PRINCIPAL FINANCIAL OFFICER PURSUANT TO 18 U.S.C.
SECTION 1350,
AS ADOPTED PURSUANT TO SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (18 U.S.C. 1350), Michael Barrett, President and Chief Executive Officer (Principal Executive Officer) of Magnite, Inc. (the "Company"), and David Day, Chief Financial Officer (Principal Financial Officer) of the Company, each hereby certifies that, to the best of his knowledge:

1. Our Quarterly Report on Form 10-Q for the quarter ended March 31, 2021, to which this certification is attached as Exhibit 32 (the "Report"), fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
2. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date May 10, 2021

/s/ Michael Barrett

Michael Barrett
President and Chief Executive
Officer
(Principal Executive Officer)

/s/ David Day

David Day
Chief Financial Officer
(Principal Financial Officer)

The foregoing certifications are being furnished pursuant to 13 U.S.C. Section 1350. They are not being filed for purposes of Section 18 of the Securities Exchange Act of 1934, as amended, and are not to be incorporated by reference into any filing of the Company, regardless of any general incorporation language in such filing.